

**Supplement 17-3 to the
Arizona Administrative Code**

The official compilation of Arizona Rules

Arizona Secretary of State's Office

Administrative Rules Division

1700 W. Washington Street, Fl 7.

Phoenix, AZ 85007

For rules filed in the third quarter between

July 1 - September 30, 2017

12/17/2018

Dear Subscriber:

We are still in the process of printing past supplements. Enclosed is Arizona Administrative Code supplement 17-3. Supplement updates are printed by full chapter. Rules updated in this supplement were filed in the third quarter between July 1 - September 30, 2017. In the next few weeks we plan on printing supplements through 18-2.

This supplement contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law.

These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State.

Refer to the checklists at the beginning of the Titles to replace the Chapters. All superseded material should be retained in a separate binder for reference.

As you are aware we are behind in the printing of our Administrative Code supplements and again ask for your patience as we process orders. The Code is current online at www.azsos.gov.

This supplement contains the following chapters:

Arizona Health Care Cost Containment System - Administration, 09 A.A.C. 22

Arizona Medical Board, 04 A.A.C. 16

Board of Pharmacy, 04 A.A.C. 23

Citizens Clean Elections Commission, 02 A.A.C. 20

Corporation Commission - Fixed Utilities, 14 A.A.C. 02

Department of Administration - State Personnel System, 02 A.A.C. 05

Department of Agriculture - Weights and Measures Services Division, 03 A.A.C. 07

Department of Economic Security, 06 A.A.C. 01

Department of Environmental Quality - Air Pollution Control, 18 A.A.C. 02, 18 A.A.C. 02

Department of Health Services - Communicable Diseases and Infestations, 09 A.A.C. 06

Department of Health Services - Emergency Medical Services, 09 A.A.C. 25

Department of Health Services - Health Care Institutions: Licensing, 09 A.A.C. 10

Department of Health Services - Noncommunicable Diseases, 09 A.A.C. 04

Department of Health Services - Occupational Licensing, 09 A.A.C. 16

Department of Revenue - Transaction Privilege and Use Tax Section, 15 A.A.C. 05

Department of Transportation - Commercial Programs, 17 A.A.C. 05

Department of Water Resources, 12 A.A.C. 15

Game and Fish Commission, 12 A.A.C. 04

Governor's Regulatory Review Council, 01 A.A.C. 06

Law Enforcement Merit System Council, 13 A.A.C. 05

Registrar of Contractors, 04 A.A.C. 09

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State Retirement System Board, 02 A.A.C. 08

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Supplement to the
Arizona Administrative Code
The official compilation of Arizona Rules
Replacement Check List

For rules filed in the third quarter between
July 1 - September 30
2017

Within the stated calendar quarter, this Title contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information. Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

TITLE 01. Rules and the Rulemaking Process

Chapter 06. Governor's Regulatory Review Council

Sections, Parts, Exhibits, Tables or Appendices modified

R1-6-101 through R1-6-104, R1-6-201 through R1-6-207, R1-6-301 through R1-6-304, R1-6-401 through R1-6-404, R1-6-501, R1-6-502, R1-6-601, R1-6-701, R1-6-801, R1-6-802

Article 4. Appeals and Petitions; Article 5. Repealed; Article 6. Repealed; Article 7. Repealed; Article 8. Repealed

☐ REMOVE Supp. 13-3
Pages: 1 - 12

☐ REPLACE with Supp. 17-3
Pages: 1 - 11

The agency's contact person who can answer questions about rules in this Chapter:

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Disclaimer: Please be advised the person listed is the contact of record as submitted in the rulemaking package for this supplement. The contact and other information may change and is provided as a public courtesy.

PUBLISHER
Arizona Department of State
Office of the Secretary of State, Administrative Rules Division

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the Administrative Code. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION
September 30, 2017

RULES

A.R.S. § 41-1001(17) states: “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions. Virtually everything in your life is affected in some way by rules published in the Arizona Administrative Code, from the quality of air you breathe to the licensing of your dentist. This chapter is one of more than 230 in the Code compiled in 21 Titles.

ADMINISTRATIVE CODE SUPPLEMENTS

Rules filed by an agency to be published in the Administrative Code are updated quarterly. Supplement release dates are printed on the footers of each chapter:

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2017 is cited as Supp. 17-1.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the Arizona Administrative Register for recent updates to rule Sections.

ARTICLES AND SECTIONS

Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering system separated into subsections.

HISTORICAL NOTES AND EFFECTIVE DATES

Historical notes inform the user when the last time a Section was updated in the Administrative Code. Be aware, since the Office publishes each quarter by entire chapters, not all Sections are updated by an agency in a supplement release. Many times just one Section or a few Sections may be updated in the entire chapter.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in the introduction of a chapter can be found at the Secretary of State’s website, www.azsos.gov/services/legislative-filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the Arizona Administrative Register online at www.azsos.gov/rules, click on the Administrative Register link.

In the Administrative Code the Office includes editor’s notes at the beginning of a chapter indicating that certain rulemaking Sections were made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR

If you are researching rules and come across rescinded chapters on a different paper color, this is because the agency filed a Notice of Exempt Rulemaking. At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

PERSONAL USE/COMMERCIAL USE

This chapter is posted as a public courtesy online, and is for private use only. Those who wish to use the contents for resale or profit should contact the Office about Commercial Use fees. For information on commercial use fees review A.R.S. § 39-121.03 and 1 A.A.C. 1, R1-1-113.

Public Services managing rules editor, Rhonda Paschal, assisted with the editing of this chapter.

TITLE 1. RULES AND THE RULEMAKING PROCESS

CHAPTER 6. GOVERNOR'S REGULATORY REVIEW COUNCIL

(Authority: A.R.S. § 41-1051)

ARTICLE 1. GENERAL RULES OF PROCEDURE

Article 1, consisting of Sections R1-6-101 through R1-6-106 and R1-6-108, adopted effective May 25, 1995 (Supp. 95-2).

Article 1, consisting of Sections R1-6-102 three R1-6-109, repealed effective May 25, 1995 (Supp. 95-2).

Article 1 consisting of Sections R1-6-102 through R1-6-109 adopted effective December 16, 1987.

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ARTICLE 2. RULEMAKING PROCEDURES

Article 2, consisting of Section R1-6-201, repealed by final rulemaking; new Article 2, consisting of Sections R1-6-201 to R1-6-207 made by final rulemaking effective October 5, 2013 (Supp. 13-3).

Article 2, consisting of Section R1-6-201, adopted effective May 25, 1995 (Supp. 95-2).

Article 2, consisting of Sections R1-6-202 three R1-6-206, repealed effective May 25, 1995 (Supp. 95-2).

Article 2, consisting of Section R1-6-201, adopted effective May 25, 1995 (Supp. 95-2).

Article 2, consisting of Sections R1-6-202 through R1-6-206, repealed effective May 25, 1995 (Supp. 95-2).

Article 2 consisting of Sections R1-6-202 through R1-6-206 adopted effective March 16, 1988.

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5, 2013 (Supp. 13-3).

Article 3, consisting of Section R1-6-301, adopted effective April 3, 1996 (Supp. 96-2).

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ARTICLE 4. APPEALS AND PETITIONS

Article 4, consisting of Section R1-6-401, repealed by final rulemaking; new Article 4, consisting of Section R1-6-401, made by final rulemaking effective October 5, 2013 (Supp. 13-3).

Article 4, consisting of Section R1-6-401, adopted effective April 3, 1996 (Supp. 96-2).

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ARTICLE 5. REPEALED

Article 5, consisting of Sections R1-6-501 and R1-6-502, repealed by final rulemaking at 23 A.A.R. 2265, effective August 9, 2017 (Supp. 17-3).

Article 5, consisting of Section R1-6-501, repealed by final rulemaking; new Article 5, consisting of Sections R1-6-501 and R1-6-502, made by final rulemaking, effective October 5, 2013 (Supp. 13-3).

Article 5, consisting of Section R1-6-501, made at 17 A.A.R. 1410, effective September 5, 2011 (Supp. 11-3).

Section	
R1-6-501.	Repealed 10
R1-6-502.	Repealed 10

ARTICLE 6. REPEALED

Article 6, consisting of Section R1-6-601, repealed by final rulemaking at 23 A.A.R. 2265, effective August 9, 2017 (Supp. 17-3).

Article 6, consisting of Section R1-6-601, made by final rulemaking, effective October 5, 2013 (Supp. 13-3).

Section	
R1-6-601.	Repealed 10

ARTICLE 7. REPEALED

Article 7, consisting of Section R1-6-701, repealed by final rulemaking at 23 A.A.R. 2265, effective August 9, 2017 (Supp. 17-3).

Article 7, consisting of Section R1-6-701, made by final rulemaking, effective October 5, 2013 (Supp. 13-3).

Governor's Regulatory Review Council

Section	
R1-6-701.	Repealed 10

Article 8, consisting of Sections R1-6-801 and R1-6-802, made by final rulemaking, effective October 5, 2013 (Supp. 13-3).

ARTICLE 8. REPEALED

Article 8, consisting of Sections R1-6-801 and R1-6-802, repealed by final rulemaking at 23 A.A.R. 2265, effective August 9, 2017 (Supp. 17-3).

Section	
R1-6-801.	Repealed11
R1-6-802.	Repealed11

ARTICLE 1. GENERAL RULES OF PROCEDURE**R1-6-101. Definitions**

- A. The definitions in A.R.S. § 41-1001 apply to this Chapter.
- B. In this Chapter:
1. "Agency head" means the chief officer of an agency or another person directly or indirectly purporting to act on behalf or under the authority of the agency head.
 2. "Chair" means the chairperson of the Council or the chairperson's designee.
 3. "Electronic copy" means a document submitted or filed by e-mail or CD.
 4. "Expedited rule" means a rule made according to the procedures in A.R.S. §§ 41-1027 and 41-1053.
 5. "Five-year Review Report" means a report submitted to the Council according to the procedures in A.R.S. § 41-1056 or 41-1095.
 6. "Open Meeting Law" means A.R.S. Title 38, Chapter 3, Article 3.1.
 7. "Regular rule" means a rule made according to the procedures in A.R.S. §§ 41-1021 through 41-1024 and 41-1052.

Historical Note

Adopted effective May 25, 1995 (Supp. 95-2). Amended effective April 3, 1996 (Supp. 96-2). Former Section R1-6-101 renumbered to R1-6-102; new Section R1-6-101 adopted by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4). Amended by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3). Amended by final rulemaking at 23 A.A.R. 2265 effective August 9, 2017 (Supp. 17-3).

R1-6-102. Meetings

- A. The Chair, in consultation with the Council, shall set monthly meeting dates of the Council and a schedule containing submission deadlines based on those meeting dates for each calendar year by the preceding September 15 and shall post notice of each monthly meeting according to the Open Meeting Law.
- B. The Chair or Council may schedule a special meeting to consider any matter it may consider at a regularly scheduled monthly meeting. The Council shall post notice of a special meeting according to the Open Meeting Law at least 24 hours before the special meeting.
- C. The Council may recess a regularly scheduled monthly or special meeting to a later date if, before recessing, the Chair gives notice of the date and time of the resumption of the meeting and posts a notice of resumption of the meeting according to the Open Meeting Law.
- D. The Chair may temporarily adjourn or recess a regularly scheduled monthly or special meeting on the meeting day in an effort to ensure that a quorum of the Council is present.
- E. For the purpose of responding to questions from the Council, a representative of an agency shall appear at a Council meeting at which the agency has been notified that its rule or five-year review report is on the agenda for consideration.

Historical Note

Adopted effective December 16, 1987 (Supp. 87-4). Section repealed, new Section adopted effective May 25, 1995 (Supp. 95-2). Amended effective April 3, 1996 (Supp. 96-2). Former Section R1-6-102 renumbered to R1-6-103; new Section R1-6-102 renumbered from R1-6-101 and amended by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 17 A.A.R. 1410, effective September

5, 2011 (Supp. 11-3). Amended by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3). Amended by final rulemaking at 23 A.A.R. 2265 effective August 9, 2017 (Supp. 17-3).

R1-6-103. Submitting a Petition for Council Rulemaking or Review

- A. A person may petition the Council under A.R.S. § 41-1033(A) for a:
1. Rulemaking action relating to a rule promulgated by the Council, including making a new rule or amending or repealing an existing rule; or
 2. Review of an existing Council practice or substantive policy statement alleged to constitute a rule.
- B. To act under A.R.S. § 41-1033(A) and this Section, a person shall submit to the Council office one electronic copy of a petition, in the form of a letter signed by the person submitting the petition, that includes the following information:
1. Name, mailing address, e-mail address, and telephone number of the person submitting the petition;
 2. Name of any person represented by the person submitting the petition; and
 3. If the petition is for rulemaking action:
 - a. A statement of the rulemaking action sought, including the *Arizona Administrative Code* citation of all existing rules, and the specific language of a new rule or rule amendment; and
 - b. Reasons for the rulemaking action, including an explanation of why an existing rule is inadequate, unreasonable, unduly burdensome, or unlawful;
 4. If the petition is for a review of an existing practice or substantive policy statement:
 - a. Subject matter of the existing practice or substantive policy statement, and
 - b. Reasons why the existing practice or substantive policy statement constitutes a rule.
- C. The petition shall not exceed five double-spaced pages and shall be in a clear and legible typeface.
- D. A person may submit supporting information with a petition, including:
1. Statistical data; and
 2. A list of other persons likely to be affected by the rulemaking action or the review, with an explanation of the likely effects.
- E. The Council shall send a letter in response to the petition no later than 60 calendar days after the date the Council receives the petition.

Historical Note

Adopted effective December 16, 1987 (Supp. 87-4). Section repealed, new Section adopted effective May 25, 1995 (Supp. 95-2). Amended effective April 3, 1996 (Supp. 96-2). Former Section R1-6-103 renumbered to R1-6-104; new Section R1-6-103 renumbered from R1-6-102 and amended by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 17 A.A.R. 1410, effective September 5, 2011 (Supp. 11-3). Amended by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3). Amended by final rulemaking at 23 A.A.R. 2265 effective August 9, 2017 (Supp. 17-3).

R1-6-104. A.R.S. § 41-1008(E) Extension Requests

- A. Under A.R.S. § 41-1008(E), an agency may file a written request for an extension of the two-year period during which a fee established or increased by exempt rulemaking is effective.
- B. The agency shall file a request, in the form of a letter signed by the agency head, at least 40 days before expiration of the two-

year period so that the request may be considered at a regularly scheduled Council meeting. The agency representative filing a request shall submit to the Council office one electronic copy of the request. The request shall contain:

1. The name, mailing address, e-mail address, and telephone number of the agency and the agency representative filing the request;
 2. The statutory authority under which the request is allowed;
 3. The length of the extension sought;
 4. The reasons why the two-year period should be extended; and
 5. Other supporting information, such as statistical data or a description of persons likely to be adversely affected if the request is denied, if applicable.
- C. The request shall not exceed five double-spaced pages and shall be in a clear and legible typeface.
- D. The Council shall schedule consideration of the request for a Council meeting as soon as practicable after receipt of the agency's request.
- E. Within seven calendar days after the Council's decision on the request, the Chair shall provide written notification of the Council's decision to the affected agency head, including the reasons for and date of the decision.

Historical Note

Adopted effective December 16, 1987 (Supp. 87-4). Section repealed, new Section adopted effective May 25, 1995 (Supp. 95-2). Amended effective April 3, 1996 (Supp. 96-2). Former Section R1-6-104 renumbered to R1-6-108; new Section R1-6-104 renumbered from R1-6-103 and amended by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4). Amended by final rulemaking at 17 A.A.R. 1410, effective September 5, 2011 (Supp. 11-3). R1-6-104 renumbered to R1-6-201; new Section R1-6-104 renumbered from R1-6-110 and amended by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3). Amended by final rulemaking at 23 A.A.R. 2265 effective August 9, 2017 (Supp. 17-3).

R1-6-105. Repealed

Historical Note

Adopted effective December 16, 1987 (Supp. 87-4). Section repealed, new Section adopted effective May 25, 1995 (Supp. 95-2). Amended effective April 3, 1996 (Supp. 96-2). Former Section R1-6-105 renumbered to R1-6-109; new Section R1-6-105 adopted by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4). Repealed by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

R1-6-106. Repealed

Historical Note

Adopted effective December 16, 1987 (Supp. 87-4). Section repealed, new Section adopted effective May 25, 1995 (Supp. 95-2). Former Section R1-6-106 renumbered to R1-6-110; new Section R1-6-106 adopted by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4). Amended by final rulemaking at 17 A.A.R. 1410, effective September 5, 2011 (Supp. 11-3). Repealed by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013

(Supp. 13-3).

R1-6-107. Renumbered

Historical Note

Adopted effective December 16, 1987 (Supp. 87-4). Repealed effective May 25, 1995 (Supp. 95-2). New Section adopted effective April 3, 1996 (Supp. 96-2). Former Section R1-6-107 renumbered to R1-6-111; new Section R1-6-107 adopted by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4). Amended by final rulemaking at 17 A.A.R. 1410, effective September 5, 2011 (Supp. 11-3). Section R1-6-107 renumbered to R1-6-204 by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

R1-6-108. Renumbered

Historical Note

Adopted effective December 16, 1987 (Supp. 87-4). Section repealed, new Section adopted effective May 25, 1995 (Supp. 95-2). Amended effective April 3, 1996 (Supp. 96-2). Former Section R1-6-108 renumbered to R1-6-112; new Section R1-6-108 renumbered from R1-6-104 and amended by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4). Amended by final rulemaking at 17 A.A.R. 1410, effective September 5, 2011 (Supp. 11-3). Section R1-6-108 renumbered to R1-6-205 by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

R1-6-109. Renumbered

Historical Note

Adopted effective December 16, 1987 (Supp. 87-4). Repealed effective May 25, 1995 (Supp. 95-2). New Section R1-6-109 renumbered from R1-6-105 and amended by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4). Amended by final rulemaking at 17 A.A.R. 1410, effective September 5, 2011 (Supp. 11-3). Section R1-6-109 renumbered to R1-6-206 by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

R1-6-110. Renumbered

Historical Note

New Section R1-6-110 renumbered from R1-6-106 and amended by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 17 A.A.R. 1410, effective September 5, 2011 (Supp. 11-3). Section R1-6-110 renumbered to R1-6-104 by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013; clerical error of not showing renumbering in Supp. 13-3 corrected in Supp. 17-3.

R1-6-111. Renumbered

Historical Note

New Section R1-6-111 renumbered from R1-6-107 and amended by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4). Former R1-6-111 renumbered to R1-6-112; new R1-6-111 renumbered from R1-1-112 and amended by final rulemaking at 17 A.A.R. 1410, effective Septem-

ber 5, 2011 (Supp. 11-3). Section R1-6-111 renumbered to R1-6-301 by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

R1-6-112. Renumbered

Historical Note

New Section R1-6-112 renumbered from R1-6-108 and amended by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4). Former R1-6-112 renumbered to R1-6-111; new R1-6-112 renumbered from R1-1-111 and amended by final rulemaking at 17 A.A.R. 1410, effective September 5, 2011 (Supp. 11-3). Section R1-6-112 renumbered to R1-6-203 by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

R1-6-113. Renumbered

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4). Amended by final rulemaking at 17 A.A.R. 1410, effective September 5, 2011 (Supp. 11-3). Section R1-6-113 renumbered to R1-6-302 by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

R1-6-114. Renumbered

Historical Note

New Section made by final rulemaking at 17 A.A.R. 1410, effective September 5, 2011 (Supp. 11-3). Section R1-6-114 renumbered to R1-6-303 by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

R1-6-115. Renumbered

Historical Note

New Section made by final rulemaking at 17 A.A.R. 1410, effective September 5, 2011 (Supp. 11-3). R1-6-115 renumbered to R1-6-304 by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

ARTICLE 2. RULEMAKING PROCEDURES

R1-6-201. Submitting a Regular Rule

- A. To submit a regular rule for consideration by the Council, an agency shall submit to the Council office one electronic copy of each rulemaking document that follows, prepared in the manner required by this subsection, subsection (B), and the rules of the Office of the Secretary of State:
 1. A request for approval, in the form of a cover letter signed by the agency head. The cover letter shall specify:
 - a. The close of record date;
 - b. Whether the rulemaking activity relates to a five-year review report and, if applicable, the date the report was approved by the Council;
 - c. Whether the rule establishes a new fee and, if it does, citation of the statute expressly authorizing the new fee;
 - d. Whether the rule contains a fee increase;
 - e. Whether an immediate effective date is requested for the rule under A.R.S. § 41-1032;
 - f. A certification that the preamble discloses a reference to any study relevant to the rule that the agency reviewed and either did or did not rely on in the agency's evaluation of or justification for the rule;

- g. If one or more full-time employees are necessary to implement and enforce the rule, a certification that the preparer of the economic, small business, and consumer impact statement has notified the Joint Legislative Budget Committee of the number of new full-time employees necessary to implement and enforce the rule; and
- h. A list of all documents enclosed.

2. A Notice of Final Rulemaking, including the preamble, table of contents for the rulemaking, and text of each rule;
 3. An economic, small business, and consumer impact statement that contains the information required by A.R.S. § 41-1055;
 4. The written comments received by the agency concerning the proposed rule and a written record, transcript, or minutes of any testimony received if the agency maintains a written record, transcript, or minutes; and
 5. Any analysis submitted to the agency regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states.
- B. In addition to the documents required in subsection (A), an agency shall submit one electronic copy of each reference document that follows:
 1. Material incorporated by reference, if any;
 2. The general and specific statutes authorizing the rule, including relevant statutory definitions;
 3. If a term is defined in the rule by referring to another rule or a statute other than the general and specific statutes authorizing the rule, the statute or other rule referred to in the definition; and
 4. The existing rule if any subsections within the existing rule are designated as "no change" in the revised text of a rule the agency is amending.
 - C. After a rule is placed on a Council agenda, Council staff shall review the rule for compliance with the requirements of A.R.S. §§ 41-1021 through 41-1024 and 41-1052 and this Chapter and may ask questions or suggest changes to the agency. If the agency revises any rulemaking document in response to a question or suggested change, the agency shall submit one electronic copy of the revised rulemaking document to the Council for review.
 - D. After a rule is placed on a Council agenda, an agency may have the rule moved to the agenda of a later meeting by having the agency head send a written notice to the Chair that includes the date of the later meeting. If the agency makes a subsequent request that the rule be moved, the Chair may grant or deny the request at the Chair's discretion.
 - E. Council staff shall notify the agency of any written comments received by the Council related to an agency's rulemaking.
 - F. If it is necessary for a rule to be heard at more than one Council meeting, the agency shall submit any revised documents for the later meeting, consistent with this Section.

Historical Note

Adopted effective May 25, 1995 (Supp. 95-2). Amended by final rulemaking at 6 A.A.A. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4). R1-6-201 renumbered to R1-6-401; new Section R1-6-201 renumbered from R1-6-104 and amended by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3). Amended by final rulemaking at 23 A.A.R. 2265 effective August 9, 2017 (Supp. 17-3).

R1-6-202. Submitting an Expedited Rule

- A. To submit an expedited rule for consideration by the Council, an agency shall submit to the Council office one electronic copy of each rulemaking document that follows, prepared in the manner required by this subsection, subsection (B), and the rules of the Office of the Secretary of State:
1. A request for approval, in the form of a cover letter signed by the agency head. The cover letter shall specify:
 - a. The close of record date;
 - b. An explanation of how the expedited rule meets the criteria in A.R.S. § 41-1027(A);
 - c. Whether the rulemaking activity relates to a five-year review report and, if applicable, the date the report was approved by the Council;
 - d. A certification that the preamble discloses a reference to any study relevant to the rule that the agency reviewed and either did or did not rely on in the agency's evaluation of or justification for the rule; and
 - e. A list of all documents enclosed.
 2. A Notice of Final Expedited Rulemaking, including the preamble, table of contents for the rulemaking, and text of each rule;
 3. The written comments, including objections that the rulemaking does not meet the criteria in A.R.S. § 41-1027(A), received by the agency or contained in a notice concerning the proposed rule; and
 4. Any analysis submitted to the agency regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states.
- B. In addition to the documents required in subsection (A), an agency shall submit one electronic copy of each reference document that follows:
1. Material incorporated by reference, if any;
 2. For a statute declared unconstitutional, the court's decision;
 3. The general and specific statutes authorizing the rule, including relevant statutory definitions;
 4. If a term is defined in the rule by referring to another rule or a statute other than the general and specific statutes authorizing the rule, the statute or other rule referred to in the definition; and
 5. The text of the existing rule.
- C. After a rule is placed on a Council agenda, Council staff shall review the rule for compliance with the requirements of A.R.S. §§ 41-1027, 41-1053, and this Chapter and may ask questions or suggest changes to the agency. If the agency revises any rulemaking document in response to a question or suggested change, the agency shall submit one electronic copy of the revised rulemaking document to the Council for review.
- D. After a rule is placed on a Council agenda, an agency may have the rule moved to the agenda of a later meeting by having the agency head send a written notice to the Chair that includes the date of the later meeting. If the agency makes a subsequent request that the rule be moved, the Chair may grant or deny the request at the Chair's discretion.

Historical Note

Adopted effective March 16, 1988 (Supp. 88-1).
 Repealed effective May 25, 1995 (Supp. 95-2). New Section made by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3). Amended by final rulemaking at 23 A.A.R. 2265 effective August 9, 2017 (Supp. 17-3).

R1-6-203. Delivering a Notice of Proposed Expedited Rulemaking

- A. Under A.R.S. § 41-1027(B), before filing a Notice of Proposed Expedited Rulemaking with the Office of the Secretary of State, an agency is required to submit an electronic copy of the Notice of Proposed Expedited Rulemaking to the Council.
- B. Upon filing a Notice of Proposed Expedited Rulemaking with the Office of the Secretary of State, the agency shall:
1. Post the Notice of Proposed Expedited Rulemaking on its website as soon as practicable; and
 2. Notify Council staff of the filing as soon as practicable. Upon receipt of this notice, Council staff shall post the Notice of Proposed Expedited Rulemaking on the Council's website as soon as practicable.
- C. For the purposes of submitting a final expedited rule for consideration by the Council in accordance with R1-6-202, if the agency and the Council post the Notice of Proposed Expedited Rulemaking on their respective websites on different dates, the Council shall consider the 30-day public comment window established in A.R.S. § 41-1027(C) to have opened on the date of the agency's posting.

Historical Note

Adopted effective March 16, 1988 (Supp. 88-1).
 Repealed effective May 25, 1995 (Supp. 95-2). New Section R1-6-203 renumbered from R1-6-112 and amended by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3). Amended by final rulemaking at 23 A.A.R. 2265 effective August 9, 2017 (Supp. 17-3).

R1-6-204. Submitting an Approved Regular or Expedited Rule with Changes

- A. If a final regular or expedited rule is approved by the Council with changes, an agency shall submit to the Council office within 14 calendar days after Council approval, unless a later date is arranged under subsection (B), one electronic copy of each rulemaking document that follows, prepared in the manner required by this Chapter and the rules of the Office of the Secretary of State:
1. A letter identifying each change made at the direction of the Council; and
 2. The following rulemaking documents:
 - a. A notice of Final Rulemaking or Notice of Final Expedited Rulemaking, as applicable; and
 - b. An economic, small business, and consumer impact statement, if applicable.
- B. If an agency is unable to submit an approved regular rule or expedited rule to the Council office within the time specified in subsection (A), the agency shall contact the Council office in writing and arrange to submit the approved rule at a later date.

Historical Note

Adopted effective March 16, 1988 (Supp. 88-1).
 Repealed effective May 25, 1995 (Supp. 95-2). New Section R1-6-204 renumbered from R1-6-107 and amended by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3). Amended by final rulemaking at 23 A.A.R. 2265 effective August 9, 2017 (Supp. 17-3).

R1-6-205. Filing a Regular or Expedited Rule Approved by the Council

- A. If the Council approves a final regular or expedited rule as submitted, an agency shall file the final regular or expedited rule according to the rules of the Office of the Secretary of State.
- B. If the Council approves a final regular or expedited rule subject to the agency making changes as directed by the Council, and the agency submits the rulemaking documents required by R1-6-204:

1. Council staff shall verify whether each change required by the Council was made.
 2. Once Council staff notifies the agency that the verification process is complete, the agency shall file the final regular or expedited rule according to the rules of the Office of the Secretary of State.
 3. If an agency submits a revised preamble; table of contents; rule; or economic, small business, and consumer impact statement that does not contain the exact words approved by the Council, Council staff shall notify the agency and require that the items be submitted as approved or schedule the matter for reconsideration by the Council.
- C. Except as specified in subsection (B), an agency shall not make any change to a preamble; table of contents; rule; economic, small business, and consumer impact statement; or materials incorporated by reference after Council approval.

Historical Note

Adopted effective March 16, 1988 (Supp. 88-1).
 Repealed effective May 25, 1995 (Supp. 95-2). New Section R1-6-205 renumbered from R1-6-108 and amended by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3). Amended by final rulemaking at 23 A.A.R. 2265 effective August 9, 2017 (Supp. 17-3).

R1-6-206. Returned Rules

The Council may vote to return a preamble; table of contents; rule; or economic, small business, and consumer impact statement under A.R.S. § 41-1052(C), after identifying the manner in which the returned portion does not meet the standards at A.R.S. § 41-1052(D) through (G).

1. The Council may schedule a date for resubmission in consultation with the agency representative.
2. An agency shall resubmit the notice, with a revised preamble; table of contents; rule; or economic, small business, and consumer impact statement to the Council, and attach to each resubmitted document a letter that:
 - a. Identifies all changes made in response to the Council's explanation for the returned portion,
 - b. Explains how the changes ensure that the document meets the standards at A.R.S. § 41-1052(D) through (G), and
 - c. If applicable, shows that the resubmitted rule is not substantially different from the proposed rule under the standards in A.R.S. § 41-1025.
3. In accordance with R1-6-102, an agency representative shall appear at the Council meeting at which the resubmitted notice, with a revised preamble, table of contents, or rule, or economic, small business, and consumer impact statement is to be considered for legal action.

Historical Note

Adopted effective March 16, 1988 (Supp. 88-1).
 Repealed effective May 25, 1995 (Supp. 95-2). New Section R1-6-206 renumbered from R1-6-109 and amended by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3). Amended by final rulemaking at 23 A.A.R. 2265 effective August 9, 2017 (Supp. 17-3).

R1-6-207. Repealed

Historical Note

New Section R1-6-207 made by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).
 Section repealed by final rulemaking at 23 A.A.R. 2265 effective August 9, 2017 (Supp. 17-3).

ARTICLE 3. FIVE-YEAR REVIEW REPORTS

R1-6-301. Submitting a Five-year Review Report

- A. To submit a five-year review report for consideration by the Council, an agency shall submit to the Council office one electronic copy of the cover letter signed by the agency head and the five-year review report required by A.R.S. § 41-1056. Consistent with subsection (B), the agency shall concisely analyze and provide the following information in the five-year review report in the following order for each rule:
1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules;
 2. Objective of the rule, including the purpose for the existence of the rule;
 3. Effectiveness of the rule in achieving the objective, including a summary of any available data supporting the conclusion reached;
 4. Consistency of the rule with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency;
 5. Agency enforcement policy, including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement;
 6. Clarity, conciseness, and understandability of the rule;
 7. Summary of the written criticisms of the rule received by the agency within the five years immediately preceding the five-year review report, including letters, memoranda, reports, written analyses submitted to the agency questioning whether the rule is based on valid scientific or reliable principles or methods, and written allegations made in litigation or administrative proceedings in which the agency was a party that the rule is discriminatory, unfair, unclear, inconsistent with statute, or beyond the authority of the agency to enact, and the result of the litigation or administrative proceedings;
 8. A comparison of the estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule;
 9. Any analysis submitted to the agency by another person regarding the rule's impact on this state's business competitiveness as compared to the competitiveness of businesses in other states;
 10. If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report;
 11. A determination after analysis that the probable benefits of the rule within this state outweigh the probable costs of the rule, and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective;
 12. A determination after analysis that the rule is not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law;
 13. For a rule adopted after July 29, 2010, that requires issuance of a regulatory permit, license or agency authorization, whether the rule complies with A.R.S. § 41-1037; and
 14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal

an existing rule, or to make a new rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.

- B. To avoid repetition, an agency shall use a narrative format rather than a tabular format to present the information in the report. The narrative shall be organized according to the categories in subsection (A). For subsection (A)(2), the agency shall provide a specific objective, including the purpose for the existence of each individual rule. Within the remaining categories, an agency shall analyze each rule individually or, if the analysis for each rule is the same, consolidate the analysis, either by article or for all rules in the report. If the analysis for a category is identical for all of the rules in a report, the agency shall specify that the analysis within that category applies to all of the rules in the report. If the analysis for a category is identical for all of the rules in an article, the agency shall specify that the analysis within that category applies to all of the rules in the article.
- C. In addition to the documents required in subsection (A), an agency shall submit one electronic copy of the cover letter. The cover letter shall provide the following information:
 - 1. A person to contact for information regarding the report,
 - 2. Any rule that is not reviewed with the intention that the rule will expire under A.R.S. § 41-1056(J),
 - 3. Any rule that is not reviewed because the Council rescheduled the review of an article under A.R.S. § 41-1056(H), and
 - 4. The certification that the agency is in compliance with A.R.S. § 41-1091.
- D. In addition to the documents required in subsections (A) and (C), an agency shall submit one electronic copy of the following reference documents:
 - 1. Rules being reviewed;
 - 2. General and specific statutes authorizing the rules, including any statute that authorizes the agency to make rules; and
 - 3. If an economic, small business, and consumer impact statement was prepared on the last making of a rule being reviewed, the economic, small business, and consumer impact statement for the rule.
- E. After a five-year review report is placed on a Council agenda, Council staff shall review the report for compliance with the requirements of A.R.S. § 41-1056 and this Chapter and may ask questions or suggest changes to the agency. If the agency revises any document in response to a question or suggested change, the agency shall submit one electronic copy of the revised document to the Council for review.
- F. After a five-year review report is placed on a Council agenda, an agency may have the report moved to the agenda of a later meeting by having the agency head submit a written notice to Council staff that includes the date of the later meeting. If the agency makes a subsequent request to have a five-year review report moved, the Chair may grant or deny the request at the Chair's discretion.
- G. A person may submit written comments to the Council. The Council may also permit testimony at a Council meeting.

Historical Note

Adopted effective April 3, 1996 (Supp. 96-2). Former Section R1-6-301 renumbered to R1-6-302; new Section R1-6-301 adopted by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4). R1-6-301 renumbered to R1-6-501; new R1-6-301 renumbered from R1-6-111 and amended by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3). Amended by final rulemaking at 23

A.A.R. 2265 effective August 9, 2017 (Supp. 17-3).

R1-6-302. Rescheduling a Five-year Review Report

- A. To request that a five-year review report be rescheduled under A.R.S. § 41-1056(H), an agency head shall submit a letter to the Chair before the report is due that includes the following information:
 - 1. The title, chapter, and article of the rules for which rescheduling is sought;
 - 2. Whether the rules were initially made or substantially revised with an effective date or date of Council approval that is within two years before the due date of the report; and
 - a. If substantially revised:
 - i. A description of the revisions,
 - ii. Why the revisions are believed to be substantial,
 - iii. The date of Council approval of the rules, if applicable, and
 - iv. The date on which the rules were published in the *Register* by the Office of the Secretary of State and the effective date of the rules; or
 - b. If initially made:
 - i. The date of Council approval of the rules, if applicable, and
 - ii. The date on which the rules were published in the *Register* by the Office of the Secretary of State and the effective date of the rules.
- B. The Chair, in the Chair's discretion, may grant the rescheduling of a five-year review report for the rules within an article that meet the requirements of this Section.
- C. The Chair may, on the Chair's own initiative, reschedule a five-year review report if all rules within an article meet the requirements of this Section.

Historical Note

New Section renumbered from R1-6-301 and amended by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4). R1-6-302 renumbered to R1-6-502; new R1-6-302 renumbered from R1-6-113 and amended by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3). Amended by final rulemaking at 23 A.A.R. 2265 effective August 9, 2017 (Supp. 17-3).

R1-6-303. Extension of the Due Date for a Five-year Review Report

- A. An agency may obtain an extension of 120 days to submit a five-year review report by filing a written notice of extension with the Council before the due date of the report. The agency shall specify in the notice the reason for the extension.
- B. An agency may, as an alternative, request a longer extension that is more than 120 days but does not exceed one year by sending a written request to the Chair at least 40 days prior to the due date of the report. The agency shall specify the length of the requested extension and the reason for the requested extension.
 - 1. A request for an extension that is more than 120 days but does not exceed one year shall be placed on the agenda of a Council meeting scheduled to occur prior to the due date of the report.
 - 2. The Council shall consider the reason for the requested extension and may grant a request for an extension that is more than 120 days but does not exceed one year.

Historical Note

New Section R1-6-303 renumbered from R1-6-114 and

amended by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3). Amended by final rulemaking at 23 A.A.R. 2265 effective August 9, 2017 (Supp. 17-3).

R1-6-304. Repealed

Historical Note

New Section R1-6-304 renumbered from R1-6-115 and amended by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3). Section repealed by final rulemaking at 23 A.A.R. 2265 effective August 9, 2017 (Supp. 17-3).

R1-6-305. Returned Five-year Review Reports

The Council may vote to return, in whole or in part, a five-year review report after identifying the manner in which the five-year review report does not meet the standards in A.R.S. § 41-1056(A).

1. The Council, in consultation with the agency, shall schedule submission of a revised report.
2. An agency submitting a revised five-year review report shall attach to the revised report a letter that:
 - a. Identifies all changes made in response to the Council's explanation for return of the five-year review report, and
 - b. Explains how the changes ensure that the five-year review report meets the standards in A.R.S. § 41-1056(A).

Historical Note

New Section R1-6-305 made by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3). Amended by final rulemaking at 23 A.A.R. 2265 effective August 9, 2017 (Supp. 17-3).

ARTICLE 4. APPEALS AND PETITIONS

R1-6-401. Applicability

For purposes of this article, the term "petition or appeal" refers to the following:

1. The A.R.S. § 41-1008(G) Petition for an alternative expiration date for fees established or increased by exempt rulemaking;
2. The A.R.S. § 41-1033(B) Appeal of an agency's decision on a petition requesting the making of a final rule or a review of an existing agency practice or substantive policy statement that the petitioner alleges to constitute a rule;
3. The A.R.S. § 41-1033(C) Petition to request a review of a final rule based on a person's belief that a final rule does not meet the requirements prescribed in A.R.S. § 41-1030;
4. Pursuant to A.R.S. § 41-1033(D), the Council's receipt of information indicating that an existing agency practice or substantive policy statement may constitute a rule or that a final rule does not meet the requirements prescribed in A.R.S. § 41-1030;
5. The A.R.S. § 41-1052(B) Early Review Petition;
6. The A.R.S. § 41-1055(E) Petition for a determination that an agency is not required to file an economic, small business, and consumer impact statement;
7. The A.R.S. § 41-1056(M) Petition to require an agency that has an obsolete rule to consider including the rule in a five-year review report with a recommendation for repeal of the rule;
8. The A.R.S. § 41-1056(N) Petition to require an agency to consider including a recommendation for reducing a licensing time frame in a five-year review report;

9. The A.R.S. § 41-1056.01(D) Appeal related to the economic, small business, and consumer impact of a rule; and
10. The A.R.S. § 41-1081(F) Appeal of a delegation agreement.

Historical Note

Adopted effective April 3, 1996 (Supp. 96-2). Amended by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4). Amended by final rulemaking at 17 A.A.R. 1410, effective September 5, 2011 (Supp. 11-3). R1-6-401 renumbered to R1-6-601; new Section R1-6-401 renumbered from R1-6-201 and amended by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3). Amended by final rulemaking at 23 A.A.R. 2265 effective August 9, 2017 (Supp. 17-3).

R1-6-402. Filing of Petitions or Appeals; Agency Response; Council Decision

- A. A person filing a petition or appeal shall submit to the Council one electronic copy of the petition or appeal. The petition or appeal shall contain:
 1. The name, mailing address, e-mail address, and telephone number of the person filing the petition or appeal;
 2. The name of the person being represented by the person filing the petition or appeal, if applicable;
 3. The reasons for submitting the petition or appeal, including relevant facts, laws, and statutory authority;
 4. The reasons why the Council should grant the petition or appeal; and
 5. Any supporting documents relevant to the petition or appeal.
- B. The petition or appeal shall not exceed five double-spaced pages and shall be in a clear and legible typeface.
- C. If applicable, the Council shall notify the affected agency head of the petition or appeal by 5:00 p.m. of the business day following receipt of the petition or appeal. The agency may submit a response to the petition or appeal to the Council.
- D. When required by statutes, within 14 calendar days after a petition or appeal is received by the Council, the Chair shall send written notice to the person filing the petition or appeal and the affected agency head stating whether the required number of Council members have requested that a given petition or appeal be considered at a Council meeting.
- E. No later than seven calendar days after the Council renders a decision on a petition or appeal, the Chair shall send a letter to the affected agency head and the person filing the petition, advising them of the reasons for, and date of, the decision.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2265 effective August 9, 2017 (Supp. 17-3).

R1-6-403. Additional Requirements for an Appeal of a Delegation Agreement

- A.** Under A.R.S. § 41-1081(F), a person who has filed a written comment with a delegating agency in objection to all or part of a proposed delegation agreement may, within thirty days after the agency gives written notice of its decision pursuant to A.R.S. § 41-1081(E), appeal an agency's decision to enter into a delegation agreement.
- B.** In addition to the information required by R1-6-402(A), an appeal of a delegation agreement shall contain:
1. The name of each agency and each political subdivision entering into the delegation agreement;
 2. The subject matter of the delegation agreement;
 3. Copies of all written comments made by the appellant that object to the delegation agreement and have been filed with the delegating agency; and
 4. The reasons why the appellant is objecting to the delegation agreement and filing the appeal.
- C.** The Council shall notify the delegating agency head of an appeal of a delegation agreement by 5:00 p.m. of the business day following receipt of the appeal.
- D.** The delegating agency head shall submit electronic copies of the following information and documentation by 5:00 p.m. on the third business day following notification by the Council of the appeal:
1. A memorandum that includes:
 - a. The date the delegating agency gave written notice of the decision to enter into the delegation agreement;
 - b. The dates of all public proceedings regarding the delegation agreement; and
 - c. The name, mailing address, e-mail address, and telephone number of the contact persons for each agency and each political subdivision involved in the agreement.
 2. A copy of the delegation agreement; and
 3. The agency's written summary, prepared as required by A.R.S. § 41-1081(E), responding to all oral or written comments received by the agency regarding the delegation agreement.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2265 effective August 9, 2017 (Supp. 17-3).

R1-6-404. Additional Requirements for an Appeal Related to the Economic, Small Business, and Consumer Impact of a Rule

- A.** Under A.R.S. § 41-1056.01(D), a person who is or may be affected by an agency's final decision on a petition filed pursuant to A.R.S. § 41-1056.01(A) may, within thirty days of publication of the decision, file an appeal.
- B.** In addition to the information required by R1-6-402(A), an appeal of an agency's final decision on a petition filed pursuant to A.R.S. § 41-1056.01(A) shall contain a statement indicating how the person filing the appeal is or may be affected by the agency's decision.
- C.** The Council shall notify the affected agency head of an appeal of an agency's final decision on a petition filed pursuant to A.R.S. § 41-1056.01(A) by 5:00 p.m. of the business day following receipt of the appeal.
- D.** The affected agency head shall submit electronic copies of the following information and documentation by 5:00 p.m. on the third business day following notification by the Council of the appeal:
1. A memorandum that includes:

- a. The date of publication of the agency's final decision under A.R.S. § 41-1056.01(C);
 - b. The name, mailing address, e-mail address, and telephone number of the agency's contact person; and
 - c. Reasons why the agency believes that:
 - i. The actual economic, small business, and consumer impact did not significantly exceed the estimated economic, small business, and consumer impact;
 - ii. The actual economic, small business, and consumer impact was estimated on approval of the rule and the impact does not impose a significant burden on persons subject to the rule; or
 - iii. The agency selected the alternative that imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.
2. A copy of final judgments, if any, issued by a court of competent jurisdiction that are based on whether the contents of the rule's economic, small business, and consumer impact statement were insufficient or inaccurate;
 3. A copy of the rule being appealed; and
 4. A copy of the agency's written summary of comments received, the agency's response to those comments, and the agency's final decision on whether to initiate rulemaking, prepared and published as required by A.R.S. § 41-1056.01(C).

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2265 effective August 9, 2017 (Supp. 17-3).

ARTICLE 5. REPEALED**R1-6-501. Repealed****Historical Note**

New Section made by final rulemaking at 17 A.A.R. 1410, effective September 5, 2011 (Supp. 11-3). R1-6-501 renumbered to R1-6-701; new Section R1-6-501 renumbered from R1-6-301 and amended by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3). Section repealed by final rulemaking at 23 A.A.R. 2265 effective August 9, 2017 (Supp. 17-3).

R1-6-502. Repealed**Historical Note**

New Section R1-6-502 renumbered from R1-6-302 and amended by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3). Section repealed by final rulemaking at 23 A.A.R. 2265 effective August 9, 2017 (Supp. 17-3).

ARTICLE 6. REPEALED**R1-6-601. Repealed****Historical Note**

New Section R1-6-601 renumbered from R1-6-401 and amended by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3). Section repealed by final rulemaking at 23 A.A.R. 2265 effective August 9, 2017 (Supp. 17-3).

ARTICLE 7. REPEALED**R1-6-701. Repealed****Historical Note**

New Section R1-6-701 renumbered from R1-6-501 and

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amended by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3). Section repealed by final rulemaking at 23 A.A.R. 2265 effective August 9, 2017 (Supp. 17-3).

ARTICLE 8. REPEALED**R1-6-801. Repealed****Historical Note**

New Section R1-6-801 made by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

Section repealed by final rulemaking at 23 A.A.R. 2265 effective August 9, 2017 (Supp. 17-3).

R1-6-802. Repealed**Historical Note**

New Section R1-6-802 made by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).
Section repealed by final rulemaking at 23 A.A.R. 2265 effective August 9, 2017 (Supp. 17-3).

Supplement Separator Page



Supplement to the
Arizona Administrative Code
The official compilation of Arizona Rules
Replacement Check List

For rules filed in the third quarter between
July 1 - September 30
2017

Within the stated calendar quarter, this Title contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information. Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

TITLE 02. Administration

Chapter 05. Department of Administration - State Personnel System

Section Expired
R2-5-203

☐ REMOVE Supp. 13-1
Pages: 1 - 35

☐ REPLACE with Supp. 17-3
Pages: 1 - 36

The agency's contact person who can answer questions about rules in this Chapter:

Name: Governor's Regulatory Review Council
Address: 100 N. 15th Ave #305
Phoenix, AZ 85007
Telephone: (602) 542-2058

Disclaimer: Please be advised the person listed is the contact of record as submitted in the rulemaking package for this supplement. The contact and other information may change and is provided as a public courtesy.

PUBLISHER
Arizona Department of State
Office of the Secretary of State, Administrative Rules Division

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the Administrative Code. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION
September 30, 2017

RULES

A.R.S. § 41-1001(17) states: “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions. Virtually everything in your life is affected in some way by rules published in the Arizona Administrative Code, from the quality of air you breathe to the licensing of your dentist. This chapter is one of more than 230 in the Code compiled in 21 Titles.

ADMINISTRATIVE CODE SUPPLEMENTS

Rules filed by an agency to be published in the Administrative Code are updated quarterly. Supplement release dates are printed on the footers of each chapter:

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2017 is cited as Supp. 17-1.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the Arizona Administrative Register for recent updates to rule Sections.

ARTICLES AND SECTIONS

Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering system separated into subsections.

HISTORICAL NOTES AND EFFECTIVE DATES

Historical notes inform the user when the last time a Section was updated in the Administrative Code. Be aware, since the Office publishes each quarter by entire chapters, not all Sections are updated by an agency in a supplement release. Many times just one Section or a few Sections may be updated in the entire chapter.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in the introduction of a chapter can be found at the Secretary of State’s website, www.azsos.gov/services/legislative-filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the Arizona Administrative Register online at www.azsos.gov/rules, click on the Administrative Register link.

In the Administrative Code the Office includes editor’s notes at the beginning of a chapter indicating that certain rulemaking Sections were made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR

If you are researching rules and come across rescinded chapters on a different paper color, this is because the agency filed a Notice of Exempt Rulemaking. At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

PERSONAL USE/COMMERCIAL USE

This chapter is posted as a public courtesy online, and is for private use only. Those who wish to use the contents for resale or profit should contact the Office about Commercial Use fees. For information on commercial use fees review A.R.S. § 39-121.03 and 1 A.A.C. 1, R1-1-113.

Public Services managing rules editor, Rhonda Paschal, assisted with the editing of this chapter.

TITLE 2. ADMINISTRATION**CHAPTER 5. DEPARTMENT OF ADMINISTRATION - STATE PERSONNEL SYSTEM**

(Authority: A.R.S. § 41-761 et seq.)

Editor's Note: The Chapter Title was amended from Department of Administration, Personnel Administration to Department of Administration, State Personnel System. All Articles 1 through 9 repealed under exempt rulemaking at 18 A.A.R. 2782 effective September 29, 2012 (Supp. 12-4).

Editor's Note: Because the rules in this Chapter that were adopted under an exemption from the provisions of the Administrative Procedure Act (A.R.S. Title 41, Chapter 6) have been repealed, the Chapter is printed on white paper (Supp. 99-3).

Editor's Note: This Chapter contains rules which were repealed and adopted under an exemption from the provisions of the Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1997, Ch. 288, § 10. Exemption from A.R.S. Title 41, Chapter 6 means the Department of Administration did not submit these rules to the Governor's Regulatory Review Council for review; the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; and the Department was not required to hold public hearings on these rules. Because this Chapter contains rules which are exempt from the regular rulemaking process, the Chapter is printed on blue paper.

Article 1 consisting of Sections R2-5-101 through R2-5-105; Article 2 consisting of Sections R2-5-201 through R2-5-210 and R2-5-213; Article 3 consisting of Sections R2-5-301 through R2-5-306; Article 4 consisting of Sections R2-5-401 through R2-5-411 and R2-5-413 through R2-5-418; Article 5 consisting of Sections R2-5-501 through R2-5-503; Article 6 consisting of Sections R2-5-601 through R2-5-605; Article 7 consisting of Sections R2-5-701 and R2-5-702; Article 8 consisting of Sections R2-5-801 through R2-5-803; and Article 9 consisting of Sections R2-5-901 and R2-5-902 adopted effective December 31, 1986 (Supp. 86-6).

Former Article 1 consisting of Sections R2-5-101 and R2-5-102; former Article 2 consisting of Sections R2-5-201 through R2-5-205; former Article 3 consisting of Sections R2-5-301 and R2-5-302; former Article 4 consisting of Sections R2-5-401 through R2-5-403; former Article 5 consisting of Sections R2-5-501 and R2-5-502; and former Article 6 consisting of Sections R2-5-601 through R2-5-605 repealed effective December 31, 1986 (Supp. 86-6).

ARTICLE 1. REPEALED

Article 1, consisting of Sections R2-5-101 through R2-5-105 repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

Section	
R2-5-101.	Repealed 4
R2-5-102.	Repealed 4
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R2-5-105.	Repealed 4

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ARTICLE 5. REPEALED

Article 5, consisting of Sections R2-5-501 through R2-5-503 repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

Section	
R2-5-501.	Repealed 7
R2-5-502.	Repealed 7
R2-5-503.	Repealed 7

ARTICLE 6. REPEALED

Article 6, consisting of Sections R2-5-601 through R2-5-605, repealed by final rulemaking at 6 A.A.R. 4572, effective November

13, 2000 (Supp. 00-4).

Section

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R2-5-604.	Repealed	8
R2-5-605.	Repealed	8

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Article 7, consisting of Sections R2-5-701 through R2-5-702, repealed by final rulemaking at 6 A.A.R. 4572, effective November 13, 2000 (Supp. 00-4).

Section

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ARTICLE 8. REPEALED

Article 8, consisting of Sections R2-5-801 through R2-5-803, repealed by final rulemaking at 6 A.A.R. 4572, effective November 13, 2000 (Supp. 00-4).

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Editor's Note: Articles 1 through 9, under Chapter 5, Department of Administration, Personnel Administration repealed at 18 A.A.R. 2782 effective September 29, 2012 (Supp. 12-4).

ARTICLE 1. REPEALED

R2-5-101. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective August 2, 1989 (Supp. 89-3). Subsection (48) corrected to read "without prejudice" (Supp. 95-2). Subsection (55) amended to correct a printing error (Supp. 99-3). Amended by final rulemaking at 9 A.A.R. 1040, effective May 4, 2003 (Supp. 03-1). Amended by final rulemaking at 11 A.A.R. 4357, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 1420, effective May 31, 2008 (Supp. 08-2). Amended by final rulemaking at 14 A.A.R. 2924, effective August 30, 2008 (Supp. 08-3). Amended by final rulemaking at 15 A.A.R. 207, effective March 7, 2009 (Supp. 09-1). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-102. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Correction to subsection (A) as certified effective December 31, 1986 (Supp. 87-3). Amended by final rulemaking at 9 A.A.R. 1040, effective May 4, 2003 (Supp. 03-1). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-103. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Amended by final rulemaking at 9 A.A.R. 1040, effective May 4, 2003 (Supp. 03-1). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-104. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Section heading amended by final rulemaking at 9 A.A.R. 1040, effective May 4, 2003 (Supp. 03-1). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-105. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective August 2, 1989 (Supp. 89-3). Amended by final rulemaking at 9 A.A.R. 1040, effective May 4, 2003 (Supp. 03-1). Amended by final rulemaking at 16 A.A.R. 685, effective June 5, 2010 (Supp. 10-2). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

ARTICLE 2. REPEALED

R2-5-201. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective September 15, 1994 (Supp. 94-3). Amended by final rulemaking at 6 A.A.R. 4572, effective

November 13, 2000 (Supp. 00-4). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-202. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Amended by final rulemaking at 6 A.A.R. 4572, effective November 13, 2000 (Supp. 00-4). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-203. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Subsection (G) corrected to add omitted text following the word "error" (Supp. 95-2). Amended by final rulemaking at 6 A.A.R. 4572, effective November 13, 2000 (Supp. 00-4). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-204. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Section repealed by final rulemaking at 6 A.A.R. 4572, effective November 13, 2000 (Supp. 00-4). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-205. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Amended by final rulemaking at 6 A.A.R. 4572, effective November 13, 2000 (Supp. 00-4). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-206. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective September 15, 1994 (Supp. 94-3). Amended by final rulemaking at 6 A.A.R. 4572, effective November 13, 2000 (Supp. 00-4). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-207. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective August 2, 1989 (Supp. 89-3). Amended by final rulemaking at 6 A.A.R. 4572, effective November 13, 2000 (Supp. 00-4). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-208. Repealed

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 4572, effective November 13, 2000 (Supp. 00-4). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-209. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6).

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Repealed effective August 2, 1989 (Supp. 89-3).

R2-5-210. Repealed**Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6). Section repealed by final rulemaking at 6 A.A.R. 4572, effective November 13, 2000 (Supp. 00-4).

R2-5-211. Repealed**Historical Note**

Adopted effective August 2, 1989 (Supp. 89-3). Amended effective September 15, 1994 (Supp. 94-3). Amended by final rulemaking at 6 A.A.R. 4572, effective November 13, 2000 (Supp. 00-4). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-212. Repealed**Historical Note**

Reserved Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-213. Repealed**Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6). Subsection (C)(2) corrected to read "job-related" in line 2; Amended effective April 20, 1995 (Supp. 95-2). Amended by final rulemaking at 6 A.A.R. 4572, effective November 13, 2000 (Supp. 00-4). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

ARTICLE 3. REPEALED**R2-5-301. Repealed****Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6). Amended by final rulemaking at 7 A.A.R. 2724, effective June 6, 2001 (Supp. 01-2). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-302. Repealed**Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6). Amended by final rulemaking at 7 A.A.R. 2724, effective June 6, 2001 (Supp. 01-2). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-303. Repealed**Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective August 2, 1989 (Supp. 89-3). Amended effective September 15, 1994 (Supp. 94-3). Amended effective March 4, 1997 (Supp. 97-1). Amended effective August 5, 1997 (Supp. 97-3). Amended by final rulemaking at 7 A.A.R. 2724, effective June 6, 2001 (Supp. 01-2). Amended by final rulemaking at 16 A.A.R. 1129, effective August 7, 2010 (Supp. 10-2). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-304. Repealed**Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6).

Amended by final rulemaking at 5 A.A.R. 4417, effective November 2, 1999 (Supp. 99-4). Amended by final rulemaking at 7 A.A.R. 2724, effective June 6, 2001 (Supp. 01-2). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-305. Repealed**Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective April 20, 1995 (Supp. 95-2). Amended by final rulemaking at 7 A.A.R. 2724, effective June 6, 2001 (Supp. 01-2). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-306. Expired**Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6). Amended by final rulemaking at 7 A.A.R. 2724, effective June 6, 2001 (Supp. 01-2). Section expired under A.R.S. § 41-1056(E) at 13 A.A.R. 1143, effective May 31, 2006 (Supp. 07-1).

R2-5-307. Expired**Historical Note**

Adopted as an emergency effective February 22, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. New Section adopted effective March 10, 1993 (Supp. 93-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3483, effective July 19, 2002 (Supp. 02-3).

ARTICLE 4. REPEALED**R2-5-401. Repealed****Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6). Amended by final rulemaking at 14 A.A.R. 4309, effective November 4, 2008 (Supp. 08-4). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-402. Repealed**Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective July 6, 1993 (Supp. 93-3). Amended effective April 20, 1995 (Supp. 95-2). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-403. Repealed**Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6). Amended as an emergency effective August 19, 1988 pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Amended effective September 12, 1989 (Supp. 89-3). Amended effective September 14, 1990 (Supp. 90-3). Amended effective August 5, 1997 (Supp. 97-3). Amended by final rulemaking at 6 A.A.R. 4093, effective October 3, 2000 (Supp. 00-4). Amended by final rulemaking at 9 A.A.R. 2082, effective August 2, 2003 (Supp. 03-2). Amended by final rulemaking at 13 A.A.R. 1635, effective June 30, 2007 (Supp. 07-2). Amended by final rulemaking at 14 A.A.R. 4309, effective November 4, 2008 (Supp. 08-4). Section

repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-404. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6).
Amended effective August 2, 1989 (Supp. 89-3).
Amended effective September 15, 1994 (Supp. 94-3).
Amended by final rulemaking at 14 A.A.R. 4309, effective November 4, 2008 (Supp. 08-4). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-405. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6).
Amended effective April 20, 1995 (Supp. 95-2).
Amended by final rulemaking at 6 A.A.R. 4093, effective October 3, 2000 (Supp. 00-4). Amended by final rulemaking at 14 A.A.R. 4309, effective November 4, 2008 (Supp. 08-4). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-406. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-407. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6).
Amended by final rulemaking at 6 A.A.R. 4093, effective October 3, 2000 (Supp. 00-4). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-408. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-409. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-410. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6).
Amended effective August 2, 1989 (Supp. 89-3).
Amended effective April 20, 1995 (Supp. 95-2).
Amended by final rulemaking at 6 A.A.R. 4093, effective October 3, 2000 (Supp. 00-4). Amended by final rulemaking at 14 A.A.R. 4309, effective November 4, 2008 (Supp. 08-4). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-411. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6).

Amended effective August 2, 1989 (Supp. 89-3).
Amended effective April 20, 1995 (Supp. 95-2).
Amended by final rulemaking at 6 A.A.R. 4093, effective October 3, 2000 (Supp. 00-4). Amended by final rulemaking at 14 A.A.R. 4309, effective November 4, 2008 (Supp. 08-4). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-412. Repealed

Historical Note

Adopted as an emergency effective August 19, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Amended and adopted as a permanent rule effective September 12, 1989 (Supp. 89-3). Rule citation in subsection (B) corrected (Supp. 95-2). Former Section R2-5-412 renumbered to R2-5-413; new Section R2-5-412 adopted by final rulemaking at 6 A.A.R. 4093, effective October 3, 2000 (Supp. 00-4). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-413. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6).
Amended effective August 2, 1989 (Supp. 89-3).
Amended effective April 20, 1995 (Supp. 95-2). Former Section R2-5-413 renumbered to R2-5-414; new Section R2-5-413 renumbered from R2-5-412 and amended by final rulemaking at 6 A.A.R. 4093, effective October 3, 2000 (Supp. 00-4). Amended by final rulemaking at 14 A.A.R. 4309, effective November 4, 2008 (Supp. 08-4). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-414. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Former Section R2-5-414 renumbered to R2-5-415; new Section R2-5-414 renumbered from R2-5-413 and amended by final rulemaking at 6 A.A.R. 4093, effective October 3, 2000 (Supp. 00-4). Amended by final rulemaking at 14 A.A.R. 4309, effective November 4, 2008 (Supp. 08-4). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-415. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6).
Amended effective August 2, 1989 (Supp. 89-3). Former Section R2-5-415 renumbered to R2-5-416; new Section R2-5-415 renumbered from R2-5-414 and amended by final rulemaking at 6 A.A.R. 4093, effective October 3, 2000 (Supp. 00-4). Section repealed; new Section R2-5-415 renumbered from R2-5-423 and amended by final rulemaking at 15 A.A.R. 207, effective March 7, 2009 (Supp. 09-1). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-416. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6).
Amended effective August 2, 1989 (Supp. 89-3). Former Section R2-5-416 renumbered to R2-5-417; new Section

R2-5-416 renumbered from R2-5-415 and amended by final rulemaking at 6 A.A.R. 4093, effective October 3, 2000 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4357, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 1420, effective May 31, 2008 (Supp. 08-2). Section repealed by final rulemaking at 15 A.A.R. 207, effective March 7, 2009 (Supp. 09-1).

R2-5-417. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective August 2, 1989 and September 12, 1989 (Supp. 89-3). Former Section R2-5-417 renumbered to R2-5-418; new Section R2-5-417 renumbered from R2-5-416 and amended by final rulemaking at 6 A.A.R. 4093, effective October 3, 2000 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4357, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 1420, effective May 31, 2008 (Supp. 08-2). Section repealed by final rulemaking at 15 A.A.R. 207, effective March 7, 2009 (Supp. 09-1). New Section made by final rulemaking at 17 A.A.R. 650, effective June 4, 2011 (Supp. 11-2). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-418. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective August 2, 1989 (Supp. 89-3). Former Section R2-5-418 renumbered to R2-5-419; new Section R2-5-418 renumbered from R2-5-417 and amended by final rulemaking at 6 A.A.R. 4093, effective October 3, 2000 (Supp. 00-4). Amended by final rulemaking at 14 A.A.R. 1420, effective May 31, 2008 (Supp. 08-2). Section repealed by final rulemaking at 15 A.A.R. 207, effective March 7, 2009 (Supp. 09-1).

R2-5-419. Repealed

Historical Note

Adopted effective August 2, 1989 (Supp. 89-3). Former Section R2-5-419 renumbered to R2-5-421; new Section R2-5-419 renumbered from R2-5-418 and amended by final rulemaking at 6 A.A.R. 4093, effective October 3, 2000 (Supp. 00-4). Amended by final rulemaking at 14 A.A.R. 1420, effective May 31, 2008 (Supp. 08-2). Section repealed by final rulemaking at 15 A.A.R. 207, effective March 7, 2009 (Supp. 09-1).

R2-5-420. Repealed

Historical Note

Adopted effective August 2, 1989 (Supp. 89-3). Former Section R2-5-420 renumbered to R2-5-422; new Section R2-5-420 adopted by final rulemaking at 6 A.A.R. 4093, effective October 3, 2000 (Supp. 00-4). Section repealed by final rulemaking at 15 A.A.R. 207, effective March 7, 2009 (Supp. 09-1).

R2-5-421. Repealed

Historical Note

Adopted effective February 28, 1991 (Supp. 91-1). Former Section R2-5-421 renumbered to R2-5-423; new Section R2-5-421 renumbered from R2-5-419 and amended by final rulemaking at 6 A.A.R. 4093, effective October 3, 2000 (Supp. 00-4). Amended by final

rulemaking at 14 A.A.R. 1420, effective May 31, 2008 (Supp. 08-2). Section repealed by final rulemaking at 15 A.A.R. 207, effective March 7, 2009 (Supp. 09-1).

R2-5-422. Repealed

Historical Note

New Section R2-5-422 renumbered from R2-5-420 and amended by final rulemaking at 6 A.A.R. 4093, effective October 3, 2000 (Supp. 00-4). Amended by final rulemaking at 14 A.A.R. 1420, effective May 31, 2008 (Supp. 08-2). Section repealed by final rulemaking at 15 A.A.R. 207, effective March 7, 2009 (Supp. 09-1).

R2-5-423. Renumbered

Historical Note

New Section R2-5-423 renumbered from R2-5-421 and amended by final rulemaking at 6 A.A.R. 4093, effective October 3, 2000 (Supp. 00-4). Former R2-5-423 renumbered to R2-5-415 by final rulemaking at 15 A.A.R. 207, effective March 7, 2009 (Supp. 09-1).

ARTICLE 5. REPEALED

R2-5-501. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective April 20, 1995 (Supp. 95-2). Amended by final rulemaking at 7 A.A.R. 5811, effective December 6, 2001 (Supp. 01-4). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-502. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective September 15, 1994 (Supp. 94-3). Amended by final rulemaking at 7 A.A.R. 5811, effective December 6, 2001 (Supp. 01-4). Amended by final rulemaking at 12 A.A.R. 1733, effective July 1, 2006 (Supp. 06-2). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-503. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective September 9, 1998 (Supp. 98-3). Amended by final rulemaking at 7 A.A.R. 5811, effective December 6, 2001 (Supp. 01-4). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

ARTICLE 6. REPEALED

R2-5-601. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Section repealed by final rulemaking at 6 A.A.R. 4572, effective November 13, 2000 (Supp. 00-4).

R2-5-602. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Section repealed by final rulemaking at 6 A.A.R. 4572, effective November 13, 2000 (Supp. 00-4).

R2-5-603. Repealed

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Section repealed by final rulemaking at 6 A.A.R. 4572, effective November 13, 2000 (Supp. 00-4).

R2-5-604. Repealed**Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6). Section repealed by final rulemaking at 6 A.A.R. 4572, effective November 13, 2000 (Supp. 00-4).

R2-5-605. Repealed**Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6). Section repealed by final rulemaking at 6 A.A.R. 4572, effective November 13, 2000 (Supp. 00-4).

ARTICLE 7. REPEALED**R2-5-701. Repealed****Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective September 15, 1994 (Supp. 94-3). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-702. Repealed**Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective September 15, 1994 (Supp. 94-3). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

ARTICLE 8. REPEALED**R2-5-801. Repealed****Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective July 25, 1994 (Supp. 94-3). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-802. Repealed**Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-803. Repealed**Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

Editor's Note: Article 9 contained rules which were repealed and adopted under an exemption from the provisions of the Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1997, Ch. 288, § 10. Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit these rules to the Governor's Regulatory Review Council for review; the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; and the Department was not required to hold public hearings on these rules. Temporary rules repealed and adopted under these Sections are repealed from and after June 30, 1999 (Supp. 98-2). Temporary rules repealed and adopted pursuant to Laws 1997, Ch. 288, § 10 were repealed from and after June 30, 1999 and the rule in effect

before the adoption of the temporary rules became effective again upon the repeal of the temporary rules (Supp. 99-3).

ARTICLE 9. REPEALED**R2-5-901. Repealed****Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

Editor's Note: The following Section R2-5-902 was temporarily repealed and a new Section was temporarily adopted under an exemption from the provisions of the Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1997, Ch. 288, § 10. Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit these rules to the Governor's Regulatory Review Council for review; the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; and the Department was not required to hold public hearings on these rules. Temporary rules adopted are repealed effective June 30, 1999 (Supp. 98-2). The temporary rules were repealed from and after June 30, 1999, pursuant to Laws 1997, Ch. 288, § 10; the rule in effect before the adoption of the temporary rules became effective again upon the repeal of the temporary rules (Supp. 99-3). Section R2-5-902 was repealed and a new Section was adopted by final rulemaking (Supp. 99-4).

R2-5-902. Repealed**Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6). Section R2-5-902 temporarily repealed; new Section temporarily adopted effective April 23, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1997, Ch. 288, § 10. Rules adopted under this temporary Section are repealed effective June 30, 1999 (Supp. 98-2). Section repealed from and after June 30, 1999, pursuant to Laws 1997, Ch. 288, § 10; the rule in effect before the adoption of the temporary rules became effective again upon the repeal of the temporary rules (Supp. 99-3). Section repealed by final rulemaking at 5 A.A.R. 4529, effective November 2, 1999; new Section adopted by final rulemaking at 6 A.A.R. 20, effective December 7, 1999 (Supp. 99-4). Amended by final rulemaking at 13 A.A.R. 958, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 16 A.A.R. 2379, effective January 15, 2011 (Supp. 10-4). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-903. Repealed**Historical Note**

Emergency rule adopted effective January 4, 1996, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 86-6). Adopted with changes effective June 7, 1996 (Supp. 96-2). Section repealed by final rulemaking at 17 A.A.R. 650, effective June 4, 2011 (Supp. 11-2).

Editor's Note: The following Section was temporarily adopted under an exemption from the provisions of the Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1997, Ch. 288, § 10. Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit these rules to the Governor's Regulatory Review Council for review; the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; and the Department was not

required to hold public hearings on these rules. Temporary rules adopted are repealed effective June 30, 1999 (Supp. 98-2). Section repealed from and after June 30, 1999, pursuant to Laws 1997, Ch. 288, § 10 (Supp. 99-3). New Section R2-5-904 adopted by final rulemaking (99-4).

R2-5-904. Repealed

Historical Note

New Section adopted effective April 23, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1997, Ch. 288, § 10. This Section is automatically repealed effective June 30, 1999 (Supp. 98-2). Section repealed from and after June 30, 1999, pursuant to Laws 1997, Ch. 288, § 10 (Supp. 99-3). New Section adopted by final rulemaking at 6 A.A.R. 20, effective December 7, 1999 (Supp. 99-4). Formatting errors corrected (Supp. 08-3). Section repealed by final rulemaking at 16 A.A.R. 2379, effective January 15, 2011 (Supp. 10-4).

SUBCHAPTER A. COVERED AND UNCOVERED EMPLOYEES

ARTICLE 1. GENERAL

R2-5A-101. Definitions

In this subchapter, the following words and phrases have the defined meanings unless otherwise clearly indicated by the context:

“Agency head” means the chief executive officer of a state agency, or designee.

“Appeal” means a covered employee’s request for a review of a disciplinary action by the State Personnel Board under A.R.S. § 41-782 or the Law Enforcement Merit System Council under A.R.S. § 41-1830.16, as applicable.

“Applicant” means a person who seeks appointment to a position in state employment.

“Appointing authority” means the person or group of persons authorized by law or delegated authority to make appointments to fill positions. A.R.S. § 41-741(1)

“Appointment” means the offer to and the acceptance by a candidate of a position in a state agency.

“*At will*” means an employment relationship where either party to the relationship may sever the relationship at any time for any reason other than an unlawful reason. A.R.S. § 41-741(2)

“Base salary” means an employee’s salary excluding supplemental pay provided by R2-5A-403, overtime pay or other pay allowance provided by law.

“*Break in service*” means a separation from state employment, regardless of the reason for separation. A.R.S. § 41-741(3)

“Business day” means the hours between 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding observed state holidays.

“Candidate” means a person whose education, experience, competencies and other qualifications meet the requirements of a position and who may be considered for employment.

“Cause” means any of the reasons for disciplinary action provided by A.R.S. § 41-773 or these rules.

“*Change in assignment*” means movement of an employee to a different position in the same state agency or another state agency. A.R.S. § 41-741(4)

“Child” means, for purposes of R2-5A-B603, pertaining to sick leave, and R2-5A-B605 pertaining to bereavement leave, a natural child, adopted child, foster child, or stepchild.

“Class” means a group of positions with the same title and grade because each position in the group has similar duties, scope of discretion and responsibility, required qualifications, or other job-related characteristics.

“Class series” means a group of related classes as listed by the Arizona Department of Administration, Human Resources Division.

“Class specification” means a description of the type and level of duties and responsibilities of the positions assigned to a class.

“Competencies” means knowledge, skills, abilities, behaviors and other characteristics that contribute to successful job performance and the achievement of organizational results.

“*Covered employee*” means an employee who:

- (a) *Before September 29, 2012, is in the state service, is not uncovered pursuant to section 41-742, subsection A, and has remained in covered status without a break in service since that date.*
- (b) *Before September 29, 2012, is in the state service, is employed as a Correctional Officer I, Correctional Officer II, Correctional Officer III or Community Corrections Officer and has remained in covered status without a break in service since that date.*
- (c) *Before September 29, 2012, is in the state service, is a full authority peace officer as certified by the Arizona Peace Officer Standards and Training Board and has remained in that status without a break in service since that date.*
- (d) *On or after September 29, 2012, is a Correctional Officer I, Correctional Officer II, Correctional Officer III or Community Corrections Officer and is appointed to a position in the covered service, but does not include a position in any other class in the correctional officer class series or the community correctional officer class series or in any other correctional class series.*
- (e) *On or after September 29, 2012, is a full authority peace officer as certified by the Arizona Peace Officer Standards and Training Board and is appointed to a position that requires such a certification in the covered service. A.R.S. § 41-741(5)*

“Covered position” means a position in the covered service.

“Covered service” is defined in A.R.S. § 41-741 and means that employment status conferring rights of appeal as prescribed in A.R.S. §§ 41-782 and 41-783 or A.R.S. § 41-1830.16, as applicable.

“Days” means calendar days, unless otherwise stated.

“Demotion” means a change in the assignment of an employee from a position in one class to a position in another class that has a lower grade.

“Department” means the Arizona Department of Administration.

“*Director*” means the Director of the Arizona Department of Administration, or the Director’s designee, who is responsible for administering the state personnel system pursuant to applicable state and federal laws. A.R.S. § 41-741(7)

Department of Administration - State Personnel System

“Employee” means all officers and employees of this state, whether in covered service or uncovered service, unless otherwise prescribed. A.R.S. § 41-741(8)

“Employing agency” means the agency where the employee is employed or, if an applicant, the agency to which the person has applied.

“Essential job function” means a fundamental job duty of a position that an applicant or employee must be able to perform, with or without a reasonable accommodation.

“FLSA” means the federal Fair Labor Standards Act.

“FLSA exempt” means a position that is not entitled to overtime compensation under the FLSA.

“FLSA non-exempt” means a position that is entitled to overtime compensation under the FLSA.

“FMLA” means the federal Family and Medical Leave Act.

“Full authority peace officer” means a peace officer whose authority to enforce the laws of this state is not limited by the rules adopted by the Arizona Peace Officer Standards and Training Board. A.R.S. § 41-741(9)

“Grade” means the numeric identifier associated with one or more pay ranges, used to determine the internal worth of a class relative to other classes.

“Manifest error” means an act or failure to act that is, or clearly has caused, a mistake.

“Parent” means, for purposes of R2-5A-B602, pertaining to annual leave, R2-5A-B603, pertaining to sick leave, and R2-5A-B605, pertaining to bereavement leave, a birth parent, adoptive parent, stepparent, foster parent, grandparent, parent-in-law, or anyone who can be considered “in loco parentis.”

“Part-time” means employment scheduled for less than 40 hours per week.

“3/4 time” means employment regularly scheduled for at least 30 hours but fewer than 40 hours per week.

“1/2 time” means employment regularly scheduled for at least 20 hours but fewer than 30 hours per week.

“1/4 time” means employment regularly scheduled for at least 10 hours but fewer than 20 hours per week.

“Pay status” means an employee is receiving pay for work or for a compensated absence.

“Premium/contribution” means the amount paid in exchange for insurance coverage. Depending on the type of coverage, the premium/contribution is paid by the employee, the state, or a combination of both.

“Promotion” means a change in assignment of an employee from a position in one class to a position in another class that has a higher grade.

“Reallocation” means changing the allocation of a position to a different class if a material and permanent change in duties or responsibilities occurs.

“Reversion” means the return of a covered employee on promotional probation to a position in the class in which the employee held permanent status immediately before the promotion or to a similar position in another class at the same grade as the class the employee held permanent status if the employee possesses the qualifications for that position.

“Rules” means the rules adopted by the Department of Administration, Human Resources Division. A.R.S. § 41-741(13)

“Special assignment” means the temporary assignment, for up to six months, of the duties and responsibilities of another position to an employee in the same agency.

“State agency” means a department, board, office, authority, commission or other governmental budget unit of this state and includes an agency assigned to a department for administrative purposes. State agency does not include the legislative and judicial branches, the Arizona Board of Regents, state universities, the Arizona State Schools for the Deaf and the Blind, the Department of Public Safety, the Arizona Peace Officer Standards and Training Board, the Cotton Research and Protection Council or public corporations. A.R.S. § 41-741(14)

“State Personnel Board” is defined in A.R.S. § 41-741 and means the board established by A.R.S. Title 41, Chapter 4, Article 6.

“State Personnel System” is defined in A.R.S. § 41-741 and means all state agencies and employees of those agencies that are not exempted by the provisions of A.R.S. Title 41, Chapter 4, Article 4.

“State service” is defined in A.R.S. § 41-741 and means all offices and positions of employment in state government that, before September 29, 2012, were subject to the provisions of A.R.S. Title 41, Chapter 4, Articles 5 and 6 that were in effect before September 29, 2012.

“Supervisor” means a state employee who has one or more other state employees reporting directly to the person and, for those state employees, typically has the authority to:

(a) Approve sick or annual leave.

(b) Recommend hiring, discipline or dismissal.

(c) Assign or schedule daily work.

(d) Complete a performance evaluation. A.R.S. § 41-741(18)

“Temporary appointment” means an appointment made for a maximum of 1,500 hours worked in any agency in each calendar year.

“Transfer” means the movement of an employee from one position to another position in the same or an equivalent grade.

“Uncovered employee” means an employee in uncovered service. A.R.S. § 41-741(19)

“Uncovered service” means employment at will and includes all state employees except those in covered service. A.R.S. § 41-741(20)

“Working day” or “working hours” means a day or the hours an employee is regularly scheduled to work.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5A-102. General Provisions

A. Authority of Director.

1. The Director may approve, modify or deny a request, plan or proposal submitted by a state agency for review or when the Director’s approval is required by rule.
2. The Director may audit an agency’s personnel policies and procedures at any time. If the Director determines that the agency’s policies or procedures are inconsistent with these rules or are inconsistent with the procedures or

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guidelines issued by the Director, the Director may direct the agency head to modify them to achieve consistency or to discontinue them.

- B. Delegation of authority.
 1. The Director may, in writing, delegate authority to an agency head as consistent with legal requirements.
 2. The Director may review or audit delegated authority to determine compliance with laws, rules, and policies.
 3. Unless otherwise stated by law, or in these rules, an agency head may delegate authority granted to the agency head in these rules.
- C. Availability of funds. The granting of any compensation under these rules is contingent upon the availability of funds, as determined by an agency head and the Director.
- D. Service of notice. If a notice or document is to be given to a person or agency, the notice or document may be served personally or mailed to the last known residence or current business address of the person or agency. Unless otherwise provided by law or these rules, service is complete upon personal delivery or mailing.
- E. Employee handbook. The Director may publish an employee handbook outlining pertinent rules and regulations and make the handbook available to all employees. If published, the employee handbook shall serve as the official handbook for all employees in the State Personnel System. An agency head may supplement the employee handbook with agency specific policies and directives.
- F. Employment contracts. Unless otherwise provided by law, an appointing authority shall not execute an employment contract with any state employee.
- G. Correction of errors. Only the Director, or designee, has authority to determine whether a manifest error exists and to correct the manifest error.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5A-103. Applicability

- A. General. Except as provided in A.R.S., Title 41, Chapter 4, Article 4 and Article 5, or otherwise stated in rule, the rules in this subchapter are applicable to covered and uncovered positions, applicants for covered and uncovered positions and covered and uncovered employees in the State Personnel System. An employee who violates or fails to comply with these rules may be disciplined or separated from state employment. Any such actions involving a covered employee shall be in accordance with the rules in Subchapter B, Article 3.
- B. Temporary procedures. The Director may:
 1. Unless otherwise prescribed by statute, waive any rule and implement temporary procedures if the Director determines that essential public services are being hampered or it is in the best interest of the state.
 2. Implement a temporary pilot project to improve efficiency, productivity, or accountability in the State Personnel System. The project may include an activity or procedure that is not in accordance with these rules and shall not exceed two years in duration.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5A-104. Prohibition Against Discrimination, Harassment and Retaliation

- A. General. Agencies shall comply with all federal and state anti-discrimination laws. Agencies shall not unlawfully discriminate against any individual with regard to the terms and condi-

tions of employment, including hiring, pay, leave, insurance benefits, retention, and rehiring. The information provided in this rule is intended to serve as a summary of agencies' and employees' obligations with regard to compliance with applicable federal and state laws, rules and regulations. Nothing in these rules shall be construed as providing rights in excess of, or in addition to those authorized under federal laws and Arizona Revised Statutes.

- B. Equal Employment Opportunity. Each agency shall provide equal employment opportunity for all individuals regardless of race, color, national origin, religion, age, disability, genetic information, sex, pregnancy, military or veteran status, or any other status protected by federal law, state law, or regulation. It is the policy of this state that all individuals are treated in a fair and non-discriminatory manner throughout the application and employment process.
- C. Harassment Prohibited. Harassment of a sexual nature or harassment based on race, color, national origin, religion, age, disability, genetic information, sex, pregnancy, military or veteran status, or any other status protected by federal law, state law, or regulation is prohibited. An agency shall prohibit the unlawful harassment of any employee in the course of the employee's work by supervisors, coworkers, or third parties, such as vendors or customers. Any employee who engages in unlawful harassment may be subject to disciplinary action, up to and including termination of employment.
- D. Protection from Retaliation. The state prohibits retaliation against anyone for raising a concern about, assisting in an investigation of, or filing a complaint concerning unlawful discrimination or unlawful harassment.
- E. Complaints.
 1. An applicant for state employment who has a complaint alleging discrimination or harassment may file a complaint under the procedures in R2-5A-308.
 2. It is every employee's responsibility to promptly bring any allegation of discrimination, harassment or retaliation to the attention of the employing agency. Such complaints shall be filed under the procedures established under Article 9.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5A-105. Records

- A. Definitions. For the purposes of this Section, "record" generally refers to a paper document; however, a document may be maintained electronically.
- B. Application Materials.
 1. An agency head shall maintain and keep confidential all resumés, applications, tests, test results, records, correspondence, and other documents used to seek state employment. The agency head shall not release any materials that the agency head determines would compromise the application process for future applicants and shall restrict the review of the applicant's application materials to:
 - a. The applicant,
 - b. An individual who has written authorization from the applicant,
 - c. State officials in the normal line of duty, or,
 - d. Officials acting in response to court orders or subpoenas.
 2. The Director, or designee, shall ensure that when a person makes a public records request under A.R.S. Title 39, Chapter 1, Article 2 for applicant information:

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- a. Information shall only be provided if the position under recruitment is a high-level position and the public has a legitimate interest in the names of persons being seriously considered for the position, as determined by the Director; and
 - b. Only the names and resumés of the final candidates for the position as determined by the Director shall be released.
- C. Official Personnel File.**
 - 1. An employee's official personnel file is the official record and documentation of the employee's employment.
 - 2. An agency head shall, for each agency employee, maintain an official personnel file that contains:
 - a. A copy of the job application for the employee's current position;
 - b. A copy of all performance appraisals completed as required by Article 7;
 - c. Personnel action forms that authorize changes in employment status, position, classification, pay, or leave status;
 - d. Letters of commendation as established by agency policy; and
 - e. Correspondence consisting of:
 - i. Letters of reprimand, suspension, demotion or dismissal;
 - ii. Acknowledgments of receipt of letters of reprimand or other disciplinary communications; and
 - iii. Employee objections or responses to correspondence described in subsection (C)(2)(e)(i) that are not filed as complaints under Article 9 or grievances under Subchapter B, Article 4, if the objection or response is received within 30 calendar days of the date of the disciplinary action or letter of reprimand.
 - 3. For the purpose of this subsection, an official is an individual who provides identification verifying that the individual is exercising powers and duties on behalf of the chief administrative head of a public body. An agency head shall limit access to an employee's official personnel file to:
 - a. The employee;
 - b. The employee's attorney or an individual who has written authorization from the employee to review the personnel file;
 - c. Agency personnel designated by the agency head as having a need for the information;
 - d. A Department official in the normal line of duty;
 - e. An official acting in response to a court order or subpoena;
 - f. An official of an agency to which the employee has applied; and
 - g. An official of an agency of the federal government, state government, or political subdivision, if the agency head of the employing agency deems access to the file to be appropriate.
 - 4. When an employee moves from one state agency to another, the gaining agency shall request that the losing agency forward the employee's official personnel file to the gaining agency. The losing agency shall forward the file within 20 business days of the receipt of the request.
 - 5. When a former employee returns to state employment within five years of the former employee's separation to an agency other than the agency in which the employee was last employed, the gaining agency shall request that the last agency forward the employee's official personnel file. The last agency shall forward the file within 20 business days of the receipt of the request.
- D. Disclosure of information.**
 - 1. Definitions. For the purposes of this subsection:
 - a. "Disciplinary actions" means letters of reprimand, suspension, demotion or dismissal.
 - b. "Records that are reasonably necessary or appropriate to maintain an accurate knowledge of the employee's disciplinary actions" means the correspondence listed in subsection (D)(1)(a) and includes an official notice of charges of misconduct as applicable to covered employees, the final disciplinary letter, and any responses related to complaints, grievances or appeals upholding, amending, or overturning the discipline.
 - c. "Employee responses" means any written documents, submitted and signed by the employee, either:
 - i. In response to an official notice of charges of misconduct;
 - ii. As a formal complaint filed under the provisions of Article 9 or a formal grievance under Subchapter B, Article 4, of these rules pertaining to a specific disciplinary action; or
 - iii. As an objection to a specific disciplinary action and contained in the employee's official personnel file under subsection (C)(2)(e)(iii).
 - 2. Personnel records are confidential and an agency head shall ensure that except as provided in subsection (C)(3), only the following information about a current or former employee is provided to any person making a public records request under A.R.S. Title 39, Chapter 1, Article 2.
 - a. Name of employee;
 - b. Date of employment;
 - c. Current and previous class titles and dates of appointment to the class;
 - d. Current and previous agencies to which the employee has been assigned and the location of the main office for each agency;
 - e. Current and previous salaries and dates of each change;
 - f. Name of employee's current or last known supervisor; and
 - g. Records that are reasonably necessary or appropriate to maintain an accurate knowledge of the employee's disciplinary actions, including the employee responses to all disciplinary actions, unless providing this information is contrary to law.
- E. Insurance and medical records.** An agency head:
 - 1. May maintain group insurance enrollment forms in an employee's official personnel file for an employee hired prior to September 29, 2012.
 - 2. Shall maintain in a separate file that is not part of the employee's official personnel file:
 - a. Medical records, and
 - b. Group insurance enrollment forms for an employee hired on or after September 29, 2012.
- F. Employment eligibility records.** An agency head shall retain I-9 forms and other documents required by law to prove employment eligibility in a separate file that is not part of the employee's official personnel file.
- G. Employee access to files.** An employee has the right to review only the employee's official personnel file.
- H. Recordkeeping Requirements.** An agency head shall ensure that agency recruitment and employee records are maintained

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in accordance with the General Records Retention Schedule for Human Resources/Personnel Records published by and on file with the Secretary of State, Arizona State Library, Archives and Public Records.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

ARTICLE 2. CLASSIFICATION SYSTEM**R2-5A-201. Classification Plan**

- A. General. The Director shall group positions into classes based on similarities of duties and responsibilities. All positions are assigned a class specification with a specific title. An agency head may not appoint, transfer, promote, or demote an employee, or make any change in salary for any position until the position is allocated to a class.
- B. Class title. An agency head shall use the class title of a position to designate the position in all budget estimates, payrolls, vouchers, and communications in connection with personnel processes.
- C. Class specification. A class specification indicates the kinds of positions to be allocated to the class, as determined by the duties and responsibilities described for that class. Each class specification shall contain a statement of the minimum education, experience, competencies, and other qualifications required to perform the work. Required postsecondary education shall be attained in an institution that meets the standards established by an accrediting agency recognized by the U.S. Department of Education.
- D. Position description. An agency head shall ensure that every position in the agency has a completed position description describing the current duties, responsibilities, and essential job functions specific to the position.
- E. Allocation. The Director shall place every position in a class based on its duties and responsibilities.
- F. Reallocation. Upon completion of a review of a position, the Director may determine that the position should be placed in a different class.
- G. Regrade. Upon completion of a review of a classification, the Director may determine that the class should be placed in a different grade.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5A-202. Change in Classification

- A. Change in classification plan. The Director may establish new classes and divide, combine, alter, or abolish existing classes, grades, or both, in consultation with affected agency heads.
- B. Change in job duties.
 1. An employee in a position or the agency head may file a written request with the Director for review of the classification of the position. The request shall contain an updated position description, a specific explanation of how and when the position's duties and responsibilities have changed and the reasons why the current classification does not match these job duties.
 2. If a material and permanent change takes place in the duties and responsibilities of a position, the agency head shall report this change to the Director in an updated position description. The Director may order a reallocation of the position. The employee in the position at the time of reallocation shall continue to serve in the position.
- C. Effective date. The effective date of a change in classification shall be the first day of the pay period immediately following

the Director's determination, unless the Director authorizes an exception.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5A-203. Expired**Historical Note**

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 2489, effective August 8, 2017 (Supp. 17-3).

ARTICLE 3. RECRUITMENT, SELECTION AND APPOINTMENT**R2-5A-301. General**

An agency head shall follow the requirements outlined in this Article to identify and appoint qualified candidates to fill vacancies. The Director shall establish and maintain a centralized employment system that includes a job board for announcing vacancies in state employment, applicant tracking and candidate identification. The Director shall establish procedures for state agencies to request approval for transportation or other travel expenses or moving expenses provided by A.R.S. § 35-196.01 for out of state candidates.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4). Amended by exempt rulemaking at 19 A.A.R. 717 effective April 13, 2013 (Supp. 13-1).

R2-5A-302. Recruitment

- A. Job posting.
 1. Unless exempted by A.R.S. Title 41, Chapter 4, Article 4, an appointing authority shall post an open position to the state's centralized job board. This includes recruitments open to only employees currently employed by the agency, to state employees currently employed in any state agency, or the general public. An agency head may authorize an exception to the job posting requirement for a position in an individual case. Any exceptions shall be documented by the agency head and subject to audit by the Director.
 2. In addition to posting to the state's centralized job board, an appointing authority may post an open position in a publication or to a commercial job posting board or both, in compliance with applicable procurement rules.
- B. Application form.
 1. A candidate for a position shall complete the standardized application form developed by the Director.
 2. In addition to the standardized application form, an agency head may develop supplemental application procedures and forms specific to the agency or to a certain class or classes within the agency.
- C. Preferences.
 1. The state will provide preference to qualified veterans and disabled veterans seeking employment with the state.
 2. For positions in the covered service, preference points authorized by A.R.S. § 38-492 shall be added to an applicant's grade on any assessment or evaluation that results in a numeric grade after the final grade is determined, if a passing grade is earned without the addition of preference points. Preference points shall not be applied to promotional examinations. If an evaluation does not result in a numeric grade, preference shall be given by granting applicable preference codes to qualified applicants.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5A-303. Reference and Background Checks

A candidate may be required to furnish, at the candidate's own expense, evidence of education or other qualification. The appointing authority is responsible for verifying education, work experience, applicable license or licenses and references provided by candidates on the application form and in interviews. An appointing authority shall not conduct a criminal background check or a credit check on a candidate unless the agency has statutory or executive order authority to conduct such a check.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5A-304. Qualifications of Selected Candidate

An agency head shall ensure that any candidate selected for hire meets the established qualifications for the position filled.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5A-305. Employment of Relatives

- A. Relationship to supervisors. An individual shall not be employed in a position if the immediate supervisor of the individual is related within the third degree of affinity (marriage) or consanguinity (blood), or by adoption.
- B. Relationship to other employees. An individual shall not be employed in a position if the individual is related within the third degree to an employee who currently occupies a position under the same immediate supervisor.
- C. Exceptions. The Director may grant an exception to the prohibitions in subsections (A) and (B) if there is no other qualified person for the position at the location.
- D. Relationship to subordinate employees. A supervisor or manager at any level shall not make an employment decision specifically benefitting any individual who is related within the third degree, unless an exception under subsection (C) has been granted.
- E. Relationship to interviewer or interview panel members. An employee shall not interview or serve on an interview panel of any job candidate if the candidate is related within the third degree.
- F. Definition. For the purpose of this Section, persons related within the third degree include a spouse, child, parent, grandchild, grandparent, sister, brother, great grandchild, great grandparent, aunt, uncle, niece, nephew or first cousin.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5A-306. Hiring Requirements

Agencies shall comply with federal and state law, including the verification of employment eligibility pursuant to A.R.S. § 23-214. An agency head shall ensure the completion of the Form I-9 and the employment eligibility verification process for all new hires.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5A-307. Appointment

- A. General. Except as provided in A.R.S. Title 41, Chapter 4, Articles 4 and 5, all appointments shall be at will uncovered. An agency head may appoint a current state employee who

accepts a change in assignment or an external candidate in accordance with these rules and the procedures established by the Director.

B. Types of Appointment.

1. A regular appointment may be:
 - a. Full-time employment;
 - b. Part-time employment;
 - c. Subject to funding availability, such as federal or grant funding; or
 - d. To a trainee position.
2. A temporary appointment may be made for a recurring period of time up to a maximum of 1500 hours in any one position per agency each calendar year. A temporary appointment employee may work full time for a portion of the year, intermittently, on a seasonal basis, or on an as needed basis. An employee in a pool classification is considered a temporary appointment.
3. An agency head may place an employee on special assignment within the agency. A special assignment may be made non-competitively and for up to 6 months with the concurrence of the agency head of the employing agency and the Director. A special assignment shall not exceed 6 months unless extended by the Director. An agency head shall not make successive special assignments of the same person to the same class.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4). Amended by exempt rulemaking at 19 A.A.R. 717 effective April 13, 2013 (Supp. 13-1).

R2-5A-308. Applicant Complaint

An applicant who has a complaint alleging discrimination or harassment relating to the procedures used in the selection or evaluation process shall submit the applicant complaint to the agency human resources representative within 90 days of the action giving rise to the complaint. The agency human resources representative shall evaluate the complaint and notify the applicant of the final action to be taken.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

ARTICLE 4. COMPENSATION SYSTEM**R2-5A-401. Salary Plans**

- A. General. The Director shall establish a salary plan. The salary plan shall allow for the following:
 1. Minimum and maximum rates of pay for classes outlined in the classification plan.
 2. Salary adjustments, including adjustments to base salary and pay supplements and incentives, including add-ons to base salary.
- B. Alternative salary plan. The Director may establish a special salary plan or pay practice determined to be the prevailing practice in the labor market and in the best interest of the state.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5A-402. Salary Administration

- A. General. The Director shall develop procedures for salary administration for use by all agencies when setting the salary of an employee. In setting an employee's salary, an agency head shall consider such factors as the employee's education, experience, skills, performance, and current or former salary, as well as the current salaries of employees in the same class in

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the agency and the relative experience and performance of those employees.

- B. Classes.** The Director shall assign each class to a salary range and to a grade.
- C. Salary.** The base salary of an employee shall be not less than the minimum nor more than the maximum of the salary range of the class to which the employee's position is allocated, except as provided by these rules.
- D. Salary adjustment.** The salary used to compute a salary adjustment is the employee's base salary. Following an adjustment to the base salary, an agency shall add to the new rate of pay any special pay supplement still valid.
- E. New hire starting rate.** An agency head may offer a salary to a new hire within the salary range of the class to which the employee is being appointed in accordance with the procedures and guidelines published by the Director, unless an exception is approved by the Director.
- F. Promotion.** An employee who has a change in assignment from a position in one class to a position in another class having a higher grade shall receive a salary increase as determined by the agency head in accordance with the procedures and guidelines published by the Director, unless an exception is approved by the Director.
- G. Demotion.**
 - 1. An employee who has a change in assignment from a position in one class to a position in another class having a lower grade, whether voluntary or involuntary, shall receive a salary decrease as determined by the agency head in accordance with the procedures and guidelines published by the Director, unless an exception is approved by the Director.
 - 2. A demoted employee shall not be eligible for an increase to base salary for six months after the effective date of the demotion to the new position, other than a salary increase that is legislatively mandated. After six months, the employee may become eligible for a salary increase only after a performance evaluation in the new position for which the employee received an overall rating of "meets expectations" or higher.
- H. Lateral transfer.** An employee who has a change in assignment from a position in one class to a position in another class having the same grade shall receive no increase in salary, unless an exception is approved by the Director. The Director may approve a salary increase based upon documentation of recruitment difficulties to fill the position, specific needs identified by the agency, or the employee's qualifications. Transferred employees are not eligible for increases to base salary during their first six months in the new job unless approved by the Director. An employee who transfers to another agency may become eligible for a salary increase only after a performance evaluation in the new position for which the employee received an overall rating of "meets expectations" or higher.
- I. Reversion of covered employee.** A covered employee who is reverted under the rules in Subchapter B shall be paid the same salary as that paid prior to the promotion, plus the percentage or dollar amount of increase of an intervening general salary adjustment for which the employee was eligible.
- J. Job reallocation.**
 - 1. The base salary of an employee in a position that is reallocated to a class in a higher pay range may receive a salary increase in accordance with the procedures and guidelines published by the Director. If increasing the base salary of an employee would result in a salary level that is less than the minimum or greater than the maximum salary of the pay range, the employee's salary shall

be the minimum or the maximum salary of the pay range, respectively.

- 2. The base salary of an employee in a position that is reallocated to a class with the same or lower pay range shall remain the same provided that the employee's salary is within the pay range of the position. If the employee's salary is less than the minimum of the salary range or greater than the maximum salary of the new pay range, the employee's salary shall be the minimum salary or the maximum salary of the new pay range, respectively.
- K. Job regrade.**
 - 1. The base salary of an employee in a class that is reassigned to a higher grade shall be adjusted by the amount determined by the Director. If adjusting the base salary of an employee would result in a salary level that is less than the minimum or greater than the maximum salary of the pay range, the employee's salary shall be the minimum or the maximum salary of the pay range, respectively.
 - 2. The base salary of an employee in a class that is reassigned to a lower grade shall remain the same provided that the employee's salary is at or above the minimum salary of the new pay range of the class, and may be greater than the maximum salary of the pay range. If the employee's salary is greater than the maximum, the employee is not eligible for an increase to base pay until the employee's salary is less than the maximum salary of the new pay range.
- L. Merit increases.**
 - 1. The Director shall establish guidelines for merit increases to base pay.
 - 2. Merit increases shall be available:
 - a. To uncovered employees.
 - b. To covered employees only if such increases are legislatively appropriated.
 - 3. Subject to the guidelines established by the Director:
 - a. Merit increases may be implemented at the discretion of the agency head.
 - b. Merit increases are subject to the availability of funding and must be within an agency's appropriation unless otherwise legislatively appropriated.
 - 4. An agency head shall report to the Director on the utilization of merit increases pursuant to the reporting requirements in the guidelines established by the Director.
- M. Legislatively-appropriated salary adjustments.** Subject to legislative appropriation, the Director shall determine employee eligibility and criteria for salary adjustments.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4). Amended by exempt rulemaking at 19 A.A.R. 717 effective April 13, 2013 (Supp. 13-1).

R2-5A-403. Supplemental Pay

- A. General.** Supplemental pay is in addition to an employee's base pay. The salary of an employee may exceed the maximum salary of the pay range for the employee's class if the excess amount is due to the receipt of supplemental pay.
- B. Shift differential.** The Director may authorize a shift differential to be paid to an employee on other than a day shift. The Director shall establish a competitive shift differential rate periodically based on an annual survey of the market place. Employees in the same class in the same agency who work on the same shift shall receive the same shift differential pay.
- C. Special assignment.** An employee on a special assignment shall remain in the employee's current position with no change to base salary. If the classification to which the employee is on

a special assignment is a higher grade, the employee shall be provided a conditional pay supplement in an amount that, when added to the employee's base salary, would be within the range of the higher classification. If the classification to which the employee is on a special assignment is the same or a lower grade, the employee shall not be eligible for a conditional pay supplement while on special assignment. Any conditional pay supplement received by the employee for the special assignment shall be discontinued at the conclusion of the special assignment.

- D. Conditional pay supplements.** The Director may establish conditional pay supplements. A conditional pay supplement provides additional compensation to an eligible employee and shall be discontinued when the qualifying conditions no longer apply. An employee may be awarded multiple conditional pay supplements. A conditional pay supplement does not:
1. Change base salary;
 2. Provide a basis for the computation of a salary increase; or
 3. Provide a basis for the computation of pay upon an employee's promotion, demotion or transfer.
- E. Variable pay.**
1. The Director may establish variable pay strategies determined to be the prevailing practices in the market and in the best interest of the state.
 2. If the Director establishes variable pay strategies, the Director shall establish guidelines for the administration of variable pay.
 3. Variable pay shall be available only to uncovered employees, except for employees in covered positions classified as Correctional Officers I, II, or III, or Community Corrections Officers, as specified in the guidelines established by the Director.
 4. Subject to the guidelines established by the Director:
 - a. Variable pay strategies may be implemented at the discretion of the agency head.
 - b. Variable pay strategies are subject to the availability of funding and must be within an agency's appropriation unless otherwise legislatively appropriated.
 5. An agency head shall report to the Director on the utilization of variable pay strategies pursuant to the reporting requirements in the guidelines established by the Director.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5A-404. Overtime

- A. Approval of overtime work.** An agency head may require that an employee work overtime and:
1. Shall approve in advance all work in excess of 40 hours per workweek or in excess of a work period as defined by the Fair Labor Standards Act (FLSA). FLSA Regulations 29 CFR 553 and 778 (July 2012), are incorporated by this reference and on file with the Department and available from the U.S. Government Printing Office, 732 North Capitol Street N.W., Washington, D.C. 20401. This incorporation by reference contains no future editions or amendments; and
 2. May assign an employee who volunteers for overtime before mandatory overtime is required.
- B. Exemptions.** The Director shall determine exemptions from minimum wage and maximum hour requirements in accordance with the Fair Labor Standards Act, 29 U.S.C. 213, January 2004, incorporated by this reference and on file with the

Department and available from the U.S. Government Printing Office, 732 North Capitol Street N.W., Washington, D.C. 20401. This incorporation by reference contains no future editions or amendments.

C. Non-exempt employees.

1. An agency shall compensate an employee in a non-exempt position who works in excess of 40 hours per workweek or in excess of a work period as defined by the FLSA by either:
 - a. Additional pay at the rate of 1 1/2 times the employee's regular rate for each excess hour worked, or
 - b. Compensatory leave at the rate of 1 1/2 hours for each excess hour worked.
2. An employee shall select either overtime pay or compensatory leave for overtime compensation. If the employee selects both overtime pay and compensatory leave, the agency head shall determine which applies. If an employee's compensatory leave balance reaches the maximum allowed in subsection (E), the agency head shall compensate the employee by overtime pay.

D. Exempt employees.

1. Unless otherwise provided by statute or as specified in subsection (D)(2), an employee who is in a position that is exempt from the FLSA is excluded from receiving either overtime pay or compensatory leave.
2. An employee who is in a position that is exempt from the FLSA who works in excess of 40 hours per workweek or in excess of an established work period shall receive for each hour of overtime worked, either one hour of additional pay or earn one hour of compensatory leave, at the option of the agency head, if the employee is either:
 - a. Engaged in law enforcement activities;
 - b. Engaged in firefighting activities; or
 - c. A full authority peace officer as certified by the Arizona Peace Officer Standards and Training Board, is in a position that requires such certification, and is in the covered service.
3. An exempt employee may earn compensatory leave as provided by subsection (D)(2) until the employee's compensatory leave balance reaches the maximum allowed in subsection (E). When the maximum balance is reached, an agency head shall compensate the employee by overtime pay for excess hours worked.
4. For the purposes of this subsection, "engaged in law enforcement activities" has the same meaning as defined in A.R.S. Title 23, Chapter 2, Article 9.

E. Maximum accumulation. The maximum number of hours of accumulated compensatory leave is:

1. 480 hours for an employee who works in a public safety activity or an emergency response activity, or
2. 240 hours for an employee who works in any other activity.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5A-405. Tuition Reimbursement for Education

- A. General.** A state agency may assist an employee in the pursuit of educational goals by providing tuition reimbursement.
- B. Procedures.** Prior to granting tuition reimbursement, an agency shall establish a policy which shall include the following conditions:
1. The educational program will provide a benefit to the state.

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2. The employee shall successfully complete the required course work or the educational requirements of the program in order to receive reimbursement.
3. Education assistance may not exceed \$5,250 per employee in any one calendar year unless approved in advance by the Director.
4. An employee who receives education assistance may be required to return all or a portion of the amount received if the employee does not remain employed with the agency for a defined period of time, as specified in the agency's policy.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5A-406. Reimbursement for Relocation

An agency head may reimburse reasonable relocation expenses to a current employee for a management initiated geographical transfer of more than 50 miles from the employee's current work site in accordance with the procedures established by the Director.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

ARTICLE 5. CONDITIONS OF EMPLOYMENT**R2-5A-501. Standards of Conduct**

- A. Required conduct. A state employee shall at all times:
 1. Comply with federal and state laws and rules, statewide policies and employee handbook, and agency policies and directives;
 2. Maintain high standards of honesty, integrity, and impartiality, free from personal considerations, or favoritism;
 3. Be courteous, considerate, and prompt in interactions with and serving the public and other employees; and
 4. Conduct himself or herself in a manner that will not bring discredit or embarrassment to the state.
- B. Prohibited conduct. A state employee shall not:
 1. Use his or her official position for personal gain, or attempt to use, or use, confidential information for personal advantage;
 2. Permit himself or herself to be placed under any kind of personal obligation that could lead a person to expect official favors;
 3. Perform an act in a private capacity that may be construed to be an official act;
 4. Accept or solicit, directly or indirectly, anything of economic value as a gift, gratuity, favor, entertainment, or loan that is, or may appear to be, designed to influence the employee's official conduct. This provision shall not prohibit acceptance by an employee of food, refreshments, or unsolicited advertising or promotional material of nominal value;
 5. Directly or indirectly use or allow the use of state equipment or property of any kind, including equipment and property leased to the state, for other than official activities unless authorized by written agency policy or as otherwise allowed by these rules;
 6. Inhibit a state employee from joining or refraining from joining an employee organization; or
 7. Take disciplinary or punitive action against another employee that impedes or interferes with that employee's exercise of any right granted under the law or these rules.
- C. Consequences of non-compliance. An employee who violates the standards of conduct requirements listed in subsection (A) or (B) may be disciplined or separated from state employment.

Any such actions involving a covered employee shall be in accordance with the rules in Subchapter B, Article 3.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4). Amended by exempt rulemaking at 19 A.A.R. 717 effective April 13, 2013 (Supp. 13-1).

R2-5A-502. Hours of Work

- A. State work week. The state work week is the period of seven consecutive days starting Saturday at 12:00 a.m. and ending Friday at 11:59 p.m. An agency head may apply to the Director for an exception from the work week period for all or part of an agency workforce. The Director may grant an exception from the work week period to promote efficiency in the State Personnel System.
- B. Hours of employment.
 1. An agency head shall determine the hours of employment in the work week for each agency employee.
 2. An agency head may provide for breaks during the work period consistent with carrying out the duties of the agency.
 3. An agency head may require an employee to work overtime.
- C. Flexible work options. An agency head may offer a flexible 40-hour work week option to an employee if the agency head determines the agency's services can be maintained.
- D. Attendance standards. An agency head may establish a standard of attendance.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5A-503. Outside Employment

- A. General. A state employee may seek employment and engage in a variety of activities outside of the employee's work for the state; however, the employee shall not engage in other employment or other activity that is not compatible with the full and proper discharge of the duties and responsibilities of state employment, or that tends to impair the employee's capacity to perform the employee's duties and responsibilities in an acceptable manner.
- B. Definitions. For the purposes of this Section:
 1. "Other employment" includes, but is not limited to:
 - a. Working as an employee for any employer, including another state agency;
 - b. Owning a business;
 - c. Contracting to provide services for a fee; or
 - d. Serving as a consultant for a fee or being self-employed;
 - e. Holding any elected or appointed public office, whether federal, state, or local; or
 - f. Holding a position in a political party or organization.
 2. "Primary agency" means the agency in which the employee is employed at the time of the employee's request to obtain outside employment with another agency.
 3. "Secondary agency" means the agency in which the employee is requesting to be employed while remaining employed with the primary agency.
- C. Notice requirement. An employee who desires to engage in other employment shall notify the employee's supervisor and abide by the policies of the employing agency. An employee engaged in outside employment, including consultant relationships, shall inform the supervisor of the nature of the employ-

ment and corresponding work hours. An employee shall also disclose actual or potential conflicts of interest related to outside employment activities as soon as the employee becomes aware of the conflict. The determination as to whether a conflict or potential conflict exists shall be made by the agency head.

- D. Outside employment with another state agency. An employee who seeks outside employment with another state agency must request approval from both the employee's primary agency and prospective secondary agency before commencing employment with the secondary agency. The primary and secondary agencies must ensure that the request complies with state and federal guidelines. Such request, if approved shall be in writing and on file with both agencies. Employment records are to be maintained in accordance with the provisions of R2-5A-105.
- E. Outside employment as a paid public official or in a political party or organization. All employees shall comply with A.R.S. § 41-752 pertaining to political activities.
- F. Termination of outside employment. If an agency head determines that an employee's outside employment interferes with the employee's performance or creates a conflict of interest, the employee will be required to terminate the outside employment.
- G. Consequences of non-compliance. An employee who fails to make required disclosures or to take action to resolve any conflict of interest may be disciplined or separated from state employment. Any such actions involving a covered employee shall be in accordance with the rules in Subchapter B, Article 3.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5A-504. Alcohol and Drug-free Workplace

State agencies shall prohibit the manufacture, distribution, dispensation, possession or use of alcohol, illegal drugs, unauthorized drugs, inhalants, or other unauthorized controlled substances during an employee's working hours or while on state premises or worksites, including state vehicles and property leased to the state. A state employee shall not be impaired by alcohol or drugs while on duty.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

ARTICLE 6. LEAVE

PART A. GENERAL

R2-5A-A601. Leave Administration

- A. Leave plans. The Director shall adopt leave plans. Agency heads are responsible for administering leave for agency employees in accordance with the leave plans in this Article.
- B. Eligibility for leave. All state employees, except temporary employees, are eligible for any type of leave with pay from the date of appointment. Temporary employees are eligible only for holidays subject to the provisions of R2-5A-B601, administrative leave, civic duty leave for the purpose of voting, living donor leave and military leave.
- C. Amount of leave. Leave amounts are based on full-time employment and shall be pro-rated for part-time employees, even if not specified in an individual rule.
- D. Family and Medical Leave Act (FMLA) leave. FMLA Regulations, 29 CFR 825.100 through 29 CFR 825.800 (July 2012), are incorporated by this reference and on file with the Department and available from the U.S. Government Printing Office, 732 N. Capitol Street N.W., Washington, D.C. 20401. This

incorporation by reference contains no future editions or amendments. An employee who meets FMLA eligibility requirements and uses leave for any of the situations covered by the FMLA shall be subject to the following:

1. Counting FMLA leave. Periods of paid leave and periods of leave without pay shall count towards the employee's available FMLA leave.
2. Use of accrued paid leave. An employee shall use available paid leave for all or part of the employee's FMLA leave under the conditions in:
 - a. R2-5A-D602 for an employee on industrial leave,
 - b. R2-5A-D601 for an employee on FMLA leave for any other reason.
- E. Insurance benefits continuation. An employee remains eligible for continued participation in the employee insurance plans while on leave pursuant to this Article.
- F. Requests for leave. Except in an emergency, an employee shall obtain approval in advance and in writing before taking any leave.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

PART B. PAID LEAVE

R2-5A-B601. Holidays

- A. State holidays.
 1. January 1, "New Year's Day."
 2. Third Monday in January, "Martin Luther King, Jr./Civil Rights Day."
 3. Third Monday in February, "Lincoln/Washington Presidents' Day."
 4. Last Monday in May, "Memorial Day."
 5. July 4, "Independence Day."
 6. First Monday in September, "Labor Day."
 7. Second Monday in October, "Columbus Day."
 8. November 11, "Veterans Day."
 9. Fourth Thursday in November, "Thanksgiving Day."
 10. December 25, "Christmas Day."
- B. Employees scheduled to work. Unless required to work to maintain essential state services, an employee who is regularly scheduled to work on a day on which one of the holidays listed in subsection (A) is observed is entitled to be absent with pay for the number of hours regularly scheduled to work, not to exceed eight hours, provided the employee is not on leave without pay on the employee's work days immediately preceding or following the day on which the holiday is observed.
 1. Part-time employees who work 1/4 time, 1/2 time, or 3/4 time are entitled to a proportional amount of holiday pay. Part-time employees who work a percentage of full-time other than 1/4 time, 1/2 time, or 3/4 time are entitled to holiday pay at the next lower rate. An employee who works less than 1/4 time is not entitled to holiday pay.
 2. Temporary employees shall receive holiday pay provided they are in pay status the day before and the day after the holiday.
- C. Employees not scheduled to work. An employee, excluding part-time and temporary employees, who is not scheduled to work on a day on which one of the holidays listed in subsection (A) above is observed shall receive holiday compensation for the number of hours normally worked per day, not to exceed eight, provided the employee is not on leave without pay on the employee's work days immediately preceding or following the day on which the holiday is observed.
- D. Employees required to work. An employee who is required to work on a day on which a holiday listed in subsection (A) is observed shall receive:

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1. Both holiday compensation and one hour of pay at the employee's current salary rate for each hour worked if the employee is in a position that is either:
 - a. FLSA non-exempt; or
 - b. Exempt from the FLSA, but meets the conditions in R2-5A-404(D)(2).
 2. No additional compensation if the employee is in a position that is exempt from the FLSA and is employed in any other capacity.
- E. Holiday compensation.**
1. Except as modified by subsection (E)(2), an employee who is eligible for holiday compensation pursuant to subsection (C) or (D) shall receive for each hour of holiday compensation authorized, at the option of the agency head, either:
 - a. One hour of additional pay at the current salary rate; or
 - b. One hour of annual leave; or
 - c. One hour time off with pay on an alternate work day specified by the agency head after the holiday and during the pay period in which the holiday is observed, or the succeeding pay period.
 2. Temporary employees do not accrue annual leave and shall receive either additional pay or time off as in subsection (E)(1)(c) above.
 3. An employee may not receive more than eight hours of holiday compensation for any holiday.
- Historical Note**
- Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).
- R2-5A-B602. Annual Leave**
- A. Definitions.** For the purposes of this Section:
1. "Annual leave" means a period of approved absence with pay that is not chargeable to another category of leave.
 2. "Hire date" means the employee's first day of work upon hire or, if the employee has a break in service, rehire.
- B. Accrual.**
1. All employees, except temporary and part-time employees shall accrue annual leave as follows:
 - a. Covered employees shall accrue annual leave in accordance with the following schedule:

Credited Service	Hours Bi-weekly
Fewer than 3 years	3.70
3 years but fewer than 7 years	4.62
7 years but fewer than 15 years	5.54
15 years or more	6.47
 - b. Except as provided in subsection (B)(1)(c), uncovered employees shall accrue leave based on the following schedule:
- | Credited Service | Hours Bi-weekly |
|--------------------------------|-----------------|
| Fewer than 3 years | 4.00 |
| 3 years but fewer than 9 years | 5.54 |
| 9 years or more | 6.47 |
- c. An uncovered employee shall accrue annual leave at the rate of 6.47 hours bi-weekly if:
 - i. The employee's hire date is prior to September 29, 2012, the employee has remained employed without a break in service since that date, and the employee either was uncovered prior to September 29, 2012 or became uncovered in accordance with A.R.S. Title 41, Chapter 4, Article 4; or
 - ii. The employee is in a position listed in A.R.S. § 41-742(F).
2. Temporary employees shall not accrue annual leave.
 3. Part-time employees who:
 - a. Work 1/4 time, 1/2 time, or 3/4 time shall accrue a proportional amount of annual leave;
 - b. Work a percentage of full-time other than 1/4 time, 1/2 time, or 3/4 time shall accrue annual leave at the next lower rate;
 - c. Work less than 1/4 time shall not accrue annual leave.
 4. Except as provided by R2-5A-D602 for an employee on industrial leave, an eligible employee accrues annual leave each bi-weekly pay period if the employee is in pay status for at least one-half of the employee's scheduled work hours in that pay period.
 5. An annual leave accrual is credited on the last day of the bi-weekly pay period in which the accrual is earned and is available for use on the first day of the following pay period.
 - a. Annual leave accrued during the last pay period that begins in a calendar year is not subject to forfeiture under subsection (D).
 - b. An employee who is separating from state employment is compensated in accordance with subsection (I) for annual leave accrued through the employee's last date of employment.
 6. The effective date for change in the accrual rate is the first day of the pay period immediately following the attainment of the required credited service.
- C. Credited service.**
1. Credited service shall be calculated from the first day of the first complete pay period worked.
 2. Credited service shall include:
 - a. A period of service as an employee of a state budget unit before a break in service of less than two years;
 - b. A period of leave without pay of 240 hours or less;
 - c. Family and Medical Leave Act (FMLA) leave;
 - d. Military leave taken under A.R.S. §§ 26-168, 26-171, or 38-610; and
 - e. Active military service of an employee who is restored to state employment under A.R.S. § 38-298.
- D. Accumulation.**
1. Except as provided in subsections (D)(2) and (3), an employee shall forfeit annual leave in excess of the accumulation limit as of the last day of the last pay period that begins in a calendar year. The accumulation limit is:
 - a. 240 hours for a covered employee.
 - b. 320 hours for an uncovered employee.
 2. An agency head may request an exception to the accumulation limit contained in subsection (D)(1) for an employee in an individual case.
 - a. An agency head seeking an exception shall submit a written request to the Director that contains a plan to use the excess hours during the following calendar year, pay the employee for the excess hours, or a combination of both.
 - b. The Director may approve, modify, or deny the request.
 3. Annual leave earned for working on a day on which a state holiday is observed is not included in the accumula-

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tion limit specified in subsection (D)(1) and shall not be forfeited.

E. Use of annual leave.

1. An employee may take annual leave at any time approved by the agency head.
2. An agency head shall not advance annual leave to an employee.

F. Donation of annual leave.

1. Definitions. For the purposes of this subsection:

- a. *"Immediate family" means the recipient employee's parent, spouse, or child, whether natural, adopted, foster, or step.* A.R.S. § 41-748(B)(1)
- b. *"Family" means spouse, natural child, adopted child, foster child, stepchild, natural parent, step-parent, adoptive parent, grandparent, grandchild, brother, sister, sister-in-law, brother-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, or niece.* A.R.S. § 41-748(B)(2)
- c. *"Disability that is caused by pregnancy or childbirth" means, as certified by a licensed health care practitioner:*
 - i. An employee is unable to work due to the employee's pregnancy, childbirth, or medical care associated with the pregnancy or childbirth; or
 - ii. A member of the employee's immediate family requires assistance to perform regular daily activities due to the immediate family member's pregnancy, childbirth, or medical care associated with the pregnancy or childbirth.
- d. *"Extended" means a period of at least three consecutive weeks.*
- e. *"Seriously incapacitating" means a licensed health care practitioner certifies that an illness, injury, or disability that is caused by pregnancy or childbirth:*
 - i. Involves in-patient care, or
 - ii. Involves continuing treatment.

2. Eligibility to receive donation of annual leave. An employee who has exhausted all available leave balances is eligible to receive donations of annual leave if, as certified by a licensed health care practitioner:

- a. The employee is unable to work due to:
 - i. A seriously incapacitating and extended illness or injury, or
 - ii. A seriously incapacitating and extended disability that is caused by pregnancy or childbirth, or
- b. The employee needs to care for a member of the employee's immediate family who has:
 - i. A seriously incapacitating and extended illness or injury, or
 - ii. A seriously incapacitating and extended disability that is caused by pregnancy or childbirth.

3. Eligibility to donate annual leave. An employee may donate annual leave to another employee who has exhausted all available leave balances if:

- a. The recipient employee is employed in the same state agency as the donating employee, or
- b. The recipient employee is a family member of the donating employee and employed in another state agency.

4. Exhaustion of available leave. Before using donated annual leave, a recipient employee:

- a. Who has a qualifying illness, injury, or disability caused by pregnancy or childbirth shall exhaust all

available sick leave, compensatory leave, annual leave earned for working on a day on which a state holiday is observed and accrued annual leave; or

- b. Whose immediate family member has a qualifying illness, injury, or disability caused by pregnancy or childbirth shall exhaust sick leave granted in accordance with R2-5A-B603(A)(4), if available, and all available compensatory leave, annual leave earned for working on a day on which a state holiday is observed and accrued annual leave.

5. Calculation of hours donated. An agency head shall adjust the number of hours of annual leave donated in proportion to the hourly rate of pay of the donating employee and the recipient employee. To calculate the number of hours of donated annual leave:

- a. Multiply the actual number of hours donated by the donating employee's hourly rate of pay, and
- b. Divide the result by the recipient employee's hourly rate of pay.

6. Maximum duration. A recipient employee is limited to using donated annual leave to allow the employee to be absent from work for a maximum of six consecutive months, or if the leave is intermittent, 1040 hours (the employee's available leave plus leave donated to the employee) for each qualifying occurrence. If the recipient employee has a seriously incapacitating and extended illness or injury, or a seriously incapacitating and extended disability that is caused by pregnancy or childbirth and the employee applies for Long-term Disability (LTD) by the end of the fifth month of the employee's leave, the recipient employee may continue to use donated annual leave for up to 60 additional days or until LTD benefit payments begin, whichever is sooner.

7. Unused donated leave. If the recipient employee separates from state employment, recovers before using all donated leave, attains the maximum donation of annual leave as permitted under subsection (F)(6), or the need for the donated annual leave is otherwise abated, the agency head shall return unused donated leave to employees who donated leave on a pro-rata basis.

G. Payment of annual leave. Subject to funding availability:

1. An agency head may pay an employee at any time at the employee's current rate of pay for all or any portion of the employee's annual leave that was earned as the result of working on a day on which a state holiday is observed.

2. An agency head may approve pay to a non-separating employee for all or any portion of the employee's accumulated and unused annual leave at the employee's current rate of pay subject to the following:

- a. Agency procedures. Before paying an employee under this subsection, an agency head shall develop written standards and procedures that provide for equal consideration of all employees similarly situated. The agency head shall submit proposed standards and procedures and any subsequent changes to the Director for approval. The agency's procedures shall include at minimum:

- i. Request and approval procedures;
- ii. Documentation required to support the request for payment;
- iii. Any limitations, as applicable, including, but not limited to: the maximum number of times an employee may receive payment under this subsection; the maximum number of hours an employee may be paid per occurrence; the minimum number of hours of annual leave an

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employee must have used in the previous 12 months; and the minimum balance an employee is required to maintain after payout, if any.

- b. Restrictions. The agency head shall obtain the employee's concurrence if the payment would reduce the employee's annual leave balance to fewer than:
 - i. 240 hours for a covered employee;
 - ii. 320 hours for an uncovered employee.

H. Movement.

1. To another state agency. If an employee moves from one agency to another state agency, the employee's accumulated and unused annual leave shall be transferred to the employee's annual leave account in the new state agency, unless:
 - a. The provisions of subsection (H)(2) apply; or
 - b. The employee's leave exceeds the accumulation limit contained in subsection (D)(1). An agency head may pay an employee who transfers to another state agency for all excess annual leave at the time of the transfer. An agency head may transfer part or all of the employee's excess annual leave accumulated by the employee who transfers to another agency with the gaining agency's concurrence. If the gaining agency does not concur, the losing agency shall pay all of the unused excess annual leave that the gaining agency will not accept.
2. To an employment status ineligible for leave accrual. If an employee becomes ineligible for accrual of annual leave under R2-5A-A601(B), the agency head or the agency head of the losing agency if the employee moves to another state agency, shall pay the employee for all unused and unforfeited annual leave at the employee's current rate of pay immediately before the change in status.

- I. Separation. An agency head shall pay an employee who separates from state employment for all unused and unforfeited annual leave at the employee's current rate of pay.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4). Amended by exempt rulemaking at 19 A.A.R. 717 effective April 13, 2013 (Supp. 13-1).

R2-5A-B603. Sick Leave

- A. Definition. "Sick leave" is any approved period of paid absence granted an employee due to:
 1. Illness or injury that renders the employee unable to perform the duties of the employee's position.
 2. Disability of the employee that is caused by pregnancy, childbirth, miscarriage, or abortion.
 3. Examination or treatment of the employee by a licensed health care practitioner.
 4. Illness, injury, disability caused by pregnancy or childbirth, or examination or treatment by a licensed health care practitioner of an employee's spouse, dependent child, or parent. Sick leave granted for this purpose shall be charged to the employee's sick leave account and shall not exceed 40 hours per calendar year. For the purposes of this Section:
 - a. The term "dependent child" means a natural child, an adopted child, a foster child, or a stepchild, more than one-half of whose support is received from the employee.
 - b. The term "parent" means a birth parent, adoptive parent, stepparent, foster parent, grandparent, par-

ent-in-law, or an individual who stood "in loco parentis."

B. Accrual.

1. All state employees, except temporary and part-time employees, shall accrue sick leave at the rate of 3.70 hours bi-weekly.
2. Temporary employees shall not accrue sick leave.
3. Part-time employees who:
 - a. Work 1/4 time, 1/2 time, or 3/4 time shall accrue a proportional amount of sick leave;
 - b. Work a percentage of full-time other than 1/4 time, 1/2 time, or 3/4 time will accrue sick leave at the next lower rate;
 - c. Work less than 1/4 time shall not accrue sick leave.
4. Except as provided by R2-5A-D602 for an employee on industrial leave, an eligible employee accrues sick leave each bi-weekly pay period if the employee has been in a pay status for at least one-half of the employee's scheduled work hours in that pay period or month.
5. A sick leave accrual is credited on the last day of the bi-weekly pay period or month in which the accrual is earned and is available for use on the first day of the following pay period or month. An employee who is separating from state employment accrues leave through the employee's last date of employment for the purpose of determining the employee's accumulated sick leave at the time of the employee's separation pursuant to subsection (F).

C. Accumulation. Sick leave accumulates without limit.**D. Use of sick leave.**

1. Sick leave may be taken when approved by the agency head.
2. The agency head may require submission of evidence substantiating the need for sick leave. If the agency head determines the evidence is inadequate, the absence shall be charged to another category of leave or considered absence without leave.
3. An agency head may require an employee to be examined by a licensed health care practitioner designated by the agency head.
 - a. If the licensed health care practitioner determines that the employee should not work due to illness or injury, the agency head may place the employee on sick leave or, if the employee's sick leave is exhausted, charge the absence to another category of leave or leave without pay.
 - b. The agency head may require the employee to obtain approval from the licensed health care practitioner before returning to work.
 - c. The agency shall pay for all examinations required pursuant to this subsection. The employee shall not be charged any leave while participating in or traveling to or from any examination required pursuant to this subsection.

E. Movement to another state agency. An employee who moves to another state agency shall transfer all accumulated and unused sick leave to the employee's sick leave account in the new state agency.**F. Separation. All sick leave credits are forfeited upon separation from state employment except as provided in A.R.S. § 38-615 or otherwise provided by law. However, an employee who returns to state employment within two years after separation shall be credited with all unused sick leave accumulated at the time of separation if the employee was not paid for accumulated sick leave pursuant to A.R.S. § 38-615.**

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5A-B604. Administrative Leave

- A.** General. An agency head may authorize an employee to be absent with pay on administrative leave during a state of emergency declared by the Governor or:
1. In other emergency situations such as extreme weather conditions, fire, flood, or malfunction of publicly-owned or controlled machinery or equipment.
 2. To relieve an employee of duties temporarily during the investigation of alleged wrongdoing by the employee or during a disciplinary or dismissal process, subject to the requirements outlined in subsections (B) and (C).
- B.** Reporting administrative leave. If an employee's administrative leave totals 80 consecutive hours, the agency head shall submit a report to the Director and for each week thereafter, until the employee's administrative leave is terminated. The report shall include:
1. The name of the agency,
 2. The employee identification number (EIN) of the employee,
 3. The name of the employee,
 4. The employment status of the employee,
 5. The date the employee was placed on administrative leave,
 6. The number of hours the employee has been on administrative leave as of the date of the report, and
 7. A brief description as to why the employee is on administrative leave.
- C.** Approval of Director. If an employee's administrative leave is anticipated to exceed 240 consecutive working hours, the agency head shall obtain the approval of the Director.
1. An agency head requesting approval to continue an employee's administrative leave for more than 240 working hours shall submit a request to the Director for approval at least five business days before the employee's administrative leave will total 240 working hours. If circumstances beyond the agency's control do not permit at least five business days' notice, the agency head shall submit the request as soon as the agency head is aware of the necessity for the request. The request shall include all of the information listed in subsection (B), the reason the administrative leave will extend beyond 240 working hours and the anticipated date the administrative leave will be terminated.
 2. The Director shall review the request and approve, modify or deny the request within three business days of receipt.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4). Amended by exempt rulemaking at 19 A.A.R. 717 effective April 13, 2013 (Supp. 13-1).

R2-5A-B605. Bereavement Leave

- A.** General. An employee may be absent with pay due to the death or funeral of a spouse, natural child, adopted child, foster child, stepchild, natural parent, stepparent, adoptive parent, an individual who stood "in loco parentis," grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, mother-in-law, father-in-law, son-in-law, or daughter-in-law.
- B.** Amount of bereavement leave.
1. A full-time employee may be absent with pay for up to 24 regularly scheduled work hours. An agency head may extend the bereavement leave for up to 16 additional

work hours if the employee travels out-of-state for the funeral.

2. A part-time employee who works 1/4 time, 1/2 time, or 3/4 time may be absent with pay for a proportional amount of bereavement leave. A part-time employee who works a percentage of full-time other than 1/4 time, 1/2 time, or 3/4 time may be absent with pay at the next lower rate. An employee who works less than 1/4 time is not entitled to bereavement leave.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5A-B606. Civic Duty Leave

- A.** General. Upon substantiated application, an employee shall receive absence with pay as civic duty leave while serving as a juror, complying with a subpoena, voting, or serving as a member of a governmental board, commission, or similarly constituted governmental body, subject to the conditions set forth in this rule and the limitations in R2-5A-A601(B).
- B.** Use of civic duty leave. Except for voting pursuant to A.R.S. § 16-401 (primary elections) or A.R.S. § 16-402 (general elections), an employee granted civic duty leave shall report for duty with the employing agency whenever the employee's presence is not required for the civic duty, unless:
1. The distance to the work location would preclude timely reporting for the civic duty, or
 2. The employee cannot return to work at least one hour before the end of the work shift.
- C.** Appearance as a witness. An employee who is subpoenaed as a witness by any court or administrative, executive, or judicial body in this state may be absent with pay unless the testimony or evidence to be given relates to the employee's commercial, business, or personal matters.
- D.** Jury and witness fees. Employees who are granted civic duty leave when called for jury duty or subpoenaed as a witness shall remit any fees to the employing agency, except for mileage allowance.
- E.** Membership on a public service body. An employee serving as a member of a governmental board, commission, or similarly constituted governmental body may be absent with pay while performing official duties with the body.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5A-B607. Compensatory Leave

- A.** General. Compensatory leave is leave that has been earned by an employee under the provisions of R2-5A-404.
- B.** Use of compensatory leave. An agency head:
1. Shall approve an employee's request for earned compensatory time off within a reasonable time after the employee makes the request if the use of such time off would not unduly disrupt agency operations.
 2. May require an employee to use the employee's available compensatory leave during a period specified by the agency head.
- C.** Payment. Subject to funding availability, an agency head may pay an employee at any time for all or any portion of the employee's earned compensatory leave balance at the employee's regular rate of pay.
- D.** Movement.
1. To another state agency. An agency head may pay an employee who transfers to another state agency for all unused compensatory leave at the time of the transfer. An agency head may transfer part or all of the compensatory

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leave earned by an employee who transfers to another agency with the gaining agency's concurrence. If the gaining agency does not concur, the losing agency shall pay all of the unused compensatory leave that the gaining agency will not accept.

2. To an employment status or a position ineligible for compensatory leave. If an employee has a change in employment status or position that results in the employee being ineligible to earn compensatory leave, the agency head or the agency head of the losing agency if the employee moves to another state agency, shall pay the employee for all unused compensatory leave at the employee's regular rate of pay immediately before the employee's change in status or position.
- E. Separation. An agency head shall pay an employee who separates from state employment for all unused compensatory leave at a rate of compensation not less than the higher of:
1. The average regular rate received by such employee during the last three years of the employee's employment, or
 2. The final regular rate received by such employee.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5A-B608. Educational Leave

- A. General. An employee may be sent with pay to participate in a formal educational or training course of study at a college, university, or technical school with the approval of the agency head and the Director, based on the determination that the leave is in the best interest of the state.
- B. Application. The approved application shall be accompanied by a written agreement signed by the agency head and the employee containing the following provisions at a minimum:
1. A statement of the payments, if any, to be provided to the employee and the manner of their payment.
 2. An agreement by the employee to return to or continue in state employment upon the completion of the educational or training course of study for a period of time specified by the agency head.
 3. A statement by the employee that failure to successfully complete the course, to complete the specified state employment, or to fulfill all of the terms of the agreement, shall result in the employee's being required to repay all or a proportionate part of the salary and other payments received, if any.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5A-B609. Living Donor Leave

An employee who requests absence with pay for living donor leave under A.R.S. § 41-706 shall submit written verification that the employee is to serve as a donor. An employee may be absent with pay for the time specified for the following purposes:

1. Up to 40 working hours to serve as a bone marrow donor.
2. Up to 240 working hours to serve as an organ donor.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5A-B610. Leave for National Disaster Medical System (NDMS) Training

An employee who requests absence with pay on national disaster medical system leave under A.R.S. § 38-610 is entitled to be absent with pay for the number of hours regularly scheduled to work on all days the employee is on training duty.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5A-B611. Meritorious Service Leave

- A. The Director shall establish guidelines for meritorious service leave.
- B. Except for employees in covered positions classified as Correctional Officers I, II, or III, or Community Corrections Officers, meritorious service leave is only available to uncovered employees.
- C. The guidelines established by the Director shall include at a minimum:
1. The maximum number of hours of meritorious service leave that may be awarded to an employee per calendar year;
 2. The maximum percentage of agency employees eligible for meritorious service leave;
 3. A requirement that an employee shall use meritorious service leave within 12 months of receipt of the leave;
 4. A requirement that if the employee does not use the meritorious service leave within 12 months of receipt, that the leave is forfeited; and
 5. A statement that unused meritorious service leave is forfeited upon separation from state employment.
- D. Subject to the guidelines established by the Director, a meritorious service leave program may be implemented at the discretion of the agency head.
- E. An agency head shall report to the Director on the utilization of meritorious service leave pursuant to the reporting requirements in the guidelines established by the Director.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

PART C. UNPAID LEAVE**R2-5A-C601. Furlough**

- A. Definition. A furlough is the involuntary placement of an employee on leave of absence without pay for budgetary reasons.
- B. Types of furloughs. A furlough may be authorized by legislative action. In addition, the Director may approve:
1. A reduction of funding furlough that allows an agency head to place employees on furlough for any combination of consecutive or non-consecutive days. There is no maximum number of days an employee may be placed on furlough, but consecutive furlough days shall not exceed five consecutive days or more than one-half the employee's regularly scheduled hours in a pay period, whichever is less; and
 2. A suspension of funding furlough that allows an agency head to place employees on furlough indefinitely until funding is restored.
- C. General.
1. The total number of days an employee is placed on furlough may vary based on the amount of the reduction or length of suspension of funding.
 2. A furlough day equals eight hours for full-time employees and is pro-rated for part-time employees. Furlough hours for part-time employees are calculated by multiplying the number of hours the employee is scheduled to work in a week by 0.2. If the calculation results in a fraction, the furlough hours shall be rounded to the nearest whole hour, as follows:
 - a. 0.5 or above is rounded up, and
 - b. Less than 0.5 is rounded down.
 3. A furlough is unpaid.

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4. Unless a work emergency occurs under subsection (D)(5)(d), while on furlough, an employee shall not conduct state work or volunteer to conduct state work, either with or without compensation.
 5. Paid leave shall not be substituted for furlough days.
 6. All state employees within the scope of the furlough shall be subject to the furlough in the same manner. Exceptions may be granted when an agency head determines certain employees within the scope of the furlough have unique knowledge or skills or are considered mission critical and need to be excluded from the furlough.
 7. Unless the employee is in a physician or attorney position, an employee who is in a position that has been determined to be exempt from the provisions of the Fair Labor Standards Act (FLSA) will lose the exemption for any work week in which the employee is furloughed for less than the full work week.
 8. A furlough shall not adversely affect an employee's service anniversary date or create a break in service.
 9. Upon conclusion of the furlough period, an agency head shall return an employee to the employee's status and position held prior to the furlough, unless a personnel action taken in accordance with State Personnel System rules authorizes a change to the employee's record.
 10. An employee's failure or inability to return to work upon conclusion of the furlough period may, in accordance with applicable State Personnel System rules:
 - a. Result in the employee being placed on leave,
 - b. Be considered a resignation,
 - c. Result in separation without prejudice, or
 - d. Be cause for dismissal of a covered employee.
- D. Reduction of funding furlough.**
1. An agency head shall submit to the Director a furlough plan for approval if the agency head determines a furlough is necessary due to a reduction of funding. An agency head is not required to implement or exhaust other cost-savings measures prior to initiating a furlough plan.
 2. The agency head shall submit the furlough plan for approval at least 30 business days prior to the proposed implementation date of the furlough. If circumstances beyond the agency head's control do not permit at least 30 business days' notice, the agency head shall submit the furlough plan as soon as the agency head is aware of the necessity for the furlough and provide a written explanation of why the 30 business day requirement was not met.
 3. An agency head shall include all of the following in the furlough plan:
 - a. The proposed scope of the furlough plan, which shall be either agency-wide or limited to:
 - i. Agency operations in one or more geographic areas,
 - ii. One or more organizational units of the agency,
 - iii. One or more funding sources,
 - iv. One or more job classes,
 - v. One or more class series, or
 - vi. Any combination of the above.
 - b. If the furlough will not be conducted on an agency-wide basis, each affected:
 - i. Geographic location,
 - ii. Organizational unit,
 - iii. Funding source,
 - iv. Job class, and
 - v. Class series.
 - c. For each affected geographical location, organizational unit, funding source, job class, and class series specified in the furlough plan, the total number of employees scheduled for furlough;
- d. If requesting any exceptions within the scope of the furlough under subsection (C)(6), the total number of employees within the scope of the furlough, the number of employees for whom an exception is requested, and the reason for the request;
 - e. The number of days and date ranges for the furlough;
 - f. The anticipated cost savings due to the furlough;
 - g. The agency's procedures for scheduling furloughs; and
 - h. The procedures for notifying employees of the furlough.
4. The Director shall review and provide written notification of approval, modification, or denial of an agency's furlough plan within 20 business days of receipt.
 5. Upon approval of the Director to conduct a reduction of funding furlough, an agency head:
 - a. May place an employee on furlough for any combination of consecutive or non-consecutive days, subject to the limits in subsection (B)(1);
 - b. Shall determine the scheduling of furloughs that provide for the continuation of any agency operations required by law;
 - c. May cancel or rescind any approved paid or unpaid leave in progress or scheduled for an employee who is designated for furlough and shall notify the affected employee in writing of the cancellation of the approved leave for the duration of the furlough. If the previously approved leave was scheduled to extend beyond the furlough, the employee may return to paid leave status, if available, following the furlough period. If the agency head cancels an employee's paid leave and:
 - i. The employee is on leave pursuant to the provisions of the federal Family and Medical Leave Act (FMLA) during a scheduled furlough day, the furlough day shall not count against the employee's FMLA entitlement and the employee's leave balance shall not be charged for the furlough day; or
 - ii. The employee is on military leave during a scheduled furlough day, the furlough day shall not count against the employee's military leave and the employee's leave balance shall not be charged for the furlough day; and
 - d. Shall prohibit an employee from working during the period of the furlough, unless a work emergency arises. In the event of a work emergency, an agency head may revoke the furlough for an employee in an individual case. An employee whose furlough is revoked due to an emergency shall be paid for time required to work and shall be required to take the furlough on another day, unless otherwise exempted.
- E. Suspension of funding furlough - agency head request.**
1. An agency head shall submit to the Director for approval a furlough plan if the agency head determines a furlough is required due to a suspension of funding to pay employees.
 2. The agency head shall submit the furlough plan for approval at least 15 business days prior to the proposed implementation date of the furlough. If circumstances beyond the agency head's control do not permit at least 15 business days' notice, the agency head shall submit the furlough plan as soon as the agency head is aware of

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the necessity for the furlough and provide a written explanation of why the 15 business day requirement was not met.

3. An agency head shall include all of the following in the furlough plan:
 - a. The proposed scope of the furlough plan, which shall be either agency-wide or limited to:
 - i. Agency operations in one or more geographic areas,
 - ii. One or more organizational units of the agency,
 - iii. One or more funding sources,
 - iv. One or more job classes,
 - v. One or more class series, or
 - vi. Any combination of the above.
 - b. If the furlough will not be conducted on an agency-wide basis, each affected:
 - i. Geographic location,
 - ii. Organizational unit,
 - iii. Funding source,
 - iv. Job class, and
 - v. Class series.
 - c. For each affected geographical location, organizational unit, funding source, job class, and class series specified in the furlough plan, the total number of employees scheduled for furlough;
 - d. If requesting any exceptions within the scope of the furlough under subsection (C)(6), the total number of employees within the scope of the furlough, the number of employees for whom an exception is requested, and the reason for the request;
 - e. The procedures for notifying employees of the furlough; and
 - f. The procedures for notifying employees of restoration of funding and when to return to work.
4. The Director shall review and provide written notification of approval, modification, or denial of an agency's furlough plan within 10 business days of receipt.
5. Upon approval of the Director to conduct a suspension of funding furlough, an agency head:
 - a. Shall freeze all personnel actions except for those actions that would accomplish, or assist in accomplishing the purpose of the furlough;
 - b. May place employees on furlough indefinitely until the reason for the furlough is abated;
 - c. Shall notify affected employees of the furlough and that while on furlough, an employee:
 - i. Shall not report to work or work from any location until notified to return to work; and
 - ii. Will not receive pay for any unused and unforfeited annual leave, should the employee resign or be terminated, until funding is restored;
 - d. May cancel or rescind any approved paid or unpaid leave in progress or scheduled for an employee who is designated for furlough and shall notify the affected employee in writing of the cancellation of the approved leave for the duration of the furlough. If the previously approved leave was scheduled to extend beyond the furlough, the employee may return to paid leave status, if available, following the furlough period; and
 - e. Shall notify employees upon restoration of funding and when to return to work.
- F. Suspension of funding furlough - failure to pass state budget. If the state fails to pass a budget and funds are not appropriated for the following fiscal year, the Director may authorize an

agency head to implement a suspension of funding furlough. Upon such notification by the Director, an agency head:

1. Shall freeze all personnel actions except for those actions that would accomplish, or assist in accomplishing the purpose of the furlough;
 2. Unless an exception has been authorized as provided in subsection (F)(4), shall place all employees on furlough indefinitely until the reason for the furlough is abated;
 3. Shall require all employees to be subject to the furlough in the same manner;
 4. May establish exceptions when only a portion of the employees in a particular class are necessary to perform mission critical services;
 5. Shall notify affected employees of the furlough and that while on furlough, an employee:
 - a. Shall not report to work or work from any location until notified to return to work; and
 - b. Will not receive pay for any unused and unforfeited annual leave, should the employee resign or be terminated, until funding is restored;
 6. Shall cancel or rescind any approved paid or unpaid leave in progress or scheduled for an employee who is designated for furlough and shall notify the affected employee in writing of the cancellation of the approved leave for the duration of the furlough. If the previously approved leave was scheduled to extend beyond the furlough, the employee may return to paid leave status, if available, following the furlough period; and
 7. Shall notify employees upon restoration of funding and when to return to work.
- G. Employee request for review.
1. An employee may submit a request for review of the employee's placement on furlough. The employee shall make the request for review in writing to the agency head no later than three business days after the employee's receipt of a furlough notice. The employee shall limit the request for review to the determination resulting in the employee's furlough and include a proposed resolution.
 2. The agency head shall provide a written response to the employee with a final decision within:
 - a. Five business days after receipt of the request if a reduction of funding furlough, or
 - b. Fifteen business days after the employee returns to work if a suspension of funding furlough.
 3. A request for review shall not delay implementation of the furlough.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5A-C602. Leave Without Pay

- A. Approval. All leave without pay requires a written request by an employee in advance, including the reason for the employee's request, and approval by the agency head.
- B. Use of leave. Except for military leave, an agency head shall not grant leave without pay in excess of 80 consecutive hours until all annual leave earned for working on a day on which a state holiday is observed, all accrued annual leave and, if the leave without pay is for medical reasons, sick leave are exhausted.
- C. Return to work.
 1. An employee who returns to work after an authorized period of leave without pay of 80 consecutive hours or less shall return to the same position occupied at the start of the leave without pay.

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2. Except as provided in subsection (C)(4), an employee who returns to work after a period of leave without pay in excess of 80 consecutive hours may return to a position in the class held at the start of the leave without pay, if a position is available and funded, and if the leave without pay is terminated in one of the following ways:
 - a. Expiration of its term and the employee's return to work;
 - b. Rescission of the leave without pay by the agency head before its scheduled expiration due to an unforeseen need that results in an insufficient number of employees available to provide service and for which:
 - i. The agency head provides written notice of the rescission to the employee's last known address at least 15 days before the date the employee is directed to return to work; or
 - ii. If circumstances beyond the agency's control do not permit at least a 15-day notice, the agency head provides notice as soon as possible after becoming aware of the need for the employee to return to work; or
 - c. Curtailment of the leave without pay before its scheduled expiration date upon request of the employee and with approval of the agency head.
 3. An agency head may consider the failure or inability of an employee to return to work on the first work day after an approved leave without pay as a resignation.
 4. An employee returning to work from leave without pay granted:
 - a. For industrial illness or injury for up to six months shall return to the position occupied at the start of the leave without pay. If this position or a position in the same class is not available and funded, the agency head shall conduct a layoff or, if the employee is covered, a reduction in force in accordance with Subchapter B.
 - b. As military leave is subject to the provisions of the USERRA regulations incorporated by reference in R2-5A-D603.
 - c. As FMLA leave is subject to the provisions of the FMLA regulations incorporated by reference in R2-5A-D601.
- D. Insurance benefits continuation.** An employee who is on leave without pay may continue to participate in the employee insurance plans as follows:
1. Health benefit plan participation.
 - a. An employee who is on FMLA leave is eligible to continue to participate in the health benefit plan for the duration of the FMLA leave by paying the employee premium/contribution. An agency head may recover the state's portion of premium/contributions paid to maintain health coverage for an employee if the employee fails to return from FMLA leave under certain circumstances, in accordance with FMLA regulations incorporated by reference in R2-5A-D601.
 - b. An employee who is on leave without pay for a health-related reason that is not an industrial illness or injury and who either does not meet FMLA eligibility requirements or has exhausted FMLA leave and remains absent from work may continue to participate in the health benefit plan by paying both the state and employee premium/contribution. Authority to continue participation in the health benefit plan shall terminate on the earliest of:
 - i. Receipt of long-term disability benefits for which there is eligibility to continue health benefit plan participation under a state-sponsored retirement plan,
 - ii. A determination of eligibility for Medicare coverage, or
 - iii. 30 months after the incapacity began.
 - c. An employee who is on leave without pay for reasons other than those outlined in subsection (D)(1)(a), (b), or R2-5A-D602 pertaining to industrial leave, may continue to participate in the health benefit plan for a maximum of six months by paying both the state and employee premiums/contributions.
 2. Life insurance plan participation.
 - a. An employee who is on FMLA leave continues to participate in the Basic Life and Accidental Death and Dismemberment Insurance Plan and may continue to participate in the supplemental life and dependent life insurance coverage by paying the full premium/contribution.
 - b. An employee who is on leave without pay for a health-related reason that is not an industrial illness or injury and who either does not meet FMLA eligibility requirements or has exhausted FMLA leave and remains absent from work may continue to participate in the basic life insurance plan by paying the state premium/contribution. An employee who elects to continue to participate in the basic plan may also continue any supplemental or dependent life coverage that is in force at the beginning of the leave without pay by continuing to pay the premium/contribution. Authority to continue in the life insurance plan shall terminate in accordance with the time limits specified in subsection (D)(1)(b).
 - c. An employee who is on leave without pay for reasons other than those outlined in subsection (D)(1)(a), (b), or R2-5A-D602 pertaining to industrial leave, may continue to participate in the basic life insurance plan by paying the state premium/contribution. An employee who elects to continue to participate in the basic plan may also continue any supplemental or dependent life coverage that is in force at the beginning of the leave without pay by continuing to pay the premium/contribution. Authority to continue in the life insurance plan shall be available for a maximum of six months.
 3. Termination of insurance. The insurance coverage of an individual on leave without pay who fails to pay insurance premiums/contributions when due shall terminate at 11:59 p.m. on the last day of the period covered by the last premium/contribution paid.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

PART D. LEAVE THAT COULD BE EITHER PAID OR UNPAID**R2-5A-D601. Family and Medical Leave Act (FMLA) Leave**

- A. General.** All state agencies are responsible for complying with the federal Family and Medical Leave Act (FMLA) of 1993 and all applicable revisions. FMLA Regulations, 29 CFR 825.100 through 29 CFR 825.800 (July 2012), are incorporated by this reference and on file with the Department and available from the U.S. Government Printing Office, 732 North Capitol Street N.W., Washington, D.C. 20401. This

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incorporation by reference contains no future editions or amendments. Any interference with, restraint of, or denial of an employee's rights provided by the FMLA is strictly prohibited.

B. Eligible employee.

1. An eligible employee for the purposes of the FMLA is an employee who:
 - a. Is an employee of the state of Arizona;
 - b. Has been employed by the state of Arizona for at least 12 months; and
 - c. Worked for at least 1,250 hours of service during the 12 months immediately preceding commencement of the leave.
2. An agency head shall not extend FMLA benefits to an ineligible employee.

C. Situations covered by the FMLA. A state agency shall grant an eligible employee FMLA leave when the employee takes leave for one or more of the following reasons:

1. The birth of a child or placement of a child with the employee for adoption or foster care, provided the leave concludes within 12 months of the birth or placement.
2. To care for the employee's spouse, child or parent with a serious health condition.
3. The employee is unable to work because of the employee's own serious health condition.
4. Any qualifying exigency arising out of the fact that the employee's spouse, child or parent is a covered military member on active duty or call to active duty status in support of a contingency operation.
5. To care for a covered service member with a serious injury or illness when the covered service member is the employee's spouse, child, parent or next of kin.

D. Amount of FMLA leave.

1. An employee who takes FMLA leave for any of the situations described in subsections (C)(1), (2), (3) or (4) may take a maximum of 12 workweeks of leave during any rolling 12-month period, measured backward from the first day of each approved period of FMLA leave.
2. An employee who takes FMLA leave for the situation described in subsection (C)(5) may take up to 26 workweeks of leave in a single 12-month period.
3. During a 12-month period, an eligible employee is able to take no more than 12 workweeks of leave for any of the situations described in subsections (C)(1), (2), (3) or (4) and a combined total of 26 workweeks of leave if the leave includes the situation described in subsection (C)(5).
4. If a husband and wife are both state employees, the husband and wife are limited in the amount of FMLA leave taken to a combined total of:
 - a. 12 workweeks of leave for the birth and care of a newborn child, placement of a child for adoption or foster care, or to care for a parent who has a serious health condition.
 - b. 26 workweeks of leave to care for a covered service member with a serious injury or illness.

E. Designation of FMLA leave. An employee need not specifically request FMLA leave to be placed on FMLA leave. If an eligible employee takes leave for any reason covered by the FMLA and has not already exhausted the employee's available FMLA leave, the agency head shall designate the employee's leave as FMLA leave.**F. Use of paid leave.** Except for portions of industrial leave, an employee on FMLA leave shall be required to use the employee's available paid leave while on FMLA leave as follows and in the following order:

1. Sick leave or, as applicable, family sick leave subject to the provisions of R2-5A-B603.
2. Compensatory leave subject to the provisions of R2-5A-B607.
3. Annual leave subject to the provisions of R2-5A-B602.
4. Leave without pay subject to the provisions of R2-5A-C602.

G. Insurance benefits continuation. An employee who is using leave with pay remains eligible for continued participation in the employee insurance plans and the employee's share of premiums/contributions is paid through payroll deduction. An employee who is on leave without pay while on FMLA leave may continue to participate in the employee insurance plans as follows:

1. Health benefit plan participation. An employee is eligible to continue to participate in the health benefit plan for the duration of the FMLA leave by paying the employee premium/contribution. An agency head may recover the state's portion of premium/contributions paid to maintain health coverage for an employee if the employee fails to return from FMLA leave under certain circumstances, in accordance with FMLA regulations incorporated by reference in subsection (A).
2. Life insurance plan participation. An employee continues to participate in the Basic Life and Accidental Death and Dismemberment Insurance Plan and may continue to participate in the supplemental life and dependent life insurance coverage by paying the full premium/contribution.
3. Termination of insurance. The insurance coverage of an employee on leave without pay who fails to pay insurance premiums/contributions when due shall terminate at 11:59 p.m. on the last day of the period covered by the last premium/contribution paid.

H. Return from FMLA leave. An agency head shall restore an employee returning from FMLA leave to the employee's original job, or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment. The provisions of the FMLA, not the provisions of R2-5A-C602(C), shall govern return to work from leave without pay granted to complete an FMLA-qualified leave.**I. Employee responsibilities.** An employee is required to adhere to the employing agency's call-in procedures, give the agency 30 days' notice in the event of a foreseeable leave, provide requested documentation, and periodic updates of the employee's status and intent to return to work as requested by the agency.**J. Agency rights.** Nothing in the FMLA or this rule should be construed as limiting an agency's right to manage, discipline or terminate an employee, including an employee's failure to comply with the agency's request for appropriate documentation to substantiate the employee's need for the leave. However, an employee's use of FMLA leave cannot be considered as a negative factor in any employment decision.**K. Conflict.** If there is a conflict between the provisions of these rules and the FMLA, the provisions of the FMLA govern.**Historical Note**

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5A-D602. Industrial Leave**A. Use of leave.**

1. An agency head shall place an employee who sustains a job-related illness or injury that is compensable under the Workers' Compensation Law, A.R.S. Title 23, Chapter 6 on sick leave.

2. If an employee who is on leave under the Worker's Compensation laws meets Family and Medical Leave Act (FMLA) eligibility requirements and the leave qualifies for FMLA leave, an agency head shall count it as FMLA leave. An agency head shall apply industrial leave and FMLA concurrently.
 3. An employee shall use leave in an amount necessary to receive total payments (leave payments plus Workers' Compensation payments) that do not exceed the gross salary of the employee.
 4. If an employee exhausts all sick leave, compensatory leave and annual leave, an agency head shall place the employee on leave without pay.
- B. Payments.** If an employee receives a retroactive Workers' Compensation payment for any period of industrial illness or injury for which leave payments were received, the employee shall reimburse the agency for Workers' Compensation payments that exceed 100% of the employee's base pay before the illness or injury, and the agency head shall restore the equivalent value of leave to the employee's appropriate leave account.
- C. Light duty.** If an employee has a job-related illness or injury that impairs performance on the former job, the agency head shall make every effort to place the employee in a suitable position within the agency, including a light duty assignment.
- D. Restriction.** An agency head shall not grant sick leave or leave without pay to an employee who fails to accept compensation available under the industrial injury and disease provisions of A.R.S. §§ 23-901 to 23-1091.
- E. Insurance benefits continuation.** An employee who is using leave with pay in accordance with subsection (A) remains eligible for continued participation in the employee insurance plans and the employee's share of premiums/contributions is paid through payroll deduction. An employee who is on leave without pay due to an industrial illness or injury may continue to participate in the employee insurance plans as follows:
1. Health benefit plan participation.
 - a. An employee may continue to participate in the health benefit plan for a maximum of six months from the date of illness or injury by paying the employee premium/contribution.
 - b. At the end of the six-month period, an employee who remains on leave without pay due to industrial illness or injury may continue to participate in the health benefit plan by paying both the state and employee premiums/contributions, until the employee returns to work or is determined to be eligible for Medicare coverage or Long-term Disability, whichever occurs first.
 2. Life insurance plan participation. An employee who is on leave without pay continues to participate in the basic life and accidental death and dismemberment insurance plan without cost for six months after the month in which the illness or injury occurs. During this six-month period, the employee may continue supplemental life and dependent life coverages that were in effect at the start of the leave by paying the applicable premium/contribution.
 3. Termination of insurance. The insurance coverage of an employee on leave without pay who fails to pay insurance premiums/contributions when due shall terminate at 11:59 p.m. on the last day of the period covered by the last premium/contribution paid.
- F. Accrual of leave.** An employee shall continue to receive full leave accrual as long as the employee uses two or more hours of paid leave each day.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5A-D603. Military Leave

An employee who requests absence with pay on military leave under A.R.S. § 26-168, 26-171, or 38-610 shall submit a copy of the orders for duty with the request for military leave. An employee may be absent with pay for military purposes for up to thirty days in any two consecutive federal fiscal years. All state agencies are responsible for complying with the federal Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994 and all applicable revisions. USERRA Regulations, 20 CFR 1002.1 through 20 CFR 1002.314 (April 2012), are incorporated by this reference and on file with the Department and available from the U.S. Government Printing Office, 732 North Capitol Street N.W., Washington, D.C. 20401. This incorporation by reference contains no future editions or amendments.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5A-D604. Victim Leave

An employee who is a victim of a juvenile offense or a crime and who requests absence from work to attend court-related proceedings under A.R.S. § 8-420 or 13-4439 shall submit a copy of the form provided to the employee by the law enforcement agency or a copy of the information the law enforcement agency provided to the employee with the request for victim leave. An employee shall use the employee's available sick leave, compensatory leave or annual leave for such absence. If an employee exhausts all sick leave, compensatory leave and annual leave, an agency head shall place the employee on leave without pay.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

ARTICLE 7. PERFORMANCE MANAGEMENT**R2-5A-701. General**

- A.** Performance management system. The Director shall establish a performance management system to evaluate the job performance of state employees. The performance management system established by the Director shall contain performance rating levels and shall contain numerical points to apply to each performance rating level established.
- B.** Administration. The Director shall develop an administrative manual and training on the performance management system.
- C.** Exceptions. The performance management system may be used:
1. As determined by the appointing authority for the agency head, to evaluate the job performance of the agency head.
 2. As determined by the agency head, to evaluate the job performance of:
 - a. Each deputy director, or equivalent, of the agency.
 - b. Each assistant director, or equivalent, of the agency.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5A-702. Performance Management Process

- A.** Performance plan. For the purposes of this subsection, "performance plan" means a document prepared by an employee's supervisor that outlines what is expected of the employee and how the employee's performance will be measured. Subject to review by agency management, a supervisor:
1. Shall administer a performance plan for each employee within 30 days of becoming the employee's supervisor.

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2. May modify a performance plan at any time during a performance period.
 3. Shall modify a performance plan when significant responsibilities or expectations are added to or removed from a position.
 4. Shall notify the affected employee of any modifications made to a performance plan under subsection (A)(2) or (3).
- B. Performance evaluation requirements.**
1. Informal evaluation. A supervisor shall:
 - a. Monitor and evaluate an employee's performance throughout the rating period,
 - b. Provide feedback to the employee on a regular basis, and
 - c. Attempt to correct inadequate performance where possible and appropriate.
 2. Formal evaluation. A supervisor shall:
 - a. Formally evaluate, document and rate the performance of each employee at least annually.
 - b. Submit the evaluation to agency management for review prior to the evaluation being administered to the employee.
 3. Covered probationary employees. Prior to granting a covered probationary employee permanent status, a supervisor shall evaluate a probationary employee at least once prior to the end of the employee's probationary period.
- C. Responsibilities.**
1. An employee shall comply with the performance plan established by the supervisor.
 2. A supervisor shall comply with performance evaluation requirements.
 3. An agency head shall ensure that all performance evaluations are completed as required by this Section.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

ARTICLE 8. DISCIPLINARY ACTIONS**R2-5A-801. General**

- A. Authority.** An agency head has the primary authority and responsibility for managing the conduct of all employees within an agency. A covered employee may be disciplined only for cause. An agency head shall discipline a covered employee in accordance with this Article and the rules in Subchapter B of this Chapter. An uncovered employee serves at the pleasure of the appointing authority and may be dismissed at will. Except for an employee who is in a position listed in A.R.S. § 41-742(F), any action that involves a suspension greater than 80 working hours, an involuntary demotion, or a dismissal requires review by the Director prior to the agency head administering such action.
- B. Level of discipline.**
1. If an agency head deems it necessary to discipline an employee, the agency head may determine the level of discipline to be imposed, up to and including dismissal, subject to review by the Director, if applicable.
 2. In determining the level of discipline to be imposed, the agency head may consider the following factors:
 - a. Consistent application of rules and standards,
 - i. Unless otherwise prescribed by statute, the agency head need only consider those cases decided under the administration of the current agency head. Decisions in cases prior to the administration of the current agency head are not binding upon the current agency head and

are not relevant in determining consistent application of rules and standards.

- ii. In determining consistent application of rules and standards, the disciplinary actions imposed by one agency may not be binding upon any other agency and may not be used for comparison purposes in hearings wherein the consistent application of rules and standards is at issue.

- b. Prior knowledge of rules and standards,
- c. The severity of the infraction,
- d. The repeated nature of violations,
- e. Prior corrective or disciplinary actions,
- f. Previous oral discussions,
- g. The employee's past work record,
- h. The effect on agency operations,
- i. The potential of the violations for causing damage to persons or property.

C. Limitations.

1. Except as otherwise provided by statute or rule, suspensions shall not exceed a total of 30 working days during any 12-month period. The 12-month period begins with the first day of the first suspension.
2. An employee who is involuntarily demoted must possess the qualifications for the position and:
 - a. A covered employee who has attained permanent status may be involuntarily demoted only to a regular position in the covered service.
 - b. An uncovered employee may be involuntarily demoted only to a position in the uncovered service.

D. Review by Director.

1. Letters of reprimand and suspensions without pay of 80 working hours or less are not subject to review by the Director.
2. Prior to imposing a suspension greater than 80 working hours, an involuntary demotion, or dismissal, the agency head shall submit the proposed action to the Director for review as prescribed in R2-5A-802, unless the employee is in a position listed in A.R.S. § 41-742(F). If the employee is in a position listed in A.R.S. § 41-742(F), a review by the Director is not required.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5A-802. Procedures for Review by the Director

- A.** Prior to administering any action requiring review by the Director, the agency head shall submit the proposed letter to the Director prior to the date the agency head intends to issue the letter to the employee.
- B.** The Director shall review the agency head's proposed action and provide notification of concurrence or recommend modification to the proposed action.
- C.** When the agency head administers the action to an employee, the agency head shall also send a copy of the employee's letter to the Director. If the agency head determines that no action will be taken, the agency head shall notify the Director.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5A-803. Employee Request for Review of Disciplinary Action

- A.** A covered employee who is issued a disciplinary action may have grievance or appeal rights, as applicable.
- B.** An uncovered employee does not have grievance rights or the right of appeal to a state merit board or council.

- C. A covered employee who files a complaint on a disciplinary action alleging discrimination or harassment is precluded from also filing a grievance through the agency's grievance procedure on the same disciplinary action that is the subject of the employee's complaint.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

ARTICLE 9. COMPLAINTS

R2-5A-901. Complaint System

A. General. Each agency head shall:

1. Adopt a procedure to address employee complaints concerning discrimination or harassment in compliance with this rule.
2. Designate an employee of the agency to serve as the agency's complaint coordinator, who shall be responsible for receiving complaints, determining applicability under the complaint system, investigating or assigning the complaint to the appropriate individual within the agency for review or investigation, and tracking the processing of complaints.

B. Matters subject to the complaint system. The adopted complaint procedure shall require the complainant to file the complaint with the agency complaint coordinator within 180 days of the action giving rise to the complaint and to clearly outline the allegations to be addressed, including whether the basis of the complaint is based on:

1. Unlawful discrimination based on race, color, religion, sex (including pregnancy), age, national origin, genetic information or on the basis of a disability.
2. Allegation of sexual harassment or other form of harassment.
3. Retaliation for filing a complaint.
4. Retaliation or intimidation for exercising any right under state or federal law.

C. Preparation. A complainant shall not be allowed the use of state time or state property to prepare a complaint, prepare for a meeting with agency management or to meet with a representative. Subject to supervisory approval, a complainant may request available compensatory or annual leave for this purpose.

D. Multiple complaints. Multiple complaints by an employee may be consolidated into a single complaint. Separate complaints filed by two or more employees regarding the same issue or issues may be consolidated into a group complaint. Employees having a common complaint may submit one group complaint, identifying one complainant as the selected spokesperson for the group. Employees who choose to file a group complaint are prohibited from filing separate complaints on the same issue.

E. Amendments. Once a complaint is submitted to the agency complaint coordinator, it may not be amended. If additional documentation is submitted by the complainant after the initiation of the complaint, the reviewing or investigating official may remand the complaint to the complainant for reconsideration and resubmission.

F. Approval. Each agency will submit its proposed complaint procedure and any subsequent changes to the Director for approval.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5A-902. Complaint Procedures

A. Content. Each agency complaint procedure shall include as a minimum that:

1. The agency head be notified of all verbal or written complaints of discrimination or harassment reported by an employee immediately upon receipt of a complaint.
2. Employees who are told or otherwise become aware that discrimination or harassment is occurring must immediately report the allegation or complaint to the agency's complaint coordinator.
3. The complaint include all facts and circumstances involved in the alleged violation, including:
 - a. Description of the incident(s),
 - b. Name(s) of individual(s) involved,
 - c. Name(s) of witness(es),
 - d. The date(s) the discrimination or harassment occurred (if known),
 - e. Resolution sought,
 - f. Federal or state law alleged to have been violated.
4. The agency complaint coordinator shall acknowledge receipt of the complaint in writing to the complainant not later than five business days after receipt of the written complaint.
5. The agency complaint coordinator shall initiate an investigation into the alleged complaint or assign the complaint to the appropriate individual within the agency for review or investigation within 10 business days and the review or investigation shall be completed within 60 business days of receipt of the written complaint. If extenuating circumstances exist, an extension shall be requested through the agency complaint coordinator.
6. Barring resolution of the complaint by agreement of the parties, the agency complaint coordinator shall forward a written recommendation to the agency head, or designee, within 10 business days of completion of the review or investigation.
7. The agency head, or designee, shall review the findings and recommendations and issue a decision in writing to the complainant.
8. A statement advising that retaliation against an employee for filing a complaint in good faith will not be tolerated or permitted.
9. A statement specifying that a grievance filed by a covered employee under R2-5B-403 that includes an allegation of discrimination or harassment shall be reviewed or investigated under the provisions of this Article, and not the grievance system.

B. Review by Director.

1. An employee, other than a Department of Administration employee, who is not satisfied with the agency head's response to a complaint alleging discrimination or harassment, may elevate the complaint to the Director within five business days after the receipt of the agency head's response. The Director will furnish a copy of the final decision to the agency head and the complainant within 20 business days following receipt of the complaint by the Director. The 20 business days may be extended by the Director with the concurrence of the complainant. The decision of the Director is the final step in the complaint procedure.
2. A complainant who is a Department of Administration employee and who is not satisfied with the Director's decision on a complaint alleging discrimination or harassment may resubmit the complaint to the Director within five business days after receipt of the Director's decision. The Director will appoint an individual who is not an employee of the Department of Administration and who

serves in a position that is assigned to manage an agency's employee relations or investigations work unit to investigate the resubmitted complaint. The investigator shall conduct an investigation and furnish a copy of the findings and final decision to the Director and the complainant within 20 business days following receipt of the complaint by the investigator. The 20 business days may be extended by the investigator with the concurrence of the complainant. The decision of the investigator is the final step in the complaint procedure.

3. The response will refer the employee to the appropriate entity if the employee is dissatisfied with the final step of the complaint procedure.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

ARTICLE 10. SEPARATIONS

R2-5A-1001. Voluntary Separation

- A. Resignation. An employee may terminate employment with the state by submitting a written resignation to the agency head. An employee should submit a resignation at least 10 business days prior to the effective date of the resignation. If an employee resigns orally, the agency head shall confirm the resignation in writing. An agency head may refuse to accept a resignation and separate the employee pursuant to R2-5A-1002.
- B. Job abandonment. An agency head may consider an employee to have voluntarily resigned from employment with the agency when the employee is absent from duty for three consecutive workdays or equivalent without proper authorization.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5A-1002. Involuntary Separation

- A. General. An agency head may terminate an employee as deemed necessary to meet the needs of the agency and in keeping with federal and state laws and regulations. A covered employee may be dismissed only for cause. An agency head shall dismiss a covered employee in accordance with Article 8 and the rules in Subchapter B of this Chapter.
- B. Staff reduction. At times, a staff reduction is necessary due to lack of work, lack of funds, economic slowdowns, technological or structural changes in the agency's operations, or because a staff reduction is determined to be necessary to ensure the financial health and viability of the agency.
 1. Except for an employee who is in a position listed in A.R.S. § 41-742(F), a staff reduction of an uncovered employee requires review by the Director prior to the agency head administering such action.
 2. An agency head shall conduct staff reductions of covered employees in accordance with Subchapter B, Article 6, Reduction in Force.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

SUBCHAPTER B. COVERED EMPLOYEES

ARTICLE 1. GENERAL

R2-5B-101. Definitions

In addition to the definitions provided in Subchapter A of this Chapter, the following definitions apply to this Subchapter:

"Limited appointment employee" means an employee who, before September 29, 2012, was subject to the provisions of

A.R.S. Title 41, Chapter 4, Articles 5 and 6 that were in effect before September 29, 2012, was appointed to a position that was based on the duration of funding, and was not eligible to acquire reduction in force rights.

"Original probationary period" means the specified period following initial appointment to covered service. A.R.S. § 41-741(10)

"Permanent status" means the standing a covered employee achieves after the completion of an original probation or a promotional probation.

"Probationary period" means a working test period of employment in a covered service position for evaluation of the employee's work. A.R.S. § 41-741(11)

"Promotional probation" means the specified period of employment following promotion of a permanent status employee to another covered position that has a higher pay grade. A.R.S. § 41-741(12)

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5B-102. Applicability

- A. The rules in this Subchapter are applicable to covered positions, applicants for covered positions and covered employees in the State Personnel System.
- B. Covered service is limited to the following:
 1. An employee who was in the state service as either a probationary or permanent status employee, was not required to become at will uncovered in accordance with A.R.S. Title 41, Chapter 4, Article 4, and who does not:
 - a. Voluntarily elect to become uncovered at will.
 - b. Voluntarily accept a change in assignment to a position in the uncovered service.
 - c. Have a break in service.
 2. A newly hired employee who is appointed or a current uncovered employee who voluntarily accepts a change in assignment to:
 - a. A position in the Arizona Department of Corrections that is classified as a Correctional Officer I, Correctional Officer II, Correctional Officer III, or a Community Corrections Officer; or
 - b. A position in any state agency that requires certification as a full authority peace officer by the Arizona Peace Officer Standards and Training Board, provided the position is not in the uncovered service.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4). Amended by exempt rulemaking at 19 A.A.R. 717 effective April 13, 2013 (Supp. 13-1).

ARTICLE 2. EMPLOYMENT STATUS

R2-5B-201. Applicability

The rules under this Article are applicable only to positions in the covered service and covered employees.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5B-202. Original Probation

- A. General. A new employee hired into a position in the covered service shall serve an original probation period of one year.
- B. Extension of probation.

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1. An agency head may extend an employee's original probation up to six additional months for employment-related reasons.
 2. The probationary period shall be extended for any period for which a probationary employee is on leave without pay for more than 80 consecutive working hours. If original probation is extended for this reason, the employee's probation may exceed 18 months.
- C. Completion of original probation.**
1. In accordance with the rules in Subchapter 5A, Article 7, a supervisor shall evaluate an original probationary employee and submit a report to the agency head before expiration of the employee's probationary period. If the agency head takes no action to extend the probationary period or to terminate the employee, the agency head shall grant permanent status to the employee upon completion of the probationary period.
 2. If an agency head determines at any time during an original probationary period that the services of a probationary employee are no longer required in that position for any reason or for no reason, the agency head may:
 - a. Dismiss the employee without a stated reason and without the right of appeal, providing the employee a letter of dismissal; or
 - b. Offer the employee another position for which the employee possesses the qualifications. An employee who accepts a position that is not in the covered service is an at will uncovered employee.
- D. Change in position.** An original probation employee who is selected for another position in the covered service shall serve an original probation period in the new position.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5B-203. Promotional Probation

- A. General.** A permanent-status employee who is promoted to a position in the covered service shall serve a promotional probation period of six months.
- B. Extension of probation.**
1. An agency head may extend an employee's promotional probation up to six additional months for employment-related reasons.
 2. The probationary period shall be extended for any period for which a probationary employee is on leave without pay for more than 80 consecutive working hours. If promotional probation is extended for this reason, the employee's probation may exceed one year.
- C. Completion of promotional probation.**
1. In accordance with the rules in Subchapter 5A, Article 7, a supervisor shall evaluate a promotional probationary employee and submit a report to the agency head before expiration of the employee's probationary period. If the agency head takes no action to extend the probationary period, to revert or separate the employee, or offer the employee another position, the agency head shall grant permanent status to the employee upon completion of the probationary period.
 2. If an employee fails to complete a promotional probation successfully the agency head may revert the employee in the current employing agency to:
 - a. A vacant position in the class in which the employee held permanent status immediately before promotion, or
 - b. A similar position in another class at the same grade as the class that the employee holds permanent sta-

tus if the employee possesses the qualifications for that position.

- D. Discipline.** Neither subsection (C)(2)(a) nor (b) shall preclude the imposition of disciplinary action.
- E. Failure to complete promotional probation.** An employee who is reverted shall not have the right to appeal.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5B-204. Permanent Status

A covered employee who has successfully completed the employee's probationary period shall attain permanent status in the position.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5B-205. Change from Covered to Uncovered Service

- A. Voluntary election.** A covered employee may voluntarily elect to become an at will uncovered employee without a change in assignment. Such an election is subject to the approval of the head of the employing agency and the Director. If approved, the effective date of the employee's change to uncovered service shall be the first day of the pay period immediately following the Director's approval.
- B. Change in assignment.** Except for a special assignment, a covered employee who voluntarily accepts a change in assignment to a position that is not in the covered service, regardless of whether the voluntary change in assignment is a promotion, demotion, or lateral transfer, is an at will uncovered employee. The effective date of the employee's change to uncovered service shall be the same as the effective date of the change in assignment. A special assignment is not a change in assignment.
- C. Return to state employment.** A covered employee who has a break in service and returns to employment in an agency in the State Personnel System in any capacity shall be an at will uncovered employee, unless the appointment is to a position in the covered service.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4). Amended by exempt rulemaking at 19 A.A.R. 717 effective April 13, 2013 (Supp. 13-1).

ARTICLE 3. DISCIPLINARY ACTIONS**R2-5B-301. General**

- A. Applicability.** The rules under this Article are applicable only to covered employees.
- B. Review by Director.** Disciplinary actions for covered employees are subject to the review requirements outlined in R2-5A-801(D) and R2-5A-802.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5B-302. Reprimand

- A. Authority.** An agency head may issue a written reprimand to an employee for cause.
- B. Reprimand Procedures.** The agency head shall provide the employee with a written statement of the reasons for the reprimand and the employee's grievance rights.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782,

effective September 29, 2012 (Supp. 12-4).

R2-5B-303. Suspension

- A.** Authority. An agency head may suspend an employee without pay for cause.
- B.** Limitation. Except as otherwise provided by statute or rule, suspensions shall not exceed a total of 30 working days during any 12-month period. The 12-month period begins with the first day of the first suspension.
- C.** Pre-suspension procedures for suspensions exceeding 80 working hours. Before an employee with permanent status can be suspended for more than 80 working hours, the agency head shall submit the proposed action to the Director for review as prescribed in R2-5A-802, give the employee written notice of the charges, a summary of the agency head's basis for the charges, and an opportunity for the employee to present a written response. The employee's response shall be made not later than three business days after the employee receives notice of the charges, unless extended in writing by the agency head.
- D.** Suspension procedures. The agency head shall provide the employee with a written statement of the reasons for the suspension. The statement shall specify the period of suspension and the employee's grievance or appeal rights.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5B-304. Involuntary Demotion

- A.** Authority. An agency head may involuntarily demote a permanent status employee for cause to any covered position in the employing agency, provided the employee possesses the qualifications for such position.
- B.** Pre-demotion procedures. Before an employee with permanent status can be involuntarily demoted, the agency head shall submit the proposed action to the Director for review as prescribed in R2-5A-802, give the employee written notice of the charges, a summary of the agency head's basis for the charges, and an opportunity for the employee to present a written response. The employee's response shall be made not later than three business days after the employee receives notice of the charges, unless extended in writing by the agency head.
- C.** Involuntary demotion procedures. Prior to the effective date of the involuntary demotion, a written notice containing specific reasons for the demotion and the employee's right of appeal shall be provided to the employee and the Director.
- D.** Probation. Except as otherwise provided in these rules, an employee who is involuntarily demoted shall not be required to serve a probationary period in the position to which demoted.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5B-305. Dismissal

- A.** Relief from duty. Nothing in this rule shall preclude the agency head from immediately placing an employee on administrative leave pending implementation of procedures under this Section, but no pay shall be withheld for such period.
- B.** Dismissal during original probation. An employee on original probation may be dismissed without a stated reason and without the right of appeal.
- C.** Pre-dismissal procedures. Before an employee with permanent status can be dismissed, the agency head shall submit the proposed action to the Director for review as prescribed in R2-5A-802, give the employee written notice of the charges, a

summary of the agency head's basis for the charges, and an opportunity for the employee to present a written response. The employee's response shall be made not later than three business days after the employee receives notice of the charges, unless extended in writing by the agency head.

- D.** Dismissal procedures. The agency head may dismiss an employee with permanent status only for cause but not before attempting to serve the employee personally or by registered or certified mail, return receipt requested (addressee only), with written notice of the specific reasons for dismissal in sufficient detail to inform the employee of the facts, with a copy to the Director. The agency head shall include a statement of the employee's right to appeal.
- E.** Effective date of dismissal. The dismissal action is not effective until one of the following occurs:
 1. The employee signs for receipt of the dismissal letter personally served or served by mail;
 2. Three business days have passed since the letter was mailed to the employee; or
 3. An attempt is made to personally serve the dismissal letter, but the employee refuses to sign for the letter. Such attempt to personally serve the letter shall be witnessed.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

ARTICLE 4. GRIEVANCES

R2-5B-401. Applicability

The rules under this Article are applicable only to covered employees.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5B-402. Grievance System

- A.** General. Each agency that has one or more covered employees shall:
 1. Adopt a grievance procedure which will afford each covered employee a systematic means of resolving an employee's disagreement with the receipt of a disciplinary action that is either:
 - a. A written reprimand, or
 - b. A suspension of:
 - i. 40 working hours or less if the employee is a full authority peace officer, or
 - ii. 80 working hours or less if the employee is a covered employee in any other capacity.
 2. Designate an employee of the agency to serve as the agency's grievance coordinator, who shall be responsible for receiving grievances, determining applicability under the grievance system, forwarding the grievance to the appropriate individual within the agency for review or investigation, and tracking the processing of grievances.
- B.** Non-applicable matters. The adopted grievance procedure shall not apply to any matter for which another method of review is provided, including but not limited to:
 1. Retirement, Life Insurance, or Health Insurance;
 2. Any classification action;
 3. Any recruitment, selection, or appointment;
 4. Any compensation action;
 5. A disciplinary action that is either:
 - a. A suspension of:
 - i. More than 40 working hours if the employee is a full authority peace officer, or
 - ii. More than 80 working hours if the employee is a covered employee in any other capacity,

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- b. A demotion, or
 - c. A dismissal.
- 6. A complaint alleging discrimination or harassment; or
- 7. Any reduction in force action.
- C. Restrictions. An employee may not submit a grievance challenging the following management rights:
 - 1. An agency head's right to direct agency employees.
 - 2. An agency head's right to hire, promote, transfer, assign, and retain employees.
 - 3. An agency head's right to maintain efficiency of government operations and to determine the methods, means, and personnel by which these operations are to be conducted.
- D. Preparation. A grievant shall not be allowed the use of state time or state property to prepare a grievance, prepare for a meeting with agency management or to meet with a representative. Subject to supervisory approval, a grievant may request available compensatory or annual leave for this purpose.
- E. Steps. An agency's grievance procedure shall have two steps for review.
 - 1. As determined by the agency head, the first step in the grievance procedure shall be:
 - a. The employee's second line supervisor,
 - b. The assistant director or equivalent, or
 - c. Any level of management between (a) and (b).
 - 2. The final step in the grievance procedure shall be the agency head, or designee.
 - 3. An agency head may choose to incorporate an additional step in the agency grievance procedure after the first step review.
- F. Amendments. Once a grievance is submitted to the first step, it may not be amended. If additional documentation is submitted by the grievant after the initiation of the grievance, the reviewing official may remand the grievance to the appropriate previous level for reconsideration.
- G. Approval. Each agency head will submit the agency's proposed grievance procedure and any subsequent changes to the Director for approval.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5B-403. Grievance Procedures

Content. The grievance procedure established in each state agency shall include as a minimum:

- 1. An initial statement that any complaint alleging unlawful discrimination or unlawful harassment will be reviewed or investigated according to the provisions of the separate complaint process outlined in Subchapter A, Article 9, and not the grievance system.
- 2. A requirement that the grievant have an oral discussion with the immediate supervisor in an attempt to resolve the employee's disagreement with the disciplinary action, prior to initiating the written grievance procedure.
- 3. A requirement that the employee file the grievance in writing with the agency grievance coordinator, within 10 business days after the occurrence of the action being grieved. The date of occurrence of a:
 - a. Reprimand is the date the reprimand was issued to the employee.
 - b. Suspension is the first day of suspension.
- 4. A requirement that the grievance contain a complete statement of all the facts and circumstances involved and the specific redress sought.

- 5. A provision that the grievant may select a representative at any step in the procedure after the oral discussion with the immediate supervisor.
- 6. A requirement that another state employee who serves as the representative of a grievant must receive approval for annual or compensatory leave to represent the grievant.
- 7. A requirement that the grievant must have a minimum of five business days after receipt of a response to forward the grievance at any step, must sign the grievance at each step, and must state the reasons why the response at the previous step was unsatisfactory.
- 8. A requirement that the agency head will respond to the grievant not later than 30 business days after receipt of the grievance at the first step. Within the 30 business day period, the time for any step may be extended by the agency head with the concurrence of the grievant.
- 9. A statement that the decision of the agency head is the final step in the grievance process.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

ARTICLE 5. APPEALS**R2-5B-501. Applicability**

The rules under this Article are applicable only to covered employees who have attained permanent status.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5B-502. General

- A. Except for an employee who is a full authority peace officer, an employee may file an appeal on the receipt of a disciplinary action that is either:
 - 1. A suspension for more than 80 working hours,
 - 2. An involuntary demotion, or
 - 3. A dismissal.
- B. Such appeals shall be filed with the State Personnel Board and in accordance with the rules established by the Board.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5B-503. Full Authority Peace Officers

- A. A full authority peace officer may file an appeal on the receipt of a disciplinary action that is either:
 - 1. A suspension for more than 40 working hours,
 - 2. An involuntary demotion, or
 - 3. A dismissal.
- B. Such appeals shall be filed with the Law Enforcement Merit System Council and in accordance with the rules established by the Council.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

ARTICLE 6. REDUCTION IN FORCE**R2-5B-601. Applicability**

The rules under this Article are applicable only to covered positions and covered employees.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5B-602. Reduction in Force Procedures

- A. General.

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1. An agency head shall submit to the Director a proposal to conduct a reduction in force if required for one or more of the following reasons:
 - a. Lack of funds or work,
 - b. Abolition of one or more covered positions,
 - c. Material change in job duties or agency organization, or
 - d. Introduction of a cost reduction initiative.
 2. An agency head shall submit the proposal for a reduction in force at least 30 business days before the proposed effective date of the reduction in force. If circumstances beyond the agency's control do not permit at least 30 business days' notice, the agency head shall submit the proposal as soon as the agency head is aware of the necessity for a reduction in force.
 3. An agency head shall include all of the following in the proposal for a reduction in force:
 - a. The reason for the reduction in force;
 - b. The proposed scope of the reduction in force, which shall be limited to either:
 - i. The agency,
 - ii. An organizational unit of the agency, or
 - iii. Agency operations within a geographic area,
 - c. Each specific covered position proposed for elimination and an organization chart identifying each position, and
 - d. The proposed effective date of the reduction in force.
 4. An agency head shall submit a proposal that is consistent with A.R.S. § 41-772 and this Section.
 5. An agency head shall not approve a personnel action that would have an effect on the reduction in force after the agency head has submitted a proposal for a reduction in force.
 6. An agency head shall not re-establish a position that was abolished as a result of a reduction in force for two years if the position was filled when the reduction in force occurred, unless the position was abolished due to fiscal constraints, legislative action, or court order.
- B. Administration of reduction in force.** The Director shall review and approve, modify or deny a reduction in force within 20 business days of receipt. Upon approval of the Director to conduct a reduction in force:
1. An agency head shall separate a covered employee who is not a permanent status employee in the class affected by the reduction in force in the following order before any reduction in force action is taken that affects a permanent status employee, provided the separation of the non-permanent status employee will accomplish, or assist in accomplishing, the purpose of the reduction in force:
 - a. Temporary employee,
 - b. Original probationary employee, and
 - c. Limited appointment employee.
 2. An agency head shall use retention points to identify a permanent status employee within a class series affected by a reduction in force for retention in the employee's current position, transfer, reduction, or separation based on the employee's relative standing on the retention point list.
 3. An agency head shall base retention points upon performance calculated in accordance with the instructions in subsections (C) and (D).
 4. An employee on promotional probation or special assignment shall compete for retention in the employee's permanent status class.
 5. An employee in an underfill position shall compete for retention in the employee's permanent status class.
 6. A permanent part-time employee shall compete for retention against another permanent part-time employee in the same class.
- C. Calculation of retention points.** An agency head shall compute the average score of a maximum of the three most recent performance evaluations in the 24 months concluded before the date of proposal for a reduction in force. An employee's average score shall be the employee's retention points. If an employee has not had a performance evaluation in the past 24 months, the employee shall receive 2.0 retention points.
- D. Resolution of ties.** An agency head shall break any tie in total retention points in the following manner and order:
1. The employee with the highest most recent performance evaluation shall be given preference.
 2. If a tie continues to exist, the agency head shall break the tie by lot.
- E. Offer of position.**
1. An agency head shall provide written notice at least five business days in advance to each employee identified for transfer, reduction, or separation. If circumstances beyond the agency's control do not permit at least five business days' notice, the agency head shall provide notice as soon as the agency head is aware of the necessity to transfer, reduce, or separate the employee.
 2. The notice shall include:
 - a. The reason for and effective date of the action;
 - b. A job offer, if any, including the salary, location of the position, and supervisor's name;
 - c. The availability of reduction in force procedures and records for review, with references to relevant statutes and rules; and
 - d. The employee's right to request a review of the determination as provided in R2-5B-603.
 3. An agency head shall offer a position to an employee identified for transfer, reduction, or separation with the highest number of points on the retention point list in descending order as follows:
 - a. If a vacant covered position exists and an employee possesses the required qualifications for the position, an agency head shall make the single best offer, in terms of pay range, within the agency of:
 - i. A regular position at the same or lower pay range in the same class series as the employee's present permanent status position;
 - ii. A regular position at the same or lower pay range in any class series in which the employee has held permanent status during the past five years; or
 - iii. If both positions described in subsections (E)(3)(a)(i) and (ii) are available, the position described in subsection (E)(3)(a)(i).
 - b. If the offer under subsection (E)(3)(a) is a position at a lower pay range, the agency head shall provide the employee the option of accepting a vacant covered:
 - i. Funded, regular position at the employee's present pay range in a class series in which the employee has never held permanent status for which the employee is qualified; or
 - ii. Temporary or part-time position at the employee's present pay range for which the employee is qualified.
 4. An employee shall possess the qualifications required when the position was last filled, unless the Director grants an exception.

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5. Any job offer shall contain a time period of not less than three business days in which the employee may accept the offer. Failure of an employee to reply in writing within the stated time period, or failure to accept the job offer, shall constitute a resignation. An employee may accept a job offer and retain the right to request a review of the determination.
6. If no position exists, the agency head may separate the employee.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4). Amended by exempt rulemaking at 19 A.A.R. 717 effective April 13, 2013 (Supp. 13-1).

R2-5B-603. Employee Request for Review

- A. An employee may request a review of the following determinations made during a reduction in force:
 1. Calculation of the employee's retention points,

2. A job offer resulting in the employee's transfer or reduction, and
3. Notification of the employee's separation.

- B. Within three business days of receipt of a determination notice, unless a longer period is authorized by an agency head, an employee may submit a written request to the agency head for a review of the determination. The request for review shall be based upon an error, contain specific information concerning the error involved, and include a proposed resolution of the problem.
- C. The agency head shall review the request and respond to the employee within five business days after receipt of the request.
- D. An agency head may postpone any portion of a reduction in force until completion of an employee request for review.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).



Supplement to the
Arizona Administrative Code
 The official compilation of Arizona Rules
Replacement Check List

For rules filed in the third quarter between
 July 1 - September 30
 2017

Within the stated calendar quarter, this Title contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information. Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

TITLE 02. Administration

Chapter 08. State Retirement System Board

Sections, Parts, Exhibits, Tables or Appendices modified
 R2-8-124 and R2-8-125; R2-8-301 through R2-8-306; R2-8-401;
 R2-8-801 through R2-8-810; R2-8-901 through R2-8-905

☐ REMOVE Supp. 17-2
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☐ REPLACE with Supp. 17-3
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Disclaimer: Please be advised the person listed is the contact of record as submitted in the rulemaking package for this supplement. The contact and other information may change and is provided as a public courtesy.

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PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the Administrative Code. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION
September 30, 2017

RULES

A.R.S. § 41-1001(17) states: “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions. Virtually everything in your life is affected in some way by rules published in the Arizona Administrative Code, from the quality of air you breathe to the licensing of your dentist. This chapter is one of more than 230 in the Code compiled in 21 Titles.

ADMINISTRATIVE CODE SUPPLEMENTS

Rules filed by an agency to be published in the Administrative Code are updated quarterly. Supplement release dates are printed on the footers of each chapter:

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2017 is cited as Supp. 17-1.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the Arizona Administrative Register for recent updates to rule Sections.

ARTICLES AND SECTIONS

Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering system separated into subsections.

HISTORICAL NOTES AND EFFECTIVE DATES

Historical notes inform the user when the last time a Section was updated in the Administrative Code. Be aware, since the Office publishes each quarter by entire chapters, not all Sections are updated by an agency in a supplement release. Many times just one Section or a few Sections may be updated in the entire chapter.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in the introduction of a chapter can be found at the Secretary of State’s website, www.azsos.gov/services/legislative-filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the Arizona Administrative Register online at www.azsos.gov/rules, click on the Administrative Register link.

In the Administrative Code the Office includes editor’s notes at the beginning of a chapter indicating that certain rulemaking Sections were made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR

If you are researching rules and come across rescinded chapters on a different paper color, this is because the agency filed a Notice of Exempt Rulemaking. At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

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Public Services managing rules editor, Rhonda Paschal, assisted with the editing of this chapter.

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

Authority: A.R.S. § 38-701 et seq.

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ARTICLE 1. RETIREMENT SYSTEM**R2-8-101. Repealed****Historical Note**

Former Rule, Social Security Regulation 1; Former Section R2-8-01 renumbered as Section R2-8-101 without change effective May 21, 1982 (Supp. 82-3). Amended subsections (A) and (C) effective April 12, 1984 (Supp. 84-2). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1).

R2-8-102. Repealed**Historical Note**

Former Rule, Social Security Regulation 2; Amended effective April 15, 1980 (Supp. 80-2). Former Section R2-8-02 renumbered as Section R2-8-102 without change effective May 21, 1982 (Supp. 82-3). Amended as an emergency by adding subsection (E) effective January 1, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Emergency expired. Permanent rule, subsections (A), (B), and (D), amended effective April 12, 1984 (Supp. 84-2). Correction, subsection (B), as amended effective April 12, 1984 (Supp. 84-3). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1).

R2-8-103. Repealed**Historical Note**

Former Rule, Social Security Regulation 3; Amended effective April 15, 1980 (Supp. 80-2). Former Section R2-8-03 renumbered as Section R2-8-103 without change effective May 21, 1982 (Supp. 82-3). Amended as an emergency by adding subsection (E) effective January 1, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Emergency expired. Permanent rule, subsections (A) thru (C), amended effective April 12, 1984 (Supp. 84-2). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1).

R2-8-104. Definitions

- A.** The definitions in A.R.S. § 38-711 apply to this Chapter.
- B.** Unless otherwise specified, in this Chapter:
 1. “Actuarial assumption” means an estimate of an uncertain future event that affects pension liabilities, or assets, or both.
 2. “Authorized employer representative” means an individual specified by the ASRS employer to provide the ASRS with information about a member who previously worked for the ASRS employer.
 3. “Contribution” means:
 - a. Amounts required by A.R.S. Title 38, Chapter 5, Article 2 to be paid to the ASRS by a member or an employer on behalf of a member other than amounts attributed to the long-term disability program;
 - b. Any voluntary amounts paid to the ASRS by a member to be placed in the member’s account; and
 - c. Amounts credited by transfer under A.R.S. § 38-924.
 4. “Day” means a calendar day, and excludes the:
 - a. Day of the act or event from which a designated period of time begins to run; and
 - b. Last day of the period if a Saturday, Sunday, or official state holiday.
 5. “Designated beneficiary” means the same as in A.R.S. § 38-762(G).

6. “Director” means the Director appointed by the Board as provided in A.R.S. § 38-715.
7. “Individual retirement account” or “IRA” means the types of eligible retirement plans specified in A.R.S. § 38-770(D)(3)(a) and (b).
8. “Investment return rate” means a percentage of total return on an asset.
9. “Party” means the same as in A.R.S. § 41-1001(14).
10. “Person” means the same as in A.R.S. § 41-1001(15).
11. “Plan” means the same as “defined benefit plan” in A.R.S. § 38-712(B), and as administered by the ASRS.
12. “Retirement account” means the same as in A.R.S. § 38-771(J)(2).
13. “Rollover” means a contribution to the ASRS by an eligible member of an eligible rollover distribution from one or more of the retirement plans listed in A.R.S. § 38-747(H)(2) and (H)(3).
14. “System” means the same as “defined contribution plan” in A.R.S. § 38-769(O)(7), and as administered by the ASRS.
15. “Terminate employment” means to end the employment relationship between a member and an ASRS employer with the intent that the member does not return to employment with an ASRS employer.
16. “United States” means the same as in A.R.S. § 1-215(39).

Historical Note

Former Rule, Social Security Regulation 4; Former Section R2-8-04 renumbered as Section R2-8-104 without change effective May 21, 1982 (Supp. 82-3). Amended subsections (G), (J), and (K) effective April 12, 1984 (Supp. 84-2). Typographical error corrected in subsection (5)(c) “required” corrected to “required” (Supp. 97-1). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4).

R2-8-105. Repealed**Historical Note**

Former Rule, Social Security Regulation 5; Amended effective April 15, 1980 (Supp. 80-2). Former Section R2-8-05 renumbered as Section R2-8-105 without change effective May 21, 1982 (Supp. 82-3). Amended as an emergency by adding subsection (E) effective January 1, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Emergency expired. Permanent rule amended effective April 12, 1984 (Supp. 84-2). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1).

R2-8-106. Reserved**R2-8-107. Reserved****R2-8-108. Reserved****R2-8-109. Reserved****R2-8-110. Reserved****R2-8-111. Reserved****R2-8-112. Reserved****R2-8-113. Emergency Expired****Historical Note**

New Section made by emergency rulemaking at 11 A.A.R. 579, effective January 4, 2005 (05-1). Emergency rule expired (Supp. 05-2).

R2-8-114. Emergency Expired

Historical Note

New Section made by emergency rulemaking at 11
A.A.R. 579, effective January 4, 2005 (05-1). Emergency
rule expired (Supp. 05-2).

R2-8-115. Return of Contributions Upon Termination of Membership by Separation from All ASRS Employment by Other Than Retirement or Death; Payment of Survivor Benefits Upon the Death of a Member

- A.** The following definitions apply to this Section unless otherwise specified:
1. "Acceptable documentation" means any ASRS form request containing all the accurate, required information, dates, and signatures necessary to process the form request.
 2. "Eligible retirement plan" means the same as in A.R.S. § 38-770(D)(3).
 3. "Employer number" means a unique identifier the ASRS assigns to a member employer.
 4. "Employer plan" means the types of eligible retirement plans specified in A.R.S. § 38-770(D)(3)(c), (d), (e), and (f).
 5. "Process date" means the calendar day the ASRS generates contribution withdrawal documents to be sent to a member.
 6. "Warrant" means a voucher authorizing payment of funds due to a member.
- B.** A member who terminates from all ASRS employment by other than retirement or death and desires a return of the member's contributions, including amounts received for the purchase of service, any employer contributions authorized under A.R.S. § 38-740, and interest on the contributions, shall request from the ASRS, in writing or verbally, the documents necessary to apply for the withdrawal of the member's contributions.
- C.** Upon request to withdraw by the member, the ASRS shall provide:
1. An Application for Withdrawal of Contributions and Termination of Membership form to the member, and
 2. An Ending Payroll Verification - Withdrawal of Contribution and Termination of Membership form to the employer.
- D.** The member shall complete and return to the ASRS the Application for Withdrawal of Contributions and Termination of Membership form that includes the following information:
1. The member's full name;
 2. The member's Social Security number;
 3. The member's current mailing address;
 4. The member's daytime telephone number, if applicable;
 5. The member's birth date;
 6. The date of termination;
 7. Dated signature of the member certifying that the member:
 - a. Is no longer employed by any ASRS employer;
 - b. Is neither under contract nor has any verbal or written agreement for future employment with an ASRS employer;
 - c. Is not currently in a leave of absence status with an ASRS employer;
 - d. Understands that each of the member's former ASRS employers will complete a payroll verification form if payroll transactions occurred with the ASRS employer within the six months before the process date;
 - e. Has read and understands the Special Tax Notice Regarding Plan Payments the member received with the application;
 - f. Understands that the member is forfeiting all future retirement rights and privileges of membership with the ASRS;
 - g. Understands that long-term disability benefits will be canceled if the member elects to withdraw contributions while receiving or electing to receive long-term disability benefits;
 - h. Understands that if the member elects to roll over all or any portion of the member's distribution to another employer plan, it is the member's responsibility to verify that the receiving employer plan will accept the rollover and, if applicable, agree to separately account for the pre-tax and post-tax amounts rolled over and the related subsequent earnings on the amounts;
 - i. Understands that if the member elects to roll over all or any portion of the member's distribution to an individual retirement account, it is the member's responsibility to separately account for pre-tax and post-tax amounts; and
 - j. Understands that if the member elects a rollover to another employer plan or individual retirement account, any portion of the distribution not designated for rollover will be paid directly to the member and any taxable amounts will be subject to 20% federal income tax withholding and 5% state tax withholding;
- 8.** Specify that:
- a. The entire amount of the distribution be paid directly to the member,
 - b. The entire amount of the distribution be transferred to an eligible retirement plan, or
 - c. An identified amount of the distribution be transferred to an eligible retirement plan and the remaining amount be paid directly to the member; and
- 9.** If the member selects all or a portion of the withdrawal be paid to an eligible retirement plan, specify:
- a. The type of eligible retirement plan;
 - b. The eligible retirement plan account number, if applicable; and
 - c. The name and mailing address of the eligible retirement plan.
- E.** If the member requesting the withdrawal has been inactive for five years or more, and if the member's account balance is \$1,000 or more, the member requesting the withdrawal shall provide a copy of a driver license or a form of other government issued identification to the ASRS.
- F.** If a payroll transaction for the member occurred with any ASRS employer within six months before the process date each ASRS employer shall complete an Ending Payroll Verification - Withdrawal of Contributions and Termination of Membership form electronically that includes the following information:
1. The member's full name;
 2. The member's Social Security number;
 3. The member's termination date;
 4. The member's final pay period ending date;
 5. The final amount of contributions, including any adjustments or corrections, but not including any long-term disability contributions;
 6. The ASRS employer's name and telephone number;
 7. The employer number;
 8. The name and title of the authorized employer representative;
 9. Certification by the authorized employer representative that:

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- a. The member terminated employment and is neither under contract nor bound by any verbal or written agreement for employment with the employer;
 - b. There is no agreement to re-employ the member; and
 - c. The authorized employer representative has the legal power to bind the employer in transactions with the ASRS; and
- 10. The signature of the authorized employer representative and date of signature.
- G.** If the member requests a return of contributions and a warrant is distributed during the fiscal year that the member began membership in the ASRS, no interest is paid to the account of the member.
- H.** If the member requests a return of contributions after the first fiscal year of membership, the ASRS shall credit interest at the rate specified in Column 3 of the table in R2-8-118(A) to the account of the member as of June 30 of each year, on the basis of the balance in the account of the member as of the previous June 30. The ASRS shall credit interest for a partial fiscal year of membership in the ASRS on the previous June 30 balance based on the number of days of membership up to and including the day the ASRS issues the warrant divided by the total number days in the fiscal year. Contributions made after the previous June 30 are returned without interest.
- I.** Upon submitting to the ASRS the completed and accurate Application for Withdrawal of Contributions and Termination of Membership form and, if applicable, after the ASRS has received any Ending Payroll Verification - Withdrawal of Contributions and Termination of Membership forms, a member is entitled to payment of the amount due to the member as specified in subsection (G) or (H) unless a present or former spouse submits to the ASRS a domestic relations order that specifies entitlement to all or part of the return of contributions under A.R.S. § 38-773 before the ASRS returns the contributions as specified by the member.
- J.** Upon the death of a member, the ASRS shall distribute the survivor benefits according to the most recent, acceptable documentation that is on file with the ASRS that was received prior to the date of the member's death, unless otherwise provided by law.
- K.** If there is no designation of beneficiary or if the designated beneficiary predeceases the member, the survivor benefit is paid as specified in A.R.S. § 38-762(E). The designated beneficiary or other person specified in A.R.S. § 38-762(E) shall:
 - 1. Provide a certified copy of a death certificate or a certified copy of a court order that establishes the member's death;
 - 2. Provide a certified copy of the court order of appointment as administrator, if applicable; and
 - 3. Except if the deceased member was retired and elected the joint and survivor option, complete and have notarized an application for survivor benefits, provided by the ASRS, that includes:
 - a. The deceased member's full name,
 - b. The deceased member's Social Security number,
 - c. The following, as it pertains to the designated beneficiary or other person specified in A.R.S. § 38-762(F):
 - i. Full name;
 - ii. Mailing address;
 - iii. Contact telephone number;
 - iv. Date of birth, if applicable; and
 - v. Social Security number or Tax ID number, if applicable.

Historical Note

Former Rule, Social Security Regulation 1; Amended effective Dec. 20, 1979 (Supp. 79-6). Former Section R2-8-15 renumbered as Section R2-8-115 without change effective May 21, 1982 (Supp. 82-3). Amended by final rulemaking at 11 A.A.R. 1416, effective April 5, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 644, effective February 7, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 22 A.A.R. 79, effective March 6, 2016 (Supp. 16-1).

R2-8-116. Alternate Contribution Rate

- A.** For purposes of this section, the following definitions apply:
 - 1. "ACR" means an alternate contribution rate pursuant to A.R.S. § 38-766.02, the resulting amount of which is not deducted from the employee's compensation.
 - 2. "Class of positions" means all employment positions of the employer that perform the same, or substantially similar, function or duties, for the employer as determined by the ASRS in subsection (B).
 - 3. "Compensation" has the same meaning as A.R.S. § 38-711(7) and does not include ACR amounts.
 - 4. "Leased from a third party" means:
 - a. The employee is not employed by an employer; and
 - b. A co-employment relationship, as defined in A.R.S. § 23-561(4), does not exist.
- B.** An employer that employs a retired member shall pay an ACR to the ASRS, unless the employer provides proof that:
 - 1. The retired member is leased from a third party; and
 - 2. All employees in the entire class of positions, to which the retired member's position belongs, have been leased from a third party; and
 - 3. No employee who has not been leased is performing the same, or substantially similar, function or duties, as the retired member.
- C.** In order to determine whether an employer satisfies the criteria in subsection (B), the employer shall submit information and documentation, pursuant to A.R.S. § 38-766.02(E), within 14 days of written request by the ASRS.
- D.** The employer shall directly remit payment of an ACR to the ASRS from the employer's funds, through the employer's secure ASRS account within 14 days of the first pay period end date after the hire of the retired member.
- E.** If the employer does not remit the ACR by the date it is due pursuant to subsection (D), the ASRS shall charge interest on the ACR amount from the date it was due to the date the ACR payment is remitted to the ASRS at the assumed actuarial interest rate listed in R2-8-118(B).
- F.** A payment of an ACR on behalf of a retired member pursuant to A.R.S. § 38-766.02, shall not entitle a retired member to a refund of an ACR payment or any additional ASRS benefit as described in A.R.S. § 38-766.01(E).

Historical Note

Former Rule, Retirement System Regulation 2; Former Section R2-8-16 renumbered as Section R2-8-116 without change effective May 21, 1982 (Supp. 82-3). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 22 A.A.R. 1341, effective July 4, 2016 (Supp. 16-2).

R2-8-117. Return to Work After Retirement

- A.** Unless otherwise specified, in this Section:
 - 1. "Commencing employment" means the date a retired member who is not independently contracted or leased from a third party pursuant to R2-8-116(A)(4) renders

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- services directly to an Employer for which the retired member is entitled to be paid.
2. "Returns to work" means the member retired from the ASRS prior to commencing employment with an Employer.
- B.** Pursuant to A.R.S. § 38-766.01(C), a retired member who returns to work directly with an Employer shall submit a Working After Retirement form to each of the retired member's current Employers through the retired member's secure website account within 30 days of the retired member commencing employment with an Employer.
- C.** Pursuant to A.R.S. § 38-766.02(E), within 14 days of receipt of a Working After Retirement form, an Employer shall verify the retired member's employment information and submit the verified Working After Retirement form to the ASRS through the Employer's secure website account for each retired member who returns to work with the Employer.
- D.** After a retired member returns to work, the Employer shall submit a verified Working After Retirement form to the ASRS through the Employer's secure website account within 30 days of a change in the intent of each retired member's employment that results in:
1. The member's number of hours worked per week increasing from less than 20 hours per week to 20 or more hours per week; or
 2. The member's number of weeks worked in a fiscal year increasing from less than 20 weeks per fiscal year to 20 or more weeks per fiscal year.
- E.** The Working After Retirement form shall contain the following information:
1. The retired member's social security number;
 2. The retired member's full name;
 3. The date the member retired;
 4. Whether the retired member terminated employment, and if so, the date the retired member terminated employment;
 5. The first date of commencing employment upon the retired member's return to work;
 6. The intent of the retired member's employment reflected as:
- a. The anticipated number of hours the retired member is engaged to work per week and the anticipated number of weeks the retired member is engaged to work per fiscal year; or
 - b. The actual number of hours the retired member works for an Employer per week and the actual number of weeks the retired member works for an Employer in a fiscal year.
7. Acknowledgement by the retired member that the retired member has read the Return to Work information on the ASRS website and intends to continue submitting the Working After Retirement form to the retired member's Employer.
- F.** Upon discovering that the retired member's employment violates A.R.S. §§ 38-766 or 38-766.01, the ASRS shall send the retired member a Retiree Return to Work Notice of Non-Compliance with ASRS Statutes form.
- G.** By the due date specified on the Retiree Return to Work Notice of Non-Compliance with ASRS Statutes form, the retired member shall return the completed form and any supporting documentation to the ASRS indicating the action the retired member will take to correct the violation of A.R.S. §§ 38-766 or 38-766.01.
- H.** If the member does not submit the Retiree Return to Work Notice of Non-Compliance with ASRS Statutes form pursuant to subsection (G), the ASRS shall suspend the retired member's retirement benefits from the date on the Retiree Return to Work Notice of Non-Compliance with ASRS Statutes form.
- I.** If the ASRS suspends the retired member's retirement benefits pursuant to subsection (H), the ASRS shall reinstate the retired member's retirement benefits upon notice from the Employer that all violations pursuant to subsection (F) have been corrected.

Historical Note

Former Rule, Retirement System Regulation 3; Former Section R2-8-17 renumbered as Section R2-8-117 without change effective May 21, 1982 (Supp. 82-3). Section repealed by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). New Section made by final rulemaking at 23 A.A.R. 209, effective March 5, 2017 (Supp. 17-1).

R2-8-118. Application of Interest Rates

A. Application of interest from inception of the ASRS through the present is as follows:

Effective Date of Interest Rate Change	Assumed Actuarial Interest and Investment Return Rate	Interest Rate Used to Determine Return of Contributions Upon Termination of Membership by Separation from Service by Other Than Retirement or Death		Interest Rate Used to Determine Survivor Benefits
7-1-1953	2.50%	2.50%		2.50%
7-1-1959	3.00%	3.00%		3.00%
7-1-1966	3.75%	3.75%		3.75%
7-1-1969	4.25%	4.25%		4.25%
7-1-1971	4.75%	4.75%		4.75%
7-1-1975	5.50%	5.50%		5.50%
7-1-1976	6.00%	5.50%		6.00%
7-1-1981	7.00%	5.50%		7.00%
7-1-1982	7.00%	7.00%		7.00%
7-1-1984	8.00%	8.00%		8.00%
7-1-2005	8.00%	4.00% for Plan Members	8.00% for System Members	8.00%
7-1-2013	8.00%	2.00% for Plan Members	8.00% for System Members	8.00%

- B.** At the beginning of each fiscal year, interest is credited to the retirement account of each member on the June 30 that marks the end of the fiscal year based on the balance in the member's account as of the previous June 30. The balance on which interest is credited includes:
1. Employer and employee contributions;
 2. Voluntary additional contributions made by members pursuant to A.R.S. §§ 38-742, 38-743, 38-744, and 38-745, if applicable;
 3. Amounts credited by transfer under A.R.S. § 38-924; and
 4. Interest credited in previous years.

Historical Note

Former Rule, Retirement System Regulation 4; Amended effective July 1, 1975 (Supp. 75-1). Amended effective June 23, 1976 (Supp. 76-3). Former Section R2-8-18 renumbered and amended as Section R2-8-118 effective May 21, 1982 (Supp. 82-3). Amended by final rulemaking at 11 A.A.R. 1416, effective April 5, 2005 (Supp. 05-2). Amended by final rulemaking at 19 A.A.R. 764, effective June 1, 2013 (Supp. 13-2). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 22 A.A.R. 79, effective March 6, 2016 (Supp. 16-1).

R2-8-119. Expired**Historical Note**

Former Rule, Retirement System Regulation 5; Amended effective July 1, 1975 (Supp. 75-1). Amended effective June 23, 1976 (Supp. 76-3). Former Section R2-8-19 renumbered and amended as Section R2-8-119 effective May 21, 1982 (Supp. 82-3). Section R2-8-119 and Appendix A and B expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

R2-8-120. Designating a Beneficiary; Spousal Consent to Designation

- A.** The following definitions apply to this Section unless otherwise specified:
1. "DRO" means the same as "domestic relations order" in A.R.S. § 38-773(H)(1).
 2. "Joint and survivor annuity" means an optional form of retirement benefits described in A.R.S. § 38-760(B)(1).
 3. "Period certain and life annuity" means an optional form of retirement benefits described in A.R.S. § 38-760(B)(2).
 4. "Spouse" means the individual to whom a member is married under Arizona law.
- B.** Effective July 1, 2013, a married member:
1. Who is not retired shall name and maintain the member's current spouse as primary beneficiary of at least 50 percent of the member's retirement account unless:
 - a. Naming or maintaining the current spouse as beneficiary violates another law, existing contract, or court order; or
 - b. The spouse consents to an alternate beneficiary; and
 2. Who retires shall choose a joint and survivor annuity and name the member's current spouse as contingent annuitant of at least 50 percent of the member's retirement benefit unless the spouse consents to an alternative.
- C.** Application of subsection (B).
1. The ASRS shall honor a beneficiary designation last made or a retirement election submitted before July 1, 2013, even if the beneficiary designation or retirement election fails to comply with subsection (B).
 2. The ASRS shall not apply subsection (B) to a lump-sum retirement authorized under A.R.S. § 38-764.
 3. The ASRS shall not apply subsection (B) if a member submits a letter to the ASRS in which the member affirms under penalty of perjury that spousal consent is not required because of one of the reasons specified in A.R.S. § 38-776(C).
- D.** Changing a beneficiary designation:
1. If a married member changes a beneficiary designation on or after July 1, 2013, the member shall ensure that the new beneficiary designation is consistent with the requirements specified in subsection (B);
 2. If a married member who retired before July 1, 2013, and:
 - a. Chose a straight-life annuity wishes to change the member's beneficiary, the member shall ensure that the new beneficiary designation is consistent with subsection (B); or
 - b. Chose a period certain and life annuity or joint and survivor annuity wishes to change either the annuity option or the contingent annuitant, the member shall ensure that the new beneficiary designation is consistent with subsection (B).
- E.** Re-retirement. A married member who re-retires, as described in A.R.S. § 38-766:
1. Within 60 months of the member's previous retirement date, shall elect the same annuity option and beneficiary as the member made at the time of the previous retirement; or
 2. More than 60 months after the member's previous retirement date, shall comply with subsection (B).
- F.** Involuntary cancellation of retirement. If a married member retires on or after July 1, 2013, and is issued one or more estimate checks but fails to comply with subsection (B) within 30 days after the member's effective retirement date, the member shall submit a signed letter to ASRS stating that the member's spouse refuses to consent to the chosen alternative and asking that the retirement be cancelled. The member may submit another retirement application that complies with subsection (B). The member's new effective retirement date is the date ASRS receives the new application. ASRS shall not issue additional estimate checks to a member whose retirement was involuntarily cancelled.
- G.** Survivor benefits:
1. If a married member last made a beneficiary designation before July 1, 2013, the ASRS shall, at the time of the member's death, honor the beneficiary designation even if the beneficiary designation is not consistent with the requirements specified in subsection (B); and
 2. If a married member made a beneficiary designation on or after July 1, 2013, that is not consistent with the requirements specified in subsection (B), the ASRS shall, at the time of the member's death:
 - a. Notify both the spouse and designated beneficiary and:
 - i. Provide the spouse with an opportunity to waive the right under subsection (B); and
 - ii. Provide the designated beneficiary with an opportunity to provide documentation that revokes the spouse's right under subsection (B); and
 - b. Designate 50 percent of the member's retirement benefit to the spouse if neither the spouse nor designated beneficiary respond under subsection (G)(2)(a) within 30 days after notification.

- H.** Effect of legal documents. In general, a legal document such as a QDRO or prenuptial agreement will supersede the requirements in subsection (B). The ASRS shall ask the Office of the Attorney General to review the legal document before the ASRS decides how to disburse the retirement benefit.
- I.** Spousal waiver and consent; consent revocation
1. The current spouse of a member has a right to:
 - a. Be designated as primary beneficiary of at least 50 percent of the member's retirement account, and
 - b. Have the member choose a joint and survivor annuity with the spouse as contingent annuitant of at least 50 percent of the retirement benefit.
 2. To waive the right described in subsection (I)(1) and consent to an alternative, the current spouse shall complete and have notarized a spousal consent form, which is available from the ASRS. If the current spouse is not capable of completing the spousal consent form because of a documented incapacitating mental or physical condition, a person with power of attorney or a conservator may complete the spousal consent form on behalf of the current spouse.
 3. A spouse may revoke a waiver and consent by sending written notice to ASRS and ensuring the written notice is received no later than the earlier of one day before the member dies or ASRS disburses a retirement benefit to the member.

Historical Note

Former Rule, Social Security Regulation 6; Amended effective June 19, 1975 (Supp. 75-1). Amended effective July 13, 1979 (Supp. 79-4). Former Section R2-8-20 renumbered and amended as Section R2-8-120 effective May 21, 1982 (Supp. 82-3). Repealed effective July 24, 1985 (Supp. 85-4). New Section made by final rulemaking at 20 A.A.R. 2236, effective October 4, 2014 (Supp. 14-3). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4).

R2-8-121. Repealed**Historical Note**

Former Rule, Retirement System Regulation 7; Amended effective April 15, 1980 (Supp. 80-2). Former Section R2-8-21 renumbered as Section R2-8-121 without change effective May 21, 1982 (Supp. 82-3). Amended subsection (A) effective May 30, 1985 (Supp. 85-3). Section repealed by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (05-1).

R2-8-122. Remittance of Contributions

- A.** Remittance of employee member contributions: Each state department and employer member of the ASRS, including, any county, municipality or political subdivision, shall certify on each payroll the amount to be contributed by each one of their employee members of the ASRS and shall remit the amount of employee member contributions to the ASRS, together with such detailed report as may be required by the ASRS to identify the individual owner of each such member contribution, not later than 14 calendar days after the last day of each payroll period. Payments of employee member contributions not received in the offices of the ASRS by the 14th calendar day after the last day of the applicable payroll period shall become delinquent after that date and shall be increased, by interest at the rate of eight percent per annum from and after the date of delinquency until payment is received by the ASRS.
- B.** Remittance of employer contributions: Each state department and employer member of the ASRS, including, any county,

municipality or political subdivision, shall remit the amount of employer contributions to the ASRS not later than 14 calendar days after the last day of each payroll period. Payments of employer contributions not received in the offices of the ASRS by the 14th calendar day after the last day of the applicable payroll period shall become delinquent after that date and shall be increased, by interest at the rate of eight percent per annum from and after the date of delinquency until payment is received by the ASRS.

Historical Note

Former Rule, Retirement System Regulation 8; Amended effective Dec. 8, 1978 (Supp. 78-6). Former Section R2-8-22 renumbered as Section R2-8-122 without change effective May 21, 1982 (Supp. 82-3). Amended by final rulemaking at 22 A.A.R. 79, effective March 6, 2016 (Supp. 16-1).

R2-8-123. Actuarial Assumptions and Actuarial Value of Assets

- A.** For the purposes of this Section, "market value" means an estimated monetary worth of an asset based on the current demand for the asset and the amount of that type of asset available for sale.
- B.** The Board adopts the following actuarial assumptions and asset valuation method:
1. The interest and investment return rate assumptions are determined by the Board.
 2. The actuarial value of assets equals the market value of assets:
 - a. Minus a 10-year phase-in of the excess for years in which actual investment return exceeds expected investment return; and
 - b. Plus a 10-year phase-in of the shortfall for years in which actual investment return falls short of expected investment return.

Historical Note

Adopted effective July 1, 1975 (Supp. 75-1). Amended effective June 23, 1976 (Supp. 76-3). Amended effective December 20, 1977 (Supp. 77-6). Former Section R2-8-23 renumbered and amended as Section R2-8-123 effective May 21, 1982 (Supp. 82-3). Emergency amendments effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency amendments adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent amendments adopted effective December 22, 1993 (Supp. 93-4). Emergency amendments adopted effective January 30, 1997, pursuant to A.R.S. § 41-1026 for a maximum of 180 days (Supp. 97-1). Emergency expired. Permanent amendments adopted effective September 12, 1997 (Supp. 97-3). Amended by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 1006, effective February 24, 2003 for a period of 180 days (Supp. 03-1). Emergency rulemaking renewed at 9 A.A.R. 3963, effective August 21, 2003 for a period of 180 days (Supp. 03-3). Amended by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Amended by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 20 A.A.R. 3043, effective January 3, 2015 (Supp. 14-4). Amended by final

rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4).

Table 1. Expired**Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Emergency amendments to Table 1 adopted effective January 30, 1997, pursuant to A.R.S. § 41-1026 for a maximum of 180 days (Supp. 97-1). Emergency expired. Permanent amendments adopted effective September 12, 1997 (Supp. 97-3). Amended by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

Table 2. Expired**Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Emergency amendments to Table 2 adopted effective January 30, 1997, pursuant to A.R.S. § 41-1026 for a maximum of 180 days (Supp. 97-1). Emergency expired. Permanent amendments adopted effective September 12, 1997 (Supp. 97-3). Amended by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

Table 3. Repealed**Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Emergency amendments to Table 3 adopted effective January 30, 1997, pursuant to A.R.S. § 41-1026 for a maximum of 180 days (Supp. 97-1). Emergency expired. Permanent amendments adopted effective September 12, 1997 (Supp. 97-3). Table 3 repealed; new Table 3 renumbered from Table 4 by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Table repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Table repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Table 3A. Expired**Historical Note**

New Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). New Table made by final

rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

Table 3B. Expired**Historical Note**

New Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). New Table made by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

Table 4. Expired**Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Table 4 renumbered as Table 3 by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). New Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). New Table made by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

Table 4A. Repealed**Historical Note**

New Table made by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Table repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Table repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Table 4B. Repealed**Historical Note**

New Table made by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Table repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Table repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Table 4C. Repealed**Historical Note**

New Table made by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Table repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Table repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Table 5. Expired**Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective

December 22, 1993 (Supp. 93-4). Table 5 repealed, new Table 5 adopted by emergency action effective January 30, 1997, pursuant to A.R.S. § 41-1026 for a maximum of 180 days (Supp. 97-1). Emergency expired. Table 5 repealed, new Table 5 adopted by regular rulemaking action effective September 12, 1997 (Supp. 97-3). Table 5 repealed; new Table 5 renumbered from Table 6 and amended by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Table repealed; new Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Former Table 5 renumbered to Table 6; new Table 5 made by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

Table 6. Expired**Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Table repealed, new Table adopted effective September 12, 1997 (Supp. 97-3).

Former Table 6 renumbered to Table 5; new Table 6 renumbered from Table 7 and amended by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Table repealed; new Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Former Table 6 renumbered to Table 7; new Table 6 renumbered from Table 5 and amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

Table 7. Expired**Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Table repealed, new Table adopted effective September 12, 1997 (Supp. 97-3). Renumbered to Table 6 by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). New Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Table 7 renumbered from Table 6 and amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

R2-8-124. Termination Incentive Program by Agreement; Unfunded Liability Calculations

- A. The following definitions apply to this Section unless otherwise specified:
1. "Compensation" means the same as in A.R.S. § 38-711(7).
 2. "Termination Incentive Program" means the same as in A.R.S. § 38-749(D)(2).

- B. An Employer that intends to implement a Termination Incentive Program shall provide the following information to the ASRS through the Employer's secure ASRS account:
 1. Within 90 days before implementation of the program, a complete description of the program terms and conditions, including the program contract, understanding, or agreement; and
 2. Within 90 days before implementation of the program, the following information for each member who may be eligible to participate in the program:
 - a. The member's full name;
 - b. The member's date of birth; and
 - c. The member's current Compensation;
- C. The ASRS may use the information provided by the Employer pursuant to subsection (B) and the information on file with the ASRS to determine an estimated unfunded liability amount in consultation with the ASRS actuary, which may result from the implementation of the Employer's Termination Incentive Program.
- D. If the ASRS determines an estimated unfunded liability amount pursuant to subsection (C), the ASRS may send a Notice of Estimated Liability to the Employer through the Employer's secure ASRS account, in order to notify the Employer of the estimated unfunded liability amount the Employer may owe to the ASRS as a result of implementing the Termination Incentive Program identified under subsection (B). An Employer may owe the ASRS more or less than the estimated unfunded liability amount based on actual employee participation in the Employer's Termination Incentive Program pursuant to subsection (F).
- E. Within 30 days of termination of employment of each member who participated in a Termination Incentive Program identified under subsection (B), the Employer shall provide the following information to the ASRS through the Employer's secure ASRS account:
 1. The member's full name;
 2. The member's date of birth;
 3. The member's Compensation at termination;
 4. The date the member terminated employment; and
 5. The amount and type of any additional pay the member received, or was entitled to receive, from the Employer as a result of participating in the Employer's Termination Incentive Program.
- F. Upon receipt of all the information identified in subsection (E) and in consultation with the ASRS actuary, the ASRS shall calculate the actual unfunded liability amount which resulted from the implementation of the Employer's Termination Incentive Program.
- G. If the ASRS calculates an unfunded liability of less than \$0.00 for any member who participated in the Employer's Termination Incentive Program, the amount will be applied against the aggregate unfunded liability of the Employer.
- H. Upon calculating the unfunded liability pursuant to subsections (F) and (G), the ASRS shall send the Employer a Termination Incentive Program Liability Invoice through the Employer's secure ASRS account.
- I. An Employer that owes an unfunded liability amount to the ASRS pursuant to A.R.S. § 38-749, shall remit full payment of the unfunded liability amount by the due date specified in the Termination Incentive Program Liability Invoice.
- J. Pursuant to A.R.S. § 38-735(C), if the ASRS does not receive full payment from the Employer of the unfunded liability amount by the due date specified in the Termination Incentive Program Liability Invoice, the unpaid portion of the unfunded liability amount shall accrue interest at the assumed actuarial interest and investment rate contained in R2-8-118(A).

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- K. The ASRS may collect any unfunded liability amount pursuant to A.R.S. §§ 38-723 and 38-735(C).

Historical Note

Adopted as an emergency effective August 25, 1975 (Supp. 75-1). Former Section R2-8-24 renumbered as Section R2-8-124 without change effective May 21, 1982 (Supp. 82-3). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1). New Section made by final rulemaking at 23 A.A.R. 2743, effective January 1, 2018 (Supp. 17-3).

R2-8-125. Termination Incentive Program by 30% Salary Increase; Unfunded Liability Calculations

- A. The following definitions apply to this Section unless otherwise specified:
1. "Average monthly compensation" means the same as in A.R.S. § 38-711(5).
 2. "Baseline salary" means a member's Average Monthly Compensation during the 12 consecutive months in which the member received Compensation immediately preceding the first month of Compensation used to calculate the member's retirement benefit. The Baseline Salary shall include only Compensation from the Same Employer that paid the Compensation used in the calculation of a member's retirement benefit. If the member has less than 12 consecutive months in which the member received Compensation immediately preceding the first month of Compensation used to calculate the member's retirement benefit, then the ASRS will calculate the member's Baseline Salary as the total of the 12 months of Compensation the member received:
 - a. Starting with the first month of Compensation the member received in the 12 months immediately preceding the member's Average Monthly Compensation, or within the Average Monthly Compensation; and
 - b. Ending with the 12th month of Compensation the member received after the first month of Compensation used in subsection (A)(2)(a).
 3. "Compensation" means the same as in A.R.S. § 38-711(7).
 4. "Job reclassification" means a change in the classification of an employment position made by the Employer when it finds the duties and responsibilities of the position have changed significantly, materially, and permanently from when the position was last classified.
 5. "Promotion" means, excluding a Salary Regrade or Job Reclassification, the act of advancing an employee to a higher salary or higher rank within the organization, which is characterized by:
 - a. A change in the employee's primary job responsibilities; and
 - b. A pay increase that is supported by a standard salary administration practice that is documented by the Employer; and
 - c. A competitive selection process or a noncompetitive selection process supported by a standard hiring practice that is documented by the Employer.
 6. "Salary regrade" means a change in the salary scale of an employment position made by the Employer in order to align the position's salary scale with market factors and/or the Employer's current salary practices.
 7. "Same employer" means the Employer has the same ownership as another Employer, except that for purposes of this section, each agency, board, commission, and

department of the State of Arizona shall be considered a separate Employer.

8. "Termination Incentive Program" means the same as in A.R.S. § 38-749(D)(1).
- B. Upon a member's retirement on or after January 1, 2018, the ASRS shall compare the member's Baseline Salary to the Average Monthly Compensation for each consecutive 12 months of Compensation used to calculate the member's retirement benefit in order to determine whether an Employer utilized a Termination Incentive Program as defined in A.R.S. § 38-749(D)(1). This subsection only applies to members who earned the Compensation used to calculate the member's Baseline Salary, on or after July 1, 2005.
- C. Upon determining that a Termination Incentive Program exists under subsection (B), the ASRS shall send a Request for Documentation to the Employer through the Employer's secure ASRS account, in order to notify the Employer that the ASRS has identified a Termination Incentive Program for a particular member and the Employer may be required to pay the ASRS for the unfunded liability resulting from the Termination Incentive Program, unless the Employer can prove the increase in the member's salary was the result of a Promotion.
- D. Within 90 days of the date on the Request for Documentation, the Employer shall respond to the Request for Documentation by:
 1. Submitting documentation through the Employer's secure ASRS account that shows the member's increase in Compensation was the result of a Promotion; or
 2. Acknowledging in writing that the increase in the member's salary was not the result of a Promotion.
- E. Pursuant to subsection (D), the Employer bears the burden of producing evidence that a Promotion has occurred as defined in subsection (A)(5).
- F. The ASRS shall use any evidence the Employer submits to the ASRS pursuant to subsection (D) to determine whether a Promotion occurred.
- G. If the Employer does not respond to the Request for Documentation within 90 days of the date on the Request for Documentation, the ASRS shall determine that the increase in the member's salary was not the result of a Promotion.
- H. If the ASRS determines that the increase in the member's salary was not the result of a Promotion pursuant to subsections (F) or (G), the ASRS shall calculate the unfunded liability amount pursuant to subsection (I).
- I. In consultation with the ASRS actuary, the ASRS shall use a determination under subsection (B) to calculate the unfunded liability resulting from the implementation of the Employer's Termination Incentive Program.
- J. Upon calculating an unfunded liability amount pursuant to subsection (I), the ASRS shall send a Termination Incentive Program Liability Invoice to the Employer through the Employer's secure ASRS account, in order to notify the Employer of the unfunded liability amount the Employer shall owe to the ASRS as a result of implementing the Termination Incentive Program identified under subsection (B).
- K. An Employer that owes an unfunded liability amount to the ASRS pursuant to A.R.S. § 38-749, shall remit full payment of the unfunded liability amount by the due date specified in the Termination Incentive Program Liability Invoice.
- L. Pursuant to A.R.S. § 38-735(C), if the ASRS does not receive full payment from the Employer of the unfunded liability amount by the due date specified in the Termination Incentive Program Liability Invoice, the unpaid portion of the unfunded liability amount shall accrue interest at the assumed actuarial interest and investment rate contained in R2-8-118(A).

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- M.** The ASRS may collect any unfunded liability amount pursuant to A.R.S. §§ 38-723 and 38-735(C).

Historical Note

Adopted as an emergency effective July 30, 1975 (Supp. 75-1). Former Section R2-8-25 renumbered as Section R2-8-125 without change effective May 21, 1982 (Supp. 82-3). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1). New Section made by final rulemaking at 23 A.A.R. 2743, effective January 1, 2018 (Supp. 17-3).

R2-8-126. Calculating Optional Forms of Benefits

- A.** For the purposes of this Section, the following definitions apply, unless stated otherwise:
1. "Prior service credit" means a "service credit" listed in R2-8-501(24), credited service that is earned pursuant to A.R.S. § 38-739, or a service credit that is transferred or redeemed pursuant to A.R.S. §§ 38-730, 38-771, or 38-921 et seq.
 2. "Original retirement date" means:
 - a. The date a member retires from the ASRS for the first time; or
 - b. The date a member retires from the ASRS after returning to active membership for 60 consecutive months or more pursuant to A.R.S. § 38-766(C).
- B.** An individual who is 104 years of age or older at the time of retirement is not eligible to elect an option of life annuity with a term certain.
- C.** An individual who is 93 years of age or older at the time of retirement is not eligible to elect the options of life annuity with ten years certain or life annuity with 15 years certain.
- D.** An individual who is 85 years of age or older at the time of retirement is not eligible to elect the option of life annuity with 15 years certain.
- E.** As authorized under A.R.S. § 38-764(F), if the life annuity of any member is less than a monthly amount determined by the Board, the ASRS shall not pay the annuity. Instead, the ASRS shall make a lump sum payment in the amount determined by using appropriate actuarial assumptions.
- F.** The ASRS shall calculate a member's or beneficiary's benefits, based on the attained age of the member or beneficiary, determined in years and full months, as of:
1. The date of the member's retirement; or
 2. The date of the member's death, if the beneficiary is eligible to elect the survivor benefit as monthly income for life pursuant to A.R.S. § 38-762(C).
- G.** Before the ASRS applies the calculation for an optional form of retirement benefit provided in A.R.S. § 38-760, the ASRS shall include any prior service credit benefit that is applicable to the life annuity of the member.
- H.** A member who is ten years and one day, or more, older than the member's non-spousal contingent annuitant is not eligible to participate in a 100% joint-and-survivor option. A member who is 24 years and one day, or more, older than the member's non-spousal contingent annuitant is not eligible to participate in a 66 2/3% joint-and-survivor option.
- I.** For members whose original retirement date is on or after March 6, 2016, notwithstanding subsection (H), a member who is ten years and one day, or more, older than the member's ex-spouse contingent annuitant is eligible to participate in a 100% joint-and-survivor option, if:
1. The member elected the ex-spouse as the contingent annuitant prior to divorce from the ex-spouse; and
 2. The member submits a DRO to the ASRS which requires the ex-spouse to be the contingent annuitant on the member's account.

- J.** For members whose original retirement date is on or after March 6, 2016, notwithstanding subsection (H), a member who is 24 years and one day, or more, older than the member's ex-spouse contingent annuitant is eligible to participate in a 66 2/3% joint-and-survivor option, if:
1. The member elected the ex-spouse as the contingent annuitant prior to divorce from the ex-spouse; and
 2. The member submits a DRO to the ASRS which requires the ex-spouse to be the contingent annuitant on the member's account.
- K.** Notwithstanding subsection (F), for purposes of determining whether a member is eligible to participate in a joint-and-survivor option, the ASRS shall calculate the difference in a member's age and the contingent annuitant's age based on the birthdates of the member and the contingent annuitant.

Historical Note

Adopted effective September 12, 1977 (Supp. 77-5). Amended effective July 13, 1979 (Supp. 79-4). Former Section R2-8-26 renumbered and amended as Section R2-8-126 effective May 21, 1982 (Supp. 82-3). Amended subsections (A) through (D) effective October 18, 1984 (Supp. 84-5). Amended subsections (A) through (D) effective July 24, 1985 (Supp. 85-4). Amended by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency amendments adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Amended by emergency rulemaking at 7 A.A.R. 1621, effective March 21, 2001 (Supp. 01-1). Amended by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Amended by final rulemaking at 19 A.A.R. 332, effective April 6, 2013 (Supp. 13-1). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 22 A.A.R. 79, effective March 6, 2016 (Supp. 16-1). Amended by final rulemaking at 22 A.A.R. 3081, effective December 3, 2016 (Supp. 16-4).

Table 1. Repealed**Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 1 repealed, new Table 1 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

Table 2. Repealed**Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 2 repealed, new Table 2 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

Table 3. Repealed

Historical Note

Adopted effective September 12, 1977 (Supp. 77-5). Table 3 repealed, new Table 3 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

Table 4. Repealed**Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 4 repealed, new Table 4 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

Table 5. Repealed**Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 5 repealed, new Table 5 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

Table 6. Repealed**Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 6 repealed, new Table 6 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

Table 7. Repealed**Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 7 repealed, new Table 7 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

Table 8. Repealed**Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 8 repealed, new Table 8 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

Table 9. Repealed**Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 9 repealed, new Table 9 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

Table 10. Repealed**Historical Note**

Adopted effective October 18, 1984 (Supp. 84-5). Table 10 repealed, new Table 10 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

Table 11. Repealed**Historical Note**

Adopted effective October 18, 1984 (Supp. 84-5). Table 11 repealed, new Table 11 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

Exhibit A. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit B, Table 1. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit B, Table 2. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by

Exhibit L, Table 5. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Amended by emergency rulemaking at 7 A.A.R. 1621, effective March 21, 2001 (Supp. 01-1). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit L, Table 6. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Amended by emergency rulemaking at 7 A.A.R. 1621, effective March 21, 2001 (Supp. 01-1). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit L, Table 7. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Amended by emergency rulemaking at 7 A.A.R. 1621, effective March 21, 2001 (Supp. 01-1). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit M, Table 1. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit M, Table 2. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by

emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit M, Table 3. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit M, Table 4. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit M, Table 5. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit M, Table 6. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

ARTICLE 2. HEALTH INSURANCE PREMIUM BENEFIT**R2-8-201. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "Coverage" means a medical and/or dental insurance plan a retired member, Disabled member, or contingent annuitant obtains through the ASRS or an Employer.
2. "Contingent annuitant" means the same as in A.R.S. § 38-711(8) and the person is eligible for Coverage.

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3. "Disabled" means the member has a disability and is receiving long-term disability benefits pursuant to A.R.S. § 38-797 et seq.
4. "Family calculation" means the family Coverage premium described in A.R.S. § 38-783(B).
5. "Joint & survivor" means the annuity option described in A.R.S. § 38-760(B)(1).
6. "Net premium" means the amount of the Coverage premium reduced by the amount of the Premium Benefit provided by the ASRS.
7. "Original retirement date" means the same as in R2-8-126.
8. "Optional premium benefit" means the election, upon retirement, to have the Premium Benefit paid on behalf of the member's Contingent Annuitant upon death of the member pursuant to A.R.S. § 38-783.
9. "Period-certain" means the annuity option described in A.R.S. § 38-760(B)(2).
10. "Premium benefit" means the amount the ASRS provides on behalf of a retired member or Disabled member in order to offset the Coverage premium of the retired or Disabled member pursuant to A.R.S. § 38-783.
11. "Single calculation" means the single Coverage premium calculation described in A.R.S. § 38-783(A).
12. "Subsidized" means the same as in A.R.S. § 38-783(M)(4).

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 34, effective May 31, 2015 (Supp. 16-4). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2).

R2-8-202. Premium Benefit Eligibility and Benefit Determination

- A.** A retired member or Disabled member who has five or more years of service and who elects to maintain Coverage is eligible for a Premium Benefit as follows:
1. A retired member or Disabled member who elects to maintain Coverage for the retired member or Disabled member only, is eligible for a Single Calculation of the Premium Benefit as described in R2-8-204(A);
 2. A retired member or Disabled member who elects to maintain Coverage for the retired member or Disabled member and a dependent who is not a retired member or Disabled member is eligible for a Family Calculation of the Premium Benefit as described in R2-8-204(B).
 3. A retired member or Disabled member who elects to maintain Coverage for the retired member or Disabled member and a dependent who is a retired member or Disabled member is eligible for the greater of:
 - a. Two Single Calculations of the Premium Benefit described in R2-8-204(A); or
 - b. One Family Calculation of the Premium Benefit described in R2-8-204(B).
 4. A retired member or Disabled member who is enrolled as a dependent on an active member's insurance plan is eligible for a Single Calculation of the Premium Benefit described in R2-8-204(A) if:
 - a. The retired member has an Original Retirement Date prior to August 2, 2012; or
 - b. The Disabled member became Disabled prior to August 2, 2012;
 5. A retired member or Disabled member who elects to maintain Coverage for the retired member or Disabled

member and multiple dependents, some of whom are retired members or Disabled members, is eligible for the greater of:

- a. Two Single Calculations of the Premium Benefit described in R2-8-204(A); or
- b. One Family Calculation of the Premium Benefit described in R2-8-204(B).

- B.** Pursuant to A.R.S. § 38-783(E), a retired member who returns to work as an active member with an Employer and elects to maintain Coverage is eligible to receive a Premium Benefit if the member has an Original Retirement Date prior to August 2, 2012.
- C.** Pursuant to A.R.S. § 38-783(E), a Disabled member who elects to maintain Coverage is eligible to receive a Premium Benefit if the Disabled member became Disabled prior to August 2, 2012.
- D.** A member who receives a lump sum distribution from the ASRS upon retirement is eligible to receive a Premium Benefit pursuant to this Article.
- E.** Notwithstanding any other section, a retired member who has an Original Retirement Date on or after August 2, 2012, or a Disabled member who became Disabled on or after August 2, 2012 is eligible to receive a Premium Benefit pursuant to this Article, only if Coverage is not Subsidized.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Amended by emergency rulemaking at 10 A.A.R. 4259, effective September 30, 2004 (Supp. 04-3). Amended by final rulemaking at 10 A.A.R. 4346, effective October 5, 2004 (Supp. 04-3). Section amended and Table 1 repealed by final rulemaking at 13 A.A.R. 4581, effective February 2, 2008 (Supp. 07-4). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2).

R2-8-203. Payment of Premium Benefit

- A.** Every month, the ASRS shall provide a Premium Benefit to the Employer on behalf of a retired member, Disabled member, or Contingent Annuitant who maintains Coverage and is eligible to receive a Premium Benefit pursuant to R2-8-202.
- B.** Notwithstanding subsection (A), if a retired member who is eligible to receive a Premium Benefit pursuant to R2-8-202 elects to maintain Coverage with the Arizona Department of Administration or the ASRS, the ASRS shall reduce the retired member's pension amount by the amount of the retired member's Net Premium for Coverage pursuant to this Article, unless the Net Premium exceeds the pension amount.
- C.** Notwithstanding subsection (A), if a retired member who is eligible to receive a Premium Benefit pursuant to R2-8-202 elects to maintain Coverage with the ASRS and the Net Premium exceeds the retired member's pension amount, the retired member shall be responsible for remitting the Net Premium to the retired member's insurance company and the ASRS shall:
 1. Not reduce the retired member's pension amount; and
 2. Remit payment of the Premium Benefit to the retired member's insurance company.
- D.** Notwithstanding subsection (A), if a retired member who is eligible to receive a Premium Benefit pursuant to R2-8-202 elects to maintain Coverage with the Arizona Department of Administration and the Net Premium exceeds the retired member's pension amount, the retired member shall be responsible for remitting the Net Premium to the Arizona Department of Administration and the ASRS shall:

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1. Not reduce the retired member's pension amount; and
 2. Remit payment of the Premium Benefit to the Arizona Department of Administration.
- E.** If a Disabled member who is eligible to receive a Premium benefit pursuant to R2-8-202 maintains Coverage with the Arizona Department of Administration, the ASRS shall remit the Premium Benefit to the Arizona Department of Administration, unless the Disabled member is participating in the Six-Month Reimbursement Program pursuant to R2-8-206.
- F.** If a Disabled member who is eligible to receive a Premium Benefit pursuant to R2-8-202 maintains Coverage with the ASRS, the ASRS shall remit the Premium Benefit to the Disabled member's insurance company and the Disabled member shall be responsible for remitting the Net Premium to the Disabled member's insurance company.
- G.** If a retired member or Disabled member who is eligible to receive a Premium Benefit pursuant to R2-8-202 maintains Coverage with an Employer other than the ASRS or the Arizona Department of Administration, the ASRS shall remit the Premium Benefit to the retired member's or Disabled member's Employer, unless the retired member or Disabled member is participating in the Six-Month Reimbursement Program pursuant to R2-8-206.
- H.** If a retired member or Disabled member is eligible to receive a Premium Benefit pursuant to R2-8-202, the ASRS shall provide the lesser of the following for any one retired member or Disabled member:
1. The actual cost of the Coverage premium; or
 2. The greatest Premium Benefit calculation for which the retired member or Disabled member is eligible pursuant to R2-8-202.
- I.** If a retired member is eligible to receive a Premium Benefit pursuant to R2-8-202 and the member retires from the ASRS in addition to retiring from another State retirement system or plan described in A.R.S. § 38-921, each month, the ASRS shall remit any Premium Benefit for which the retired member is eligible under this Article to the other State retirement system or plan from which the member retired.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2).

R2-8-204. Premium Benefit Calculation

- A.** A Single Calculation for a Premium Benefit is based on the retired member's or Disabled member's Coverage election, years of service, and Medicare or non-Medicare status.
- B.** A Family Calculation for a Premium Benefit is based on the retired member's or Disabled member's Coverage election, years of service, and Medicare or Non-Medicare status, and the Medicare or Non-Medicare status of any dependents for which the retired member or disabled member has obtained Coverage.
- C.** A Contingent Annuitant who is eligible to receive an Optional Premium Benefit pursuant to R2-8-207 shall receive an Optional Premium Benefit amount based on:
1. The retired member's years of service and optional retirement benefit election pursuant to A.R.S. § 38-760; and
 2. The Contingent Annuitant's Coverage and Medicare or non-Medicare status.
- D.** Notwithstanding R2-8-203(H), if a Contingent Annuitant is a retired member, the Contingent Annuitant may be entitled to receive more than one Premium Benefit.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2).

R2-8-205. Premium Benefit Documentation

- A.** Every year, prior to the effective date of Coverage, an Employer shall report to the ASRS all the Coverage plans and premium rates the Employer offers to its retired or Disabled employees.
- B.** An Employer shall inform the ASRS of any changes to the retired member's, Disabled member's, or Contingent Annuitant's Coverage, including enrollment in Coverage, maintained through the Employer within 30 days of the changes taking effect.
- C.** Using the Employer's secure ASRS website account, or another ASRS approved method, an Employer shall submit the following health insurance enrollment, change, and/or deletion information pursuant to subsection (B):
1. The retired member's, Disabled member's, or Contingent Annuitant's social security number;
 2. The retired member's, Disabled member's, or Contingent Annuitant's full name;
 3. The retired member's, Disabled member's, or Contingent Annuitant's residential mailing address and telephone number;
 4. The retired member's, Disabled member's, or Contingent Annuitant's date of birth;
 5. The Coverage in which the retired member, Disabled member, or Contingent Annuitant is enrolling;
 6. The type of change that is being made to the Coverage;
 7. The following information for each dependent enrolled in, or to be enrolled in, Coverage:
 - a. First and last name;
 - b. Social security number;
 - c. Date of birth; and
 - d. Medicare number, if applicable.
 8. The old and new premium amounts for Coverage;
 9. The effective date of the change, deletion, and/or enrollment;
 10. The Employer's name and telephone number;
 11. A certification by the Employer representative's dated signature that the information is current and correct.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2).

R2-8-206. Six-Month Reimbursement Program

- A.** For a retired member or Disabled member who is eligible for a Premium Benefit pursuant to R2-8-202(A)(4) or (B), the ASRS shall remit the Premium Benefit to the retired member or Disabled member pursuant to subsection (B).
- B.** Pursuant to subsection (A), the ASRS shall remit the Premium Benefit to the retired member or Disabled member every six months, payable in July and January. For purposes of this section, the Premium Benefit shall be the aggregate amounts of the Premium Benefit the retired member or Disabled member is entitled to receive during the previous six months.
- C.** In order to receive a Premium Benefit payment pursuant to subsection (B), a retired member or Disabled member shall

submit to the ASRS the Reimbursement of Medical and/or Dental Cost (Six-Month Reimbursement Program) form after the last day of the last month for which the retired member or Disabled member is seeking reimbursement.

D. The Reimbursement of Medical and/or Dental Cost (Six-Month Reimbursement Program) form that a retired member or Disabled member submits pursuant to subsection (C) shall include the following information:

1. The retired member's or Disabled member's social security number;
2. The retired member's or Disabled member's full name;
3. The retired member's or Disabled member's mailing address and phone number;
4. The retired member's or Disabled member's date of birth;
5. The retired member's or Disabled member's status with the ASRS
6. The retired member's or Disabled member's status with the retired member's or Disabled member's Employer.
7. The following Coverage information for the Coverage policy holder:
 - a. First and last names;
 - b. Social security number;
 - c. Date of birth;
 - d. Effective date of Coverage;
8. The following information for each dependent enrolled in, or to be enrolled in, Coverage:
 - a. First and last name;
 - b. Social security number;
 - c. Date of birth;
 - d. Effective date of Coverage;
9. Six-month reimbursement totals identified by:
 - a. The month and year the premium is due for Coverage;
 - b. The total medical plan premium per month;
 - c. The total dental plan premium per month;
 - d. The employee's out-of-pocket payroll deduction for a medical premium per month;
 - e. The employee's out-of-pocket payroll deduction for a dental premium per month;
 - f. The employee's total out-of-pocket payroll deduction for medical and dental premiums per month;
10. The Employer's name;
11. The Employer's phone number;
12. The Employer's email address;
13. The name of the Employer's representative; and
14. The dated signature of the Employer's representative.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2).

R2-8-207. Optional Premium Benefit

- A.** A member who retires on or after January 1, 2004 is eligible to elect the Optional Premium Benefit to be effective on the date of the retired member's retirement and may designate a Contingent Annuitant to receive the Optional Premium Benefit upon the death of the retired member if:
1. The retired member elects a retirement option under A.R.S. § 38-760; and
 2. The retired member elects to maintain Coverage.
- B.** A retired member who returns to active membership for 60 consecutive months or more before retiring again, may elect or

re-elect the Optional Premium Benefit pursuant to subsection (A).

- C.** A retired member who does not return to active membership for 60 consecutive months or more before retiring again is not eligible to elect the Optional Premium Benefit pursuant to subsection (A) unless the retired member elected the Optional Premium Benefit to be effective on the date of the retired member's Original Retirement Date.

D. In order to elect, re-elect, or terminate the Optional Premium Benefit pursuant to subsection (A), the retired member shall submit to the ASRS the Optional Premium Benefit Program Election or Termination form containing the following information:

1. The retired member's Social Security Number;
2. The retired member's full name and gender;
3. The retired member's current mailing address;
4. The retired member's date of birth;
5. The retired member's email address;
6. The retired member's phone number;
7. Whether the retired member is electing, declining, or terminating the Optional Premium Benefit;
8. The following information for the Contingent Annuitant if the retired member is electing or re-electing the Optional Premium Benefit:
 - a. The Social Security Number;
 - b. The full name;
 - c. The mailing address;
 - d. The phone number;
 - e. The date of birth; and
 - f. The gender and relationship to the retired member; and
9. Certification of understanding by the retired member's dated signature of the following statements:
 - a. I have a one-time election at the time of retirement for this benefit, and have a retirement date on or after January 1, 2004;
 - b. I must elect a Joint & Survivor or Period-Certain annuity option;
 - c. If I elect to participate, my Contingent Annuitant must either be participating or eligible to participate in my retiree health care plan at the time of my death;
 - d. I must provide a Social Security Number and proof of birth date for my Contingent Annuitant;
 - e. The Premium Benefit will be actuarially reduced for the remainder of my benefit and my Contingent Annuitant's benefit as long as the Optional Premium Benefit is elected; and
 - f. I may rescind the election at any time and be eligible for the unreduced Premium Benefit payable as provided by law.

- E.** In order to elect or re-elect the Optional Premium Benefit, a member shall submit the Optional Premium Benefit Program Election or Termination form to the ASRS prior to the member's retirement date.

F. A Contingent Annuitant the retired member designates to receive the Optional Premium Benefit upon the retired member's death is eligible to receive a Premium Benefit if:

1. The retired member designates the Contingent Annuitant as the primary beneficiary on the member's retirement account;
2. The Contingent Annuitant is enrolled in a Coverage plan at the time of the member's death or the Contingent Annuitant enrolls in a Coverage plan within six months of the retired member's death pursuant to A.R.S. § 38-782(A); and

3. The Contingent Annuitant is eligible to receive at least one monthly payment.
- G. Upon the death of a retired member who elected the Optional Premium Benefit pursuant to subsection (A), the ASRS shall provide the Optional Premium Benefit on behalf of the retired member's Contingent Annuitant who is eligible to receive the Optional Premium Benefit pursuant to subsection (F).
- H. Notwithstanding subsection (G), the amount of the Optional Premium Benefit the ASRS provides on behalf of a Contingent Annuitant shall not exceed the actual amount of the Coverage premium.
- I. Unless otherwise indicated by law, the Optional Premium Benefit shall not terminate upon the death of the retired member if a Contingent Annuitant is eligible for the Optional Premium Benefit pursuant to subsection (F).

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 34, effective May 31, 2015 (Supp. 16-4). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2).

ARTICLE 3. LONG-TERM DISABILITY**R2-8-301. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "Estimated Social Security disability income amount" means the same as in R2-8-801(2).
2. "Legal proceeding" means an appeal of an appealable agency decision at the Office of Administrative Hearings pursuant to A.R.S. § 41-1092 et seq. or an appeal of a Social Security determination at the Social Security Administration, or any other review by a formal body, which determines the rights and responsibilities of the member or survivor.
3. "LTD" means the Long-Term Disability program described in A.R.S. § 38-797 et seq.
4. "LTD contribution" means the amount of funds the member remits to the ASRS from the member's compensation as payment for the LTD program.
5. "LTD benefit" means the amount of funds the member receives from the ASRS or the ASRS contracted LTD claims administrator, for the period of time a member has an eligible disability as described in A.R.S. § 38-797.07(A)(11).

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3).

R2-8-302. Application for Long-Term Disability Benefit

- A. In order to claim an LTD benefit, a disabled member shall submit to the disabled member's Employer all the completed forms prescribed by the ASRS contracted LTD claims administrator within 12 months of the date the disabled member became disabled.
- B. Pursuant to A.R.S. § 38-797.07(D), in order to continue receiving an LTD benefit, a disabled member shall submit documentation regarding the disabled member's ongoing disability and occupation as required by the ASRS contracted LTD claims administrator to determine the disabled member's continuing eligibility for an LTD benefit.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3).

R2-8-303. Long-Term Disability Calculation

- A. The ASRS contracted LTD claims administrator shall calculate an LTD benefit for a member using the member's monthly compensation as described in A.R.S. § 38-797(11).
- B. The ASRS shall reduce a member's LTD benefit in accordance with A.R.S. § 38-797.07(A).

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3).

R2-8-304. Payment of Long-Term Disability Benefit

- A. The ASRS contracted LTD claims administrator shall begin providing an LTD benefit to an eligible disabled member no sooner than six months after the date the disabled member became disabled.
- B. The ASRS contracted LTD claims administrator may provide an eligible disabled member's LTD benefit to a third party pursuant to A.R.S. § 38-797.09.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3).

R2-8-305. Social Security Disability Appeal

- A. Upon request by the ASRS contracted LTD claims administrator, a member who claims an LTD benefit pursuant to R2-8-302(A) shall submit a Social Security disability income application as prescribed by the ASRS contracted LTD claims administrator.
- B. In order to continue receiving an LTD benefit, a member whose application for Social Security disability income has been denied or terminated must appeal the most recent determination of denial or termination through a hearing before an administrative law judge pursuant to A.R.S. § 38-797.07(A)(10)(a) until the ASRS contracted LTD claims administrator or the Social Security Claims Administrator determines the member is not eligible for a Social Security benefit.
- C. Within 10 days after a member receives notice of the status of the member's Social Security disability income application, the member shall notify:
 1. The ASRS of the member's application status by submitting a copy of the notice identifying the status of the member's Social Security disability income application to the ASRS, if the member is not receiving an LTD benefit; or
 2. The ASRS contracted LTD claims administrator of the member's application status by submitting a copy of the notice identifying the status of the member's Social Security disability income application to the ASRS contracted LTD claims administrator, if the member is not receiving an LTD benefit.
- D. A member who disagrees with an LTD determination by the ASRS contracted LTD claims administrator may submit an appeal pursuant to 2 A.A.C. 8, Article 4.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3).

R2-8-306. Approval of Social Security Disability

Upon receipt of a Social Security disability income benefit, a member shall immediately remit to:

1. The ASRS the amount of the Social Security disability income benefit necessary to offset the LTD benefit; or
2. The ASRS contracted LTD claims administrator the amount of the Social Security disability income benefit necessary to offset the LTD benefit.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3).

ARTICLE 4. PRACTICE AND PROCEDURE BEFORE THE BOARD**R2-8-401. Definitions**

The following definitions apply to this Article, unless otherwise specified:

1. "Appealable agency action" has the same meaning as in A.R.S. § 41-1092.
2. "Board" means, if established, a Committee designated by the Board to take action on appeals as described in A.R.S. § 38-714(E)(1) or, if a Committee is not established, the same as in A.R.S. § 38-711(6).
3. "Final administrative action" has the same meaning as in A.R.S. § 41-1092 and is rendered by the Board.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 23 A.A.R. 487, effective April 8, 2017 (Supp. 17-1). Amended by final rulemaking at 23 A.A.R. 2749, effective November 13, 2017 (Supp. 17-3).

R2-8-402. General Procedures

In computing any time period, parties shall exclude the day from which the designated time period begins to run. Parties shall include the last day of the period unless it falls on a Saturday, Sunday, or legal holiday. When the time period is 10 days or less, parties shall exclude Saturdays, Sundays, and legal holidays.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1).

R2-8-403. Letters of Appeal; Request for a Hearing of an Appealable Agency Action

- A. After receipt of an agency decision, a person who is not satisfied with the agency decision, may submit a letter of appeal:
 1. To the ASRS's vendor for long-term disability benefits, if the appeal relates to a long-term disability decision; or
 2. To the ASRS Member Services Division Assistant Director, or such director's designee, if the appeal relates to an agency decision other than a long-term disability decision.
- B. Upon receipt of a letter of appeal, the long-term disability vendor, or the Member Services Division Assistant Director, or such director's designee, shall send a response letter to the person requesting the appeal notifying the person of:
 1. The decision the agency is making in response to the letter of appeal; and
 2. The person's right to appeal the agency response by submitting a letter of appeal to the ASRS Director or such director's designee.
- C. A person who is not satisfied with the agency response pursuant to subsection (B) may submit a letter of appeal to the ASRS Director or such director's designee within 60 days of the date on the agency response letter.
- D. Within 30 days of the date the ASRS receives a letter of appeal pursuant to subsection (C), the ASRS director or such direc-

tor's designee shall send a response letter by certified mail to the person requesting the appeal that includes:

1. The agency action the ASRS is taking in response to the letter of appeal; and
 2. Notice of Appealable Agency Action, as required pursuant to A.R.S. § 41-1092.03 informing the person requesting the appeal, that the person has a right to appeal the agency action by submitting a Request for Hearing pursuant to subsections (E) and (F).
- E. For an appealable agency action, a person who is not satisfied with an agency action pursuant to subsection (D) may file a Request for a Hearing, in writing, with the ASRS. The date the Request is filed is established by the ASRS date stamp on the face of the first page of the Request. The Request shall include the following:
 1. The name and mailing address of the member, employer, or other person filing the Request;
 2. The name and mailing address of the attorney for the person filing the Request, if applicable;
 3. A concise statement of the reasons for the appeal.
 - F. The person requesting a hearing shall file the Request for a Hearing with the ASRS within 30 days after receiving a response letter including a Notice of an Appealable Agency Action, pursuant to subsection (E).
 - G. Upon receipt of the Request for a Hearing, the ASRS shall notify the Office of Administrative Hearings as required in A.R.S. § 41-1092.03(B).
 - H. Pursuant to subsection (B):
 1. The long-term disability vendor shall send a response letter to the person requesting the appeal within 120 days of the date the long-term disability vendor receives the letter of appeal; and
 2. The Member Services Division Assistant Director, or such director's designee, shall send a response letter to the person requesting the appeal within 30 days of the date the ASRS receives the letter of appeal.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1). Amended by final rulemaking at 23 A.A.R. 487, effective April 8, 2017 (Supp. 17-1).

R2-8-404. Board Decisions on Hearings before the Office of Administrative Hearings

A recommended decision from the Office of Administrative Hearings that is sent to ASRS at least 30 days before the Board's next regular monthly meeting, shall be reviewed by the Board at that monthly meeting. At the monthly meeting, the Board shall render a decision to accept, reject, or modify the findings of fact, conclusions of law and recommendations in whole or in part. If the Board modifies or rejects a recommended decision, the Board shall state the reasons for the modification or rejection. The Board shall deliver the Board's final decision to the Office of Administrative Hearings within five days after the monthly meeting at which the Board made the final decision.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1).

R2-8-405. Motion for Rehearing Before the Board; Motion for Review of a Final Decision

- A. Except as provided in subsection (H), within 30 days after service of the final administrative decision, any aggrieved party in an appealable agency action may file with the Board a Motion for Rehearing Before the Board, in writing, specifying the particular grounds for rehearing before the Board.

- B. Except as provided in subsection (H), within 30 days after service of the final administrative decision, any aggrieved party of an appealable agency action may file with the Board a Motion for Review of a Final Decision, in writing, specifying the particular grounds for reviewing the Board's final administrative decision.
- C. A party may amend a Motion for Rehearing Before the Board or a Motion for Review of a Final Decision at any time before the Board rules on the motion. A party may file a response within 15 days after the motion or the amended motion is filed. The Board may require the filing of written briefs upon the issues raised in the motion or the amended motion, and may provide for oral argument.
- D. The Board may grant a Motion for Rehearing Before the Board or a Motion for Review of a Final Decision for any of the following causes that materially affects the moving party's rights:
 1. Irregularity in the administrative proceedings of the agency or the hearing officer, or any order or abuse of discretion that deprives the moving party of a fair hearing;
 2. Misconduct of the Board, the hearing officer, or the prevailing party;
 3. Accident or surprise that could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence that could not with reasonable diligence have been discovered and produced at the original hearing;
 5. Excessive or insufficient penalties;
 6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing or during the process of the action; or
 7. That the decision, or findings of fact, is not justified by the evidence or is contrary to law.
- E. The Board may affirm or modify the final administrative decision or grant a rehearing before the Board or review of final administrative decision to all or any of the parties on all or part of the issues for any of the reasons in subsection (C). An order granting a rehearing or review shall specify with particularity the grounds for the order.
- F. Not later than 10 days after the final administrative decision, the Board may, after giving each party notice and an opportunity to be heard, order a rehearing or review of its final administrative decision for any reason for which it might have granted a rehearing or review on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing or review for a reason not stated in the motion. In either case, the order granting a rehearing or review shall specify the grounds on which it is granted.
- G. When a motion for rehearing or review is based upon an affidavit, the affidavit shall be filed with the motion. An opposing party may, within 15 days after filing, file an opposing affidavit. The Board may extend the period for filing an opposing affidavit for not more than 20 days for good cause shown or by written stipulation of the parties. The Board may permit a reply affidavit.
- H. The Board shall rule on the motion within 15 days after the response to the motion is filed or if a response is not filed, within five days of the expiration of the response period.
- I. If the Board makes a specific finding that the immediate effectiveness of a particular decision is necessary for the preservation of the public peace, health, and safety and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review.

If a decision is issued as a final decision without an opportunity for rehearing or review, an application for judicial review of the decision may be made within the time limits permitted for applications for judicial review of the Board's final decisions.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1). Amended by final rulemaking at 23 A.A.R. 487, effective April 8, 2017 (Supp. 17-1).

ARTICLE 5. PURCHASING SERVICE CREDIT

R2-8-501. Definitions

The following definitions apply to this Article unless otherwise specified:

1. "Active duty" means full-time duty in a branch of the United States uniformed service, other than active reserve duty.
2. "Active duty termination date" means the day a member:
 - a. Separates from active military duty;
 - b. Is released from active duty-related hospitalization or one year after initiation of active duty-related hospitalization, whichever date is earlier; or
 - c. Dies as a result of active military duty.
3. "Active reserve duty" means participating in required meetings and annual training in a Reserve or National Guard branch of the United States uniformed service.
4. "Actuarial present value" means an amount in today's dollars of a member's future retirement benefit calculated using appropriate actuarial assumptions and the:
 - a. Member's current years of credited service to the nearest month;
 - b. Member's age to the nearest day;
 - c. Amount of service credit the member wishes to purchase to the nearest month, except for the calculation in R2-8-506(A)(2); and
 - d. Member's current annual compensation.
5. "Authorized representative" means an individual who has been delegated the authority to act on behalf of a custodian, trustee, plan administrator, or, if applicable, a member.
6. "Current years of credited service" means the amount of credited service a member has earned or purchased, and the amount of service credit for which an Irrevocable Payroll Deduction Authorization is in effect for which the member has not yet completed payment, but does not include any current requests to purchase service credit for which the member has not yet paid.
7. "Custodian" means a financial institution that holds financial assets for guaranteed safekeeping.
8. "Direct rollover" means distribution of eligible funds made payable to the ASRS as a contribution for the benefit of an eligible member from a retirement plan listed in A.R.S. § 38-747(H)(2) or (H)(3).
9. "Eligible funds" means payments listed in A.R.S. § 38-747(H)(2) and (H)(3).
10. "Eligible member" means an active member of the Plan or a Plan member who is receiving benefits under the Long Term Disability Program established by A.R.S. Title 38, Chapter 5, Article 2.1.
11. "Forms of payment" means check, cashier's check, money order, Irrevocable Payroll Deduction Authorization, direct rollover, indirect IRA rollover, indirect rollover, trustee-to-trustee transfer, IRA rollover and termination pay distribution.

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12. "Forfeited service" means credited service for which the ASRS has returned retirement contributions to the member under A.R.S. § 38-740.
13. "Immediate family member" means:
 - a. A member's spouse or life partner;
 - b. A member's natural, step, or adopted sibling;
 - c. A member's natural, step, or adopted child;
 - d. A member's natural, step, or adoptive parent; or
 - e. An individual for whom the member has legal guardianship.
14. "Indirect IRA rollover" means funds already distributed to the eligible member from a retirement plan listed in A.R.S. § 38-747(H)(3) that are then paid by the eligible member to the ASRS as a contribution for the benefit of the eligible member.
15. "IRC" means the same as "Internal Revenue Code" in A.R.S. § 38-711(18).
16. "Irrevocable Payroll Deduction Authorization" means an irrevocable contract between an eligible member, an ASRS employer, and the ASRS that requires the ASRS employer to withhold payments from a member's pay for a specified amount and for a specified number of payments, as provided in A.R.S. § 38-747.
17. "Life partner" means an individual who lives with a member as a spouse, but without being legally married.
18. "Military Call-up" means a member is called to active duty in a branch of the United States uniformed services.
19. "Military service" means active duty or active reserve duty with any branch of the United States uniformed services or the Commissioned Corps of the National Oceanic and Atmospheric Administration.
20. "Military service record" means a United States uniformed services or National Oceanic and Atmospheric Administration document that provides the following information:
 - a. The member's full name;
 - b. The member's Social Security number;
 - c. Type of discharge the member received; and
 - d. Active duty dates, if applicable; or
 - e. Active reserve duty dates, if applicable; and
 - f. Point history for reserve duty dates, if applicable.
21. "Other public service" means previous employment listed in A.R.S. § 38-743(A).
22. "PDA pay-off letter" means written correspondence from the ASRS to a member that specifies the amount necessary to be paid by the member to complete an Irrevocable Payroll Deduction Authorization and receive the credited service specified in the Irrevocable Payroll Deduction Authorization.
23. "Plan Administrator" means the person authorized to represent a specific eligible plan as addressed in IRC § 414(g).
24. "Service credit" means forfeited service under A.R.S. § 38-742, leave of absence under A.R.S. § 38-744, military service and Military Call-up service under A.R.S. § 38-745, and other public service under A.R.S. § 38-743 that an eligible member may purchase.
25. "SP invoice" means a written correspondence from the ASRS informing an eligible member of the amount of money required to purchase a specified amount of service credit.
26. "Termination pay distribution" means an ASRS employer's payment to the ASRS of an eligible member's termination pay to purchase service credit as specified in A.R.S. § 38-747(B)(2).
27. "Three full calendar months" means the first day of the first full month through the last day of the third consecutive full month.
28. "Transfer employment" means to terminate employment with one ASRS employer with which a member has an Irrevocable Payroll Deduction Authorization:
 - a. After accepting an offer to work for a new ASRS employer, or
 - b. While working as an active member for a different ASRS employer.
29. "Trustee-to-trustee transfer" means a transfer of assets to the ASRS as authorized in A.R.S. § 38-747(I), from a retirement program listed in R2-8-515(A) from which, at the time of the transfer, a member is not eligible to receive a distribution.
30. "Uniformed services" means the United States Army, Army Reserve, Army National Guard, Navy, Navy Reserve, Air Force, Air Force Reserve, Air Force National Guard, Marine Corps, Marine Corps Reserve, Coast Guard, Coast Guard Reserves, and the Commissioned Corps of the Public Health Service.
31. "Window credit" means overpayments made on previously purchased service credit by eligible members of the ASRS as provided by Laws 1997, Ch. 280, § 21, and Laws 2003, Ch. 164, § 3.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 18 A.A.R. 3130, effective January 6, 2013 (Supp. 12-4). Amended by final rulemaking at 19 A.A.R. 764, effective June 1, 2013 (Supp. 13-2). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4).

R2-8-502. Request to Purchase Service Credit and Notification of Cost

- A. An eligible member may request to purchase service credit verbally, in writing, or electronically. The eligible member shall provide the eligible member's mailing address and designate which category of service credit the eligible member is requesting to purchase.
- B. The ASRS shall send a letter acknowledging the request to purchase service credit to the mailing address provided by the eligible member. The ASRS shall provide, with the acknowledgment letter, any form specified in this Article that corresponds to the category of service credit the eligible member requests to purchase and indicate in the acknowledgment letter the deadline for providing supporting documentation of service credit to the ASRS.
- C. Except as provided in R2-8-519(A), the eligible member shall provide documentation of service credit as required by this Article within 90 days of the eligible member's request to purchase service credit. If the ASRS has not received complete and correct documents within 90 days of the request to purchase service credit, the ASRS shall cancel the eligible member's request to purchase service credit. The eligible member may make a new request to purchase service credit.
- D. Upon receipt of the documentation required by this Article from the eligible member and if the eligible member's request to purchase service credit meets the requirements of this Article, the ASRS shall provide the following to the eligible member:

1. A SP invoice stating the cost to purchase the amount of service credit the member is eligible to purchase and the date payment is due;
 2. A Service Purchase Payment Request form requesting the following information:
 - a. The member's name;
 - b. The member's Social Security number;
 - c. The member's mailing address;
 - d. The member's daytime telephone number;
 - e. ID number listed on the SP invoice;
 - f. Either the number of years or partial years of service credit the member wishes to purchase or the cost for the number of years or partial years of service the member wishes to purchase, not exceeding the years or partial years and cost specified on the SP Invoice;
 - g. If the member elects to pay for the service credit by trustee-to-trustee transfer, IRA rollover, distributed rollover contribution, or direct rollover, the anticipated number of rollovers or transfers;
 - h. If the member elects to pay by Irrevocable Payroll Deduction Authorization, the amount of money the member wishes to pay per pay period;
 - i. If the member elects to pay for the service credit by check, the check number and amount of the check;
 - j. If the member elects to pay any cost remaining at retirement or termination of employment with a termination pay distribution, the retirement date or last date of work;
 - k. The member's signature and date of the signature; and
 3. Other forms the member may need to complete the request for service credit purchase.
- service credit or cancel the request as specified in subsection (F).
- E. ASRS shall not consider more than one active request at a time from a member to purchase service credit in a single category. The categories are:
 1. Leave of absence,
 2. Military service,
 3. Presidential Call-up service,
 4. Forfeited service, and
 5. Other public service.
 - F. An eligible member may cancel an active request to purchase a specific category of service credit verbally or in writing, and submit a new request in the same category of service credit for a different amount of service credit.
 - G. If an eligible member is entitled to a window credit, the eligible member may apply the window credit to purchase service credit. To apply a window credit to a purchase of service credit, the eligible member shall make a request to the ASRS in writing by the due date specified on the SP invoice and include the following information:
 1. The amount the member wants to apply,
 2. The member's signature, and
 3. The date of the member's signature.
 - H. The amount of service credit an eligible member may purchase and the benefits an eligible member may receive are subject to the limitations prescribed in A.R.S. § 38-747(E).
 - I. On or before the due date specified on the SP Invoice, ASRS shall extend the time for an eligible member to respond to an SP invoice as follows:
 1. If the member notifies the ASRS of an ASRS error, the time is extended 30 days after the date the ASRS sends notification to the eligible member that the ASRS has corrected the error;
 2. If an ASRS internal review is made of the member's service credit purchase request, the time is extended 30 days after the date ASRS sends notification to the member that the review is completed;
 3. If the member appeals an issue regarding the SP invoice under Article 4 of this Chapter, the time is extended 30 days after the date ASRS sends notification to the member that a decision on the appeal has been made; or
 4. If an unforeseeable event occurs that is outside of the member's control, such as an incapacitating illness of the member or death of an immediate family member, and the member notifies the ASRS of the event, the ASRS shall extend the time by up to six months, after a review of the unforeseeable event to determine the length of the extension.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 18 A.A.R. 3130, effective January 6, 2013 (Supp. 12-4).

R2-8-503. Requirements Applicable to All Service Credit Purchases

- A. To purchase service credit at the amount provided in an SP invoice, an eligible member shall purchase the service credit by check or money order, or request an Irrevocable Payroll Deduction Authorization, rollover, transfer or termination pay distribution as specified in this Article, by the due date specified on the SP invoice.
- B. An eligible member may purchase all of the service credit or a portion of the service credit. If the eligible member wishes to purchase only a portion of the service credit, the eligible member shall specify, on the Service Purchase Payment Request form identified in R2-8-502(D)(2):
 1. The dollar amount the eligible member wishes to purchase, up to the amount specified on the SP invoice, or
 2. The number of years or partial years the eligible member wishes to purchase, not exceeding the years or partial years specified on the SP invoice.
- C. If the eligible member elects to purchase only a portion of the service credit, the cost and amount of service credit the eligible member identifies on the Service Purchase Payment Request form is only an estimate and may be more or less than the actual cost or amount of service credit purchased by the eligible member.
- D. The eligible member shall not request to purchase additional service credit based on the SP invoice until the member has completed the purchase of the previously requested portion of

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 18 A.A.R. 3130, effective January 6, 2013 (Supp. 12-4).

R2-8-504. Service Credit Calculation for Purchasing Service Credit

An eligible member who purchases service credit shall receive one month of credited service for one or more days of service in a calendar month.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2).

R2-8-505. Restrictions on Purchasing Overlapping Service Credit; Transfers

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- A. The ASRS shall not permit an eligible member to purchase service credit that, when added to credited service earned in any plan year, results in more than:
 - 1. One year of credited service in any plan year, or
 - 2. One month of credited service in any one calendar month.
- B. The restrictions in subsection (A) do not apply to service credit that an eligible member transfers from another retirement system to the ASRS as authorized in A.R.S. § 38-730 or A.R.S. Title 38, Chapter 5, Article 7, whether the eligible member requests the transfer before or after purchasing other service credit.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2).

R2-8-506. Cost Calculation for Purchasing Service Credit

- A. For leave of absence service credit, military service credit, and other public service credit, the ASRS shall calculate, as of the date of the request to purchase service credit:
 - 1. The actuarial present value of the future retirement benefit for the member including the service credit that the eligible member requests to purchase, and
 - 2. The actuarial present value of the future retirement benefit for the member without the service credit that the eligible member requests to purchase.
- B. The cost for purchasing the service credit that the member requests to purchase is the difference between the actuarial present value in subsection (A)(1) and the actuarial present value in subsection (A)(2).

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2).

R2-8-507. Required Documentation and Calculations for Forfeited Service Credit

- A. An eligible member who requests to purchase service credit for forfeited service under A.R.S. § 38-742 shall provide to the ASRS:
 - 1. The eligible member's:
 - a. Full name and, if applicable, other names used while working for an ASRS employer for which the eligible member is requesting to purchase service credit;
 - b. Mailing address;
 - c. Telephone number, if applicable;
 - d. Social Security number;
 - 2. The name of each ASRS employer, if known, for which the eligible member is requesting to purchase service credit for forfeited service;
 - 3. The year the eligible member began working for each ASRS employer and the year the eligible member left each employment, if known; and
 - 4. The year the eligible member believes the ASRS returned retirement contributions to the member.
- B. The amount the eligible member shall pay to purchase service credit for previously forfeited service is the amount of retirement contributions that the ASRS returned to the eligible member, plus interest on that amount from the date on the return of retirement contributions check to the date of redeposit at the interest rate determined by the Board as specified in A.R.S. § 38-742.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by

final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4).

R2-8-508. Required Documentation and Calculations for Leave of Absence Service Credit

- A. An eligible member may request to purchase service credit for an approved leave of absence from an ASRS employer under A.R.S. § 38-744. To request to purchase service credit for an approved leave of absence the eligible member shall provide to the ASRS:
 - 1. An Approved Leave of Absence form that includes:
 - a. The following information completed by the eligible member:
 - i. The eligible member's full name and, if applicable, other names used while working for the ASRS employer;
 - ii. The eligible member's Social Security number;
 - iii. The eligible member's mailing address;
 - iv. The eligible member's daytime telephone number;
 - v. A statement that the eligible member understands that up to one year of leave of absence service credit may be purchased for each approved leave of absence, if the eligible member returns to work for the employer that approved the leave of absence unless employment could not be resumed because of disability or nonavailability of a position;
 - vi. A statement that the eligible member understands that the ASRS uses the actuarial present value calculation method to determine the cost of the service purchase request;
 - vii. A statement that the eligible member authorizes the ASRS employer to provide any necessary personal information to ASRS in order to process this request; and
 - viii. The member's dated signature; and
 - b. The following information completed by the ASRS employer:
 - i. The beginning date and ending date of the approved leave of absence;
 - ii. The date the eligible member returned to work or a statement of why employment was not resumed;
 - iii. Name of the employer;
 - iv. The authorized employer representative's name;
 - v. The authorized employer representative's telephone number and, if applicable, fax number; and
 - vi. The authorized employer representative's dated signature verifying that the approved leave of absence benefited or was in the best interest of the employer; and
 - 2. A copy of the guidelines referenced in A.R.S. § 38-744, if applicable.
- B. The amount the member shall pay to purchase service credit for leave of absence is determined as provided in R2-8-506.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4).

R2-8-509. Required Documentation and Calculations for Military Service Credit

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- A. An eligible member may request to purchase military service credit under A.R.S. § 38-745(A) and (B). To request to purchase military service credit, the eligible member shall provide to the ASRS:
1. The items listed in R2-8-507(A)(1);
 2. A copy of the eligible member's military service record; and
 3. A completed, signed, dated, and notarized Affidavit of Military Service form that contains:
 - a. The member's full name;
 - b. The member's Social Security number;
 - c. The branch of the uniformed services the member was in;
 - d. Whether the member was active duty or active reserve duty;
 - e. The years and months by fiscal year that the member was in active duty or active reserve duty for which the member wishes to purchase service credit;
 - f. Acknowledgement that the member has attached:
 - i. Proof of honorable discharge for each type of military service listed on the form; and
 - ii. The member's military service record that supports all of the service listed on the affidavit;
 - g. The following statements of understanding initialed by the member:
 - i. I understand that any person who knowingly makes any false statement or who falsifies or permits to be falsified any record of the retirement plan with an intent to defraud the plan is guilty of a class 6 felony per Arizona Revised Statutes Section 38-793;
 - ii. I understand this transaction is subject to audit and if any errors or misrepresentations are discovered as a result of this audit, my total credited service with the ASRS will be adjusted as necessary and if I am retired, my retirement benefit will also be adjusted;
 - iii. I understand that the service listed on this affidavit does not include time that I either volunteered or was ordered into active duty military service as part of a Presidential Call-up. This service is purchased under Presidential Call-up and requires a Presidential Call-up form to be completed by your employer; and
 - iv. I understand that any time I have listed on this affidavit for Reserve or National Guard time reflects the months that I attended at least one drill or assembly for each month listed.
- B. The amount the eligible member pays to purchase military service credit is determined as provided in R2-8-506.
- C. ASRS determines the amount of service credit an eligible member receives for active duty and active reserve duty time by the time listed on the Affidavit of Military Service form, if the service listed is supported by the information contained in the member's military service record.
- 38-745(C) through (I). In order to determine the amount of contributions the ASRS employer owes to purchase service credit for Presidential Call-up service, the eligible member's ASRS employer shall provide to the ASRS a copy of the eligible member's military service record and a completed Military Call-up form that includes the following:
1. The member's full name;
 2. The member's Social Security number;
 3. The start date of Presidential Call-up Service;
 4. The end date of Presidential Call-up Service;
 5. Whether the member received paid leave while on Presidential Call-up;
 6. The date the member returned to work for the ASRS employer;
 7. The salary for each fiscal year while the member is on Presidential Call-up, including any salary increases the eligible member would have received had the member not left employment due to Presidential Call-up, if applicable;
 8. The ASRS employer's name and address;
 9. The name of a contact individual for the ASRS employer, and that individual's business and fax telephone numbers;
 10. The contact individual's signature and date of signature;
 11. If applicable, the earlier of:
 - a. The date that the member was released from the hospital for injuries sustained as a result of participating in a Presidential Call-up; or
 - b. The date that the member was hospitalized for one year for injuries sustained as a result of participating in a Presidential Call-up; and
 12. A copy of the member's death certificate, if applicable.
- B. An ASRS employer shall make the request to purchase service credit for Presidential Call-up service within 30 days after the member's active duty termination date.
- C. The ASRS calculates the amount the ASRS employer pays to purchase Presidential Call-up service by multiplying the eligible member's salary at the time active duty commences, by the contribution rate in effect for the period of active duty, and by the years or partial years of service elapsing from the active duty commencement date through the active duty termination date. Included in the calculation are any salary increases the member would have received if the member had not left work to participate in a Presidential Call-up.
- D. The ASRS shall send the ASRS employer a statement of cost for purchase of the Presidential Call-up service credit, based on the calculation in subsection (B). Within 90 days from the date on the ASRS statement of cost, the ASRS employer shall pay to the ASRS the amount on the statement. If the ASRS employer fails to make full payment within the 90 days, interest shall accrue on the unpaid balance at the assumed actuarial investment earnings rate approved by the Board in effect on the date of the statement of cost.
- E. If an ASRS employer deducts retirement and long-term disability contributions from an eligible member's pay while the eligible member is on Presidential Call-up service, the ASRS shall return the contributions to the ASRS employer after the ASRS receives the information in subsection (A).
- F. If an ASRS employer deducts retirement contributions from an eligible member's pay while the eligible member is on Presidential Call-up service, and the eligible member does not return to the ASRS employer after separation from active military service, the ASRS shall apply the retirement contributions to the member's credited service.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4).

R2-8-510. Required Documentation and Calculations for Presidential Call-up Service Credit

- A. An eligible member or the eligible member's beneficiary who meets the requirements under A.R.S. § 38-745(C) shall receive up to 60 months of Presidential Call-up service under A.R.S. §

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by

final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4).

R2-8-511. Required Documentation and Calculations for Other Public Service Credit

- A.** An eligible member who requests to purchase other public service credit under A.R.S. § 38-743 shall provide to the ASRS a completed Affidavit of Other Public Service form, signed and dated by the member, and notarized, that includes the following:
1. The member's full name;
 2. The member's Social Security number;
 3. Other names used by the member during employment with the other public service employer, if applicable;
 4. The name and mailing address of the other public service employer;
 5. The position the member held while working for the other public service employer;
 6. A contact name and telephone number of an individual in the other public service employer's human resources department who can verify employment, if known;
 7. The years and months by fiscal year of other public service the member worked and wishes to purchase;
 8. If the other public service employer was a non-ASRS employer, a statement of whether the member participated in the non-ASRS employer's retirement plan;
 9. If the member participated in a non-ASRS public service employer's retirement plan, the name of the retirement plan, identifying whichever one of the following applies:
 - a. The approximate date the member took a return of retirement contributions;
 - b. The plan is non-contributory and the member is not eligible for benefits from the plan; or
 - c. That, if not using all of the retirement contributions as a pre-tax rollover, the member will request a return of retirement contributions and forfeit all rights to any benefits from the plan and provide the ASRS with documentation that the member has forfeited all rights to benefits from the plan no later than the due date specified on the SP invoice; and
 10. Acknowledgement that:
 - a. Knowingly making a false statement or falsifying or permitting falsification of any record of the ASRS with an intent to defraud ASRS is a Class 6 felony, pursuant to A.R.S. § 38-793;
 - b. The service purchase transaction is subject to audit and if any errors are discovered, the ASRS shall adjust a member's total credited service with the ASRS, or if the member is already retired, adjustments to the member's credited service will affect the member's retirement benefit; and
 - c. If an audit determines that the member is eligible for a benefit from the other public service employer's retirement plan, the member is required to take necessary steps to forfeit the benefit, and if the forfeiture is not completed within 90 days of being notified of the audit results, the service credit purchase listed on this application will be revoked and any funds paid to purchase the service credit will be refunded to the member.
- B.** The amount the member shall pay to purchase other public service credit is determined as provided in R2-8-506.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by

final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4).

R2-8-512. Purchasing Service Credit by Check, Cashier's Check, or Money Order

- A.** An eligible member may purchase service credit by check, cashier's check, or money order.
- B.** Within 30 days of the issue date on the SP invoice or PDA payoff letter, the member shall ensure that the ASRS receives the completed Service Purchase Payment Request form with the information specified in R2-8-502(D)(2) and a check, cashier's check, or money order made to the order of the Arizona State Retirement System in the amount to purchase the requested service credit.
- C.** If an eligible member purchases service credit by check, cashier's check, or money order in conjunction with one or more rollovers, trustee-to-trustee transfers, or termination pay, the member shall make payment within 30 days after the date the ASRS sends written confirmation that the ASRS received the final rollover, trustee-to-trustee transfer, or termination pay payment.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4).

R2-8-513. Purchasing Service Credit by Irrevocable Payroll Deduction Authorization

- A.** An eligible member may purchase service credit by Irrevocable Payroll Deduction Authorization.
- B.** By the due date specified on the SP invoice, the member shall ensure that the ASRS receives the completed Service Purchase Payment Request form with the information specified in R2-8-502(D)(2).
- C.** If the eligible member elects to pay for service credit by Irrevocable Payroll Deduction Authorization, ASRS shall prepare an Irrevocable Payroll Deduction Authorization and send it to the eligible member for signature. The member shall ensure that the ASRS receives the signed Irrevocable Payroll Deduction Authorization within 30 days after the date on the Irrevocable Payroll Deduction Authorization. The signed Irrevocable Payroll Deduction Authorization becomes irrevocable upon receipt by the ASRS.
- D.** At the time the eligible member signs the Irrevocable Payroll Deduction Authorization the eligible member may elect to use termination pay towards the balance of the Irrevocable Payroll Deduction Authorization if the eligible member terminates employment. If the eligible member chooses this option, the eligible member shall complete the Termination Pay Addendum to the Irrevocable Payroll Deduction Authorization and return it to the ASRS along with the remainder of the Irrevocable Payroll Deduction Authorization that includes the following:
1. A statement that the member:
 - a. Understands and agrees that the member must continue working at least three full calendar months after the date of submission of the form before termination pay may be used on a pre-tax basis;
 - b. Understands that if the termination payment exceeds the balance owed on the Irrevocable Payroll Deduction Authorization, the overage will be returned to the ASRS employer to be distributed to the member; and
 - c. Elects to irrevocably agree to have termination pay that may be payable to the member upon termination of employment sent to the ASRS on a pre-tax basis

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- and used toward any remaining balance of the Irrevocable Payroll Deduction Authorization if all scheduled payroll deductions have not been completed upon termination of service; and
2. A statement that either all termination pay or a specified amount of termination pay is to be applied to the balance of the Irrevocable Payroll Deduction Authorization.
- E.** The ASRS shall:
1. Charge interest on the unpaid balance at the assumed actuarial investment earnings rate approved by the Board in effect at the time the authorization was entered into;
 2. Limit the payroll deduction time period to a maximum of 20 years; and
 3. Require a minimum payment of \$10.00 per payroll period, or payment in an amount to purchase at least .001 year of service credit per payroll period, whichever is greater.
- F.** The ASRS shall transmit the Irrevocable Payroll Deduction Authorization to the active member's ASRS employer, and the ASRS employer shall implement the deduction on the first pay period after receiving the Irrevocable Payroll Deduction Authorization.
- G.** If a deduction is not made under an Irrevocable Payroll Deduction Authorization within six months after the member signs the authorization, the authorization lapses and the member may make another request, which is recalculated based on the new request date unless the failure to begin deductions is due to an ASRS error.
- H.** A period of leave of absence, long-term disability, or Presidential Call-up shall not cancel the Irrevocable Payroll Deduction Authorization. The ASRS employer shall resume deductions immediately upon the member's return to that employment. The period during which the member is on leave of absence, on long-term disability, or leaves work because of a Presidential Call-up is not included in the 20-year payment time limitation under subsection (E)(2). If the member does not return to active working status, whether due to termination of employment or retirement, the member may elect to purchase the balance of unpaid service under the Irrevocable Payroll Deduction Authorization at the time of termination or retirement as specified in this Section.
- I.** Deductions made pursuant to an Irrevocable Payroll Deduction Authorization continue until the:
1. Irrevocable Payroll Deduction Authorization is completed;
 2. Member retires, whether or not the member continues employment as allowed in A.R.S. §§ 38-766.01 and 38-764(J); or
 3. Member terminates all ASRS employment without transferring employment.
- J.** If a member retires or terminates employment from all ASRS employers without transferring employment as stated in R2-8-513.01 before all deductions are made as authorized by the Irrevocable Payroll Deduction Authorization, the member's purchase of service credit is canceled unless the member notifies the ASRS in writing during the period 14 days before to 14 days after retirement or termination from all ASRS employment of the intent to purchase the remaining amount due in a lump sum.
- K.** When the member notifies ASRS of retirement or termination from all ASRS employment and requests to pay off the Irrevocable Payroll Deduction Authorization, the ASRS shall send the member a PDA pay-off letter to the mailing address given by the member. The ASRS shall calculate the amount owed by the member and reduce the amount owed by any excess interest that the member has paid.
- L.** Within 30 days of the date of the PDA pay-off letter, the member shall ensure that the ASRS receives the completed SP Payment Request form with the information specified in R2-8-502(D)(2). The member may purchase the remaining service credit by one or more of the following methods:
1. By check, cashier's check, or money order made out to the ASRS under R2-8-512;
 2. By making a request to the ASRS for a rollover or transfer under R2-8-514 and completing the rollover or transfer within 90 days of the date of the PDA pay-off letter; or
 3. By termination pay distribution under R2-8-519, if the member authorized this option at the time the member signed the Irrevocable Payroll Deduction Authorization.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 18 A.A.R. 3130, effective January 6, 2013 (Supp. 12-4).

R2-8-513.01. Irrevocable Payroll Deduction Authorization and Transfer of Employment to a Different ASRS Employer

- A.** An Irrevocable Payroll Deduction Authorization continues if a member transfers employment.
- B.** An Irrevocable Payroll Deduction Authorization ends if a member terminates employment without having accepted an offer to work for a new ASRS employer, and the member is not already an active member working for a different ASRS employer. The member shall then pay off the Irrevocable Payroll Deduction Authorization as specified in R2-8-513(J).
- C.** If a retirement contribution is due from the new ASRS employer within 120 days from the member's termination date with the previous employer, there is a rebuttable presumption that there is a transfer of employment. If a retirement contribution is not received within 120 days, the Irrevocable Payroll Deduction Authorization terminates.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4).

R2-8-513.02 Termination Date

For the purpose of an Irrevocable Payroll Deduction Authorization, the date a member is considered terminated from an ASRS employer is:

1. For a member terminating employment, the member's last pay period end date with that ASRS employer;
2. For a member on Presidential Call-up who does not return to the same ASRS employer:
 - a. Ninety days from the date of separation from Presidential Call-up service;
 - b. Ninety days from the date released from the hospital, if injured while on Presidential Call-up service;
 - c. The date the member has been hospitalized for one year for injuries sustained as a result of participating in a Presidential Call-up; or
 - d. The date of the member's death as a result of participating in a Presidential Call-up;
3. For a member on leave of absence without pay who does not return to the same ASRS employer, the date the ASRS employer required the member to return to work;
4. For a member who is unable to work because of a disability, the later of:
 - a. The date the member's request for long-term disability benefits are denied;

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- b. The date the member no longer has sick leave and annual leave; or
- c. For a member on long-term disability who does not return to the same ASRS employer or transfer employment, the date long-term disability benefits are terminated.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4).

R2-8-514. Purchasing Service Credit by Direct Rollover

- A. An eligible member may purchase service credit or pay off an Irrevocable Payroll Deduction Authorization by direct rollover at retirement or termination of employment without transferring employment.
- B. By the due date specified on the SP invoice, the member shall ensure that the ASRS receives the completed Service Purchase Payment Request form with the information specified in R2-8-502(D)(2).
- C. Upon receipt of the completed Service Purchase Payment Request form, the ASRS shall provide a Direct Rollover/Transfer Certification to Purchase Service Credit form, if the ASRS has not already provided the member with the form.
- D. The member shall ensure that the ASRS receives the Direct Rollover/Transfer Certification to Purchase Service Credit form completed by the member and the plan making the distribution within 90 days after the issue date of the SP Invoice.
- E. The information requested on the Direct Rollover/Transfer Certification to Purchase Service Credit form includes:
 - 1. Member's full name;
 - 2. Member's Social Security number;
 - 3. Member's mailing address;
 - 4. Member's daytime telephone number;
 - 5. The amount of each rollover or transfer, if applicable;
 - 6. The account number of each plan, if applicable;
 - 7. The member's signature certifying that the member understands the requirements, limitations, and entitlements for the rollover/transfer that is being used to purchase service credit, and has read and understands the Direct Rollover/Transfer Certification to Purchase Service Credit form and any accompanying instructions and information sheets;
 - 8. The date the member signs the form;
 - 9. The authorized representative's name and title;
 - 10. The authorized representative's address;
 - 11. The authorized representative's telephone number;
 - 12. Certification by the authorized representative that:
 - a. The plan is either:
 - i. A qualified pension, profit sharing, or 401(k) plan described in IRC § 401(a), or a qualified annuity plan described in IRC § 403(a);
 - ii. A deferred compensation plan described in IRC § 457(b) maintained by a state of the United States, a political subdivision of a state of the United States, or an agency or instrumentality of a state of the United States;
 - iii. An annuity contract described in IRC § 403(b); or
 - iv. An IRA described in A.R.S. § 38-747(H)(3);
 - b. The rollover/transfer specified on the form from which the pre-tax funds are being rolled over or transferred is intended to satisfy the requirements of the applicable section of the Internal Revenue Code;
 - c. The authorized representative is not aware of any plan provision or any other reason that would cause

the plan/IRA not to satisfy the applicable section of the Code; and

- d. The funds will be sent to the ASRS as a direct plan rollover, IRA rollover, or a trustee-to-trustee transfer; and
- 13. The date and signature of the authorized representative.
- F. The ASRS shall provide the member with written notification regarding the eligibility of the rollover.
- G. The member shall contact the plan administrator to have the funds distributed and transferred to the ASRS. Except as provided in subsection (H), unless the ASRS receives a check for the correct amount from the plan within 90 days of the issue date on the SP invoice, the ASRS shall cancel the request to purchase service credit as specified in R2-8-502(C).
- H. At the written request of the member, the ASRS shall provide an extension of 60 days in which the check may be received by the ASRS from the plan at the written request of the member, if:
 - 1. The member has followed the procedure in this Article for requesting to purchase service credit,
 - 2. The member has responded to the ASRS correspondence within the time-frame set forth in this Article,
 - 3. The eligible plan has not provided to the ASRS the check to pay for the requested service credit purchase within 90 days of the date of the SP invoice, and
 - 4. The member makes the written request for extension before expiration of the 90 days.
- I. The member shall ensure that the ASRS receives a check from the plan, made payable to the ASRS, for an amount that does not exceed the amount specified on the SP Invoice.
- J. If the payment from the eligible plan exceeds the amount specified on the SP Invoice, the ASRS shall return the entire payment to the member.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4).

R2-8-515. Purchasing Service Credit by Trustee-to-Trustee Transfer

- A. An eligible member may purchase service credit or pay off an Irrevocable Payroll Deduction Authorization at retirement or termination of employment without transferring employment by a trustee-to-trustee transfer if the member participates in:
 - 1. A deferred compensation plan described in IRC § 457 that is maintained by:
 - a. The state of Arizona;
 - b. A political subdivision, agency, or instrumentality of the state of Arizona; or
 - c. A political subdivision entity of the state of Arizona;
 - 2. An annuity contract described in IRC § 403(b); or
 - 3. A retirement program qualified under IRC § 401(a) or 403(a).
- B. By the due date specified on the SP invoice, the ASRS shall receive from the member the completed Service Purchase Payment Request form described in R2-8-502(D)(2).
- C. Upon receipt of the completed Service Purchase Payment Request form, the ASRS shall provide a Direct Rollover/Transfer Certification to Purchase Service Credit form, if the ASRS has not already provided the member with the form.
- D. The member shall ensure that the member and the plan administrator complete the Direct Rollover/Transfer Certification to Purchase Service Credit form, containing all of the applicable information identified in R2-8-514(E), and ensure that the

ASRS receives the form within 90 days after the issue date on the SP Invoice.

- E. The ASRS shall provide the member with written notification regarding the eligibility of the transfer.
- F. The member shall contact the plan administrator to have the funds transferred to the ASRS. Except as provided in subsection (G), unless the ASRS receives the check for the correct amount from the plan within 90 days of the issue date on the SP invoice, the ASRS shall cancel the request to purchase service credit as specified in R2-8-502(C).
- G. The ASRS shall provide an extension of 60 days in which the check may be received by the ASRS from the plan at the written request of the member, if:
 - 1. The member has followed the procedure under this Article for requesting to purchase service credit,
 - 2. The member has responded to the ASRS correspondence within the time-frame set forth in this Article,
 - 3. The eligible plan has not provided to the ASRS the check to pay for the requested service credit purchase within 90 days of the date of the SP invoice, and
 - 4. The member makes the written request for extension before expiration of the 90 days.
- H. The member shall ensure that the ASRS receives a check from the plan, made payable to the ASRS, for an amount that does not exceed the amount specified on the SP Invoice.
- I. If the payment from the eligible plan exceeds the amount specified on the SP Invoice, the ASRS shall return the entire payment to the member and notify the member of the correct amount due.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4).

R2-8-516. Expired

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Section expired under A.R.S. § 41-1056(J) at 22 A.A.R. 3195, effective October 11, 2016 (Supp. 16-3).

R2-8-517. Expired

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Section expired under A.R.S. § 41-1056(J) at 22 A.A.R. 3195, effective October 11, 2016 (Supp. 16-3).

R2-8-518. Repealed

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Repealed by final rulemaking at 18 A.A.R. 3130, effective January 6, 2013 (Supp. 12-4).

R2-8-519. Purchasing Service Credit by Termination Pay Distribution

- A. To purchase service credit using termination pay distribution, an eligible member shall, no more than six months before the date the eligible member plans to retire or terminate employ-

ment, request to purchase service credit as specified in R2-8-502 and specify that the member wants to use termination pay distribution to pay for the service credit. Upon receipt of the acknowledgement letter identified in R2-8-502, the eligible member shall provide documentation for service credit as required by this Article, within 30 days of the eligible member's request to purchase service credit.

- B. Upon receipt of the documentation required by this Article from the eligible member and if the eligible member's request to purchase service credit meets the requirements of this Article, the ASRS shall provide a:
 - 1. SP invoice stating the cost to purchase the requested amount of service credit and the date the payment is due, and
 - 2. Service Purchase Payment Request form as described in R2-8-502(D)(2).
- C. By the due date specified on the SP invoice, the member shall ensure that the ASRS receives the completed Service Purchase Payment Request form.
- D. Upon receipt of the Service Purchase Request form, if the member indicates the member wishes to purchase service credit by termination pay distribution, the ASRS shall send the member a Termination Pay Authorization for the Purchase of Service Credit form to complete and return within the time limitation specified in subsection (E) that includes:
 - 1. Member's full name,
 - 2. Member's Social Security number,
 - 3. Member's daytime telephone number,
 - 4. The Request ID number listed on the SP invoice,
 - 5. Name of ASRS employer,
 - 6. Whether the member elects to use all termination pay or a specific amount of termination pay to purchase service credit,
 - 7. Signature of the member, certifying that the member understands that:
 - a. The member is required to continue working at least three full calendar months after the date the member submits the Termination Pay Authorization for the Purchase of Service Credit form before termination pay may be used on a pre-tax basis;
 - b. If the member terminates employment more than six months after the date on the SP invoice, the member may purchase the service credit at a newly calculated rate and possibly at a higher cost;
 - c. The Termination Pay Authorization for the Purchase of Service Credit form is binding and irrevocable;
 - d. The member's employer is required to make payment directly to the ASRS after mandatory deductions are made, and the member does not have the option of receiving the funds directly from the employer;
 - e. The ASRS shall apply service credit to the member's account upon the receipt of payments authorized by the member by the Termination Pay Authorization for the Purchase of Service Credit form;
 - f. If the member elects to purchase with termination pay only a portion of the service credit that the member is entitled to purchase, the member may be eligible to use other forms of payment to purchase additional service credit. However, using other forms of payment to purchase additional service credit does not alter, amend, or revoke the terms of the Termination Pay Authorization for the Purchase of Service Credit form;

- g. It is the member's responsibility to ensure that the member's employer properly deducts termination pay, as provided the Termination Pay Authorization for the Purchase of Service Credit form; and
 - h. The amount of termination pay the member is allowed to apply to purchase service credit is subject to federal laws.
- E.** In addition to the other time limitations in this Section, to apply termination pay to a service purchase the eligible member shall complete and sign the Termination Pay Authorization for the Purchase of Service Credit form, and the member shall ensure that the ASRS receives the Termination Pay Authorization for the Purchase of Service Credit form at least three full calendar months before the member retires or terminates employment.
- F.** The ASRS shall not apply a termination pay distribution to a service credit purchase covered by an Irrevocable Payroll Deduction Authorization in effect at the time of termination unless the eligible member signed a Termination Pay Addendum to the Irrevocable Payroll Deduction Authorization specified in R2-8-513(D) at the time the member signed the Irrevocable Payroll Deduction Authorization.
- G.** If a member elects to use all of the member's available termination pay to purchase service credit, ASRS shall not apply any other form of payment to the service credit purchase until the ASRS receives the termination pay.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4).

R2-8-520. Termination of Employment and Request Return of Retirement Contributions or Death of Member While Purchasing Service Credit by an Irrevocable Payroll Deduction Authorization

- A.** If a member terminates employment without transferring employment as specified in R2-8-513.01 while purchasing service credit by an Irrevocable Payroll Deduction Authorization and requests return of retirement contributions, the ASRS shall return any payments made for the purchase of service credit including interest earned on those payments as determined by the Board.
- B.** If a member dies while purchasing service credit, the ASRS shall credit the member's account with:
- 1. The service credit for which the ASRS received payment before the member's death,
 - 2. Interest earned on payment through the date of distribution at the valuation rate established by the Board, and
 - 3. All service purchase payments.
- C.** If a member dies while purchasing service credit, the ASRS shall not permit the survivor to purchase the remaining balance.
- D.** The ASRS shall not refund interest charged as part of an Irrevocable Payroll Deduction Authorization as specified in R2-8-513(E)(1).

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4).

R2-8-521. Adjustment of Errors

- A.** If the ASRS determines an error has been made in the information provided by the member or in the calculations made by the ASRS, the ASRS shall make an adjustment, including, but

limited to, increasing or decreasing a member's total credited service with the ASRS and increasing or decreasing the payment amount.

- B.** If the ASRS determines that a member is receiving or is eligible to receive retirement benefits from another public employee retirement system that makes the member ineligible to purchase service credit for the same period, the ASRS shall revoke that purchase of service credit, and return any payments made, less any interest payments made, if applicable.
- C.** The ASRS shall notify the member in writing of any adjustments.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2).

ARTICLE 6. PUBLIC PARTICIPATION IN RULEMAKING**R2-8-601. Definitions**

The following definitions apply to this Article unless otherwise specified:

- 1. "Rulemaking record" means a file the ASRS maintains as specified in A.R.S. § 41-1029.
- 2. "Oral proceeding" means a public gathering the ASRS holds for the purpose of receiving comment and answering questions about a proposed rule as specified in A.R.S. § 41-1023.
- 3. "Presiding officer" means an individual selected by the ASRS Director to oversee oral proceedings.
- 4. "Substantive policy statement" means the same as in A.R.S. § 41-1001(22).

Historical Note

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4).

R2-8-602. Reviewing Agency Rulemaking Record and Directory of Substantive Policy Statements

Except on a state holiday, a person may review a rulemaking record or the directory of substantive policy statements at the Phoenix office of the ASRS, Monday through Friday, from 8:00 a.m. until 5:00 p.m.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

R2-8-603. Petition for Rulemaking

- A.** A person submitting a petition to the ASRS to make or amend a rule under A.R.S. § 41-1033 shall include the following in the petition:
- 1. The name and current address of the person submitting the petition;
 - 2. An identification of the rule to be made or amended;
 - 3. The suggested language of the rule;
 - 4. The reason why a new rule should be made or a current rule should be amended with supporting information, including:
 - a. An identification of the persons who would be affected by the rule and how the persons would be affected; and
 - b. If applicable, statistical data with references to attached exhibits;
 - 5. The signature of the person submitting the petition; and
 - 6. The date the person signs the petition.

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- B. The ASRS shall send a written notice of the ASRS's decision regarding the Petition for Rulemaking to the person within 60 days of receipt of the petition.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

R2-8-604. Review of a Rule, Agency Practice, or Substantive Policy Statement

- A. A person submitting a petition to the ASRS under A.R.S. § 41-1033 requesting that the ASRS review an agency practice or substantive policy statement that the person alleges constitutes a rule shall include the following in the petition:
1. The name and current address of the person submitting the petition,
 2. The reason the person alleges that the agency practice or substantive policy statement constitutes a rule,
 3. The signature of the person submitting the petition, and
 4. The date the person signs the petition.
- B. The person who submits a petition under subsection (A) shall attach a copy of the substantive policy statement or a description of the agency practice to the petition.
- C. The ASRS shall send a written notice of the ASRS's decision regarding the petition to the person within 60 days of receipt of the petition.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

R2-8-605. Objection to Rule Based Upon Economic, Small Business and Consumer Impact

- A. A person submitting an objection to a rule based upon the economic, small business and consumer impact under A.R.S. § 41-1056.01 shall include the following in the objection:
1. The name and current address of the person submitting the objection;
 2. Identification of the rule;
 3. Either evidence that the actual economic, small business and consumer impact:
 - a. Significantly exceeded the impact estimated in the economic, small business and consumer impact statement submitted during the making of the rule with supporting information attached as exhibits; or
 - b. Was not estimated in the economic, small business and consumer impact statement submitted during the making of the rule and that actual impact imposes a significant burden on persons subject to the rule with supporting information attached as exhibits; or
 - c. Reflects that the ASRS did not select the alternative that imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.
 4. The signature of the person submitting the objection; and
 5. The date the person signs the objection.
- B. The ASRS shall respond to the objection as specified in A.R.S. § 41-1056.01(C).

Historical Note

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended

by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

R2-8-606. Oral Proceedings

- A. A person requesting an oral proceeding under A.R.S. § 41-1023(C) shall submit a written request to the ASRS that includes:
1. The name and current address of the person making the request;
 2. If applicable, the name of the public or private organization, partnership, corporation or association, or the name of the governmental entity the person represents; and
 3. Reference to the proposed rule including, if known, the date and issue of the Arizona Administrative Register in which the Notice of Proposed Rulemaking was published.
- B. The ASRS shall record an oral proceeding by either electronic or stenographic means and any CDs, cassette tapes, transcripts, lists, speaker slips, and written comments received shall become part of the official record.
- C. A presiding officer shall perform the following acts on behalf of the ASRS when conducting an oral proceeding as prescribed under A.R.S. § 41-1023:
1. Provide a method for a person who attends the oral proceeding to voluntarily note the person's attendance;
 2. Provide a Request to Present Oral Comment form that includes space for:
 - a. The name of the person submitting the Request to Present Oral Comment form,
 - b. The entity the person represents, if applicable, and
 - c. The rule on which the person wishes to comment or about which the person has a question;
 3. Open the proceeding by identifying the rules to be considered, the location, date, time, purpose of the proceeding, and the agenda;
 4. Explain the background and general content of the proposed rulemaking;
 5. Provide for public comment as specified in A.R.S. § 41-1023(D); and
 6. Close the oral proceeding by announcing the location where written public comments are to be sent and specifying the close of record date and time.
- D. A presiding officer may limit comments to a reasonable time period, as determined by the presiding officer. Oral comments may be limited to prevent undue repetition.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

R2-8-607. Petition for Delayed Effective Date

- A. A person who wishes to delay the effective date of a rule under A.R.S. § 41-1032 shall file a petition with the ASRS prior to the proposed rule's close of record date. The petition shall contain the:
1. Name and current address of the person submitting the petition;
 2. Identification of the proposed rule;
 3. Need for the delay, specifying the undue hardship or other adverse impact that may result if the request for a delayed effective date is not granted;
 4. Reason why the public interest will not be harmed by the delayed effective date;
 5. Signature of the person submitting the petition; and
 6. Date the person signs the petition.

- B. The ASRS shall send a written notice of the ASRS's decision to the person within 30 days of receipt of the Petition for Delayed Effective Date.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

ARTICLE 7. CONTRIBUTIONS NOT WITHHELD

R2-8-701. Definitions

The following definitions apply to this Article unless otherwise specified:

1. "218 agreement" means a written agreement between the state, political subdivision, or political subdivision entity and the Social Security Administration, under the provisions of § 418 of the Social Security Act, to provide Social Security and Medicare or Medicare-only coverage to employees of the state, political subdivision, or political subdivision entity.
2. "Documentation" means a pay stub, completed W-2 form, completed Verification of Contributions Not Withheld form, employer letter or spreadsheet, completed State Personnel Action Form, Social Security Earnings Report, employment contract, payroll record, timesheet, or other ASRS employer-provided form that includes:
 - a. Whether the employee was covered under the ASRS employer's 218 agreement prior to July 24, 2014,
 - b. The number of hours worked or length of time the member was employed by the ASRS employer, or
 - c. The compensation paid to the member by the ASRS employer.
3. "Eligible service" means employment with an ASRS employer:
 - a. That is no more than 15 years before the date the ASRS receives written credible evidence that less than the correct amount of contributions were paid into the ASRS or the ASRS otherwise determines that less than the correct amount of contributions were made as specified in A.R.S. § 38-738(C); and
 - b. In which the member worked a minimum of 20 hours per week for at least 20 weeks in a service year for at least one ASRS employer from 7/1/1999 to the present.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4).

Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4).

R2-8-702. General Information

- A. Verified eligible service that occurred more than 15 years before the date ASRS receives the information identified in R2-8-704(A)(1) is considered public service credit as provided in A.R.S. § 38-738(D), and is not applied under this Article.
- B. The ASRS employer shall pay the ASRS employer's portion of the contributions the ASRS determines is owed under R2-8-706 whether or not:
 1. The member has withdrawn contributions as specified in R2-8-115; or
 2. The member pays the member's portion of the contributions.
- C. The person who initiates the claim that contributions were not withheld for eligible service has the burden to prove a contribution error was made.

- D. ASRS shall not waive payment of contributions or interest owed under this Article.

- E. If a member is not able to establish eligibility for service credit for which contributions were not withheld, but is able to establish a period of employment by an ASRS employer the member may request to purchase service credit for that period under A.R.S. § 38-743 and Article 5 of this Chapter.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4).

R2-8-703. ASRS Employer's Discovery of Error

If an ASRS employer determines that contributions have not been withheld for a member for a period of eligible service, the ASRS employer shall notify ASRS in writing, and shall provide ASRS with the member's full name, Social Security number, months, years, and hours per week worked, the compensation each fiscal year for the time periods worked, and the member's position title and status at the time contributions should have been withheld.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4).

R2-8-704. Member's Discovery of Error

If a member believes that an Employer has not withheld contributions for the member for a period of eligible service, the member shall:

- A. Provide the Employer with documentation of the member's claim and request that the Employer provide a letter that includes the information in the Verification of Contributions Not Withheld form or complete a Verification of Contributions Not Withheld form that includes:
 1. The member's full name;
 2. Other names used by the member;
 3. The member's Social Security number;
 4. Whether the position was covered under the Employer's 218 agreement prior to July 24, 2014;
 5. The position title the member held at the time the contributions should have been withheld;
 6. The eligibility of the member at the time the contributions should have been withheld;
 7. The following statements of understanding and agreements certified by the authorized Employer representative's signature indicating:
 - a. I understand it is my responsibility to verify the accuracy of the information I am providing on this form. I understand any individual who knowingly makes a false statement, or who falsifies or permits to be falsified any record of the ASRS with an intent to defraud the ASRS, is guilty of a Class 6 felony pursuant to A.R.S. § 38-793; and
 - b. I understand that, based on the information provided on this form, the ASRS may determine that contributions are owed on behalf of the member listed on this form, and the Employer may incur a substantial financial obligation. I understand that I may receive an invoice for the member contributions I owe.
 8. The following information by fiscal year:
 - a. All pay period end dates;
 - b. The hours per week worked within each pay period; and
 - c. The compensation earned by the member within each pay period.
 9. The name of the Employer;
 10. The printed name and signature of the authorized Employer representative;

11. The daytime telephone number of the authorized Employer representative;
 12. The title of the authorized Employer representative; and
 13. The date the authorized Employer representative signed the form;
- B.** Provide the ASRS with the completed Verification of Contributions Not Withheld form; and
- C.** If the Employer refuses to fill out the Verification of Contributions Not Withheld form, or if the member disputes the information the Employer completes on the form, the member shall provide the ASRS with the documentation the member believes supports the allegation that contributions should have been withheld, that includes proof:
1. That the employee was covered under the Employer's 218 agreement prior to July 24, 2014,
 2. Of the number of hours worked,
 3. Of the length of time the member was employed by the Employer, and
 4. Of the compensation paid to the member by the Employer.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Section amended by final rulemaking at 22 A.A.R. 3326, effective January 1, 2017 (Supp. 16-4).

R2-8-705. ASRS' Discovery of Error

If the ASRS determines, as specified in A.R.S. § 38-738(B)(7), that contributions have not been withheld for a member for a period of eligible service, the ASRS shall notify the member and the ASRS employer in writing and shall request the following information:

1. The months, years and hours per week worked;
2. The compensation earned by the member each fiscal year for the time periods worked; and
3. The member's position title at the time contributions should have been withheld.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4).

R2-8-706. Determination of Contributions Not Withheld

- A.** Upon receipt of the information listed in R2-8-703, R2-8-704, or R2-8-705, the ASRS shall review the information to determine whether or not member contributions should have been withheld by the Employer, the length of time those contributions should have been withheld, and the amount of contributions that should have been withheld.
- B.** Except for a member who met active membership requirements while simultaneously contributing to another retirement plan listed in subsection (B)(2), for purposes of this Article, the ASRS shall determine that contributions should not have been withheld for the period of service in question if:
1. An Employer remits an accurate ACR amount pursuant to R2-8-116; or
 2. The employee participates in:
 - a. Another Arizona retirement plan listed in A.R.S. Title 38, Chapter 5, Articles 3, 4, or 6; or
 - b. In an optional retirement plan listed in A.R.S. Title 15, Chapter 12, Article 3 or A.R.S. Title 15, Chapter 13, Article 2.
- C.** Except for returning to work under A.R.S. § 38-766.01(D), the presence of a contract between a member and the Employer does not alter the contribution requirements of A.R.S. §§ 38-736 and 38-737.
- D.** If there is any discrepancy between the documentation provided by the Employer and the documentation provided by the

member, a document used in the usual course of business prepared at the time in question is controlling.

- E.** The ASRS shall provide to the Employer and the member a written statement that includes:
1. The dates of eligible service for which contributions were not withheld,
 2. The dollar amount of contributions that should have been made,
 3. The dollar amount of the contributions to be paid by the Employer,
 4. The interest on the Employer contributions and member contributions to be paid by the Employer,
 5. The dollar amount of contributions to be paid by the member, and
 6. The various payment options that may apply to the member, as specified in R2-8-512 through R2-8-519.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Section amended by final rulemaking at 22 A.A.R. 3326, effective January 1, 2017 (Supp. 16-4).

R2-8-707. Submission of Payment

- A.** Within 90 calendar days after the ASRS notifies the ASRS employer in writing of the amount due, the ASRS employer shall pay all ASRS employer contributions, including accrued interest on both the ASRS employer and member contributions, from the date the contributions were due to the date the ASRS notifies the ASRS employer of the amount due. An ASRS employer who makes payment under A.R.S. § 38-738(B)(3) is not liable for additional interest that may accrue as a result of a member's failure to remit payment required by A.R.S. § 38-738(B)(1). If the ASRS does not receive full payment of the ASRS employer's amount due within 90 calendar days after the ASRS notifies the ASRS employer of the amount due, interest on the amount not paid, as provided in A.R.S. § 38-738(B)(3), will accrue from the 91st day until the ASRS employer pays the full amount.
- B.** An ASRS employer may pay the amount the ASRS employer believes may be due at any time before ASRS's notification of the amount due in order to prevent the accrual of interest after the date of the payment. Any amount the ASRS employer pays that the ASRS determines is not owed shall be refunded to the ASRS employer.
- C.** A member may purchase eligible service for which contributions were not withheld in accordance with the requirements of Article 5 of this Chapter for purchase of service credit. If the ASRS does not receive full payment of the ASRS employee's amount due within 90 calendar days after the ASRS notifies the member that the ASRS received the ASRS employer's full payment, interest on the amount not paid, as provided in A.R.S. § 38-738(B)(1), will accrue from the 91st day until the member pays the full amount.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4).

R2-8-708. Expired**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Section expired under A.R.S. § 41-1056(J) at 22 A.A.R. 2982, effective September 15, 2016 (Supp. 16-3).

R2-8-709. Nonpayment of Contributions

- A. A member receives service credit only for the portion of service the ASRS has determined is eligible and that the member has paid for.
- B. A member does not receive service credit until both the ASRS employer and member portions of the contributions have been paid.
- C. If the ASRS employer does not pay, the ASRS shall take any steps legally authorized to collect payment. Any steps the ASRS may take to collect payment are separate from any action a member may elect to take against the ASRS employer.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4).

ARTICLE 8. RECOVERY OF OVERPAYMENTS

R2-8-801. Definitions

For purposes of this article, the following definitions apply, unless specified otherwise:

1. "DRO" means the same as in R2-8-120.
2. "Estimated Social Security disability income amount" and "Revised Social Security disability income amount" mean the amount of funds the ASRS is entitled to collect pursuant to R2-8-802.
3. "LTD" means long-term disability program as described in A.R.S. § 38-797 et seq.
4. "LTD benefit" means the same as in R2-8-301
5. "Overpayment" means:
 - a. Any funds the ASRS distributes in excess of the amount to which the recipient is legally entitled; and
 - b. Any estimated social security disability income amount or revised social security disability income amount the ASRS is entitled to collect pursuant to A.R.S. § 38-765.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

R2-8-802. Estimated Social Security Disability Income Amount and Revised Social Security Disability Income Amount

- A. The ASRS contracted LTD claims administrator shall determine a member's estimated Social Security disability income amount as follows:
 1. Prior to the death, retirement, or forfeiture of a member, the estimated Social Security disability income amount shall be equal to the member's full monthly LTD benefit reduced by \$50 per month pursuant to A.R.S. § 38-797.07(A)(9); and
 2. Upon the member's death, retirement, or forfeiture, the estimated Social Security disability income amount shall be equal to the total amount of the member's LTD benefit, reduced by \$50 per month pursuant to A.R.S. § 38-797.07(A)(9).
- B. A member or survivor who disputes the estimated Social Security disability income amount based on the conclusions of a legal proceeding may request a revised Social Security disability income amount by submitting supporting documentation from the legal proceeding to the ASRS contracted LTD claims administrator within 30 days of the date of conclusion of the legal proceeding.
- C. Pursuant to subsection (B), the ASRS or the ASRS contracted LTD claims administrator shall determine whether the esti-

mated Social Security disability income amount needs to be revised based on the conclusions of the legal proceeding.

- D. If the ASRS or the ASRS contracted LTD claims administrator determines the estimated Social Security disability income amount was inaccurate, the ASRS or the ASRS contracted LTD claims administrator shall calculate a revised Social Security disability income amount based on the supporting documentation provided by the member or survivor pursuant to subsection (B).
- E. Pursuant to subsection (B), if the revised Social Security disability amount is less than the amount of the estimated Social Security disability benefit, the ASRS or the ASRS contracted LTD claims administrator shall:
 1. Refund a portion of the amount of the estimated Social Security disability benefit that the ASRS retained upon forfeiture of the member in order to offset the difference between the estimated Social Security disability income amount and the revised Social Security disability income amount, or
 2. Adjust the member's retirement benefits or the survivor's benefits to offset the difference between the estimated Social Security disability income amount and the revised Social Security disability income amount.
- F. If a member or survivor is not satisfied with the determination on the request for a revised Social Security disability income amount, the member or survivor may appeal the determination pursuant to 2 A.A.C. 8, Article 4.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

R2-8-803. Reimbursement of Overpayments

- A. Upon the ASRS discovering that it has made an overpayment to a member, survivor, or alternate payee, the ASRS shall send a letter to notify the necessary person that an overpayment was provided and the person shall reimburse the ASRS in the amount of the overpayment.
- B. A person who reimburses the ASRS for an overpayment shall do so by remitting a check, made payable to the ASRS, by the due date specified in the letter providing notice of the overpayment.
- C. If the ASRS is unable to collect the amount of an overpayment by reducing future payments to members, survivors, or alternate payees as provided in this Article, the ASRS shall allow the appropriate person to reimburse the ASRS for the amount of the overpayment by making payments over the course of as many months as the number of months in which an overpayment was made by the ASRS, not to exceed 36 months.
- D. A person may request to reimburse the amount of the overpayment to the ASRS sooner than provided in this Article.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

R2-8-804. Collection of Overpayments from Forfeiture

- A. Unless a member cancels a forfeiture request by submitting written notice to the ASRS within 30 days of the request to forfeit, the ASRS shall reduce a member's refund amount in order to offset the member's overpayment amount pursuant to subsection (B).
- B. The ASRS shall reduce the member's refund amount by the amount of any overpayment and the ASRS shall:
 1. Pursue collection of any remaining overpayment amount pursuant to this Article; and
 2. Distribute the remaining refund amount to the member pursuant to R2-8-115.

Historical Note

New Section made by final rulemaking at 23 A.A.R.
2750, effective November 13, 2017 (Supp. 17-3).

R2-8-805. Collection of Overpayments from Retirement Benefit

- A. Notwithstanding A.R.S. § 38-768, the ASRS may reduce a person's benefit pursuant to this section.
- B. Upon retirement, the ASRS shall reduce the amount of a member's retirement benefit by the amount of any overpayments that have not been reimbursed to the ASRS, pursuant to R2-8-803 as follows:
 - 1. If the member elects to receive a lump sum or partial lump sum benefit, the amount of the lump sum or partial lump sum shall be reduced by the amount of the overpayment to no less than \$5.00 and the ASRS shall pursue overpayment collections for any remaining overpayment amount pursuant to this Article;
 - 2. If the member elects to receive retirement benefits as a monthly annuity and the amount of the overpayment is equal to or less than the amount of the member's first annuity disbursement minus \$5.00, the ASRS shall reduce the amount of the first annuity disbursement by the amount of any overpayment to no less than \$5.00;
 - 3. If the member elects to receive retirement benefits as a monthly annuity and the amount of the overpayment exceeds the amount of the member's first annuity disbursement plus \$5.00, the ASRS shall reduce the amount of the first annuity disbursement by the amount of the overpayment to no less than \$5.00 and pursue collection pursuant to subsection (B).
- C. The ASRS shall reduce a member's or alternate payee's monthly annuity as follows in order to offset any overpayments which have not been reimbursed or collected pursuant to this Article:
 - 1. The ASRS shall reduce the member's monthly annuity by up to 10% for 36 months, if the amount of the overpayment can be collected by the ASRS within that time.
 - 2. If the amount of the overpayment cannot be collected pursuant to subsection (B)(1), the ASRS will notify the member that the member must make payment arrangements within 60 days of the date on the notice. If the member does not make payment arrangements within 60 days of the date on the notice, the ASRS shall actuarially reduce the amount of the member's monthly annuity.
- D. Notwithstanding subsection (B), the ASRS shall not reduce a member's or alternate payee's monthly annuity by an estimated Social Security disability income amount while the member is pursuing a Social Security disability income determination pursuant to R2-8-305, if the member submits documentation to the ASRS every six months informing the ASRS of the status of the member's Social Security disability income request until a determination is made regarding the amount of Social Security disability income.

Historical Note

New Section made by final rulemaking at 23 A.A.R.
2750, effective November 13, 2017 (Supp. 17-3).

R2-8-806. Collection of Overpayments from Survivor Benefit

- A. Notwithstanding A.R.S. § 38-768, the ASRS may reduce a person's benefit pursuant to this section.
- B. If a member, survivor, or alternate payee does not repay the amount of an overpayment pursuant to this Article, the ASRS shall reduce the necessary person's amount of benefits pursuant to subsection (C).

- C. The ASRS shall collect the amount of any remaining overpayment by reducing the necessary person's monthly annuity over the same number of months in which the overpayment was made, up to 3 months for each month an overpayment was made by the ASRS.
- D. If the ASRS is unable to collect the amount of any overpayment pursuant to subsection (C), the ASRS shall pursue collection of any remaining overpayment amount pursuant to this Article.
- E. Notwithstanding subsection (C), the ASRS shall not reduce a survivor's monthly annuity by an estimated Social Security disability income amount while the survivor is pursuing a Social Security disability income determination on behalf of the member pursuant to R2-8-305, if the survivor submits documentation to the ASRS every six months informing the ASRS of the status of the member's Social Security disability income request until a determination is made regarding the amount of Social Security disability income to which the member was entitled.

Historical Note

New Section made by final rulemaking at 23 A.A.R.
2750, effective November 13, 2017 (Supp. 17-3).

R2-8-807. Collection of Overpayments from LTD Benefit

Upon disability of the member, the ASRS shall reduce the amount of the disabled member's LTD benefit by the amount of any overpayment the member received from the ASRS and has not reimbursed pursuant to this section to not less than \$50.00.

Historical Note

New Section made by final rulemaking at 23 A.A.R.
2750, effective November 13, 2017 (Supp. 17-3).

R2-8-808. Collection of Overpayments by the Attorney General

If a member does not reimburse the ASRS for an overpayment pursuant to R2-8-802, the ASRS may submit the overpayment amount for collection by the Arizona Attorney General's Office.

Historical Note

New Section made by final rulemaking at 23 A.A.R.
2750, effective November 13, 2017 (Supp. 17-3).

R2-8-809. Collection of Overpayments by the Arizona Department of Revenue

If a member does not reimburse the ASRS for an overpayment pursuant to R2-8-802, the ASRS may submit the overpayment amount for collection by the Arizona Department of Revenue.

Historical Note

New Section made by final rulemaking at 23 A.A.R.
2750, effective November 13, 2017 (Supp. 17-3).

R2-8-810. Collection of Overpayments by Garnishment or Levy

Pursuant to A.R.S. § 38-723, the ASRS may collect the amount of any overpayment that has not been reimbursed or collected pursuant to this article by garnishing wages and/or placing a levy on the appropriate person's bank account.

Historical Note

New Section made by final rulemaking at 23 A.A.R.
2750, effective November 13, 2017 (Supp. 17-3).

ARTICLE 9. COMPENSATION**R2-8-901. Definitions**

The following definitions apply to this Article unless otherwise specified:

- 1. "Base pay" or "regular pay" means the amount of pay at a salary or hourly rate which the Employer agrees to pro-

State Retirement System Board

vide to the member in exchange for rendering services to the Employer, including pay the member receives, or was entitled to receive, from the Employer while on a paid leave status.

2. "Services rendered" means the duties which a member performs for an Employer as required by the member's employment with the Employer.
3. "Terminating employment" means to end the employment relationship between a member and an Employer.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3).

R2-8-902. Compensation for Remitting Contributions

- A. Pursuant to A.R.S. §§ 38-736, 38-737, and 38-797.05, an Employer shall remit contributions to the ASRS through the Employer's secure ASRS account for any payment the Employer provides to the member that is eligible to be included as compensation under this section.
- B. For a member whose membership began prior to January, 1, 1984, compensation includes:
 1. Base pay or regular pay the member receives from one or more Employers regardless of when the member receives the pay, if the member meets the requirements of membership pursuant to A.R.S. § 38-711 and R2-8-905;
 2. Pay the member receives from an Employer as a result of the member terminating employment with that Employer;
 3. Pay the member was entitled to receive based on services rendered, but which is deferred into another retirement or investment account, or which is withheld from the member's pay pursuant to other legal requirements;
 4. Pay the member receives from an Employer at the completion of an employment contract by which the contract amount is paid in full for services rendered;
 5. Unless otherwise indicated by law, pay the member receives from an Employer in excess of the member's base pay and which is intended to reward the member for the member's performance of services rendered, regardless of when the member receives the pay;
 6. Pay the member receives from an Employer in excess of the member's base pay as a result of hours during which the member did not work, but was required to be available to provide services to the Employer if necessary;
 7. Pay the member receives from an Employer in excess of the member's base pay as a result of working hours:
 - a. During a specific time period;
 - b. To perform duties involving physical hardship;
 - c. To complete a specific assignment; or
 - d. In excess of 40 hours per week.
 8. Pay the member receives from an additional Employer pursuant to R2-8-905.
- C. Notwithstanding subsection (B), pay the member receives from an Employer in excess of the limitations contained in A.R.S. § 38-746 is not included as compensation.
- D. For a member whose membership began on or after January 1, 1984, compensation includes the pay identified in subsection (B) except for pay identified in subsection (B)(2).

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3).

R2-8-903. Compensation for Pension Calculations

- A. A 60 month pension calculation pursuant to A.R.S. § 38-711(5)(a)(ii), shall be based on the compensation identified in R2-8-902(B).
- B. A 36 month pension calculation pursuant to A.R.S. § 38-711(5)(a)(i) or A.R.S. § 38-711(5)(b), shall be based on the compensation identified in R2-8-902(B), except for pay identified in R2-8-902(B)(2).
- C. A 60 month pension calculation pursuant to A.R.S. § 38-711(5)(c), shall be based on the compensation identified in R2-8-902(B), except for pay identified in R2-8-902(B)(2).

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3).

R2-8-904. Accrual of Credited Service

- A. Pursuant to A.R.S. § 38-739(B), a member shall receive a proportionate amount of credited service based on the length of the member's service year.
- B. A member shall accrue service credits pursuant to subsection (A) for each month in which the Employer's pay period ends and for which contributions have been remitted to the ASRS, except for pay the member receives from the Employer for services rendered in a prior pay period for which contributions were remitted pursuant to R2-8-902(A).
- C. Notwithstanding subsection (B), a member shall not accrue additional service credit for contributions remitted on compensation identified in R2-8-902(B)(7), if the member has previously accrued service credit for the pay period to which the compensation identified in R2-8-902(B)(7) is attributable.
- D. Regardless of whether the member meets membership requirements with more than one Employer, a member may not earn more than one month of service credit in a calendar month and not more than one year of service credit during a fiscal year.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3).

R2-8-905. Compensation from An Additional Employer

- A. For purposes of remitting contributions pursuant to R2-8-902, compensation includes pay the member receives from an additional Employer if:
 1. The member meets membership pursuant to A.R.S. § 38-711 with at least one Employer;
 2. The member was employed with the additional Employer and did not meet membership with the additional Employer pursuant to A.R.S. § 38-711 between January 1, 2005 through December 31, 2009;
 3. The member resumed or continued employment with the additional Employer and did not meet membership with the additional Employer prior to January 1, 2012; and
 4. The member does not leave employment with an Employer or the additional Employer in an unpaid status for more than 30 consecutive days during the member's service year.
- B. For purposes of pension calculations pursuant to R2-8-903, compensation includes the pay identified in subsection (A).
- C. Notwithstanding any other subsection, for a member whose membership began after December 31, 2009, compensation includes pay the member receives from an additional Employer if the member meets membership pursuant to A.R.S. § 38-711 with the additional Employer.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3).



Supplement to the
Arizona Administrative Code
 The official compilation of Arizona Rules
Replacement Check List

For rules filed in the third quarter between
 July 1 - September 30
 2017

Within the stated calendar quarter, this Title contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information. Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

TITLE 02. Administration

Chapter 20. Citizens Clean Elections Commission

Sections, Parts, Exhibits, Tables or Appendices modified
 R2-20-702, R2-20-703.01

☐ REMOVE Supp. 17-2
 Pages: 1 - 27

☐ REPLACE with Supp. 17-3
 Pages: 1 - 27

The agency's contact person who can answer questions about rules in this Chapter:

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Disclaimer: Please be advised the person listed is the contact of record as submitted in the rulemaking package for this supplement. The contact and other information may change and is provided as a public courtesy.

PUBLISHER
Arizona Department of State
Office of the Secretary of State, Administrative Rules Division

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the Administrative Code. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION
September 30, 2017

RULES

A.R.S. § 41-1001(17) states: “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions. Virtually everything in your life is affected in some way by rules published in the Arizona Administrative Code, from the quality of air you breathe to the licensing of your dentist. This chapter is one of more than 230 in the Code compiled in 21 Titles.

ADMINISTRATIVE CODE SUPPLEMENTS

Rules filed by an agency to be published in the Administrative Code are updated quarterly. Supplement release dates are printed on the footers of each chapter:

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2017 is cited as Supp. 17-1.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the Arizona Administrative Register for recent updates to rule Sections.

ARTICLES AND SECTIONS

Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering system separated into subsections.

HISTORICAL NOTES AND EFFECTIVE DATES

Historical notes inform the user when the last time a Section was updated in the Administrative Code. Be aware, since the Office publishes each quarter by entire chapters, not all Sections are updated by an agency in a supplement release. Many times just one Section or a few Sections may be updated in the entire chapter.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in the introduction of a chapter can be found at the Secretary of State’s website, www.azsos.gov/services/legislative-filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the Arizona Administrative Register online at www.azsos.gov/rules, click on the Administrative Register link.

In the Administrative Code the Office includes editor’s notes at the beginning of a chapter indicating that certain rulemaking Sections were made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR

If you are researching rules and come across rescinded chapters on a different paper color, this is because the agency filed a Notice of Exempt Rulemaking. At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

PERSONAL USE/COMMERCIAL USE

This chapter is posted as a public courtesy online, and is for private use only. Those who wish to use the contents for resale or profit should contact the Office about Commercial Use fees. For information on commercial use fees review A.R.S. § 39-121.03 and 1 A.A.C. 1, R1-1-113.

Public Services managing rules editor, Rhonda Paschal, assisted with the editing of this chapter.

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

Editor's Note: The Citizen's Clean Elections Commission has filed a Notice of Public Information with the Office of the Secretary of State (Office) stating the Governor's Regulatory Review Council (G.R.R.C.) "cannot effectively repeal the rules" in this Chapter. The Notice also states, "persons subject to the Act and Rules are advised that it is the Commission's position [sic] that an action of G.R.R.C.... cannot relieve them of their obligations under the Act and Rules." [published at 23 A.A.R. 1761] The Office has received a Notice of Rule Expiration from the G.R.R.C. stating R2-20-109 and R2-20-111 have automatically expired [published at 23 A.A.R. 1757]. Under A.R.S. § 41-1056(G), our Office publishes filed G.R.R.C. notices and has included the rule expiration in this Chapter. Since the Office is merely the publisher, it has not, nor will it interpret the legality of the G.R.R.C. authority to "effectively repeal rules."

Editor's Note: The Office of the Secretary of State publishes all Code Chapters on white paper (Supp. 02-1).

Editor's Note: This Chapter contains rules that were adopted under an exemption from the rulemaking provisions of the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to A.R.S. § 16-956(D). Exemption from A.R.S. Title 41, Chapter 6 means that these rules were not certified by the Attorney General or the Governor's Regulatory Review Council. Because this Chapter contains rules that are exempt from the regular rulemaking process, the Chapter is printed on blue paper. The rules affected by this exemption appear throughout this Chapter.

ARTICLE 1. GENERAL PROVISIONS

Article 1, consisting of Sections R2-20-101 through R2-20-113, repealed by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001; new Article 1, consisting of Sections R2-20-101 through R2-20-112, made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1).

Article 1, consisting of Sections R2-20-101 through R2-20-113, adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2).

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ARTICLE 1. GENERAL PROVISIONS**R2-20-101. Definitions**

In addition to the definitions provided in A.R.S. § 16-961, the following shall apply to the Chapter, unless the context otherwise requires:

1. "Act" means the Citizens Clean Elections Act set forth in the Arizona Revised Statutes, Title 16, Chapter 6, Article 2.
2. "Audit" means a written report pertaining to an examination of a candidate's campaign finances that is reviewed by the Commission in accordance with A.A.C. Title 2, Chapter 20, Article 4.
3. "Campaign account" means an account at a financial institution designated by a political committee that is used solely for political campaign purposes.
4. "Candidate" means a natural person who receives or gives consent for receipt of a contribution for the person's nomination for or election to any office in this state, and includes the person's campaign committee, the political committee designated and authorized by the person, or any agents or personnel of the person. When not otherwise specified by statute or these rules, "Candidate" includes a Candidate for Statewide Office or a Legislative Candidate.
5. "Candidate for Statewide Office" means: A natural person seeking the office of governor, attorney general, secretary of state, treasurer, superintendent of public instruction, or mine inspector.
6. "Current campaign account" means a campaign account used solely for election campaign purposes in the present election cycle.
7. "Direct campaign purpose" includes, but is not limited to, materials, communications, transportation, supplies and expenses used toward the election of a candidate. This does not include the candidate's personal appearance, support, or support of a candidate's family member.
8. "Early contributions" means private contributions that are permitted pursuant to A.R.S. § 16-945.
9. "Examination" means an inspection by the Commission or agent of the Commission of a candidate's books, records, accounts, receipts, disbursements, debts and obligations, bank account records, and campaign finance reports related to the candidate's campaign, which may include fieldwork, or a visit to the campaign headquarters, to ensure compliance with campaign finance laws and rules.
10. "Executive Director" means the highest ranking Commission staff member, who is appointed pursuant to A.R.S. § 16-955(J) and is responsible for directing the day-to-day operations of the Commission.
11. "Expressly advocates" means:
 - a. Conveying a communication containing a phrase such as "vote for," "elect," "re-elect," "support," "endorse," "cast your ballot for," "(name of candidate) in (year)," "(name of candidate) for (office)," "vote against," "defeat," "reject," or a campaign slogan or words that in context can have no reasonable meaning other than to advocate the election or defeat of one or more clearly identified candidates.
 - b. Making a general public communication, such as in broadcast medium, newspaper, magazine, billboard, or direct mailer referring to one or more clearly identified candidates and targeted to the electorate of that candidate(s) that in context can have no reasonable meaning other than to advocate the election or defeat of the candidate(s), as evidenced by factors such as the presentation of the candidate(s) in a favorable or unfavorable light, the targeting, placement, or timing of the communication, or the inclusion of statements of the candidate(s) or opponents.
 - c. A communication within the scope of subsection (10)(b) shall not be considered as one that "expressly advocates" merely because it presents information about the voting record or position on a campaign issue of three or more candidates, so long as it is not made in coordination with a candidate, political party, agent of the candidate or party, or a person who is coordinating with a candidate or candidate's agent.
12. "Extension of credit" means the delivery of goods or services or the promise to deliver goods or services to a candidate in exchange for a promise from the candidate to pay for such goods or services at a later date.
13. "Family member" means parent, grandparent, spouse, child, or sibling of the candidate or a parent or spouse of any of those persons.
14. "Fair market value" means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts.
15. "Fixed Asset" means tangible property usable in a capacity that will benefit the candidate for a period of more than one year from the date of acquisition.
16. "Fund" means the Citizens Clean Elections Fund established pursuant to A.R.S. § 16-949(D).
17. "Future campaign account" means a campaign account that is used solely for campaign election purposes in an election that does not include the present or prior primary or general elections.
18. "Independent candidate" means a candidate who is registered as an independent or with no party preference or who is registered with a political party that is not eligible for recognition on the ballot.
19. "Legislative Candidate" means: A natural person seeking the office of state senator or state representative.
20. "Officeholder" means a person who has been elected to a statewide office or the legislature in the most recent election, as certified by the Secretary of State, or who is appointed to or otherwise fills a vacancy in such office.
21. "Person," unless stated otherwise, or having context requiring otherwise, means: A corporation, company, partnership, firm, association or society, as well as a natural person.
22. "Prior campaign account" means a campaign account used solely for campaign election purposes in a prior election.
23. "Public funds" includes all funds deposited into the Citizens Clean Elections Fund and all funds disbursed by the Commission to a participating candidate.
24. "Solicitor" means a person who is eligible to be registered to vote in this state and seeks qualifying contributions from qualified electors of this state.
25. "Unopposed" means in reference to state senate candidates and statewide candidates other than Corporation Commission, that the candidate is opposed by no candidates who will appear on the ballot. In reference to candidates for the House of Representatives and Corporation Commission, "unopposed" means that no more candidates will appear on the ballot than the number of seats available for the office sought.

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2). Amended by exempt rulemaking at 15 A.A.R. 1156, effective August 31, 2009 (Supp. 09-2). Amended by exempt rulemaking at 19 A.A.R. 3515, effective September 27, 2013 (Supp. 13-4). Amended by final exempt rulemaking at 23 A.A.R. 113, effective December 15, 2016 (Supp. 16-4).

R2-20-102. Repealed**Historical Note**

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Repealed by exempt rulemaking at 19 A.A.R. 3518, effective September 27, 2013 (Supp. 13-4).

R2-20-103. Communications: Time and Method

- A. General rule: in computing any period of time prescribed or allowed by the Act or these rules, unless otherwise specified, days are calculated by calendar days, and the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday. The term "legal holiday" includes New Year's Day, Martin Luther King Jr. Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday for employees of the state.
- B. Special rule for periods less than seven days: when the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.
- C. Whenever the Commission or any person has the right or is required to do some act within a prescribed period after the service of any paper by or upon the Commission by regular mail, three calendar days shall be added to the prescribed period.
- D. Whenever the Commission or any person is required to do some act within a prescribed period after the service of paper by or upon the Commission by overnight delivery, the time period shall begin on the date the recipient signs for the overnight delivery.
- E. The Commission shall use the address of the candidate that is provided on the application for certification filed pursuant to A.R.S. § 16-947. A candidate may designate in writing for the Commission to send written correspondence to a person other than the candidate.
- F. If possible, the Commission shall furnish a copy of all communications electronically.
- G. Delivery of subpoenas, orders and notifications to a natural person may be made by handing a copy to the person, or leaving a copy at his or her office with the person in charge thereof, by leaving a copy at his or her dwelling place or usual place of abode with a person of suitable age and discretion residing therein, by mailing a copy by overnight delivery to his or her last known address, or by any other method whereby actual notice is given.
- H. When the person to be served is not an individual, delivery of subpoenas, orders and notifications may be made by mailing a

copy by overnight delivery to the person at its place of business or by handing a copy to a registered agent for service, or to any officer, director, or agent in charge of any office of such person, or by mailing a copy by overnight delivery to such representative at his or her last known address, or by any other method whereby actual notice is given.

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2).

R2-20-104. Certification as a Participating Candidate

- A. A nonparticipating candidate who accepts contributions up to the limits authorized by A.R.S. § 16-941(B), but later chooses to run as a participating candidate, shall:
 1. Make the change to participating candidate status during the exploratory and qualifying periods only;
 2. Return the amount of each contribution in excess of the individual contribution limit for participating candidates;
 3. Return all Political Action Committee (PAC) monies received;
 4. Not have made expenditures exceeding the early contribution limit, or have spent any part of a contribution exceeding the early contribution limit;
 5. Comply with all provisions of A.R.S. § 16-941 and Commission rules.
 6. Return all contributions received from another candidate's candidate committee.
- B. Money from prior election. If a nonparticipating candidate has a cash balance remaining in the campaign account from the prior election cycle, the candidate may seek certification as a participating candidate in the current election after:
 1. Transferring money from the prior campaign account to the candidate's current election campaign account. The amount transferred shall not exceed the permitted personal monies, early contributions, and debt-retirement contributions, as defined in A.R.S. § 16-945(C), and shall contain contributions received from individuals only;
 2. Spending the money lawfully prior to April 30 of an election year in a way that does not constitute a direct campaign purpose and does not meet the definition of "expenditure" under A.R.S. § 16-901(24); and the event or item purchased is completed or otherwise used and depleted prior to April 30 of an election year;
 3. Remitting the money to the Fund; or
 4. Holding the money in the prior election campaign account, not to be used during the current election, except as provided pursuant to this Section.
- C. Application for certification as a participating candidate. Pursuant to A.R.S. § 16-947, a candidate seeking certification shall file with the Secretary of State a Commission-approved application and a campaign finance report reflecting all campaign activity to date. In the application, a candidate shall certify under oath that the candidate:
 1. Agrees to use all Clean Elections funding for direct campaign purposes only;
 2. Has filed a campaign finance report, showing all campaign activity to date in the current election cycle;

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3. Will comply with all requirements of the Act and Commission rules;
 4. Is subject to all enforcement actions by the Commission as authorized by the Act and Commission rules;
 5. Has the burden of proving that expenditures made by or on behalf of the candidate are for direct campaign purposes;
 6. Will keep and furnish to the Commission all documentation relating to expenditures, receipts, funding, books, records (including bank records for all accounts), and supporting documentation and other information that the Commission may request;
 7. Will permit an audit or examination by the Commission of all receipts and expenditures including those made by the candidate. The candidate shall also provide any material required in connection with an audit, investigation, or examination conducted by the Commission. The candidate shall facilitate the audit by making available in one central location, such as the Commission's office space, records and such personnel as are necessary to conduct the audit or examination, and shall pay any amounts required to be repaid;
 8. Will submit the name and mailing address of the person who is entitled to receive primary and general election funding on behalf of the candidate and the name and address of the campaign depository designated by the candidate. Changes in the information required by this subsection shall not be effective until submitted to the Commission in a letter signed or submitted electronically, by the candidate or the committee treasurer;
 9. Will pay any civil penalties included in a conciliation agreement or otherwise imposed against the candidate;
 10. Will timely file all campaign finance reports with the Secretary of State in an electronic format; and
 11. Will file an amended application for certification reporting any change in the information prescribed in the application for certification within five days after the change.
- D.** If certified as a participating candidate, the candidate shall:
1. Only accept early contributions from individuals during the exploratory and qualifying periods in accordance with A.R.S. § 16-945. No contributions may be accepted from political action committees, political parties or corporations;
 2. Not accept any private contributions, other than early contributions and a limited number of \$5 qualifying contributions;
 3. Make expenditures of personal monies of no more than the amounts prescribed in A.R.S. § 16-941(A)(2) for legislative candidates and for statewide office candidates;
 4. Conduct all campaign activity through a single campaign account. A participating candidate shall only deposit early contributions, qualifying contributions and Clean Elections funds into the candidate's current campaign account. The campaign account shall not be used for any non-direct campaign purpose as provided in Article 7 of these rules;
 5. Attend a Commission sponsored candidate training class within 60 days of being certified or within 60 days of the beginning of the qualifying period if the candidate is certified before the beginning of the qualifying period. If the candidate is unable to attend a training class, the candidate shall:
 - a. Notify the Commission that the candidate is unable to attend a training class. The Commission then will send that person the Commission training materials; and
 - b. The candidate shall sign and send to the Commission a statement certifying that he or she has received and reviewed the Commission training materials; and
 6. Limit campaign expenditures. Prior to qualifying for Clean Elections funding, a candidate shall not incur debt, or make an expenditure in excess of the amount of cash on hand. Upon approval for funding by the Secretary of State, a candidate may incur debt, or make expenditures, not to exceed the sum of the cash on hand and the applicable spending limit.
- E.** Loans. A participating candidate may accept an individual contribution as a loan or may loan his or her campaign committee personal monies during the exploratory and qualifying periods only. The total sum of the contribution received or personal funds and loans shall not exceed the expenditure limits set forth in A.R.S. § 16-941(A)(1) and (2). If the loan is to be repaid, the loans shall be repaid promptly upon receipt of Clean Elections funds if the participating candidate qualifies for Clean Elections funding. Loans from a financial institution or bank, to a candidate used for the purpose of influencing that candidate's election shall be considered personal monies and shall not exceed the personal monies expenditure limits set forth in A.R.S. § 16-941(A)(2).
- F.** A participating candidate may raise early contributions for election to one office and choose to run for election to another office.
- G.** Contributions to officeholder expense accounts are subject to the restrictions of A.R.S. § 41-1234.01, contributions prohibited during session; exceptions.

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 9 A.A.R. 3506, effective April 2, 2002 (Supp. 03-3). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1). Amended by exempt rulemaking at 13 A.A.R. 3597, effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1156, effective August 31, 2009 (Supp. 09-2). Amended by exempt rulemaking at 15 A.A.R. 1420, effective April 30, 2010 (Supp. 09-3). Subsection R2-20-104(C)(8) amended by exempt rulemaking at 19 A.A.R. 1685, effective October 6, 2011; Subsection R2-20-104(D)(5) amended by exempt rulemaking at 19 A.A.R. 1685, effective May 23, 2013 (Supp. 13-2). Amended by final exempt rulemaking at 23 A.A.R. 115, effective December 15, 2016 (Supp. 16-4).

R2-20-105. Certification for Funding

- A.** After a candidate is certified as a participating candidate, pursuant to A.R.S. § 16-947, in accordance with the procedure set forth in R2-20-104, that candidate may collect qualifying contributions only during the qualifying period.
- B.** A participating candidate must submit to the Secretary of State, a list of names of persons who made qualifying contributions, an application for funding prescribed by the Secretary of State, the minimum number of original reporting slips, and an amount equal to the sum of the qualifying contributions collected pursuant to A.R.S. § 16-950 no later than one week after the end of the qualifying period. Any and all expenses associated with obtaining the qualifying contributions, including credit card processing fees must be paid for from the candi-

date's early contributions or personal monies. A candidate may develop his or her own three-part reporting slip for qualifying contributions, or one that is photocopied or computer reproduced, if the form substantially complies with the form prescribed by the Commission. The candidate must comply with the Act and ensure that the original qualifying slip is tendered to the Secretary of State, a copy remains with the candidate, and that a copy is given to the contributor.

- C. A candidate may accept electronic \$5 qualifying contributions for the elected office sought by the candidate. The Secretary of State's secured internet portal must be used to collect electronic \$5 qualifying. A \$5 contribution must accompany every \$5 qualifying contribution form and must be submitted via the Secretary of State's portal using a private electronic payment service, specified by the Secretary of State's Office, bank account, credit or debit card. A non-refundable transaction fee may be assessed on electronic \$5 qualifying contribution transactions. The transaction fee is not a contribution to the candidate's campaign and is paid by the contributor. If excess funds are accumulated by the candidate's campaign based on the transaction fee then all excess funds must be given to the Commission and must be entered into the candidate's campaign finance report in a manner that indicates the transaction fees have been accumulated and transferred.
- D. A solicitor who seeks signatures and qualifying contributions on behalf of a participating candidate shall provide his or her residential address, typed or printed name and signature on each reporting slip. The solicitor shall also sign a sworn statement on the contribution slip avowing that the contributor signed the slip, that the contributor contributed the \$5, that based on information and belief, the contributor's name and address are correctly stated and that each contributor is a qualified elector of this state. If a contribution is received unsolicited, the candidate or contributor may sign the qualifying contribution form as the solicitor and is accountable for all of the responsibilities of a solicitor. Nothing in this rule shall prohibit the use of direct mail or the internet to obtain qualifying contributions as long as an original signature is provided on the qualifying contribution form. The candidate may sign the qualifying contribution form as the solicitor and is accountable for all of the responsibilities of a solicitor. For qualifying contributions received in accordance with subsection (C) of this Section, the residential address and signature of the solicitor is not required.
- E. The Secretary of State has the authority to approve or deny a candidate for Clean Elections funding, pursuant to A.R.S. § 16-950(C) based upon the verification of the qualifying contribution forms by the appropriate county recorder. The county recorder shall disqualify any qualifying contribution forms that are:
 - 1. Unsigned by the contributor;
 - 2. Undated; or
 - 3. That the recorder is unable to verify as matching signature of a person who is registered to vote, on the date specified inside the electoral district the candidate is seeking.
- F. The Secretary of State will notify the candidate and the Commission regarding the approval or denial of Clean Elections funds. A candidate who is denied Clean Elections funding after all of the slips are verified is eligible to submit supplemental qualifying contribution forms for one additional opportunity to be approved for funding pursuant to subsection (G) of this rule.
- G. The amount equal to the sum of the qualifying contributions collected and tendered to the Secretary of State pursuant to A.R.S. § 16-950(B) will be deposited into the fund, and the

amount tendered will not be returned to a candidate if a candidate is denied Clean Elections funding.

- H. In accordance with the procedure set forth at A.R.S. § 16-950(C), if the Secretary of State determines that the result of the five percent random sample is less than 110 percent of the slips needed to qualify for funding, then the Secretary of State shall send all of the slips for verification. If the county recorder has verified all of the candidate's signature slips and there is an insufficient number of valid qualifying contribution slips to qualify the candidate for funding, the candidate may make only one supplemental filing of additional qualifying contribution slips and qualifying contributions to the Secretary of State if all of the following apply:
 - 1. The candidate files at least the minimum number of additional slips needed to qualify for funding;
 - 2. The slips are not receipts for duplicate contributions from individuals who have previously contributed to that candidate; and
 - 3. The period for filing qualifying contributions slips has not expired.
- I. The Secretary of State shall forward facsimiles of all of the supplemental qualifying contribution slips to the appropriate county recorders for the county of the contributors' addresses as shown on the contribution slips. The county recorder shall verify all of the supplemental slips within 10 business days after receipt of the facsimiles and shall provide a report to the Secretary of State identifying as disqualified any slips that are unsigned by the contributor or undated or that the recorder is unable to verify as matching the signature of a person who is registered to vote, on the date specified on the slip, inside the electoral district of the office the candidate is seeking. On receipt of the report of the county recorder on all supplemental slips, the Secretary of State shall calculate the candidate's total number of valid qualifying contribution slips and shall approve or deny the candidate for funds.

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 9 A.A.R. 3506, effective April 30, 2002 (Supp. 03-3). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2). Amended by exempt rulemaking at 16 A.A.R. 1200, effective February 28, 2008 (Supp. 10-2). Subsection R2-20-105(C) amended by exempt rulemaking at 19 A.A.R. 1688, effective October 6, 2011; Subsection R2-20-105(J) amended by exempt rulemaking at 19 A.A.R. 1688, effective May 23, 2013 (Supp. 13-2). Amended by final exempt rulemaking at 23 A.A.R. 117, effective January 1, 2017 (Supp. 16-4).

R2-20-106. Distribution of Funds to Certified Candidates

- A. Before the initial disbursement of funds, the Commission shall review the candidate's funding application and all relevant facts and circumstances and:
 - 1. Verify that the number of signatures on the candidate's nominating petitions equals or exceeds the number required pursuant to A.R.S. § 16-322 as follows:
 - a. If the application is submitted before the March 1 voter registration list is determined, the Commission shall verify that the number of signatures on the candidate's nominating petitions equals or exceeds 115 percent of the number required pursuant to A.R.S. § 16-322 based on the prior election voter registration list as determined by the Secretary of State; or

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- b. If the application is submitted after the current year March 1 voter registration list is determined, the Commission shall verify that the number of signatures on the candidate's nominating petitions is equal to or greater than the number required pursuant to A.R.S. § 16-322.
- 2. Determine that the required number of qualifying contributions have been received and paid to the Secretary of State for deposit in the Fund; and
- 3. Determine whether the candidate is opposed in the election.
- B.** In making the determinations described in subsection (A)(3), the Commission shall consider all relevant facts and circumstances, and it shall not be bound by election formalities such as the filing of nominating petitions by others in determining whether an applicant is opposed. Among other evidence the Commission may consider is the existence of exploratory committees or filings made to organize campaign committees of opponents and other like indicia.
- C.** The Commission may review and affirm or change its determination that the candidate is or is not opposed until the ballot for the election is established.
- D.** Within seven days after a primary election and before the Secretary of State completes the canvass, the Commission shall disburse funds for general election campaigns to the participating candidates who received the greatest number of votes at each primary election, provided that the candidate with the highest number of votes out of the total number of votes, has at least two percentage points greater than the candidate with the next highest votes based on the unofficial results as of that date. In a legislative race for the Arizona House of Representatives, the Commission shall disburse funds for general election campaigns to participating candidates with the highest or second highest number of votes cast, provided such candidate received votes totaling at least two percentage points, of the total ballots cast, larger than the vote total cast for the candidate with the third highest vote total.
- E.** Promptly after the Secretary of State completes the canvass, the Commission shall disburse funds for general election campaigns to all eligible participating candidates to whom payment has not been made. If a participating candidate has received funds from the Commission pursuant to subsection (D) and the canvass or recount determines that the candidate is not eligible to appear on the general election ballot, the participating candidate shall return all unused funds to the Fund within 10 days after such determination is made. That candidate shall make no expenditures from general election funds from the date of the canvass.
- F.** The Commission may refuse to distribute funds to participating candidates in cases in which the Commission finds evidence of fraud or illegal activity committed by the participating candidate.
- G.** Pursuant to A.R.S. § 16-953(A), a participating candidate shall return to the Fund all of his or her primary election funds not committed to expenditures (1) during the primary election period; and (2) for goods or services directed to the primary election. A candidate shall not be deemed to have violated A.R.S. § 16-953(A) or this subsection on account of failure to use all materials purchased with primary election funds prior to the primary election, provided such candidate exercises good faith and diligent efforts to comply with the requirement that goods and services purchased with primary election funds be directed to the primary election. Subject to A.R.S. § 16-953(A) and this subsection, a candidate may continue to use goods purchased with primary election funds during the general election period.

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2).

R2-20-107. Candidate Debates

- A.** The Commission shall sponsor debates among statewide and legislative office candidates prior to the primary and general elections. Except as set forth in the subsection below, the Commission shall not be required to sponsor a debate if there is no participating candidate in the election for a particular office.
- B.** In the primary election period, the Commission shall sponsor political party primary election debates for every office in which:
 - 1. There are more candidates appearing on the ballot than there are seats available for the political party's nomination for general election candidates, and
 - 2. At least one of the candidates is a participating candidate.
- C.** The following candidates will not be invited to participate in debates as follows:
 - 1. In the primary election, write-in candidates for the primary election, independent candidates, no party affiliation or unrecognized party candidates.
 - 2. In the general election, write-in candidates.
- D.** In the event that there is no participating candidate in a primary or general election but there is an election involving candidates who are not unopposed, a candidate may request that the Commission sponsor a debate pursuant to this rule. If the requesting candidate is the sole participant in the debate the format shall be as prescribed in R2-20-107(K).
 - 1. A nonparticipating candidate who requests a debate pursuant to this rule shall complete and return the invitation form sent to the candidate by the Commission by the deadline identified on the form. Forms received by the Commission past the deadline may still be considered at the discretion of the Commission. Commission staff shall notify all invited candidates if a debate will be sponsored by the Commission and which candidates will participate.
 - 2. If a candidate requests that the Commission sponsor a debate and fails or refuses to attend the debate, or a candidate agrees to participate in a debate and subsequently fails or refuses to attend the debate sponsored by the Commission, each candidate who fails or refuses to attend the debate shall reimburse the Commission for the cost of debate preparations not to exceed \$10,000 for a non-participating candidate for the legislature and \$25,000 for a non-participating candidate for statewide office. In the event that a candidate requests a general election debate or agrees to participate in a general election debate but does not advance to the general election, the candidate shall not be liable for the reimbursement.
- E.** Pursuant to A.R.S. § 16-956(A)(2), all participating candidates certified pursuant to A.R.S. § 16-947 shall attend and participate in the debates sponsored by the Commission. No proxies or representatives are permitted to participate for any candidate and no statements may be read on behalf of an absent candidate.
- F.** Unless exempted, if a participating candidate fails to participate in any Commission-sponsored debate, the participating candidate shall be fined \$500.00. For purposes of this Section, each primary or general election shall be considered a separate election.

- G. A participating candidate may request to be exempt from participating in a required debate by doing the following:
 1. Submit a written request to the Commission at least one week prior to the scheduled debate, and
 2. State the reasons and circumstances justifying the request for exemption.
- H. After examining the request to be exempt, the Commission will exempt a candidate from participating in a debate if at least three Commissioners determine that the circumstances are:
 1. Beyond the control of the candidate; or
 2. Of such nature that a reasonable person would find the failure to attend justifiable or excusable.
- I. A participating candidate who fails to participate in a required debate may submit a request for excused absence to the Commission.
 1. The candidate's request for excused absence shall:
 - a. State the reason the candidate failed to participate in the debate, and
 - b. State the reason the candidate failed to request an exemption in advance, and
 - c. Be submitted to the Commission no later than five business days after the date of the debate the candidate failed to attend.
 2. After examining the request for excused absence, the Commission may excuse a candidate from the penalties imposed if at least three Commissioners determine that the circumstances were:
 - a. Beyond the control of the candidate; or
 - b. Of such nature that a reasonable person would find the failure to attend justifiable or excusable.
- J. When a participating candidate is not opposed in the general election, the candidate shall be exempt from participating in a Commission-sponsored debate for the general election.
- K. In the event that a participating candidate is opposed in the primary election or general election but is the only candidate taking part in a primary election period or general election period debate, as applicable, the debate will be held and will consist of a 30-minute question and answer session for the single participating candidate. If more than one candidate takes part in the debate, regardless of participation status, the debate will be held in accordance with the procedures established by the Commission staff.

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). New Section made by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2). Amended by exempt rulemaking at 15 A.A.R. 1156, effective August 31, 2009 (Supp. 09-2). Amended by exempt rulemaking at 19 A.A.R. 1690, effective October 6, 2011 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 4213, effective November 21, 2013 (Supp. 13-4). Amended by final exempt rulemaking at 21 A.A.R. 1627, effective July 23, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 119, effective December 15, 2016 (Supp. 16-4).

R2-20-108. Termination of Participating Candidate Status

- A. A candidate may voluntarily request termination of his or her participating candidate status at any time prior to notification

by the Commission that such candidate has qualified for Clean Elections funding. To withdraw from participating candidate status, a candidate shall send a letter to the Commission stating the candidate's intent to withdraw and the reason for the withdrawal. The candidate shall not accept any private monies until the withdrawal is approved by the Commission. The Commission shall act on the withdrawal request within seven days. If the Commission takes no action within the seven-day time period, the withdrawal is automatic.

- B. A candidate's participating candidate status shall automatically terminate if:
 1. The candidate fails to make such submissions to the Secretary of State as prescribed in R2-20-105(B) within seven days after the end of the qualifying period, or
 2. The candidate is denied Clean Elections funding by the Secretary of State and the candidate is ineligible to make a supplemental filing with the Secretary of State in accordance with R2-20-105(G).
- C. A candidate whose participating candidate status has been terminated in accordance with this Section shall be ineligible to receive Clean Elections funding for that election cycle unless he/she reapplies for certification and is in compliance with R2-20-104(A) and (C).
- D. In the event that a candidate who has collected qualifying contributions decides not to seek certification as a participating candidate, the candidate shall return all qualifying contributions received from contributors who have not given written permission to use their qualify contributions as campaign contributions. Written permission may include a check box on the original \$5 form that authorizes a candidate to treat the qualifying contribution as a general campaign contribution if he or she decides not to participate in the Clean Elections system. If a good faith attempt to return the funds to the contributor is unsuccessful, the contributions shall be submitted to the Fund.

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2). Amended by exempt rulemaking at 17 A.A.R. 1950, effective August 25, 2011 (Supp. 11-3).

DISPUTED SECTION R2-20-109

Editor's Note: The Governor's Regulatory Review Council and the Citizens Clean Elections Commission dispute whether R2-20-109 has expired. Those interested in that issue should consult counsel.

R2-20-109. Independent Expenditure Reporting Requirements

- A. In accordance with A.R.S. § 16-958(E), all persons obligated to file any campaign finance report under any provisions of Chapter 6, Article 2 of the Arizona Revised Statutes shall file such reports using the Secretary of State's Internet-based finance-reporting system, except if:
 1. Expressly provided otherwise by another Commission rule; or
 2. That system, or the necessary function on the system, is unavailable, in which case the executive director shall implement a substitute process.
- B. Independent Expenditure Reporting Requirements.
 1. Any person making independent expenditures cumulatively exceeding the amount prescribed in A.R.S. § 16-941(D) in an election cycle shall file campaign finance

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reports in accordance with A.R.S. § 16-958 and Commission rules.

2. Any person who fails to file a timely campaign finance report pursuant to A.R.S. § 16-941(D), A.R.S. § 16-958, shall be subject to a civil penalty as prescribed in A.R.S. § 16-942(B). Subsection R2-20-109(B)(4) does not apply to reports pursuant to A.R.S. §§ 16-941(D) and 16-958 or this subsection. Any expenditure advocating against one or more candidates shall be considered an expenditure on behalf of any opposing candidate(s). Penalties shall be assessed as follows:
 - a. For an election involving a candidate for statewide office, the civil penalty shall be \$300 per day.
 - b. For an election involving a legislative candidate, the civil penalty shall be \$100 per day.
 - c. The penalties in (a) and (b) shall be doubled if the amount not reported for a particular election cycle exceeds ten (10%) percent of the applicable adjusted primary election spending limit or adjusted general election spending limit.
 - d. The dollar amounts in items (a) and (b), and the spending limits in item (c) are subject to adjustment of A.R.S. § 16-959.
 - e. Penalties imposed pursuant to this subsection shall not exceed twice the amount of expenditures not reported.
3. A.R.S. § 16-942(B) applies to any entity including political committees that accepts contributions or makes expenditures on behalf of any candidate regardless of any other contributions taken or expenditures made and fails to timely file a campaign finance report under Chapter 6 of Title 16, Arizona Revised Statutes. Any expenditure advocating against one or more candidates shall be considered an expenditure on behalf of any opposing candidate(s). Penalties shall be assessed as follows:
 - a. For an election involving a candidate for statewide office, the civil penalty shall be \$300 per day.
 - b. For an election involving a legislative candidate, the civil penalty shall be \$100 per day.
 - c. The penalties in (a) and (b) shall be doubled if the amount not reported for a particular election cycle exceeds ten (10%) percent of the applicable adjusted primary election spending limit or adjusted general election spending limit.
 - d. The dollar amounts in items (a) and (b), and the spending limits in item (c) are subject to adjustment of A.R.S. § 16-959.
 - e. Penalties imposed pursuant to this subsection shall not exceed twice the amount of expenditures not reported.
4. For the purposes of A.A.C. R2-20-109(B)(3), the following apply:
 - a. An entity shall not be found to have the predominant purpose of influencing elections unless, a preponderance of the evidence establishes that during a two-year legislative election cycle, the total reportable contributions made by the entity plus the total reportable expenditures made by the entity, in any combination, in a calendar year exceeds \$1,000 and is more than fifty percent (50%) of the entity's total spending during the election cycle.
 - i. For purposes of this provision, a "reportable contribution" or "reportable expenditure" shall be limited to a contribution or expenditure, as defined in title 16 of the Arizona revised statutes, that must be reported to the Arizona secretary of state, the Arizona citizens clean elections commission, or local filing officer in Arizona. A contribution or expenditure that must be reported to the federal election commission or to the election authority of any other state, but not to the Arizona secretary of state, the Arizona citizens clean elections commission or a local filing officer in Arizona, shall not be considered a reportable contribution or reportable expenditure.
 - ii. For purposes of this provision, "total spending" shall not include volunteer time or fundraising and administrative expenses but shall include all other spending by the organization.
 - iii. For purposes of this provision, grants to other organizations shall be treated as follows:
 - (1) A grant made to a political committee or an organization organized under section 527 of the internal revenue code shall be counted in total spending and as a reportable contribution or reportable expenditure, unless expressly designated for use outside Arizona or for federal elections, in which case such spending shall be counted in total spending but not as a reportable contribution or reportable expenditure.
 - (2) If the entity making a grant takes reasonable steps to ensure that the transferee does not use such funds to make a reportable contribution or reportable expenditure, such a grant shall be counted in total spending but not as a reportable contribution or reportable expenditure.
 - vi. If the entity making a grant earmarks the grant for reportable contributions or reportable expenditures, knows the grant will be used to make reportable contributions or reportable expenditures, knows that a recipient will likely use a portion of the grant to make reportable contributions or reportable expenditures, or responds to a solicitation for reportable contributions or reportable expenditures, the grant shall be counted in total spending and the relevant portion of the grant as set forth in subsection (F)(12)(a)(v) shall count as a reportable contribution or reportable expenditure.
 - v. Notwithstanding subsections (F)(12)(a)(iii) and (iv) the amount of a grant counted as a reportable contribution or reportable expenditure shall be limited to the lesser of the grant or the following:
 - (1) The amount that the recipient organization spends on reportable contributions and reportable expenditures, plus
 - (2) The amount that the recipient organization gives to third parties but not more than the amount that such third parties fund reportable contributions or reportable expenditures.
 - b. Notwithstanding subsection (a), the commission may nonetheless determine that an entity is not a political committee if, taking into account all the facts and circumstances of grants made by an entity, it is not persuaded that the preponderance of the evidence establishes that the entity is a political com-

mittee as defined in title 16 of Arizona Revised Statutes.

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 13 A.A.R. 3597, effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1156, effective August 31, 2009 (Supp. 09-2). Amended by exempt rulemaking at 16 A.A.R. 152, effective January 29, 2010 (Supp. 10-1). Subsections R2-20-109(A), (A)(4), and (B) through (E) amended by exempt rulemaking at 19 A.A.R. 2923, effective October 6, 2011; Subsections R2-20-109(A) and (C)(2) amended by exempt rulemaking at 19 A.A.R. 2923, effective August 29, 2013; Subsection R2-20-109(C)(3) amended by exempt rulemaking at 19 A.A.R. 2923, effective January 1, 2014 (Supp. 13-3). Amended by exempt rulemaking at 19 A.A.R. 3519, effective September 27, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1329, effective May 22, 2014 (Supp. 14-2). Amended by exempt rulemaking at 20 A.A.R. 2804, effective September 11, 2014 (Supp. 14-3). Subsection R2-20-109(D) amended by final exempt rulemaking at 21 A.A.R. 3168 effective October 29, 2015; subsection R2-20-109(F) amended by final exempt rulemaking at 21 A.A.R. 3168 effective October 30, 2015 (Supp. 15-4). Amended by exempt rulemaking at 22 A.A.R. 2892, effective January 1, 2017 (Supp. 16-3). Amended by final exempt rulemaking at 23 A.A.R. 121, effective January 1, 2017 (Supp. 16-4). Section retained at the request of the Commission at 23 A.A.R. 1761 (Supp. 17-2, version 2).

DISPUTED SECTION R2-20-109

Editor's Note: The Governor's Regulatory Review Council and the Citizens Clean Elections Commission dispute whether R2-20-109 has expired. Those interested in that issue should consult counsel.

R2-20-109. Expired

Historical Note

The Governor's Regulatory Review Council has filed a notice that this Section expired under A.R.S. § 41-1056(G) at 23 A.A.R. 1757, effective June 7, 2017 (Supp. 17-2, version 2).

R2-20-110. Participating Candidate Reporting Requirements

- A. All participating candidates shall file campaign finance reports that include all receipts and disbursements for their current campaign account as follows:
1. Expenditures for consulting, advising, or other such services to a candidate shall include a detailed description of what is included in the service, including an allocation of services to a particular election. When appropriate, the Commission may treat such expenditures as though made during the general election period.
 2. If a participating candidate makes an expenditure on behalf of the campaign using personal funds, the candidate's campaign shall reimburse the candidate within seven calendar days of the expenditure. After the 7 day period has passed, the expenditure shall be deemed an in-kind contribution subject to all applicable limits.

3. A candidate may authorize an agent to purchase goods or services on behalf of such candidate, provided that:
 - a. Expenditures shall be reported as of the date that the agent promises, agrees, contracts or otherwise incurs an obligation to pay for the goods or services;
 - b. The candidate shall have sufficient funds in the candidate's campaign account to pay for the amount of such expenditure at the time it is made and all other outstanding obligations of the candidate's campaign committee; and
 - c. Within seven calendar days of the date upon which the amount of the expenditure is known, the candidate shall pay such amount from the candidate's campaign account to the agent who purchases the goods or services.
4. A joint expenditure is made when two or more candidates agree to share the cost of goods or services. Candidates may make a joint expenditure on behalf of one or more other campaigns, but must be authorized in advance by the other candidates involved in the expenditure, and must be reimbursed within seven days. Participating candidates may participate in joint expenditures for the cost of goods and services with one or more candidates, subject to the following:
 - a. Joint expenditures must be allocated fairly among candidates. An allocated share of a joint expenditure paid by one candidate pursuant to such an agreement must be reimbursed within seven days.
 - b. Any violator of part (a) shall be liable for a penalty pursuant to R2-20-222, in addition to penalties prescribed by any other law.
 - c. If a fairly allocated share of any joint expenditure is not reimbursed to a candidate, the unreimbursed amount of the joint expenditure fairly allocated to that candidate shall be deemed a contribution to that candidate by the campaign committee of the candidate obligated to reimburse the share.
 - d. If a fairly allocated share of any joint expenditure is not reimbursed to a participating candidate, the candidate obligated to reimburse the share shall reimburse the fund for the unreimbursed amount of the joint expenditure fairly allocated to the obligated candidate, in addition to any penalty specified by law.
 - e. A candidate's payment for an advertisement, literature, material, campaign event or other activity shall be considered a joint expenditure including, but not limited to, the following criteria:
 - i. The activity includes express advocacy of the election or defeat of more than 2 candidates;
 - ii. The purpose of the material or activity is to promote or facilitate the election of a second candidate;
 - iii. The use and prominence of a second candidate or his or her name or likeness in the material or activity;
 - iv. The material or activity includes an expression by a second candidate of his or her view on issues brought up during the election campaign;
 - v. The timing of the material or activity in relation to the election of a second candidate;
 - vi. The distribution of the material or the activity is targeted to a second candidate's electorate; or
 - vii. The amount of control a second candidate has over the material or activity.

5. For the purposes of the Act and Commission rules, a candidate or campaign shall be deemed to have made an expenditure as of the date upon which the candidate or campaign promises, agrees, contracts or otherwise incurs an obligation to pay for goods or services.
- B. Timing of reporting expenditures.**
1. Except as set forth in subsection (A)(2) above, a participating candidate shall report a contract, promise or agreement to make an expenditure resulting in an extension of credit as an expenditure, in an amount equal to the full future payment obligation, as of the date the contract, promise or agreement is made.
 2. In the alternative to reporting in accordance with subsection (A)(1) above, a participating candidate may report a contract, promise or agreement to make an expenditure resulting in an extension of credit as follows:
 - a. For a month-to-month or other such periodic contract or agreement that is terminable by a candidate at will and without any termination penalty or payment, the candidate may report an expenditure, in an amount equal to each future periodic payment, as of the date upon which the candidate's right to terminate the contract or agreement and avoid such future periodic payment elapses.
 - b. For a contract, promise or agreement to provide goods or services during the general election period that is contingent upon a candidate advancing to the general election period, the candidate may report an expenditure, in an amount equal to the general election period payment obligation, as of the date upon which such contingency is satisfied.
 - c. For a contract, promise or agreement to pay rent, utility charges or salaries payable to individuals employed by a candidate's campaign committee as staff, the candidate may report an expenditure, in an amount equal to each periodic payment, as of the date that is the sooner of (i) the date upon which payment is made; or (ii) the date upon which payment is due.
- C. Reports and Refunds of Excess Monies by Participating Candidates.**
1. In addition to any campaign finance report required by Chapter 6 of Title 16, Arizona Revised Statutes, participating candidates shall file the following campaign finance reports and dispose of excess monies as follows:
 - a. Prior to filing the application for funding pursuant to A.R.S. § 16-950, participating candidates shall file a campaign finance report with the names of the persons who have made qualifying contributions to the candidate.
 - b. At the end of the qualifying period, a participating candidate shall file a campaign finance report consisting of all early contributions received, including personal monies and the expenditures of such monies.
 - i. The campaign finance report shall be filed with the Secretary of State no later than five days after the last day of the qualifying period and shall include all campaign activity through the last day of the qualifying period.
 - ii. If the campaign finance report shows any amount of unspent monies, the participating candidate, within five days after filing the campaign finance report, shall remit all unspent contributions to the Fund, pursuant to A.R.S. § 16-945(B). Any unspent personal monies shall be returned to the candidate or the candidates' family member within five days.
 2. Each participating candidate shall file a campaign finance report consisting of all expenditures made in connection with an election, all contributions received in the election cycle in which such election occurs, and all payments made to the Clean Elections Fund. If the campaign finance report shows any amount unspent, the participating candidate, within five days after filing the campaign finance report, shall send a check from the candidate's campaign account to the Commission in the amount of all unspent monies to be deposited in the Fund.
 - a. The campaign finance report for the primary election shall be filed within five days after the primary election day and shall reflect all activity through the primary election day.
 - b. The campaign finance report for the general election shall be filed within five days after the general election day and shall reflect all activity through the general election day.
 3. In the event that a participating candidate purchases goods or services from a subcontractor or other vendor through an agent pursuant to subsection (A)(3), the candidate's campaign finance report shall include the same detail as required in A.R.S. § 16-948(C) for each such subcontractor or other vendor. Such detail is also required when petty cash funds are used for such expenditures.

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 19 A.A.R. 1693, effective May 23, 2013 (Supp. 13-2). Amended by final exempt rulemaking at 21 A.A.R. 1629, effective July 23, 2015 (Supp. 15-3). Section R2-20-110 renumbered to Section R2-20-114; new Section R2-20-110 made by exempt rulemaking at 22 A.A.R. 2897, effective January 1, 2017 (Supp. 16-3). Amended by final exempt rulemaking at 23 A.A.R. 124, effective January 1, 2017 (Supp. 16-4).

DISPUTED SECTION R2-20-111

Editor's Note: The Governor's Regulatory Review Council and the Citizens Clean Elections Commission dispute whether R2-20-111 has expired. Those interested in that issue should consult counsel.

R2-20-111. Non-participating Candidate Reporting Requirements and Contribution Limits

- A.** Any person may file a complaint with the Commission alleging that any non-participating candidate or that candidate's campaign committee has failed to comply with or violated A.R.S. § 16-941(B). Complaints shall be processed as prescribed in Article 2 of these rules. In addition to those penalties outlined in R2-20-222(B), a non-participating candidate or candidate's campaign committee violating A.R.S. § 16-941(B) shall be subject to penalties prescribed in A.R.S. § 16-941(B) and A.R.S. § 16-942(B) and (C) as applicable:
- B.** Penalties under A.R.S. § 16-942(B), for a violation by or on behalf of any non-participating candidate or that candidate's campaign committee of any reporting requirement imposed by chapter 6 of title 16, Arizona Revised Statutes, in association with any violation of A.R.S. § 16-941(B):
 1. For an election involving a candidate for statewide office, the civil penalty shall be \$300 per day.

2. For an election involving a legislative candidate, the civil penalty shall be \$100 per day.
 3. The penalties in (B)(1) and (B)(2) shall be doubled if the amount not reported for a particular election cycle exceeds ten percent (10%) of the applicable one of the adjusted primary election spending limit or adjusted general election spending limit.
 4. The dollar amounts in items (B)(1) and (B)(2), and the spending limits in item (B)(3) are subject to adjustment of A.R.S. § 16-959.
- C.** Penalties under A.R.S. § 16-942(C): Where a campaign finance report filed by a non-participating candidate or that candidate's campaign committee indicates a violation of A.R.S. § 16-941(B) that involves an amount in excess of ten percent (10%) of the sum of the adjusted primary election spending limit and the adjusted general election spending limits specified by A.R.S. § 16-961(G) and (H) as adjusted pursuant to A.R.S. § 16-959, that violation shall result in disqualification of a candidate or forfeiture of office.
- D.** Penalties under A.R.S. § 16-941(B): Regardless of whether or not there is a violation of a reporting requirement, a person who violates A.R.S. § 16-941(B) is subject to a civil penalty of three times the amount of money that has been received, expended, or promised in violation of A.R.S. § 16-941(B) or three times the value in money for an equivalent of money or other things of value that have been received, expended, or promised in violation of A.R.S. § 16-941(B).
- E.** The twenty percent reduction in A.R.S. § 16-941(B) applies to all campaign contributions limits on contributions that are permitted to be accepted by nonparticipating candidates.
- F.** Contribution limits as adjusted by A.R.S. § 16-931 shall be the base level contribution limits subject to reduction pursuant to A.R.S. § 16-941(B).

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2). Amended by exempt rulemaking at 13 A.A.R. 3597, effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1156, effective August 31, 2009 (Supp. 09-2). Amended by final exempt rulemaking at 21 A.A.R. 1631, effective July 23, 2015 (Supp. 15-3). Section R2-20-111 renumbered to R2-20-115 at 22 A.A.R. 2904; new Section R2-20-111 made by exempt rulemaking at 22 A.A.R. 2899 effective January 1, 2017 (Supp. 16-3). Amended by final exempt rulemaking at 23 A.A.R. 126, effective January 1, 2017 (Supp. 16-4). Section retained at the request of the Commission at 23 A.A.R. 1761 (Supp. 17-2, version 2).

DISPUTED SECTION R2-20-111

Editor's Note: The Governor's Regulatory Review Council and the Citizens Clean Elections Commission dispute whether R2-20-111 has expired. Those interested in that issue should consult counsel.

R2-20-111. Expired

Historical Note

The Governor's Regulatory Review Council has filed a notice that this Section expired under A.R.S. § 41-

1056(G) at 23 A.A.R. 1757, effective June 7, 2017 (Supp. 17-2, version 2).

R2-20-112. Political Party Exceptions

The provisions of A.R.S. § 16-911(B)(4) shall apply to a candidate, whether participating or nonparticipating, who becomes a nominee as defined in A.R.S. § 16-901(38).

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). New Section made by exempt rulemaking at 13 A.A.R. 3597, effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1423, effective October 22, 2009 (Supp. 09-3). Amended by final exempt rulemaking at 23 A.A.R. 128, effective January 1, 2017 (Supp. 16-4).

R2-20-113. Candidate Statement Pamphlet

- A.** The Commission shall publish a candidate statement pamphlet in both the primary and general elections as required by A.R.S. § 16-956(A)(1). Commission staff shall send invitations for submission of a 200 word statement to every statewide and legislative candidate who has qualified for the ballot.
- B.** The following candidates will not be invited to submit a statement for the candidate statement pamphlet:
1. In the primary election: write-in candidates for the primary election, independent candidates, no party affiliation or unrecognized party candidates.
 2. In the general election: write in candidates.

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). New Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2). Amended by exempt rulemaking at 13 A.A.R. 3597, effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1156, effective August 31, 2009 (Supp. 09-2). Amended by exempt rulemaking at 15 A.A.R. 1423, effective October 22, 2009 (Supp. 09-3). Amended by exempt rulemaking at 15 A.A.R. 1567, effective September 2, 2009 (Supp. 09-3). Amended by exempt rulemaking at 16 A.A.R. 1200, effective January 8, 2010 (Supp. 10-2). Repealed by exempt rulemaking at 19 A.A.R. 1694, effective October 6, 2011 (Supp. 13-2). New Section made by final exempt rulemaking at 21 A.A.R. 1633, effective July 23, 2015 (Supp. 15-3).

R2-20-114. Candidate Campaign Bank Account

- A.** Each participating candidate shall designate a single campaign bank account for conducting campaign financial activity. During an election cycle, each participating candidate shall conduct all campaign financial activities through a single, current election campaign bank account and any petty cash accounts as are permitted by law.
- B.** A participating candidate may maintain a campaign bank account other than the current election campaign bank account described in subsection (A) if the other campaign bank account is for a campaign in a prior election cycle in which the candidate was not a participating candidate.

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- C. During the exploratory period, a candidate may receive debt-retirement contributions for a campaign during a prior election cycle if the funds are deposited in the bank account for that prior campaign. A candidate shall not deposit debt-retirement contributions into the current election campaign bank account.

Historical Note

New Section R2-20-114 renumbered from R2-20-110 by exempt rulemaking at 22 A.A.R. 2897 and 22 A.A.R. 2902, effective January 1, 2017 (Supp. 16-3).

R2-20-115. Books and Records Requirements

- A. All candidates shall maintain, at a single location within the state, the books and records of financial transactions, and other information required by A.R.S. § 16-904.
- B. All candidates shall ensure that the books and records of accounts and transactions of the candidate are recorded and preserved as follows:
1. The treasurer of a candidate's campaign committee is the custodian of the candidate's books and records of accounts and transactions, and shall keep a record of all of the following:
 - a. All contributions or other monies received by or on behalf of the candidate.
 - b. The identification of any individual or political committee that makes any contribution together with the date and amount of each contribution and the date of deposit into the candidate's campaign bank account.
 - c. Cumulative totals contributed by each individual or political committee.
 - d. The name and address of every person to whom any expenditure is made, and the date, amount and purpose or reason for the expenditure.
 - e. All periodic bank statements or other statements for the candidate's campaign bank account.
 - f. In the event that the campaign committee uses a petty cash account the candidate's campaign finance report shall include the same detail for each petty cash expenditure as required in A.R.S. § 16-948(C) for each vendor.
 2. No expenditure may be made for or on behalf of a candidate without the authorization of the treasurer or his or her designated agent.
 3. Unless specified by the contributor or contributors to the contrary, the treasurer shall record a contribution made by check, money order or other written instrument as a contribution by the person whose signature or name appears on the bottom of the instrument or who endorses the instrument before delivery to the candidate. If a contribution is made by more than one person in a single written instrument, the treasurer shall record the amount to be attributed to each contributor as specified.
 4. All contributions other than in-kind contributions and qualifying contributions must be made by a check drawn on the account of the actual contributor or by a money order or a cashier's check containing the name of the actual contributor or must be evidenced by a written receipt with a copy of the receipt given to the contributor and a copy maintained in the records of the candidate.
 5. The treasurer shall preserve all records set forth in subsection (B) and copies of all campaign finance reports required to be filed for three years after the filing of the campaign finance report covering the receipts and disbursements evidenced by the records.
 6. If requested by the attorney general, the county, city or town attorney or the filing officer, the treasurer shall pro-

vide any of the records required to be kept pursuant to this Section.

- C. Any request to inspect a candidate's records under A.R.S. § 16-958(F) shall be sent to the candidate, with a copy to the Commission, 10 or more days before the proposed date of the inspection. If the request is made within two weeks before the primary or general election, the request shall be delivered at least two days before the proposed date of inspection. Every request shall state with reasonable particularity the records sought.
1. The inspection shall occur at a location agreed upon by the candidate and the person making the request. If no agreement can be reached, the inspection shall occur at the Commission office. The inspection shall occur during the Commission's regular business hours and shall be limited to a two-hour time period.
 2. The requesting party may obtain copies of records for a reasonable fee. The Commission shall not be responsible for making copies. The person in possession of the records shall produce copies within a reasonable time of the receipt of the copying request and fees.
 3. The Commission will not permit public inspection of records if it determines that the inspection is for harassment purposes.
 4. If a person who requests to inspect a candidate's records under A.R.S. § 16-958(F) is denied such a request, the requesting party may notify the Commission. The Commission may enforce the public inspection request by issuing a subpoena pursuant to A.R.S. § 16-956(B) for the production of any books, papers, records, or other items sought in the public inspection request. The subpoena shall order the candidate to produce:
 - a. All papers, records, or other items sought in the public inspection request;
 - b. No later than two business days after the date of the subpoena; and
 - c. To the Commission's office during regular business hours.
 5. Any person who believes that a candidate or a candidate's campaign committee has not complied with this Section may appeal to Superior Court.

Historical Note

New Section R2-20-115 renumbered from R2-20-111 by exempt rulemaking at 22 A.A.R. 2899 and 22 A.A.R. 2904, effective January 1, 2017 (Supp. 16-3).

ARTICLE 2. COMPLIANCE AND ENFORCEMENT PROCEDURES**R2-20-201. Scope**

These rules provide procedures for processing possible violations of the Citizens Clean Elections Act.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-202. Initiation of Compliance Matters

Compliance matters may be initiated by a complaint or on the basis of information ascertained by the Commission in the normal course of carrying out its statutory responsibilities.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-203. Complaints

- A. Any person who believes that a violation of any statute or rule over which the Commission has jurisdiction has occurred or is

about to occur may file a complaint in writing to the Executive Director.

- B. A complaint shall conform to the following:
 1. Provide the full name and address of the complainant; and
 2. Contents of the complaint shall be sworn to and signed in the presence of a notary public and shall be notarized.
- C. All statements made in a complaint are subject to the statutes governing perjury. The complaint shall differentiate between statements based upon personal knowledge and statements based upon information and belief.
- D. The complaint shall conform to the following provisions:
 1. Clearly identify as a respondent each person or entity who is alleged to have committed a violation;
 2. Statements which are not based upon personal knowledge shall be accompanied by an identification of the source of information which gives rise to the complainant's belief in the truth of such statements;
 3. Contain a clear and concise recitation of the facts which describe a violation of a statute or rule over which the Commission has jurisdiction; and
 4. Be accompanied by any documentation supporting the facts alleged if such documentation is known of, or available to, the complainant.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).
Amended by exempt rulemaking at 9 A.A.R. 3511, effective May 21, 2002 (Supp. 03-3). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-204. Initial Complaint Processing; Notification

- A. Upon receipt of a complaint, the Administrative Counsel shall review the complaint for substantial compliance with the technical requirements of R2-20-203, and, if it complies with those requirements, shall within five days after receipt notify each respondent that the complaint has been filed, advise each respondent of Commission compliance procedures, and provide each respondent a copy of the complaint.
- B. If a complaint does not comply with the requirements of R2-20-203, the Administrative Counsel shall so notify the complainant and any person or entity identified therein as respondent, within the five-day period specified in subsection (A), that no action should be taken on the basis of that complaint. A copy of the complaint shall be provided with the notification to each respondent.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).
Amended by final exempt rulemaking at 21 A.A.R. 1634, effective July 23, 2015 (Supp. 15-3).

R2-20-205. Opportunity for No Action on Complaint-generated Matters

- A. A respondent shall be afforded an opportunity to demonstrate that no action should be taken on the basis of a complaint by submitting, within 5 days from receipt of a written copy of the complaint, a letter or memorandum setting forth reasons why the Commission should take no action.
- B. The Commission shall not take any action, or make any finding, against a respondent other than action dismissing the complaint, unless it has considered such response or unless no such response has been served upon the Commission within the 5 day period specified in subsection A.

- C. The respondent's response shall be sworn to and signed in the presence of a notary public and shall be notarized. The respondent's failure to respond in accordance with subsection A within 5 days of receiving the written copy of the complaint may be viewed as an admission to the allegations made in the complaint for purposes of the reason to believe finding pursuant to A.A.C. R2-20-206.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).
Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by final exempt rulemaking at 21 A.A.R. 1636, effective July 23, 2015 (Supp. 15-3).

R2-20-206. Executive Director's Recommendation on Complaint-generated Matters

- A. Following either the expiration of the 5 day period specified by A.A.C. R2-20-205 or the receipt of a response as specified by A.A.C. R2-20-205(A), whichever occurs first, the Executive Director:
 1. May recommend to the Commission whether it should find reason to believe that a respondent has committed or is about to commit a violation of a statute or rule over which the Commission has jurisdiction;
 2. May recommend that the Commission find that there is no reason to believe that a violation of a statute or rule over which the Commission has jurisdiction has been committed or is about to be committed, or that the Commission otherwise dismiss a complaint without regard to the provisions of A.A.C. R2-20-205(A); or
 3. May close the complaint generated matter without a reason to believe recommendation from the Executive Director based upon Respondent complying with the statute or rule on which the complaint is founded and in such case shall notify the Commission.
- B. Neither the complainant nor the respondent has the right to appeal the Executive Director's recommendation made pursuant to subsection (A) because the recommendation is not an appealable agency action.
- C. If the complaint relates to a violation of A.R.S. § 16-941(B) by a non-participating candidate or that candidate's campaign committee, the Executive Director shall not proceed pursuant to R2-20-206(A) or R2-20-207(A), without first receiving Commission approval to initiate an inquiry.
- D. The respondent shall not have the right to appeal the Commission's decision to authorize an inquiry pursuant to subsection (C) because the Commission's decision whether or not to authorize an inquiry is not an appealable agency action.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).
Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1). Amended by exempt rulemaking at 20 A.A.R. 1332, effective May 22, 2014 (Supp. 14-2). Amended by final exempt rulemaking at 21 A.A.R. 1638, effective July 23, 2015 (Supp. 15-3).

R2-20-207. Internally Generated Matters; Referrals

- A. On the basis of information ascertained by the Commission in the normal course of carrying out its statutory responsibilities, or on the basis of a referral from an agency of the state, the Executive Director may recommend in writing that the Commission find reason to believe that a person or entity has com-

mitted or is about to commit a violation of a statute or rule over which the Commission has jurisdiction.

- B.** If the Commission finds reason to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred or is about to occur, the Executive Director shall notify the respondent of the Commission's decision and shall include a copy of a staff report setting forth the legal basis and the alleged facts which support the Commission's action.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).
Amended by exempt rulemaking at 13 A.A.R. 3524, effective January 1, 2008 (Supp. 07-3).

R2-20-208. Complaint Processing; Notification

- A.** If the Commission, either after reviewing a complaint-generated recommendation as described in R2-20-206 and any response of a respondent submitted pursuant to R2-20-205, or after reviewing an internally-generated recommendation as described in R2-20-207, determines by an affirmative vote of at least three of its members that it has reason to believe that a respondent has violated a statute or rule over which the Commission has jurisdiction, the Commission shall notify such respondent of the Commission's finding, setting forth the sections of the statute or rule alleged to have been violated and the alleged factual basis supporting the finding. In accordance with A.R.S. § 16-957(A), the Commission shall serve on the respondent an order requiring compliance within 14 days. During that period, the respondent may provide any explanation to the Commission, comply with the order, or enter into a public administrative settlement with the Commission.
- B.** If the Commission finds no reason to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred, or otherwise terminates its proceedings, the Executive Director shall so notify both the complainant and respondent.
- C.** The complainant may bring an action in Superior Court in accordance with A.R.S. § 16-957(C) if the Commission finds there is no reason to believe a violation of a statute or rule over which the Commission has jurisdiction has occurred or otherwise terminates its proceedings.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).
Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1).

R2-20-209. Investigation

- A.** The Commission shall conduct an investigation in any case in which the Commission finds reason to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred or is about to occur.
- B.** The Commission's investigation may include, but is not limited to, field investigations, audits, and other methods of information gathering.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-210. Written Questions Under Order

The Commission may issue an order requiring any person to submit sworn, written answers to written questions and may specify a date by which such answers must be submitted to the Commission.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).
Amended by exempt rulemaking at 9 A.A.R. 3511, effective May 21, 2002 (Supp. 03-3).

R2-20-211. Subpoenas and Subpoenas Duces Tecum; Depositions

- A.** The Commission may authorize its Executive Director or Assistant Attorney General to issue subpoenas requiring the attendance and testimony of any person by deposition and to issue subpoenas duces tecum for the production of documentary or other tangible evidence in connection with a deposition or otherwise.
- B.** If the Commission orders oral testimony to be taken by deposition or for documents to be produced, the subpoena shall so state and shall advise the deponent or person subpoenaed that all testimony will be under oath. The Commission may authorize its Executive Director to take a deposition and have the power to administer oaths.
- C.** The deponent shall have the opportunity to review and sign depositions taken pursuant to this rule.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).
Amended by exempt rulemaking at 13 A.A.R. 3524, effective January 1, 2008 (Supp. 07-3).

R2-20-212. Repealed

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-213. Motions to Quash or Modify a Subpoena

- A.** Any person to whom a subpoena is directed may, prior to the time specified therein for compliance, but in no event more than five days after the date of receipt of such subpoena, apply to the Commission to quash or modify such subpoena, accompanying such application with a brief statement of the reasons therefore.
- B.** The Commission may deny the application, quash the subpoena or modify the subpoena.
- C.** The person subpoenaed and the Executive Director may agree to change the date, time, or place of a deposition or for the production of documents without affecting the force and effect of the subpoena, but such agreements shall be confirmed in writing.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).
Amended by exempt rulemaking at 13 A.A.R. 3524, effective January 1, 2008 (Supp. 07-3).

R2-20-214. The Probable Cause to Believe Recommendation; Briefing Procedures

- A.** Upon completion of the investigation conducted pursuant to R2-20-209, the Executive Director shall prepare a brief setting forth his or her position on the factual and legal issues of the case and containing a recommendation on whether the Commission should find probable cause to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred or is about to occur.
- B.** The Executive Director shall notify each respondent of the recommendation and enclose a copy of his or her brief.

- C. Within five days from receipt of the Executive Director's brief, the respondent may file a brief with the Commission setting forth the respondent's position on the factual and legal issues of the case.
- D. After reviewing the respondent's brief, the Executive Director shall promptly advise the Commission in writing whether he or she intends to proceed with the recommendation or to withdraw the recommendation from Commission consideration.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1).

R2-20-215. Probable Cause to Believe Finding

- A. If the Commission, after having found reason to believe and after following the procedures set forth in R2-20-214, determines by an affirmative vote of at least three of its members that there is probable cause to believe that a respondent has violated a statute or rule over which the Commission has jurisdiction, the Commission shall authorize the Executive Director to so notify the respondent by an order, that states the nature of the violation, pursuant to A.R.S. § 16-957.
- B. If the Commission finds no probable cause to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred or otherwise orders a termination of Commission proceedings, it shall authorize the Executive Director to notify both respondent and complainant by letter that the proceeding has ended. The Executive Director's letter also will inform the parties that the Commission is not precluded from taking action on this matter in the future if evidence is discovered which may alter the decision of the Commission.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Amended by exempt rulemaking at 9 A.A.R. 3511, effective May 21, 2002 (Supp. 03-3). Amended by exempt rulemaking at 13 A.A.R. 3524, effective January 1, 2008 (Supp. 07-3).

R2-20-216. Conciliation

- A. Upon a Commission finding of probable cause to believe that the respondent has violated a statute or rule over which the Commission has jurisdiction, the Executive Director shall attempt to settle the matter as authorized by A.R.S. § 16-957(A) by informal methods of administrative settlement or conciliation, and shall attempt to reach a tentative conciliation agreement with the respondent.
- B. A conciliation agreement pursuant to subsection (A) of this Section is not binding upon either party unless and until it is signed by the respondent and by the Executive Director upon approval by the affirmative vote of at least three members of the Commission.
- C. If a conciliation agreement is reached between the Commission and the respondent, the Executive Director shall send a copy of the signed agreement to both complainant and respondent.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

Amended by exempt rulemaking at 9 A.A.R. 3511, effective May 21, 2002 (Supp. 03-3).

R2-20-217. Enforcement Proceedings

- A. Upon a finding of probable cause that the alleged violator remains out of compliance, the Executive Director may recommend to the Commission that the Commission authorize the issuance of an order and assessment of civil penalties pursuant to A.R.S. § 16-957(B).
- B. The Commission may, by an affirmative vote of at least three of its members, authorize the Executive Director to issue an order and assess civil penalties pursuant to A.R.S. § 16-957(B).
- C. Subsections (A) and (B) of this rule shall not preclude the Commission, upon request of a respondent, from entering into a conciliation agreement pursuant to R2-20-216 even after the Commission authorizes the Executive Director to issue an order and assess civil penalties pursuant to subsection (B). Any conciliation agreement reached under this subsection is subject to the provisions of R2-20-216(B) and shall have the same force and effect as a conciliation agreement reached under R2-20-216(D).

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Amended by exempt rulemaking at 9 A.A.R. 3511, effective May 21, 2002 (Supp. 03-3). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1).

R2-20-218. Repealed**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-219. Repealed**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 9 A.A.R. 3511, effective May 21, 2002 (Supp. 03-3).

R2-20-220. Ex Parte Communications

- A. In order to avoid the possibility of prejudice, real or apparent, to the public interest in enforcement actions pending before the Commission pursuant to its compliance procedures, except to the extent required for the disposition of ex parte matters as required by law (for example, during the normal course of an investigation or a conciliation effort), no interested person outside the agency shall make or cause to be made to any Commissioner or any member of any Commission staff any ex parte communication relative to the factual or legal merits of any enforcement action, nor shall any Commissioner or member of the Commission's staff make or entertain any such ex parte communications.
- B. This rule shall apply from the time a complaint is filed with the Commission or from the time that the Commission determines on the basis of information ascertained in the normal course of its statutory responsibilities that it has reason to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred or may occur, and remains in force until the Commission has finally concluded all action with respect to the matter in question.

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- C. Nothing in this Section shall be construed to prohibit contact between a respondent or respondent's attorney and any attorney or the Administrative Counsel or the Assistant Attorney General in the course of representing the Commission or the respondent with respect to an enforcement proceeding or civil action. No statement made by a Commission attorney or staff member shall bind or estop the Commission.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-221. Representation by Counsel; Notification

- A. If a respondent wishes to be represented by counsel with regard to any matter pending before the Commission, respondent shall so advise the Commission by sending a letter of representation signed by the respondent, which letter shall state the following:
1. The name, address, and telephone number of the counsel; and
 2. A statement authorizing such counsel to receive any and all notifications and other communications from the Commission on behalf of respondent.
- B. Upon receipt of a letter of representation, the Commission shall have no contact with respondent except through the designated counsel unless authorized in writing by respondent. The Commission will send a copy of this letter to the respondent's attorney.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-222. Civil Penalties

- A. If the Commission has reason to believe by a preponderance of the evidence that a participating candidate is not in compliance with the Act or Commission rules, then in addition to other penalties under law, the Commission may decertify a candidate, deny or suspend funding, order repayment of funds, or impose a penalty not to exceed \$1,000 for a participating candidate for the legislature and 5,000 for a participating candidate for statewide office.
- B. If the Commission has reason to believe by a preponderance of the evidence that a person other than a participating candidate is not in compliance with the Act or Commission rules, then in addition to other penalties under law, the Commission may impose a penalty not to exceed \$1,000.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Amended by exempt rulemaking at 13 A.A.R. 3524, effective January 1, 2008 (Supp. 07-3). Amended by exempt rulemaking at 19 A.A.R. 1697, effective May 23, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3524, effective September 27, 2013 (Supp. 13-4).

R2-20-223. Notice of Appealable Agency Action

If the Commission makes a probable cause finding pursuant to R2-20-215 or decides to initiate an enforcement proceeding pursuant to R2-20-217, the Assistant Attorney General (AAG) shall draft and serve notice of an appealable agency action pursuant to A.R.S. § 41-1092.03 and § 41-1092.04 on the respondent. The notice shall identify the following:

1. The statute or rule violated and specific facts constituting the violation;
2. A description of the respondent's right to request a hearing and to request an informal settlement conference; and

3. A description of what the respondent may do if the respondent wishes to remedy the situation without appealing the Commission's decision.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R.

588, effective November 27, 2001 (Supp. 02-1).

Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by final exempt rulemaking at 21 A.A.R. 2921, effective July 1, 2011; filed in the Office October 27, 2015 (Supp. 15-4).

R2-20-224. Request for an Administrative Hearing

- A. The respondent must file a request for a hearing with the Commission within 30 days of receipt of the notice prescribed in R2-20-223.
- B. If the respondent requests a hearing, the AAG shall notify the Office of Administrative Hearings (OAH) of the appeal and shall coordinate a hearing date with the Commission's AAG and Commission staff that may be called as witnesses and OAH. The hearing must be held within 60 days after the notice of appeal is filed with the Commission.
- C. The AAG shall prepare and serve a notice of hearing on all parties to the appeal at least 30 days before the hearing date, unless and expedited hearing is requested and granted. The notice of hearing shall be drafted in accordance with A.R.S. § 41-1092.05(D).

Historical Note

New Section made by exempt rulemaking at 8 A.A.R.

588, effective November 27, 2001 (Supp. 02-1).

R2-20-225. Informal Settlement Conference

- A. If the respondent requests an informal settlement conference, the informal settlement conference shall be held within 15 days after the Commission receives the request. A request for an informal settlement conference shall be in writing and must be filed with the Commission no later than 20 days before the hearing date. A person with the authority to act on behalf of the Commission must represent the Commission at the conference. The AAG shall attend the settlement conference, but shall not be the individual authorized to act on behalf of the Commission.
- B. The Commission representative shall notify the appellant in writing that the statements, either written or oral, made by the appellant at the conference, including a written document, created or expressed solely for the purpose of settlement negotiations, are inadmissible in any subsequent administrative hearing. The parties participating in the settlement conference waive their right to object to the participation of the agency representative in the final administrative decision.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R.

588, effective November 27, 2001 (Supp. 02-1).

R2-20-226. Administrative Hearing

- A. If the matter continues to a hearing, the hearing shall be held in accordance with A.R.S. § 41-1092.07. The Administrative Law Judge (ALJ) must issue a written recommended decision within 20 days after the hearing is concluded.
- B. If the enforcement action occurs within six months of the primary or general election, the Commission will request an expedited review of the matter

Historical Note

New Section made by exempt rulemaking at 8 A.A.R.

588, effective November 27, 2001 (Supp. 02-1).

R2-20-227. Review of Administrative Decision by Commis-

sion

- A. Within 30 days after the date OAH sends a copy of the ALJ's decision to the Commission, the Commission may review the ALJ's decision and accept, reject or modify the decision.
- B. If the Commission declines to review the ALJ's decision, the Commission shall serve a copy of the decision on all parties. If the Commission modifies or rejects the decision, the Commission shall file with OAH and serve on all parties, a copy of the ALJ's decision with the rejection or modification and a written justification setting forth the reasons for the rejection or modification. If the Commission accepts, rejects or modifies the decision, the Commission's decision will be certified as final.
- C. If the Commission does not accept, reject or modify the decision within 30 days after OAH sends the ALJ's decision to the Commission, the ALJ's decision will be certified as final.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-228. Judicial Review

A party may appeal a final administrative decision pursuant to A.R.S. § 12-901 et seq. (Judicial Review of Administrative Decisions). A party does not have the right to judicial review unless that party first exhausts its administrative remedies by going through the above steps. After a hearing has been held and a final administrative decision has been entered pursuant to § 41-1092.08, a party is not required to file a motion for rehearing or review of the decision in order to exhaust the party's administrative remedies.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-229. Repealed**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-230. Repealed**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-231. Repealed**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1).

ARTICLE 3. STANDARD OF CONDUCT FOR COMMISSIONERS AND EMPLOYEES**R2-20-301. Purpose and Applicability**

- A. The Commission is committed to implementing the Act in an honest, independent, and impartial fashion and to seeking to uphold public confidence in the integrity of the electoral system. To ensure public trust in the fairness and integrity of the Arizona elections process, all Commissioners and employees must observe the highest standards of conduct. This Article prescribes standards of ethical conduct for Commissioners and employees of the Commission relating to conflicts of interest arising from outside employment, private businesses, profes-

sional activities, political activities, and financial interests. The avoidance of misconduct and conflicts of interest on the part of the Commissioners and the employees through informed judgment is indispensable to the maintenance of these prescribed ethical standards. Attainment of these goals necessitates strict and absolute fairness and impartiality in the administration of the law.

- B. This Article applies to all persons included within the terms "employee" and "Commissioner" of the Commission.
- C. These Standards of Conduct shall be construed in accordance with any applicable laws, regulations, and agreements between the Commission and a labor organization.
- D. Pursuant to A.R.S. § 16-955(I), for three years after a Commissioner completes his or her tenure, Commissioners shall not seek or hold any public office, serve as an officer of any political committee, or employ or be employed as a lobbyist.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-302. Definitions

The following terms apply in all Citizens Clean Elections Act matters:

1. "Commission" means the Citizens Clean Elections Commission of Arizona.
2. "Commissioner" means a voting member of the Commission, appointed pursuant to A.R.S. § 16-955.
3. "Conflict of interest" means a situation in which a Commissioner's or an employee's private interest is or appears to be inconsistent with the efficient and impartial conduct of his or her official duties and responsibilities.
4. "Employee" means an employee or staff member of the Commission.
5. "Former employee" means one who was, and is no longer, an employee of the Commission.
6. "Official responsibility" means the direct administrative or operating authority, whether intermediate or final, to approve, disapprove, or otherwise direct Commission action. Official responsibility may be exercised alone or with others and either personally or through subordinates.
7. "Outside employment" or "outside activity" means any work, service or other activity performed by a Commissioner or employee other than in the performance of the Commissioner's or employee's official employment duties. It includes such activities as writing and editing, publishing, teaching, lecturing, consulting, self-employment, and other services or work performed, with or without compensation.
8. "Person" means an individual, corporation, company, association, firm, partnership, society, joint stock company, political committee, or other group, organization, or institution.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-303. Notification to Commissioners and Employees

The Executive Director shall provide to each Commissioner and employee of the Commission, upon commencement of his or her term or employment and at least annually thereafter, a copy of this Article and such other information regarding standards of conduct as the Commission and/or applicable law may prescribe.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

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Amended by exempt rulemaking at 13 A.A.R. 3527,
effective January 1, 2008 (Supp. 07-3).

R2-20-304. Interpretation and Advisory Service

Commissioners or employees seeking advice and guidance on questions of conflict of interest and on other matters covered by this Article shall consult with the Commission's Chair or Executive Director. The Commission's Chair or Executive Director shall be consulted prior to the undertaking of any action that might violate this Article governing the conduct of Commissioners or employees.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

Amended by exempt rulemaking at 13 A.A.R. 3527,
effective January 1, 2008 (Supp. 07-3).

R2-20-305. Reporting Suspected Violations

- A. Commissioners and employees who have information, which causes them to believe that there has been a violation of a statute or a rule set forth in this Article, shall report promptly, in writing, such incident to the Commission's Chair or Executive Director.
- B. When information available to the Commission indicates a conflict between the interests of a Commissioner or employee and the performance of his or her Commission duties, the Commissioner or employee shall be provided an opportunity to explain the conflict or appearance of conflict in writing.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-306. Disciplinary and Other Remedial Action

- A. A violation of this Article by an employee may be cause for disciplinary action, which may be in addition to any penalty prescribed by law.
- B. When the Commission's Executive Director determines that an employee may have or appears to have a conflict of interest, the Commission's Executive Director may question the employee in the matter and gather other information. The Commission's Executive Director and the employee's supervisor shall discuss with the employee possible ways of eliminating the conflict or appearance of conflict. If the Commission's Executive Director, after consultation with the employee's supervisor, concludes that remedial action should be taken, he or she shall refer a statement to the Commission containing his or her recommendation for such action. The Commission, after consideration of the employee's explanation and the results of any investigation, may direct appropriate remedial action as it deems necessary.
- C. Remedial action pursuant to subsection (B) of this Section may include, but is not limited to:
 - 1. Changes in assigned duties;
 - 2. Divestment by the employee of his or her conflicting interest;
 - 3. Disqualification for particular action; or
 - 4. Disciplinary action.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-307. General Prohibited Conduct

- A. A Commissioner or employee shall avoid any action whether or not specifically prohibited by this Section that might result in, or create the appearance of:
 - 1. Using public office for unlawful private gain;

- 2. Giving favorable or unfavorable treatment to any person or organization due to any partisan or political consideration;
- 3. Impeding Commission efficiency or economy;
- 4. Losing impartiality.
- 5. Making a Commission decision without Commission approval; or
- 6. Adversely affecting the confidence of the public in the integrity of the Commission.

- B. A Commissioner or employee of the Commission shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, from a person who:

- 1. Has, or is seeking to obtain, contractual or other business or financial relations with the Commission;
- 2. Conducts operations or activities that are regulated or examined by the Commission; or
- 3. Has an interest that may be substantially affected by the performance or nonperformance of the Commissioner or employee's official duty.

- C. Subsection (B) of this Section shall not apply in the following circumstances:

- 1. When circumstances make it clear that obvious family or personal relationships, rather than the business of the persons concerned, are the motivating factors;
- 2. To the acceptance of food, refreshments, and accompanying entertainment of nominal value in the ordinary course of a social occasion or a luncheon or dinner meeting or other function where a Commissioner or an employee is properly in attendance;
- 3. To the acceptance of unsolicited advertising or promotional material or other items of nominal value such as pens, pencils, note pads, calendars; and
- 4. To the acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities, such as home mortgage loans.

- D. A Commissioner or an employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself or herself. However, this subsection does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as birthday, holiday, marriage, illness, or retirement.

- E. This Section does not preclude a Commissioner or employee from receipt of reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this Article for which no state payment or reimbursement is made. However, this Section does not allow a Commissioner or employee to be reimbursed, or payment to be made on his or her behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits, nor does it allow a Commissioner or employee to be reimbursed by a person for travel on official business under Commission orders when reimbursement is prescribed by statute.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-308. Outside Employment or Activities

- A. A Commissioner or employee shall not engage in outside employment that is incompatible with the full discharge of his or her duties as a Commissioner or employee.
- B. Incompatible outside employment or other activities by Commissioners or employees include, but are not limited to:

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1. Outside employment or other activities that involve illegal activities;
 2. Outside employment or other activities that would give rise to a real or apparent conflict of interest situation even though no violation of a specific statutory provision was involved;
 3. Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances where acceptance may result in, or create the appearance of, a conflict of interest;
 4. Outside employment or other activities that might bring discredit upon the state or Commission;
 5. Outside employment or other activities that establish relationships or property interests that may result in a conflict between the Commissioner's or the employee's private interests and official duties;
 6. Outside employment or other activities which would involve any contractor or subcontractor connected with any work performed for the Commission or would involve any person or organization in a position to gain advantage in its dealings with the state through the Commissioner's or employee's exercise of his or her official duties;
 7. Outside employment or other activities that may be construed by the public to be the official acts of the Commission. In any permissible outside employment, care shall be taken to ensure that names and titles of Commissioners and employees are not used to give the impression that the activity is officially endorsed or approved by the Commission or is part of the Commission's activities;
 8. Outside employment or other activities which would involve use by a Commissioner or employee of his or her official duty time; use of official facilities, including office space, machines, or supplies, at any time; or use of the services of other employees during their official duty hours;
 9. Outside employment or other activities which impair the Commissioner's or employee's mental or physical capacities to perform Commission duties and responsibilities in an acceptable manner; or
 10. Use of information obtained as a result of state employment that is not freely available to the general public or would not be made available upon request. However, written authorization for the use of any such information may be given when the Commission determines that such use would be in the public interest.
- C.** Commissioners and employees shall not receive any salary or anything of monetary value from a private source as compensation for the Commissioner's or employee's services to the state.
- D.** Commissioners and employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law or this Article. However, Commissioners and employees shall not, either with or without compensation, engage in teaching or writing that is dependent on information obtained as a result of his or her Commission employment, except when that information has been made available to the public or will be made available on request, or when the Commission gives written authorization for the use of nonpublic information on the basis that the use is in the public interest.
- E.** This Section does not preclude a Commissioner or employee from participating in the activities of or acceptance of an award for meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit, educational, recreational, public service, or civic organization.
- F.** An employee who intends to engage in outside employment shall obtain the approval of the Executive Director. The request shall include the name of the person, group, or organization for whom the work is to be performed, the nature of the services to be rendered, the proposed hours of work, or approximate dates of employment, and the employee's certification as to whether the outside employment (including teaching, writing, or lecturing) will depend in any way on information obtained as a result of the employee's official position. The employee will receive, from the Executive Director, written notice of approval or disapproval of any written request. A record of the decision shall be placed in each employee's official personnel folder.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-309. Financial Interests

- A.** Commissioners and employees shall not engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through the Commissioner's or employee's duties or employment.
- B.** Commissioners and employees shall not have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with the Commissioner's or employee's official duties and responsibilities, except in cases where the Commissioner or employee makes full disclosure, and disqualifies himself or herself from participating in any decisions, approval, disapproval, recommendation, the rendering of advice, investigation, or in any proceeding of the Commission in which the financial interest is or appears to be affected. Full disclosure by a Commissioner or employee will require that individual to submit a written statement to the Executive Director or Chair disclosing the particular financial interest which conflicts substantially, or appears to conflict substantially, with the Commissioner's or employee's duties and responsibilities.
- C.** Commissioners and employees shall disqualify themselves from a proceeding in which the Commissioner's or employee's impartiality might reasonably be questioned, such as in a situation where the Commissioner or employee knows that he or she, or his or her family member, has an interest in the subject matter in controversy or is a party to the proceeding, or has any other interest that could be substantially affected by the outcome of the proceeding.
- D.** This Section does not preclude a Commissioner or employee from having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Commission, as long as the Commissioner's or employee's financial interest does not conflict with official Commission duties.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-310. Political and Organization Activity

- A.** Due to the Commission's role in the political process, the following restrictions on political activities are required:
1. Commissioners and employees shall not advocate for the election or defeat of a candidate, nor make contributions to a candidate, political party, or political committee subject to the jurisdiction of the Commission. Commissioners and employees, however, are not prohibited from signing candidate nomination petitions;
 2. Commissioners and employees shall not provide volunteer or paid services for a candidate, political party, or

political committee subject to the jurisdiction of the Commission; and

3. Commissioners and employees not shall display partisan buttons, badges, or other insignia on Commission premises.

- B. Employees on leave, leave without pay, or on furlough or terminal leave, even though the employees' resignations have been accepted, are subject to the restrictions of this Section. A separated employee who has received a lump-sum payment for annual leave, however, is not subject to the restrictions during the period covered by the lump-sum payment or thereafter, provided he or she does not return to state employment during that period. An employee is not permitted to take a leave of absence to work with a political candidate, committee, or organization or become a candidate for office despite any understanding that he or she will resign his or her position if nominated or elected.
- C. A Commissioner or employee is accountable for political activity by another person acting as his or her agent or under the Commissioner's or employee's direction or control if the Commissioner or employee is thus accomplishing what he or she may not lawfully do directly and openly.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-311. Membership in Associations

Commissioners or employees who are members of nongovernmental associations or organizations shall avoid activities on behalf of those associations or organizations that are incompatible with their official positions.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-312. Use of State Property

A Commissioner or employee shall not directly or indirectly use, or allow the use of, state property of any kind, including property leased to the state, for other than officially approved activities. Commissioners and employees have a positive duty to protect and conserve state property including equipment, supplies, and other property entrusted or issued to him or her.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

ARTICLE 4. AUDITS

R2-20-401. Purpose and Scope

This article prescribes procedures for conducting examinations and audits of participating candidates' campaign finances.

Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 19 A.A.R. 1699, effective October 6, 2011 (Supp. 13-2).

R2-20-402. General

The Commission may conduct an examination and audit of the receipts, disbursements, debts and obligations of each candidate. In addition, the Commission may conduct other examinations and audits as it deems necessary to carry out the provisions of the Act and regulations. Information obtained pursuant to any audit and examination may be used by the Commission as the basis, or partial basis, for its repayment determinations.

Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-402.01. Random Audits of Participating Legislative Candidates

To ensure compliance with the Act and Commission rules, the Commission shall conduct random audits of participating legislative candidates after each primary election period and each general election period. Random audits shall include the review of campaign finance reports and related documentation in accordance with procedures established by the Commission. The Commission may hire independent accounting firms to carry out the random audits. The selection of legislative candidates for audit shall be determined by random lot at a Commission meeting. Candidates shall not be subject to selection for random audit for the general election period that were selected for random audit following the primary election period.

Historical Note

New Section made by exempt rulemaking at 13 A.A.R. 3529, effective January 1, 2008 (Supp. 07-3). Amended by exempt rulemaking at 19 A.A.R. 1700, effective October 6, 2011 (Supp. 13-2). Amended by final exempt rulemaking at 21 A.A.R. 1640, effective July 23, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 130, effective December 15, 2016 (Supp. 16-4).

R2-20-402.02. Audits of Participating Statewide Candidates

All participating statewide candidates shall be audited after each primary election period and each general election period.

Historical Note

New Section made by final exempt rulemaking at 23 A.A.R. 131, effective December 15, 2016 (Supp. 16-4).

R2-20-403. Conduct of Fieldwork

- A. The Commission will provide the candidate two days notice of the Commission's intention to commence fieldwork on the audit and examination. The Commission will conduct fieldwork at a site provided by the candidate. During or after fieldwork, the Commission may request additional or updated information, which expands the coverage dates of information previously provided. During or after fieldwork, the Commission may also request additional information that was created by or becomes available to the candidate that is of assistance in the Commission's audit. The candidate shall produce the additional or updated information no later than two days after service of the Commission's request.
- B. On the date scheduled for the commencement of fieldwork, the candidate shall facilitate the examination or audit by making records available in one central location, such as the Commission's office space, or shall provide the Commission with office space and records. The candidate shall be present at the site of the fieldwork. The candidate shall be familiar with the candidate's records and shall be available to the Commission to answer questions and to aid in locating records.
- C. If the candidate fails to provide adequate office space, personnel or records, the Commission may seek judicial intervention to enforce the request or assess other penalties.
- D. If, in the course of the examination or audit process, a dispute arises over the documentation sought, the candidate may seek review by the Commission of the issues raised. To seek review, the candidate shall submit a written statement within five days after the disputed Commission request is made, describing the dispute and indicating the candidate's proposed alternatives.

Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-404. Preliminary Audit Report

- A. After the completion of fieldwork, the auditors may prepare a written preliminary audit report, which will be provided to the candidate after it is reviewed by the Executive Director. The preliminary audit report may include:
1. An evaluation of procedures and systems employed by the candidate to comply with applicable provisions of the Act and Commission rules,
 2. The accuracy of statements and campaign finance reports filed with the Secretary of State by the candidate, and
 3. Preliminary findings.
- B. The candidate may submit in writing within 10 days after receipt of the preliminary audit report, legal and factual materials disputing or commenting on the proposed findings contained in the preliminary audit report. In addition, the candidate shall submit any additional documentation requested by the Commission.
- C. If the preliminary audit report cannot be completed, the Commission shall notify the candidate in writing that the audit report will not be completed.

Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 16 A.A.R. 1200, effective February 28, 2008 (Supp. 10-2).

R2-20-405. Final Audit Report

- A. Before voting on whether to approve and issue a final audit report, the Commission will consider any written legal and factual materials timely submitted by the candidate in accordance with R2-20-404. The Commission-approved final audit report may address issues other than those contained in the preliminary audit report.
- B. The final audit report may identify issues that warrant referral for possible enforcement proceedings.
- C. Addenda to the final audit report may be approved and issued by the Commission from time to time as circumstances warrant and as additional information becomes available. Such addenda may be based on follow-up fieldwork conducted, or information ascertained by the Commission in the normal course of carrying out its responsibilities. The procedures set forth in R2-20-404 and subsections (A) and (B) will be followed in preparing such addenda.

Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-406. Release of Audit Report

- A. The Commission will consider the final audit report specified in R2-20-405 in an open meeting. The Commission will provide the candidate with copies of the final audit report to be considered in an open meeting 24 hours prior to the public meeting.
- B. Following Commission approval of the final audit report, the report will be forwarded to the candidate within five days after the public meeting.

Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

ARTICLE 5. RULEMAKING**R2-20-501. Purpose and Scope**

This Article prescribes the procedures for the submission, consideration, and disposition of rulemaking petitions filed with the Commission, establishes the conditions under which the Commission may identify and respond to petitions for rulemaking, and informs the public of the procedures the agency follows in response to such petitions.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-502. Procedural Requirements

- A. Any interested person may file with the Commission a written petition for the issuance, amendment, or repeal of an administrative rule implementing any of the Citizens Clean Elections Act.
- B. The petition shall:
1. Include the name and address of the petitioner or agent. An authorized agent of the petitioner may submit the petition, but the agent shall disclose the identity of his or her principal;
 2. Identify itself as a petition for the issuance, amendment, or repeal of a rule;
 3. Identify the specific Section of the regulations to be affected;
 4. Set forth the factual and legal grounds on which the petitioner relies, in support of the proposed action; and
 5. Be addressed and submitted to the Commission.
- C. The petition may include draft regulatory language that would effectuate the petitioner's proposal.
- D. The Commission may, in its discretion, treat a document that fails to conform to the format requirements of subsection (B) of this Section as a basis for rulemaking addressing issues raised in a petition.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-503. Processing of Petitions

- A. Within 10 days of receiving a petition, the Commission shall send a letter to the petitioner acknowledging the receipt of the petition and informing the petitioner that the Commission will review and decide whether to deny or accept the petition. To assist in determining whether a rulemaking proceeding should be initiated, the Commission may publish a Notice of Availability on the Commission web site or otherwise post notice, stating that the petition is available for public inspection in the Commission's Office and that statements in support of or in opposition to the petition may be filed within a stated period after publication of the Notice of Availability.
- B. If the Commission decides a public hearing on the petition would help determine whether to commence a rulemaking proceeding, it will publish an appropriate notice of the hearing on the Commission web site or otherwise post notice, to notify interested persons and to invite their participation in the hearing.
- C. The Commission will consider all comments regarding whether rulemaking proceedings should be initiated.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-504. Disposition of Petitions

- A. After considering the comments and any other information relevant to the subject matter of the petition, the Commission will decide whether to initiate rulemaking based on the filed petition.

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- B.** If the Commission decides to initiate rulemaking proceedings, it shall file a Notice of Proposed Rulemaking and the proposed rule, in the format prescribed in A.R.S. § 41-1022, with the Secretary of State's office for publication in the Arizona Administrative Register. After the Commission approves the proposed rule, the Commission will accept public comments on the proposed rule for 60 days. After consideration of the comments received in the 60-day comment period, the Commission may adopt the rule in open meeting.
- C.** If the Commission decides not to initiate rulemaking, it will give notice of this action by publishing a Notice of Disposition on the Commission web site, or otherwise post notice, and by sending a letter to the petitioner. The Notice of Disposition will include a brief statement of the grounds for the Commission's decision.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-505. Commission Considerations

The Commission's decision on the petition for rulemaking may include, but will not be limited to, the following considerations:

1. The Commission's statutory authority;
2. Policy considerations;
3. The desirability of proceeding on a case-by-case basis;
4. The necessity or desirability of statutory revision;
5. Available agency resources; and
6. Substantive policy statements.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-506. Administrative Record

- A.** The Commission record for the petition process consists of the following:
1. The petition, including all attachments on which it relies, filed by the petitioner;
 2. Written comments on the petition that have been circulated to and considered by the Commission, including attachments submitted as a part of the comments;
 3. Agenda documents, in the form they are circulated to and considered by the Commission in the course of the petition process;
 4. All notices published on the Commission web site and in the Arizona Administrative Register, including the Notice of Availability and Notice of Disposition;
 5. The transcripts or audiotapes of any public hearing on the petition;
 6. All correspondence between the Commission and the petitioner, other commentators and state agencies pertaining to Commission consideration of the petition; and
 7. The Commission's decision on the petition, including all documents identified or filed by the Commission as part of the record relied on in reaching its final decision.
- B.** The administrative record specified in subsection (A) of this Section is the exclusive record for the Commission's decision.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

ARTICLE 6. EX PARTE COMMUNICATIONS**R2-20-601. Purpose and Scope**

This Article prescribes procedures for handling ex parte communications made regarding Commission audits, investigations, and liti-

gation. Rules governing such communications made in connection with Commission enforcement actions are found at R2-20-220.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-602. Definitions

- A.** "Ex parte communication" means any written or oral communication, by any person outside the agency to any Commissioner or any employee, which imparts information or argument regarding prospective Commission action or potential action concerning:
1. Any ongoing audit;
 2. Any pending investigation; or
 3. Any litigation matter.
- B.** "Ex parte communication" does not include the following communications:
1. Public statements by any person in a public forum; or
 2. Statements or inquiries by any person limited to the procedural status of an open proceeding involving a Commission audit, investigation, or litigation matter.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-603. Audits, Investigations, and Litigation

- A.** In order to avoid the possibility of prejudice, real or apparent, in Commission decision making, no person outside the Commission shall make, or cause to be made, to any Commissioner or employee, any ex parte communication regarding any audit undertaken by the Commission or any pending or prospective Commission decision regarding any investigation or litigation, including whether to initiate, settle, appeal, or any other decision concerning an investigation or litigation matter.
- B.** A Commissioner or employee who receives an oral ex parte communication concerning any matters addressed in subsection (A) of this Section shall attempt to prevent the communication. If unsuccessful in preventing the communication, the Commissioner or employee shall advise the person making the communication that he or she will not consider the communication and shall, as soon after the communication as is reasonably possible, but no later than three business days after the communication, or prior to the next Commission discussion of the matter, whichever is earlier, prepare a statement setting forth the substance and circumstances of the communication, and deliver the statement to the Executive Director for placement in the applicable case file.
- C.** A Commissioner or employee who receives a written ex parte communication concerning any matters addressed in subsection (A) of this Section shall, as soon after the communication as is reasonably possible but no later than three business days after the communication, or prior to the next Commission discussion of the matter, whichever is earlier, deliver a copy of the communication to the Executive Director for placement in the applicable case file.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-604. Sanctions

Any person who becomes aware of a possible violation of this Article shall notify the Executive Director in writing of the facts and circumstances of the alleged violation. The Executive Director shall recommend to the Commission the appropriate action to be taken. The Commission shall determine the appropriate action by at least three votes.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

ARTICLE 7. USE OF FUNDS AND REPAYMENT**R2-20-701. Purpose and Scope**

A participating candidate may spend clean elections monies only for reasonable and necessary expenses that are directly related to the campaign of that participating candidate.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-702. Use of Campaign Funds

A. A participating candidate shall use funds in the candidate's current campaign account to pay for goods and services for direct campaign purposes only. Funds shall be disbursed and reported in accordance with A.R.S. § 16-948(C).

B. A participating candidate may:

1. Make a payment from the candidate's campaign bank account:
 - a. To a political committee or civic organization including a person with tax exempt status under section 501(a) of the internal revenue code or an unincorporated association. The payment is not a contribution if the payment is reasonable in relation to the value received.
 - b. For customary charges for services rendered, such as for printing and obtaining voter or telephone lists, shall be considered reasonable in relation to the value received.
 - c. Of not more than \$200 per person to attend a political event open to the public or to party members shall be considered reasonable in relation to the value received.
2. Only make an advanced payment to a political party for services such as consulting, communications, field employees, canvassers, mailers, auto-dialers, telephone town halls, electronic communications and other advertising purchases and other campaign services if an itemized invoice identifying the value of the service is provided directly to the participating candidate at the time of the advanced payment.
 - a. Payment in the absence of an itemized invoice or advanced payment for such services shall be deemed a contribution to the political party.
 - b. Payment may be advanced for postage upon the receipt of a written estimate and so long as any balance is returned to the candidate if the advance exceeds the actual cost of the postage.
 - c. Payment may be advanced for advertising that customarily requires pre-payment upon the receipt of a written estimate and so long as any balance is returned to the candidate if the advance exceeds the actual cost of the advertisement.
 - d. A political party may not mark up or add any additional charge to the value of services provided to the particular candidate. All expenditures must be for the services used by the particular participating candidate.
 - e. The Commission shall be included in the mail batch for all mailers and invitations. The Commission shall also be provided with documentation from the mail house, printer or other original source showing

the number of mailers printed and the number of households to which a mailer was sent. Failure to provide this information within 7 days after a mailer has been mailed may be considered as evidence the mailer was not for direct campaign purposes.

- C.** A participating candidate shall not use funds in the candidate's campaign account for:
 1. Costs of legal defense in any campaign law enforcement proceeding or for any affirmative claim or litigation in court or before the Commission regarding a campaign. This prohibition does not bar use of campaign funds for payments to attorneys or certified accountants for proactive compliance advice and assistance.
 2. Food and beverages for staff and volunteers exceeding \$11 for breakfast, \$16 for lunch, and \$27 for dinner, per person.
 3. Personal use, which includes, but is not limited to, any item listed below:
 - a. Household food items or supplies.
 - b. Clothing, other than items of de minimis value that are used in the campaign, such as campaign "t-shirts" or caps with campaign slogans.
 - c. Tuition payments, other than those associated with training campaign staff.
 - d. Mortgage, loan, rent, lease or utility payments:
 - i. For any part of any personal residence of the candidate or a member of the candidate's family; or
 - ii. For real or personal property that is owned or leased by the candidate or a member of the candidate's family and used for campaign purposes, to the extent the payments exceed the fair market value of the property usage.
 - e. Admission to a sporting event, concert, theater or other form of entertainment, unless part of a specific campaign activity.
 - f. Dues, fees or gratuities at a country club, health club, recreational facility or other nonpolitical organization, unless they are part of the costs of a specific fundraising event that takes place on the organization's premises.
 - g. Gifts or donations.
 - h. Extended warranties or other similar purchase options that extend beyond the campaign.
 4. Payment to a candidate or a candidate's family member, as defined in R2-20-101(13), or an enterprise owned in whole or part by a candidate or family member, for the provisions of goods or services to the extent the payments exceed the fair market value of the goods or services. All payments made to family members or to enterprises owned in whole or part by the candidate or a family member shall be clearly itemized and indicated as such in all campaign finance reports.
- D.** Participating candidates may purchase fixed assets with a value not to exceed \$800. Fixed assets, including accessories, purchased with campaign funds that can be used for non-campaign purposes with a value of \$200 or more shall be turned into the Commission no later than 14 days after the primary election or the general election if the candidate was successful in the primary. For purposes of determining whether a fixed asset is valued at \$200 or more, the value shall include any accessories purchased for use with the fixed asset in question. A candidate may elect to keep an item by reimbursing the Commission for 80 percent of the original purchase price including the cost of accessories.

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- E. During the primary election period, a participating candidate shall not make any expenditure greater than the difference between:
1. The sum of early contributions received plus public funds disbursed through the primary election period; less
 2. All other expenditures made during and for the exploratory, qualifying and primary election periods.
- F. During the general election period, a participating candidate shall not make any expenditure greater than the difference between:
1. The amount of public funds disbursed during and for the general election period; less
 2. All other expenditures made during and for the general election period.
- G. Transportation expenses.
1. Except as otherwise provided in this subsection (D), the costs of transportation relating to the election of a participating statewide or legislative office candidate shall not be considered a direct campaign expense and shall not be reported by the candidate as expenditures or as in-kind contributions.
 2. If a participating candidate travels for campaign purposes in a privately owned automobile, the candidate may:
 - a. Use campaign funds to reimburse the owner of the automobile at a rate not to exceed the state mileage reimbursement rate in which event the reimbursement shall be considered a direct campaign expense and shall be reported as an expenditure and reported in the reporting period in which the expenditure was incurred. If a candidate chooses to use campaign funds to reimburse, the candidate shall keep an itinerary of the trip, including name and type of events(s) attended, miles traveled and the rate at which the reimbursement was made. This subsection applies to candidate owned automobiles in addition to any other automobile.
 - b. Use campaign funds to pay for direct fuel purchases for the candidate's automobile only and shall be reported. If a candidate chooses to use campaign funds for direct fuel purchases, the candidate shall keep an itinerary of the trip, including name and type of events(s) attended, miles traveled and the rate at which the reimbursement could have been made.
 3. Use of airplanes.
 - a. If a participating candidate travels for campaign purposes in a privately owned airplane, within 7 days from the date of travel, the candidate shall use campaign funds to reimburse the owner of the airplane at a rate of \$150 per hour of flying time, in which event the reimbursement shall be considered a direct campaign expense and shall be reported as an expenditure. If the owner of the airplane is unwilling or unable to accept reimbursement, the participating candidate shall remit to the fund an amount equal to \$150 per hour of flying time.
 - b. If a participating candidate travels for campaign purposes in a state-owned airplane, within 7 days from the date of travel, the candidate shall use campaign funds to reimburse the state for the portion allocable to the campaign in accordance with subsection 3a, above. The portion of the trip attributable to state business shall not be reimbursed. If payment to the State is not possible, the payment shall be remitted to the Clean Elections Fund.

4. If a participating candidate rents a vehicle or purchases a ticket or fare on a commercial carrier for campaign purposes, the actual costs of such rental (including fuel costs), ticket or fare shall be considered a direct campaign expense and shall be reported as an expenditure.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed; new Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 13 A.A.R. 3606, effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1423, effective October 22, 2009 (Supp. 09-3). Amended by exempt rulemaking at 17 A.A.R. 1267, effective April 12, 2011 (Supp. 11-2). Since language in subsections R2-20-702(C)(3)(d)(i) and (ii) and R2-20-702(C)(4) and (5) are substantively identical, the Commission requested to remove the redundant language in R2-20-702(C)(3)(d)(i) and (ii) under A.R.S. § 41-1011(C), Office File No. M11-345, filed October 3, 2011 (Supp. 11-2). Amended by exempt rulemaking at 19 A.A.R. 1702, effective October 6, 2011 (Supp. 13-2). Amended by exempt rulemaking at 22 A.A.R. 2906, effective January 1, 2017 (Supp. 16-3). Amended by exempt rulemaking at 23 A.A.R. 2342, effective January 1, 2018 (Supp. 17-3).

R2-20-702.01. Use of Assets

A participating candidate may use assets such as signs, pamphlets, and office equipment from a prior election cycle only after the candidate's current campaign pays for the assets in an amount equal to the fair market value of the assets, which amount shall in no event be less than one-fifth (1/5) the original purchase price of such assets. If the candidate was a participating candidate during the prior election cycle, the cash payment shall be made to the Fund. If the candidate was not a participating candidate during the prior election cycle, the cash payment shall be made to the prior campaign. If the prior campaign account of a nonparticipating candidate is closed, the payment shall be made to the candidate.

Historical Note

New Section made by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1). Amended by exempt rulemaking at 13 A.A.R. 3606, effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1156, effective August 31, 2009 (Supp. 09-2).

R2-20-703. Documentation for Direct Campaign Expenditures

- A. In addition to the general books and records requirements prescribed in R2-20-111, participating candidates shall comply with the following requirements:
1. All participating candidates shall have the burden of proving that expenditures made by the candidate were for direct campaign purposes. The candidate shall obtain and furnish to the Commission on request any evidence regarding direct campaign expenses made by the candidate as provided in subsection (A)(2).
 2. All participating candidates shall retain records with respect to each expenditure and receipt, including bank records, vouchers, worksheets, receipts, bills and accounts, journals, ledgers, fundraising solicitation material, accounting systems documentation, and any related materials documenting campaign receipts and disbursements, for a period of three years, and shall present these records to the Commission on request.

3. All participating candidates shall maintain a list of all fixed assets whose purchase price exceeded \$200 when acquired by the campaign. The list shall include a brief description of each fixed asset, the purchase price, the date it was acquired, the method of disposition and the amount received in disposition.

- B. Upon written request from a candidate, the Commission shall determine whether a planned campaign expenditure or fund-raising activity is permissible under the Act. To make a request, a candidate shall submit a written description of the planned expenditure or activity to the Commission. The Commission shall inform the candidate whether an enforcement action will be necessary if the candidate carries out the planned expenditure or activity. The Commission shall ensure that the candidate can rely on a "no action" letter. A "no action" letter applies only to the candidate who requested it.
- C. Any expenditure made by the candidate or the candidate's committee that cannot be documented as a direct expenditure shall promptly be repaid to the Fund with the candidate's personal monies.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed; new Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1). Amended by final exempt rulemaking at 21 A.A.R. 1641, effective July 23, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 133, effective January 1, 2017 (Supp. 16-4).

R2-20-703.01. Campaign Consultants

- A. For purposes of this rule "Campaign Consultant" means any person paid by a participating candidate's campaign or who provides services that are ordinarily charged to a person, except services provided for in A.R.S. § 16-911(6)(b).
- B. A participating candidate may engage campaign consultants.
- C. A participating candidate may only advance a campaign consultant for services such as consulting, communications, field employees, canvassers, mailers, auto-dialers, telephone town halls, electronic communications and other advertising purchases and other campaign service if an itemized invoice identifying the value of the services is provided directly to that particular candidate at the time of the advance payment.
 1. Providing payment for such services as described in subsection (C) of this rule in the absence of an itemized invoice or advance payment for such services shall be deemed not to be a direct campaign expenditure.
 2. A participating candidate may advance payment for postage upon the receipt of a written estimate and so long as any balance is returned to the candidate if the advance exceeds the actual cost of postage.
 3. A participating candidate may advance payment for advertising that customarily requires pre-payment upon the receipt of a written estimate and so long as any balance is returned to the candidate if the advance exceeds the actual cost of the advertisement.
- D. The Commission shall be included in the mail batch for all mailers and invitations. The Commission shall also be provided with documentation from the mail house, printer or other original source, showing the number of mailers printed and the number of households to which a mailer was sent. Failure to provide this information within 7 days after the mailer has been mailed may be considered as evidence the mailer was not for direct campaign purposes.

Historical Note

New Section made by exempt rulemaking at 23 A.A.R. 2344, effective July 20, 2017 (Supp. 17-3).

R2-20-704. Repayment

- A. In general, the Commission may determine that a participating candidate who has received payments from the Fund must repay the Fund as determined by the Commission.
 1. A candidate who has received payments from the Fund shall pay the Fund any amounts that the Commission determines to be repayable. In making repayment determinations, the Commission may utilize information obtained from audits and examinations or otherwise obtained by the Commission in carrying out its responsibilities.
 2. The Commission will notify the candidate of any repayment determinations made under this section as soon as possible, but not later than one year after the day of the election.
 3. Once the candidate receives notice of the Commission's repayment determination, the candidate should give preference to the repayment over all other outstanding obligations of the candidate, except for any taxes owed by the candidate.
 4. Repayments may be made only from the following sources: personal funds of the candidate, funds in the candidate's current election campaign account, and any additional funds raised subject to the limitations and prohibitions of the Act.
 5. The Commission may withhold the portion of funds required to be repaid from future payments to a participating candidate if the Commission has made a repayment determination.
- B. The Commission may determine that a participating candidate who has received payments from the Fund must repay the Fund under any of the following circumstances:
 1. Payments in excess of candidate's entitlement. If the Commission determines that any portion of the payments made to the candidate was in excess of the aggregate payments to which such candidate was entitled, it will so notify the candidate, and such candidate shall pay to the Fund an amount equal to such portion.
 2. Use of funds not for direct campaign expenses. If the Commission determines that any amount of any payment to an eligible candidate from the Fund was used for purposes other than direct campaign purposes described in R2-20-702, it will notify the candidate of the amount so used, and such candidate shall pay to the Fund an amount equal to such amount.
 3. Expenditures that were not documented in accordance with campaign finance reporting requirements, expended in violation of state or federal law, or used to defray expenses resulting from a violation of state or federal law, such as the payment of fines or penalties.
 4. Surplus. If the Commission determines that a portion of payments from the Fund remains unspent after all direct campaign expenses have been paid, it shall so notify the candidate, and such candidate shall pay the Fund that portion of surplus funds.
 5. Income on investment or other use of payments from the Fund. If the Commission determines that a candidate received any income as a result of an investment or other use of payments from the Fund, it shall so notify the candidate, and such candidate shall pay to the Fund an amount equal to the amount determined to be income, less any federal, state or local taxes on such income.

6. Unlawful acceptance of contributions by an eligible candidate. If the Commission determines that a participating candidate accepted contributions, other than early contributions or qualifying contributions, it shall notify the candidate of the amount of contributions so accepted, and the candidate shall pay to the Fund an amount equal to such amount, plus any civil penalties assessed.
- C. Repayment determination procedures. The Commission's repayment determination will be made in accordance with the following procedures:
 1. Repayment determination. The Commission will send a repayment determination pursuant to Article 2, Compliance and Enforcement Procedures, and will set forth the legal and factual reasons for such determination, as well as the evidence upon which any such determination is based. The candidate shall repay, in accordance with subsection (D), the amount that the Commission has determined to be repayable.
 2. Administrative review of repayment determination. If a candidate disputes the Commission's repayment determination, he or she may request an administrative appeal of the determination in accordance with A.R.S. § 41-1092 et. seq.
- D. Repayment period.
 1. Within 30 days of service of the notice of the Commission's repayment determination, the candidate shall repay the amounts the Commission has determined must be repaid. Upon application by the candidate, the Commission may grant an extension of time in which to make repayment.
 2. If the candidate requests an administrative appeal of the Commission's repayment determination of this Section, the time for repayment will be suspended until the Commission has concluded its review of the Administrative Law Judge's (ALJ) decision. Within 30 days after service of the notice of the Commission's review of the ALJ's decision, the candidate shall repay the amounts that the Commission has determined to be repayable. Upon application by the candidate, the Commission may grant an extension of up to 30 days in which to make repayment.
 3. Interest shall be assessed on all repayments made after the initial 30-day repayment period or the 30-day repayment period established by this Section. The amount of interest due shall be the greater of:
 - a. An amount calculated in accordance with A.R.S. § 44-1201(A); or
 - b. The amount actually earned on the funds set aside or to be repaid under this Section.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed; new Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

Amended by final exempt rulemaking at 21 A.A.R. 1643, effective July 23, 2015 (Supp. 15-3).

R2-20-705. Additional Audits or Repayment Determinations

- A. The Commission may conduct an additional audit or examination of any candidate in any case in which the Commission finds reason to believe that a violation of a statute or regulation over which the Commission has jurisdiction has occurred or is about to occur.
- B. The Commission may make additional repayment determinations after it has made an initial repayment determination pursuant to R2-20-704. The Commission may make additional repayment determinations where there exist facts not used as the basis for any previous determination. Any such additional repayment determination will be made in accordance with the provisions of this Article.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed; new Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-706. Repealed**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-707. Repealed**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-708. Repealed**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-709. Repealed**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-710. Repealed**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

Supplement Separator Page



Supplement to the
Arizona Administrative Code
 The official compilation of Arizona Rules
Replacement Check List

For rules filed in the third quarter between
 July 1 - September 30
 2017

Within the stated calendar quarter, this Title contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information. Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

TITLE 03. Agriculture

Chapter 07. Department of Agriculture - Weights and Measures Services Division

Sections, Parts, Exhibits, Tables or Appendices modified

R3-7-101 through R3-7-104, R3-7-108 through R3-7-110, Table 1; R3-7-201, R3-7-203; R3-7-302; R3-7-402; R3-7-501 through R3-7-507; R3-7-601 through R3-7-604; R3-7-701 through R3-7-718, R3-7-749 through R3-7-757, R3-7-759, Table A, R3-7-760 through R3-7-762, Tables 1 and 2; R3-7-901 through R3-7-905, R3-7-907 through R3-7-913, R3-7-1001 through R3-7-1005, R3-7-1007 through R3-7-1013

Article 1. Administration and Procedures; Article 2. Commercial Devices; Article 3. Packaging, Labeling, and Method of Sale; Article 4. Price Verification and Price Posting; Article 5. Public Weighmasters; Article 6. Registered Service Agencies and Representatives; Article 7. Motor Fuels and Petroleum Products; Article 8. Repealed; Article 9. Gasoline Vapor Control for Sites with Both Stage I and Stage II Vapor Recovery Systems; Article 10. Stage I Vapor Recovery Systems

☐ REMOVE Supp. 16-3
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☐ REPLACE with Supp. 17-3
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The agency's contact person who can answer questions about rules in this Chapter:

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Arizona Department of State
Office of the Secretary of State, Administrative Rules Division

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the Administrative Code. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION
September 30, 2017

RULES

A.R.S. § 41-1001(17) states: “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions. Virtually everything in your life is affected in some way by rules published in the Arizona Administrative Code, from the quality of air you breathe to the licensing of your dentist. This chapter is one of more than 230 in the Code compiled in 21 Titles.

ADMINISTRATIVE CODE SUPPLEMENTS

Rules filed by an agency to be published in the Administrative Code are updated quarterly. Supplement release dates are printed on the footers of each chapter:

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2017 is cited as Supp. 17-1.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the Arizona Administrative Register for recent updates to rule Sections.

ARTICLES AND SECTIONS

Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering system separated into subsections.

HISTORICAL NOTES AND EFFECTIVE DATES

Historical notes inform the user when the last time a Section was updated in the Administrative Code. Be aware, since the Office publishes each quarter by entire chapters, not all Sections are updated by an agency in a supplement release. Many times just one Section or a few Sections may be updated in the entire chapter.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in the introduction of a chapter can be found at the Secretary of State’s website, www.azsos.gov/services/legislative-filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the Arizona Administrative Register online at www.azsos.gov/rules, click on the Administrative Register link.

In the Administrative Code the Office includes editor’s notes at the beginning of a chapter indicating that certain rulemaking Sections were made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR

If you are researching rules and come across rescinded chapters on a different paper color, this is because the agency filed a Notice of Exempt Rulemaking. At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

PERSONAL USE/COMMERCIAL USE

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Public Services managing rules editor, Rhonda Paschal, assisted with the editing of this chapter.

TITLE 3. AGRICULTURE**CHAPTER 7. DEPARTMENT OF AGRICULTURE - WEIGHTS AND MEASURES SERVICES DIVISION**

Editor's Note: Chapter 7, including new Articles 1 through 10, were recodified from 20 A.A.C. 2 by the Department of Agriculture at 22 A.A.R. 2786. When recodified, all former Section references were revised to the new numbering scheme in this Chapter. Sections in this Chapter were originally adopted in 20 A.A.C. 2 under certain exemptions from the provisions of the Administrative Procedure Act, A.R.S. Title 41, Chapter 6. Refer to Laws 1997, Chapter 117, § 3 for more information (Supp. 16-3).

ARTICLE 1. ADMINISTRATION AND PROCEDURES

Article 1, consisting of Sections R3-7-101 through R3-7-117 and Table 1 recodified from R20-2-101 through R20-2-117 and Table 1, at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

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ARTICLE 1. ADMINISTRATION AND PROCEDURES**R3-7-101. Definitions**

The definitions in A.R.S. §§ 3-3401, 3-3414, 3-3436, and 3-3511 and the following definitions apply to this Chapter:

1. "ADEQ" means the Arizona Department of Environmental Quality.
2. "Administrative order" means a corrective action notice that the Division issues for a violation of A.R.S. Title 3, Chapter 19, or this Chapter, that orders a person to:
 - a. Remove from use or sale, or dispose of, a commercial device, commodity, or liquid fuel;
 - b. Stop selling a commodity or liquid fuel until the person provides documentation to the Division that the weight, measure, fuel quality, or price posting complies with the requirements of A.R.S. Title 3, Chapter 19, and this Chapter;
 - c. Stop using a commercial device, commodity, liquid fuel, vapor recovery system, or vapor recovery system component, until the person provides documentation to the Division that the weight, measure, fuel, vapor recovery system, or component complies with the requirements of A.R.S. Title 3, Chapter 19, and this Chapter;
 - d. Stop performing weighmaster, deputy public weighmaster, registered service agency, or registered service representative licensed duties until the person provides documentation to the Division that the person is complying with the requirements of A.R.S. Title 3, Chapter 19, and this Chapter;
 - e. Comply with labeling, policies, and cash register indicator displays according to A.R.S. Title 3, Chapter 19, and this Chapter;
 - f. Stop constructing or modifying a vapor recovery system until the person complies with A.R.S. Title 3, Chapter 19, and this Chapter;
 - g. Excavate a vapor recovery site according to R3-7-104(L); or
 - h. Comply with scheduling a test according to R3-7-104(L).
3. "Application" means, for purposes of R3-7-108, forms and all documents and additional information the Division requires an applicant to submit when applying for a license.
4. "ASTM" means American Society for Testing and Materials.
5. "Area A" has the same meaning as in A.R.S. § 49-541.
6. "Area B" has the same meaning as in A.R.S. § 49-541.
7. "CARB" means the California Air Resources Board.
8. "CARB certified" means, with respect to a vapor recovery system, that the system has been certified in an executive order of the CARB.
9. "Certified prover" means a calibrated device, traceable to the National Institute of Standards and Technology, used for measuring liquid volume.
10. "Completion of construction" means the point when a gasoline dispensing site is placed into or returned into service following installation or modification of an approved vapor recovery system.
11. "Construction commenced" means the point in time when construction of a gasoline dispensing site begins:
 - a. At a location where there was not one previously;
 - b. To replace all gasoline storage tanks; or
 - c. To replace, repair, or modify at least 75% of the facility's gasoline dispensing equipment.
12. "EPA" means the United States Environmental Protection Agency.
13. "Gasoline vapors" means volatile organic compounds in a gaseous state.
14. "Handbook 44" means the United States Department of Commerce, Technology Administration, National Institute of Standards and Technology (NIST) Handbook 44, *Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices*, Government Publishing Office, P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov (2017 edition), incorporated by reference and on file with the Division. This incorporation by reference contains no future editions or amendments.
15. "Handbook 130" means the United States Department of Commerce, Technology Administration, National Institute of Standards and Technology (NIST) Handbook 130, *Uniform Laws and Regulations*, Government Publishing Office, P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov (2017 edition), incorporated by reference and on file with the Division. This incorporation by reference contains no future editions or amendments.
16. "Handbook 133" means the United States Department of Commerce, Technology Administration, National Institute of Standards and Technology (NIST) Handbook 133, *Checking The Net Contents of Packaged Goods*, Government Publishing Office, P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov (January 2017 edition), incorporated by reference and on file with the Division. This incorporation by reference contains no future editions or amendments.
17. "Malfunction" means any failure of gasoline vapor recovery equipment to operate in the normal and usual manner.
18. "Modification" means adding to, replacing, or upgrading a site's stage II vapor recovery system, but does not include the repair or replacement of like parts.
19. "Monthly throughput" means the total amount of gasoline transferred into or dispensed from a gasoline dispensing site during one calendar month.
20. "Motor vehicle" means any vehicle equipped with a spark-ignited internal combustion engine, except vehicles that run on or are guided by rails, and vehicles that are designed primarily for travel through air or water.
21. "NCWM" means the National Conference on Weights and Measures.
22. "NIST" means the National Institute of Standards and Technology.
23. "Operator" means a person in control of, or having responsibility for, the daily operation of a gasoline dispensing site.
24. "Out-of-service tag" means a red rejection tag that signifies a commercial device does not meet the requirements of A.R.S. Title 3, Chapter 19, Handbook 44, or this Chapter.
25. "Person" as defined in A.R.S. § 3-3401, means an owner or operator of a commercial device or vapor recovery system, retail seller, wholesaler, registered supplier, pipeline distributor, packer, manufacturer, licensee, transporter, or consignee.
26. "Placed in service" means the certification by a registered service agency or representative that a commercial device meets the requirements of A.R.S. Title 3, Chapter 19, Handbook 44, and this Chapter, and may be used, unless the Division orders otherwise.
27. "Placed-in-service report" means the form that a registered service representative completes and submits to the Division after placing a commercial device in service.

28. "Product transfer document" means the bill of lading, loading ticket, manifest, delivery receipt, invoice, or other customarily used documentation to denote delivery information for motor fuel.
29. "Retail" means the sale of a commodity to a consumer for profit by someone in the business of selling the commodity.
30. "Seal of authority" means a stamp or press of the Division's official mark, issued to a public weighmaster, certifying the weighmaster's authority to issue weight certificates.
31. "Service Counter" means a display staffed by a sales associate and requires a customer to receive assistance in order to purchase a product.
32. "Seizure" means taking into physical possession, or otherwise securing for evidence, a commodity, liquid fuel, weight, measure, commercial device, or component of a device by the Division.
33. "Stop-sale, stop-use tag" means a blue tag or blue tape that signifies that a commercial device, including a vapor recovery system or vapor recovery component, or a commodity or liquid fuel, does not meet the requirements of A.R.S. Title 3, Chapter 19, Handbook 44, Handbook 130, Handbook 133, CARB Executive Orders, or this Chapter.
34. "Third-party registered service agency" means a registered service agency that performs work under contract for any business or company.
35. "Underground storage tank" means a tank as described in A.R.S. § 491001.
36. "Unit" means a quantity adopted as a standard of measurement.
37. "Vapor recovery registered service representative" means an individual to whom the Division has issued a license authorizing the individual to conduct all vapor-recovery tests required under A.R.S. Title 3, Chapter 19 or this Chapter including annual vapor-recovery tests.
38. "Warning tag" means a yellow tag that signifies a commercial device, vapor recovery system, or vapor recovery component does not comply with A.R.S. Title 3, Chapter 19, Handbook 44, CARB Executive Orders, or this Chapter.
39. "Weight certificate" means a document, issued by a public weighmaster in a form approved by the Division, which certifies the accuracy of the weight of the commodity measured.

Historical Note

New Section R3-7-101 recodified from Section R20-2-101 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-102. Metrology Laboratory Testing and Calibration Fees

- A. For all services of the Division's Metrology Laboratory, the Division shall charge \$110 per hour with a minimum charge of \$50.
- B. In addition to the fee in subsection (A), the Division shall charge for travel and per diem at the rates established under A.R.S. §§ 38-623(D) and 38-624(C) for tests or calibrations conducted outside the Metrology Laboratory.

Historical Note

New Section R3-7-102 recodified from Section R20-2-102 at 22 A.A.R. 2786, effective August 16, 2016 (Supp. 16-3).

16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-103. Licensing and Fees

- A. A license is effective on the first day of the month following the date that the license application is filed with the Division. If an application is filed on the first of a month and is complete and accurate, the license is effective on the first day of that month.
- B. A payment is delinquent if not received or postmarked on or before the due date. The Division shall not process a license or renewal application for which payment is delinquent.
- C. If the Division receives payment for a license that excludes the payment of applicable late fees or past due civil penalties, the Division shall apply the license fee payment to the licensee's account and issue a separate invoice for the additional monies owed to the Division. The license will not be issued by the Division until all fees due are paid.

Historical Note

New Section R3-7-103 recodified from Section R20-2-103 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-104. Administrative Enforcement Action

- A. The Division shall take progressive enforcement action for a violation of A.R.S. Title 3, Chapter 19, CARB Executive Orders, Handbook 44, Handbook 130, Handbook 133, or this Chapter.
- B. The Division shall make available a copy of its inspection report to the person who owns or operates a location that the Division inspects. The report shall include the inspection results and violations. The Division shall send a copy of the inspection report to the owner of a location by e-mail if the owner has provided an e-mail address to the Division. Inspection results and violations shall be posted on the Division website.
- C. The person who owns or operates a location inspected by the Division may request a hearing under R3-7-109 to dispute the inspection results, violation, or enforcement action.
- D. The Division shall suspend, revoke, or refuse to renew any license if the licensee does not comply with an enforcement action imposed under this Section.
- E. A maximum civil penalty may be doubled as stated in A.R.S. § 3-3475(C).
- F. Commercial device.
 1. The Division may place out of service an unlicensed commercial device that it determines has been in use for more than 30 days.
 2. The Division may confiscate a commercial device when a person violates an administrative order related to that commercial device, or removes a warning tag, out-of-service tag, or stop-sale, stop-use tag issued to that commercial device without Division authority.
 3. The Division may condemn and confiscate a weight, measure, or other commercial device that the Division determines is incorrect and not capable of compliance with Handbook 44.
 4. The Division shall issue an out-of-service tag or a stop-sale, stop-use tag if a commercial device is not in compliance with the requirements in A.R.S. Title 3 Chapter 19, Handbook 44 or this Chapter and the lack of compliance creates a situation favorable to the person who owns or operates the commercial device.
 - a. A person shall not use a commercial device that has an out-of-service tag until the person repairs the commercial device.

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- b. A person shall not sell or use a commercial device that has a stop-sale, stop-use tag until the commercial device meets the requirements of A.R.S. Title 3, Chapter 19, Handbook 44, and this Chapter.
 5. The Division shall issue a warning tag when a commercial device is not in compliance with the requirements in A.R.S. Title 3, Chapter 19, Handbook 44, or this Chapter and the lack of compliance creates a situation favorable to the consumer. The Division shall issue an out-of-service tag if the commercial device is not repaired by the deadline on the warning tag. A person shall not use a commercial device after the period specified on the warning tag for repair unless the commercial device complies with A.R.S. Title 3, Chapter 19, Handbook 44, and this Chapter.
 6. The Division may issue an out-of-service tag if a commercial device does not have a non-tampering seal affixed.
 7. The Division shall issue an out-of-service tag if a Division inspector cannot conduct an inspection of a commercial device because of malfunction, abnormal performance, or a potential safety risk that the person who owns or operates the commercial device does not correct within 30 minutes of the attempted inspection.
 8. The Division shall issue an out-of-service tag if a commercial device cannot begin weighing, measuring, metering, or counting at zero as prescribed in Handbook 44.
 9. The Division shall issue a warning tag if the manufacturer's plate on a commercial device does not contain the information required by Handbook 44, is missing, or is unreadable. The Division shall issue an out-of-service tag if the person who owns or operates a commercial device does not obtain a compliant manufacturer's plate by the 30-day deadline imposed on the warning tag.
 10. The Division shall issue a warning tag to a person who did not construct a large-scale approach according to Handbook 44. The Division shall issue a stop-sale, stop-use tag if the large-scale approach is not made compliant by the deadline imposed on the warning tag.
 11. In addition to any enforcement action under subsections (F)(1) through (10):
 - a. If the Division finds during an inspection that a commercial device does not comply with the requirements of A.R.S. Title 3, Chapter 19, or this Chapter and the lack of compliance favors the owner or operator of the commercial device:
 - i. The Division may impose a civil penalty up to \$300 on the person who owns or operates the commercial device; and
 - ii. The Division may impose a civil penalty up to \$500 on the person who owns or operates the commercial device for each reinspection until the commercial device is in compliance.
 - b. If the Division finds during an inspection that a person who weighs a product on a commercial device violates Handbook 44 or does not post rates according to Handbook 44 or this Chapter:
 - i. The Division may issue an administrative order to the person at the conclusion of the inspection and impose a civil penalty up to \$300; and
 - ii. The Division may issue an administrative order to the person and impose a civil penalty up to \$500 at each reinspection until the person complies with Handbook 44 and this Chapter.
- G. Public and deputy public weighmaster.**
1. The Division may issue an administrative order if a public weighmaster's:
 - a. Weigh tickets are not in numbered sequence or are missing,
 - b. The seal, press, or electronic seal is not readable, or
 - c. Records are not maintained according to R3-7-505.
 2. The Division may issue an administrative order and impose a civil penalty up to \$500 on a public weighmaster if:
 - a. The public weighmaster's weigh tickets contain inaccurate information,
 - b. The public weighmaster violates an administrative order,
 - c. The public weighmaster misuses a seal or press or has an unauthorized seal or press; or
 - d. The public weighmaster misuses an electronic seal or signature.
 3. The Division shall confiscate a seal or press if a public weighmaster violates an administrative order issued to the public weighmaster.
 4. The Division shall suspend, revoke, or refuse to renew a license if a public weighmaster does not comply with an enforcement action under this Section.
 5. The Division shall issue an administrative order and a civil penalty up to \$300 to a person who performs public weighmaster duties without a license.
 6. If a public weighmaster permits an unlicensed person to perform deputy public weighmaster duties, the Division may:
 - a. Impose a civil penalty up to \$300 on the public weighmaster for the first time the public weighmaster permits an unlicensed person to perform deputy public weighmaster duties;
 - b. Impose a civil penalty up to \$500 on a public weighmaster for the second time the public weighmaster permits an unlicensed person to perform deputy public weighmaster duties; and
 - c. Confiscate the public weighmaster's records, equipment, and devices if the public weighmaster permits an unlicensed person to perform deputy public weighmaster duties more than twice.
- H. Packaging.**
1. The Division shall issue an administrative order to an owner or an employee of the owner where a package inspection is held if a package is not in compliance with a requirement in Handbook 130 or Handbook 133. The person to whom the administrative order is issued shall correct the package violation by:
 - a. Returning the package to the packer or manufacturer,
 - b. Labeling the package to reflect its correct quantity,
 - c. Placing a notice on the package that states the violation and pricing the package to reflect its correct quantity, or
 - d. Repackaging the commodity so the package contains the quantity represented.
 2. In addition to an administrative order, the Division may impose a civil penalty up to \$500 per lot on a person who violates a requirement in Handbook 130 or Handbook 133.
- I. Price verification.**
1. The initial inspection of a retail location for price verification is for educational purposes and an enforcement action will not be imposed for a violation identified during the initial inspection.

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2. The Division shall issue a stop-sale, stop-use tag to a person who fails a price verification inspection if the violation cannot be corrected within 30 minutes of the Division completing the inspection.
 - a. The Division may impose a civil penalty up to \$100 per violation on a person who fails a reinspection if the Division finds more than one item at more than its posted price.
 - b. The Division may impose a civil penalty up to \$200 per violation on a person who fails a second reinspection. The Division shall increase the per violation civil penalty imposed by \$100 for each subsequent reinspection until the violation is corrected.
 3. If the Division receives and substantiates a complaint about a person against whom the Division took an administrative enforcement action under subsection (I)(2) within the 60 days before the date of the complaint, the Division shall issue a stop-sale, stop-use tag and impose a civil penalty that is \$100 more than the civil penalty that the Division previously imposed against this person.
 4. The Division may issue a warning tag to a person who does not have a written price-error policy. The Division may impose a civil penalty up to \$500 if the person does not have a written price-error policy upon reinspection.
 5. The Division shall issue a warning tag to a person who does not have a price display visible to the consumer at a check-out location. The Division shall issue an out-of-service tag if the person does not have a price display visible to the consumer at a check-out location upon reinspection.
- J. Price posting.**
1. The initial inspection of a retail location for price posting is for educational purposes and an enforcement action will not be imposed for a violation identified during the initial inspection.
 2. The Division shall issue a stop-sale, stop-use tag to a person who fails a price posting inspection if the violation cannot be corrected within 30 minutes of the Division completing the inspection.
 3. The Division may impose a civil penalty up to \$50 for each inspected lot not priced if a person fails a reinspection with a score of less than 96 percent.
 4. The Division may impose a civil penalty up to \$100 for each inspected lot not priced if a person fails a second reinspection.
 5. If the Division receives and substantiates a complaint about a person against whom the Division took an administrative enforcement action under subsection (J)(2) within the 60 days before the date of the complaint, the Division shall issue a stop-sale, stop-use tag and impose a civil penalty that is \$100 more than the civil penalty that the Division previously imposed against this person.
- K. Fuel quality and labeling.**
1. The Division shall issue a warning tag to a person whose fuel dispenser labeling violates A.R.S. Title 3, Chapter 19, or this Chapter. The Division shall issue an out-of-service tag to the person if the person does not correct the fuel dispenser labeling violation within the time specified on the warning tag.
 2. The Division may issue an administrative order to a person whose fuel storage tank labeling or external street signage violates A.R.S. Title 3, Chapter 19, or this Chapter. The Division may impose a civil penalty up to \$300 if the person does not correct the labeling or signage violation within the time specified in the administrative order.
 3. The Division may issue an administrative order and impose a civil penalty up to \$500 per octane level or fuel grade to a person who violates a fuel-quality requirement under A.R.S. Title 41, Chapter 15, or this Chapter. The person shall correct the violation by:
 - a. Removing non-compliant motor fuel from the storage tank and replacing it with compliant motor fuel,
 - b. Selling the motor fuel at the correct octane level,
 - c. Adding sufficient compliant motor fuel to the storage tank to bring the motor fuel in the storage tank into compliance,
 - d. Removing all water from the storage tank or emptying the tank per R3-7-711 or R3-7-712, or
 - e. Removing the non-compliant motor fuel to another area within the state if the motor fuel complies with specifications of that area.
 4. The Division may issue an administrative order to a person who does not provide requested product transfer documentation within 24 hours of the Division's request. The Division may impose a civil penalty up to \$300 on a person who provides the requested documentation between 24 and 72 hours. The Division may impose a civil penalty up to \$500 on a person who does not provide the requested documentation within 72 hours.
- L. Vapor recovery.**
1. The Division may issue an administrative order to stop construction at a vapor recovery site and impose a civil penalty up to \$500 on a person who:
 - a. Begins construction or makes a major modification without an authority to construct plan approval,
 - b. Does not comply with the authority to construct plan approval, or
 - c. Does not obtain an approved change order for construction or major modification of the vapor recovery site unless:
 - i. The vapor recovery system and its components comply with A.R.S. Title 3, Chapter 19, and this Chapter; and
 - ii. The vapor recovery system passes the required vapor recovery tests according to A.R.S. Title 3, Chapter 19, and this Chapter.
 2. The Division may issue an administrative order requiring a person to excavate a vapor recovery site if the person covers a vapor recovery component before a Division pre-burial inspection and may impose a civil penalty up to \$500 if the excavated system does not pass required vapor recovery tests according to A.R.S. Title 3, Chapter 19, and this Chapter.
 3. The Division shall issue an administrative order if a person fails to ensure that a vapor recovery site passes an initial test within 90 days of being opened or passes an annual test within the designated test month. The Division shall issue a stop-sale, stop-use tag if the person does not comply with the administrative order.
 4. The Division may impose a civil penalty up to \$100 on a person who does not have an authority to construct plan approval available for inspection at the construction site during normal business hours.
 5. The Division may issue a warning tag to a person whose vapor recovery system labeling does not comply with R3-7-713. The Division may issue a stop-sale, stop-use tag and impose a civil penalty up to \$500 on a person who does not correct a labeling violation within the time specified on a warning tag.
 6. The Division shall issue a stop-sale, stop-use tag to a person whose vapor recovery system fails a test under R3-7-

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905, R3-7-910, R3-7-1005, or R3-7-1010. If the test failure is isolated to a system component, the Division's stop-sale, stop-use tag shall pertain to that component so the rest of the system may operate.

- M. The Division may impose a civil penalty up to \$500 and issue another stop-sale, stop-use tag to a person who violates a stop-sale, stop-use tag. The Division may impose a civil penalty up to \$500 and revoke, suspend, or refuse to renew a commercial device license if a person removes a stop-sale, stop-use tag without approval.
- N. Registered service agency and registered service representative.
 1. If a registered service agency submits to the Division an inaccurate or incomplete placed-in-service or test report, the Division may impose a civil penalty up to \$50 on the agency each time the agency resubmits a placed-in-service or test report without making all needed corrections.
 2. The Division may impose a civil penalty up to \$300 on a registered service representative who incorrectly:
 - a. Installs a commercial device,
 - b. Repairs a commercial device,
 - c. Tests a vapor recovery system, or
 - d. Repairs a vapor recovery system.
 3. If an unlicensed person represents itself as a registered service agency, the Division may:
 - a. Issue an administrative order,
 - b. Impose a civil penalty up to \$500 and confiscate the unlicensed person's calibration standards if the unlicensed person violates the administrative order, and
 - c. Deny a registered service agency license to the unlicensed person if the unlicensed person fails to comply with the enforcement action under this subsection.
 4. The Division may issue an administrative order to an unlicensed person who performs the duties of a registered service representative. The Division may impose a civil penalty up to \$300 on the registered service agency for which the unlicensed individual works.
 5. The Division may issue an administrative order if a registered service representative places a commercial device into service without Division authorization. The Division may impose a civil penalty up to \$500 on the registered service agency whose representative places a commercial device into service without Division authorization.
 6. The Division may impose a civil penalty up to \$500 on a registered service agency whose registered service representative uses a metrology standard or vapor recovery testing equipment that is not certified according to this Chapter and, as applicable, CARB test methods. The Division may confiscate a metrology standard or vapor recovery testing equipment if a registered service representative uses the uncertified standard or equipment after the registered service agency is penalized. The Division shall return the standard or equipment when it is properly certified.
 7. The Division shall issue an administrative order to a vapor recovery registered service agency or person who owns a vapor recovery system that does not, according to A.R.S. Title 3, Chapter 19, and this Chapter:
 - a. Notify the Division of a test date and time,
 - b. Begin a test at the approved time,
 - c. Appear for a witnessed test,
 - d. Close a vapor recovery system for repairs if the system fails, or
 - e. Perform a test.
 8. The Division may impose a civil penalty up to \$300 on a vapor RSA that violates subsections (M)(7)(a), (b), (d), or (e). The Division may impose a civil penalty up to \$300 on a vapor recovery registered service agency that violates subsection (M)(7)(c) twice in 12 months.
 9. If a registered service agency's registered service representative does not attach a non-tampering seal on a commercial device that is equipped for a seal, the Division may:
 - a. Impose a civil penalty up to \$300 on the registered service agency for the first violation, and
 - b. Impose a civil penalty up to \$500 on the registered service agency for each subsequent violation by the registered service representative.
 10. If a registered service representative determines that a vapor recovery system or component is not in compliance with A.R.S. Title 3, Chapter 19, or this Chapter, the registered service representative shall:
 - a. Secure the non-compliant vapor recovery system or component from use before the registered service representative leaves the vapor recovery site or until the system or component passes the tests required by R3-7-910;
 - b. Notify the Division of the secured, non-compliant vapor recovery system or component before leaving the vapor recovery site; and
 - c. Notify the Division of the time of the test required by R3-7-910 or R3-7-1010 by 6:00 a.m. of the day after the non-compliant vapor recovery system or component is secured or one hour before the test, whichever is sooner.
 11. If a registered service representative fails to comply with subsection (M)(10)(b) or (c), the Division may:
 - a. Impose a civil penalty up to \$300 on the registered service representative;
 - b. Issue an administrative order, if the registered service representative is penalized under this subsection three times in 12 months, requiring the registered service representative to take and pass the licensing competency examination; and
 - c. Suspend or revoke the license of the registered service agency employing the registered service representative if the registered service representative does not comply with an order issued under subsection (M)(11)(b).
 12. If a registered service representative fails to notify the Division of a non-compliant commercial device under R3-7-602(B)(1)(f), the Division may impose a civil penalty up to \$300.

Historical Note

New Section R3-7-104 recodified from Section R20-2-104 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-105. Repealed**Historical Note**

Repealed Section R3-7-105 recodified from repealed Section R20-2-105 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-106. Repealed

Historical Note

Repealed Section R3-7-106 recodified from repealed Section R20-2-106 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-107. Repealed**Historical Note**

Repealed Section R3-7-107 recodified from repealed Section R20-2-107 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-108. Time-frames for Licenses, Renewals, and Authorities to Construct

- A. For each type of license, renewal, or authority issued by the Division, the overall time-frame described in A.R.S. § 41-1072(2) is set forth in Table 1.
- B. For each type of license, renewal, or authority issued by the Division, the administrative completeness review time-frame described in A.R.S. § 41-1072(1) is set forth in Table 1 and begins on the date the Division receives an application.
 - 1. If the application is not administratively complete, the Division shall send a deficiency notice to the applicant.
 - a. The deficiency notice shall state each deficiency and the information needed to complete the application.
 - b. Within the time provided in Table 1 for response to the deficiency notice, the applicant shall submit to the Division the missing information specified in the deficiency notice. The time-frame for the Division to finish the administrative completeness review is suspended from the date the Division mails or e-mails the deficiency notice to the applicant until the date the Division receives the missing information.
 - c. If the applicant does not submit the missing information within the time to respond to the deficiency notice set forth in Table 1, the Division shall send a written notice to the applicant informing the applicant that the application is deemed withdrawn. An applicant who desires to reapply shall begin the application process anew.
 - 2. If the application is administratively complete, the Division shall send a written notice of administrative completeness to the applicant. If the Division, within 10 days of submittal, fails to send a written notice of administrative completeness or deficiency notice outlined in subsection (B)(1), the application shall automatically be deemed administratively complete.
- C. For each type of license, renewal, or authority issued by the Division, the substantive review time-frame described in A.R.S. § 41-1072(3) is set forth in Table 1 and begins on the date the Division sends written notice of administrative completeness to the applicant.
 - 1. During the substantive review time-frame, the Division may make one comprehensive written request for additional information. The applicant shall submit the additional information within the time provided in Table 1 for response to a comprehensive written request for additional information. The time-frame for the Division to finish the substantive review is suspended from the date the Division mails or e-mails the request until the Division receives the information.
 - 2. If the applicant does not submit the requested additional information within the time-frame in Table 1, the Division shall issue a written notice informing the applicant that the application is deemed withdrawn. The applicant may request in writing that the Division deny the application within 15 days of the date of the notice of with-

drawal. An applicant who desires to reapply shall begin the application process anew.

- 3. The Division shall issue a written notice of denial of license, renewal, or authority if the Division determines that the applicant does not meet all of the substantive criteria required by A.R.S. Title 3, Chapter 19, and this Chapter for a license, renewal, or authority. The notice of denial shall include:
 - a. Reasons for the denial, with citations to the statutes or rules on which the denial is based; and
 - b. The name and telephone number of a Division employee who can answer questions regarding the application process.
- 4. If the applicant meets all of the substantive criteria required by A.R.S. Title 3, Chapter 19, and this Chapter for a license, renewal, or authority the Division shall issue the license, renewal, or authority to the applicant.
- D. The time period for an applicant to respond to a deficiency notice or request for additional information shall commence on the date of personal service or the postmark date.
- E. In computing any time period prescribed in this Section, the day of the act, event, or default shall not be included. The last day of the period shall be included unless it is Saturday, Sunday, or a state holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or state holiday. The computation shall include intermediate Saturdays, Sundays and holidays.
- F. An applicant whose license, renewal, or authority is denied has a right to a hearing, an opportunity for rehearing, and if the denial is upheld, judicial review pursuant to A.R.S. Title 41, Chapter 6, Articles 6 and 10, and A.R.S. Title 12, Chapter 7, Article 6.

Historical Note

New Section R3-7-108 recodified from Section R20-2-108 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-109. Administrative Hearing Procedures

A.R.S. Title 41, Chapter 6, Articles 6 and 10 apply to the Division's hearings.

Historical Note

New Section R3-7-109 recodified from Section R20-2-109 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-110. Motion for Rehearing or Review

- A. Except as provided in subsection (G), any party in a contested case or appealable agency action before the Division who is aggrieved by a decision rendered in the case may file with the Division, a written motion for rehearing or review of the decision, pursuant to A.R.S. Title 41, Chapter 6, Article 10, specifying the particular grounds for the motion.
- B. A motion for rehearing or review may be amended at any time before it is ruled upon by the Division. A response may be filed within 15 days after service of the motion or amended motion by any other party. The Division may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.
- C. A rehearing or review of the decision may only be granted for any of the following reasons materially affecting the moving party's rights or ability to receive a fair hearing:
 - 1. Any irregularity in the hearing, order, or abuse of discretion by the administrative law judge or the Division.

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2. Misconduct of the Division, the administrative law judge, or the prevailing party.
 3. Accident or surprise that could not have been prevented by ordinary prudence.
 4. Newly discovered material evidence that could not have been discovered with reasonable diligence and produced at the original hearing.
 5. Excessive or insufficient penalties.
 6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing.
 7. That the decision is not justified by the evidence or is contrary to law.
- D.** The Division may affirm or modify its decision, or grant a rehearing or review. After giving the parties or their counsel notice and an opportunity to be heard, the Division may grant a rehearing or review for a reason not stated in a party's motion. An order granting a rehearing or review shall specify the grounds on which the rehearing or review is granted. The rehearing or review shall cover only those matters so specified.
- E.** The Division, within the time for filing a motion for rehearing or review under this rule, may order a rehearing or review for any of the reasons set forth in subsection (C), after giving the parties notice and an opportunity to be heard.
- F.** When a motion for rehearing or review is based upon affidavits, the moving party shall serve the affidavits with the motion. An opposing party has 15 days from the date of service to serve opposing affidavits. The Division may extend the period to respond up to 20 days for good cause, or by written stipulation of the parties. If the Division permits reply affidavits, the replying party has five days in which to serve them.
- G.** If the Division makes specific findings that the immediate effectiveness of a decision is necessary for the immediate preservation of the public peace, health, and safety and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the Division may issue the decision as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing or review, any application for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the Division's final decision.

Historical Note

New Section R3-7-110 recodified from Section R20-2-110 at 22 A.A.R. 2786, effective August 15, 2016 (Supp.

16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-111. Repealed**Historical Note**

Repealed Section R3-7-111 recodified from repealed Section R20-2-111 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-112. Repealed**Historical Note**

Repealed Section R3-7-112 recodified from repealed Section R20-2-112 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-113. Renumbered**Historical Note**

Renumbered Section R3-7-113 recodified from renumbered Section R20-2-113 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-114. Renumbered**Historical Note**

Renumbered Section R3-7-114 recodified from renumbered Section R20-2-114 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-115. Renumbered**Historical Note**

Renumbered Section R3-7-115 recodified from renumbered Section R20-2-115 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-116. Renumbered**Historical Note**

Renumbered Section R3-7-116 recodified from renumbered Section R20-2-116 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-117. Renumbered**Historical Note**

Renumbered Section R3-7-117 recodified from renumbered Section R20-2-117 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

Table 1. Time-frames (calendar days)

Type of License	Authority	Administrative Completeness Review	Response to Completion Request	Substantive Completeness Review	Response to Additional Information	Overall Time-frame
Commercial Device	R3-7-201	14	28	30	30	44
Public Weighmaster	R3-7-501	14	28	30	30	44
Registered Service Agency/Representative	R3-7-601	14	28	30	30	44
Authority to Construct	R3-7-904 R3-7-1004	14	28	30	30	44

Historical Note

Article 1, Table 1, Time-frames (in days), recodified from 20 A.A.C. 2, Article 1, Table 1, Time-frames (in days), at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

ARTICLE 2. COMMERCIAL DEVICES**R3-7-201. Licensing Process**

Before using a commercial device, a person or a contracted registered service representative shall apply for a license for the commercial device. The commercial device may be used without a license for up to 30 days after an application is filed with the Division. The application shall be on a form supplied by the Division that includes:

1. The applicant's name, address, and telephone number;
2. The name, address, and telephone number of the location where the commercial device will be operated;
3. A description of the commercial device;
4. The applicant's signature; and
5. An e-mail address for the owner or operator for the Division to provide licenses, invoices, inspections and reports, enforcement action, and other notifications.

Historical Note

New Section R3-7-201 recodified from Section R20-2-201 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-202. Repealed**Historical Note**

Repealed Section R3-7-202 recodified from repealed Section R20-2-202 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-203. Approval, Installation, and Sale of Devices

- A. A commercial device installed or placed in use after January 1, 1975, shall have an NCWM National Type Evaluation Program (NTEP) Certificate of Conformance or have a certificate of approval from the California Type Evaluation Program. NTEP Certificate of Conformance issuance may be verified at the NCWM website: http://www.ncwm.net/ntep/cert_search.
 1. If a commercial device has been continuously licensed, or evidence shows it has been in use by the owner in Arizona since January 1, 1975, the commercial device is exempt from NCWM or California Type Evaluation Program prototype approval.
 2. If a commercial device exempt under subsection (A)(1) fails the specifications, tolerances, or other technical requirements of Handbook 44 during a Division inspection, the Division shall issue an out of service tag or confiscate the device per R3-7-104(F)(3) and revoke the commercial device license. A person shall no longer use the device commercially.
- B. The seller of a commercial device that is remanufactured for the purpose of commercial sale shall mark the commercial device as remanufactured.

Historical Note

New Section R3-7-203 recodified from Section R20-2-203 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-204. Livestock and Vehicle Scale Installation

- A. Portable livestock and portable vehicle scales shall be designed to be moveable from one location to another.
- B. Portable scales and low-profile electronic scales shall be accessible for maintenance.
- C. Notwithstanding Handbook 44, vehicle and livestock scales installed above ground shall have 2 feet minimum clearance from the bottom of the lowest platform support girder to the ground.

- D. Notwithstanding Handbook 44, vehicle and livestock scales, installed with a pit, shall have 2 feet minimum clearance from the bottom of the main girder that is lowest in platform support to the pit floor.

Historical Note

New Section R3-7-204 recodified from Section R20-2-204 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

ARTICLE 3. PACKAGING, LABELING, AND METHOD OF SALE**R3-7-301. Repealed****Historical Note**

Repealed Section R3-7-301 recodified from repealed Section R20-2-301 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-302. Handbook 130 and Handbook 133

- A. A person shall comply with all packaging, labeling, and method of sale requirements in Handbook 130, except as otherwise stated in this Chapter. A person shall ensure that packaged commodities kept, offered, exposed for sale, sold, or in the process of delivery are weighed, measured, and inspected using sampling and testing procedures designated in Handbook 133, except as otherwise stated in this Chapter.
- B. A retail seller shall ensure that a package that is offered for sale in a variable weight, measurement, or count, and that is weighed, measured, or counted at the time of sale, includes a label on the package identifying the net weight, measurement, or count, item description, and packer's name if the packer is not the retailer. Pre-packaged produce does not require a label on each package if the retailer:
 1. Clearly labels the price-per-pound where the packaged produce is displayed, and
 2. Deducts a tare for the packaging from the gross weight at the time of sale.
- C. A retail seller shall price a commodity at the date and time that it is ordered by a customer.
- D. A retail seller who offers, exposes, or advertises a commodity for sale or rent shall post a definite, plain, and conspicuous price on the commodity or adjacent to where the commodity is displayed. If the price of the commodity is by weight, measure, or count, the retailer shall place the price per weight, measure, or count on the commodity or adjacent to where the commodity is displayed. If a retailer offers a commodity for sale or rent at a price reduced by a percentage or a fixed amount from a previously offered price, the retailer shall place the reduction or reduced price on the commodity or adjacent to where the commodity is displayed.
- E. A person who owns or operates a plant nursery shall label each commodity with its identity and price, or post a sign with this information adjacent to the point of display.
- F. A retail seller shall ensure that the price of each item purchased is displayed visibly to the public at each check-out location.
- G. Items in or behind a service counter that can be sold only with the assistance of a sales associate are not required to have a price displayed. If a price is displayed, it must meet the requirements of this Chapter.

Historical Note

New Section R3-7-302 recodified from Section R20-2-302 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-303. Repealed

Historical Note

Repealed Section R3-7-303 recodified from repealed Section R20-2-303 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-304. Repealed**Historical Note**

Repealed Section R3-7-304 recodified from repealed Section R20-2-304 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-305. Repealed**Historical Note**

Repealed Section R3-7-305 recodified from repealed Section R20-2-305 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-306. Repealed**Historical Note**

Repealed Section R3-7-306 recodified from repealed Section R20-2-306 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-307. Repealed**Historical Note**

Repealed Section R3-7-307 recodified from repealed Section R20-2-307 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-308. Repealed**Historical Note**

Repealed Section R3-7-308 recodified from repealed Section R20-2-308 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-309. Repealed**Historical Note**

Repealed Section R3-7-309 recodified from repealed Section R20-2-309 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-310. Repealed**Historical Note**

Repealed Section R3-7-310 recodified from repealed Section R20-2-310 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-311. Repealed**Historical Note**

Repealed Section R3-7-311 recodified from repealed Section R20-2-311 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-312. Repealed**Historical Note**

Repealed Section R3-7-312 recodified from repealed Section R20-2-312 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-313. Repealed**Historical Note**

Repealed Section R3-7-313 recodified from repealed Section R20-2-313 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

ARTICLE 4. PRICE VERIFICATION AND PRICE POSTING**R3-7-401. Repealed****Historical Note**

Repealed Section R3-7-401 recodified from repealed Section R20-2-401 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-402. Price-posting Inspection Procedure and Violation Exceptions

- A.** The Division shall choose one item that was used and up to four adjacent items that were not used for a price-verification inspection as the samples for a price-posting inspection.
- B.** If the Division finds an alleged price-posting violation involving an item used during its price-verification inspection, the Division shall record the price-posting violation on the inspection report.
- C.** The following are price-posting violations:
 1. No price is posted or displayed for an inspected item unless it is not required under subsection (D)(12);
 2. Less than 98 percent of the prices of inspected items are posted accurately; or
 3. A percentage off is provided, but there is no price displayed for the item on, in, or behind a service counter.
- D.** The following are not price-posting violations:
 1. A price is posted on a shelf where an item is displayed rather than marked on the item individually;
 2. A price is posted on the shelf or on a hook in front of or behind a row of items at the farthest left side of all items with the same price for up to 3 feet of shelf space or at the farthest left and farthest right side of the shelf or hooks with the same priced items. For items of the same price, the uniform price codes may differ for the commodities with prices labeled in this manner, as long as the price posted is a generic price and does not refer to a specific product;
 3. A price is posted on a vertical display in a location clearly visible to the consumer for items of the same price;
 4. Self-contained refrigerated coolers may have prices posted on the inside or outside of the refrigerator doors located on the left, right, or center of the shelving units in a location clearly visible to the consumer.
 5. A storage area that is posted as a storage area for which a customer should ask for assistance;
 6. A restocking area that is posted as a restocking area for which a customer should ask for assistance;
 7. A price is posted on a hook in front of or behind a row of items but the price is clearly visible or a notice is clearly visible stating that the price is posted behind the row of items;
 8. An item is located in an advertising display without a posted price but a notice is posted informing a customer to ask for price information assistance about an item in the display;
 9. A menu-type sign at a point of display that lists the name and price of every item at the point of display in legible text. A menu-type sign may also be used to display single-item purchase prices in areas where space is limited, or used to display a price for purchase of multiple items and single-item purchase prices at the point of display as long as it is located at, above or near the point of display;

10. A point of display contains more than one item posted with the manufacturer's name or logo and the price and name of each item in the point of display is posted;
11. A price is posted only at each entrance to a store but that price is the price of each item in the store, or at each entrance to a department within a store but that price is the price of each item in the department;
12. A notice states that there is an additional charge based on an item's size and each size and the additional charge for each size is posted; and
13. An item that does not have a price and is located in or behind a service counter and available only with the assistance of a sales associate. If a price is displayed, it must meet the requirements of this Chapter.

Historical Note

New Section R3-7-402 recodified from Section R20-2-402 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-403. Repealed**Historical Note**

Repealed Section R3-7-403 recodified from repealed Section R20-2-403 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-404. Repealed**Historical Note**

Repealed Section R3-7-404 recodified from repealed Section R20-2-404 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-405. Repealed**Historical Note**

Repealed Section R3-7-405 recodified from repealed Section R20-2-405 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-406. Repealed**Historical Note**

Repealed Section R3-7-406 recodified from repealed Section R20-2-406 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-407. Repealed**Historical Note**

Repealed Section R3-7-407 recodified from repealed Section R20-2-407 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-408. Repealed**Historical Note**

Repealed Section R3-7-408 recodified from repealed Section R20-2-408 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-409. Repealed**Historical Note**

Repealed Section R3-7-409 recodified from repealed Section R20-2-409 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-410. Repealed**Historical Note**

Repealed Section R3-7-410 recodified from repealed

Section R20-2-410 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-411. Repealed**Historical Note**

Repealed Section R3-7-411 recodified from repealed Section R20-2-411 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-412. Repealed**Historical Note**

Repealed Section R3-7-412 recodified from repealed Section R20-2-412 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

ARTICLE 5. PUBLIC WEIGHMASTERS**R3-7-501. Qualifications; License and Renewal Application Process**

- A. In addition to the requirements of A.R.S. § 3-3453, to be a public weighmaster or a deputy public weighmaster, a person shall:
 1. Be at least 18 years old,
 2. Be able to operate a scale accurately, and
 3. Be able to execute weight certificates properly.
- B. A person shall not perform the duties of a public weighmaster until the person passes the written weighmaster examination administered by the Division with a minimum score of 75 percent. A person may not take the examination more than three times in six months and must wait 7 days before retaking the exam.
- C. A person that meets the qualifications for public weighmaster or deputy public weighmaster may apply for a license on a form supplied by the Division. A separate application shall be submitted for each location the public weighmaster or deputy public weighmaster will issue weight tickets.
 1. The application form includes:
 - a. The applicant's name, address, and telephone number;
 - b. A statement by the applicant that the applicant knows and understands weighmaster laws and rules;
 - c. The name, address, and telephone number of each of the applicant's public weighmaster locations; and
 - d. The applicant's signature.
 2. The public weighmaster's application form also includes:
 - a. The name of each deputy public weighmaster operating at each location;
 - b. A statement that the public weighmaster understands they are responsible to ensure that any deputy public weighmasters working at the location are adequately trained and licensed;
 - c. The name and address of the scale; and
 - d. The scale description.
 3. The deputy public weighmaster application shall include a certification that they understand the requirements on a form provided by the Division and be signed by both the public weighmaster and the applicant.
 4. An applicant may be required to submit evidence of qualifications.
 5. The public weighmaster shall ensure all deputy public weighmasters are licensed for the location prior to their issuance of weight tickets.
 6. An applicant shall submit information and documentation concerning lawful presence required by A.R.S. § 41-1080.
- D. Before the Division issues or renews a public weighmaster or deputy public weighmaster license, the applicant shall pay the

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required fees and provide information required in A.R.S. Title 3, Chapter 19, and this Chapter.

- E. The Division does not charge a fee to process a change in name or address.
- F. In the event a public weighmaster leaves employment, a licensed deputy public weighmaster may utilize a public weighmaster stamp which contains only the location identity as issued under R3-7-506(B) for 30 days at a location while a public weighmaster license application is underway. A public weighmaster stamp containing the public weighmaster's name may not be continued to be used following a public weighmaster's departure.

Historical Note

New Section R3-7-501 recodified from Section R20-2-501 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-502. Duties

A public weighmaster shall:

1. Be responsible for the daily operation and maintenance of the licensed scale used when performing weighmaster duties;
2. Use scales according to applicable laws and rules;
3. Be responsible for all acts performed by any deputy public weighmaster designated by the weighmaster; and
4. Ensure deputy public weighmasters are licensed prior to their issuance of a weight ticket and cancel deputy public weighmasters licenses within 10 days of their leaving employment to ensure each location has the correct licensed deputy public weighmasters. A deputy public weighmaster license may be canceled by sending an e-mail or other written notification to the Division.

Historical Note

New Section R3-7-502 recodified from Section R20-2-502 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-503. Grounds for Denying License or Renewal; and Disciplinary Action

- A. The Division may deny a weighmaster license for any of the following reasons:
 1. Providing false or misleading information;
 2. Failing to meet the requirements stated in this Article; or
 3. Any of the reasons stated in subsections (B)(1) through (9).
- B. The Division may impose disciplinary action against, or refuse to renew a public weighmaster's license for any of the reasons stated in subsection (A)(1) or (2), or if the Division has determined that the public weighmaster:
 1. Does not have the ability to weigh accurately;
 2. Has not correctly made weight certificates;
 3. Has been found to have violated any provision of A.R.S. Title 3, Chapter 19, or this Chapter;
 4. Has falsified a weight certificate;
 5. Has delegated authority to someone other than a licensed public weighmaster or deputy public weighmaster;
 6. Has improperly used a weighmaster's seal of authority;
 7. Has presigned certificates for later use;
 8. Has issued a weight certificate on which changes or alterations were made; or
 9. Has used a scale for public weighing that is not properly licensed.

Historical Note

New Section R3-7-503 recodified from Section R20-2-

503 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-504. Scales and Vehicle Weighing

- A. When making a weight determination, a public weighmaster shall use a weighing device that is suitable for the function.
- B. The public weighmaster shall not use a scale to weigh a load that exceeds the normal or rated capacity of the scale.
- C. The owner or user of a weighing device is responsible for the accuracy of the device used by a public weighmaster. The owner or user shall comply with Handbook 44.
- D. If a scale is equipped with a printing device, it shall be used for all relevant entries on the weight certificate.
- E. The Division shall separately license and regulate each scale location.
- F. A weighmaster shall weigh any vehicle or combination of vehicles on a scale having a platform that fully accommodates the vehicle or combination of vehicles as one unit.
- G. If a combination of vehicles is divided into separate units to be weighed, each separate unit shall be entirely disconnected before weighing and a separate weight certificate shall be issued for each unit.

Historical Note

New Section R3-7-504 recodified from Section R20-2-504 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-505. Weight Certificates

- A. In issuing a weight certificate, a public weighmaster shall enter only those weight values that the weighmaster or deputy public weighmaster has accurately and personally determined.
- B. A public weighmaster or deputy public weighmaster shall not make any entries on a weight certificate issued by another person.
- C. By signing a weight certificate, a weighmaster or the weighmaster's deputy shall be responsible for the accuracy of all entries on the weight certificate.
- D. A weight certificate is valid only when properly signed and sealed by the issuing public weighmaster or the deputy public weighmaster. The name and image of the seal of the public weighmaster and deputy public weighmaster may be imprinted electronically on the weighmaster certificate in lieu of a handwritten signature and embossed seal if the electronically imprinted name and seal is that of the weighmaster or deputy public weighmaster who weighed, measured, or counted the commodity. To issue an electronic signature or seal, the weighmaster or deputy public weighmaster shall have an individual login associated with the electronic signature and seal or other security measures in place to prevent non-licensed persons from use.
- E. If an error is made on a weight certificate, the weighmaster shall void the certificate and issue a new certificate. No changes or alterations shall be made on a certificate.
- F. A weight certificate shall state:
 1. The date of issuance;
 2. The name of the declared owner, agent, or consignee of the material weighed;
 3. The accurate weight of the material weighed or counted;
 4. The means by which the material is being transported at the time it is weighed or counted;
 5. An identification number of the transporting unit, including a license number; and
 6. The following statement: "PUBLIC WEIGHMASTER'S CERTIFICATE OF WEIGHT AND MEASURE. This is to certify that the described merchandise was weighed,

counted, or measured by a public or deputy public weighmaster, and when properly signed and sealed, is prima facie evidence of the accuracy of the weight, count, or measure shown as prescribed by law.”

7. The printed name, signature, and license number of the public weighmaster or deputy public weighmaster issuing the weight ticket.
- G. A public weighmaster shall maintain a legible copy of each weight certificate issued at each scale location, for a minimum of one year. A weighmaster also shall ensure that weight certificates are consecutively numbered and filed numerically, including voids. A weighmaster shall not use another filing system without Division approval.
- H. A public weighmaster is liable for any forged signatures or electronic signatures.

Historical Note

New Section R3-7-505 recodified from Section R20-2-505 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-506. Seal of Authority

- A. A weighmaster shall obtain a seal for the certification of weight certificates at cost through the Division.
- B. The Division shall assign a number to a seal identifying the specific location for which the seal is issued.
- C. A seal is the property of the state. A weighmaster shall surrender a seal to the Division within 30 days after the weighmaster no longer operates as a licensed public weighmaster if the seal contains the public weighmaster's name. If the seal was issued under R3-7-506(B) and only contains the location identification, it may be retained for use by the next licensed public weighmaster if it is still legible. Illegible seals shall be surrendered to the Division.
- D. A public weighmaster shall have one seal for use at each scale location.
- E. A seal shall be accessible to the weighmaster and authorized deputies during all business hours at the scale location for the timely and proper certification of weight certificates.
- F. A public weighmaster shall keep a seal of authority at each scale location and make it available for inspection by the Division during all business hours.
- G. A public weighmaster may recreate the state-assigned seal in an electronic format for use as provided under subsection R3-7-505(D). The Division shall provide a template of seal.

Historical Note

New Section R3-7-506 recodified from Section R20-2-506 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-507. Prohibited Acts

- A. A person shall not:
 1. Issue a certified weight certificate without being a licensed public weighmaster or a person properly authorized to act for a public weighmaster;
 2. Procure, print, or cause to be printed any public weighmaster weight certificate without being a licensed public weighmaster or a deputy public weighmaster authorized to act for a public weighmaster;
 3. Possess unfilled or unused public weighmaster weight certificate forms without being a licensed public weighmaster or a deputy public weighmaster authorized to act for a public weighmaster;
 4. Furnish or give false information to a weighmaster for use in the completion of a weight certificate;

5. Present a certificate for payment falsified by the insertion of any weight, measure, or count not determined by the issuing weighmaster;
 6. Use without authorization the title “licensed public weighmaster” or any similar title;
 7. Represent oneself to be a public weighmaster without holding a license issued by the Division;
 8. Engage in public weighing without holding a valid license as a public weighmaster, or acting under the authority of a licensed public weighmaster;
 9. Use an unlicensed scale in the performance of public weighmaster duties; or
 10. Operate a scale for public weighing unless that person is licensed as a public or deputy public weighmaster.
 11. Nothing in this subsection shall be construed to prevent administrative staff of the public or deputy public weighmaster from performing administrative duties such as filing weight tickets.
- B. People engaged in the business of printing weight certificate forms, their representatives, and the Division are exempt from the prohibitions specified in subsections (A)(2) and (3).

Historical Note

New Section R3-7-507 recodified from Section R20-2-507 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

ARTICLE 6. REGISTERED SERVICE AGENCIES AND REPRESENTATIVES

R3-7-601. Qualifications; License and Renewal Application Process

- A. Registered service agency.
 1. To obtain a license as a registered service agency, an applicant shall provide evidence that:
 - a. The applicant's registered service representative has a thorough knowledge of all appropriate laws within A.R.S. Title 3, Chapter 19, Handbook 44, CARB Executive Orders, and this Chapter;
 - b. The applicant provided its representative with a copy of the portions of A.R.S. Title 3, Chapter 19, Handbook 44, CARB Executive Orders, and this Chapter relating to registered service representative duties;
 - c. The applicant:
 - i. Possesses the necessary certified standards and testing equipment to service commercial devices; and
 - ii. Possesses the necessary test equipment calibrated in the time-frame required by the equipment manufacturer or CARB Executive Orders to perform the required testing of a vapor recovery system or vapor recovery component properly; or
 - iii. Has access to the necessary standards and testing equipment belonging to another registered service agency and has written approval from that agency to use its standards and testing equipment; and
 - d. The applicant shall ensure that its registered service representative operates the equipment according to A.R.S. Title 3, Chapter 19, Handbook 44, CARB Executive Orders, and this Chapter.
 2. The Division shall not issue a registered service agency license until at least one of the applicant's employees passes a registered service representative competency exam.

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3. An applicant for a registered service agency license shall submit an application form, obtained from the Division that provides:
 - a. Name, address, telephone number, electronic mail address, and facsimile number;
 - b. License information from other states;
 - c. Types of devices serviced, repaired, or installed, or vapor recovery systems or components repaired or tested;
 - d. A list of all of the applicant's devices and testing equipment with corresponding serial or identification numbers;
 - e. Branch office information;
 - f. Names of registered service representatives and their experience with other registered service agencies or states;
 - g. License and disciplinary history; and
 - h. Applicant's signature.
- B. Third-party registered service agency. In addition to complying with the requirements in subsection (A), a third-party registered service agency shall provide the Division with evidence that the third-party registered service agency:
 1. Holds a valid license issued by the Arizona Registrar of Contractors,
 2. Complies with workers' compensation insurance laws, and
 3. Maintains liability insurance sufficient to cover the value of work to be performed.
- C. Registered service representative.
 1. To obtain a license as a registered service representative, an applicant shall provide evidence that:
 - a. The applicant has a thorough knowledge of all appropriate laws within A.R.S. Title 3, Chapter 19, Handbook 44, CARB Executive Orders, and this Chapter;
 - b. The applicant possesses the necessary training or experience regarding appropriate standards and testing equipment to service the specific commercial device, vapor recovery system, or vapor recovery system component indicated on the application;
 - c. The applicant will operate according to appropriate laws within A.R.S. Title 3, Chapter 19, Handbook 44, CARB Executive Orders; and this Chapter; and
 - d. The applicant has passed the competency examination specified in subsection (D).
 2. An applicant for a registered service representative license shall submit an application on a form obtained from the Division that provides:
 - a. Name, address, telephone number, and facsimile number;
 - b. License information from other states;
 - c. An indication of whether the applicant is applying to be a registered service representative or a vapor recovery service representative;
 - d. Types of devices serviced, repaired, or installed, or vapor recovery systems or components repaired or tested;
 - e. Work experience with other registered service agencies in Arizona or other states;
 - f. License and disciplinary history; and
 - g. Applicant's signature.
 3. An applicant for a vapor recovery registered service representative license shall maintain and make available to the Division upon request evidence of being:
 - a. Certified by the manufacturer to test or repair all vapor recovery systems and components, or
 - b. Determined qualified by the Division to test or repair all vapor recovery systems and components.
 4. An applicant shall submit information and documentation concerning lawful presence required by A.R.S. § 41-1080.
- D. Competency examination. Before being issued a registered service representative license, an applicant shall pass a Division-administered competency examination.
 1. An applicant for a vapor recovery registered service representative license shall complete the Division's training class before taking the competency examination. The Division may waive the training class requirement for up to 12 months for new applicants.
 2. An applicant shall bring a copy of Handbook 44 to the examination site. An applicant for a vapor recovery registered service representative license shall additionally bring copies of CARB test procedures, Executive Orders, and Division Standard Operating Procedures.
 3. An applicant shall complete the competency examination within the time specified by the Division and pass with a score of 75 percent or greater.
 4. The Division shall not allow an applicant to take the competency examination more than three times in six months and the applicant must wait seven days prior to retaking the exam.
 5. The associate director may contract with a third-party testing company to administer testing to provide added convenience to registered service representatives. Taking exams through the third party is optional and the registered service representative shall be responsible for payment of any additional costs related to third-party testing.
- E. As required under A.R.S. § 3-3454(G), the Division shall specify on a registered service representative license the devices that the registered service representative may service, repair, or install or the vapor recovery systems or components that the vapor recovery registered service representative may test or repair. A registered service representative shall perform only the services approved by the Division for the registered service representative.
- F. Renewal of a registered service representative license. Under A.R.S. § 3-3454(D), a registered service representative license is valid for 12 months and expires unless renewed. To renew a registered service representative license, the registered service agency employing the registered service representative shall comply with R3-7-603(E). Before complying with R3-7-603(E), the registered service agency shall ensure that once every 36 months a vapor registered service representative completes the Division's training class and takes and passes the Division's written vapor recovery competency examination.
- G. The Division does not charge a fee to process a change in business name or address.

Historical Note

New Section R3-7-601 recodified from Section R20-2-601 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-602. Duties

- A. Registered service agency.
 1. A registered service agency shall:
 - a. Maintain all equipment used for commercial device certification according to standards traceable to NIST, and
 - b. Maintain and use equipment for testing vapor recovery systems and vapor recovery system components

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- according to this Chapter, CARB test procedures, and manufacturer specifications.
2. When a registered service agency restores or newly places in service a commercial device, the registered service agency shall complete a placed-in-service report form prescribed by the Division.
 - a. Within seven calendar days after the commercial device is restored to service or newly placed in service, the registered service agency shall complete an online placed-in-service report to the Division. If an online placed-in-service report is not available for the device, a paper report shall be submitted;
 - b. The registered service agency shall give a copy of the placed-in-service report to the person who owns or operates the commercial device;
 - c. The registered service agency shall retain a copy of the placed-in-service report or any required vapor recovery report for one year;
 - d. The registered service agency shall ensure that the placed-in-service report contains the assigned license number of the registered service representative who installs or repairs the commercial device and completes the report;
 - e. The registered service agency shall ensure that the placed-in-service report is completed and signed by the registered service representative noting each rejected commercial device restored to service and each newly installed commercial device placed in service;
 - f. The registered service agency shall ensure that the placed-in-service report includes the serial or identification number of each standard used by the registered service representative to calibrate the commercial device for each rejected device restored to service and for each newly installed device placed in service; and
 3. A registered service agency shall have all equipment used for commercial device certification certified annually by the manufacturer. Vapor recovery test equipment shall be certified as required by the CARB test procedure or this Chapter.
 4. A registered service agency shall not use new equipment for commercial device certification until it is certified by a NIST-traceable laboratory.
 5. A registered service agency shall ensure that employees do not perform registered service representative duties until licensed. A registered service agency may train an employee in registered service representative duties only if the employee is within the direct line of sight and hearing of a supervising licensed registered service representative.
 6. A registered service agency shall use a form approved by the Division to record vapor recovery test results and violations. The test results shall be e-mailed to the Division within seven days after completion of the test.
 7. A registered service agency shall ensure that its registered service representative provides a vapor recovery system owner or operator with written test preparation instructions, at least 5 business days before an initial or annual test.
- B. Registered service representative.**
1. A registered service representative shall:
 - a. Install only commercial devices that meet the requirements of this Chapter;
 - b. Perform all vapor recovery tests according to this Chapter;
 - c. Perform all appropriate tests when repairing a commercial device or repairing or replacing a vapor recovery system or component to ensure that the requirements of A.R.S. Title 3, Chapter 19, this Chapter, Handbook 44, and CARB Executive Orders are met;
 - d. Report to the user equipment or commercial devices that do not conform to NIST standards; and
 - e. Complete placed-in-service reports accurately.
 - f. Report to the Division within one hour by e-mail or phone of finding a device that is not certified as part of the Certificate of Conformance under R3-7-203(A) and is installed to fraudulently obtain consumer credit card information. Additionally, the registered service representative shall contact the local law enforcement agency for collection of the device as evidence.
 2. If a vapor recovery registered service representative cannot correct a violation and has to leave the vapor recovery site, the registered service representative shall secure the non-compliant vapor recovery system or component from commercial use. The non-compliant system or component shall not be used for commercial purposes until it is repaired and passes the test required by R3-7-910. The registered service representative shall notify the Division of the stop-sale, stop-use prior to leaving the site. The registered service representative shall notify the Division regarding retest of the site by 6:00 a.m. of the day after the non-compliant vapor recovery system or component is secured or one hour before the test, whichever is sooner, so that the Division may witness the test.

Historical Note

New Section R3-7-602 recodified from Section R20-2-602 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-603. Grounds for Denying License or Renewal; Disciplinary Action; and Certification of Standards and Testing Equipment

- A.** The Division shall not issue a license or renewal until an applicant pays all appropriate fees.
- B.** Upon receipt and acceptance of all required documents, fees, and Division certification of standards, the Division shall issue the agency a license or renewal.
- C.** The Division shall include on a license an assigned number, that remains effective until either withdrawn by the Division or until it expires. The Division shall issue a license with the agency's assigned license number to each registered service representative employed by the agency who has passed the competency examination.
- D.** Neither a registered service agency nor a registered service representative shall transfer a license.
- E.** A registered service agency shall submit the renewal fee for the agency license and the agency's representatives' licenses by the first day of the month that each license expires.
- F.** The Division may deny a license or renewal for any of the following reasons:
 1. Providing false or misleading information;
 2. Failure to meet annual certification requirements for standards or testing equipment;
 3. Failure to meet the requirements stated in this Article; or
 4. For any reason that would be grounds for suspension, revocation, or refusal to renew.
- G.** The Division may suspend, revoke, or refuse to renew a license if the applicant is not qualified to perform those duties

required or has been found to have violated any provision of A.R.S. Title 3, Chapter 19, or this Chapter.

- H.** Every registered service agency and representative shall comply with the Division's metrology laboratory annual schedule for certification of field standards contained in A.R.S. § 3-3416(F).

Historical Note

New Section R3-7-603 recodified from Section R20-2-603 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-604. Prohibited Acts

A. A person shall not:

1. Perform any duty or do any act required to be done by a registered service agency or registered service representative without holding a registered service agency or registered service representative license issued by the Division;
2. Use the title of registered service agency or registered service representative, any similar title, or hold oneself out as a registered service agency or representative without a valid license; or
3. Remove an official out-of-service, warning, or stop-sale, stop-use tag except as authorized in this Chapter, or by the Division.

B. A registered service agency or registered service representative shall not:

1. Fraudulently complete or file a placed-in-service report;
2. Delegate licensed authority or responsibility to an unlicensed person;
3. Perform a function without certified equipment;
4. Install or place in service a commercial device before satisfying all of the statutory and rule requirements;
5. Fail to report a commercial device to the Division that is found to be out of compliance under R3-7-602;
6. Install, calibrate, or repair a commercial device without placing a decal or label on the device as prescribed by the associate director;
7. Leave a location where there is a non-compliant commercial device without securing the commercial device from commercial use; or
8. Leave a vapor recovery site where there is a non-compliant system or component without securing the system or component from commercial use

Historical Note

New Section R3-7-604 recodified from Section R20-2-604 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-605. Material Incorporated by Reference

The following documents are incorporated by reference and on file with the Department. The documents incorporated by reference contain no future editions or amendments.

1. California Air Resources Board Executive Order G-70-17-AD, *Modification of Certification of the Emco Wheaton Balance Phase II Vapor Recovery System*, May 6, 1993, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
2. California Air Resources Board Executive Order G-70-36-AD, *Modification of Certification of the OPW Balance Phase II Vapor Recovery System*, September 18, 1992, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.

3. California Air Resources Board Executive Order G-70-52-AM, *Certification of Components for Red Jacket, Hirt, and Balance Phase II Vapor Recovery Systems*, October 4, 1991, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
4. California Air Resources Board Executive Order G-70-70-AC, *Modification of Certification of the Healy Phase II Vapor Recovery System for Gasoline Dispensing Facilities*, June 23, 1992, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
5. California Air Resources Board Executive Order G-70-150-AE, *Modification to the Certification of the Marconi Commerce Systems Inc. (MCS) "Formerly Gibarco" VaporVac Phase II Vapor Recovery System*, July 12, 2000, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
6. California Air Resources Board Executive Order G-70-153-AD, *Modification to the Certification of the Dresser/Wayne WayneVac Phase II Vapor Recovery System*, April 3, 2000, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
7. California Air Resources Board Executive Order G-70-154-AA, *Modification to the Certification of the Tokheim MaxVac Phase II Vapor Recovery System*, June 10, 1997, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
8. California Air Resources Board Executive Order G-70-163-AA, *Modification to the Certification of the OPW VaporEZ Phase II Vapor Recovery System*, September 4, 1996, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
9. California Air Resources Board Executive Order G-70-164-AA, *Modification to Certification of the Hasstech VCP-3A Vacuum Assist Phase II Vapor Recovery System*, December 10, 1996, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
10. California Air Resources Board Executive Order G-70-165, *Certification of the Healy Vacuum Assist Phase II Vapor Recovery System with the Model 600 Nozzle*, April 20, 1995, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
11. California Air Resources Board Executive Order G-70-169-AA, *Modification to the Certification of the Franklin Electric INTELLIVAC Phase II Vapor Recovery System*, August 11, 1997, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
12. California Air Resources Board Executive Order G-70-177-AA, *Modification to the Certification of the Hirt VCS400-7 Vacuum Assist Phase II Vapor Recovery System*, December 9, 1999, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
13. California Air Resources Board Executive Order G-70-180, *Order Revoking Certification of Healy Phase II Vapor Recovery Systems for Gasoline Dispensing Facilities*, April 17, 1997, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
14. California Air Resources Board Executive Order G-70-183-AA, *Relating to Language Correction in Existing Executive Order G-70-183 (Healy Systems, Inc.)*, June 29, 2001, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
15. California Air Resources Board Executive Order G-70-186, *Certification of the Healy Model 400 ORVR Vapor Recovery System*, October 26, 1998, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.

16. California Air Resources Board Executive Order G-70-188, *Certification of the Catlow ICVN Vapor Recovery Nozzle System for use with the Gilbarco VaporVac Vapor Recovery System*, May 18, 1999, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
17. California Air Resources Board Executive Order G-70-191-AA, *Relating to Language Correction in Existing Executive Order G-70-191 (Healy Systems, Inc.)*, July 30, 2001, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
18. California Air Resources Board Executive Order G-70-196, *Certification of the Saber Technologies, LLC SaberVac VR Phase II Vapor Recovery System*, December 30, 2000, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.

Historical Note

New Section R3-7-605 recodified from Section R20-2-605 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

ARTICLE 7. MOTOR FUELS AND PETROLEUM PRODUCTS

R3-7-701. Definitions

In addition to the definitions in A.R.S. § 3-3401 and R3-7-101, the following definitions apply to this Article unless the context otherwise requires:

“Address” means a street number, street name, city, state, and zip code.

“Area A” has the same meaning as in A.R.S. § 3-3401.

“Area B” has the same meaning as in A.R.S. § 3-3401.

“Area C” has the same meaning as in A.R.S. § 3-3401.

“Arizona Cleaner Burning Gasoline” or “Arizona CBG” means a gasoline blend that meets the requirements of this Article for gasoline produced and shipped to or within Arizona and sold or offered for sale for use in motor vehicles within the CBG-covered area, except as provided under A.R.S. § 3-3493(I).

“AST” means aboveground storage tank.

“AZRBOB” or “Arizona Reformulated Blendstock for Oxygenate Blending” means a combination of gasoline blendstocks that is intended to be or represented to constitute Arizona CBG upon the addition of a specified amount (or range of amounts) of fuel ethanol after the blendstock is supplied from the facility at which it was produced or imported.

“Batch” means a quantity of motor fuel or AZRBOB that is homogeneous for motor fuel properties specific for the motor fuel standards applicable to that motor fuel or AZRBOB.

“Beginning of transport” means the point at which:

A registered supplier relinquishes custody of Arizona CBG or AZRBOB to a transporter or third-party terminal; or

A registered supplier that retains custody of Arizona CBG or AZRBOB begins transfer of the Arizona CBG or AZRBOB into a vessel, tanker, or other container for transport to the CBG-covered area.

“Biodiesel” has the same meaning as prescribed under A.R.S. § 3-3401.

“Biodiesel blend” has the same meaning as prescribed under A.R.S. § 3-3401. Per ASTM D975, diesel fuel may contain 5 percent or less biodiesel and is not considered to be a biodiesel blend.

“Biofuel” has the same meaning as prescribed under A.R.S. § 3-3401.

“Biofuel blend” has the same meaning as prescribed under A.R.S. § 3-3401.

“Biofuel blender” means a person that modifies a motor fuel by adding a biofuel.

“Biofuel producer” means a person that owns, leases, operates, controls, or supervises a facility at which biofuel is produced.

“Biofuel Supplier” means a marketer or jobber of a biofuel or biofuel blend.

“Biomass” has the same meaning as prescribed under A.R.S. § 3-3401.

“Biomass-based diesel” has the same meaning as prescribed under A.R.S. § 3-3401.

“Biomass-based diesel blend” has the same meaning as prescribed under A.R.S. § 3-3401.

“Blendstock” means any liquid compound that is blended with another liquid compound to produce a motor fuel, including Arizona CBG. A deposit-control or similar additive registered under 40 CFR 79 is not a blendstock.

“CARB” means the California Air Resources Board.

“CARBOB Model” means the procedures incorporated by reference in R3-7-702(11).

“CARB Phase 2 gasoline” means gasoline that meets the specifications incorporated by reference in R3-7-702(8).

“CBG-covered area” means a county with a population of 1,200,000 or more persons according to the most recent United States decennial census and any portion of a county within area A.

“Conventional gasoline” means gasoline that conforms to the requirements of this Chapter for sale or use in Arizona, but does not meet the requirements of Arizona CBG or AZRBOB.

“Diesel fuel” or “Diesel” has the same meaning as prescribed under A.R.S. § 3-3401. Per ASTM D975, diesel fuel may contain 5 percent or less biodiesel.

“Duplicate” means a portion of a sample that is treated the same as the original sample to determine the accuracy and precision of an analytical method.

“EPA” means the United States Environmental Protection Agency.

“EPA waiver” means a waiver granted by the Environmental Protection Agency as described in “Waiver Requests under Section 211(f) of the Clean Air Act,” which is incorporated by reference in R3-7-702.

“Ethanol flex fuel” has the same meaning as prescribed under A.R.S. § 3-3401.

“Final destination” means the name and address of the location to which a transferee will deliver motor fuel for further distribution or final consumption.

“Final distribution facility” means a stationary motor-fuel transfer point at which motor fuel or AZRBOB is transferred into a cargo tank truck, pipeline, or other delivery vessel from which the motor fuel or AZRBOB will be delivered to a motor-fuel dispensing site. A cargo tank truck is a final distribution facility if the cargo tank truck transports motor fuel or AZRBOB and carries documentation that the type and amount or range of amounts of oxygenates designated by the registered supplier will be or have been blended directly into the cargo tank truck before delivery of the resulting motor fuel to a motor-fuel dispensing site.

“Fleet” means at least 25 motor vehicles owned or leased by the same person.

“Fleet vehicle fueling facility” means a facility or location where a motor fuel is dispensed for final use by a fleet.

"Fuel ethanol" means denatured ethanol that meets the requirements in ASTM D4806, which is incorporated by reference in R3-7-702.

"Gasoline" has the same meaning as prescribed under A.R.S. § 3-3401.

"Jobber" means a person that distributes a motor fuel from a bulk storage plant to the owner or operator of a UST or AST or purchases a motor fuel from a terminal for distribution to the owner or operator of a UST or AST.

"Manufacturer's proving ground" has the same meaning as prescribed under A.R.S. § 3-3401.

"Marketer" means a person engaged in selling or offering for sale motor fuels.

"Motor Fuel" has the same meaning as prescribed under A.R.S. § 3-3401.

"Motor fuel dispensing site" means a facility or location where a motor fuel is dispensed into commerce for final use.

"Motor fuel property" means any characteristic listed in R3-7-751(A)(1) through (7), R3-7-751(B)(1) through (7), Table 1, Table 2, or any other motor fuel standard referenced in this Article.

"Motor vehicle" means a vehicle equipped with a spark-ignited or compression-ignition internal combustion engine except:

A vehicle that runs on or is guided by rails, or

A vehicle designed primarily for travel through air or water.

"Motor vehicle racing event" has the same meaning as prescribed under A.R.S. § 3-3401.

"MTBE" means methyl tertiary butyl ether.

"Neat" means pure or 100 percent.

"NOx" means oxides of nitrogen.

"Octane," "octane number," or "octane rating" mean the anti-knock characteristic of gasoline as determined by the resultant arithmetic test average of ASTM D2699 and ASTM D2700.

"Oxygenate" has the same meaning as prescribed under A.R.S. § 3-3401.

"Oxygenate blender" means a person that owns, leases, operates, controls, or supervises an oxygenate-blending facility, or that owns or controls the blendstock or gasoline used, or the gasoline produced, at an oxygenate-blending facility.

"Oxygen content" means the percentage by weight of oxygen contained in a gasoline oxygenate blend as determined under ASTM D4815.

"Pipeline" means a transporter that owns or operates an interstate common-carrier pipe or is subject to Federal Energy Regulatory Commission tariffs to transport motor fuels into Arizona.

"Premium Diesel" means a diesel fuel meeting the requirements in ASTM D975 and in Handbook 130, Uniform Engine Fuels and Automotive Lubricants Regulations, Section 2.2.1(a) through 2.2.1(d).

"Producer" means a refiner, blender, or other person that produces a motor fuel, including Arizona CBG or AZRBOB.

"Production facility" means a facility at which a motor fuel, including Arizona CBG or AZRBOB, is produced. Upon request of a producer, the associate director may designate, as part of the producer's production facility, a physically separate bulk storage facility that:

Is owned or leased by the producer;

Is operated by or at the direction of the producer; and

Is used to store or distribute motor fuels, including Arizona CBG or AZRBOB, that are supplied only from the production facility.

"Product transfer document" has the same meaning as prescribed under A.R.S. § 3-3401.

"Refiner" means a person that owns, leases, operates, controls, or supervises a refinery in the United States, including its trust territories.

"Refinery" means a facility that produces a liquid fuel, including Arizona CBG or AZRBOB, by distilling petroleum, or a transmix facility that produces a motor fuel offered for sale or sold into commerce as a finished motor fuel.

"Reproducibility" means the testing method margin of error as provided in the ASTM specification or other testing method required under this Article.

"Supply" means to provide or transfer motor fuel to a physically separate facility, vehicle, or transportation system.

"Terminal" means an owner or operator of a motor fuel storage tank facility that accepts custody, but not necessarily ownership, of a motor fuel from a registered supplier, oxygenate blender, pipeline, or other terminal and relinquishes custody of the motor fuel to a transporter or another terminal.

"Test result" means any document that contains a result of testing including all original test measures, all subsequent test measures that are not identical to the original test measure, and all worksheets on which calculations are performed.

"Transferee" means a person that receives title to or custody of a motor fuel.

"Transferor" means a person that relinquishes title to or custody of a motor fuel to a transporter, marketer, jobber, or motor fuel dispensing site.

"Transmix" means a mixture of petroleum distillate fuel and gasoline that does not meet the Arizona standards for either petroleum distillate fuels or gasoline.

"Transmix facility" means a facility at which transmix is processed into its components and then the components either are combined with a finished product or further processed to produce a finished motor fuel.

"Transporter" means a person that causes motor fuels, including Arizona CBG or AZRBOB, to be transported into or within Arizona.

"UST" means underground storage tank.

"Vapor pressure" means dry vapor pressure equivalent of gasoline or blendstock as measured according to ASTM D5191.

"Vehicle emissions control area" has the same meaning as prescribed under A.R.S. § 3-3401.

"VOC" means volatile organic compound.

Historical Note

New Section R3-7-701 recodified from Section R20-2-701 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-702. Material Incorporated by Reference

A. The following documents are incorporated by reference and on file with the Division. The documents incorporated by reference contain no future editions or amendments.

1. 16 CFR 306 - Automotive Fuel Ratings, Certification and Posting, January 14, 2016 Edition, Government Publishing Office, 732 North Capitol Street, NW, Washington, D.C. 20401-0001 or bookstore.gpo.gov.

2. API Recommended Practice 1637 (API RP 1637), "Using the API Color-Symbol System to Mark Equipment and Vehicles for Product Identification at Gasoline Dispensing Facilities and Distribution Terminals," published July 2006, Reaffirmed May 2012, American Petroleum Institute (API), 6300 Interfirst Drive, Ann Arbor, MI, 48108.
3. ASTM Standard D975, 2016a (ASTM D975- 16a), "Standard Specification for Diesel Fuel Oils," published 2016, ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.
4. ASTM Standard D4806, 2016a (ASTM D4806- 16a), "Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel," published 2016, ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.
5. ASTM Standard D4814, 2016ee1 (ASTM D4814-16ee1), "Standard Specification for Automotive Spark-Ignition Engine Fuel," published 2016, ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.
6. Waiver Requests under Section 211(f) of the Clean Air Act, (August 22, 1995 edition), United States Environmental Protection Agency, Transportation and Regional Programs Division, Fuels Program Support Group, Mail Code 6406-J, Washington, D.C. 20460.
7. ASTM Standard D5798, 2015 (ASTM D5798- 15), "Standard Specification for Ethanol Fuel Blends for Flexible-Fuel Automotive Spark-Ignition Engines," published 2015, ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.
8. ASTM Standard D6751, 2015ce1 (ASTM D6751-15ce1), "Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels," published 2015, ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.
9. California Air Resources Board, "California Procedures for Evaluating Alternative Specifications for Phase 2 Reformulated Gasoline Using the California Predictive Model," adopted April 20, 1995. A copy may be obtained at: CARB, P.O. Box 2815, Sacramento, CA 95812 or www.arb.ca.gov.
10. The Federal Complex Model contained in 40 CFR 80.45, January 1, 1999. A copy may be obtained at: Government Publishing Office, 732 North Capitol Street, NW, Washington, D.C. 20401-0001 or bookstore.gpo.gov.
11. California Air Resources Board, The California Reformulated Gasoline Regulations, Title 13, California Code of Regulations, Section 2266.5 (Requirements Pertaining to California Reformulated Gasoline Blendstock for Oxygen Blending (CARBOB) and Downstream Blending), as of April 9, 2005. A copy may be obtained at: CARB, P.O. Box 2815, Sacramento, CA 95812 or www.arb.ca.gov.
12. California Air Resources Board, Procedures for Using the California Model for California Reformulated Gasoline Blendstocks for Oxygenate Blending (CARBOB), adopted April 25, 2001. A copy may be obtained at: CARB, P.O. Box 2815, Sacramento, CA 95812 or www.arb.ca.gov.
13. ASTM Standard D7467, 2015ce1 (ASTM D7467-15ce1), "Standard Specification for Diesel Fuel Oil, Biodiesel Blend (B6 to B20)," published 2015, ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.
14. SAE International, SAE J285, "Dispenser Nozzle Spouts for Liquid Fuels Intended for Use with Spark Ignition and

Compression Ignition Engines," published May 5, 2012, SAE International, 400 Commonwealth Drive, Warrendale, PA 15096-0001 or www.sae.org.

- B. Subsection (A)(11) will not become effective until Arizona's revised State Implementation Plan submitted by ADEQ to EPA in August 2013 and subsequent supplement submitted July 2014 is approved by EPA.

Historical Note

New Section R3-7-702 recodified from Section R20-2-702 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-703. Volumetric Inspection of Motor Fuels and Motor Fuel Dispensers

- A. After completing an inspection, the Division shall return all motor fuel to the owner or operator of a motor fuel dispensing site at the site where the Division collected the motor fuel.
- B. After completing an inspection, if a motor fuel cannot be returned to the owner or operator of a motor fuel dispensing site at the site where the Division collected the motor fuel, the Division shall transport the motor fuel to another site of the owner or operator's choice and within a 20-mile radius of the inspection site.

Historical Note

New Section R3-7-703 recodified from Section R20-2-703 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-704. Motor Fuel Dispensing Site Price and Grade Posting on External Signs

- A. A person who owns or operates a motor fuel dispensing site that has an external sign shall ensure that the sign:
 1. Identifies whether the price differs depending on whether the payment is cash, credit, or debit;
 2. Identifies the self-service and full-service prices, if different;
 3. Discloses the full price of motor fuel including fractions of a cent and all federal and state taxes, if the sign displays the motor fuel price. A decimal point shall be used in the displayed price when a dollar sign precedes the posted price;
 4. Displays lettering at a height of at least 1/5 of the letter height of the motor fuel price displayed on the external sign or 2 1/2", whichever is larger, and is visible from the road;
 5. States the terms of any condition if the displayed price is conditional upon the sale of another product or service. The terms of any condition shall comply with the letter height requirement in subsection (A)(4);
 6. Describes the motor fuel that meets ASTM D975 as No. 1 Diesel, #1 Diesel, No. 2 Diesel, #2 Diesel, or premium diesel. Describes other fuel for use in compression ignition engines as biodiesel, or biodiesel blend. Diesel fuel No. 2 may be labeled on dispensers as diesel fuel without indication of the fuel grade;
 7. Describes motor fuel with an ethanol concentration of 51 to 83 volume percent as ethanol flex fuel;
 8. Identifies the unit of measure of the price, if it is other than per gallon; and
 9. Sites that sell Ethanol Flex Fuel previously labeled as "E-85" shall update the signage to reflect the sale of Ethanol Flex Fuel no later than January 1, 2018. In no case shall signage with an incorrect ethanol content be advertised at the motor fuel dispensing site.

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- B. For the following terms used on a sign to describe a gasoline grade or gasoline-oxygenate blend, the grade or blend shall meet the following minimum antiknock index as determined by the test average of ASTM D 2699 and ASTM D 2700, also known as the (R+M)/2 method:

Term	Minimum Antiknock Index
1. Regular, Reg, Unleaded, UNL, or UL	87
2. Midgrade, Mid, or Plus	89
3. Premium, PREM, Super, Supreme, High, or High Performance	91

- C. A person may use an alternative to the descriptions provided in subsection (B) upon receipt of written approval by the associate director.

Historical Note

New Section R3-7-704, including Table, Antiknock Index, recodified from Section R20-2-704 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-705. Dispenser Labeling at Motor Fuel Dispensing Sites

The owner or operator of a motor fuel dispensing site shall label dispensers in accordance with the following provisions:

- A. Pricing, motor fuel grade, octane rating, and lead substitute. A motor fuel dispensing station owner or operator shall ensure that information regarding pricing, motor fuel grade, octane rating, and lead-substitute addition displayed on a motor fuel dispenser:
1. Lists the full price of the motor fuel including fractions of a cent and all federal and state taxes;
 2. Displays the highest price of motor fuel sold from the dispenser prior to any deliberate action of the customer resulting in a discounted price being displayed, provided the dispenser is capable of dispensing and computing the price of motor fuel at more than one price;
 3. Complies with the requirements of R3-7-704(A)(1), (A)(2), (A)(3), (A)(5), (A)(6), (A)(7), (A)(8), (A)(9) and (B).
 4. Displays the octane rating of each grade of gasoline;
 5. Displays the signs required by Handbook 130 for motor fuel dispensers that dispense gasoline with lead substitute, in letters at least 1/4" in height; and
 6. Sites that sell ethanol flex fuel previously labeled as "E-85" shall update the signage to reflect the sale of ethanol flex fuel no later than January 1, 2018. In no case shall signage with an incorrect ethanol content be advertised at the motor fuel dispensing site.
- B. All motor fuels shall meet the labeling requirements of 16 CFR 306. Additionally, the following requirements apply:
1. Gasoline containing fuel ethanol.
 - a. Gasoline containing greater than 1.5 percent by weight oxygen or 4.3 percent by volume fuel ethanol shall be labeled with the following statement to indicate the maximum percent by volume of fuel ethanol contained in the gasoline: "May contain up to ____ % fuel ethanol."
 - b. Within the CBG-covered area and area B, gasoline containing fuel ethanol shall be labeled with the following statement: "This gasoline is oxygenated with

fuel ethanol and will reduce carbon monoxide emissions from motor vehicles."

- c. Gasoline for sale outside of the CBG-covered area with an ethanol content greater than 10 volume percent and less than or equal to 15 volume percent shall additionally be labeled in accordance with 40 CFR 80.1501, as it existed on July 18, 2014, is incorporated by reference and on file with the Division. A copy may be obtained at the Government Publishing Office, P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov.
2. Gasoline containing an oxygenate other than fuel ethanol. Gasoline containing greater than 1.5 percent by weight shall be labeled with the following statement to indicate the type and maximum percent by volume of oxygenate contained in the gasoline: "May contain up to ____ % _____."
 3. The labels in subsection B(1) and (B)(2) shall be printed in black and white block letters on a sharply contrasting background with lettering no smaller than 1/4 inch. The statements in subsection (B)(1)(i) and (B)(1)(ii) may be printed on the same label or on separate labels if the statements are displayed next to each other.
 4. Non-oxygenated gasoline. It is prohibited to label a dispenser as containing no oxygenate if the gasoline contains more than 0.5 percent by volume of any oxygenates.
 5. Biodiesel blends. The diesel grade component as contained within ASTM D975 for grades other than No. 2 diesel shall be identified.
- C. Unattended retail motor fuel dispensers. In addition to all labeling and sign requirements in this Article, the owner or operator of a motor fuel dispensing site that is unstaffed shall post on or next to each motor fuel dispenser a sign or label, in public view, that conspicuously lists the owner's or operator's name, address, and telephone number.
- D. All dispensers shall have a decal that contains the Division's name and phone number. A template of the decal shall be placed on the Weights and Measures Services Division website for use by retailers. The seal placed by the Division under A.R.S. § 3-3414(A)(13) satisfies this requirement.
- E. All labels required under this section shall be in the upper 50 percent of the front panel of each motor fuel dispenser and shall be clean, legible, and visible at all times.

Historical Note

New Section R3-7-705 recodified from Section R20-2-705 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-706. Repealed**Historical Note**

New Section R3-7-706 recodified from Section R20-2-706 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Repealed by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-707. Product Transfer Documentation and Record Retention for Motor Fuel other than Arizona CBG and AZR-BOB

- A. When a transferor transfers custody or title to a motor fuel that is not Arizona CBG or AZRBOB, and the motor fuel is not sold or dispensed at a motor fuel dispensing site or fleet vehicle fueling facility, the transferor shall provide to the transferee documents that include the following information:
1. The grade of the motor fuel;

2. The volume of each grade of motor fuel being transferred;
 3. The date of the transfer;
 4. Product transfer document number;
 5. For conventional gasoline, the minimum octane rating of each grade as prescribed by 16 CFR 306;
 6. For conventional gasoline, the type and maximum volume of oxygenate contained in each grade;
 7. For conventional gasoline transported in or through the CBG-covered area, the statement, "This gasoline is not intended for use inside the CBG-covered area";
 8. If a lead substitute is present in the gasoline, the type of lead substitute present;
 9. For the following biofuel or biofuel blends;
 - a. Ethanol Flex Fuel shall contain a declaration of the volume percent of ethanol in the blend; or
 - b. Biodiesel and biomass-based diesel blends containing more than 5 percent biodiesel or biomass-based diesel shall contain a declaration of the volume percent biodiesel or biomass-based diesel in the blend, as well as the grade of diesel in the blend; and
 - c. All other biofuel or biofuel blends shall contain the percentage of biofuel in the finished product.
 10. The final destination:
 - a. When a terminal is the transferor, the owner or operator of the terminal shall include on the product transfer document the terminal name and address and the transporter name and address;
 - b. When a transporter is the transferor, the transporter shall include on the product transfer document the name and address of the transporter and the final destination, which is the location at which the motor fuel will be delivered and off loaded from the truck; and
 - c. When a jobber or marketer is the transferor, the jobber or marketer shall include on the product transfer document the name and address of the jobber or marketer and the final destination, which may be a final distribution facility or a motor fuel dispensing site.
- B.** To enable a transferor to comply fully with the requirement in subsection (A)(10)(b) and (A)(10)(c), the transferee shall supply to the transferor information regarding the final destination.
- C.** A registered supplier, third-party terminal, or pipeline may use standardized product codes on pipeline tickets as the product transfer documentation.
- D.** A person identified in subsection (A) shall retain product transfer documentation for each shipment delivered for 12 months. This documentation shall be available within two working days from the time of the Division's request.
- E.** A person identified in subsection (A) shall maintain product transfer documentation for a transfer or delivery during the preceding 30 days at that person's address listed on the product transfer documentation.
- F.** An owner or operator of a motor fuel dispensing site or fleet owner shall maintain product transfer documentation for the three most recent deliveries of each grade of motor fuel on the premises of the motor fuel dispensing site owner or operator or fleet owner. This documentation shall be available for Division review.
- G.** The Division shall accept a legible photocopy of a product transfer document instead of the original.
- H.** A person transferring custody or title of Arizona CBG or AZRBOB shall comply with R3-7-757.

Historical Note

New Section R3-7-707 recodified from Section R20-2-707 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-708. Gasoline Oxygenate Blends

- A.** A person that has custody of gasoline blended with an oxygenate shall ensure that the amount of oxygenate does not exceed the amount allowed by EPA waivers, Section 211(f) of the Clean Air Act, and A.R.S. § 3-3491.
- B.** Special provisions for gasoline ethanol blends.
1. A gasoline ethanol blend that meets the requirements in subsections (B)(1)(a) and (b) shall not exceed the vapor pressure specified in ASTM D4814 by more than 1 psi:
 - a. The concentration of the ethanol, excluding the required denaturing agent, shall be:
 - i. From May 1 through September 15, at least nine percent and no more than 10 percent by volume of the gasoline ethanol blend; and
 - ii. From September 16 through April 30, at least 1.5 percent by weight and no more than 10 percent by volume of the gasoline ethanol blend; and
 - b. The ethanol content of the gasoline ethanol blend shall:
 - i. Be determined using the appropriate test method listed in ASTM D4814, and
 - ii. Not exceed any applicable waiver condition under Section 211(f) of the Clean Air Act.
 2. The provision in subsection (B)(1) is effective for gasoline ethanol blends sold:
 - a. Outside the CBG-covered area year around, and
 - b. Within the CBG-covered area during April.
 3. Gasoline blended with no more than 10 percent by volume of fuel ethanol shall be blended using one of the following alternatives:
 - a. The base gasoline complies with the standards in ASTM D4814, the fuel ethanol complies with the standards in ASTM D4806, and the finished blend complies with the standards in ASTM D4814 with the following permissible exceptions:
 - i. The distillation minimum temperature at the 50 volume percent evaporated point is not less than 66°C (150°F), and
 - ii. The minimum test temperature at which the vapor/liquid ratio is equal to 20 is waived;
 - b. The finished blend complies with the standards in ASTM D4814; or
 - c. The base gasoline complies with the standards in ASTM D4814 except distillation and the finished blend complies with the standards in ASTM D4814 with the following permissible exceptions:
 - i. The distillation minimum temperature at the 50 volume percent evaporated point is not less than 66°C (150°F), and
 - ii. The minimum test temperature at which the vapor/liquid ratio is equal to 20 is waived.
 4. A gasoline ethanol blend shall meet the standards specified in ASTM D4814.
- C.** In addition to complying with the requirements in R3-7-707, the transferor of a gasoline ethanol blend shall ensure that the product transfer document contains a legible and conspicuous statement that the gasoline being transferred contains fuel ethanol and the percentage concentration of fuel ethanol.
- D.** Nothing in this subsection shall preclude the sale of gasoline with an ethanol content greater than 10 percent by volume and

less than or equal to 15 percent by volume of ethanol outside of the CBG-covered area.

Historical Note

New Section R3-7-708 recodified from Section R20-2-708 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-709. Repealed

Historical Note

New Section R3-7-709 recodified from Section R20-2-709 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Repealed by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-710. Blending Requirements

- A. A person that has custody of or transports an oxygenated gasoline blend shall ensure that no neat oxygenate blending occurs at a motor fuel dispensing site or fleet vehicle fueling facility.
- B. If a motor fuel dispensing site storage tank contains an oxygenated gasoline blend that does not contain the amount of oxygen required by A.R.S. §§ 3-3491, 3-3492, 3-3495, or R3-7-751, the owner or operator of the motor fuel dispensing site shall do one of the following:
 1. Add a gasoline blend that dilutes the non-compliant oxygenated gasoline blend to the level of oxygen content required by A.R.S. §§ 3-3491, 3-3492, 3-3495, or R3-7-751;
 2. Empty the storage tank and replace the non-compliant oxygenated gasoline blend with a required oxygenate blend;
 3. Upon written permission of the associate director, add gasoline that contains no more than 20 percent by volume of the same oxygenate to the non-compliant oxygenated gasoline blend.

Historical Note

New Section R3-7-710 recodified from Section R20-2-710 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-711. Gasoline-Alcohol Blend Storage Tank Requirements

- A. Before a person adds the initial gasoline-alcohol blend into a storage tank, the person shall:
 1. Test the storage tank for the presence of water and, if any water is detected, remove the water from the storage tank; and
 2. Install a fuel filter designed for use with gasoline-alcohol blends in the fuel line of all motor fuel dispensers that dispense gasoline-alcohol blends.
- B. If water is detected in a storage tank containing a gasoline-alcohol blend, the owner or operator shall empty the storage tank.

Historical Note

New Section R3-7-711 recodified from Section R20-2-711 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-712. Water in Motor Fuel Dispensing Site Storage Tanks

A motor fuel dispensing site owner or operator shall ensure that water in a motor fuel storage tank other than an alcohol gasoline blend, does not exceed 1" in depth when measured from the bottom

through the fill pipe. The owner or operator shall remove all water from the tank before delivery or sale of motor fuel from that tank.

Historical Note

New Section R3-7-712 recodified from Section R20-2-712 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-713. Motor Fuel Storage Tank Labeling

- A. An owner or operator of a motor fuel dispensing site shall ensure that all motor fuel storage tank fill pipes and gasoline vapor return lines located at the motor fuel dispensing site are labeled to identify the contents accurately as:
 1. Unleaded gasoline,
 2. Unleaded midgrade gasoline,
 3. Unleaded premium gasoline,
 4. No. 1 or #1 diesel fuel,
 5. No. 2, #2 diesel fuel, or diesel fuel,
 6. Premium diesel,
 7. Gasoline vapor return,
 8. Biodiesel or biodiesel blend, for blends containing more than 5 percent by volume,
 9. E85 or Ethanol flex fuel, or
 10. Other fuel as designated on the product transfer document.
- B. An owner or operator of a motor fuel dispensing site shall ensure that the label required under subsection (A) is at least 1 1/2" x 5" with at least 1/4" black or white block lettering on a sharply contrasting background and that the label is clean, visible, and legible at all times.
- C. An owner or operator of a motor fuel dispensing site may display other information on the reverse side of a two-sided label.
- D. An owner or operator of a motor fuel dispensing site shall not put motor fuel into storage tanks without attaching the proper label.
- E. A person shall not deliver motor fuel to a motor fuel dispensing site unless the product transfer documents confirm the motor fuel is the correct type as indicated on the tank fill pipes labeled under subsection (A) or the product being delivered meets or exceeds the standards.
- F. If tank manhole covers are color-coded, the color coding shall comply with API 1637.

Historical Note

New Section R3-7-713 recodified from Section R20-2-713 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-714. Additional Requirements for Motor Fuels

- A. A person that owns or operates a motor fuel dispensing site, transmix, or production facility outside the CBG-covered area shall ensure that a motor fuel offered for sale meets the requirements of the applicable specifications in R3-7-702 except that the maximum vapor pressure from May 1 through September 30 shall be 9.0 pounds per square inch or as allowed under R3-7-708(B).
- B. The owner or operator of a motor fuel dispensing site shall ensure that the finished gasoline is visually free of water, sediment, and suspended matter and is clear and bright at ambient temperature or 70° F (21° C), whichever is greater.
- C. Prohibited activities regarding a motor fuel sold or offered for sale.
 1. The owner or operator of a motor fuel dispensing site shall not sell or offer for sale from the motor fuel dispensing site storage tank a product that is not a motor fuel.

2. The owner or operator of a motor fuel dispensing site or transmix or production facility shall not sell or offer for sale a motor fuel that contains more than 0.3 volume percent MTBE or more than 0.1 weight percent oxygen from all other ethers or alcohols as listed in A.R.S. § 3-3491.
 3. A transporter shall not deliver to a motor fuel dispensing site or place in a motor fuel dispensing site storage tank a product that is not motor fuel.
- D.** Biofuels and biofuel blends. Biofuel producers, biofuel blenders, and biofuel suppliers and owners or operators of motor fuel dispensing sites shall comply with the requirements in R3-7-718.

Historical Note

New Section R3-7-714 recodified from Section R20-2-714 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-715. Motor Fuel Testing Methods and Requirements

- A.** Unless otherwise required in A.R.S. Title 3, Chapter 19, or this Chapter, the producer of a motor fuel shall test and certify the motor fuel for its motor fuel properties using the methodologies in R3-7-702.
- B.** The octane rating shall be determined and certified in accordance with 16 CFR 306 using the average of ASTM D2699 and ASTM D2700, also known as the (R+M)/2 method.

Historical Note

New Section R3-7-715 recodified from Section R20-2-715 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-716. Sampling and Access to Records

- A.** The Division shall obtain motor fuel samples for testing from:
1. The same motor fuel dispenser used for sales to customers;
 2. The same motor fuel dispenser used for dispensing motor fuel into fleet vehicles;
 3. A bulk storage facility;
 4. A pipeline having custody of motor fuel, including Arizona CBG or AZRBOB;
 5. A transporter of motor fuel, including Arizona CBG or AZRBOB;
 6. A final distribution facility;
 7. A third-party terminal having custody of motor fuel, including Arizona CBG or AZRBOB;
 8. An oxygenate blender or registered supplier; or
 9. A transmix or production facility.
- B.** An owner or operator of a motor fuel dispensing site, pipeline, third-party terminal, or storage, transmix, production, or distribution facility, or a transporter, registered supplier, or oxygenate blender shall maintain for five years records relating to producing, importing, blending, transporting, distributing, delivering, testing, or storing motor fuels, including Arizona CBG or AZRBOB, and shall make the records available for Division inspection upon request.

Historical Note

New Section R3-7-716 recodified from Section R20-2-716 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-717. Motor Fuel Dispensing Site Equipment

- A.** Hold-open latch. If an owner or operator of a motor fuel dispensing site has a dispensing device with a motor fuel nozzle equipped with a hold-open latch, the owner or operator shall

ensure that the latch operates according to the manufacturer's specifications.

- B.** Nozzle requirements for diesel fuel. An owner or operator of a motor fuel dispensing site with a dispensing device from which diesel fuel is sold at retail shall ensure that the dispensing device has a nozzle spout with a diameter that conforms to SAE J285, "Dispenser Nozzle Spouts for Liquid Fuels Intended for Use with Spark Ignition and Compression Ignition Engines."
- C.** Motor fuel dispenser filters. An owner or operator of a motor fuel dispensing site shall ensure that:
1. All gasoline, gasoline-alcohol blends, and ethanol flex fuel dispensers have a 10 micron or smaller nominal pore-sized filter;
 2. Dispensers that dispense gasoline-alcohol blends shall have fuel filters designed for use with gasoline-alcohol blends;
 3. All biodiesel, biodiesel blends, diesel, and kerosene dispensers have a 30 micron or smaller nominal pore-sized filter; or
 4. In the event a fuel dispenser is not manufactured to be equipped to use fuel filters, they shall be installed in line with the fuel dispensing hose at the base of the dispenser. If this is not feasible, the motor fuel dispensing site owner may provide evidence that fuel filters cannot be installed at the site due to the configuration and apply for a waiver from these requirements from the Associate Director.
- D.** From and after September 30, 2018, all retail diesel fuel dispensers shall be equipped with nozzles that have a green grip guard and ethanol flex fuel dispensers shall be equipped with nozzles that have a yellow grip guard. No other nozzles shall be equipment with these color grip guards.
- E.** Motor fuel dispensers shall meet appropriate UL ratings and be compatible with the motor fuel being dispensed.

Historical Note

New Section R3-7-717 recodified from Section R20-2-717 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-718. Additional Requirements for Production, Transport, Distribution, and Sale of Biofuels and Biofuel Blends

- A.** Registration and reporting requirements for biofuel blenders, biofuel producers, and biofuel suppliers of biofuel or biofuel blends in Arizona.
1. Registration requirement.
 - a. A biofuel producer, biofuel supplier, or biofuel blender shall register with the associate director, using a form prescribed by the associate director, before producing or supplying biofuel or biofuel blend in Arizona.
 - b. A person required to register under subsection (A)(1)(a) shall notify the associate director within 10 days after the effective date of a change in any of the information provided under subsection (A)(1)(a).
 - c. If a biofuel producer, biofuel supplier, or biofuel blender fails to register under subsection (A)(1)(a), the associate director shall take action as allowed under A.R.S. § 3-3475 and R3-7-762.
 - d. The Division shall maintain and make available to the public a list of all persons registered under this Section.
 2. Reporting requirement.
 - a. A person required to register under subsection (A)(1)(a) shall report to the Division by January

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30th of each year for the previous calendar year. The person shall:

- i. Report on a form or in a format prescribed by the associate director;
 - ii. Provide the total amount of biofuel or biofuel blend produced or supplied for the previous calendar year, including the total amount of each blend component;
 - iii. Attest to the truthfulness and accuracy of the information submitted; and
 - iv. Ensure that the report form is signed or submitted electronically by a corporate officer, or the officer's designee, responsible for operations at the facility at or from which the biofuel or biofuel blend was produced or supplied.
- b. The Division shall classify the information submitted under subsection (A)(2)(a) as confidential and protected under A.R.S. § 44-1374 if the person that submits the information expressly designates the information as confidential.

B. Quality Assurance and Quality Control (QA/QC) program requirements.

1. A biofuel producer or biofuel blender shall implement a QA/QC program to ensure the quality of a biofuel or biofuel blend produced in or supplied in or into Arizona;
2. The QA/QC program implemented by a biofuel producer shall include the following minimum requirements:
 - a. A sampling and testing program to certify that the biofuel meets applicable ASTM requirements. All samples shall be collected following addition of any applicable blend components in accordance with ASTM methods. The plan shall include a policy for sample retention;
 - b. A Certificate of Analysis with a unique identification number generated for each batch produced and indicated on the product transfer document;
 - c. The Certificate of Analysis required under subsection (B)(2)(b) and any other supporting sampling and testing documentation required under this Section is made available to the Division within 24 hours of a request; and
 - d. Any storage tank containing biofuel that is inactive for more than 30 days is resampled and analyzed to verify the fuel meets ASTM standards.
3. The QA/QC program implemented by a biofuel blender shall include the following minimum requirements:
 - a. Retention of:
 - i. Documentation that demonstrates the applicable biofuel blend components were received from a facility registered with the EPA under 40 CFR 80, subpart K or M;
 - ii. Certificates of Analysis for the biofuel used as a blend component in the blending process; and
 - iii. Documentation such as a product transfer document that demonstrates the diesel fuel used in the blending process meets the requirements of ASTM D975;
 - b. For biodiesel blending, all diesel fuel used as a blend component is analyzed to verify the biodiesel content before blending if the initial volume percent of biodiesel content in the diesel fuel component is unknown; alternatively, for biodiesel blends blended at a motor fuel dispensing site, the biofuel blender may assume the diesel contains 5% biodiesel and prepare and maintain calculations demonstrating the biodiesel content of the final biodiesel blend if it is

advertised to consumers as a B6 to B20 biodiesel blend and the calculations demonstrate the biodiesel blend will be compliant with the biodiesel content advertised;

- c. Any storage tank containing biofuel that is inactive for more than 30 days is resampled and analyzed to verify the fuel meets ASTM standards; and
 - d. All biodiesel used as a blend component in biodiesel blends consists of at least 99 percent biodiesel unless approved by the Division.
4. All records required under this subsection are maintained either onsite or at an offsite location for at least five years and made available to the Division upon request.
5. In the event the Division identifies biofuel or biofuel blends that do not meet ASTM requirements, the producer or biofuel blender shall evaluate the QA/QC program and make any additional changes that may be required to bring the fuel into compliance.
- C. Ethanol flex fuel sold or offered for sale within the CBG-covered area shall:**
1. Use fuel ethanol that meets the standards in this Chapter, and
 2. Have a maximum vapor pressure that does not exceed the maximum vapor pressure requirements in R3-7-751(A)(6).
- D. Requirements for motor fuel dispensing sites.** The owner or operator of a motor fuel dispensing site at which ethanol flex fuel is dispensed shall ensure that any ethanol flex fuel, biodiesel or biodiesel blend sold, offered or exposed for sale, or dispensed was received from and traceable to a person registered with the Division under subsection (A)(1) and the Environmental Protection Agency under 40 CFR 80, subparts K or M.
- E. Exemptions.**
1. A biofuel producer, biofuel supplier, or biofuel blender located outside of Arizona and supplying biofuel to a registered biofuel producer, biofuel supplier, or biofuel blender located within Arizona is not required to register under subsection (A)(1)(a);
 2. Diesel fuel containing five percent by volume or less biodiesel is exempt from this Section if the following conditions are met:
 - a. The diesel fuel meets the standards of ASTM D975; and
 - b. If the initial volume percent of biodiesel content is unknown, the person blending the biodiesel into diesel fuel analyzes the diesel fuel to verify the initial biodiesel content and ensure the resulting blend meets the requirements in ASTM D975.
 3. A biofuel producer, biofuel supplier, or biofuel blender who produces, supplies, or blends diesel fuel blended with a biomass-based diesel where the resulting fuel meets the requirements in ASTM D975 is exempt from this section.
 4. Gasoline containing up to 10 percent ethanol is exempt from this section.

Historical Note

New Section R3-7-718 recodified from Section R20-2-718 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-719. Repealed

Historical Note

Repealed Section R3-7-719 recodified from repealed Section R20-2-719 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-720. Renumbered**Historical Note**

Renumbered Section R3-7-720 recodified from renumbered Section R20-2-720 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-721. Renumbered**Historical Note**

Renumbered Section R3-7-721 recodified from renumbered Section R20-2-721 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-722. Reserved**Historical Note**

Reserved Section R3-7-722 recodified from reserved Section R20-2-722 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-723. Reserved**Historical Note**

Reserved Section R3-7-723 recodified from reserved Section R20-2-723 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-724. Reserved**Historical Note**

Reserved Section R3-7-724 recodified from reserved Section R20-2-724 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-725. Reserved**Historical Note**

Reserved Section R3-7-725 recodified from reserved Section R20-2-725 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-726. Reserved**Historical Note**

Reserved Section R3-7-726 recodified from reserved Section R20-2-726 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-727. Reserved**Historical Note**

Reserved Section R3-7-727 recodified from reserved Section R20-2-727 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-728. Reserved**Historical Note**

Reserved Section R3-7-728 recodified from reserved Section R20-2-728 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-729. Reserved**Historical Note**

Reserved Section R3-7-729 recodified from reserved Section R20-2-729 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-730. Reserved**Historical Note**

Reserved Section R3-7-730 recodified from reserved Section R20-2-730 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-731. Reserved**Historical Note**

Reserved Section R3-7-731 recodified from reserved Section R20-2-731 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-732. Reserved**Historical Note**

Reserved Section R3-7-732 recodified from reserved Section R20-2-732 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-733. Reserved**Historical Note**

Reserved Section R3-7-733 recodified from reserved Section R20-2-733 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-734. Reserved**Historical Note**

Reserved Section R3-7-734 recodified from reserved Section R20-2-734 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-735. Reserved**Historical Note**

Reserved Section R3-7-735 recodified from reserved Section R20-2-735 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-736. Reserved**Historical Note**

Reserved Section R3-7-736 recodified from reserved Section R20-2-736 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-737. Reserved**Historical Note**

Reserved Section R3-7-737 recodified from reserved Section R20-2-737 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-738. Reserved**Historical Note**

Reserved Section R3-7-738 recodified from reserved Section R20-2-738 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-739. Reserved**Historical Note**

Reserved Section R3-7-739 recodified from reserved Section R20-2-739 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-740. Reserved**Historical Note**

Reserved Section R3-7-740 recodified from reserved Section R20-2-740 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-741. Reserved

Historical Note

Reserved Section R3-7-741 recodified from reserved Section R20-2-741 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-742. Reserved**Historical Note**

Reserved Section R3-7-742 recodified from reserved Section R20-2-742 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-743. Reserved**Historical Note**

Reserved Section R3-7-743 recodified from reserved Section R20-2-743 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-744. Reserved**Historical Note**

Reserved Section R3-7-744 recodified from reserved Section R20-2-744 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-745. Reserved**Historical Note**

Reserved Section R3-7-745 recodified from reserved Section R20-2-745 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-746. Reserved**Historical Note**

Reserved Section R3-7-746 recodified from reserved Section R20-2-746 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-747. Reserved**Historical Note**

Reserved Section R3-7-747 recodified from reserved Section R20-2-747 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-748. Reserved**Historical Note**

Reserved Section R3-7-748 recodified from reserved Section R20-2-748 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-749. Definitions Applicable to Arizona CBG and AZRBOB

The following definitions apply only to R3-7-750 through R3-7-762, including Tables A, 1, and 2:

“Designated alternative limit” means a motor fuel property specification, expressed in the nearest part per million by weight for sulfur content, nearest 10th percent by volume for aromatic hydrocarbon content, nearest 10th percent by volume for olefin content, and nearest degree Fahrenheit for T90 and T50, that is assigned by a registered supplier to a final blend of Type 2 Arizona CBG or AZRBOB for purposes of compliance with the Predictive Model Procedures.

“Downstream oxygenate blending” means combining AZRBOB and fuel ethanol to produce fungible Arizona CBG.

“Importer” means any person that assumes title or ownership of Arizona CBG or AZRBOB produced by an unregistered supplier.

“Oxygenate-blending facility” means any location (including a truck) where fuel ethanol is added to Arizona CBG or AZRBOB and the resulting quality or quantity of Arizona CBG is not altered in any other manner except for the addition of a deposit-control or similar additive registered under 40 CFR 79.

“Oxygenated Arizona CBG” means Arizona CBG with a maximum oxygen content of 4.0 wt. percent or another oxygen content approved by the associate director under A.R.S. § 3-3493, that is produced and shipped to or within Arizona and sold or offered for sale for use in motor vehicles in the CBG-covered area from November 1 through March 31 of each year.

“Performance standard” means the VOC and NO_x emission reduction percentages in R3-7-751(A)(8) and Table 1.

“PM” or “Predictive Model Procedures” means the California Predictive Model and CARB’s “California Procedures for Evaluating Alternative Specifications for Phase 2 Reformulated Gasoline Using the California Predictive Model,” as adopted April 20, 1995, which is incorporated by reference in R3-7-702.

“PM alternative gasoline formulation” means a final blend of Arizona CBG or AZRBOB that is subject to a set of PM alternative specifications.

“PM alternative specifications” means the specifications for the following fuel properties, as determined using a testing methodology in R3-7-759:

Maximum vapor pressure, expressed in the nearest 100th of a pound per square inch;

Maximum sulfur content, expressed in the nearest part per million by weight;

Maximum olefin content, expressed in the nearest 10th of a percent by volume;

Minimum and maximum oxygen content, expressed in the nearest 10th of a percent by weight;

Maximum T50, expressed in the nearest degree Fahrenheit;

Maximum T90, expressed in the nearest degree Fahrenheit; and

Maximum aromatic hydrocarbon content, expressed in the nearest 10th of a percent by volume.

“PM averaging compliance option” means, with reference to a specific fuel property, the compliance option for PM alternative gasoline formulations by which final blends of Arizona CBG and AZRBOB are assigned designated alternative limits under R3-7-751(G), (H), and (I).

“PM averaging limit” means a PM alternative specification that is subject to the PM averaging compliance option.

“PM flat limit” means a PM alternative specification that is subject to the PM flat limit compliance option.

“PM flat limit compliance option” means, with reference to a specific fuel property, the compliance option that each gallon of gasoline must meet for that specified fuel property as contained in the PM alternative specifications.

“Produce” means:

Except as otherwise provided, to convert a liquid compound that is not Arizona CBG or AZRBOB into Arizona CBG or AZRBOB.

If a person blends a blendstock that is not Arizona CBG or AZRBOB with Arizona CBG or AZRBOB acquired from another person, and the resulting blend is Arizona CBG or AZRBOB, the person con-

ducting the blending produces only the portion of the blend not previously Arizona CBG or AZRBOB. If a person blends Arizona CBG or AZRBOB with other Arizona CBG or AZRBOB in accordance with this Article, without the addition of a blendstock that is not Arizona CBG or AZRBOB, that person is not a producer of Arizona CBG or AZRBOB.

If a person supplies Arizona CBG or AZRBOB to a refiner that agrees in writing to further process the Arizona CBG or AZRBOB at the refiner's refinery and be treated as the producer of Arizona CBG or AZRBOB, the refiner is the producer of the Arizona CBG or AZRBOB.

If an oxygenate blender blends oxygenates into AZRBOB supplied from a gasoline production or import facility, and does not alter the quality or quantity of the AZRBOB or the quality or quantity of the resulting Arizona CBG certified by a registered supplier in any other manner except for the addition of a deposit-control or similar additive, the producer or importer of the AZRBOB, rather than the oxygenate blender, is considered the producer or importer of the full volume of the resulting Arizona CBG.

"Registered supplier" means a producer or importer that supplies Arizona CBG or AZRBOB and is registered with the associate director under R3-7-750.

"Third-party terminal" means an owner or operator of a gasoline storage tank facility that accepts custody, but not ownership, of Arizona CBG or AZRBOB from a registered supplier, oxygenate blender, pipeline, or other third-party terminal and relinquishes custody of the Arizona CBG or AZRBOB to a transporter or other terminal.

"Type 1 Arizona CBG" means a gasoline that meets the standards contained in R3-7-751(A) and Table 1.

"Type 2 Arizona CBG" means a gasoline that meets the standards contained in Table 2 or is certified using the PM according to the requirements of R3-7-751(G), (H), and (I), and meets the requirements in:

R3-7-751(A) beginning April 1 through October 31 of each year, and

R3-7-751(B) beginning November 1 through March 31 of each year.

"Winter" means November 1 through March 31.

Historical Note

New Section R3-7-749 recodified from Section R20-2-749 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-750. Registration Relating to Arizona CBG or AZRBOB

- A. Each of the following shall register with the associate director before producing, importing, or obtaining custody of Arizona CBG or AZRBOB:
 1. A refiner that produces Arizona CBG or AZRBOB;
 2. An importer that imports Arizona CBG or AZRBOB;
 3. An oxygenate blender that blends oxygenate with AZRBOB to produce Arizona CBG; or
 4. A pipeline or third-party terminal that has custody of Arizona CBG or AZRBOB.
- B. A person listed in subsection (A) shall register on a form prescribed by the associate director and include the following information:
 1. Business name, business address, and contact name or position title and telephone number;

2. For each refinery or oxygenate blending facility, the facility name, physical location, contact name or position title and telephone number, and type of facility;
 3. For each refinery, oxygenate blending facility, or importer:
 - a. The location of the records required under this Article. If records are kept off-site, the primary off-site storage facility name, physical location, and contact name or position title and telephone number; and
 - b. If an independent laboratory is used to meet the requirements of R3-7-752(F), the name and address of the independent laboratory, and contact name or position title and telephone number;
 4. If required under 40 CFR 80.76(d), the EPA registration number; and
 5. A statement of consent permitting the Division or its authorized agent to collect samples and access records as provided in R3-7-716.
- C. A person registered under subsection (B) shall notify the associate director within 10 days after the effective date of a change in any of the information provided under subsection (B).
 - D. If a refiner, importer, or oxygenate blender fails to register under this Section, all Arizona CBG or AZRBOB produced by the refiner or oxygenate blender or imported by the importer and transported to the CBG-covered area is presumed to be noncompliant from the date that registration should have occurred.
 - E. The Division shall maintain a list of all registered suppliers.

Historical Note

New Section R3-7-750 recodified from Section R20-2-750 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-751. Arizona CBG Requirements

- A. General fuel property and performance requirements. In addition to the other requirements of this Article and except as provided in subsection (B), all Arizona CBG shall meet the following requirements and for any fuel property not specified, shall meet the requirements in ASTM D4814. The dates in this subsection are compliance dates for the owner or operator of a motor fuel dispensing site or a fleet vehicle fueling facility.
 1. Sulfur: 95 ppm by weight (max).
 2. Aromatics: 50 percent by volume (max).
 3. Olefins: 25 percent by volume (max).
 4. E200: 70-30 percent volume.
 5. E300: 100-70 percent volume.
 6. Maximum vapor pressure:
 - a. October: 9.0 psi.
 - b. November 1 - March 31: 9.0 psi.
 - c. April: 10.0 psi.
 - d. May: 9.0 psi.
 - e. June 1 - September 30: 7.0 psi.
 - f. A gasoline ethanol blend in the CBG-covered area is subject to the 1 psi vapor pressure waiver, as described in R3-7-708(B), during April only.
 7. Oxygen and oxygenates:
 - a. Minimum content:
 - i. November 1 - March 31: 10 percent fuel ethanol by volume. If A.R.S. § 3-3493(C) petition in effect: 2.7 percent oxygen by weight as approved by the associate director.
 - ii. April 1 - October 31: 0 percent by weight (any oxygenate).

- b. The maximum oxygen content shall not exceed 4.0 percent by weight for fuel ethanol and as specified in A.R.S. § 3-3491 for other oxygenates, and shall comply with the requirements of A.R.S. § 3-3492.
 - c. Arizona CBG shall not contain more than 0.3 volume percent MTBE nor more than 0.1 weight percent oxygen from all other ethers or alcohols listed in A.R.S. § 3-3491.
8. Type 1 Arizona CBG shall meet the Federal Complex Model VOC emissions reduction percentage May 1 through September 15: 27.5 percent (Federal Complex Model settings: Summer, Area Class B, Phase 2). Type 2 Arizona CBG shall meet CARB Phase 2 requirements.
- B.** Wintertime requirements. In addition to the other requirements of this Article, the owner or operator of a motor fuel dispensing site or a fleet vehicle fueling facility shall ensure that beginning November 1 through March 31 of each year, all Arizona CBG meets the following fuel property requirements.
1. Sulfur: 80 ppm by weight (max),
 2. Aromatics: 30% by volume (max),
 3. Olefins: 10% by volume (max),
 4. 90% Distillation Temp. (T90): 330° F (max),
 5. 50% Distillation Temp. (T50): 220° F (max),
 6. Vapor Pressure: 9.0 psi (max), and
 7. Oxygenate - Ethanol;
 - a. Minimum oxygenate content - 10 percent fuel ethanol by volume;
 - b. Maximum oxygen content - 4.0 percent oxygen by weight, and shall comply with the requirements of A.R.S. § 3-3492; and
 - c. Alternative minimum fuel ethanol content may be used if approved by the associate director under A.R.S. § 3-3493(C).
- C.** Fuel ethanol specifications. A person that uses fuel ethanol as a blending component with AZRBOB or Arizona CBG shall ensure that the fuel ethanol meets the requirements in ASTM D4806 and the following:
1. A sulfur content not exceeding 10 ppm by weight,
 2. An olefins content not exceeding 0.5 percent by volume, and
 3. An aromatic hydrocarbon content not exceeding 1.7 percent by volume.
- D.** General elections. Except as provided in subsection (E), a registered supplier shall make an initial election, and a subsequent election each time a change occurs, before beginning to transport Arizona CBG or AZRBOB. A registered supplier shall make the election with the associate director on a form or in a format prescribed by the associate director. The election shall state:
1. Whether the registered supplier (at each point where the Arizona CBG or AZRBOB is certified) will supply Arizona CBG or AZRBOB that complies with Type 1 Arizona CBG, Type 2 Arizona CBG, or the PM alternative gasoline formulation requirements and, if the registered supplier will supply Arizona CBG or AZRBOB that complies with the PM alternative gasoline formulation requirements, whether the registered supplier will certify using the CARB Phase 2 model; and
 2. For each applicable fuel property or performance standard in the election under subsection (D)(1), whether the Arizona CBG or AZRBOB will comply with the average standards or per-gallon standards. A registered supplier shall not elect to comply with average standards unless the registered supplier is in compliance with R3-7-760. A registered supplier shall not elect to comply with Type 1 Arizona CBG average standards in Table 1, columns B and C, from September 16 through October 31 and February 1 through April 30.
- E.** Winter elections. Beginning November 1 through March 31 of each year, a registered supplier shall ensure that all Arizona CBG or AZRBOB complies with Type 2 Arizona CBG requirements or the PM alternative gasoline formulation requirements under Table 2. A registered supplier shall make an initial election, and a subsequent election each time a change occurs, before beginning to transport Arizona CBG or AZRBOB. A registered supplier shall make the election with the associate director on a form or in a format prescribed by the associate director. The election shall state:
1. Whether the registered supplier (at each point where the Arizona CBG or AZRBOB is certified) will supply Arizona CBG or AZRBOB that complies with the Type 2 Arizona CBG or the PM alternative gasoline formulation requirements; and
 2. For each applicable fuel property, whether the Arizona CBG or AZRBOB will comply with the average standards or per-gallon standards.
- F.** A registered supplier may elect and produce Type 1 Arizona CBG from December 1 through March 31 but the registered supplier shall not distribute the Arizona CBG to a motor fuel dispensing site within the CBG-covered area before April 1.
- G.** Certification as Type 1 Arizona CBG or Type 2 Arizona CBG. A registered supplier shall certify Arizona CBG or AZRBOB under R3-7-752 as meeting all requirements of the election made in subsection (D) or (E). For each fuel property, Type 1 Arizona CBG shall comply with the requirements in either column A or columns B through D of Table 1, and shall be certified using the Federal Complex Model, which is incorporated by reference in R3-7-702. For each fuel property, Type 2 Arizona CBG shall comply with the requirements of columns A and B (averaging option), or column C in Table 2. The PM alternative gasoline formulation shall meet the requirements of subsections (H), (I), and (J), and column A of Table 2. A registered supplier may certify Arizona CBG or AZRBOB using an equivalent test method that the Division approves using the criteria stated in R3-7-759.
- H.** Certification and use of Predictive Model for alternative PM gasoline formulations.
1. Except as provided in subsections (H)(4) and (J), a registered supplier shall use the PM as provided in the Predictive Model Procedures.
 2. A registered supplier shall certify a PM alternative gasoline formulation with the associate director by either:
 - a. Submitting to the associate director a complete copy of the documentation provided to the executive officer of CARB according to 13 California Code of Regulations, Section 2264 and subsection (J); or
 - b. Notifying the associate director, on a form prescribed by or in a format acceptable to the associate director, of:
 - i. The PM alternative specifications that apply to the final blend, including for each specification whether it is a PM flat limit or a PM averaging limit; and
 - ii. The numerical values for percent change in emissions for oxides of nitrogen and hydrocarbons determined in accordance with the Predictive Model Procedures.
 3. A registered supplier shall deliver the certification required under subsection (H)(2) to the associate director before transporting the PM alternative gasoline formulation.

4. Restrictions for elections to sell or supply final blends as PM alternative gasoline formulations.
 - a. A registered supplier shall not make a new election to sell or supply from its production or import facility a final blend of Arizona CBG as a PM alternative gasoline formulation if the registered supplier has an outstanding requirement under subsection (K) to provide offsets for fuel properties at the same production or import facility.
 - b. If a registered supplier elects to sell or supply from its production or import facility a final blend of Arizona CBG as a PM alternative gasoline formulation subject to a PM averaging compliance option for one or more fuel properties, the registered supplier shall not elect any other compliance option, including another PM alternative gasoline formulation, if an outstanding requirement to provide offsets for fuel properties exists under the provisions of subsection (K). This subsection does not preclude a registered supplier from electing another PM alternative gasoline formulation if:
 - i. The PM flat limit for one or more fuel properties is changed to a PM averaging limit, or a single PM averaging limit for which there is no outstanding requirement to provide offsets is changed to a PM flat limit;
 - ii. There are no changes to the PM alternative specifications for remaining fuel properties; and
 - iii. The new PM alternative formulation meets the criteria in the Predictive Model Procedures.
 - c. If a registered supplier elects to sell or supply from the registered supplier's production or import facility a final blend of Arizona CBG as a PM alternative gasoline formulation, the registered supplier shall not use a previously assigned designated alternative limit for a fuel property to provide offsets under subsection (K).
 - d. If a registered supplier notifies the associate director under subsection (D) or (E) that a final blend of Arizona CBG is sold or supplied from a production or import facility as a PM alternative gasoline formulation, all final blends of Arizona CBG or AZRBOB subsequently sold or supplied from that production or import facility are subject to the same PM alternative specifications until the registered supplier either:
 - i. Designates a final blend at that facility as a PM alternative gasoline formulation subject to different PM alternative specifications; or
 - ii. Elects, under subsection (D) or (E), a final blend at that facility subject to a flat limit compliance option or an averaging compliance option.
- I. Prohibited activities regarding PM alternative gasoline formulations. A registered supplier shall not sell, offer for sale, supply, or offer to supply from the registered supplier's production or import facility Arizona CBG that is reported as a PM alternative gasoline formulation under R3-7-752 if any of the following occur:
 1. The elected PM alternative specifications do not meet the criteria for approval in the Predictive Model Procedures,
 2. The registered supplier is prohibited by subsection (H)(4)(a) from electing to sell or supply the gasoline as a PM alternative gasoline formulation,
 3. The gasoline fails to conform with any PM flat limit in the PM alternative specifications election, or
 4. With respect to any fuel property for which the registered supplier elects a PM averaging limit:
 - a. The gasoline exceeds the applicable PM average limit in Table 2, column B, and no designated alternative limit for the fuel property is established for the gasoline in accordance with subsection (H)(2); or
 - b. A designated alternative limit for the fuel property is established for the gasoline in accordance with subsection (H)(2), and either the gasoline exceeds the designated alternative limit for the fuel property or the designated alternative limit for the fuel property exceeds the PM averaging limit and the exceedance is not fully offset in accordance with subsection (K).
- J. Oxygen content requirements for PM alternative gasoline formulations. A registered supplier shall ensure that from November 1 through March 31, all alternative PM gasoline formulations comply with oxygen content requirements for the CBG-covered area. Regardless of the oxygen content, a registered supplier shall certify the final alternative PM gasoline formulation using the PM with a minimum oxygen content of 2.0 percent by weight. A registered supplier may use the CARBOB Model as a substitute for the preparation of a fuel ethanol hand blend and use the fuel qualities calculated under the CARBOB Model for compliance and reporting purposes.
- K. Offsetting fuel properties and performance standards. A registered supplier that elects to comply with the averaging standards for any of the fuel properties or performance standards contained in Tables 1 and 2, or the PM, shall, from a single production or import facility, complete physical transfer of certified Arizona CBG or AZRBOB in sufficient quantity to offset the amount by which the Arizona CBG or AZRBOB exceeds the averaging standard according to the following schedule:
 1. A registered supplier that elects to comply with the averaging standards contained in Table 2 or the PM shall offset each exceeded average standard within 90 days before or after beginning to transport any final blend of Arizona CBG or AZRBOB from the production or import facility;
 2. A registered supplier that elects to comply with the averaging standard for the VOC Emission Reduction Percentage in Table 1, column B, shall offset an exceedance of the standard that occurs from May 1 through September 15 during that same period; and
 3. A registered supplier that elects to comply with the averaging standard for the NOx Emission Reduction Percentage contained in Table 1, column B, shall offset an exceedance of the standard that occurs from May 1 through September 15 during that same period.
- L. Consequence of failure to comply with averages.
 1. In addition to a penalty under R3-7-762, if any, a registered supplier that fails to comply with a requirement of subsection (K) shall meet the applicable per-gallon standards contained in Table 1, Table 2, or an alternative PM gasoline formulation, for a probationary period as follows:
 - a. For a registered supplier that elects to comply with the standards contained in Table 1, the probationary period begins on the first day of the next averaging season and ends on the last day of that averaging season if the conditions of subsection (L)(2) are met;
 - b. For a registered supplier that elects to comply with the standards contained in Table 2 or the PM, the probationary period begins no later than 90 days

after the registered supplier determines, or receives a notice from the associate director, that the registered supplier did not comply with the requirements of subsection (K). Before the probationary period begins, the registered supplier shall notify the associate director in writing of the beginning date of the probationary period. The probationary period ends 90 days after its beginning date.

2. A registered supplier shall not produce or import Arizona CBG or AZRBOB under an averaging compliance election until:
 - a. The registered supplier submits a compliance plan to the associate director that includes:
 - i. An implementation schedule for actions to correct noncompliance, and
 - ii. Reporting requirements that document implementation of the compliance plan,
 - b. The associate director approves the plan,
 - c. The registered supplier implements the plan, and
 - d. The registered supplier achieves compliance.
 3. If a registered supplier fails to comply with the requirements of subsection (K) within one year of the end of a probationary period under subsection (L)(1), the registered supplier shall comply with applicable per-gallon standards for a subsequent probationary period of two years, or until the conditions in subsection (L)(2) are satisfied, whichever is later.
 - a. If a registered supplier elects to comply with the Table 1 standards, the probationary period begins on the first day of the next averaging season.
 - b. If a registered supplier elects to comply with the Table 2 standards or the PM, the probationary period begins no later than 90 days after the registered supplier determines, or receives notice from the associate director, that the registered supplier did not comply with the requirements of subsection (K). Before the probationary period begins, the registered supplier shall notify the associate director in writing of the beginning date of the probationary period.
 4. If a registered supplier fails to comply with the requirements of subsection (K) within one year after the end of a probationary period provided under subsection (L)(3), the registered supplier shall permanently comply with applicable per-gallon standards.
- M.** Effect of VOC survey failure. Each time a VOC survey conducted under R3-7-760 shows excess VOC emissions in the CBG-covered area, the VOC emissions performance reduction in R3-7-751(A)(8) and the minimum per-gallon VOC emission reduction percentage in Table 1, column C shall be increased by an absolute 1.0 percent, not to exceed the VOC percent emissions reduction percentage per-gallon standard in Table 1, column A.
- N.** Effect of NOx survey failure. Each time a NOx survey conducted under R3-7-760 shows excess NOx emissions in the CBG-covered area, the NOx average emission reduction percentage applicable to the period of May 1 through September 15 in Table 1, column B shall be increased by an absolute 1.0 percent.
- O.** Subsequent survey compliance. If the minimum VOC or average NOx emissions reduction percentage has been made more stringent according to subsection (M) or (N) and all emissions reduction surveys for VOC or NOx for two consecutive years show emissions within the applicable adjusted reduction percentage in the CBG-covered area, the applicable VOC or NOx emissions adjusted reduction percentage shall be reduced by an absolute 1.0 percent beginning in the year following the

year in which the second compliant survey is conducted. Each emissions reduction percentage adjusted under this subsection shall not be decreased below the following:

1. >27 percent for the VOC emissions reduction percentage, May 1 through September 15, Table 1, column C; and
 2. >6.8 percent for the NOx emissions reduction percentage, May 1 through September 15, Table 1, column B.
- P.** Subsequent survey failures. If a VOC or NOx emissions reduction percentage is made less stringent under subsection (O) and a subsequent VOC or NOx survey shows excess VOC or NOx emissions in the CBG-covered area:
1. For a VOC survey failure, the Federal Complex Model VOC emissions reduction percentage in R3-7-751(A)(8) and the minimum per gallon VOC emission reduction percentage in Table 1, column C shall be increased by an absolute 1.0 percent, not to exceed the VOC percent emissions reduction percentage per gallon standard in Table 1, column A;
 2. For a NOx survey failure, the NOx average emission reduction percentage applicable May 1 through September 15 in Table 1, column B shall be increased by an absolute 1.0 percent; and
 3. If the VOC or NOx emission reduction percentage is increased under subsection (P)(1) or (2), the VOC or NOx emission reduction percentage shall not be made less stringent regardless of the result of subsequent surveys for VOC or NOx emissions.
- Q.** Effective date for adjusted standards. If a performance standard is adjusted by operation of subsection (M), (N), (O), or (P), the effective date for the change is the beginning of the next averaging season for which the standard is applicable.

Historical Note

New Section R3-7-751 recodified from Section R20-2-751 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-751.01. Repealed

Historical Note

Repealed Section R3-7-751.01 recodified from repealed Section R20-2-751.01 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-752. General Requirements for Registered Suppliers

- A.** A registered supplier shall certify that each batch of Arizona CBG or AZRBOB transported for sale or use in the CBG-covered area meets the standards in this Article.
- B.** A registered supplier shall make the certification on a form or in a format prescribed by the associate director. The registered supplier shall include in the certification information on shipment volumes, fuel properties as determined under R3-7-759, and performance standards for each batch of Arizona CBG or AZRBOB. The registered supplier shall submit the certification to the associate director on or before the 15th day of each month for each batch of Arizona CBG or AZRBOB transported during the previous month.
- C.** Recordkeeping and records retention.
 1. A registered supplier that samples and analyzes a final blend or shipment of Arizona CBG or AZRBOB under this Section shall maintain, for five years from the date of each sampling, records of the following:
 - a. Sample date;
 - b. Identity of blend or product sampled;
 - c. Container or other vessel sampled;
 - d. The final blend or shipment volume; and

- e. The test results for sulfur, aromatic hydrocarbon, olefin, oxygen, vapor pressure, and as applicable, T50, T90, E200, and E300 as determined under R3-7-759.
- 2. If Arizona CBG or AZRBOB produced or imported by a registered supplier is not tested and documented as required by this Section, the associate director shall deem the Arizona CBG or AZRBOB to have a vapor pressure, sulfur, aromatic hydrocarbon, olefin, oxygen, T50, and T90 that exceeds the standards specified in R3-7-751 or the comparable PM averaging limits, unless the registered supplier demonstrates to the associate director that the Arizona CBG or AZRBOB meets all applicable fuel property limits and performance standards.
- 3. A registered supplier shall provide to the associate director any records maintained by the registered supplier under this Section within 20 days of a written request from the associate director. If a registered supplier fails to provide records for a blend or shipment of Arizona CBG or AZRBOB, the associate director shall deem the final blend or shipment of Arizona CBG or AZRBOB in violation of R3-7-751, unless the registered supplier demonstrates to the associate director that the Arizona CBG or AZRBOB meets all applicable fuel property limits and performance standards.
- D. Notification requirement.** A registered supplier shall notify the associate director by fax or e-mail before transporting Arizona CBG or AZRBOB into the CBG-covered area by a means other than a pipeline.
- E. Quality Assurance and Quality Control (QA/QC) Program.** A registered supplier shall develop a QA/QC program to demonstrate the accuracy and effectiveness of the registered supplier's laboratory testing of Arizona CBG or AZRBOB. The registered supplier shall submit the QA/QC program to the associate director for approval at least three months before the registered supplier transports Arizona CBG or AZRBOB. The associate director shall approve a QA/QC program only if the associate director determines that the QA/QC program ensures that the registered supplier's laboratory testing procedures comply with R3-7-759 and the data generated by the registered supplier's laboratory are complete, accurate, and reproducible. If the registered supplier makes significant changes to the QA/QC program, the registered supplier shall resubmit the QA/QC program to the associate director for review and approval. Within 30 days of receiving the changed QA/QC program, the associate director shall determine whether the changed QA/QC program meets the original quality objectives. The associate director shall approve the changed QA/QC program if it meets the quality objectives. Instead of developing a QA/QC program, a registered supplier may comply with the independent testing requirements of subsection (F).
- F. Independent testing.**
 - 1. A registered supplier of Arizona CBG or AZRBOB that does not develop a QA/QC program shall conduct a program of independent sample collection and analysis for the Arizona CBG or AZRBOB produced or imported, that complies with one of the following:
 - a. Option 1. A registered supplier shall, for each batch of Arizona CBG or AZRBOB produced or imported, have an independent laboratory collect and analyze a representative sample from the batch using the methodology specified in R3-7-759 for compliance with each fuel property and performance standard for which the Arizona CBG or AZRBOB is certified.
 - b. Option 2. A registered supplier shall have an independent testing program for all Arizona CBG or AZRBOB that the registered supplier produces or imports that consists of the following:
 - i. An independent laboratory shall collect a representative sample from each batch;
 - ii. The associate director or designee shall identify up to 10% of the samples collected under subsection (F)(1)(b)(i) for analysis; and
 - iii. The independent laboratory shall, for each sample identified by the associate director or designee, analyze the sample using the methodology specified in R3-7-759 for compliance with each fuel property and performance standard for which the Arizona CBG or AZRBOB is certified.
 - 2. The associate director or designee may request in writing a duplicate of the batch sample collected under subsection (F)(1)(a) or (b) for analysis by a laboratory selected by the associate director or designee. The registered supplier shall submit a duplicate of the sample to the associate director within 24 hours of the written request.
 - 3. Designation of independent laboratory.
 - a. A registered supplier that does not develop a QA/QC program shall designate one independent laboratory for each production or import facility at which the registered supplier produces or imports Arizona CBG or AZRBOB. The independent laboratory shall collect samples and perform analyses according to subsection (F).
 - b. A registered supplier shall identify the designated independent laboratory to the associate director under the registration requirements of R3-7-750.
 - c. A laboratory is considered independent if:
 - i. The laboratory is not operated by a registered supplier or the registered supplier's subsidiary or employee,
 - ii. The laboratory does not have any interest in any registered supplier, and
 - iii. The registered supplier does not have any interest in the designated laboratory.
 - d. Notwithstanding the restrictions in subsection (F)(3)(c), the associate director shall consider a laboratory independent if it is owned or operated by a pipeline owned or operated by four or more registered suppliers.
 - e. A registered supplier shall not use a laboratory that is debarred, suspended, or proposed for debarment according to the Government-wide Debarment and Suspension regulations, 40 CFR 32, or the Debarment, Suspension and Ineligibility provisions of the Federal Acquisition Regulations, 48 CFR 9.4.
 - 4. A registered supplier shall ensure that its designated independent laboratory:
 - a. Records the following at the time the designated independent laboratory collects a representative sample from a batch of Arizona CBG or AZRBOB:
 - i. The producer's or importer's assigned batch number for the batch sampled;
 - ii. The volume of the batch;
 - iii. The identification number of the gasoline storage tank in which the batch is stored at the time the sample is collected;
 - iv. The date and time the batch became Arizona CBG or AZRBOB;
 - v. The date and time the sample is collected;

- vi. The grade of the batch (for example, unleaded premium, unleaded mid-grade, or unleaded); and
 - vii. For Arizona CBG or AZRBOB produced by computer-controlled in-line blending, the date and time the blending process began and the date and time the blending process ended, unless exempt under subsection (G);
 - b. Retains each sample collected under this subsection for at least 45 days, unless this time is extended by the associate director for up to 180 days;
 - c. Submits to the associate director a quarterly report on or before the 15th day of January, April, July, and October of each year that includes, for each sample of Arizona CBG or AZRBOB analyzed under subsection (F):
 - i. The results of the independent laboratory's analyses for each fuel property, and
 - ii. The information specified in subsection (F)(4)(a) for each sample; and
 - d. Supplies to the associate director, upon request, a duplicate of the sample.
- G.** Exemptions to QA/QC and independent laboratory testing requirements. A registered supplier that produces or imports Arizona CBG or AZRBOB using computer-controlled in-line blending equipment and operates under an exemption from EPA under 40 CFR 80.65(f)(iv), is exempt from the requirements of subsections (E) and (F), if reports of the results of the independent audit program of the registered supplier's computer-controlled in-line blending operation, which are submitted to EPA under 40 CFR 80.65(f)(iv), are submitted to the associate director by March 1 of each year.
- H.** Use of laboratory analysis for certification of Arizona CBG and AZRBOB.
1. If both a registered supplier and an independent laboratory collect a sample from the same batch of Arizona CBG or AZRBOB and perform a laboratory analysis under subsection (F) to determine compliance of the sample with a fuel property, the registered supplier and independent laboratory shall use the same test methodology. The results of the analysis conducted by the registered supplier shall be used for certification of the Arizona CBG or AZRBOB under subsection (B), unless the absolute value of the difference between the two results is larger than one of the following:
 - a. Sulfur content: 25 ppm by weight,
 - b. Aromatics: 2.7% by volume,
 - c. Olefins: 2.5% by volume,
 - d. Fuel ethanol: 0.4% by volume,
 - e. Vapor pressure: 0.3 psi,
 - f. 50% distillation temperature: ASTM reproducibility for that sample using the slope from the registered supplier's results,
 - g. 90% distillation temperature: ASTM reproducibility for that sample using the slope from the registered supplier's results,
 - h. E200: 2.5% by volume,
 - i. E300: 3.5% by volume, or
 - j. API gravity: 0.3° API.
 2. If the absolute value of the difference between the results of the analyses conducted by the registered supplier and independent laboratory is larger than one of the values specified in subsection (H)(1), the registered supplier shall use one of the following for certification of the batch of Arizona CBG or AZRBOB under subsection (B):
 - a. The larger of the two values for each fuel property, except the smaller of the two values shall be used for measures of oxygenates; or
 - b. Have a second independent laboratory analyze the Arizona CBG or AZRBOB for each fuel property. If the difference between the results obtained by the second independent laboratory and those obtained by the registered supplier are within the range listed in subsection (H)(1), the registered supplier's results shall be used for certifying the Arizona CBG or AZRBOB under subsection (B).

Historical Note

New Section R3-7-752 recodified from Section R20-2-752 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-753. General Requirements for Pipelines and Third-party Terminals

- A.** A pipeline or third-party terminal shall not accept Arizona CBG or AZRBOB for transport unless:
1. The Arizona CBG or AZRBOB is physically transferred from an importer, refiner, oxygenate blender, pipeline, or third-party terminal registered with the Division under R3-7-750; and
 2. The registered supplier provides written verification that the gasoline is Arizona CBG or AZRBOB and complies with the standards in R3-7-751(A) or (B), as applicable, without reproducibility or numerical rounding.
- B.** A pipeline or third-party terminal that transports Arizona CBG or AZRBOB shall collect a sample of each incoming batch. The pipeline or third-party terminal shall retain the sample for at least 30 days unless this time is extended for an individual sample for up to 180 days by the associate director.
- C.** A pipeline shall conduct quality control testing of Arizona CBG or AZRBOB at a frequency of at least one sample from one batch completing shipment for each registered supplier each day at each input location.
- D.** A pipeline shall provide the associate director with a report summarizing the quality control testing results obtained under subsection (C) within 10 days of the end of each month. The report shall contain the quantity of Arizona CBG or AZRBOB, date tendered, whether the Arizona CBG or AZRBOB was transported by pipeline, present sample location, and laboratory analysis results.
- E.** If a batch does not meet the standards in R3-7-751(A) or (B), as applicable, but is within reproducibility, the pipeline shall notify the associate director by fax or e-mail within 48 hours of the batch volume and date tendered, proposed shipment date, whether the batch was transported by the pipeline, present batch location, and laboratory analysis results.
- F.** If a batch does not meet the standards in R3-7-751(A) or (B), as applicable, including reproducibility, the pipeline or third-party terminal shall notify the associate director by fax or e-mail within 24 hours of the batch quantity and date tendered, proposed shipment date, whether the batch was transported by the pipeline, present batch location, and laboratory analysis results. If the batch is in the pipeline's or third-party terminal's control, the pipeline or third-party terminal shall prevent release of the batch from a distribution point until the batch is certified as meeting the standards in R3-7-751(A) or (B), as applicable.
- G.** A pipeline or third-party terminal shall develop a QA/QC program to demonstrate the accuracy and effectiveness of the pipeline's or third-party terminal's laboratory testing. The QA/QC program for a pipeline or third-party terminal shall include

a description of the laboratory testing protocol used to verify that Arizona CBG or AZRBOB transported to the CBG-covered area meets the standards in R3-7-751(A) or (B). A pipeline or third-party terminal shall submit the QA/QC program to the associate director for approval at least three months before the pipeline or third-party terminal begins to transport Arizona CBG or AZRBOB. The associate director shall approve a QA/QC program only if the associate director determines that the QA/QC program ensures that the pipeline's or third-party terminal's laboratory testing produces data that are complete, accurate, and reproducible. If a pipeline or third-party terminal makes significant changes to the QA/QC program, the pipeline or third-party terminal shall resubmit the QA/QC program to the associate director for review and approval. Within 30 days of receiving the changed QA/QC program, the associate director shall determine whether the changed QA/QC program meets the quality objectives originally approved by the Division. The associate director shall approve the changed QA/QC program if it meets the quality objectives.

- H. A portion of a facility that a third-party terminal uses for production, import, or oxygenate blending is exempt from this Section, but the third-party terminal shall operate the exempt portion of the facility in compliance with requirements for registered suppliers in R3-7-752 and oxygenate blenders in R3-7-755, as applicable.
- I. A pipeline is not liable under R3-7-761 if it follows all of the procedures in this Section.

Historical Note

New Section R3-7-753 recodified from Section R20-2-753 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-754. Downstream Blending Exceptions for Transmix

- A. A pipeline or third-party terminal may blend transmix into Arizona CBG or AZRBOB at a rate not to exceed 1/4 of one percent by volume. Each pipeline or third-party terminal shall document the transmix blending (recording each batch and volume of transmix blended) and maintain the records at the third-party terminal for two years from the date of blending.
- B. One of two methods shall be used to measure the transmix as it is blended into the product stream:
 - 1. Meters, calibrated at least twice each year; or
 - 2. Tank gauge as per American Petroleum Institute (API) Manual of Petroleum Measurement Standards, Chapters 3.1A (1st edition, December 1994) and 3.1B (1st edition, April 1992), incorporated by reference and on file with the Division. A copy may also be obtained at American Petroleum Institute, 1220 L St., N.W., Washington, D.C. 20005-4070. This incorporation by reference contains no future editions or amendments.

Historical Note

New Section R3-7-754 recodified from Section R20-2-754 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-755. Additional Requirements for AZRBOB and Downstream Oxygenate Blending

- A. Application of Arizona CBG standards to AZRBOB.
 - 1. Determining whether AZRBOB complies with Arizona CBG standards.
 - a. If a registered supplier designates a final blend as AZRBOB and complies with the provisions of this Section, the fuel properties and performance stan-

dards of the AZRBOB, for purposes of compliance with Table 2, are determined by adding the specified amount of fuel ethanol to a representative sample of the AZRBOB and testing the resulting gasoline using the test methods in R3-7-759 or certifying the AZRBOB using the CARBOB model. If the registered supplier designates a range of amounts of fuel ethanol to be added to the AZRBOB, the minimum designated amount of fuel ethanol shall be added to the AZRBOB to determine the fuel properties and performance standards of the resulting Arizona CBG. If a registered supplier does not comply with this subsection, the Division shall determine whether the AZRBOB complies with applicable fuel properties and performance standards, excluding requirements for vapor pressure, without adding fuel ethanol to the AZRBOB.

- b. In determining whether AZRBOB complies with the Arizona CBG standards, the registered supplier shall ensure that the fuel ethanol added to the representative sample under subsection (A)(1)(a) is representative of the fuel ethanol the registered supplier reasonably expects will be subsequently added to the AZRBOB.
- 2. Calculating the volume of AZRBOB. If a registered supplier designates a final blend as AZRBOB and complies with this Section, the volume of AZRBOB is calculated for compliance purposes under R3-7-751 by adding the minimum amount of fuel ethanol designated by the registered supplier. If a registered supplier fails to comply with this subsection, the Division shall calculate the volume of AZRBOB for purposes of compliance with applicable fuel properties and performance standards without adding the amount of fuel ethanol to the AZRBOB.
- B. Restrictions on transferring AZRBOB.
 - 1. A person shall not transfer ownership or custody of AZRBOB to any other person unless the transferee notifies the transferor in writing that:
 - a. The transferee is a registered oxygenate blender and will add fuel ethanol in the amount (or within the range of amounts) designated in R3-7-757 before the AZRBOB is transferred from a final distribution facility, or
 - b. The transferee will take all reasonably prudent steps necessary to ensure that the AZRBOB is transferred to a registered oxygenate blender that adds the amount (or within the range of amounts) of fuel ethanol designated in R3-7-757 to the AZRBOB before the AZRBOB is transferred from a final distribution facility.
 - 2. A person shall not sell or supply Arizona CBG from a final distribution facility if the amount or range of amounts of fuel ethanol designated in R3-7-757 has not been added to the AZRBOB.
- C. Restrictions on blending AZRBOB with other products. A person shall not combine AZRBOB supplied from the facility at which the AZRBOB is produced or imported with any other AZRBOB, gasoline, blendstock, or oxygenate, except for:
 - 1. Fuel ethanol in the amount (or within the range of amounts) specified by the registered supplier at the time the AZRBOB is supplied from the production or import facility, or
 - 2. Other AZRBOB for which the same fuel ethanol amount (or range of amounts) is specified by the registered supplier at the time the AZRBOB is supplied from the production or import facility.

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- D.** Quality assurance sampling and testing requirements for a registered supplier supplying AZRBOB from a production or import facility. A registered supplier supplying AZRBOB from a production or import facility shall use an independent third-party quality assurance sampling and testing program as described in subsection (E) or conduct a quality assurance sampling and testing program that meets the requirements of 40 CFR 80.69(a)(7), as it existed on July 1, 1996, except for the changes listed in subsections (D)(1) through (3). 40 CFR 80.69(a)(7), July 1, 1996, is incorporated by reference and on file with the Division. A copy may be obtained at the Government Publishing Office, P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov. The material incorporated includes no future editions or amendments.
1. 40 CFR 80.69(a)(7). The word "RBOB" is changed to read "AZRBOB";
 2. 40 CFR 80.69(a)(7). "...using the methodology specified in § 80.46..." is changed to read "...using the methodology specified in R3-7-759..." and
 3. 40 CFR 80.69(a)(7)(ii). "(within the correlation ranges specified in § 80.65(e)(2)(i))" is changed to read "(within the ranges of the applicable test methods).
- E.** General requirements for an independent third-party quality assurance sampling and testing program. A registered supplier may contract with an independent third party that conducts a quality assurance sampling and testing program for one or more registered suppliers. The registered supplier shall ensure that the quality assurance sampling and testing program:
1. Is designed and conducted by a third party that is independent of the registered supplier. To be considered independent:
 - a. The third party shall not be an employee of a registered supplier,
 - b. The third party shall not have an obligation to or interest in any registered supplier, and
 - c. The registered supplier shall not have an obligation to or interest in the third party;
 2. Is conducted from November 1 through March 31 on all samples collected under the program design previously approved by the associate director under subsection (G);
 3. Involves sampling and testing that is representative of all Arizona CBG dispensed in the CBG-covered area;
 4. Analyzes each sample for oxygenate according to the methodologies specified in R3-7-759;
 5. Bases results on an analysis of each sample collected during the sampling period unless a specific sample does not comply with the applicable per gallon maximum or minimum standards for the fuel property being evaluated in addition to any reproducibility applicable to the fuel property;
 6. Participates in a correlation program with the associate director to ensure the validity of analysis results;
 7. Does not provide advance notice, except as provided in subsection (F), of the date or location of any sampling;
 8. Provides a duplicate of any sample, with information regarding where and the date on which the sample was collected, upon request of the associate director, within 30 days after submitting the report required under subsection (E)(10);
 9. Permits a Division official to monitor sample collection, transportation, storage, and analysis at any time; and
 10. Prepares and submits a report to the associate director within 30 days after the sampling is completed that includes the following information:
 - a. Name of the person collecting the samples;
 - b. Attestation by an officer of the third party that the sampling and testing was done according to the program plan approved by the associate director under subsection (G) and the results are accurate;
 - c. Identification of the registered supplier for whom the sampling and testing program was conducted if the sampling and testing program was conducted for only one registered supplier;
 - d. Identification of the area from which the samples were collected;
 - e. Address of each motor fuel dispensing site from which a sample was collected;
 - f. Dates on which the samples were collected;
 - g. Results of the analysis of the samples for oxygenate type and oxygen weight percent, aromatic hydrocarbon, and olefin content, E200, E300, and vapor pressure, and the calculated VOC or NOx emissions reduction percentage, as applicable;
 - h. Name and address of each laboratory at which the samples were analyzed;
 - i. Description of the method used to select the motor fuel dispensing sites from which a sample was collected;
 - j. Number of samples collected at each motor fuel dispensing site; and
 - k. Justification for excluding a collected sample if one was excluded.
- F.** An independent third party that contracts with one or more registered suppliers to conduct a quality assurance sampling and testing program shall begin the sampling on the date selected by the associate director. The associate director shall inform the third party of the date selected at least 10 business days before sampling is to begin.
- G.** To obtain the associate director's approval of an independent third-party quality assurance sampling and testing program plan, the person seeking the approval shall:
1. Submit the plan to the associate director no later than January 1 to cover the sampling and testing period from November 1 through March 31 of each year, and
 2. Have the plan signed by an officer of the third party that will conduct the sampling and testing program.
- H.** No later than September 1 of each year, a registered supplier that intends to meet the requirements in subsection (D) by contracting with an independent third party to conduct quality assurance sampling and testing from November 1 through March 31 shall enter into the contract and pay all of the money necessary to conduct the sampling and testing program. The registered supplier may pay the money necessary to conduct the sampling and testing program to the third party or to an escrow account with instructions to the escrow agent to release the money to the third party as the testing program is implemented. No later than September 15, the registered supplier shall submit to the associate director a copy of the contract with the third party, proof that the money necessary to conduct the sampling and testing program has been paid, and, if applicable, a copy of the escrow agreement.
- I.** Requirements for oxygenate blenders.
1. Requirement to add fuel ethanol to AZRBOB. If an oxygenate blender receives AZRBOB from a transferor to whom the oxygenate blender represents that fuel ethanol will be added to the AZRBOB, the oxygenate blender shall add fuel ethanol to the AZRBOB in the amount (or within the range of amounts) identified in the documentation accompanying the AZRBOB.
 2. Additional requirements for oxygenate blending at terminals. An oxygenate blender that makes Arizona CBG by

- blending fuel ethanol with AZRBOB in a motor fuel storage tank, other than a truck used to deliver motor fuel to a retail outlet or bulk-purchaser consumer facility, shall determine the oxygen content and volume of the Arizona CBG before shipping, by collecting and analyzing a representative sample of the Arizona CBG, using the methodology in R3-7-759.
3. Additional requirements for oxygenate blending in trucks. An oxygenate blender that blends AZRBOB in a motor fuel delivery truck shall conduct quality assurance sampling and testing that meets the requirements in 40 CFR 80.69(e)(2), as it existed on July 1, 1996, except for the changes listed in subsections (I)(3)(a) through (c). 40 CFR 80.69(e)(2), July 1, 1996, is incorporated by reference and on file with the Division. A copy may be obtained at the Government Publishing Office, P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov. The material incorporated includes no future editions or amendments.
 - a. 40 CFR 80.69(e)(2). The word "RBOB" is changed to read "AZRBOB;"
 - b. 40 CFR 80.69(e)(2)(iv). "... using the testing methodology specified at § 80.46 ..." is changed to read "... using the testing methodology specified in R3-7-759..." and
 - c. 40 CFR 80.69(e)(2)(v). "(within the ranges specified in § 80.70(b)(2)(I))" is changed to read "(within the ranges of the applicable test methods)."
 4. Additional requirements for in-line oxygenate blending in pipelines using computer-controlled blending.
 - a. An oxygenate blender that produces Arizona CBG by blending fuel ethanol with AZRBOB into a pipeline using computer-controlled in-line blending shall, for each batch of Arizona CBG produced:
 - i. Obtain a flow proportional composite sample after the addition of fuel ethanol and before combining the resulting Arizona CBG with any other Arizona CBG;
 - ii. Determine the oxygen content of the Arizona CBG by analyzing the composite sample within 24 hours of blending using the methodology in R3-7-759; and
 - iii. Determine the volume of the resulting Arizona CBG.
 - b. If the test results for the Arizona CBG indicate that it does not contain the amount of fuel ethanol specified by the ranges of the applicable test methods, the oxygenate blender shall:
 - i. Notify the pipeline to downgrade the Arizona CBG to conventional gasoline or transmix upon arrival in Arizona;
 - ii. Begin an investigation to determine the cause of the noncompliance;
 - iii. Collect a representative sample every two hours during each in-line blend of AZRBOB and fuel ethanol, and analyze the samples within 12 hours of collection, until the cause of the noncompliance is determined and corrected; and
 - iv. Notify the associate director in writing within one business day that the Arizona CBG does not comply with the requirements of this Article.
 - c. The oxygenate blender shall comply with subsection (I)(4)(b)(iii) until the associate director determines that the corrective action has remedied the noncompliance.
 5. Recordkeeping and records retention.
 - a. An oxygenate blender shall maintain, for five years from the date of each sampling, records of the following:
 - i. Sample date,
 - ii. Identity of blend or product sampled,
 - iii. Container or other vessel sampled,
 - iv. Volume of final blend or shipment,
 - v. Oxygen content as determined under R3-7-759, and
 - vi. Results from all testing.
 - b. The associate director shall deem that Arizona CBG blended by an oxygenate blender and not tested and documented as required by this Section has an oxygen content that exceeds the standards specified in R3-7-751 or exceeds the comparable PM averaging limits, if applicable, unless the oxygenate blender demonstrates to the associate director that the Arizona CBG meets the standards in R3-7-751.
 - c. Within 20 days of the associate director's written request, an oxygenate blender shall provide any records maintained by the oxygenate blender under this Section. If the oxygenate blender fails to provide records requested for a blend or shipment of Arizona CBG, the associate director shall deem that the blend or shipment of Arizona CBG violates R3-7-751 or exceeds the comparable PM averaging limits, if applicable, unless the oxygenate blender demonstrates to the associate director that the Arizona CBG meets the standards and limits under R3-7-751.
 6. Notification requirement. An oxygenate blender shall notify the associate director by fax or e-mail before transporting Arizona CBG or AZRBOB into the CBG-covered area by a means other than a pipeline.
 7. Quality assurance and quality control (QA/QC) program. An oxygenate blender that conducts sampling and testing under subsection (I) in the oxygenate blender's own laboratory shall develop a QA/QC program to demonstrate the accuracy and effectiveness of the oxygenate blender's sampling and testing of Arizona CBG or AZRBOB. The oxygenate blender shall submit the QA/QC program to the associate director for approval at least three months before transporting Arizona CBG. The associate director shall approve a QA/QC program only if the associate director determines that the QA/QC program ensures that the oxygenate blender's sampling and testing produces data that are complete, accurate, and reproducible. Instead of developing a QA/QC program, an oxygenate blender may comply with the independent testing requirements of R3-7-752(F), except that, for sampling and testing conducted under subsection (I)(3), the minimum number of samples collected and tested by the independent laboratory shall be 10% of the number of samples required to be collected and tested under subsection (I).
 8. An oxygenate blender that does not conduct laboratory sampling and testing required under subsection (I) in its own laboratory shall designate an independent laboratory, as described in R3-7-752(F), to conduct the sampling and testing required under subsection (I)(7).
 9. Within 24 hours of the associate director's or designee's written request, an oxygenate blender shall submit a duplicate of any sample collected under subsection (I)(7).

- J. Subsection (A)(1)(a) will not become effective until Arizona's revised State Implementation Plan submitted by ADEQ to EPA in August 2013 and subsequent supplement submitted July 2014 is approved by EPA.

Historical Note

New Section R3-7-755 recodified from Section R20-2-755 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-756. Downstream Blending of Arizona CBG with Nonoxygenate Blendstocks

- A. A person shall not combine Arizona CBG supplied from a production or import facility with any nonoxygenate blendstock, other than vapor recovery condensate, unless the person demonstrates to the associate director:
1. The blendstock added to the Arizona CBG meets all of the Arizona CBG standards regardless of the fuel properties and performance standards of the Arizona CBG to which the blendstock is added;
 2. The person meets the requirements in this Article applicable to producers of Arizona CBG; and
 3. The resulting fuel blend is not used within the CBG-covered area.
- B. Notwithstanding subsection (A), a person may add nonoxygenate blendstock to a previously certified batch or mixture of certified batches of Arizona CBG that does not comply with one or more of the applicable per-gallon standards contained in R3-7-751(A) or (B) if the person obtains prior written approval from the associate director based on a demonstration that adding the blendstock will bring the previously certified Arizona CBG into compliance with the applicable per-gallon standards for Arizona CBG. The oxygenate blender or registered supplier shall certify the re-blended Arizona CBG to the Division.

Historical Note

New Section R3-7-756 recodified from Section R20-2-756 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-757. Product Transfer Documentation; Records Retention

- A. If a person transfers custody or title to Arizona CBG or AZRBOB, other than when Arizona CBG is sold or dispensed at a motor fuel dispensing site or fleet vehicle fueling facility, the transferor shall provide to the transferee documents that include the following:
1. Volume of Arizona CBG or AZRBOB being transferred;
 2. Location of the Arizona CBG or AZRBOB at the time of transfer;
 3. Date of the transfer;
 4. Product transfer document number;
 5. Identification of the gasoline as Arizona CBG or AZRBOB;
 6. Minimum octane rating of the Arizona CBG or AZRBOB;
 7. For oxygenated Arizona CBG designated for sale for use in motor vehicles from November 1 through March 31, the minimum quantity of fuel ethanol contained in the Arizona CBG;
 8. If the product transferred is AZRBOB for which fuel ethanol blending is intended:
 - a. Identification of the fuel as AZRBOB and a statement that the "AZRBOB does not comply with the

standards for Arizona CBG without the addition of fuel ethanol";

- b. Fuel ethanol amount or range of amounts that the AZRBOB requires to meet the fuel properties or performance standards claimed by the registered supplier of the AZRBOB, and the applicable specifications for volume percent fuel ethanol and weight percent oxygen content; and
 - c. Instructions to the transferee that the AZRBOB may not be combined with any other AZRBOB unless the other AZRBOB has the same requirements for fuel ethanol amount or range of amounts; and
9. The final destination:
- a. When a terminal is the transferor, the owner or the operator of the product transfer document the terminal name and address and the transporter name and address;
 - b. When a transporter is the transferor, the transporter shall include on the product transfer document the name and address of the transporter and the final destination, which is the location at which the motor fuel will be delivered and off loaded from the truck; and
 - c. When a jobber or marketer is the transferor, the jobber or marketer shall include on the product transfer document the name and address of the jobber or marketer and the final destination, which may be a final distribution facility or a motor fuel dispensing site.
- B. To enable a transferor to comply fully with the requirement in subsection (A)(9), the transferee shall supply to the transferor information regarding the final destination.
- C. A registered supplier, third-party terminal, or pipeline may comply with subsection (A) by using standardized product codes on pipeline tickets if the codes are specified in a manual distributed by the pipeline to transferees of the Arizona CBG or AZRBOB, and the manual includes all required information for the Arizona CBG or AZRBOB.
- D. Any transferee in subsection (A), other than a registered supplier, oxygenate blender, third-party terminal, pipeline, motor fuel dispensing site, or fleet vehicle fueling facility shall retain product transfer documents for each shipment of Arizona CBG or AZRBOB transferred during the 24 months before the most recent transfer. The transferee shall maintain product transfer documents for the 30 days before the most recent transfer at the business address listed on the product transfer document. The transferee may maintain all remaining product transfer documents for the preceding 24 months elsewhere.
- E. A motor fuel dispensing site or fleet vehicle fueling facility shall retain product transfer documents for each shipment of Arizona CBG transferred during the 12 months before the most recent transfer. The motor fuel dispensing site or fleet vehicle fueling facility shall maintain product transfer documents for the three most recent transfers on the premises. The motor fuel dispensing site or fleet vehicle fueling facility may maintain the remaining product transfer documents for the preceding 12 months elsewhere.
- F. A registered supplier, oxygenate blender, third-party terminal, or pipeline shall retain product transfer documents for each shipment of Arizona CBG or AZRBOB transferred during the 60 months before the most recent transfer. The transferee shall maintain product transfer documents for each shipment of Arizona CBG or AZRBOB transferred during the 30 days preceding the most recent transfer at the business address listed on the product transfer document. The transferee may maintain

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all remaining product transfer documents for the preceding 60 months elsewhere.

- G. When a person transfers custody or title of fuel ethanol that is intended for use in AZRBOB or Arizona CBG, the person shall provide the transferee a document that prominently states that the fuel ethanol complies with the standards for fuel ethanol intended for use in AZRBOB or Arizona CBG.
- H. Upon request by the associate director or designee, a person shall present product transfer documents to the Division within two working days of the request. Legible photocopies of the product transfer documents are acceptable.

Historical Note

New Section R3-7-757 recodified from Section R20-2-757 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-758. Repealed**Historical Note**

Repealed Section R3-7-758 recodified Section R20-2-758 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-759. Testing Methodologies

- A. Except as provided in subsection (C), a registered supplier or importer certifying Arizona CBG or AZRBOB as meeting the requirements of this Article shall use one of the methods listed in Table A. A copy of the EPA- or CARB-approved ASTM methods may be obtained at: ASTM International (formerly American Society for Testing and Materials), 100 Bar Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org. A copy of the CARB methods may be obtained at: California Air Resources Board, P.O. Box 2815, Sacramento, CA 95812 or www.arb.ca.gov.
- B. An oxygenate blender or third-party terminal certifying Arizona CBG or AZRBOB before transport to the CBG-covered area shall measure fuel ethanol in accordance with the oxygen-

ate blender's or third-party terminal's approved QA/QC program or in accordance with one of the methods listed in Table A.

- C. Rather than using a method listed in Table A to certify Arizona CBG or AZRBOB, a registered supplier may use the CARBOB Model and use the fuel-quality measures calculated using the CARBOB Model for compliance and reporting purposes.
- D. A test method that the Division determines is equivalent to those listed in Table A may be used to certify Arizona CBG or AZRBOB. The Division has determined that test methods approved by either the EPA or CARB are equivalent test methods. To determine whether a proposed test method is equivalent to those listed in Table A, the Division shall thoroughly review data from both the proposed and designated test methods and assess whether the accuracy and precision of the proposed method is equal to or better than the accuracy and precision of the designated method and whether there is significant bias between the two methods. The Division shall approve a proposed test method only if the Division determines that the accuracy and precision of the proposed test method is equal to or better than the accuracy and precision of the designated method and receives the concurrence of the EPA Regional Administrator. A correlation equation may be required to align the two methods. If a correlation equation is required to align the two methods, the correlation equation becomes part of the equivalent method.
- E. Subsections (C) and (D) will not become effective until Arizona's revised State Implementation Plan submitted by ADEQ to EPA in August 2013 and subsequent supplement submitted July 2014 is approved by EPA.

Historical Note

New Section R3-7-759 recodified from Section R20-2-759 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

Table A. Arizona Weights and Measures Services Division Test Methods for Arizona CBG and AZRBOB

Fuel Parameter	Units	EPA-approved Test Method	EPA-approved Reproducibility	CARB-approved Test Method	CARB-approved Reproducibility
Aromatics	V%	D5769-04			
	V%	D1319-02a (2003) ^A	1.65	D5580-00	1.4
Benzene	V%	D3606-99 (2007)	0.21	D5580-00	0.1409 (X) ^{1.133}
Olefins	V%	D1319-02a (2003)	0.32 (x) ^{0.5}	D6550-00 (2005) if correlated to D1319	0.32 (X) ^{0.5} ; Footnote 1
Oxygenates	W%	D5599-00	See test method	D4815-99 (2004)	See test method
	W%	D4815-99 (2004) ^B	See test method		
Vapor Pressure (Correlation Equation) Footnote 2	psi	D5191-01 (2007)	0.3	13 CCR Section 2297	0.21
Sulfur	wppm	D2622-98 (2005)		D5453-93	0.2217 (x) ^{0.92} wppm
				D2622-94 (modified)	10-30 wppm R=0.405 (x) > 30 wppm R=0.192 (x)
Distillation T50	deg F	D86-01 (2007b)	See test method	D86-99ae1	See test method
Distillation T90	deg F	D86-01 (2007b)	See test method	D86-99ae1	See test method

^A A refinery or importer may determine aromatics content using ASTM D1319-02a (2003) if the result is correlated to ASTM D5769-98 (2004).

^B A refinery or importer may determine oxygenate content using ASTM D4815-99 (2004) if the result is correlated to ASTM D5599-00 (2005).

Footnotes:

1. Replace the last sentence in ASTM D6550-00 (2005) Section 1.1 with the following: "The application range is from 0.3 to 25 mass percent total olefin, as defined in Section 2263(b), Title 13, California Code of Regulations. If olefin concentrations are not detected, substitute one-half of the detection limit."

2. When determining vapor pressure, the only correlation equation to be used is equation 1 in ASTM D5191-07, Section 14.2, ASTM equation ((.965X)-A).

Historical Note

New Article 7, Table A recodified from 20 A.A.C. 2, Article 7, Table A at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-760. Compliance Surveys

- A.** A registered supplier that elects to certify that Arizona CBG or AZRBOB meets an averaging standard under R3-7-751 shall ensure that compliance surveys are conducted in accordance with a compliance survey program plan approved by the associate director. The associate director shall approve a compliance survey program plan if it:
 1. Consists of at least four VOC and NOx surveys conducted at least one per month between May 1 through September 15 of each year, and
 2. Complies with subsection (J).
- B.** If a registered supplier fails to ensure that an approved compliance survey program is conducted, the associate director shall issue an order requiring the registered supplier to comply with all applicable fuel property and performance standards on a per-gallon basis for six months or through the end of the survey period identified in subsection (A)(1), whichever is longer. Regardless of when a failure to survey occurs, the associate director's order shall require compliance with per-gallon standards from the beginning of the survey period during which the failure to survey occurs.
- C.** General compliance survey requirements. A registered supplier shall ensure that a compliance survey conforms to the following:
 1. Consists of all samples that are collected under an approved survey program plan during any consecutive seven days and that are not excluded under subsection (C)(4);
 2. Is representative of all Arizona CBG being dispensed in the CBG-covered area as provided in subsection (G);
 3. Analyzes each sample included in the compliance survey for oxygenate type and content, olefins, sulfur, aromatic hydrocarbons, E200, E300, and vapor pressure according to the test methods in R3-7-759. Vapor pressure is required to be analyzed only from May 1 through September 15;
 4. Bases the results of the compliance survey upon an analysis of each sample collected during the course of the compliance survey, unless a sample does not comply with the applicable per gallon maximum or minimum fuel property standard being evaluated in addition to any reproducibility that applies to the fuel property standard; and
 5. If a laboratory analyzes the compliance survey samples, the laboratory participates in a correlation program with the associate director to ensure the validity of analysis results.
- D.** If the associate director determines that a sample used in a compliance survey does not comply with R3-7-751 or another requirement under this Article, the associate director shall take enforcement action against the registered supplier.
- E.** A registered supplier shall comply with the following VOC and NOx compliance survey requirements:
 1. For each compliance survey sample, determine the VOC and NOx emissions reduction percentage based upon the tested fuel properties for that sample using the methodology for calculating VOC and NOx emissions reductions at 40 CFR 80.45, as incorporated by reference in R3-7-702;
 2. The CBG-covered area fails a VOC compliance survey if the VOC emissions reduction percentage average of all samples collected during the compliance survey is less than the per-gallon standard for VOC emissions reduction percentage in Table 1, column A.
 3. The CBG-covered area fails a NOx compliance survey if the NOx emissions reduction percentage average of all samples collected during the compliance survey is less than the per-gallon standard for NOx emissions reduction percentage in Table 1, column A.
- F.** A registered supplier shall determine the result of the series of NOx compliance surveys conducted May 1 through September 15 as follows:
 1. For each compliance survey sample, the NOx emissions reduction percentage is determined based upon the tested fuel properties for that sample using the methodology for calculating NOx emissions reduction at 40 CFR 80.45, as incorporated by reference in R3-7-702; and
 2. The CBG-covered area fails the NOx series of compliance surveys conducted May 1 through September 15 if the NOx emissions reduction percentage average for all compliance survey samples collected during that time is less than the Federal Complex Model per-gallon standard for the NOx emissions reduction percentage in Table 1, column A.
- G.** General requirements for an independent surveyor conducting a compliance survey. A registered supplier may have the compliance surveys required by this Section conducted by an independent surveyor. The associate director shall approve a compliance survey program conducted by an independent surveyor if the compliance survey program:
 1. Is designed and conducted by a surveyor that is independent of the registered supplier. To be considered independent:
 - a. The surveyor shall not be an employee of any registered supplier,
 - b. The surveyor shall not have an obligation to or interest in any registered supplier, and
 - c. The registered supplier shall not have an obligation to or interest in the surveyor;
 2. Includes enough samples to ensure that the average levels of oxygen, vapor pressure, aromatic hydrocarbons, olefins, T50, T90, and sulfur are determined with a 95 percent confidence level, with error of less than 0.1 psi for vapor pressure, 0.1 percent for oxygen (by weight), 0.5 percent for aromatic hydrocarbons (by volume), 0.5 per-

cent for olefins (by volume), 5°F for T50 and T90, and 10 wppm for sulfur;

3. Requires that the surveyor not provide advance notice, except as provided in subsection (H), of the date or location of any survey sampling;
4. Requires that the surveyor provide a duplicate of any sample taken during the survey, with information regarding the name and address of the facility from and the date on which the sample was taken, upon request of the associate director, within 30 days following submission of the survey report required under subsection (G)(6);
5. Requires that the surveyor permit a Division official to monitor sample collection, transportation, storage, and analysis at any time;
6. Requires the surveyor to submit a report of each survey to the associate director within 30 days after sampling for the survey is completed that includes the following information:
 - a. Name of the person conducting the survey;
 - b. Attestation by an officer of the surveyor that the sampling and testing was conducted according to the compliance survey program plan and the results are accurate;
 - c. Identification of the registered supplier for whom the compliance survey was conducted if the compliance survey was conducted for only one registered supplier;
 - d. Identification of the area from which survey samples were selected;
 - e. Dates on which the survey was conducted;
 - f. Address of each facility at which a sample was collected, and the date of collection;
 - g. Results of the analysis of samples for oxygenate type and oxygen weight percent, aromatic hydrocarbon, and olefin content, E200, E300, and vapor pressure, and the calculated VOC or NO_x emissions reduction percentage, as applicable, for each survey conducted during the period identified in subsection (A)(1);
 - h. Name and address of each laboratory at which samples were analyzed;
 - i. Description of the method used to select the facilities from which a sample was collected;
 - j. Number of samples collected from each facility;
 - k. Justification for excluding a collected sample from the survey, if one was excluded; and
 - l. Average VOC and NO_x emissions reduction percentage.
- H. An independent surveyor shall begin each survey on a date selected by the associate director. The associate director shall notify the surveyor of the date selected at least 10 business days before the survey is to begin.
- I. To obtain the associate director's approval of a compliance survey program plan, the person seeking approval shall:
 1. Submit the plan to the associate director no later than January 1 to cover the survey period of May 1 through September 15 of each year, and
 2. Have the plan signed by a corporate officer of the registered supplier or by an officer of the independent surveyor.
- J. No later than April 1 of each year, a registered supplier that intends to meet the requirements in subsection (A) by contracting with an independent surveyor to conduct the compliance survey plan for the next summer and winter season shall enter into the contract and pay all of the money necessary to conduct the compliance survey plan. The registered supplier may pay

the money necessary to conduct the compliance survey plan to the independent surveyor or to an escrow account with instructions to the escrow agent to release the money to the independent surveyor as the compliance survey plan is implemented. No later than April 15, the registered supplier shall submit to the associate director a copy of the contract with the independent surveyor, proof that the money necessary to conduct the compliance survey plan has been paid, and, if applicable, a copy of the escrow agreement.

Historical Note

New Section R3-7-760 recodified from Section R20-2-760 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-761. Liability for Noncompliant Arizona CBG or AZRBOB

- A. Persons liable. If motor fuel designated as Arizona CBG or AZRBOB does not comply with R3-7-751, the following are liable for the violation:
 1. Each person who owns, leases, operates, controls, or supervises a facility where the noncompliant Arizona CBG or AZRBOB is found;
 2. Each registered supplier whose corporate, trade, or brand name, or whose marketing subsidiary's corporate, trade, or brand name, appears at a facility where the noncompliant Arizona CBG or AZRBOB is found; and
 3. Each person who manufactured, imported, sold, offered for sale, dispensed, supplied, offered for supply, stored, transported, or caused the transportation of any gasoline in a storage tank containing Arizona CBG or AZRBOB found to be noncompliant.
- B. Defenses.
 1. A person who is otherwise liable under subsection (A) is not liable if that person demonstrates:
 - a. That the violation was not caused by the person or person's employee or agent;
 - b. That product transfer documents account for all of the noncompliant Arizona CBG or AZRBOB and indicate that the Arizona CBG or AZRBOB complied with this Article; and
 - c. That the person had a quality assurance sampling and testing program, as described in subsection (C) in effect at the time of the violation; except that any person who transfers Arizona CBG or AZRBOB, but does not assume title, may rely on the quality assurance program carried out by another person, including the person who owns the noncompliant Arizona CBG or AZRBOB, provided the quality assurance program is properly administered.
 2. If a violation is found at a facility that operates under the corporate, trade, or brand name of a registered supplier, that registered supplier must show, in addition to the defense elements in subsection (B)(1), that the violation was caused by:
 - a. A violation of law other than A.R.S. Title 3, Chapter 19, Article 6, this Article, or an act of sabotage or vandalism;
 - b. A violation of a contract obligation imposed by the registered supplier designed to prevent noncompliance, despite periodic compliance sampling and testing by the registered supplier; or
 - c. The action of any person having custody of Arizona CBG or AZRBOB not subject to a contract with the registered supplier but engaged by the registered supplier for transportation of Arizona CBG or AZR-

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BOB, despite specification or inspection of procedures and equipment by the registered supplier designed to prevent violations.

3. To show that the violation was caused by any of the actions in subsection (B)(2), the person must demonstrate by reasonably specific showings, by direct or circumstantial evidence, that the violation was caused or must have been caused by another person.

C. Quality assurance sampling and testing program. To demonstrate an acceptable quality assurance program for Arizona CBG or AZRBOB, at all points in the gasoline distribution network, other than at a motor fuel dispensing site or fleet owner facility, a person shall present evidence:

1. Of a periodic sampling and testing program to determine compliance with the maximum or minimum standards in R3-7-751; and
2. That each time Arizona CBG or AZRBOB is noncompliant with one of the requirements in R3-7-751:
 - a. The person immediately ceases selling, offering for sale, dispensing, supplying, offering for supply, storing, transporting, or causing the transportation of the noncompliant Arizona CBG or AZRBOB; and

- b. The person remedies the violation as soon as practicable.

Historical Note

New Section R3-7-761 recodified from Section R20-2-761 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-762. Penalties

Any person who violates any provision of this Article is subject to the following:

1. Prosecution for a Class 2 misdemeanor under A.R.S. § 3-3473(B)(4);
2. Civil penalties in the amount of \$500 per violation under A.R.S. § 3-3475; and
3. Stop-use, stop-sale, hold, and removal orders under A.R.S. § 3-3415(A)(2).

Historical Note

New Section R3-7-762 recodified from Section R20-2-762 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

Table 1. Type 1 Arizona CBG Standards

	Non-averaging Option	Averaging Option		
	A	B	C	D
Performance Standard/Fuel Property**	Per-Gallon (minimum)	Average	Minimum (per-gallon)	Maximum (per-gallon)
VOC Emission Reduction (%) May 1 through Sept. 15	27.5	29.0	25.0	N/A
NOx Emission Reduction (%) May 1 through Sept. 15	5.5	6.8	N/A	N/A
NOx Emission Reduction (%) Sept. 16 - October 31 and February 1 - April 30***	0.0	N/A	N/A	N/A
Oxygen content: fuel ethanol, (% by weight unless otherwise noted) November 1 - March 31*** April 1 - October 31	N/A 0.0*	N/A N/A	N/A 0.0	N/A 4.0
Oxygen content: other than fuel ethanol, (% by weight) November 1 - March 31*** April 1 - October 31	N/A 0.0	N/A N/A	N/A 0.0	N/A ****
* Maximum oxygen content shall comply with the EPA oxygenate waiver requirements and with A.R.S. § 3-3491. ** Dates represent compliance dates for the owner of a motor fuel dispensing site or a fleet vehicle fueling facility. *** A registered supplier shall certify all Arizona CBG as Type 2 Arizona CBG meeting the standards in Table 2 beginning November 1 through March 31. **** As specified in A.R.S. § 3-3491.				

Historical Note

New Article 7, Table 1 recodified from 20 A.A.C. 2, Article 7, Table 1 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

Table 2. Type 2 Arizona CBG Standards

	Averaging Option		Non-averaging Option	
	A	B	C	
Fuel Property	Maximum Standard (per gallon)	Averaging Standard*	Flat Standard * (per gallon maximum)	Units of Standard
Sulfur Content	80	30	40	Parts per million by weight
Olefin Content	10.0	4.0	6.0	% by volume

90% Distillation Temperature (T90)	330	290	300	Degrees Fahrenheit
50% Distillation Temperature (T50)	220	200	210	Degrees Fahrenheit
Aromatic Hydrocarbon Content	30.0	22.0	25.0	% by volume
Oxygen content: fuel ethanol** November 1 - March 31	10% fuel ethanol**	—	10% fuel ethanol**	% by vol.
April 1 - October 31		—		
The maximum oxygen content EtOH year around			4.0	% by weight
<p>* Instead of the standards in columns B and C, a registered supplier may comply with the standards contained in column A, and R3-7-751(G), (H), and (I) for the use of the PM.</p> <p>** Maximum oxygen content shall comply with the EPA oxygenate waiver requirements.</p> <p>A registered supplier shall certify all Arizona CBG using fuel ethanol as the oxygenate beginning November 1 through March 31. Alternative fuel ethanol contents not less than 2.7% total oxygen may be used if approved by the associate director under A.R.S. § 3-3493(C).</p> <p>NOTE: Dates represent compliance dates for the owner of a motor fuel dispensing site or fleet vehicle fuel facility.</p>				

Historical Note

New Article 7, Table 2 recodified from 20 A.A.C. 2, Article 7, Table 2 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).
Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

Table 3. Repealed**Historical Note**

Repealed Table 3 recodified from repealed Table 3 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

ARTICLE 8. RESERVED**ARTICLE 9. GASOLINE VAPOR CONTROL FOR SITES WITH BOTH STAGE I AND STAGE II VAPOR RECOVERY SYSTEMS****R3-7-901. Material Incorporated by Reference**

The following documents are incorporated by reference and on file with the Division. The documents incorporated by reference contain no later amendments or editions:

1. Appendix J.5 of Technical Guidance – Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities, Vol. II: Appendices, November 1991 edition (EPA450/391022b), published by the U.S. Environmental Protection Agency, Office of Air Quality, Planning and Standards, Research Triangle Park, North Carolina 27711.
2. *San Diego County Air Pollution Control District Test Procedure TP-96-1*, March 1996, Third Revision, Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123-1096.
3. The following CARB test procedures:
 - a. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.4, Determination of Dynamic Pressure Performance of Vapor Recovery Systems of Dispensing Facilities, April 12, 1996 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
 - b. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.5, Determination (by Volume Meter) of Air to Liquid Volume Ratio of Vapor Recovery Systems of Dispensing Facilities, April 12, 1996 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
 - c. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.2C, Determination of Spillage of Phase II Vapor Recovery Systems of Dispensing Facilities, April 12, 1996 edition, California Air Resources

Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.

- d. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.6, Determination of Liquid Removal of Phase II Vapor Recovery Systems of Dispensing Facilities, April 12, 1996 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
- e. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.2B, Determination of Flow Versus Pressure for Equipment in Phase II Vapor Recovery Systems of Dispensing Facilities, April 12, 1996 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
- f. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.1B, Static Torque of Rotatable Phase I Adaptors, October 8, 2003 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
- g. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.1C, Leak Rate of Drop Tube/Drain Valve Assembly, October 8, 2003 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
- h. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.1E, Leak Rate and Cracking Pressure of Pressure/Vacuum Vent Valves, October 8, 2003 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.

Historical Note

New Section R3-7-901 recodified from Section R20-2-901 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-902. Exemptions

- A. The owner or operator of a gasoline dispensing site that has decommissioned the site's stage II vapor recovery system in

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accordance with R3-7-913 or that is subject to A.R.S. § 3-3512, is exempt from the provisions of this Article but shall comply with the provisions of Article 10.

- B. The owner or operator of a gasoline dispensing site that has a throughput that does not exceed the throughput specified in A.R.S. § 3-3515(B) may obtain an exemption by submitting a written request to the Division attesting that throughput at the gasoline dispensing site is not in excess of that specified in A.R.S. § 3-3515(B). By the 15th of each month, beginning the month after the Division approves the exemption, the person shall submit a written throughput report to the Division. If a person does not timely file a monthly throughput report or if a monthly throughput report reflects that the exemption limit is exceeded, the Division deems the exemption void.
- C. To obtain an independent small business marketer exemption, a person shall derive at least 50 percent of the person's annual income from the sale of gasoline at each gasoline dispensing site for which an exemption is requested. The person shall submit a written request for exemption to the Division. The Division shall determine the percentage of total annual income represented by the sale of gasoline on the basis of the person's state and federal gross income for the preceding year for income tax purposes. The following items are excluded from income computations:
 - 1. Purchase and sale of diesel fuel, and
 - 2. State lottery sales net commissions and incentives.
- D. Motor raceways, motor vehicle proving grounds, and marine and aircraft fueling facilities are exempt from stage II vapor recovery requirements.

Historical Note

New Section R3-7-902 recodified from Section R20-2-902 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-903. Equipment and Installation

- A. A person subject to A.R.S. § 3-3515 shall install, maintain, and operate a stage I and stage II vapor recovery system and component as specified in this Article until the stage II vapor recovery system is decommissioned in accordance with R3-7-913.
- B. The Division shall reject a vapor recovery system or component from future installation if:
 - 1. Federal regulations prohibit its use;
 - 2. The vapor recovery system or component does not meet the manufacturer's specifications as certified by CARB using test methods approved in R3-7-901; or
 - 3. The vapor recovery system or component fails greater than 20% of Division inspections for that system or component or the Division receives equivalent failure results from a vapor recovery registered service agency or from another jurisdiction's vapor recovery program, and the Division provides at least 30 days public notice of its proposed rejection.
- C. The piping of both a stage I and stage II vapor recovery system shall be designed and constructed as certified by CARB for that specific vapor recovery system. A person shall not alter a stage I and stage II vapor recovery system or component from the CARB-certified configuration without obtaining Division approval under R3-7-904.
- D. If Division inspection or test data reveal a deficiency in a fitting, assembly, or component that cannot be permanently corrected, the deficient fitting, assembly, or component shall not be used in Arizona.
- E. A stage I spill containment may have a plugged drain rather than a drain valve if a hand-operated pump is kept onsite for

draining entrapped liquid. A stage II vapor recovery system shall have pressure/vacuum (P/V) threaded valves on top of the vent lines for gasoline storage tanks.

Historical Note

New Section R3-7-903 recodified from Section R20-2-903 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-904. Application Requirements and Process for Authority to Construct Plan Approval

- A. A person shall not begin to construct a site requiring a vapor recovery system or to make a major modification of an existing vapor recovery system or component before obtaining approval of an authority to construct plan application. A major modification is:
 - 1. Adding or replacing a gasoline storage tank that is equipped with a Division approved stage II vapor recovery system;
 - 2. Adding or replacing underground piping, vapor piping within a dispenser, or a dispenser at an existing vapor recovery site unless the dispenser replacement is necessary due to unforeseen damage to the existing dispenser; or
 - 3. Replacing a Division-approved stage II vapor recovery system of one certified configuration with an approved stage II vapor recovery system of a different certified configuration.
- B. A person shall file with the Division a written change order to an authority to construct plan approval on a form provided by the Division if a modification of the approved vapor recovery system or component is needed after the Division issues an authority to construct plan approval. The person shall not make any modification until the Division approves the change order.
- C. To obtain an authority to construct plan approval, a person shall submit to the Division, on a form provided by the Division, the following:
 - 1. The name, address, and phone number of any owner, operator, and proposed contractor, if known;
 - 2. The name of the stage I or stage II vapor recovery system or component to be installed along with the CARB certification for that system or component;
 - 3. The street address of the site where construction or major modification will take place with an estimated timetable for construction or modification;
 - 4. A copy of a blueprint or scaled site plan for the vapor recovery system or component including all equipment and piping detail; and
 - 5. The application fee specified under R3-7-906.
- D. After review and approval of the authority to construct plan, the Division shall issue the authority to construct plan approval and mail the plan approval to the address indicated on the application.
 - 1. A copy of the authority to construct plan approval shall be maintained at the facility during construction so that it is accessible for Division review.
 - 2. Construction of a stage II vapor recovery system or component at a site not having an approved authority to construct plan, shall be stopped and no further installation work done until an authority to construct plan approval is obtained.
 - 3. An authority to construct plan approval is not transferable.
- E. The Division shall deny an authority to construct plan for any of the following reasons:

1. Providing incomplete, false, or misleading information; or
 2. Failing to meet the requirements stated in this Chapter.
- F.** If excavation is involved, the Division may visually inspect the stage II underground piping of a gasoline dispensing site before the pipeline is buried, for compliance with the authority to construct plan approval. A person who owns or operates a vapor recovery system or component shall give the Division notice by fax or e-mail at least two business days before the underground piping is complete. The Division shall require the owner or operator to excavate all piping not inspected before burial if the owner or operator does not give the required two business days' notice.
- G.** After construction is complete, a person who has a valid authority to construct plan approval may dispense gasoline for up to 90 days before final approval, if an initial inspection is scheduled according to R3-7-905.
- H.** An authority to construct plan approval expires one year from the date of issue or the completion of construction, whichever is sooner.

Historical Note

New Section R3-7-904 recodified from Section R20-2-904 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-905. Initial Inspection and Testing

- A.** Within 10 days after beginning the dispensing of gasoline at a site that requires an authority to construct plan approval, a person shall provide the Division with a written certification of completion by the contractor and schedule an inspection that includes tests and acceptance criteria specified in the authority to construct plan approval. The inspection shall be witnessed by the Division at a time approved by the Division and include any of the following relevant to the specific vapor recovery system installed:
1. A dynamic pressure performance test from each dispenser for each product grade to its associated underground storage tank;
 2. A pressure decay test for each vapor control system including nozzles, underground storage tanks, and tank vents. This test shall be performed with caps removed from stage I fill and vapor risers. If the pressure decay test in R3-7-901(1) is used, the Division shall fail the vapor recovery system if gasoline storage tanks have less than 10 percent or greater than 60 percent vapor space. If the pressure decay test in R3-7-901(2) is used, the Division shall fail the vapor recovery system if gasoline storage tanks have less than 15 percent or more than 30,000 gallons vapor space. The Division shall compute combined tank vapor space for manifolded systems;
 3. Communication from dispenser to tanks for each product, using the San Diego TP-96-1 and CARB TP-201.4 test procedures;
 4. Air to liquid volume ratio by volume meter of a vapor recovery system, using CARB TP-201.5 or CARB-endorsed equivalent procedures to determine air to liquid (A/L) ratios;
 5. Spillage of a stage II vapor recovery system, using the CARB TP-201.2C procedure;
 6. Liquid removal of a stage II vapor recovery system, using the CARB TP-201.6 procedure;
 7. Flow versus pressure for components in a stage II vapor recovery system, using the CARB TP-201.2B procedure; and

8. Procedures specified by a manufacturer for testing the vapor recovery system.
- B.** If there is a difference between a testing contractor's and the Division's test results, the Division's test results prevail.
- C.** If a site fails to pass any of the tests required by subsection (A), the affected vapor recovery system or component shall remain out-of-service until the vapor recovery system and component pass all the appropriate tests in subsection (A).
- D.** A person who cancels an initial inspection shall notify the Division by calling the Division's designated telephone number at least one hour before the scheduled inspection and shall reschedule the inspection within 10 business days after this notification. The Division shall take enforcement action if a person fails to comply with this Section.
- E.** A person shall notify the Division when a vapor recovery system or component is repaired after failing an initial inspection. A registered service representative shall not proceed with a reinspection until the Division approves the reinspection date and time.
- F.** If a registered service representative does not start an initial inspection pressure decay test within 30 minutes of the scheduled start time, the Division shall fail the initial inspection of that site.
- G.** If a person cancels an initial inspection, the person shall reschedule the inspection within 90 days from the date gasoline was first dispensed.
1. The Division shall take enforcement action if the person fails to timely reschedule the inspection.
 2. The registered service agency shall notify the Division in writing at least 10 business days before the inspection of the time, date, and location of the inspection.
 3. The Division shall notify the registered service agency within five business days, by facsimile or electronic mail, whether it approves the inspection date and time.

Historical Note

New Section R3-7-905 recodified from Section R20-2-905 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-906. Fee

The authority to construct plan approval fee is \$250.

Historical Note

New Section R3-7-906 recodified from Section R20-2-906 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-907. Operation

- A.** The owner or operator of a gasoline dispensing site with stage II vapor recovery shall not transfer or permit the transfer of gasoline into any motor vehicle fuel tank unless stage II vapor recovery equipment is installed, maintained, operating, and being used according to the requirements of A.R.S. Title 3, Chapter 19, Article 7, and this Article.
- B.** The owner or operator of a gasoline dispensing site with stage II vapor recovery shall operate the stage II vapor recovery system and associated components in compliance with the CARB certification for that system and these rules.
- C.** The owner or operator of a gasoline dispensing site with stage II vapor recovery shall inspect the system and its components daily. Daily inspections shall include all nozzles, hoses with connecting hardware, stage I fittings, and spill containment.
- D.** The owner or operator of a gasoline dispensing site shall immediately stop using a stage II vapor recovery system or component if one or more of the following system or component defects occur:

1. A faceplate or facecone of a balance system nozzle does not make a good seal with a vehicle fill tube, or the accumulated damage to the faceplate or facecone is 1/4 or more of its circumference. These conditions also apply to a vacuum assist system that has a nozzle with a bellows and faceplate that seal with a vehicle fill pipe;
 2. When more than 1/4 of the cone is missing for vapor assist systems having bellowsless nozzles with flexible vapor deflecting cones;
 3. A nozzle bellows has a triangular tear measuring 1/2 inch or more to a side, a hole measuring 1/2 inch or more in diameter, or a slit or tear measuring one inch or more in length;
 4. A nozzle bellows is loosely attached to the nozzle body, attached by means other than that approved by the manufacturer, or a vapor check valve is frozen in the open position due to impaired motion of the bellows;
 5. Any nozzle liquid shut-off mechanism malfunctions in any manner, the spring or latching knurl for holding the nozzle in place during vehicle fueling is damaged or missing, or a nozzle is without a functioning hold-open latch;
 6. Any nozzle with a defective vapor check valve, or hose having a disengaged breakaway, when all other nozzles are capable of delivering the same grade of fuel from the same turbine pump;
 7. Any vacuum assist nozzle having less than the acceptable number of open vapor collection holes specified by CARB for the particular model of nozzle in service, the nozzle spout rocks or rotates more than 1/8 inch, the spout shows heavy wear with the tip damaged in a way that the largest axis exceeds .84 inch, or the plastic insert in the tip of the spout is loose;
 8. Any nozzle with a dispensing rate greater than 10 gallons per minute when only one nozzle associated with the product supply pump is operating, or a flow restrictor is improperly installed, leaking, or non-CARB approved;
 9. Any nozzle with a physically damaged breakaway or a breakaway showing evidence of product leakage, or a breakaway not approved for the installed system;
 10. A dispenser mounted vacuum pump that is not functioning;
 11. Any vapor recovery hose and, as applicable, the accompanying whip hose, that:
 - a. Is crimped, kinked, flattened, or damaged in any manner that constricts the return flow of vapor;
 - b. For a balance hose, has any slits or tears greater than 1/4 inch in length, perforations greater than 1/8 inch in diameter, or assist system hoses that are cut, torn, or badly worn so as to cause a possible fuel leak;
 - c. Does not fully retract, for approved dispenser configurations using hose retractors, or a balance system hose that exceeds the 10-inch loop requirement where required, or for a hose length that allows a balance hose to touch the ground, or for a vacuum assist hose having more than 6 inches in contact with the ground;
 - d. Does not swivel at the hose/nozzle connection; or
 - e. Does not have a required internal liquid pick-up or the hose with liquid pick-up is improperly assembled for the pick-up to properly function;
 12. Tank vent pipes that are not the proper height, or are not properly capped with approved pressure and vacuum vent valve settings, or where required, vent pipes that do not meet the CARB-specified paint color code for the installed system;
 13. The stage I installation is not properly installed or maintained, in that:
 - a. Spill containment buckets are cracked, rusted, the sidewalls are not attached or otherwise improperly installed, or spill containment buckets are not clean and empty of liquid, or there are non-functioning drain valves, or drain valves that do not seal;
 - b. A fill adaptor collar or vapor poppet (drybreak) that is loose or damaged, or with a fill or vapor cap that is not installed, is missing, broken, or without gaskets;
 - c. Coaxial stage I that is not equipped with a functioning CARB-approved poppeted fill tube, or the coaxial cap is not installed, is missing, broken, or without gaskets; or
 - d. A fill tube is missing, not sealed, has holes, broken or damaged overfill preventors, or if the high point of the bottom opening is more than 6 inches above the tank bottom;
 14. The tank rise cap with instrument lead wire for an electronic monitoring system is not tightly installed, or any other tank riser is not securely sealed and capped;
 15. The under-dispenser vapor recovery piping is not securely intact or is crimped, does not slope to the underground vapor pipe riser, hoses used for connection are deteriorated or not approved for use with gasoline, resettable impact type shear valves are closed, or there is any other valve or restriction to impede the vapor path;
 16. An above-ground storage tank that does not display a permanently attached UL approval plaque;
 17. A vacuum assist system with an inoperative central vacuum unit;
 18. A vacuum assist system with an inoperative vapor processing (burner) unit;
 19. A vacuum assist system with a monitoring system certified by CARB or the authority to construct that is not operational or malfunctions; or
 20. Any other component identified in the diagrams, exhibits, attachments or other documents that are certified by CARB or required by the authority to construct for that system is missing, disconnected, or malfunctioning.
- E.** The owner or operator of a gasoline dispensing site shall inspect for the presence and proper placement of public information signs required by A.R.S. § 3-3515(E) and this Article.
- F.** For a stage II vacuum assist vapor recovery system, the owner or operator of a gasoline dispensing site shall immediately place damaged or malfunctioning equipment out of service and shall notify the Division by fax or e-mail no more than one day after the malfunction of a central vacuum or processor unit. Once the equipment or system is repaired, the owner or operator shall provide written notice within five days of the repair to the Division.
- G.** For proper operation of a stage I system, under A.R.S. § 3-3512(C)(4), the owner or operator of a gasoline dispensing site shall recover vapors during pump-out from a gasoline storage tank to a mobile transporter.
- H.** The owner or operator of a gasoline dispensing site shall ensure that any underground tightness test is conducted in a manner that prevents gasoline vapors being emitted to the atmosphere.

Historical Note

New Section R3-7-907 recodified from Section R20-2-907 at 22 A.A.R. 2786, effective August 15, 2016 (Supp.

16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-908. Training and Public Education

- A.** Each operator of a gasoline dispensing site using stage II vapor recovery shall obtain adequate training and written instructions to enable the system to be installed, operated and maintained properly in accordance with the manufacturer's specifications and CARB certification. The operator shall maintain documentation of this training onsite and make the documentation available to the Division on request.
- B.** In addition to the information required in A.R.S. § 3-3515(E), an operator of a gasoline dispensing site with stage II vapor recovery shall display a Division telephone number that the public can call to report nozzle or other equipment problems. The operator shall place the required information on each face of each gasoline dispenser. The headings shall be at least 3/8 inches and shall be readable from up to 3 feet away for decal signs, and from up to 6 feet away for permanent (nondecal) signs. Decals shall be located on the upper 60% of each face of each dispenser.

Historical Note

New Section R3-7-908 recodified from Section R20-2-908 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-909. Recordkeeping and Reporting

- A.** The owner or operator of a gasoline dispensing site employing stage II vapor recovery shall maintain daily records of the inspections done under this Article.
- B.** The owner or operator of a gasoline dispensing site employing stage II vapor recovery shall maintain a log and related records of all regularly scheduled maintenance and any repairs that have been made to stage II equipment.
- C.** The owner or operator of a gasoline dispensing site that is exempt under A.R.S. § 3-3515(B) from requirements to install and operate stage II vapor recovery equipment, shall maintain a log at the site showing monthly throughputs. The owner or operator shall submit throughput records to the Division as required under R3-7-902(B). If any throughput requirement provided in A.R.S. § 3-3515(B) and this Article is exceeded for any month, the owner or operator shall notify the Division in writing within 30 days. The owner or operator shall within six months after the end of the month the throughput is exceeded, install and operate a stage II vapor recovery system conforming to this Article.
- D.** The owner or operator of a gasoline dispensing site shall keep all records required by this Article at the gasoline dispensing site for at least one year and shall make these records available to the Division upon request.

Historical Note

New Section R3-7-909 recodified from Section R20-2-909 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-910. Annual Inspection and Testing

- A.** A person shall ensure that an annual inspection is conducted by a registered service representative on or before the annual inspection date. The annual inspection date is the last day of the month in which the last scheduled annual inspection was performed. A registered service agency shall notify the Division in writing at least 10 business days before an annual inspection of the time, date, and location of the inspection. The Division shall notify the registered service agency within five

business days, by fax or e-mail, whether it approves the annual inspection date and time. The registered service agency shall not perform the annual inspection unless the Division approves the inspection date and time.

- B.** The annual inspection shall include the tests defined in R3-7-905(A)(1) through (8) that pertain to the specific vapor recovery system installed.
- C.** If there is a difference between a testing contractor's and the Division's test results, the Division's test results prevail.
- D.** If a site fails to pass any of the tests required by subsection (B), the affected vapor recovery system or component shall remain out-of-service until the vapor recovery system and component pass all appropriate tests in subsection (B).
- E.** After an annual inspection begins, a person shall not make a repair to the vapor recovery system or component until the results of the inspection are recorded.
- F.** A registered service representative shall perform all tests according to Article 9 and any other vapor recovery procedure that the Division issues to registered service agencies.
- G.** A person who cancels a witnessed inspection shall notify the Division by calling the Division's designated telephone number at least one hour before the scheduled inspection and shall reschedule the test to be completed by the annual inspection date. A registered service agency shall notify the Division in writing at least 10 business days before an annual inspection of the time, date, and location of the inspection. The Division shall notify the registered service agency within five business days, by fax or e-mail, of its approval of the inspection date and time. The Division shall take enforcement action if a person does not comply with this subsection.

Historical Note

New Section R3-7-910 recodified from Section R20-2-910 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-911. Compliance Inspections

The Division shall not announce when it plans to conduct a compliance inspection of a stage I or stage II vapor recovery system or component. If results of a compliance inspection reveal a violation of A.R.S. Title 3, Chapter 19, or this Article, the Division shall require the vapor recovery system or component to undergo an appropriate test as specified in R3-7-910.

Historical Note

New Section R3-7-911 recodified from Section R20-2-911 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-912. Enforcement

If the Division finds that a stage II vapor recovery system or component is defective or non-compliant with one or more of the provisions of this Chapter or A.R.S. Title 3, Chapter 19, the Division shall issue to the owner or operator an administrative order and place a stop-sale, stop-use tag on the non-compliant vapor recovery system or component. The owner or operator may be required to schedule an inspection for a stage II vapor recovery system or component to ensure that it meets all requirements of A.R.S. Title 3, Chapter 19 and this Chapter before the vapor recovery system or component is placed in service.

Historical Note

New Section R3-7-912 recodified from Section R20-2-912 at 22 A.A.R. 2786, effective August 15, 2016 (Supp.

16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-913. Stage II Decommissioning

- A.** The owner or operator of a gasoline dispensing site with a stage II vapor recovery system shall decommission the stage II vapor recovery system in accordance with the following schedule:
 1. If the owner or operator holds a license issued by the Division numbered BMF 13676 or less, the owner or operator shall decommission the stage II vapor recovery system between October 1, 2016 and September 30, 2017; or
 2. If the owner or operator holds a license issued by the Division numbered BMF 13677 or more, the owner or operator shall decommission the stage II vapor recovery system between October 1, 2017 and September 30, 2018.
- B.** Request for alternate decommissioning plan. The following owners or operators may submit an alternate decommissioning plan requesting to decommission the stage II vapor recovery systems at a time other than would be required under subsection (A)(1) or (A)(2) but no sooner than October 1, 2016 and no later than September 30, 2018. The owner or operator shall submit the alternate decommissioning plan to the Division for approval prior to decommissioning at an alternate time period.
 1. An owner or operator that holds licenses issued by the Division for three or fewer gasoline dispensing sites if all the licenses are issued in the same business name and mailing address. The owner or operator shall ensure that the alternate decommissioning plan includes the information specified in subsections (C)(1) through (4); and
 2. An owner or operator that holds licenses issued by the Division for four or more gasoline dispensing sites if all the licenses are issued in the same business name and mailing address. The owner or operator shall ensure that the alternate decommissioning plan includes the information specified in subsection (C).
- C.** An owner or operator that submits a request for approval of an alternate decommissioning plan shall include the following information as specified under subsection (B):
 1. The business name and mailing address on all licenses;
 2. The name and telephone number of an individual with whom the Division can communicate;
 3. The license number and address of each gasoline dispensing site and a statement of whether the owner or operator proposes to decommission each vapor recovery system between October 1, 2016 and September 30, 2017, or October 1, 2017 and September 30, 2018;
 4. A statement of whether all gasoline dispensers at the gasoline dispensing site will be replaced and if so, whether the owner or operator proposes to replace the gasoline dispensers between October 1, 2016 and September 30, 2017, or October 1, 2017 and September 30, 2018; and
 5. If the owner or operator owns four or more gasoline dispensing sites, an alternate decommissioning plan that includes:
 - a. The license numbers and addresses of 50 percent of the gasoline dispensing sites at which the vapor recovery systems will be decommissioned between October 1, 2016 and September 30, 2017; and
 - b. The license numbers and addresses of the remaining 50 percent of the gasoline dispensing sites at which the vapor recovery systems will be decommissioned between October 1, 2017 and September 30, 2018.
- D.** The Division shall approve or reject, on a first-come-first-served basis, an alternate decommissioning plan within three months after the alternate decommissioning plan is submitted. The Division shall allow decommissioning of stage II vapor recovery equipment at the time gasoline dispensers are replaced as indicated on the request for approval under subsection (C)(4). The Division may reject an alternate decommissioning plan if the information required under subsection (B) is not provided or if the year requested for decommissioning already has more than 60 percent of all gasoline dispensing sites scheduled for decommissioning;
- E.** The owner or operator of a gasoline dispensing site that is exempt under R3-7-902 shall decommission the site any time between October 1, 2016, and September 30, 2018;
- F.** The owner or operator of a gasoline dispensing site shall ensure that a Notice of Intent, using a form or format provided by the Division, is submitted to the Division at least 10 days before the planned decommissioning and includes the following information:
 1. Name of the owner or operator of the gasoline dispensing site,
 2. Address of the gasoline dispensing site,
 3. Name of the decommissioning contractor,
 4. Decommissioning dates,
 5. Name of the vapor testing registered service representative, and
 6. A statement indicating whether all gasoline dispensers at the gasoline dispensing site are being replaced.
- G.** If any of the information provided under subsection (F) changes, the owner or operator shall ensure that the Division receives the changed information at least 24 hours before the scheduled start of decommissioning.
- H.** The owner or operator of a gasoline dispensing site shall ensure that all stage II vapor recovery systems are decommissioned according to the material incorporated by reference in R3-7-901(4) with the following exceptions:
 1. Liquid shall be purged from the vapor piping following disconnection in section 14.6.6;
 2. Vapor piping that is not disconnected from the tank top in accordance with section 14.6.7 shall be disconnected in the future if construction involving excavation that renders the piping accessible is performed; and
 3. The pressure decay test conducted under section 14.6.12 shall meet the requirements in R3-7-1005(A)(1).
- I.** The decommissioning contractor shall:
 1. Complete a Decommissioning Checklist using a form or format provided by the Division,
 2. Provide a copy of the completed Decommissioning Checklist to the owner or operator of the gasoline dispensing site at the time of decommissioning, and
 3. Submit a copy of the completed Decommissioning Checklist to the Division within 10 days after decommissioning of the stage II vapor recovery system is complete. Decommissioning of a stage II vapor recovery system is complete on the date and at the time when the gasoline dispensing site resumes sales of motor fuel following decommissioning.
- J.** A gasoline dispensing site with a stage II vapor recovery system that is decommissioned is exempt from the annual inspection and testing required under R3-7-910 but shall be subject to the initial inspection and testing prescribed under R3-7-1005 within 60 days after decommissioning is complete.
- K.** The requirements in Article 10 apply to all gasoline dispensing sites at which stage II vapor recovery systems have been decommissioned.
- L.** The Division shall place out-of-service a gasoline dispensing site at which a stage II vapor recovery system is not decommissioned according to this Section until the gasoline dispens-

ing site is decommissioned and impose civil penalties under A.R.S. § 3-3475 on the owner or operator of the gasoline dispensing site.

Historical Note

New Section R3-7-913 recodified from Section R20-2-913 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

ARTICLE 10. STAGE I VAPOR RECOVERY

R3-7-1001. Material Incorporated by Reference

The following documents are incorporated by reference and on file with the Division. The documents incorporated by reference contain no later amendments or editions:

1. California Environmental Protection Agency, Air Resources Board, Vapor Recovery Test Procedure TP-201.1B, Static Torque of Rotatable Phase 1 Adaptors, October 8, 2003 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
2. California Environmental Protection Agency, Air Resources Board, Vapor Recovery Test Procedure TP-201.1C, Leak Rate of Drop Tube/Drain Valve Assembly, October 8, 2003 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
3. California Environmental Protection Agency, Air Resources Board, Vapor Recovery Test Procedure TP-201.1D, Leak Rate of Drop Tube Overfill Protection Devices and Spill Container Drain Valves, October 8, 2003 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
4. California Environmental Protection Agency, Air Resources Board, Vapor Recovery Test Procedure TP-201.1E, Leak Rate and Cracking Pressure of Pressure/Vacuum Vent Valves, October 8, 2003 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
5. California Environmental Protection Agency, Air Resources Board, Vapor Recovery Test Procedure TP-201.3, Determination of 2 Inch WC Static Pressure Performance of Vapor Recovery Systems of Dispensing Facilities, July 26, 2012 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
6. California Environmental Protection Agency, Air Resources Board, Vapor Recovery Test Procedure TP-201.3C, Determination of Vapor Piping Connections to Underground Gasoline Storage Tanks (Tie-Tank Test), March 17, 1999 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.

Historical Note

New Section R3-7-1001 recodified from Section R20-2-1001 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-1002. Exemptions

- A. The owner or operator of a gasoline dispensing site at which the site's stage II vapor recovery system has not been decommissioned in accordance with R3-7-913 is exempt from the provisions of this Article but shall comply with the provisions of Article 9.
- B. An owner or operator of a gasoline dispensing site with a gasoline throughput that does not exceed that specified in A.R.S.

§ 3-3512(B) may file for an exemption from this Article. To obtain an exemption, the owner or operator of the gasoline dispensing site shall submit an annual throughput report to the Division, using a form prescribed by the Division, no later than March 30 of each year and attest to the throughput during each month of the previous calendar year. If the owner or operator fails to file an annual throughput report timely or if the annual throughput report indicates the exemption limit specified in A.R.S. § 3-3512(B) was exceeded, the Division shall deem the exemption void.

Historical Note

New Section R3-7-1002 recodified from Section R20-2-1002 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-1003. Equipment and Installation

- A. The Division shall reject a vapor recovery system or component from future installation if:
 1. Federal regulations prohibit its use;
 2. The vapor recovery system or component does not meet the manufacturer's specifications as certified by CARB using test methods approved in R3-7-1001; or
 3. The vapor recovery system or component fails greater than 20% of Division inspections for that system or component or the Division receives equivalent failure results from a vapor recovery registered service agency or from another jurisdiction's vapor recovery program, and the Division provides at least 30 days public notice of its proposed rejection.
- B. The piping of a stage I vapor recovery system shall be designed and constructed as certified by CARB for that specific vapor recovery system. A person shall not alter a stage I vapor recovery system or component from the CARB-certified configuration without obtaining Division approval under R3-7-1004. All components installed with the stage I vapor recovery system shall be certified by CARB or approved by the Division as required under A.R.S. § 3-3512.
- C. If Division inspection or test data reveal a deficiency in a fitting, assembly, or component that cannot be permanently corrected, the deficient fitting, assembly, or component shall not be used in Arizona.
- D. A stage I liquid or vapor spill containment bucket may have a plugged drain rather than a drain valve if a hand-operated pump is kept onsite for draining entrapped liquid.
- E. A stage I vapor recovery system shall have pressure/vacuum (P/V) threaded valves on top of the vent lines for gasoline storage tanks.

Historical Note

New Section R3-7-1003 recodified from Section R20-2-1003 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-1004. Application Requirements and Process for Authority to Construct Plan Approval

- A. A person shall not begin to construct a site requiring a stage I vapor recovery system or to make a major modification of an existing vapor recovery system before obtaining approval of an authority to construct plan application. A major modification is:
 1. Adding or replacing a gasoline storage tank that is equipped with a Division approved stage I vapor recovery system;
 2. Modifying, adding, or replacing underground vent piping; or

3. Conducting construction under R3-7-913(H)(2).
- B.** A person shall file with the Division a written change order, using a form provided by the Division, to obtain a modification of the approved vapor recovery system or component if a modification is needed after the Division issues an authority to construct plan approval. The person shall not make any modification until the Division approves the change order.
- C.** To obtain an authority to construct plan approval, a person shall submit to the Division, on a form provided by the Division, the following:
 1. The name, address, and telephone number of any owner, operator, and proposed contractor, if known;
 2. The name of the stage I vapor recovery system or component to be installed along with the CARB certification for that system or component;
 3. The street address of the site where construction or major modification will take place with an estimated timetable for construction or modification;
 4. A copy of a blueprint or scaled site plan for the vapor recovery system or component including all stage I vapor recovery equipment and stage I vapor recovery piping detail; and
 5. The application fee specified under R3-7-1006.
- D.** A person shall ensure that an installed or modified stage I vapor recovery system meets the following requirements:
 1. Has CARB-certified product and vapor adaptors that prevent loosening or over-tightening of the stage I product and vapor adaptors;
 2. Consists of a two-point stage I system with separate fill and vapor connection points. Coaxial stage I vapor recovery systems shall not be used;
 3. Has a submerged fill pipe that has the fill pipe's highest point of discharge no more than six inches from the tank bottom;
 4. Has no tank containing motor fuel other than gasoline connected to the vapor piping;
 5. Uses cement that is resistant to deterioration from exposure to water, hydrocarbons, and alcohol to join all pipes;
 6. Has tank vent pipes that extend at least 12 feet above the elevation of the stage I fill points;
 7. Has tank vent pipes with a minimum inside diameter of:
 - a. Two inches if the pipe is not manifolded, or
 - b. Three inches from the point of manifold if the pipe is manifolded;
 8. Has pressure vacuum vent valves that are attached to the tank vent pipes by a threaded connection;
 9. If a gasoline tank is installed in an enclosed vault, has an emergency vent in addition to the pressure vacuum vent valve required under subsection (D)(8);
 10. Has risers into gasoline storage tanks that are capped with UL-approved caps;
 11. Has lead wires for instrumentation that pass through a leak-tight grommet with a compression fitting suitable for exposure to gasoline vapors;
 12. Has storage tank vent pipes and fill and vapor manhole tops that are painted a color that minimizes solar gain and has a reflective effectiveness of at least 55 percent. Reflectivity shall be determined by visually comparing the paint with paint-color cards obtained from a paint manufacturer that uses the Master Pallet Notation to specify the paint color (i.e. 58YY 88/180 where the number in italics is the paint reflectivity). Examples of colors have a reflective effectiveness of at least 55 percent include, but are not limited to, yellow, light gray, aluminum, tan, red iron oxide, cream or pale blue, light green, glossy gray, light blue, light pink, light cream, white, silver, beige, tin plate, and mirrored finish. A manhole cover that is color coded for product identification is exempt from this subsection; and
13. Complies with other requirements outlined in the authority to construct permit.
- E.** After review and approval of the authority to construct plan, the Division shall issue the authority to construct plan approval and mail, fax, or e-mail the plan approval to the address indicated on the application.
 1. A copy of the authority to construct plan approval shall be maintained at the facility during construction so that it is accessible for Division review.
 2. Construction of a stage I vapor recovery system or component at a site not having an approved authority to construct plan, shall be stopped and no further installation work done until an authority to construct plan approval is obtained.
 3. An authority to construct plan approval is not transferable.
- F.** The Division shall deny an authority to construct plan for any of the following reasons:
 1. Providing incomplete, false, or misleading information; or
 2. Failing to meet the requirements stated in this Chapter.
- G.** If excavation is involved, the Division may visually inspect the stage I underground piping of a gasoline dispensing site before the piping is buried for compliance with the authority to construct plan approval. The owner or operator of a vapor recovery system or component shall give the Division notice by fax or e-mail at least two business days before the underground piping is complete to schedule the inspection. The Division may require the owner or operator to excavate all piping not inspected before burial if the owner or operator does not give the required two business days' notice.
- H.** After construction is complete, a person who has a valid authority to construct plan approval may dispense gasoline for up to 90 days before final approval if an initial inspection is scheduled according to R3-7-1005.
- I.** An authority to construct plan approval expires one year from the date of issue or the completion of construction, whichever is sooner.

Historical Note

New Section R3-7-1004 recodified from Section R20-2-1004 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-1005. Initial Inspection and Testing

- A.** Within 10 days after beginning the dispensing of gasoline at a site that requires an authority to construct plan approval, a person shall provide the Division with a written certification of completion by the contractor and schedule an inspection that includes tests and acceptance criteria specified in the authority to construct plan approval and this subsection. The inspection shall be witnessed by the Division at a time approved by the Division and include the following tests:
 1. A pressure decay test for each vapor control system including underground storage tanks and tank vents using CARB TP-201.3 test procedures. All test procedures pertaining to stage I vapor recovery systems shall be followed except the post-test procedures in section 8 and the calculations in section 9 of the CARB TP-201.3 test procedures. The compliance status of the site shall be determined by comparing the final five-minute pressure with the minimum allowable final pressure in Table 1. A cal-

- culated ullage exceeding that listed in Table 1 shall be rounded up to the next higher ullage volume in the table;
2. A test of each pressure vacuum vent valve using CARB TP-201.1E test procedures;
 3. A Tie-Tank test using CARB TP-201.3C test procedure; and
 4. Procedures specified by a manufacturer or CARB for testing the vapor recovery system.
- B.** If there is a difference between a testing contractor's test results and the Division's test results, the Division's test results prevail.
- C.** If a site fails to pass any of the tests required by subsection (A), the affected vapor recovery system or component shall remain out-of-service until the vapor recovery system and component pass all the appropriate tests in subsection (A).
- D.** A person who cancels an initial inspection shall notify the Division by calling the Division's designated telephone number at least one hour before the scheduled inspection and shall reschedule the inspection within 10 business days after this notification. The Division shall take enforcement action if a person fails to comply with this Section.
- E.** A person shall notify the Division when a vapor recovery system or component is repaired after failing an initial inspection. A registered service representative shall not proceed with a reinspection until the Division approves the reinspection date and time.
- F.** If a registered service representative does not start an initial inspection pressure decay test within 30 minutes of the scheduled start time, the Division shall fail the initial inspection of that site.
- G.** If a person cancels an initial inspection, the person shall reschedule the inspection within 90 days from the date gasoline was first dispensed.
1. The Division shall take enforcement action if the person fails to timely reschedule the inspection.
 2. The registered service agency shall notify the Division in writing at least 10 business days before the inspection of the time, date, and location of the inspection.
 3. The Division shall notify the registered service agency within five business days, by fax or e-mail, whether it approves the inspection date and time.

Historical Note

New Section R3-7-1005 recodified from Section R20-2-1005 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-1006. Fee

The authority to construct plan approval fee is \$250.

Historical Note

New Section R3-7-1006 recodified from Section R20-2-1006 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-1007. Operation

- A.** The owner or operator of a gasoline dispensing site with stage I vapor recovery shall not transfer or permit the transfer of gasoline into any gasoline storage tank subject to this Article unless stage I vapor recovery equipment is installed, maintained, operating, and being used according to the requirements of A.R.S. Title 3, Chapter 19, Article 7, and this Article.
- B.** The owner or operator of a gasoline dispensing site with stage I vapor recovery shall operate the stage I vapor recovery system and associated components in compliance with the CARB certification or Division approval under A.R.S. § 3-3512 for that system and these rules.

- C.** The owner or operator of a gasoline dispensing site with stage I vapor recovery located in area A shall inspect the system and its components at least once every seven days. The inspections shall include all stage I fittings and spill containment.
- D.** The owner or operator of a gasoline dispensing site shall immediately stop using a stage I vapor recovery system or component if one or more of the following system or component defects occur:
1. Tank vent pipes are not the proper height or are not properly capped with approved pressure and vacuum vent valves;
 2. Vent pipes do not meet the CARB-specified paint color code specified in R3-7-1004(D)(13);
 3. The stage I vapor recovery system is not properly installed or maintained as evidenced by the following:
 - a. Spill containment buckets are cracked, rusted, or not clean and empty of liquid; sidewalls are not attached or are otherwise improperly installed; and drain valves are non-functioning or do not seal;
 - b. A fill adaptor collar or vapor poppet (drybreak) is loose, damaged, or has a fill or vapor cap that is not installed or is missing, broken, not securely attached, or missing gaskets;
 - c. Coaxial stage I is not equipped with a functioning CARB-approved poppeted fill tube or the coaxial cap is not installed or is missing, broken, not securely attached, or missing gaskets; or
 - d. A fill tube is missing, broken, or not sealed; has holes or damaged overfill prevention; or the high point of the bottom opening is more than six inches above the tank bottom;
 4. The tank rise cap with instrument lead wire for an electronic monitoring system is not installed tightly or any other tank riser is not sealed and capped securely;
 5. An above-ground storage tank does not display a permanently attached UL approval plaque; or
 6. Any other component identified in the diagrams, exhibits, attachments, or other documents and certified by CARB or required by the authority to construct permit for that system is missing, disconnected, or malfunctioning.
- E.** For proper operation of a stage I system under A.R.S. § 3-3512(C)(4), the owner or operator of a gasoline dispensing site shall recover vapors during pump-out from a gasoline storage tank to a mobile transporter.
- F.** The owner or operator of a gasoline dispensing site shall ensure that any underground tightness test is conducted in a manner that prevents gasoline vapors being emitted to the atmosphere.

Historical Note

New Section R3-7-1007 recodified from Section R20-2-1007 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-1008. Training and Public Education

Each owner or operator of a gasoline dispensing site using stage I vapor recovery shall obtain adequate training and written instructions to enable the system to be installed, operated, and maintained properly in accordance with the manufacturer's specifications and CARB certification. The owner or operator shall maintain documentation of this training onsite and make the documentation available to the Division on request.

Historical Note

New Section R3-7-1008 recodified from Section R20-2-1008 at 22 A.A.R. 2786, effective August 15, 2016

(Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-1009. Recordkeeping and Reporting

- A. The owner or operator of a gasoline dispensing site employing stage I vapor recovery in area A shall maintain records of the inspections done under R3-7-1007.
- B. The owner or operator of a gasoline dispensing site employing stage I vapor recovery in area A shall maintain a log and related records of all regularly scheduled maintenance and any repairs that have been made to stage I equipment.
- C. The owner or operator of a gasoline dispensing site that is exempt under A.R.S. § 3-3512(B) from requirements to install and operate stage I vapor recovery equipment shall maintain a log at the site showing monthly throughputs. The owner or operator shall make the log available to the Division within 24 hours after request. The owner or operator shall submit to the Division the throughput information required under R3-7-1002(B). If any throughput requirement provided in A.R.S. § 3-3512(B) and this Article is exceeded for any month, the owner or operator shall notify the Division in writing within 30 days. The owner or operator shall, within six months after the end of the month the throughput is exceeded, install and operate a stage I vapor recovery system conforming to this Article. If a stage I vapor recovery system is already installed, the owner or operator shall have the system tested under R3-7-1010 within 30 days after the end of the month in which the throughput was exceeded.
- D. The owner or operator of a gasoline dispensing site that has decommissioned a stage II vapor recovery system under R3-7-913 shall maintain a copy of the decommissioning checklist required under R3-7-913(I) for three years.
- E. Except as specified in subsection (D), the owner or operator of a gasoline dispensing site shall keep all records required by this Article at the gasoline dispensing site for at least one year and shall make these records available to the Division upon request.

Historical Note

New Section R3-7-1009 recodified from Section R20-2-1009 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-1010. Annual Testing and Inspection

- A. A person shall ensure that an annual inspection is conducted by a registered service representative on or before the annual inspection date. The annual inspection date is the last day of the month in which the last scheduled annual inspection was performed. A registered service agency shall notify the Division in writing at least 10 business days before an annual inspection of the time, date, and location of the inspection. The Division shall notify the registered service agency within five business days, by fax or e-mail, whether it approves the annual inspection date and time. The registered service agency shall not perform the annual inspection unless the Division approves the inspection date and time.
- B. The annual inspection shall include the tests defined in R3-7-1005(A)(1) through (3) that pertain to the specific vapor recovery system installed.
- C. To verify proper operation of a vapor recovery system, the Division may perform or may require registered service representatives to perform additional tests under R3-7-1005(A)(4) during the annual inspection and testing. The Division shall provide registered service agencies with six months' notice before requiring additional annual testing under R3-7-1005(A)(4).

- D. If there is a difference between a testing contractor's test results and the Division's test results, the Division's test results prevail.
- E. If a site fails to pass any of the tests required under subsection (B), the affected vapor recovery system or component shall remain out-of-service until the vapor recovery system and component pass all tests required under subsection (B).
- F. After an annual inspection begins, a person shall not make a repair to the vapor recovery system or component until the results of the inspection are recorded.
- G. A person shall notify the Division when a vapor recovery system or component is repaired after failing an annual inspection. A registered service representative shall not conduct a reinspection until the Division approves the reinspection date and time.
- H. A registered service representative shall perform all tests according to this Article and any other vapor recovery procedure the Division issues to registered service agencies.
- I. A person that cancels an annual inspection shall notify the Division by calling the Division's designated telephone number at least one hour before the scheduled inspection and shall reschedule the test to be completed by the annual inspection date. A registered service agency shall notify the Division in writing at least 10 business days before an annual inspection of the time, date, and location of the inspection. The Division shall notify the registered service agency within five business days, by fax or e-mail, of its approval of the inspection date and time. The Division shall take enforcement action if a person does not comply with this subsection.
- J. Gasoline dispensing sites located in area B are exempt from the annual inspection and testing requirements of this Section.

Historical Note

New Section R3-7-1010 recodified from Section R20-2-1010 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-1011. Compliance Inspections and Additional Test Methods

The Division shall not announce when it plans to conduct a compliance inspection of a stage I vapor recovery system or component. If results of a compliance inspection reveal a violation of A.R.S. Title 3, Chapter 19, or this Article, the Division shall require the vapor recovery system or component to undergo an appropriate test as specified in R3-7-1010.

Historical Note

New Section R3-7-1011 recodified from Section R20-2-1011 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-1012. Enforcement

If the Division finds that a stage I vapor recovery system or component is defective or non-compliant with one or more of the provisions of this Chapter or A.R.S. Title 3, Chapter 19, the Division shall issue to the owner or operator an administrative order and place a stop-sale, stop-use tag on the non-compliant vapor recovery system or component. The owner or operator may be required to schedule an inspection for a stage II vapor recovery system or component to ensure that it meets all requirements of A.R.S. Title 3, Chapter 19 and this Chapter before the vapor recovery system or component is placed in service.

Historical Note

New Section R3-7-1012 recodified from Section R20-2-1012 at 22 A.A.R. 2786, effective August 15, 2016

(Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-1013. Stage II Vapor Recovery

If the Division identifies a gasoline dispensing site operating a stage II vapor recovery system within an ozone nonattainment area designated as moderate, serious, severe, or extreme by the EPA under section 107(d) of the Clean Air Act or in area A after September 30, 2018, the Division shall issue an administrative order and civil penalty under A.R.S. § 3-3475 and require that the stage II vapor recovery system be decommissioned within three months after identification. Each day the stage II vapor recovery system is not decommissioned after the time specified in the administrative order constitutes a separate violation for the purpose of calculating the civil penalty under A.R.S. § 3-3475.

Historical Note

New Section R3-7-1013 recodified from Section R20-2-1013 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

Historical Note

Article 10, New Table 1 recodified from 20 A.A.C. 2, Article 10, Table 1 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

Table 1. Acceptability of Final System Pressure Results for Systems Tested Using TP-201.3

Ullage (gallons)	Minimum Pressure after Five Minutes (Inches Water Column)
500	0.73
550	0.80
600	0.87
650	0.93
700	0.98
750	1.03
800	1.07
850	1.11
900	1.15
950	1.18
1000	1.21
1200	1.32
1400	1.40
1600	1.46
1800	1.51
2000	1.56
2400	1.62
2600	1.65
2800	1.67
3000	1.69
3500	1.73
4000	1.76
4500	1.79
5000	1.81
6000	1.84
7000	1.86
8000	1.88
9000	1.89
10000	1.90
15000	1.93
20000	1.95
25000	1.96



Supplement to the
Arizona Administrative Code
The official compilation of Arizona Rules
Replacement Check List

For rules filed in the third quarter between
July 1 - September 30
2017

Within the stated calendar quarter, this Title contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information. Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

TITLE 04. Professions and Occupations

Chapter 09. Registrar of Contractors

Sections, Parts, Exhibits, Tables or Appendices modified

R4-9-102 through R4-9-104, R4-9-106, R4-9-108, R4-9-109, R4-9-111, R4-9-113,
R4-9-115, R4-9-117, R4-9-118

☐ REMOVE Supp. 17-2
Pages: 1 - 20

☐ REPLACE with Supp. 17-3
Pages: 1 - 25

The agency's contact person who can answer questions about rules in this Chapter:

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Disclaimer: Please be advised the person listed is the contact of record as submitted in the rulemaking package for this supplement. The contact and other information may change and is provided as a public courtesy.

PUBLISHER
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Office of the Secretary of State, Administrative Rules Division

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the Administrative Code. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION
September 30, 2017

RULES

A.R.S. § 41-1001(17) states: “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions. Virtually everything in your life is affected in some way by rules published in the Arizona Administrative Code, from the quality of air you breathe to the licensing of your dentist. This chapter is one of more than 230 in the Code compiled in 21 Titles.

ADMINISTRATIVE CODE SUPPLEMENTS

Rules filed by an agency to be published in the Administrative Code are updated quarterly. Supplement release dates are printed on the footers of each chapter:

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2017 is cited as Supp. 17-1.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the Arizona Administrative Register for recent updates to rule Sections.

ARTICLES AND SECTIONS

Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering system separated into subsections.

HISTORICAL NOTES AND EFFECTIVE DATES

Historical notes inform the user when the last time a Section was updated in the Administrative Code. Be aware, since the Office publishes each quarter by entire chapters, not all Sections are updated by an agency in a supplement release. Many times just one Section or a few Sections may be updated in the entire chapter.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in the introduction of a chapter can be found at the Secretary of State’s website, www.azsos.gov/services/legislative-filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the Arizona Administrative Register online at www.azsos.gov/rules, click on the Administrative Register link.

In the Administrative Code the Office includes editor’s notes at the beginning of a chapter indicating that certain rulemaking Sections were made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR

If you are researching rules and come across rescinded chapters on a different paper color, this is because the agency filed a Notice of Exempt Rulemaking. At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

PERSONAL USE/COMMERCIAL USE

This chapter is posted as a public courtesy online, and is for private use only. Those who wish to use the contents for resale or profit should contact the Office about Commercial Use fees. For information on commercial use fees review A.R.S. § 39-121.03 and 1 A.A.C. 1, R1-1-113.

Public Services managing rules editor, Rhonda Paschal, assisted with the editing of this chapter.

TITLE 4. PROFESSIONS AND OCCUPATIONS**CHAPTER 9. REGISTRAR OF CONTRACTORS**

(Authority: A.R.S. § 32-1101 et seq.)

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ARTICLE 1. GENERAL PROVISIONS**R4-9-101. Definitions**

- A.** Appurtenances means all structures and improvements subordinate to a residence within residential property lines, excluding the residential structure itself, such as driveways, fences, patios, swimming pools, landscaping, sport courts, and gazebos.
- B.** Licensee means a business entity (sole proprietor, partnership, limited liability company or corporation) to which a license is issued and not the individuals comprising the ownership or management of the licensee, except for a sole proprietor. The license is held by the licensee and not the qualifying party.

Historical Note

Former Rule I. Former Section R4-9-01 repealed, new Section R4-9-01 adopted effective February 23, 1976 (Supp. 76-1). Amended effective November 21, 1979 (Supp. 79-6). Amended effective April 18, 1984 (Supp. 84-2). Former Section R4-9-01 amended effective July 9, 1987, and renumbered as Section R4-9-101 (Supp. 87-3). Amended effective January 20, 1998 (Supp. 98-1). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1).

R4-9-102. Commercial Contractor License Classifications and Scopes of Work

- A.** Commercial contractor license classifications. License classifications for commercial contractors are as follows:

ENGINEERING CONTRACTING

- A General Engineering
- A-4 Drilling
- A-5 Excavating, Grading and Oil Surfacing
- A-7 Piers and Foundations
- A-9 Swimming Pools
- A-11 Steel and Aluminum Erection
- A-12 Sewers, Drains and Pipe Laying
- A-14 Asphalt Paving
- A-15 Seal Coating
- A-16 Waterworks
- A-17 Electrical and Transmission Lines
- A-19 Swimming Pools, Including Solar

GENERAL COMMERCIAL CONTRACTING

- B-1 General Commercial Contractor
- B-2 General Small Commercial Contractor

SPECIALTY COMMERCIAL CONTRACTING

- C-1 Acoustical Systems
- C-3 Awnings, Canopies, Carports and Patio Covers
- C-4 Boilers, Steamfitting and Process Piping
- C-6 Swimming Pool Service and Repair
- C-7 Carpentry
- C-8 Floor Covering
- C-9 Concrete
- C-10 Drywall
- C-11 Electrical
- C-12 Elevators
- C-14 Fencing
- C-15 Blasting
- C-16 Fire Protection Systems
- C-21 Hardscaping and Irrigation Systems
- C-24 Ornamental Metals
- C-27 Lightweight Partitions
- C-31 Masonry
- C-34 Painting and Wall Covering
- C-36 Plastering
- C-37 Plumbing
- C-38 Signs
- C-39 Air Conditioning and Refrigeration

- C-40 Insulation
- C-41 Septic Tanks and Systems
- C-42 Roofing
- C-45 Sheet Metal
- C-48 Ceramic, Plastic and Metal Tile
- C-49 Refrigeration
- C-53 Water Well Drilling
- C-54 Water Conditioning Equipment
- C-56 Welding
- C-57 Wrecking
- C-58 Comfort Heating, Ventilating, Evaporative Cooling
- C-60 Finish Carpentry
- C-61 Carpentry, Remodeling and Repairs
- C-63 Appliances
- C-65 Glazing
- C-67 Low Voltage Communication Systems
- C-70 Reinforcing Bar and Wire Mesh
- C-74 Boilers, Steamfitting and Process Piping, Including Solar
- C-77 Plumbing Including Solar
- C-78 Solar Plumbing Liquid Systems Only
- C-79 Air Conditioning and Refrigeration, Including Solar

- B.** Commercial contracting scopes. The scope of work which may be done under the commercial contracting license classifications is as follows:

A- GENERAL ENGINEERING

This classification allows the licensee to construct or repair:

1. Fixed works
2. Streets
3. Roads
4. Power and utility plants
5. Dams
6. Hydroelectric plants
7. Sewage and waste disposal plants
8. Bridges
9. Tunnels
10. Overpasses
11. Public parks
12. Public right-of-ways

Also included are the scopes of work allowed by the A-4 through A-19. This classification does not include work authorized by the B-1, B-2, B-, or B-3 scopes.

A-4 DRILLING

This classification allows the licensee to drill, including horizontal and vertical drilling or boring, constructing, deepening, repairing, or abandoning wells; exploring for water, gas, and oil; and constructing dry wells, and monitor wells. Also included is the erection of rigs, derricks and related substructures, and installation, service and repair of pumps and pumping equipment.

A-5 EXCAVATING, GRADING AND OIL SURFACING

This classification allows the licensee to apply oil surfacing or other similar products; place shoring, casing, geotextiles or liners; and perform incidental blasting or drilling as required for the licensee to move, alter, or repair earthen materials by:

1. Digging
2. Trenching
3. Grading
4. Horizontal boring

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5. Compacting
6. Filling
This license does not allow the licensee to excavate for water, gas or oil wells.
- A-7 **PIERS AND FOUNDATIONS**
This classification allows the licensee to install piers and foundations using concrete, rebar, post tension and other materials common to the industry. Includes pile driving, excavation, forming and other techniques and equipment common to the industry.
- A-9 **SWIMMING POOLS**
This classification allows the licensee to construct, service, and repair swimming pools and spas, including water and gas service lines from point of service to pool equipment, wiring from pool equipment to first readily accessible disconnect, pool piping, fittings, backflow prevention devices, waste lines, and other integral parts of a swimming pool or spa.
Also included is the installation of swimming pool accessories, covers, safety devices, and fencing for protective purposes, if in the original contract.
- A-11 **STEEL AND ALUMINUM ERECTION**
This classification allows the licensee to install and repair architectural and structural steel and aluminum materials common to the industry. This classification also includes reinforcing steel and field layout, cutting, assembly, and erection by welding, bolting, wire tying or riveting.
- A-12 **SEWERS, DRAINS AND PIPE LAYING**
This classification allows the licensee to install and repair any project involving sewer access holes, the laying of pipe for storm drains, water and gas lines, irrigation, and sewers. Includes connecting sewer collector lines to building drains and the installation of septic tanks, leach lines, dry wells, all necessary connections, liners and related excavating and backfilling.
- A-14 **ASPHALT PAVING**
This classification allows the licensee to install asphalt paving, and all related fine grading on streets, highways, driveways, parking lots, tennis courts, running tracks, play areas, and gas station driveways and areas, using materials and accessories common to the industry. Only permitted as it pertains to the larger scope of work, the classification also permits excavation and grading for height adjustment of existing sewer access holes, storm drains, water valves, sewer cleanouts, and drain gates. Also included is the scope of work allowed by the A-15 Seal Coating Classification.
- A-15 **SEAL COATING**
This classification allows the licensee to apply seal coating to asphalt paving surfaces. This classification also allows repair of surface cracks and application of painted marking symbols.
- A-16 **WATERWORKS**
This classification allows the licensee to perform all work necessary for the production and distribution of water including drilling well, setting casing and pump, related electrical work, related concrete work, excavation, piping for storage and distribution, storage tanks, related fencing, purification and chlorination equipment.
- A-17 **ELECTRICAL AND TRANSMISSION LINES**
This classification allows the licensee to install, alter, and repair transmission lines on public right-of-ways, including erection of poles, guying systems, tower line erection, cellular and communication towers, street lighting of all voltages, and all underground systems including ducts for signal, communication, and similar installations. This classification also allows the licensee to install transformers, circuit breakers, capacitors, primary metering devices and other related equipment of all commercial electrical construction.
- A-19 **SWIMMING POOLS, INCLUDING SOLAR**
This classification allows the licensee to perform the same scope of work permitted by the A-9 but also includes installation and repair of solar heating devices.
- B-1 **GENERAL COMMERCIAL CONTRACTOR**
This classification allows the licensee to construct, alter, and repair in connection with any structure built, being built, or to be built for the support, shelter, and enclosure of persons, animals, or movable property of any kind. This scope includes the supervision of all or any part of the above and includes the management, or direct or indirect supervision of any work performed.
Work related to electrical, plumbing, air conditioning systems, boilers, swimming pools, spas and water wells must be subcontracted to an appropriately licensed contractor. This classification does not include work authorized by the A-, B-, or B-3 scopes.
- B-2 **GENERAL SMALL COMMERCIAL CONTRACTOR**
For projects of \$2,000,000 or less including labor and materials, this classification allows the licensee to perform commercial construction in connection with any new structure or addition built, being built, or to be built for the support, shelter and enclosure of persons, animals, or movable property of any kind. This scope includes the supervision of all or any part of the above and includes the management or direct or indirect supervision of any work performed.
Work related to electrical, plumbing, fire protection systems, air conditioning systems, boilers, swimming pools, spas and water wells must be subcontracted to an appropriately licensed contractor. This classification does not include work authorized by the A-, B-, B-3, or residential scopes.
- C-1 **ACOUSTICAL SYSTEMS**
This classification allows the licensee to install and repair pre-manufactured acoustical ceiling and wall systems.
This classification does not allow the licensee to install or repair electrical or mechanical systems.
- C-3 **AWNINGS, CANOPIES, CARPORTS AND PATIO COVERS**
This classification allows the licensee to place concrete footings and concrete slabs as required for the licensee to install and repair:
1. Window awnings
2. Door hoods
3. Freestanding or attached canopies
4. Carport and patio covers constructed of metal, fabric, fiberglass, or plastic

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5. Screened and paneled enclosures, which are not intended for use as habitable spaces, using metal panels, plastic inserts, and screen doors. A minimum of 60% of the wall area of an enclosure shall be constructed of screening material.
 6. Fascia panels
 7. Flashing and skirting
 8. Exterior, detached metal storage units not to exceed 120 square feet
- This classification does not allow the licensee to install or repair electrical, plumbing, or air conditioning systems.
- C-4 BOILERS, STEAMFITTING AND PROCESS PIPING**
- This classification allows the licensee to install, alter, and repair steam and hot water systems and boilers, including chimney connections, flues, refractories, burners, piping, fittings, valves, thermal insulation, and accessories; fuel and water lines from source of supply to boilers; process and specialty piping and related equipment; pneumatic and electrical controls.
- If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel.
- C-6 SWIMMING POOL SERVICE AND REPAIR**
- This classification allows the licensee to replace and repair commercial pools and accessories including all existing connections and equipment. Plumbing connections to a potable water system, gas lines, gas chlorine systems, and electrical work beyond the first disconnect must be subcontracted to a properly licensed contractor.
- This classification does not allow the licensee to perform a complete replacement of plaster or pebble pool interiors and decks.
- C-7 CARPENTRY**
- This classification allows the licensee to install and repair:
1. Rough carpentry
 2. Finish carpentry
 3. Hardware
 4. Millwork
 5. Metal studs
 6. Metal doors or door frames
 7. Windows
- C-8 FLOOR COVERING**
- This classification allows the licensee to prepare a surface as required for the licensee to install and repair the following floor covering materials:
1. Carpet
 2. Floor tile
 3. Wood
 4. Linoleum
 5. Vinyl
 6. Asphalt
 7. Rubber
 8. Concrete coatings
- C-9 CONCRETE**
- This classification allows the licensee to install and repair concrete, concrete products, and accessories common to the industry.
- This classification also allows the licensee to perform trenching, excavating, backfilling, and grading in connection with concrete construction.
- C-10 DRYWALL**
- This classification allows the licensee to install and repair:
1. Gypsum wall board
 2. Ceiling grid systems
 3. Movable partitions
 4. Wall board tape and texture
 5. Non-load bearing, lightweight, steel wall partitions
- C-11 ELECTRICAL**
- This classification allows the licensee to install, alter, and repair any wiring, related electrical material and equipment used in the generating, transmitting, or utilization of electrical energy less than 600 volts, including all overhead electrical wiring on public right-of-ways for signs and street decorations, and all underground electrical distribution systems of less than 600 volts serving private properties.
- This classification also allows the licensee to install, alter, and repair all outside, overhead, and underground electrical construction and all wiring in or on any building of less than 600 volts, but does not permit work in public right-of-ways.
- C-12 ELEVATORS**
- This classification allows the licensee to install and repair:
1. Elevators
 2. Dumbwaiters
 3. Escalators
 4. Moving walks and ramps
 5. Stage and orchestra lifts
- C-14 FENCING**
- This classification allows the licensee to install and repair:
1. Metal, wood, and cement block fencing
 2. Automatic gates
 3. Fire access strobes
 4. Highway guard rails
 5. Cattle guards
 6. Low voltage U.L. approved electrical fence protective devices of less than 25 volts and 100 watts
- This classification does not allow the licensee to install or repair retaining walls.
- C-15 BLASTING**
- This classification allows the licensee to drill, bore, move earth, and build temporary shelters or barricades, as required for the licensee's use of explosives and explosive devices for:
1. Excavation
 2. Demolition
 3. Geological exploration
 4. Mining
 5. Construction related blasting
- C-16 FIRE PROTECTION SYSTEMS**
- This classification allows the licensee to install, alter, and repair fire protection systems using water, steam, gas, or chemicals. Included is any required excavation, trenching, backfilling and grading, piping from structure, and connections to off-premise water

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supply adjacent to property involving a fire protection system.

Systems may include the following areas of work and related equipment: restaurant hood protection systems; fire pumps and drivers; pressure and storage tanks; all piping and valves; sprinkler heads and nozzles; and application of materials for the prevention of corrosion or freezing.

Also included are air compressors, air receivers, bottled inert gases, pressurized chemicals, manifolds, pneumatic, hydraulic, or electrical controls, low voltage signaling systems, control piping, and the flushing and testing of systems.

C-21 HARDSCAPING AND IRRIGATION SYSTEMS

This classification allows the licensee to install, alter, and repair:

1. Non-loadbearing concrete
2. Uncovered patios, walkways, driveways made of brick, stone, pavers or gravel
3. Wooden decks no higher than 29 inches above finish grade
4. Decorative garden walls up to six feet from finish grade
5. Fences and screens up to six feet from finish grade
6. Retaining walls up to three feet from the finish grade of the lower elevation
7. Free standing fire pits, fireplaces, or barbecues – electric, plumbing, and gas must be subcontracted to a properly licensed contractor
8. Low voltage landscape lighting
9. Water features that are not attached to swimming pools; including any necessary: electrical wiring of 120 volts or less, connection to potable water lines, backflow prevention devices, hose bibs, excavating, trenching, boring, backfilling, or grading
10. Irrigation systems, including any necessary: electrical wiring of 120 volts or less, connection to potable water lines, backflow prevention devices, hose bibs, excavating, trenching, boring, backfilling, or grading

With the exception of free standing fire pits, fireplaces, or barbecues, this classification does not allow the licensee to install, contract for, or subcontract new electrical service panels, gas or plumbing lines, blasting, outdoor kitchens, gazebos, room additions, swimming pools, pool deck coatings, concrete driveways, load bearing walls, or perimeter fencing.

C-24 ORNAMENTAL METALS

This classification allows the licensee to install, alter, or repair non-structural ornamental metal, such as:

1. Metal folding gates
2. Guard and hand rails
3. Wrought iron fencing and gates
4. Window shutters and grilles
5. Room dividers and shields
6. Metal accessories common to the industry

This classification does not allow the licensee to install fire escapes or stairs.

C-27 LIGHTWEIGHT PARTITIONS

This classification allows the licensee to install lightweight (not to exceed 14 gauge) metal wall partitions, including suspended metal ceiling grid systems, as supporting members for the application of building materials such as: application and repair of gypsum plaster, cement, acoustical plaster, or a combination of materials and aggregates, that create a permanent coating; the application of such materials over any surface which offers either a mechanical or suction type bond, sprayed, dashed, or troweled to the surface; surface sandblasting preparatory to plastering or stucco; installation of plastering accessories and lath products manufactured to provide a key or suction type bond for the support of various type plaster coatings; and installation and repair of gypsum wall board, pointing, accessories, taping, and texturing on structures both interior and exterior.

Upon the effective date of these rules, no new applications for the C-27 classification will be accepted and no new C-27 licenses will be issued.

C-31 MASONRY

This classification allows the licensee to grout, caulk, sand blast, tuckpoint, mortar wash, parge, clean and weld reinforcing steel as required for the licensee to install and repair:

1. Masonry
2. Brick
3. Concrete block
4. Insulating concrete forms
5. Adobe units
6. Stone
7. Marble
8. Slate
9. Mortar-free masonry products

C-34 PAINTING AND WALL COVERING

This classification allows the licensee to perform surface preparation to install, apply or repair:

1. Wallpaper
2. Wall covering cloth
3. Wall covering vinyl
4. Decorative texture
5. Paint
6. Liquid floor and wall coatings

C-36 PLASTERING

This classification allows the licensee to install laths, metal studs, metal grid systems, or other bases as required for the licensee to coat surfaces by trowel or spray with combinations of:

1. Sand mixtures (e.g. stucco)
2. Gypsum plaster
3. Cement
4. Acoustical plaster
5. Swimming pool interiors (excluding tile)

C-37 PLUMBING

This classification allows the licensee to install, alter, and repair all plumbing when performed solely within property lines and not on public easements or right-of-ways, except as hereinafter provided.

This classification also allows the licensee to perform installation, alteration, and repair of all piping, fixtures, and appliances related to water supply, including pressure vessels and tanks (excluding municipal or related water supply systems); venting and sanitary

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drainage systems for all fluid, semifluid, and organic wastes; septic tanks and leaching lines; roof leaders; lawn sprinklers; water conditioning equipment; piping; and equipment for swimming pools.

Also included are piping, fixtures, appliances, and pressure vessels for manufactured and natural gases, compressed air and vacuum systems, petroleum, fuel oil, nonpotable liquids, hot water heating, and hot water supply systems operating at pressures not exceeding 30 PSIG, or temperatures not exceeding 220° F; steam heating and steam supply systems not exceeding 15 PSIG operating pressure; gas or oil fired space heaters and furnaces, excluding duct work. Piping for water cooling systems, excluding the refrigerant piping and equipment. Testing and balancing of hydronics systems.

Sewer, gas, water lines, and connections from structure to the nearest point of public supply or disposal may cross public or private easements or be installed within private easements or right-of-ways. Pipe installed across public property may not be increased in size, or make any other connection between the point of exit from private property to the point of connection at public supply or disposal. These lines shall not be installed parallel to main lines in public easements or right-of-ways.

C-38 SIGNS

This classification allows the licensee to install and repair posts, poles, supports, paint, and electrical wiring as required for the licensee to install and repair:

1. Signs
2. Displays
3. Flagpoles

C-39 AIR CONDITIONING AND REFRIGERATION

This classification allows the licensee to install, alter, and repair refrigeration and evaporative cooling systems.

This classification also allows the licensee to perform installation, alteration, and repair of heating systems of "wet", "dry" or radiant type. "Wet" systems include steam or hot water boilers and coils, or baseboard convectors, and are limited to 30 PSIG operating pressure of 220° F for hot water and 15 PSIG operating pressure for steam. Dry systems include gas fired furnaces and space heaters.

This classification also allows the licensee to perform installation, alteration, and repair of ventilation systems includes duct work, air filtering devices, water treatment devices, pneumatic or electrical controls, and control piping. Thermal and acoustical insulation of refrigerant pipes and ductwork, vibration isolation materials and devices, liquid fuel piping and tanks, water and gas piping from service connection to the equipment it serves. Testing and balancing of refrigerant, cooling, heating circuits, and air handling systems.

If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel.

C-40 INSULATION

This classification allows the licensee to install and repair:

1. Insulation materials, including radiant barriers
2. Preformed architectural acoustical materials
3. Insulation protecting materials

C-41 SEPTIC TANKS AND SYSTEMS

This classification allows the licensee to excavate, install and repair pipe, backfill, and compact soil as required for the licensee to install and repair:

1. Septic tanks
2. Aerobic digesters
3. Leaching fields

C-42 ROOFING

This classification allows the licensee to apply, repair, or install weatherproofing (i.e. asphaltum, pitch, tar, felt, glass fabric, flax, or other commonly used materials or systems) or roof accessories (i.e. flashing, valleys, gravel stops, or sheet metal) as required for the licensee to install and repair:

1. Roof tile
2. Shingles
3. Shakes
4. Slate
5. Metal roofing systems
6. Urethane foam
7. Roof insulation or coatings on or above the roof deck

This classification allows the licensee to replace up to 10 percent of the total roof substrate square footage as it relates to issues with substrate discovered after execution of the initial contract. Replacing more than 10 percent of the roof substrate square footage as it relates to issues with substrate discovered after execution of the initial contract requires licensee to subcontract work to a properly licensed contractor.

This classification also allows the licensee to install new or replace existing skylights where it does not require changes to the roof framing or roof structure and replace fascia not to exceed 24 linear feet.

Licensee may lift HVAC equipment to allow for proper installation of roofing material. However, the licensee must subcontract work to a properly licensed contractor if HVAC equipment ducting requires any modification to allow for proper installation of roofing material.

C-45 SHEET METAL

This classification allows the licensee to install and repair:

1. Sheet metal
2. Cornices
3. Flashings
4. Gutters
5. Leaders
6. Pans
7. Kitchen equipment
8. Duct work
9. Skylights
10. Patented chimneys
11. Metal flues
12. Metal roofing systems

C-48 CERAMIC, PLASTIC AND METAL TILE

This classification allows the licensee to prepare a surface as required for the licensee to install and repair the following tile products on horizontal and vertical surfaces:

1. Ceramic
2. Clay
3. Faience
4. Metal

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5. Mosaic
 6. Glass mosaic
 7. Paver
 8. Plastic
 9. Quarry and stone tiles such as marble or slate
 10. Terrazzo
- Installation of shower doors and tub enclosures are included when a part of the original contract.
- C-49 REFRIGERATION**
- This classification allows the licensee to install, alter, and repair refrigeration equipment and systems used for processing, storage, and display of food products and other perishable commodities.
- This classification includes commercial, industrial, and manufacturing processes requiring refrigeration excluding comfort air conditioning.
- Systems may also include the following areas of work and related equipment: temperature, safety and capacity controls, thermal insulation, vibration isolation materials and devices; water treatment devices; construction and installation of walk-in refrigeration boxes, liquid fuel piping and tanks, water and gas piping from equipment to service connection; and testing and balancing of refrigeration equipment and systems.
- If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel.
- C-53 WATER WELL DRILLING**
- This classification allows the licensee to drill new water wells or deepen existing water wells by use of standard practices including the use of cable tools, compressed air percussion, rotary, air rotary, or reverse circulation rotary methods. Includes installing casing, gravel pack, perforating and sanitary seals. Repair existing wells by sand pumping, jetting, acidizing, swabbing, clean out, re-perforating, swaging, installation of annealed lines, and the removal of debris.
- Includes photographing interior of wells with appropriate equipment. Installation of jet and submersible pumps; electrical pump controls and wiring from pump equipment to first readily accessible disconnect; and water line to storage or pressure tank, not to exceed 50 linear feet. Use of a test pump to develop a new well, or repair an existing well, when provided in contract, is limited to 5 horsepower.
- Installation of concrete pump bases not to exceed 50 square feet.
- Installation of protective fencing when included in original contract.
- C-54 WATER CONDITIONING EQUIPMENT**
- This classification allows the licensee to perform trenching, backfilling, and grading; and install and repair piping, fittings, valves, concrete supports, and electrical control panels of less than 25 volts and required grounding devices; as required for the licensee to install and repair:
1. Water conditioning equipment
 2. Misting systems
 3. Exchange tanks
 4. Indirect waste pipe carrying brine, backwash and rinse water to the point of disposal
- C-56 WELDING**
- This classification allows the licensee to weld metals.
- C-57 WRECKING**
- This classification allows the licensee to install and repair temporary ramps, barricades, and pedestrian walkways as required for the licensee to demolish, dismantle, or remove structures not intended for reuse. This classification does not allow the licensee to use explosives.
- C-58 COMFORT HEATING, VENTILATING, EVAPORATIVE COOLING**
- This classification allows the licensee to install, alter, and repair warm air heating systems, gas fired furnaces and space heaters, ventilation and evaporative cooling units, or any combination of these.
- Systems may include the following areas of work and related equipment: duct work, air filtering devices, pneumatic or electrical controls, control piping, thermal and acoustical insulation, vibration isolation materials and devices, liquid fuel piping and tanks, water and gas piping from service connection to equipment it serves. Testing and balancing of air handling systems.
- If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel.
- C-60 FINISH CARPENTRY**
- This classification allows the licensee to install and repair millwork such as:
1. Cabinets
 2. Counter tops
 3. Case sash
 4. Door trim
 5. Metal doors
 6. Automatic door closers
 7. Wood flooring
- C-61 CARPENTRY, REMODELING AND REPAIRS**
- For projects of \$50,000 or less including labor and materials, this classification allows the licensee to perform all general remodeling, additions, replacements, and repairs to existing structures.
- Work related to electrical, plumbing, air conditioning systems, and boilers must be subcontracted to an appropriately licensed contractor.
- C-63 APPLIANCES**
- This classification allows the licensee to install and repair appliances.
- This classification does not allow the licensee to install or repair gas, electrical, or plumbing lines.
- C-65 GLAZING**
- This classification allows the licensee to install and repair weatherproofing, caulking, sealants, and adhesives as required for the licensee to install and repair:
1. Glass products
 2. Window film
 3. Window treatments, such as blinds or shutters
 4. Steel and aluminum glass holding members
- C-67 LOW VOLTAGE COMMUNICATION SYSTEMS**
- This classification allows the licensee to build antenna towers on existing structures as required for the licensee to install, service, and repair:
1. Alarm systems
 2. Telephone systems
 3. Sound systems
 4. Intercommunication systems
 5. Public addressing systems

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6. Television or video systems
 7. Low voltage signaling devices
 8. Low voltage landscape lighting that does not exceed 91 volts
 9. Master and program clocks (only low voltage wiring and needed equipment)
- C-70 REINFORCING BAR AND WIRE MESH
This classification allows the licensee to install and repair:
1. Reinforcing bar
 2. Post-tension
 3. Wire mesh
- C-74 BOILERS, STEAMFITTING AND PROCESS PIPING, INCLUDING SOLAR
This classification allows the licensee to install, alter, and repair steam and hot water systems and boilers including solar. Also included are chimney connections, flues, refractories, burners, piping, fittings, valves, thermal insulation and accessories; fuel and water lines from source of supply to boilers; process and specialty piping and related equipment; pneumatic and electrical controls.
- If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel.
- C-77 PLUMBING INCLUDING SOLAR
This classification allows the licensee to install, alter, and repair all plumbing including solar, when performed solely within property lines and not on public easements or right-of-ways except as hereinafter provided.
- This classification also allows for installation alteration, and repair of all piping, fixtures and appliances related to water supply, including pressure vessels and tanks (excluding municipal or related water supply systems); venting and sanitary drainage systems for all fluid, semifluid, and organic wastes; septic tanks and leaching lines; roof leaders; lawn sprinkler systems; water conditioning equipment; piping and equipment for swimming pools.
- Also included are piping, fixtures, appliances, and pressure vessels for manufactured and natural gases, compressed air and vacuum systems, petroleum, fuel oil, nonpotable liquids, hot water heating and hot water supply systems operating at pressures not exceeding 30 PSIG or temperatures not exceeding 220° F; steam heating and steam supply systems not exceeding 15 PSIG operating pressure; gas or oil fired space heaters and furnaces excluding duct work. Piping for water cooling systems, excluding the refrigerant piping and equipment. Testing and balancing of hydronics systems.
- Sewer, gas, water lines, and connections from structure to the nearest point of public supply or disposal may cross public or private easements or be installed within private easements. Pipe installed across public property may not be increased in size or make any other connection between the point of exit from private property to point of connection at public supply or disposal. These lines shall not be installed parallel to main lines in public easements or right-of-ways.
- C-78 SOLAR PLUMBING LIQUID SYSTEMS ONLY
This classification allows the licensee to install, alter, and repair solar water heating systems operating

at temperatures not exceeding 220° F, including thermosyphon, direct (open loop), and indirect (closed loop), but excludes air as a transfer medium.

Includes installation of collectors, storage and expansion tanks, heat exchangers, piping valves, pumps, sensors and low voltage controls which connect to existing plumbing and electrical stubouts at the water tank location.

Installation of solar water heating systems for swimming pools which tie into and operate from the conventional pool systems, but excludes all non-solar plumbing, electrical and mechanical systems and components.

Installation of backup and auxiliary heating systems only when such systems are included in the original contract and when such systems are an integral part of the solar collector or storage equipment.

C-79 AIR CONDITIONING AND REFRIGERATION, INCLUDING SOLAR

This classification allows the licensee to install, alter, and repair refrigeration and evaporative cooling systems, including solar.

This classification also allows for installation alteration, and repair of heating systems of "wet", "dry" or radiant type. "Wet" systems include steam, or hot water boilers and coils, or baseboard convectors and are limited to 30 PSIG operating pressure of 220° F for hot water and 15 PSIG operating pressure for steam. Dry systems include gas fired furnaces and space heaters.

This classification also allows for installation alteration, and repair of ventilation systems.

Installation of these systems include duct work, air filtering devices, water treatment devices, pneumatic or electrical controls, and control piping. Thermal and acoustical insulation, vibration isolation materials and devices, liquid fuel piping and tanks, and water and gas piping from service connection to equipment it serves. Testing and balancing of refrigerant, cooling and heating circuits, and air handling systems.

If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel.

Historical Note

Former Rule 2. Amended effective May 20, 1975, Amended effective June 13, 1975, Amended effective August 8, 1975, Amended effective August 25, 1975 (Supp. 75-1). Amended effective January 9, 1976, subsection (B) of this Section R4-9-02 renumbered as Section R4-9-03 effective February 23, 1976 (Supp. 76-1). Amended effective October 14, 1977 (Supp. 77-5). Amended effective September 13, 1978 (Supp. 78-5). Amended by adding A-20 effective July 10, 1980; adding A-21 effective July 11, 1980; adding C-77 and C-78 effective July 28, 1980; adding C-74 and C-79 effective August 15, 1980; adding C-75 and C-80 effective August 19, 1980 (Supp. 80-4). Amended by adding A-19 effective September 5, 1980 (Supp. 80-5). Repealed effective April 18, 1984 (Supp. 84-2). New Section R4-9-02 adopted effective July 9, 1987, and renumbered as Section R4-9-102 (Supp. 87-3). Amended effective January 20, 1998 (Supp. 98-1). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 1029, effective June 11, 2017 (Supp. 17-2). Amended by final

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rulemaking at 23 A.A.R. 2525, effective November 5, 2017 (Supp. 17-3).

R4-9-103. Residential Contractor License Classifications and Scopes of Work

A. Residential contracting license classifications. License classifications for residential contractors are as follows:

GENERAL RESIDENTIAL CONTRACTING

- B- General Residential Contractor
- B-3 General Remodeling and Repair Contractor
- B-4 General Residential Engineering Contractor
- B-4R Sport Court Accessories
- B-5 General Swimming Pool Contractor
- B-5R Swimming Pool Covers
- B-5R Factory Fabricated Pools and Accessories
- B-6 General Swimming Pool Contractor, Including Solar
- B-10 Pre-Manufactured Spas and Hot Tubs

SPECIALTY RESIDENTIAL CONTRACTING

- R-1 Acoustical Systems
- R-2 Excavating, Grading and Oil Surfacing
- R-3 Awnings, Canopies, Carports and Patio Covers
- R-4 Boilers, Steamfitting and Process Piping
- R-6 Swimming Pool Service and Repair
- R-7 Carpentry
- R-8 Floor Covering
- R-9 Concrete
- R-10 Drywall
- R-11 Electrical
- R-12 Elevators
- R-13 Asphalt Paving
- R-14 Fencing
- R-15 Blasting
- R-16 Fire Protection
- R-17 Structural Steel and Aluminum
- R-21 Hardscaping and Irrigation Systems
- R-22 House Moving
- R-24 Ornamental Metals
- R-31 Masonry
- R-34 Painting and Wall Covering
- R-36 Plastering
- R-37 Plumbing, Including Solar
 - R-37R Plumbing
 - R-37R Built-In Central Vacuum Systems
 - R-37R Kitchen and Bathroom Fixture Refinishing
 - R-37R Swimming Pool Plumbing and Equipment
 - R-37R Gas Piping
 - R-37R Sewers, Drains and Pipe Laying
 - R-37R Solar Plumbing Liquid Systems Only
- R-38 Signs
 - R-39 Air Conditioning and Refrigeration, Including Solar
 - R-39R Air Conditioning and Refrigeration
 - R-39R Temperature Control Systems
 - R-39R Warm Air Heating, Evaporative Cooling and Ventilating
 - R-39R Evaporative Cooling and Ventilators
- R-40 Insulation
- R-41 Septic Tanks and Systems
- R-42 Roofing
- R-45 Sheet Metal
- R-48 Ceramic, Plastic and Metal Tile
- R-53 Drilling
- R-54 Water Conditioning Equipment

- R-56 Welding
- R-57 Wrecking
- R-60 Finish Carpentry
- R-61 Carpentry, Remodeling and Repairs
- R-62 Minor Home Improvements
- R-63 Appliances
- R-65 Glazing
- R-67 Low Voltage Communication Systems
- R-70 Reinforcing Bar and Wire Mesh

B. RESIDENTIAL CONTRACTING SCOPES. The “R” designation after the license classification means that the licensee’s scope of work is restricted to the description stated in the license title. The scope of work which may be done under the residential contracting license classifications is as follows:

B- GENERAL RESIDENTIAL CONTRACTOR

This classification allows the licensee to construct and repair all or any part of a residential structure or appurtenance. Work related to electrical, plumbing, air conditioning systems, boilers, swimming pools, spas and water wells must be subcontracted to an appropriately licensed contractor. This classification does not include work authorized by the A-, B-1, or B-2 scopes.

B-3 GENERAL REMODELING AND REPAIR CONTRACTOR

This classification allows the licensee to remodel and repair an existing residential structure or appurtenance except for electrical, plumbing, mechanical, boilers, swimming pools, spas and water wells, which must be subcontracted to an appropriately licensed contractor. The scope of work allowed under the R-7 carpentry classification is included within this scope.

B-4 GENERAL RESIDENTIAL ENGINEERING CONTRACTOR

This classification allows the licensee to construct and repair appurtenances to residential structures. Work related to electrical, plumbing, air conditioning systems, boilers, and water wells must be subcontracted to an appropriately licensed contractor. This scope includes the CR-21, B-5, and all B-4R subclassifications.

B-4R Sport Court Accessories

Upon the effective date of these rules, no new applications for the B-4R license classifications will be accepted and no new B-4R licenses will be issued.

B-5 GENERAL SWIMMING POOL CONTRACTOR

This classification allows the licensee to construct and repair swimming pools and spas. Installation of code-required pool barriers around the swimming pool or spa and installation of utilities from the point of service to the pool equipment. Construction of other structures or appurtenances is excluded. This scope includes all B-5R subclassifications.

B-5R Swimming Pool Covers

B-5R Factory Fabricated Pools & Accessories

Upon the effective date of these rules, no new applications for the B-5R classifications will be accepted and no new B-5R licenses will be issued.

B-6 GENERAL SWIMMING POOL CONTRACTOR, INCLUDING SOLAR

This classification allows the licensee to perform the same scope of work permitted by the B-5 (including all B-5R subclassifications) but also includes installation and repair of solar heating devices.

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B-10 PREMANUFACTURED SPAS AND HOT TUBS

This classification allows the licensee to construct and repair spas and hot tubs. Installation of code-required pool barriers around the spa or hot tub and installation of utilities from the point of service to the spa equipment are included.

R-1 ACOUSTICAL SYSTEMS

This classification allows the licensee to install and repair pre-manufactured acoustical ceiling and wall systems.

This classification does not allow the licensee to install or repair electrical or mechanical systems.

R-2 EXCAVATING, GRADING AND OILSURFACING

This classification allows the licensee to apply oil surfacing or other similar products and place shoring, casing, geotextiles or liners as required for the licensee to move, alter, or repair earthen materials by:

1. Digging
2. Trenching
3. Grading
4. Horizontal boring
5. Compacting
6. Filling

R-3 AWNINGS, CANOPIES, CARPORTS AND PATIO COVERS

This classification allows the licensee to place concrete footings and concrete slabs as required for the licensee to install and repair:

1. Window awnings
2. Door hoods
3. Freestanding or attached canopies
4. Carport and patio covers constructed of metal, fabric, fiberglass, or plastic
5. Screened and paneled enclosures, which are not intended for use as habitable spaces, using metal panels, plastic inserts, and screen doors. A minimum of 60% of the wall area of an enclosure shall be constructed of screening material.
6. Fascia panels
7. Flashing and skirting
8. Exterior, detached metal storage units, not to exceed 200 square feet

This classification does not allow the licensee to install or repair electrical, plumbing, or air conditioning systems.

R-4 BOILERS, STEAMFITTING AND PROCESS PIPING

This classification allows the licensee to install, alter, and repair steam and hot water systems and boilers, including chimney connections, flues, refractories, burners, piping, fittings, valves, thermal insulation, and accessories; fuel and water lines from source of supply to boilers; process and specialty piping and related equipment; pneumatic and electrical controls.

If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel.

R-6 SWIMMING POOL SERVICE AND REPAIR

This classification allows the licensee to service and perform minor repair of residential pools and accessories, excluding plumbing connections to a potable water system, gas lines, gas chlorine systems, and electrical work beyond the first disconnect. This classifica-

tion does not allow the licensee to perform a complete replacement of plaster or pebble pool interiors and decks.

R-7 CARPENTRY

This classification allows the licensee to install and repair:

1. Rough carpentry
2. Finish carpentry
3. Hardware
4. Millwork
5. Metal studs
6. Metal doors or door frames
7. Windows

R-8 FLOOR COVERING

This classification allows the licensee to prepare a surface as required for the licensee to install and repair the following floor covering materials:

1. Carpet
2. Floor tile
3. Wood
4. Linoleum
5. Vinyl
6. Asphalt
7. Rubber
8. Concrete coatings

R-9 CONCRETE

This classification allows the licensee to install and repair concrete, concrete products, and accessories common to the industry.

R-10 DRYWALL

This classification allows the licensee to install and repair:

1. Gypsum wall board
2. Ceiling grid systems as supporting members for gypsum drywall
3. Movable partitions
4. Wall board tape and texture
5. Non-load bearing, lightweight, steel wall partitions

R-11 ELECTRICAL

This classification allows the licensee to install and repair residential electrical systems.

R-12 ELEVATORS

This classification allows the licensee to install and repair:

1. Elevators
2. Dumbwaiters
3. Escalators
4. Moving walks and ramps
5. Stage and orchestra lifts

R-13 ASPHALT PAVING

This classification allows the licensee to install and repair paved areas using materials and methods common to the industry, including asphalt curbs, concrete bumper curbs, headers, and striping.

R-14 FENCING

This classification allows the licensee to install and repair:

1. Metal, wood, and cement block fencing
2. Automatic gates
3. Fire access strobes

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4. Cattle guards
5. Low voltage U.L. approved electrical fence protective devices of less than 25 volts and 100 watts
This classification does not allow the licensee to install or repair retaining walls.
- R-15 **BLASTING**
This classification allows the licensee to drill, bore, move earth, and build temporary shelters or barricades, as required for the licensee's use of explosives and explosive devices for:
 1. Excavation
 2. Demolition
 3. Construction related blasting
- R-16 **FIRE PROTECTION SYSTEMS**
This classification allows the licensee to install and repair fire prevention and fire protection systems including all mechanical apparatus, devices, piping, and equipment common to the fire protection industry. Installation and repair of low voltage signaling systems are also permitted by the R-16 but installation and repair of all other electrical devices, apparatus, and wiring must be subcontracted to a properly licensed contractor.
- R-17 **STRUCTURAL STEEL AND ALUMINUM**
This classification allows the licensee to install and repair architectural and structural steel and aluminum materials common to the industry.
This classification also includes reinforcing steel and field layout, cutting, assembly, and erection by welding, bolting, wire tying or riveting.
- R-21 **HARDSCAPING AND IRRIGATION SYSTEMS**
This classification allows the licensee to install, alter, and repair:
 1. Non-loadbearing concrete
 2. Uncovered patios, walkways, driveways made of brick, stone, pavers or gravel
 3. Wooden decks no higher than 29 inches above finish grade
 4. Decorative garden walls up to six feet from finish grade
 5. Fences and screens up to six feet from finish grade
 6. Retaining walls up to three feet from the finish grade of the lower elevation
 7. Free standing fire pits, fireplaces, or barbeques – electric, plumbing, and gas must be subcontracted to a properly licensed contractor
 8. Low voltage landscape lighting
 9. Water features that are not attached to swimming pools; including any necessary: electrical wiring of 120 volts or less, connection to potable water lines, backflow prevention devices, hose bibs, excavating, trenching, boring, backfilling, or grading
 10. Irrigation systems, including any necessary: electrical wiring of 120 volts or less, connection to potable water lines, backflow prevention devices, hose bibs, excavating, trenching, boring, backfilling, or grading
 11. Residential outdoor misting systems. Freestanding or attached to existing appurtenance, not more than 1000 PSI.
 12. Free standing and uncovered outdoor kitchens – electric, plumbing, and gas must be subcontracted to a properly licensed contractor
With the exception of free standing fire pits, fireplaces, or barbeques, this classification does not allow the licensee to install, contract for, or subcontract new electrical service panels, gas or plumbing lines, blasting, covered outdoor kitchens, gazebos, room additions, swimming pools, pool deck coatings, barbeques, concrete driveways, load bearing walls, or perimeter fencing.
- R-22 **HOUSE MOVING**
This classification allows the licensee to disconnect utilities, but connection of utilities and construction of foundations are not permitted.
- R-24 **ORNAMENTAL METALS**
This classification allows the licensee to install, alter, or repair non-structural ornamental metal, such as:
 1. Metal folding gates
 2. Guard and hand rails
 3. Wrought iron fencing and gates
 4. Window shutters and grilles
 5. Room dividers and shields
 6. Metal accessories common to the industry
 This classification does not allow the licensee to install fire escapes or stairs.
- R-31 **MASONRY**
This classification allows the licensee to grout, caulk, sand blast, tuckpoint, mortar wash, parge, clean and weld reinforcing steel as required for the licensee to install and repair:
 1. Masonry
 2. Brick
 3. Concrete block
 4. Insulating concrete forms
 5. Adobe units
 6. Stone
 7. Marble
 8. Slate
 9. Mortar-free masonry products
- R-34 **PAINTING AND WALL COVERING**
This classification allows the licensee to perform surface preparation to install, apply, and repair:
 1. Wallpaper
 2. Wall covering cloth
 3. Wall covering vinyl
 4. Decorative texture
 5. Paint
 6. Liquid floor and wall coatings
- R-36 **PLASTERING**
This classification allows the licensee to install laths, metal studs, metal grid systems, or other bases as required for the licensee to coat surfaces by trowel or spray with combinations of:
 1. Sand mixtures (e.g. stucco)
 2. Gypsum plaster
 3. Cement
 4. Acoustical plaster
 5. Swimming pool interiors (excluding tile)
- R-37 **PLUMBING, INCLUDING SOLAR**
This classification allows the licensee to install and repair water and gas piping systems, fire protection as

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it relates to water sprinkler systems, and sewage treatment systems. Included are all fixtures, vents, and devices common to the industry, as well as solar applications. This scope includes all R-37R subclassifications.

- R-37R Plumbing
- R-37R Built-in Central Vacuum Systems
- R-37R Kitchen and Bathroom Fixture Refinishing
- R-37R Swimming Pool Plumbing and Equipment
- R-37R Gas Piping
- R-37R Sewers, Drains and Pipe Laying
- R-37R Solar Plumbing Liquid Systems Only

Upon the effective date of these rules, no new applications for the R-37R Built-in Central Vacuum Systems, Kitchen and Bathroom Fixture Refinishing, Swimming Pool Plumbing and Equipment, Gas Piping, Sewers, Drains and Pipe Laying, and Solar Plumbing Liquid Systems Only license classifications will be accepted and no new R-37R licenses in these classifications will be issued.

R-38 SIGNS

This classification allows the licensee to install and repair posts, poles, supports, paint, and electrical wiring as required for the licensee to install and repair:

1. Signs
2. Displays
3. Flagpoles

R-39 AIR CONDITIONING AND REFRIGERATION, INCLUDING SOLAR

This classification allows the licensee to install and repair comfort air conditioning systems, including refrigeration, evaporative cooling, ventilating, and heating with or without solar equipment. Installation and repair of machinery, units, accessories, refrigerator rooms, and insulated refrigerator spaces, and controls in refrigerators.

If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel. This scope includes all R-39R subclassifications.

- R-39R Air Conditioning and Refrigeration
- R-39R Temperature Control Systems
- R-39R Warm Air Heating, Evaporative Cooling and Ventilating
- R-39R Evaporative Cooling and Ventilators

Upon the effective date of these rules, no new applications for the R-39R Gas Refrigeration, Temperature Control Systems, Warm Air Heating, Evaporative Cooling and Ventilating, Evaporative Cooling and Ventilators, and Pre-Coolers license classifications will be accepted and no new R-39R licenses in these classifications will be issued.

R-40 INSULATION

This classification allows the licensee to install and repair:

1. Insulation materials, including radiant barriers
2. Preformed architectural acoustical materials
3. Insulation protecting materials

R-41 SEPTIC TANKS AND SYSTEMS

This classification allows the licensee to excavate, install and repair pipe, backfill, and compact soil as required for the licensee to install and repair:

1. Septic tanks
2. Aerobic digesters

3. Leaching fields

R-42 ROOFING

This classification allows the licensee to apply, repair, or install weatherproofing (i.e. asphaltum, pitch, tar, felt, glass fabric, flax, or other commonly used materials or systems) or roof accessories (i.e. flashing, valleys, gravel stops, or sheet metal) as required for the licensee to install and repair:

1. Roof tile
2. Shingles
3. Shakes
4. Slate
5. Metal roofing systems
6. Urethane foam
7. Roof insulation or coatings on or above the roof deck

This classification allows the licensee to replace up to 10 percent of the total roof substrate square footage as it relates to issues with substrate discovered after execution of the initial contract. Replacing more than 10 percent of the roof substrate square footage as it relates to issues with substrate discovered after execution of the initial contract requires licensee to subcontract work to a properly licensed contractor.

This classification also allows the licensee to install new or replace existing skylights where it does not require changes to the roof framing or roof structure and replace fascia not to exceed 24 linear feet.

Licensee may lift HVAC equipment to allow for proper installation of roofing material. However, the licensee must subcontract work to a properly licensed contractor if HVAC equipment ducting requires any modification to allow for proper installation of roofing material.

R-45 SHEET METAL

This classification allows the licensee to install and repair:

1. Sheet metal
2. Cornices
3. Flashings
4. Gutters
5. Leaders
6. Pans
7. Kitchen equipment
8. Duct work
9. Skylights
10. Patented chimneys
11. Metal flues
12. Metal roofing systems

R-48 CERAMIC, PLASTIC AND METAL TILE

This classification allows the licensee to prepare a surface as required for the licensee to install and repair the following tile products on horizontal and vertical surfaces:

1. Ceramic
2. Clay
3. Faience
4. Metal
5. Mosaic
6. Glass mosaic
7. Paver
8. Plastic
9. Quarry and stone tiles such as marble or slate
10. Terrazzo

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- Installation of shower doors and tub enclosures are included when a part of the original contract.
- R-53 **DRILLING**
This classification allows the licensee to install and repair wells, including test boring, exploratory drilling and all materials and devices common to the industry.
- R-54 **WATER CONDITIONING EQUIPMENT**
This classification allows the licensee to perform trenching, backfilling, and grading; and install and repair piping, fittings, valves, concrete supports, and electrical control panels of less than 25 volts and required grounding devices; as required for the licensee to install and repair:
1. Water conditioning equipment
 2. Misting systems
 3. Exchange tanks
 4. Indirect waste pipe carrying brine, backwash and rinse water to the point of disposal
- R-56 **WELDING**
This classification allows the licensee to weld metals.
- R-57 **WRECKING**
This classification allows the licensee to install and repair temporary ramps, barricades, and pedestrian walkways as required for the licensee to demolish, dismantle, or remove structures not intended for reuse.
This classification does not allow the licensee to use explosives.
- R-60 **FINISH CARPENTRY**
This classification allows the licensee to install and repair millwork such as:
1. Cabinets
 2. Counter tops
 3. Case sash
 4. Door trim
 5. Metal doors
 6. Automatic door closers
 7. Wood flooring
- R-61 **CARPENTRY, REMODELING AND REPAIRS**
For projects of \$50,000 or less including labor and materials, this classification allows the licensee to perform all general remodeling, additions, replacements, and repairs to existing structures.
Work related to electrical, plumbing, air conditioning systems, and boilers must be subcontracted to an appropriately licensed contractor.
- R-62 **MINOR HOME IMPROVEMENTS**
For projects of \$5,000 or less including labor and materials, this classification allows the licensee to perform remodeling, repairs, and improvements to existing structures or appurtenances. The minor home improvement contractor shall not perform structural work to any existing structures or appurtenances, including load bearing masonry or concrete work (with the exception of on-grade flat work), and load bearing carpentry work (with the exception of patio or porch covers).
Any work related to electrical, plumbing, air conditioning systems, and boilers must be subcontracted to an appropriately licensed contractor.
- R-63 **APPLIANCES**
This classification allows the licensee to install and repair appliances.
This classification does not allow the licensee to install or repair gas, electrical, or plumbing lines.
- R-65 **GLAZING**
This classification allows the licensee to install and repair weatherproofing, caulking, sealants, and adhesives as required for the licensee to assemble, install and repair:
1. Glass products
 2. Window film
 3. Window treatments, such as blinds or shutters
 4. Steel and aluminum glass holding members
- R-67 **LOW VOLTAGE COMMUNICATION SYSTEMS**
This classification allows the licensee to build antenna towers on existing structures as required for the licensee to install, service and repair:
1. Alarm systems
 2. Telephone systems
 3. Sound systems
 4. Intercommunication systems
 5. Public addressing systems
 6. Television or video systems
 7. Low voltage signaling devices
 8. Low voltage landscape lighting that does not exceed 91 volts
 9. Master and program clocks (only low voltage wiring and needed equipment)
- R-70 **REINFORCING BAR AND WIRE MESH**
This classification allows the licensee to install and repair:
1. Reinforcing bar
 2. Post-tension
 3. Wire mesh

Historical Note

Former Rule 3. Amended effective May 20, 1975, Amended effective June 13, 1975, Amended effective August 8, 1975, Amended effective August 25, 1975 (Supp. 75-1). Amended effective January 9, 1976, subsection (B) of former Section R4-9-02 renumbered as Section R4-9-03 effective February 23, 1976 (Supp. 76-1). Amended effective March 11, 1976 (Supp. 76-2). Correction, Historical Note for Supp. 76-1 should read former Section R4-9-03 repealed, new Section R4-9-03 adopted effective February 23, 1975 (Supp. 76-4). Amended effective November 23, 1976 (Supp. 76-5). Amended effective October 14, 1977 (Supp. 77-5). C-4 and C-37 amended effective December 9, 1977 (Supp. 77-6). Correction, Historical Note for Supp. 76-4 should read former Section R4-9-03 repealed, new Section R4-9-03 adopted effective February 23, 1976 (Supp. 78-1). Amended effective September 13, 1978 (Supp. 78-5). Amended effective April 2, 1979 (Supp. 79-2). Amended effective November 21, 1979 (Supp. 79-6). Amended effective July 10, 1980 (Supp. 80-4). Amended effective July 11, 1980 (Supp. 80-4). Amended effective July 28, 1980 (Supp. 80-4). Amending effective August 15, 1980 (Supp. 80-4). Amended effective August 19, 1980 (Supp. 80-4). Amended effective September 5, 1980 (Supp. 80-5). Amended effective April 18, 1984 (Supp. 84-2). Former Section R4-9-03 renumbered without change as Section R4-9-103 (Supp. 87-3). Amended effective September 13, 1989 (Supp. 89-3). Amended effective January 20, 1998 (Supp. 98-1). Amended to correct typo-

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graphical errors (Supp. 99-4). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 2525, effective November 5, 2017 (Supp. 17-3).

R4-9-104. Dual Contractor License Classifications and Scopes of Work

A. Dual license contracting classifications. License classifications for dual contractors are as follows:

GENERAL DUAL ENGINEERING CONTRACTING

- KA- Dual Engineering
- KA-5 Dual Swimming Pool Contractor
- KA-6 Dual Swimming Pool Contractor Including Solar
- KE- (As restricted by Registrar)

GENERAL DUAL LICENSE CONTRACTING

- KB-1 Dual Building Contractor
- KB-2 Dual Residential and Small Commercial
- KO- (As restricted by Registrar)

SPECIALTY DUAL LICENSE CONTRACTING

- CR-1 Acoustical Systems
- CR-2 Excavating, Grading and Oil Surfacing
- CR-3 Awnings, Canopies, Carports and Patio Covers
- CR-4 Boilers, Steamfitting and Process Piping
- CR-5 (As restricted by Registrar)
- CR-6 Swimming Pool Service and Repair
- CR-7 Carpentry
- CR-8 Floor Covering
- CR-9 Concrete
- CR-10 Drywall
- CR-11 Electrical
- CR-12 Elevators
- CR-14 Fencing
- CR-15 Blasting
- CR-16 Fire Protection Systems
- CR-17 Steel and Aluminum Erection
- CR-21 Hardscaping and Irrigation Systems
- CR-24 Ornamental Metals
- CR-29 Machinery (As restricted by Registrar)
- CR-31 Masonry
- CR-34 Painting and Wall Covering
- CR-36 Plastering
- CR-37 Plumbing
- CR-38 Signs
- CR-39 Air Conditioning, Refrigeration and Heating
- CR-40 Insulation
- CR-41 Septic Tanks and Systems
- CR-42 Roofing
- CR-45 Sheet Metal
- CR-48 Ceramic, Plastic and Metal Tile
- CR-53 Water Well Drilling
- CR-54 Water Conditioning Equipment
- CR-56 Welding
- CR-57 Wrecking
- CR-58 Comfort Heating, Ventilating, Evaporative Cooling
- CR-60 Finish Carpentry
- CR-61 Carpentry, Remodeling and Repairs
- CR-63 Appliances
- CR-65 Glazing
- CR-66 Seal Coating
- CR-67 Low Voltage Communication Systems
- CR-69 Asphalt Paving
- CR-70 Reinforcing Bar and Wire Mesh

- CR-74 Boilers, Steamfitting and Process Piping, including Solar
- CR-77 Plumbing including Solar
- CR-78 Solar Plumbing Liquid Systems Only
- CR-79 Air Conditioning and Refrigeration including Solar
- CR-80 Sewers, Drains and Pipe Laying

B. Dual license contracting scopes. The scope of work which may be done under the dual license contracting classifications allow a contractor to combine commercial and residential contracting licenses in one license. These classifications are as follows:

KA- DUAL ENGINEERING

This classification allows the scopes of work permitted by the commercial A- General Engineering and the B-4 General Residential Engineering licenses.

KA-5 DUAL SWIMMING POOL CONTRACTOR

This classification allows the scopes of work permitted by the commercial A-9 Swimming Pools and the residential B-5 General Swimming Pool licenses.

KA-6 DUAL SWIMMING POOL CONTRACTOR INCLUDING SOLAR

This classification allows the scopes of work permitted by the commercial A-19 Swimming Pools, Including Solar and the residential B-6 General Swimming Pools, Including Solar licenses.

KE- (AS RESTRICTED BY REGISTRAR)

KB-1 DUAL BUILDING CONTRACTOR

This classification allows the scopes of work permitted by the B-1 General Commercial Contractor and the B- General Residential Contractor licenses.

KB-2 DUAL RESIDENTIAL AND SMALL COMMERCIAL

This classification allows the scopes of work permitted by the B-2 General Small Commercial and the B- General Residential Contractor licenses.

KO- (AS RESTRICTED BY REGISTRAR)

CR-1 ACOUSTICAL SYSTEMS

This classification allows the scopes of work permitted by the commercial C-1 Acoustical Systems and the residential R-1 Acoustical Systems licenses.

CR-2 EXCAVATING, GRADING AND OIL SURFACING

This classification allows the scopes of work permitted by the commercial A-5 Excavating, Grading, and Oil Surfacing and the residential R-2 Excavating, Grading, and Oil Surfacing licenses.

CR-3 AWNINGS, CANOPIES, CARPORTS AND PATIO COVERS

This classification allows the scopes of work permitted by the commercial C-3 Awnings, Canopies, Carports and Patio Covers and the residential R-3 Awnings, Canopies, Carports and Patio Covers licenses.

CR-4 BOILERS, STEAMFITTING AND PROCESS PIPING

This classification allows the scopes of work permitted by the commercial C-4 Boilers, Steamfitting and Process Piping and the residential R-4 Boilers, Steamfitting and Process Piping licenses.

CR-5 (AS RESTRICTED BY REGISTRAR)

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- CR-6 SWIMMING POOL SERVICE AND REPAIR
This classification allows the scopes of work permitted by the commercial C-6 Swimming Pool Service and Repair and the residential R-6 Swimming Pool Service and Repair licenses.
- CR-7 CARPENTRY
This classification allows the scopes of work permitted by the commercial C-7 Carpentry and the residential R-7 Carpentry licenses.
- CR-8 FLOOR COVERING
This classification allows the scopes of work permitted by the commercial C-8 Floor Covering and the residential R-8 Floor Covering licenses.
- CR-9 CONCRETE
This classification allows the scopes of work permitted by the commercial C-9 Concrete and the residential R-9 Concrete licenses.
- CR-10 DRYWALL
This classification allows the scopes of work permitted by the commercial C-10 Drywall and the residential R-10 Drywall licenses.
- CR-11 ELECTRICAL
This classification allows the scopes of work permitted by the commercial C-11 Electrical and residential R-11 Electrical licenses.
- CR-12 ELEVATORS
This classification allows the scopes of work permitted by the commercial C-12 Elevators and the residential R-12 Elevators licenses.
- CR-14 FENCING
This classification allows the scopes of work permitted by the commercial C-14 Fencing and the residential R-14 Fencing licenses.
- CR-15 BLASTING
This classification allows the scopes of work permitted by the commercial C-15 Blasting and the residential R-15 Blasting licenses.
- CR-16 FIRE PROTECTION SYSTEMS
This classification allows the scopes of work permitted by the commercial C-16 Fire Protection Systems and the residential R-16 Fire Protection licenses.
- CR-17 STEEL AND ALUMINUM ERECTION
This classification allows the scopes of work permitted by the commercial A-11 Steel and Aluminum Erection and the residential R-17 Structural Steel and Aluminum licenses.
- CR-21 HARDSCAPING AND IRRIGATION SYSTEMS
This classification allows the scopes of work permitted by the commercial C-21 Hardscaping and Irrigation Systems and the residential R-21 Hardscaping and Irrigation Systems licenses.
Upon the effective date of these rules, existing CR-21 Landscaping and Irrigation Systems licenses will be reclassified as CR-21 Hardscaping and Irrigation Systems.
- CR-24 ORNAMENTAL METALS
This classification allows the scopes of work permitted by the commercial C-24 Ornamental Metals and the residential R-24 Ornamental Metals licenses.
- CR-29 MACHINERY (AS RESTRICTED BY THE REGISTRAR)
- CR-31 MASONRY
This classification allows the scopes of work permitted by the commercial C-31 Masonry and the residential R-31 Masonry licenses.
- CR-34 PAINTING AND WALL COVERING
This classification allows the scopes of work permitted by the commercial C-34 Painting and Wall Covering and the residential R-34 Painting and Wall Covering licenses.
- CR-36 PLASTERING
This classification allows the scopes of work permitted by the commercial C-36 Plastering and the residential R-36 Plastering licenses.
- CR-37 PLUMBING
This classification allows the scopes of work permitted by the commercial C-37 Plumbing and the residential R-37R Plumbing licenses.
- CR-38 SIGNS
This classification allows the scopes of work permitted by the commercial C-38 Signs and the residential R-38 Signs licenses.
- CR-39 AIR CONDITIONING AND REFRIGERATION
This classification allows the scopes of work permitted by the commercial C-39 Air Conditioning and Refrigeration and the residential R-39R Air Conditioning and Refrigeration licenses.
- CR-40 INSULATION
This classification allows the scopes of work permitted by the commercial C-40 Insulation and the residential R-40 Insulation licenses.
- CR-41 SEPTIC TANKS AND SYSTEMS
This classification allows the scopes of work permitted by the commercial C-56 Welding and the residential R-56 Welding licenses.
- CR-42 ROOFING
This classification allows the scopes of work permitted by the commercial C-42 Roofing and the residential R-42 Roofing licenses.
- CR-45 SHEET METAL
This classification allows the scopes of work permitted by the commercial C-45 Sheet Metal and the residential R-45 Sheet Metal licenses.
- CR-48 CERAMIC, PLASTIC AND METAL TILE
This classification allows the scopes of work permitted by the commercial C-48 Ceramic, Plastic and Metal Tile and the residential R-48 Ceramic, Plastic and Metal Tile licenses.
- CR-53 WATER WELL DRILLING
This classification allows the scopes of work permitted by the commercial C-53 Water Well Drilling and the residential R-53 Drilling licenses.
- CR-54 WATER CONDITIONING EQUIPMENT
This classification allows the scopes of work permitted by the commercial C-54 Water Conditioning Equipment and the residential R-54 Water Conditioning Equipment licenses.

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CR-56 WELDING

This classification allows the scopes of work permitted by the commercial C-56 Welding and the residential R-56 Welding licenses.

CR-57 WRECKING

This classification allows the scopes of work permitted by the commercial C-57 Wrecking and the residential R-57 Wrecking licenses.

CR-58 COMFORT HEATING, VENTILATING, EVAPORATIVE COOLING

This classification allows the scopes of work permitted by the commercial C-58 Comfort Heating, Ventilating, Evaporative Cooling and the residential R-39R Warm Air Heating, Evaporative Cooling, and Ventilating licenses.

CR-60 FINISH CARPENTRY

This classification allows the scopes of work permitted by the commercial C-60 Finish Carpentry and the residential R-60 Finish Carpentry licenses.

CR-61 CARPENTRY, REMODELING AND REPAIRS

This classification allows the scopes of work permitted by the commercial C-61 Carpentry, remodeling and Repairs and the residential R-61 Carpentry, remodeling and Repairs licenses.

CR-62 REINFORCING BAR AND WIRE MESH

Upon the effective date of these rules, no new applications for the CR-62 Reinforcing Bar and Wire Mesh license classifications will be accepted, no new CR-62 licenses will be issued, and existing CR-62 licenses will be reclassified as CR-70 Reinforcing Bar and Wire Mesh.

CR-63 APPLIANCES

This classification allows the scopes of work permitted by the commercial C-63 Appliances and the residential R-63 Appliances licenses.

CR-65 GLAZING

This classification allows the scopes of work permitted by the commercial C-65 Glazing and the residential R-65 Glazing licenses.

CR-66 SEAL COATING

This classification allows the scopes of work permitted by the commercial A-15 Seal Coating and the residential R-13 Asphalt Paving licenses.

CR-67 LOW VOLTAGE COMMUNICATION SYSTEMS

This classification allows the scopes of work permitted by the commercial C-67 Low Voltage Communication Systems and the residential R-67 Low Voltage Communication Systems licenses.

CR-69 ASPHALT PAVING

This classification allows the scopes of work permitted by the commercial A-14 Asphalt Paving and the residential R-13 Asphalt Paving licenses.

CR-70 REINFORCING BAR AND WIRE MESH

This classification allows the scope of work permitted by the commercial C-70 Reinforcing Bar and Wire Mesh and the residential R-70 Reinforcing Bar and Wire Mesh licenses.

CR-74 BOILERS, STEAMFITTING AND PROCESS PIPING, INCLUDING SOLAR

This classification allows the scopes of work permitted by the commercial C-74 Boilers, Steamfitting and Process Piping, Including Solar and the residential R-4 Boilers Including Solar licenses.

CR-77 PLUMBING INCLUDING SOLAR

This classification allows the scopes of work permitted by the commercial C-77 Plumbing Including Solar and the residential R-37 Plumbing Including Solar licenses.

CR-78 SOLAR PLUMBING LIQUID SYSTEMS ONLY

This classification allows the scopes of work permitted by the commercial C-78 Solar Plumbing Liquid Systems Only and the residential R-37R Solar Plumbing Liquid Systems Only licenses.

CR-79 AIR CONDITIONING AND REFRIGERATION INCLUDING SOLAR

This classification allows the scopes of work permitted by the commercial C-79 Air Conditioning and Refrigeration Including Solar and the residential R-39 Air Conditioning and Refrigeration Including Solar licenses.

CR-80 SEWERS, DRAINS AND PIPE LAYING

This classification allows the scopes of work permitted by the commercial A-12 Sewers, Drains, and Pipe Laying and the residential R-37R Sewers, Drains and Pipe Laying licenses.

Historical Note

Former Section R4-9-04 repealed, new Section R4-9-04 adopted effective February 23, 1976 (Supp. 76-1). Amended effective April 18, 1984 (Supp. 84-2). Amended subsection (A) effective July 9, 1987 (Supp. 87-3). Former Section R4-9-04 renumbered as Section R4-9-104 (Supp. 87-3). Former Section R4-9-104 renumbered to R4-9-105 and amended; new Section R4-9-104 adopted effective January 20, 1998 (Supp. 98-1). Amended to correct typographical errors (Supp. 99-4). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 2525, effective November 5, 2017 (Supp. 17-3).

R4-9-105. Restricted License Classifications

- A. A restricted license is a specialty or general license that confines the scope of allowable contracting work to a specialized area of construction which the Registrar of Contractors grants on a case-by-case basis. The restricted licenses classifications are KE, KO, CR-5 or CR-29. The Registrar assigns a restricted license classification based upon the nature and complexity of the work, the degree of unusual expertise involved and the applicability of existing classifications to the specialized area of construction.
- B. When applying for a restricted license classification an applicant, if requested, shall submit to the Registrar the following:
 1. A detailed statement of the type and scope of contracting work that the applicant proposes to perform.
 2. Any brochures, catalogs, photographs, diagrams, or other material, which the applicant has, that will further clarify the scope of the work that the applicant proposes to perform.
- C. The Registrar shall determine the classification of the restricted license and notify the applicant of the classification. The applicant must then apply for the restricted license according to the Registrar of Contractor's application process in accordance with A.R.S. § 32-1122.

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- D. A contractor issued a restricted license shall confine the contractor's activities to the field and scope of operations as described in the license classification.

Historical Note

Former Section R4-9-05 repealed, new Section R4-9-05 adopted effective February 23, 1976 (Supp. 76-1).

Amended effective July 9, 1987 (Supp. 87-3). Former Section R4-9-05 renumbered without change as Section R4-9-105 (Supp. 87-3). Former Section R4-9-105 renumbered to R4-9-106 and amended; new Section R4-9-105 renumbered from R4-9-104 and amended effective January 20, 1998 (Supp. 98-1). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1).

R4-9-106. Examinations**A. Definitions.**

1. *Business Management Examination.* The term "business management examination" means the examination required in A.R.S. § 32-1122(E)(2) addressing the qualifying party's general knowledge of the contracting business in Arizona. The business management examination addresses the qualifying party's general knowledge of:
 - a. The building, safety, health, and lien laws of the state;
 - b. Administrative principles of the contracting business;
 - c. The rules adopted by the Registrar; and
 - d. Any other matters deemed appropriate by the Registrar to determine that the qualifying party meets the requirements of Chapter 10, Title 32.
2. *Trade Examination.* The term "trade examination" means the examination required in A.R.S. § 32-1122(E)(2) addressing the qualifying party's knowledge of the particular kind of work performed in the license classification. The trade examination addresses the qualifying party's:
 - a. Qualification in the kind of work for which the applicant proposes to contract;
 - b. Knowledge and understanding of construction plans and specifications applicable to the particular industry or craft;
 - c. Knowledge and understanding of the standards of construction work and techniques and practices in the particular industry or craft;
 - d. General understanding of other related construction trades; and
 - e. Any other matters deemed appropriate by the Registrar to determine that the qualifying party meets the requirements of Chapter 10, Title 32.

- B. *Frequency of Examinations.* The Registrar, or a contracted private testing service, must administer business examinations and trade examinations at least once a week.

- C. *Passing Grade.* On each required examination, the qualifying party must receive a grade of at least 70%.

- D. *Retaking Examinations after Failure.* If the qualifying party fails to receive a grade of at least 70% on an examination, the qualifying party may retake the examination only after waiting:
 1. 30 calendar days from the first failure;
 2. 30 calendar days from the second failure; and
 3. 180 days from any other failure.

- E. *Waiver of the Trade Examination Requirement in A.R.S. § 32-1122.*

1. *Waiver of Examination Requirement for a Qualifying Party from Another State.*

- a. *Authority for Waiver.* In addition to the Registrar's authority in A.R.S. § 32-1122(E) to waive the examination requirement for a qualifying party in this state, the Registrar may waive the trade examination requirement for the qualifying party for a licensee in another state.

- b. *Conditions for Waiver.* The Registrar may waive the trade examination requirement if records reflect that the qualifying party is currently or has previously been a qualifying party for a licensee in the other state in the same classification, or in a comparable classification, within the preceding five years.

2. *Extent of Waiver of Trade Examination Requirement for Any Qualifying Party. Waiver of Trade Examination Permitted.* The Registrar may waive the trade examination requirement with respect to the trade examination if:
 - a. A qualifying party for a license in this state meets the conditions for waiver in A.R.S. § 32-1122(E); or
 - b. A qualifying party for a license in another state meets the conditions for waiver in Section (E)(1) of this Rule.

Historical Note

New Section R4-9-106 renumbered from R4-9-105 and amended effective January 20, 1998 (Supp. 98-1).

Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 2525, effective November 5, 2017 (Supp. 17-3).

R4-9-107. Classifying and Reclassifying Contractor Licenses

- A. In accordance with A.R.S. § 32-1105 and 32-1122, the Registrar may establish, add to, take away from, or eliminate license classifications.
- B. Where a license classification is eliminated, but the Registrar determines a comparable license classification remains, the Registrar shall reclassify the eliminated licenses with the remaining license classification.
- C. The following license reclassifications are effective July 1, 2014.

Prior License	New License
A-3 Blasting	CR-15 Blasting
C-15 Blasting	
A-21 Landscaping and Irrigation Systems	CR-21 Landscaping and Irrigation Systems
L-26 Landscaping	
L-44 Irrigation Systems	
C-21 Landscaping and Irrigation Systems	
C-21R Landscaping	
C-21R Irrigation Systems	
K-26 Landscaping	
K-44 Irrigation Systems	
AE (As Restricted by the Registrar)	KE (As Restricted by the Registrar)
BE (As Restricted by the Registrar)	KO (As Restricted by the Registrar)

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L-1 Acoustical Systems	CR-1 Acoustical Systems	C-17R Steel Floor, Sub Floor and Form Systems	R-17 Structural Steel and Aluminum
C-1 Acoustical Systems		C-17R Tanks	
L-3 Awnings, Canopies, Carports and Patio Covers	CR-3 Awnings, Canopies, Carports and Patio Covers	C-17R Recreational Equipment	
C-3 Awnings and Canopies		L-29 Machinery (As Restricted by the Registrar)	CR-29 Machinery (As Restricted by the Registrar)
L-5 (As Restricted by the Registrar)	CR-5 (As Restricted by the Registrar)	C-29 Machinery (As Restricted by the Registrar)	
C-5 (As Restricted by the Registrar)		L-31 Masonry	CR-31 Masonry
L-7 Carpentry	CR-7 Carpentry	C-31 Masonry	
C-7 Carpentry		C-31R Flagstone	
C-7R Doors, Gates, Windows and Accessories		C-31R Stone Masonry	
C-7R Removable Formwork and Shoring		L-34 Painting and Wall Covering	CR-34 Painting and Wall Covering
C-7R Nailing and Stapling		C-34 Painting and Wall Covering	
L-8 Floor Covering		C-34R Surface Preparation and Waterproofing	
L-13 Carpets		C-34R Wallpaper	
L-64 Wood Floor Laying and Finishing		L-36 Plastering	CR-36 Plastering
C-8 Floor Covering		C-36 Plastering	
C-8R Wood Flooring		C-36R Swimming Pool Plastering	
C-8R Carpet	CR-8 Floor Covering	C-36R Lathing	
C-8R Composition Flooring		L-38 Sign	CR-38 Signs
C-8R Nonconventional Floor Covering		C-38 Signs	
C-8R Ceramic and Clay Floor Covering		L-40 Insulation	CR-40 Insulation
K-13 Carpet		C-40 Insulation	
K-64 Wood Floor Laying and Finishing		C-40R Foam Insulation	
C-9R Guniting and Shotcrete		L-41 Septic Tanks and Systems	CR-41 Septic Tanks and Systems
C-9R Lightweight Concrete		C-41 Sewage Treatment Systems	
C-9R Fence Footings	R-9 Concrete	C-41R Precast Waste Treatment Systems	
C-9R PreCast Concrete		L-42 Roofing	
C-9R Sawing, Coring, Epoxy Panels and Bonding		C-42 Roofing	CR-42 Roofing
C-9R Terrazzo		C-42R Foam and Foam Panel Roofing	
L-10 Drywall	CR-10 Drywall	C-42R Liquid Applied Roofing	
C-10 Drywall		C-42R Roofing Shingles and Shakes	
L-12 Elevators	CR-12 Elevators	L-45 Sheet Metal	CR-45 Sheet Metal
C-18 Elevators		C-45 Sheet Metal	
C-13R Asphalt Coating and Parking Appurtenances	R-13 Asphalt Paving	C-45R Premanufactured Fire Places	
L-14 Fencing	CR-14 Fencing	L-48 Ceramic, Plastic and Metal Tile	CR-48 Ceramic, Plastic and Metal Tile
C-14 Fencing		C-48 Ceramic, Plastic and Metal Tile	
C-14R Fencing Other Than Masonry		C-48R Swimming Pool Tile	
C-16R CO2, Dry and Wet Chemical Systems	R-16 Fire Protection Systems	L-54 Water Conditioning Equipment	CR-54 Water Conditioning Equipment
L-24 Ornamental Metals	CR-24 Ornamental Metals	C-37R Water Conditioning Equipment	
C-17R Ornamental Metals		L-56 Welding	CR-56 Welding
		C-17R Welding	
		L-57 Wrecking	CR-57 Wrecking
		C-22R Wrecking	

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L-60 Finish Carpentry	CR-60 Finish Carpentry
C-30 Finish Carpentry	
C-30R Kitchen and Bathroom Components	
C-30R Doors, Windows, Gates, Tub and Shower Enclosures	
C-30R Cultured Marble	
C-30R Weatherstripping	
L-61 Carpentry, Remodeling and Repairs	CR-61 Carpentry, Remodeling and Repairs
C-61 Limited Remodeling and Repair Contractor	
C-68 Mobile Home Remodeling and Repair	
L-62 Reinforcing Bar and Wire Mesh	CR-62 Reinforcing Bar and Wire Mesh
C-17R Rebar and Wire Mesh	
L-63 Appliances	CR-63 Appliances
C-63 Appliances	
L-65 Glazing	CR-65 Glazing
C-65 Glazing	
C-65R Skylights	
C-65R Storm Windows and Doors	
C-65R Mirrors	
C-65R Window Treatment	
L-67 Low Voltage Communications Systems	CR-67 Low Voltage Communication Systems
C-12 Low Voltage Communication Systems	

Historical Note

Former Rule 7. Former Section R4-9-07 repealed, new Section R4-9-07 adopted effective February 23, 1976 (Supp. 76-1). Former Section R4-9-07 repealed, new Section R4-9-07 adopted effective April 18, 1984 (Supp. 84-2). Former Section R4-9-07 renumbered without change as Section R4-9-107 (Supp 87-3). Repealed effective October 22, 1992 (Supp. 92-4). New Section R4-9-107 made by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1).

R4-9-108. Workmanship Standards

- A.** A contractor shall perform all work in a professional and workmanlike manner.
- B.** A contractor shall perform all work in accordance with any applicable building codes and professional industry standards. For work to be performed in accordance with professional industry standards, a contractor shall use such skills, prudence, and diligence in performing and completing tasks undertaken that the completed work meets the standards of a similarly licensed contractor possessing ordinary skill and capacity.
- C.** All work performed by a contractor in a county, city, or town that has not adopted building codes or where any adopted building codes do not contain specific provisions applicable to that aspect of construction work shall be performed in accordance with professional industry standards.

Historical Note

Former Rule 8. Former Section R4-9-08 repealed, new Section R4-9-08 adopted effective February 23, 1976 (Supp. 76-1). Amended effective October 18, 1979

(Supp. 79-5). Amended subsection (C) effective April 23, 1981 (Supp. 81-2). Amended subsection (C) effective April 18, 1984 (Supp. 84-2). Former Section R4-9-08 renumbered without change as Section R4-9-108 (Supp. 87-3). Amended effective April 20, 1993 (Supp. 93-2). Amended effective January 20, 1998 (Supp. 98-1). Amended by final rulemaking at 9 A.A.R. 5028, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 2525, effective November 5, 2017 (Supp. 17-3).

R4-9-109. Name of Licensee or Applicant**A. Definitions.**

- Official Name of Record.** The term "official name of record" means either:
 - The name of the licensee on file at the Arizona Corporation Commission, if the licensee is a corporation or a limited liability company;
 - The name of the licensee on file at the Secretary of State's Office, if the licensee is a partnership; or
 - The name of the licensee on a government-issued identification card, if the licensee is an individual operating as a sole proprietorship.
- Trade Name and DBA.** The terms "trade name" and "DBA" each mean the name in which the licensee actually does business as a contractor.

B. General Rules about the Licensee's Name.

- Names on a License.** On any license issued by the Registrar, the Registrar must include:
 - The licensee's official name of record, and
 - Any trade name used with that license.
- Name on the Bond.** Every name on the licensee's license must be on the license bond exactly as it appears on the license.
- Licensee's Name and the License Scope.** Neither a licensee's official name of record nor its trade name may include, reference, or suggest a scope of work that is not included in the scope of the license issued by the Registrar. This prohibition does not apply if:
 - The licensee holds a separate license with a scope that is included, referenced, or suggested by the licensee's name; or
 - The licensee:
 - Does not use the official name of record to do business as a contractor, and
 - Uses instead a trade name that does not include, reference, or suggest a scope of work that is not included in the scope of the license.
- Conducting Business Using a Name on the License.** Any time a licensee conducts business in Arizona as a contractor, the licensee must conduct that business using either the official name of record or the trade name on the license issued by the Registrar.

C. Rules about the Licensee's Name at the Time of a License Application.

- Evidence of Official Name of Record.** When applying for a license, the applicant must provide the Registrar with satisfactory evidence of the applicant's official name of record.
- Applicant's Name as Basis for Denial.** The Registrar may deny an application for a license if:
 - The issued license would violate this Rule; or
 - Conducting business as a contractor using any name on the license would, under A.R.S. § 32-

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1154(A)(15), constitute any false, misleading, or deceptive advertising whereby any member of the public may be misled and injured.

- D.** Rules about the Licensee's Request to Change Its Name on a License. If a licensee requests in writing that the Registrar change one or more names on a license, the Registrar must grant the request if:

1. There has been No change in the legal form of the licensee;
2. There has been No change in the ownership of the licensee;
3. The licensee provides a bond rider;
4. Every requested name is printed on the bond rider exactly;
5. The licensee provides the fee for the name change; and
6. The requested name does not violate this Rule or any provision in Chapter 10, Title 32.

Historical Note

Former Rule 9. Former Section R4-9-09 repealed, new Section R4-9-09 adopted effective February 23, 1976 (Supp. 76-1). Amended effective September 27, 1976 (Supp. 76-4). Amended subsections (B), (C), and (D) effective April 18, 1984 (Supp. 84-2). Former Section R4-9-09 renumbered without change as Section R4-9-109 (Supp. 87-3). Amended by final rulemaking at 10 A.A.R. 5185, effective February 5, 2005 (04-4). Amended by final rulemaking at 23 A.A.R. 2525, effective November 5, 2017 (Supp. 17-3).

R4-9-110. Change of Legal Entity and Cancellation of License

- A.** Pursuant to A.R.S. § 32-1124, licenses are nontransferable. A new license is required whenever the licensee's legal entity changes. A change in legal entity includes, but is not limited to:
1. Changes in ownership of a sole proprietorship;
 2. Change of a controlling partner in a partnership;
 3. Changing from one corporate entity to a different corporate entity;
 4. Changing business entities, regardless of whether ownership changes, (e.g. from a corporation or a sole proprietor to a limited liability company); or
 5. Merging with another business, where the business holding the license becomes the inactive business after the merger.
- B.** A license may be cancelled upon the written request of the owner of a sole proprietorship, a controlling partner of a partnership, or in the case of a corporation or a limited liability company any person with written evidence of authority to cancel the license.

Historical Note

Former Rule 10. Former Section R4-9-10 repealed, new Section R4-9-10 adopted effective February 23, 1976 (Supp. 76-1). Former Section R4-9-10 renumbered without change as Section R4-9-110 (Supp. 87-3). Amended by final rulemaking at 10 A.A.R. 5185, effective February 5, 2005 (04-4). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1).

R4-9-111. Opting Out of Dual License Classifications

- A.** Unless prohibited by another rule, if a contractor holds a dual license, then that contractor may, at the time of the license's renewal, choose:
1. To retain the dual license;
 2. To designate the license as commercial; or
 3. To designate the license as residential.

- B.** If a license is designated as either commercial or residential under this Rule, that designation is permanent.

Historical Note

Former Rule 11. Former Section R4-9-11 repealed effective February 23, 1976 (Supp. 76-1). Adopted effective July 26, 1976 (Supp. 76-4). Amended effective April 18, 1979 (Supp. 84-2). Correction: Previous Historical Note should read: "Amended effective April 18, 1984"; Former Section R4-9-11 renumbered without change as Section R4-9-111 (Supp. 87-3). Repealed effective January 20, 1998 (Supp. 98-1). New Section made by final rulemaking at 23 A.A.R. 2525, effective November 5, 2017 (Supp. 17-3).

R4-9-112. Bond Limits; Applications; Renewals; Increases and Decreases of Bond Amounts; Effective Date of Bond and Deposits

- A.** Bond limits. In accordance with the provisions of A.R.S. § 32-1152, license bonds are established in the following amounts, based upon the estimated annual volume of work anticipated by the contractor within the State of Arizona for the ensuing fiscal year:

License Category	Estimated Annual Volume (Per License Category)	Bond Amount
1. General Commercial Contracting and Engineering Contracting	Less than \$150,000	\$5,000
	\$150,000 or more, but less than \$500,000	\$15,000
	\$500,000 or more, but less than \$1,000,000	\$25,000
	\$1,000,000 or more, but less than \$5,000,000	\$50,000
	\$5,000,000 or more, but less than \$10,000,000	\$75,000
2. Specialty Commercial Contracting	\$10,000,000 or more	\$100,000
	Less than \$150,000	\$2,500
	\$150,000 or more, but less than \$500,000	\$7,000
	\$500,000 or more, but less than \$1,000,000	\$17,500
	\$1,000,000 or more, but less than \$5,000,000	\$25,000
	\$5,000,000 or more, but less than \$10,000,000	\$37,500
	\$10,000,000 or more	\$50,000

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3. General Residential Contracting

Less than \$750,000	\$9,000
\$750,000 or more	\$15,000

4. Specialty Residential Contracting

Less than \$375,000	\$4,250
\$375,000 or more	\$7,500

5. General Dual License Contracting. The amount of a General Dual License Contracting bond is determined under subsection (A)(3), based on the contractor's estimated volume of general residential contracting, and subsection (A)(1), based on the contractor's estimated volume of general commercial contracting. The contractor shall ensure that the bond issuer separately specifies on the bond the bond amounts applicable to general residential contracting and general commercial contracting.

6. Specialty Dual License Contracting. The amount of a Specialty Dual License Contracting bond is determined under subsection (A)(4), based on the contractor's estimated volume of specialty residential contracting, and subsection (A)(2), based on the contractor's estimated volume of specialty commercial contracting. The contractor shall ensure that the bond issuer separately specifies on the bond the bond amounts applicable to specialty residential contracting and specialty commercial contracting.

B. New licenses. On an application for a new license for any license category listed above, an applicant shall estimate the applicant's annual volume of work within the state of Arizona and comply with the bond requirements of this Section for the relevant category of license. The Registrar considers the filing of a bond or deposit in a specified amount to be the equivalent of submitting a volume estimate within the dollar limitations applicable for the bond amount.

C. Renewal. To renew a license an applicant shall complete a form provided by the Registrar of Contractors. If the contractor files a new bond or continues a bond or deposit in a specified amount, the Registrar considers these actions to be the equivalent of submitting a volume estimate within the dollar limitations applicable for the bond amount. The Registrar of Contractors is not responsible for over or under estimates of volume of work made by the licensee or for the sufficiency of any bond or deposit. The Registrar considers a gross underestimate knowingly made by a licensee to be a material misrepresentation, which can subject the licensee to suspension or revocation of license.

D. Increases and decreases of bond amounts. Based on the actual amount of the contractor's gross volume of work, a contractor may increase the bond amount at any time. A surety bond or cash deposit in lieu of a bond cannot be decreased except at the time of license renewal.

E. Effective date of bonds and deposits. A license bond or cash deposit is not effective until the licensee files it at a Registrar of Contractors office. If a license bond is filed before the effective date indicated on the bond, the bond becomes effective on the indicated date.

F. The changes to bond amounts made in this Section become enforceable on the next license renewal after June 30, 2014.

Historical Note

Former Rule 12. Former Section R4-9-12 repealed, new Section R4-9-12 adopted effective February 23, 1976 (Supp. 76-1). Amended effective October 17, 1978 (Supp. 78-5). Amended subsection (C) effective August 15, 1980 (Supp. 80-4). Amended subsections (A), (B), and (C) effective July 9, 1987; former Section R4-9-12 renumbered as Section R4-9-112 (Supp. 87-3). Amended effective January 20, 1998 (Supp. 98-1). Amended by final rulemaking at 10 A.A.R. 5185, effective February 5, 2005 (04-4). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1).

R4-9-113. Application Process**A. Time Frames for New Licenses.**

1. Overall Time Frame for Issuing New Licenses. When deciding whether to grant or deny a new contractor's license, the Registrar must operate within an overall time frame of 60 calendar days.
2. Administrative Completeness Review Time Frame. During the overall time frame of 60 calendar days, the Registrar must perform the administrative completeness review within 20 days.
3. Substantive Review Time Frame. During the overall time frame of 60 calendar days, the Registrar must perform the substantive review within 40 days.

B. Return of License Application.

1. Registrar's Right to Return Application. The Registrar may return an application if the Registrar:
 - a. Issues either:
 - i. A written notice of deficiencies under A.R.S. § 41-1074; or
 - ii. A comprehensive written request for additional information under A.R.S. § 41-1075; and
 - b. Does not receive within 30 calendar days information sufficiently responsive to either the notice or the request.
2. Consequences for Fees. If the Registrar returns an application, then:
 - a. The applicant forfeits the application fee; but
 - b. The Registrar must return all other license fees.
3. Resubmission Requires New Fee. If the applicant resubmits a license application that has been returned, then the applicant must pay a new application fee.

C. Withdrawal of the License Application.

1. Applicant's Right to Withdraw. An applicant may withdraw its license application at any time.
2. Written Request. The applicant's request for withdrawal must be in writing.
3. Consequences for Fees. If the applicant withdraws its application, then:
 - a. The applicant forfeits the application fee; but
 - b. The Registrar must return all other license fees.

Historical Note

Adopted effective January 20, 1998 (Supp. 98-1). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 2525, effective November 5, 2017 (Supp. 17-3).

R4-9-114. Reserved**R4-9-115. Posting**

A. Expiration of Posting Period. The Registrar cannot issue a license until the posting period required by A.R.S. § 32-1104(C)

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expires, unless the Registrar waives the requirement as provided in that statute or in this Rule.

- B. Additional Waiver.** In addition to the waiver permitted in A.R.S. § 32-1104(C) for the applicant and the qualifying party, the Registrar may also waive part of the posting period if all other personnel named on the application for the license have previously been posted for some other license.
- C. Website Publication.** The Registrar may satisfy the posting requirement in A.R.S. § 32-1104(C) by publication on the Registrar's website.

Historical Note

Former Rule 15. Former Section R4-9-15 repealed, new Section R4-9-15 adopted effective February 23, 1976 (Supp. 76-1). Former Section R4-9-15 renumbered without change as Section R4-9-115 (Supp. 87-3). Amended by final rulemaking at 10 A.A.R. 5185, effective February 5, 2005 (04-4). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 2525, effective November 5, 2017 (Supp. 17-3).

R4-9-116. License Renewal

- A.** To renew a license, a licensee shall submit the following information to the Registrar and advise the Registrar of any change in the information within 30 days of the change:
 1. If the licensee is a corporation or a limited liability company, evidence that the entity is in good standing with the Arizona Corporation Commission.
 2. The licensee's current privilege license number, issued under A.R.S. § 42-5005.
- B.** A licensee shall renew each license on or before the renewal date. Failure to comply results in suspension of the license on the day following the renewal date by operation of law. The Registrar shall collect a \$50.00 late fee if renewal is completed after the renewal date. Based on the severity of the violation, the Registrar may refuse to renew a license after determining that a licensee has committed or been found guilty of any act listed in A.R.S. § 32-1154(A).
- C.** To renew a contracting license, a licensee shall submit an application for renewal to the Registrar, accompanied by the required renewal fee. Timely submission of an application is evidenced by the date stamped on the documents by the Registrar or the date on "postage prepaid" documents if the submission is deposited in the United States mail, postage prepaid, on or before the renewal date. Timely submission authorizes the licensee to operate as a contractor until actual issuance of the renewal license.
- D.** If a license has been suspended by operation of law for failure to renew, a licensee may still renew the license within one year of its suspension by submitting an application for renewal and paying the applicable renewal fee and a \$50.00 late fee. If a license has been suspended for one or more years for failure to renew, the license shall expire and the former licensee must submit an application for a new license.

Historical Note

Former Rule 16. Former Section R4-9-16 repealed, new Section R4-9-16 adopted effective February 23, 1976 (Supp. 76-1). Amended effective October 14, 1977 (Supp. 77-5). Amended effective October 26, 1978 (Supp. 78-5). Amended effective April 18, 1984 (Supp. 84-2). Former Section R4-9-16 renumbered without change as Section R4-9-116 (Supp. 87-3). Amended by final rulemaking at 10 A.A.R. 5185, effective February 5,

2005 (04-4). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1).

R4-9-117. Prior Record

In determining the appropriate discipline for a licensed contractor, the Administrative Law Judge and the Registrar may consider not only facts in the current case, but also facts in prior cases and any documents regarding the contractor on file with the Registrar.

Historical Note

Former Rule 17. Former Section R4-9-17 repealed, new Section R4-9-17 adopted effective February 23, 1976 (Supp. 76-1). Former Section R4-9-17 renumbered without change as Section R4-9-117 (Supp. 87-3). Amended by final rulemaking at 9 A.A.R. 3182, effective August 30, 2003 (Supp. 03-3). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 2525, effective November 5, 2017 (Supp. 17-3).

R4-9-118. Prehearing Disclosure Requirement

- A. Disclosure Statement.** Before the hearing, a party must prepare a disclosure statement. The disclosure statement must contain:
 1. A list of all the witnesses the party will call to testify, including the witnesses' contact information and a brief description of the subject matter of the witnesses' expected testimony; and,
 2. A list of all the exhibits that the party will use at the hearing.
- B. Exchanging Disclosure Statements and Exhibits.**
 1. Contents. A party to the hearing must serve on every other party and file with the Office of Administrative Hearings a copy of:
 - a. The disclosure statement; and,
 - b. Any exhibit that the party will use at the hearing.
 2. Manner of Service and Filing. The service and filing requirement in (B)(1) of this section must be performed in accordance with Arizona Administrative Code R2-19-108 Filing Documents.
 3. Timing of Service and Filing. The disclosure statement and the exhibits must be served and filed not less than seven calendar days before the date of the hearing.
- C. Consequences for Failing to Disclose.**
 1. Administrative Law Judge's Discretion. If a witness or an exhibit was not timely disclosed as required under subsection (B) of this Rule, and good cause for the failure to disclose is not shown then the administrative law judge may:
 - a. Order that certain witnesses or exhibits not be used at the hearing;
 - b. Order that a particular fact is or is not established for the record; or,
 - c. Order that a charge, a defense, a claim, or some portion thereof, be dismissed.
 2. Administrative Record. Nothing in this Rule prohibits the administrative law judge from considering anything contained in the administrative record

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2525, effective November 5, 2017 (Supp. 17-3).

R4-9-119. Reserved**R4-9-120. Rehearing or Review of Decision**

- A.** The Registrar of Contractors shall provide an opportunity for a rehearing or review of its decisions on a hearing under A.R.S. Title 41, Chapter 6, Article 10 and the rules established by the Office of Administrative Hearings.

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- B. Except as provided in subsection (F), any party who is aggrieved by the decision on a hearing in a contested case or appealable agency action before the Registrar of Contractors may file with the Registrar of Contractors a written motion for rehearing or review of the decision specifying the particular grounds for the rehearing or review.
- C. The Registrar of Contractors may grant a rehearing or review of a decision for any of the following causes materially affecting the moving party's rights:
1. Irregularity in the proceedings of the Registrar of Contractors or the Administrative Law Judge, or any order or abuse of discretion that deprived the moving party of a fair hearing;
 2. Misconduct of the Registrar of Contractors, Office of Administrative Hearings, Administrative Law Judge, or prevailing party;
 3. Accident or surprise that could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
 5. Excessive or insufficient penalties;
 6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing or during the progress of the proceeding; or
 7. The decision is not justified by the evidence or is contrary to law.
- D. The Registrar of Contractors may affirm or modify a decision on a hearing or grant a rehearing or review to all or any of the parties on all or part of the issues for any of the reasons in subsection (C). After giving the parties notice and an opportunity to be heard, the Registrar of Contractors may grant a motion for rehearing for a reason not stated in the motion. An order modifying a decision or granting a rehearing shall specify the particular ground for the order. A rehearing shall cover only the matter specified in the order.
- E. Not later than 35 days after the date of a decision, and after giving the parties notice and an opportunity to be heard, the Registrar of Contractors may, on its own initiative, order a rehearing or review of its decision on a hearing for any reason for which it might have granted relief on motion of a party.
- F. If the Registrar of Contractors makes a specific finding that the immediate effectiveness of a decision on a hearing is necessary for the preservation of the public health, safety, or welfare and that a rehearing or review of the decision on a hearing is impracticable, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision on a hearing is issued as a final decision without an opportunity for review or rehearing, an application for judicial review of the decision may be made within the time limits permitted for applications for judicial review of the Registrar of Contractors' final decisions.
- G. For purposes of this Section the terms "contested case" and "party" have the same meanings as in A.R.S. § 41-1001.
- H. To the extent that the provisions of this Section are in conflict with the provisions of any statute providing for review or rehearing of a decision of the Registrar of Contractors, the statutory provisions govern.

Historical Note

Former Rule 20. Repealed effective February 23, 1976 (Supp. 76-1). New Section R4-9-20 adopted effective June 18, 1982 (Supp. 82-3). Former Section R4-9-20 renumbered without change as Section R4-9-120 (Supp. 87-3). Amended by final rulemaking at 9 A.A.R. 1350, effective June 6, 2003 (Supp. 03-2). Amended by final

rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1).

R4-9-121. Unauthorized Communications

- A. The purpose of this rule is to assist the Registrar of Contractors and its employees in avoiding the possibility of prejudice, real or apparent, in proceedings before the Registrar.
- B. The provisions of this rule apply in the following contested proceedings: after a letter is issued denying a license application or a license renewal, a citation is issued, or an order is issued denying or reducing the amount of a recovery fund claim.
- C. Prohibitions:
1. A person shall not make or cause to be made an oral or written communication, not on the public record, concerning the substantive merits of a contested proceeding to the Registrar or an employee involved in the decision-making process for that proceeding.
 2. Neither the Registrar nor its employees who are involved in the decision-making process of a contested proceeding shall make, request, entertain, or consider an unauthorized communication concerning the merits of the proceeding.
 3. The provisions of this rule do not prohibit:
 - a. Communications regarding procedural matters;
 - b. Communications regarding any other proceedings;
 - c. Intra-agency or non-party communications regarding purely technical and legal matters;
 - d. Communications among hearing officers, non-party staff and the Registrar.
- D. Remedy:
1. The Registrar and its decision-making employees who receive an oral or written offer of any communication prohibited by this rule shall decline to receive such communication and explain that the matter is pending for determination and that all communication regarding it must be made on the public record. If unsuccessful in preventing such communications, the recipient shall advise the communicator that the communication will not be considered, a brief signed statement setting forth the substance of the communication and the circumstances under which it was made will be prepared, and the statement will be filed in the public record of the case or proceeding.
 2. Any person affected by an unauthorized communication will have an opportunity to rebut on the record any facts or contentions contained in the communication.
 3. If a party to a contested proceeding makes or causes to be made an unauthorized communication, the party may be required to show cause why its claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation.

Historical Note

Repealed effective February 23, 1976 (Supp. 76-1). New Section R4-9-21 adopted effective April 18, 1984 (Supp. 84-2). Amended effective July 9, 1987; former Section R4-9-21 renumbered as Section R4-9-121 (Supp. 87-3). Amended effective February 4, 1993 (Supp. 93-1). Repealed by final rulemaking at 9 A.A.R. 3182, effective August 30, 2003 (Supp. 03-3). New Section R4-9-121 made by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1).

R4-9-122. Repealed

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Historical Note

Adopted effective November 4, 1992 (Supp. 92-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R4-9-123. Repealed**Historical Note**

Adopted effective November 4, 1992 (Supp. 92-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R4-9-124. Repealed**Historical Note**

Adopted effective November 4, 1992 (Supp. 92-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R4-9-125. Repealed**Historical Note**

Adopted effective November 4, 1992 (Supp. 92-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R4-9-126. Repealed**Historical Note**

Adopted effective November 4, 1992 (Supp. 92-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R4-9-127. Repealed**Historical Note**

Adopted effective November 4, 1992 (Supp. 92-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R4-9-128. Repealed**Historical Note**

Adopted effective November 4, 1992 (Supp. 92-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R4-9-129. Repealed**Historical Note**

Adopted effective November 4, 1992 (Supp. 92-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R4-9-130. Schedule of Fees

An applicant shall submit a separate application for each classification of license. The following application fees, biennial license fees, biennial license renewal fees and fees for other services shall be applicable in accordance with the provisions of A.R.S. §§ 32-1123.01, 32-1126 and 32-1132. The fee for an annual license granted pursuant to A.R.S. § 32-1123.01, as an exception to the biennial license renewal requirement, shall be one-half of the fee for the biennial license renewal.

Classification of License	Application Processing Fee	Fee for Each Biennial License	Fee for Each Biennial License Renewal
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1. COMMERCIAL CONTRACTING

a. General Commercial Contracting (Includes all A and B Commercial classifications)

\$200

\$580

\$580

b. Specialty Commercial Contracting (Includes all C classifications)

\$100

\$480

\$480

2. RESIDENTIAL CONTRACTING

a. General Residential Contracting (Includes all B Residential classifications)

\$180

\$320

\$320

b. Specialty Residential Contracting (Includes all R classifications)

\$80

\$270

\$270

3. GENERAL DUAL LICENSED CONTRACTING

General Dual Licensed Contracting (Includes all KA, KB, KE and KO classifications)

\$200

\$480

\$480

4. SPECIALTY DUAL LICENSE CONTRACTING

Class CR

\$100

\$380

\$380

5. PARTICIPATION IN RECOVERY FUND

Recovery Fund Assessment

\$370

\$270

6. FEES FOR OTHER SERVICES

a. Application to change qualifying party

\$100

b. Application to change name of licensee

\$30

Historical Note

Adopted effective February 4, 1993 (Supp. 93-1).
Amended effective January 20, 1998 (Supp. 98-1).
Amended by final rulemaking at 7 A.A.R. 3160, effective July 2, 2001 (Supp. 01-3). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1).

R4-9-131. Assessment of Civil Penalties

In assessing a civil penalty as provided for under A.R.S. § 32-1166(A), the Registrar shall give due consideration to whether the person cited or any individual acting on that person's behalf has committed one or more of the following acts in determining the gravity of the cited violation:

1. Falsely represented to be a licensed contractor.
2. Failed to perform any work for which money was received.
3. Executed or used any false or misleading documents for the purpose of inducing a person to enter into a contract or to pay money for work to be performed.
4. Made false or misleading statements for the purpose of inducing a person to enter into a contract or to pay money for work to be performed.
5. Failed or neglected to apply funds which were received for the purpose of obtaining or paying for services, labor, materials, or equipment.
6. Performed work that was or had the potential to become hazardous to the health, safety, or general welfare of the public.
7. Performed work that deliberately was in violation of building codes, safety laws, labor laws, workers' compensation laws, or unemployment insurance laws.

Registrar of Contractors

8. Performed work that failed to meet minimum acceptable trade or industry standards or practices or was not performed in a good and workmanlike manner.
9. Has committed any other act which would otherwise be cause for disciplinary action if the person cited had been properly licensed pursuant to A.R.S. Title 32, Chapter 10.
10. Has committed two or more prior violations.
11. Performed work that has caused loss or damage to the structure, its appurtenances, or property being worked upon or has caused loss or injury to any person.

Historical Note

Adopted effective May 26, 1994 (Supp. 94-2).

Supplement Separator Page



Supplement to the
Arizona Administrative Code
The official compilation of Arizona Rules
Replacement Check List

For rules filed in the third quarter between
July 1 - September 30
2017

Within the stated calendar quarter, this Title contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information. Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

TITLE 04. Professions and Occupations
Chapter 11. State Board of Dental Examiners

Sections Expired

R4-11-801, R4-11-802, R4-11-905, R4-11-906, R4-11-1001, R4-11-1002

☐ REMOVE Supp. 16-4
Pages: 1 - 35

☐ REPLACE with Supp. 17-3
Pages: 1 - 35

The agency's contact person who can answer questions about rules in this Chapter:

Name: Governor's Regulatory Review Council
Address: 100 N. 15th Ave #305
Phoenix, AZ 85007
Telephone: (602) 542-2058

Disclaimer: Please be advised the person listed is the contact of record as submitted in the rulemaking package for this supplement. The contact and other information may change and is provided as a public courtesy.

PUBLISHER
Arizona Department of State
Office of the Secretary of State, Administrative Rules Division

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the Administrative Code. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION
September 30, 2017

RULES

A.R.S. § 41-1001(17) states: “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions. Virtually everything in your life is affected in some way by rules published in the Arizona Administrative Code, from the quality of air you breathe to the licensing of your dentist. This chapter is one of more than 230 in the Code compiled in 21 Titles.

ADMINISTRATIVE CODE SUPPLEMENTS

Rules filed by an agency to be published in the Administrative Code are updated quarterly. Supplement release dates are printed on the footers of each chapter:

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2017 is cited as Supp. 17-1.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the Arizona Administrative Register for recent updates to rule Sections.

ARTICLES AND SECTIONS

Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering system separated into subsections.

HISTORICAL NOTES AND EFFECTIVE DATES

Historical notes inform the user when the last time a Section was updated in the Administrative Code. Be aware, since the Office publishes each quarter by entire chapters, not all Sections are updated by an agency in a supplement release. Many times just one Section or a few Sections may be updated in the entire chapter.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in the introduction of a chapter can be found at the Secretary of State’s website, www.azsos.gov/services/legislative-filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the Arizona Administrative Register online at www.azsos.gov/rules, click on the Administrative Register link.

In the Administrative Code the Office includes editor’s notes at the beginning of a chapter indicating that certain rulemaking Sections were made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR

If you are researching rules and come across rescinded chapters on a different paper color, this is because the agency filed a Notice of Exempt Rulemaking. At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

PERSONAL USE/COMMERCIAL USE

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Public Services managing rules editor, Rhonda Paschal, assisted with the editing of this chapter.

TITLE 4. PROFESSIONS AND OCCUPATIONS**CHAPTER 11. STATE BOARD OF DENTAL EXAMINERS**

(Authority: A.R.S. § 32-1203 et seq.)

*All former rules renumbered, new Article 11 added (Supp. 81-4).***ARTICLE 1. DEFINITIONS***Article 1, consisting of Section R4-11-101, adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).**Article 1, consisting of Sections R4-11-101 through R4-11-103, renumbered to Article 2, Sections R4-11-201 through R4-11-203; Sections R4-11-104 and R4-11-105 repealed, by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).*

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Article 6, consisting of Sections R4-11-602 and R4-11-603, renumbered to Article 10, Sections R4-11-1001 and R4-11-1002, and Section R4-11-601 repealed, by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

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Article 7, consisting of Section R4-11-701, renumbered to Article 5, Section R4-11-502, and Sections R4-11-702 through R4-11-710 repealed, by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

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Article 8, consisting of Sections R4-11-802 through R4-11-806, renumbered to Article 13, Sections R4-11-1301 through R4-11-1305, and Section R4-11-801 repealed, by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

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Article 9, consisting of Sections R4-11-901 through R4-11-906 and R4-11-909, renumbered to Article 4, Sections R4-11-401 through R4-11-407, and Sections R4-11-907 and R4-11-908 repealed, by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

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Article 12, consisting of Sections R4-11-1201 and R4-11-1202,

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renumbered to Article 8, Sections R4-11-801 and R4-11-802, by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

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Article 14 consisting of Sections R4-11-1401 through R4-11-1406, repealed by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1).

Article 14, consisting of Sections R4-11-1401 through R4-11-1406, adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

Article 14, consisting of Sections R4-11-1402 through R4-11-1408, renumbered to Article 12, Sections R4-11-1201 through R4-11-1207 and Sections R4-11-1401 and R4-11-1409 repealed, by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

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Article 16, consisting of Section R4-11-1601 expired under A.R.S. § 41-1056(E) at 14 A.A.R. 3183, effective April 30, 2008 (Supp. 08-3).

Article 16, consisting of Section R4-11-1601 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

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ARTICLE 1. DEFINITIONS**R4-11-101. Definitions**

The following definitions, and definitions in A.R.S. § 32-1201, apply to this Chapter:

“Analgesia” means a state of decreased sensibility to pain produced by using nitrous oxide (N₂O) and oxygen (O₂) with or without local anesthesia.

“Application” means, for purposes of Article 3 only, forms designated as applications and all documents and additional information the Board requires to be submitted with an application.

“Business Entity” means a business organization that offers to the public professional services regulated by the Board and is established under the laws of any state or foreign country, including a sole practitioner, partnership, limited liability partnership, corporation, and limited liability company, unless specifically exempted by A.R.S. § 32-1213(J).

“Calculus” means a hard mineralized deposit attached to the teeth.

“Certificate holder” means a denturist who practices denture technology under A.R.S. Title 32, Chapter 11, Article 5.

“Charitable Dental Clinic or Organization” means a non-profit organization meeting the requirements of 26 U.S.C. 501(c)(3) and providing dental or dental hygiene services.

“Clinical evaluation” means a dental examination of a patient named in a complaint regarding the patient's dental condition as it exists at the time the examination is performed.

“Closed subgingival curettage” means the removal of the inner surface of the soft tissue wall of a periodontal pocket in a situation where a flap of tissue has not been intentionally or surgically opened.

“Controlled substance” has the meaning prescribed in A.R.S. § 36-2501(A)(3).

“Credit hour” means one clock hour of participation in a recognized continuing dental education program.

“Deep sedation” is a drug-induced depression of consciousness during which a patient cannot be easily aroused but responds purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. The patient may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is maintained.

“Dental laboratory technician” or “dental technician” has the meaning prescribed in A.R.S. § 32-1201(7).

“Dentist of record” means a dentist who examines, diagnoses, and formulates treatment plans for a patient and may provide treatment to the patient.

“Designee” means a person to whom the Board delegates authority to act on the Board's behalf regarding a particular task specified by this Chapter.

“Direct supervision” means, for purposes of Article 7 only, that a licensed dentist is present in the office and available to provide immediate treatment or care to a patient and observe a dental assistant's work.

“Disabled” means a dentist, dental hygienist, or denturist has totally withdrawn from the active practice of dentistry, dental hygiene, or denturism due to a permanent medical disability and based on a physician's order.

“Dispense for profit” means selling a drug or device for any amount above the administrative overhead costs to inventory.

“Documentation of attendance” means documents that contain the following information:

Name of sponsoring entity;
Course title;
Number of credit hours;
Name of speaker; and
Date, time, and location of the course.

“Drug” means:

Articles recognized, or for which standards or specifications are prescribed, in the official compendium;
Articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in the human body;
Articles other than food intended to affect the structure of any function of the human body; or
Articles intended for use as a component of any articles specified in this definition but does not include devices or components, parts, or accessories of devices.

“Emerging scientific technology” means any technology used in the treatment of oral disease that is not currently generally accepted or taught in a recognized dental or dental hygiene school and use of the technology poses material risks.

“Epithelial attachment” means the layer of cells that extends apically from the depth of the gingival (gum) sulcus (crevice) along the tooth, forming an organic attachment.

“Ex-parte communication” means a written or oral communication between a decision maker, fact finder, or Board member and one party to the proceeding, in the absence of other parties.

“General anesthesia” is a drug-induced loss of consciousness during which the patient is not arousable, even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. The patient often requires assistance in maintaining a patent airway, and positive-pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.

“General supervision” means, for purposes of Article 7 only, a licensed dentist is available for consultation, whether or not the dentist is in the office, regarding procedures or treatment that the dentist authorizes and for which the dentist remains responsible.

“Homebound patient” means a person who is unable to receive dental care in a dental office as a result of a medically diagnosed disabling physical or mental condition.

“Irreversible procedure” means a single treatment, or a step in a series of treatments, that causes change in the affected hard or soft tissues and is permanent or may require reconstructive or corrective procedures to correct the changes.

“Jurisdiction” means the Board's power to investigate and rule on complaints that allege grounds for disciplinary action under A.R.S. Title 32, Chapter 11 or this Chapter.

“Licensee” means a dentist, dental hygienist, dental consultant, retired licensee, or person who holds a restricted permit under A.R.S. §§ 32-1237 or 32-1292.

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“Local anesthesia” is the elimination of sensations, such as pain, in one part of the body by the injection of an anesthetic drug.

“Minimal sedation” is a minimally depressed level of consciousness that retains a patient’s ability to independently and continuously maintain an airway and respond appropriately to light tactile stimulation, not limited to reflex withdrawal from a painful stimulus, or verbal command and that is produced by a pharmacological or non-pharmacological method or a combination thereof. Although cognitive function and coordination may be modestly impaired, ventilatory and cardiovascular functions are unaffected. In accord with this particular definition, the drugs or techniques used should carry a margin of safety wide enough to render unintended loss of consciousness unlikely.

“Moderate sedation” is a drug-induced depression of consciousness during which a patient responds purposefully to verbal commands either alone or accompanied by light tactile stimulation, not limited to reflex withdrawal from a painful stimulus. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is maintained. The drugs or techniques used should carry a margin of safety wide enough to render unintended loss of consciousness unlikely. Repeated dosing of a drug before the effects of previous dosing can be fully recognized may result in a greater alteration of the state of consciousness than intended by the permit holder.

“Nitrous oxide analgesia” means nitrous oxide (N₂O/O₂) used as an inhalation analgesic.

“Nonsurgical periodontal treatment” means plaque removal, plaque control, supragingival and subgingival scaling, root planing, and the adjunctive use of chemical agents.

“Official compendium” means the latest revision of the United States Pharmacopeia and the National Formulary and any current supplement.

“Oral sedation” is the enteral administration of a drug or non-drug substance or combination inhalation and enterally administered drug or non-drug substance in a dental office or dental clinic to achieve minimal or moderate sedation.

“Parenteral sedation” is a minimally depressed level of consciousness that allows the patient to retain the ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command and is induced by a pharmacological or non-pharmacological method or a combination of both methods of administration in which the drug bypasses the gastrointestinal tract.

“Patient of record” means a patient who has undergone a complete dental evaluation performed by a licensed dentist.

“Periodontal examination and assessment” means to collect and correlate clinical signs and patient symptoms that point to either the presence of or the potential for periodontal disease.

“Periodontal pocket” means a pathologic fissure bordered on one side by the tooth and on the opposite side by crevicular epithelium and limited in its depth by the epithelial attachment.

“Plaque” means a film-like sticky substance composed of mucoid secretions containing bacteria and toxic products, dead tissue cells, and debris.

“Polish” means, for the purposes of A.R.S. § 32-1291(B) only, a procedure limited to the removal of plaque and extrinsic

stain from exposed natural and restored tooth surfaces that utilizes an appropriate rotary instrument with rubber cup or brush and polishing agent. A licensee or dental assistant shall not represent that this procedure alone constitutes an oral prophylaxis.

“Prescription-only device” means:

Any device that is restricted by the federal act, as defined in A.R.S. § 32-1901, to use only under the supervision of a medical practitioner; or

Any device required by the federal act, as defined in A.R.S. § 32-1901, to bear on its label the legend “Rx Only.”

“Prescription-only drug” does not include a controlled substance but does include:

Any drug that, because of its toxicity or other potentiality for harmful effect, the method of its use, or the collateral measures necessary to its use, is not generally recognized among experts, qualified by scientific training and experience to evaluate its safety and efficacy, as safe for use except by or under the supervision of a medical practitioner;

Any drug that is limited by an approved new drug application under the federal act or A.R.S. § 32-1962 to use under the supervision of a medical practitioner;

Every potentially harmful drug, the labeling of which does not bear or contain full and adequate directions for use by the consumer; or

Any drug required by the federal act to bear on its label the legend “RX Only.”

“President’s designee” means the Board’s executive director, an investigator, or a Board member acting on behalf of the Board president.

“Preventative and therapeutic agents” means substances used in relation to dental hygiene procedures that affect the hard or soft oral tissues to aid in preventing or treating oral disease.

“Prophylaxis” means a scaling and polishing procedure performed on patients with healthy tissues to remove coronal plaque, calculus, and stains.

“Public member” means a person who is not a dentist, dental hygienist, dental assistant, denturist, or dental technician.

“Recognized continuing dental education” means a program whose content directly relates to the art and science of oral health and treatment, provided by a recognized dental school as defined in A.R.S. § 32-1201(18), recognized dental hygiene school as defined in A.R.S. § 32-1201(17), or recognized denturist school as defined in A.R.S. § 32-1201(19), or sponsored by a national or state dental, dental hygiene, or denturist association, American Dental Association, Continuing Education Recognition Program (ADA CERP) or Academy of General Dentistry, Program Approval for Continuing Education (AGD PACE) approved provider, dental, dental hygiene, or denturist study club, governmental agency, commercial dental supplier, non-profit organization, accredited hospital, or programs or courses approved by other state, district, or territorial dental licensing boards.

“Restricted permit holder” means a dentist who meets the requirements of A.R.S. § 32-1237 or a dental hygienist who meets the requirements of A.R.S. § 32-1292 and is issued a restricted permit by the Board.

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“Retired” means a dentist, dental hygienist, or denturist is at least 65 years old and has totally withdrawn from the active practice of dentistry, dental hygiene, or denturism.

“Root planing” means a definitive treatment procedure designed to remove cementum or surface dentin that is rough, impregnated with calculus, or contaminated with toxins or microorganisms.

“Scaling” means use of instruments on the crown and root surfaces of the teeth to remove plaque, calculus, and stains from these surfaces.

“Section 1301 permit” means a permit to administer general anesthesia and deep sedation, employ or work with a physician anesthesiologist, or employ or work with a Certified Registered Nurse Anesthetist (CRNA) under Article 13.

“Section 1302 permit” means a permit to administer parenteral sedation, employ or work with a physician anesthesiologist, or employ or work with a Certified Registered Nurse Anesthetist (CRNA) under Article 13.

“Section 1303 permit” means a permit to administer oral sedation, employ or work with a physician anesthesiologist, or employ or work with a Certified Registered Nurse Anesthetist (CRNA) under Article 13.

“Section 1304 permit” means a permit to employ or work with a physician anesthesiologist, or employ or work with a Certified Registered Nurse Anesthetist (CRNA) under Article 13.

“Study club” means a group of at least five Arizona licensed dentists, dental hygienists, or denturists who provide written course materials or a written outline for a continuing education presentation that meets the requirements of Article 12.

“Treatment records” means all documentation related directly or indirectly to the dental treatment of a patient.

Historical Note

Adopted effective May 12, 1977 (Supp. 77-3). Former Section R4-11-02 renumbered as Section R4-11-102 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-101 renumbered to R4-11-201, new Section R4-11-101 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Amended by final rulemaking at 9 A.A.R. 1054, effective May 6, 2003 (Supp. 03-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 13 A.A.R. 962, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 19 A.A.R. 334 and at 19 A.A.R. 341, effective April 6, 2013 (Supp. 13-1). Amended by final rulemaking at 19 A.A.R. 3873, effective January 5, 2014 (Supp. 13-4).

R4-11-102. Renumbered**Historical Note**

Adopted effective May 12, 1977 (Supp. 77-3). Former Section R4-11-02 renumbered as Section R4-11-102 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-102 renumbered to R4-11-202 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-103. Renumbered**Historical Note**

Adopted effective May 12, 1977 (Supp. 77-3). Former Section R4-11-03 renumbered as Section R4-11-103 without change effective July 29, 1981 (Supp. 81-4). For-

mer Section R4-11-103 renumbered to R4-11-203 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-104. Repealed**Historical Note**

Adopted effective May 12, 1977 (Supp. 77-3). Former Section R4-11-04 renumbered as Section R4-11-104 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-104 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-105. Repealed**Historical Note**

Adopted effective May 12, 1977 (Supp. 77-3). Former Section R4-11-05 renumbered as Section R4-11-105 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-105 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

ARTICLE 2. LICENSURE BY CREDENTIAL

New Article 2, consisting of Sections R4-11-201 through R4-11-205, made by final rulemaking at 9 A.A.R. 4126, effective November 8, 2003 (Supp. 03-3).

R4-11-201. Clinical Examination; Requirements

- A. If an applicant is applying under A.R.S. §§ 32-1240(A) or 32-1292.01(A), the Board shall ensure that the applicant has passed the clinical examination of another state, United States territory, District of Columbia or a regional testing agency. Satisfactory completion of the clinical examination may be demonstrated by one of the following:
 1. Certified documentation, sent directly from another state, United States territory, District of Columbia or a regional testing agency, that confirms successful completion of the clinical examination or multiple examinations administered by the state, United States territory, District of Columbia or regional testing agency. The certified documentation shall contain the name of the applicant, date of examination or examinations and proof of a passing score; or
 2. Certified documentation sent directly from another state, United States territory or District of Columbia dental board that shows the applicant passed that state's, United States territory's or District of Columbia's clinical examination before that state's, United States territory's or District of Columbia's participation in a regional examination. The certified documentation shall contain the name of applicant, date of examination or examinations and proof of a passing score.
- B. An applicant shall meet the licensure requirements in R4-11-301 and R4-11-303.

Historical Note

Former Rule 2a; Amended effective November 20, 1979 (Supp. 79-6). Amended effective November 28, 1980 (Supp. 80-6). Former Section R4-11-11 renumbered as Section R4-11-201 and amended effective July 29, 1981 (Supp. 81-4). Former Section R4-11-201 renumbered to R4-11-301, new Section R4-11-201 renumbered from R4-11-101 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section expired under A.R.S. § 41-1056(E), effective April 30, 2001 (Supp. 01-2). New Section made by final rulemaking at 9 A.A.R. 4126, effective November 8, 2003 (Supp. 03-3). Amended by final rulemaking at 22 A.A.R. 371,

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effective April 3, 2016 (Supp. 16-1).

R4-11-202. Dental Licensure by Credential; Application

- A. A dentist applying under A.R.S. § 32-1240(A) shall comply with all other applicable requirements in A.R.S. Title 32, Chapter 11 and this Article.
- B. A dentist applying under A.R.S. § 32-1240(A)(1) shall:
 1. Have a current dental license in another state, territory or district of the United States;
 2. Submit a written affidavit affirming that the dentist has practiced dentistry for a minimum of 5000 hours during the five years immediately before applying for licensure by credential. For purposes of this subsection, dental practice includes experience as a dental educator at a dental program accredited by the American Dental Association Commission on Dental Accreditation or employment as a dentist in a public health setting;
 3. Submit a written affidavit affirming that the applicant has complied with the continuing dental education requirement of the state in which the applicant is currently licensed; and
 4. Provide evidence regarding the clinical examination by complying with one of the subsections in R4-11-201(A)(1).
- C. A dentist applying under A.R.S. § 32-1240(A)(2) shall submit certified documentation sent directly from the applicable state, United States territory, District of Columbia or regional testing agency to the Board that contains the name of applicant, date of examination or examinations and proof of a passing score.
- D. For any application submitted under A.R.S. § 32-1240(A), the Board may request additional clarifying evidence required under the applicable subsection in R4-11-201(A)(1).
- E. An applicant for dental licensure by credential shall pay the fee prescribed in A.R.S. § 32-1240, except the fee is reduced by 50% for applicants who will be employed or working under contract in:
 1. Underserved areas, such as declared or eligible Health Professional Shortage Areas (HPSAs); or
 2. Other facilities caring for underserved populations as recognized by the Arizona Department of Health Services and approved by the Board.
- F. An applicant for dental licensure by credential who works in areas or facilities described in subsection (E) shall:
 1. Commit to a three-year, exclusive service period,
 2. File a copy of a contract or employment verification statement with the Board, and
 3. As a licensee, submit an annual contract or employment verification statement to the Board by December 31 of each year.
- G. A licensee's failure to comply with the requirements in subsection (F) is considered unprofessional conduct and may result in disciplinary action based on the circumstances of the case.

Historical Note

Former Rule 2b; Former Section R4-11-12 renumbered as Section R4-11-202 and amended effective July 29, 1981 (Supp. 81-4). Former Section R4-11-202 repealed, new Section R4-11-202 renumbered from R4-11-102 and the heading amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Labeling changes made to reflect current style requirements (Supp. 99-1). Section expired under A.R.S. § 41-1056(E), effective April 30, 2001 (Supp. 01-2). New Section made by final rulemaking at 9 A.A.R. 4126, effective November 8, 2003 (Supp. 03-3). Amended by final rulemaking at 22 A.A.R. 371, effective April 3, 2016 (Supp. 16-1).

R4-11-203. Dental Hygienist Licensure by Credential; Appli-**cation**

- A. A dental hygienist applying under A.R.S. § 32-1292.01(A) shall comply with all other applicable requirements in A.R.S. Title 32, Chapter 11 and this Article.
- B. A dental hygienist applying under A.R.S. § 32-1292.01(A)(1) shall:
 1. Have a current dental hygienist license in another state, territory, or district of the United States;
 2. Submit a written affidavit affirming that the applicant has practiced as a dental hygienist for a minimum of 1000 hours during the two years immediately before applying for licensure by credential. For purposes of this subsection, dental hygienist practice includes experience as a dental hygienist educator at a dental program accredited by the American Dental Association Commission on Dental Accreditation or employment as a dental hygienist in a public health setting;
 3. Submit a written affidavit affirming that the applicant has complied with the continuing dental hygienist education requirement of the state in which the applicant is currently licensed; and
 4. Provide evidence regarding the clinical examination by complying with one of the subsections in R4-11-201(A)(1).
- C. A dental hygienist applying under A.R.S. § 32-1292.01(A)(2) shall submit certified documentation sent directly from the applicable state, United States territory, District of Columbia or regional testing agency to the Board that contains the name of applicant, date of examination or examinations and proof of a passing score.
- D. For any application submitted under A.R.S. § 32-1292.01(A), the Board may request additional clarifying evidence as required under the applicable subsection in R4-11-201(A).
- E. An applicant for dental hygienist licensure by credential shall pay the fee prescribed in A.R.S. § 32-1292.01, except the fee is reduced by 50% for applicants who will be employed or working under contract in:
 1. Underserved areas such as declared or eligible Health Professional Shortage Areas (HPSAs); or
 2. Other facilities caring for underserved populations, as recognized by the Arizona Department of Health Services and approved by the Board.
- F. An applicant for dental hygienist licensure by credential who works in areas or facilities described in subsection (E) shall:
 1. Commit to a three-year exclusive service period,
 2. File a copy of a contract or employment verification statement with the Board, and
 3. As a licensee, submit an annual contract or employment verification statement to the Board by December 31 of each year.
- G. A licensee's failure to comply with the requirements in R4-11-203(F) is considered unprofessional conduct and may result in disciplinary action based on the circumstances of the case.

Historical Note

Former Rule 2c; Former Section R4-11-13 repealed, new Section R4-11-13 adopted effective November 20, 1979 (Supp. 79-6). Amended effective October 30, 1980 (Supp. 80-5). Former Section R4-11-13 renumbered as Section R4-11-203 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-203 renumbered to R4-11-302, new Section R4-11-203 renumbered from R4-11-103 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section expired under A.R.S. § 41-1056(E), effective April 30, 2001 (Supp. 01-2). New Section made by final rulemaking at 9 A.A.R. 4126, effective November 8,

2003 (Supp. 03-3). Amended by final rulemaking at 22 A.A.R. 371, effective April 3, 2016 (Supp. 16-1).

R4-11-204. Dental Assistant Radiography Certification by Credential

Eligibility. To be eligible for dental assistant radiography certification by credential, an applicant shall have a current certificate or other form of approval for taking dental radiographs, issued by a professional licensing agency in another state, United States territory or the District of Columbia that required successful completion of a written dental radiography examination.

Historical Note

Former Rule 2d; Former Section R4-11-14 repealed, new Section R4-11-14 adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-14 renumbered as Section R4-11-204, repealed, and new Section R4-11-204 adopted effective July 29, 1981 (Supp. 81-4). Former Section R4-11-204 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). New Section made by final rulemaking at 9 A.A.R. 4126, effective November 8, 2003 (Supp. 03-3). Amended by final rulemaking at 22 A.A.R. 371, effective April 3, 2016 (Supp. 16-1).

R4-11-205. Application for Dental Assistant Radiography Certification by Credential

- A. An applicant for dental assistant radiography certification by credential shall provide to the Board a completed application, on a form furnished by the Board that contains the following information:
 1. A sworn statement of the applicant's eligibility, and
 2. A letter of endorsement that verifies compliance with R4-11-204.
- B. Based upon review of information provided under subsection (A), the Board or its designee shall request that an applicant for dental assistant radiography certification by credential provide a copy of a certified document that indicates the reason for a name change if the applicant's documentation contains different names.

Historical Note

Former Rule 2e; Former Section R4-11-15 renumbered as Section R4-11-205 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-205 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). New Section made by final rulemaking at 9 A.A.R. 4126, effective November 8, 2003 (Supp. 03-3).

R4-11-206. Repealed

Historical Note

Former Rule 2f; Amended as an emergency effective July 7, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-4). Former emergency adoption now adopted and amended effective September 7, 1979 (Supp. 79-5). Former Section R4-11-16 renumbered as Section R4-11-206 and amended effective July 29, 1981 (Supp. 81-4). Former Section R4-11-206 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-207. Repealed

Historical Note

Former Rule 2g; Former Section R4-11-17 renumbered as Section R4-11-207, repealed, and new Section R4-11-207 adopted effective July 29, 1981 (Supp. 81-4). Former Section R4-11-207 repealed by final rulemaking at 5

A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-208. Repealed

Historical Note

Former Section R4-11-20 repealed, new Section R4-11-20 adopted effective May 12, 1977 (Supp. 77-3). Amended effective October 30, 1980 (Supp. 80-5). Former Section R4-11-20 renumbered as Section R4-11-208 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-208 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-209. Repealed

Historical Note

Adopted effective March 23, 1976 (Supp. 76-2). Former Section R4-11-19 renumbered as R4-11-209 and repealed. Former Section R4-11-21 renumbered as Section R4-11-209 and amended effective July 29, 1981 (Supp. 81-4). Former Section R4-11-209 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-210. Repealed

Historical Note

Adopted effective March 23, 1976 (Supp. 76-2). Amended effective June 7, 1978 (Supp. 78-3). Former Section R4-11-22 renumbered as Section R4-11-210 and amended effective July 29, 1981 (Supp. 81-4). Former Section R4-11-210 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-211. Repealed

Historical Note

Adopted effective August 26, 1977 (Supp. 77-4). Former Section R4-11-23 renumbered as Section R4-11-211 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-211 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-212. Repealed

Historical Note

Adopted effective March 28, 1978 (Supp. 78-2). Former Section R4-11-24 renumbered as Section R4-11-212 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-212 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-213. Repealed

Historical Note

Adopted as an emergency effective July 7, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-4). Former emergency adoption now adopted effective September 7, 1979 (Supp. 79-5). Former Section R4-11-25 renumbered as Section R4-11-213, repealed, and new Section R4-11-213 adopted effective July 29, 1981 (Supp. 81-4). Former Section R4-11-213 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-214. Repealed

Historical Note

Former Rule 2h; Amended effective March 23, 1976 (Supp. 76-2). Former Section R4-11-18 renumbered as Section R4-11-214 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-214 repealed by final rulemaking at 5 A.A.R. 580, effective February

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4, 1999 (Supp. 99-1).

R4-11-215. Repealed**Historical Note**

Adopted effective June 16, 1982 (Supp. 82-3). Former Section R4-11-215 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-216. Repealed**Historical Note**

Adopted effective June 16, 1982 (Supp. 82-3). Former Section R4-11-216 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**ARTICLE 3. EXAMINATIONS, LICENSING
QUALIFICATIONS, APPLICATION AND RENEWAL, TIME-
FRAMES**

R4-11-301. Application

- A.** An applicant for licensure or certification shall provide the following information and documentation:
1. A sworn statement of the applicant's qualifications for the license or certificate on a form provided by the Board;
 2. A photograph of the applicant that is no more than 6 months old;
 3. An official, sealed transcript sent directly to the Board from either:
 - a. The applicant's dental, dental hygiene, or denturist school, or
 - b. A verified third-party transcript provider.
 4. Except for a dental consultant license applicant, dental and dental hygiene license applicants provide proof of successfully completing a clinical examination by submitting:
 - a. If applying for dental licensure by examination, a copy of the certificate or score card from the Western Regional Examining Board, indicating that the applicant passed the Western Regional Examining Board examination within the five years immediately before the date the application is filed with the Board;
 - b. If applying for dental hygiene licensure by examination, a copy of the certificate or scorecard from the Western Regional Examining Board or an Arizona Board-approved clinical examination administered by a state, United States territory, District of Columbia or regional testing agency. The certificate or scorecard must indicate that the applicant passed the examination within the five years immediately before the date the application is filed with the Board; or
 - c. If applying for licensure by credential, certified documentation sent directly from the applicable state, United States territory, District of Columbia or regional testing agency to the Board containing the name of the applicant, date of examination or examinations and proof of a passing score;
 5. Except for a dental consultant license applicant as provided in A.R.S. § 32-1234(A)(7), dental and dental hygiene license applicants must have an official score card sent directly from the National Board examination to the Board;
 6. A copy showing the expiration date of the applicant's current cardiopulmonary resuscitation healthcare provider level certificate from the American Red Cross, the American Heart Association, or another certifying agency that follows the same procedures, standards, and techniques

for CPR training and certification as the American Red Cross or American Heart Association;

7. A license or certification verification from any other jurisdiction in which an applicant is licensed or certified, sent directly from that jurisdiction to the Board. If the license verification cannot be sent directly to the Board from the other jurisdiction, the applicant must submit a written affidavit affirming that the license verification submitted was issued by the other jurisdiction;
 8. If a dental or dental hygiene applicant has been licensed in another jurisdiction for more than six months, a copy of the self-inquiry from the National Practitioner Data Bank that is no more than 30 days old;
 9. If a denturist applicant has been certified in another jurisdiction for more than six months, a copy of the self-inquiry from the Health Integrity and Protection Data Bank that is no more than 30 days old;
 10. If the applicant is in the military or employed by the United States government, a letter of endorsement from the applicant's commanding officer or supervisor that confirms the applicant's military service or United States government employment record; and
 11. The jurisprudence examination fee.
- B.** The Board may request that an applicant provide:
1. An official copy of the applicant's dental, dental hygiene, or denturist school diploma,
 2. A copy of a certified document that indicates the reason for a name change if the applicant's application contains different names,
 3. Written verification of the applicant's work history, and
 4. A copy of a high school diploma or equivalent certificate.
- C.** An applicant shall pass the Arizona jurisprudence examination with a minimum score of 75%.

Historical Note

Former Rule 3A; Former Section R4-11-29 repealed, new Section R4-11-29 adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-29 renumbered as Section R4-11-301 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-301 repealed, new Section R4-11-301 renumbered from R4-11-201 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 22 A.A.R. 371, effective April 3, 2016 (Supp. 16-1).

R4-11-302. Repealed**Historical Note**

Former Rule 3B; Former Section R4-11-30 repealed, new Section R4-11-30 adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-30 renumbered as Section R4-11-302 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-302 repealed, new Section R4-11-302 renumbered from R4-11-203 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section repealed by final rulemaking at 22 A.A.R. 371, effective April 3, 2016 (Supp. 16-1).

R4-11-303. Application Processing Procedures: Issuance, Denial, and Renewal of Dental Licenses, Restricted Permits, Dental Hygiene Licenses, Dental Consultant Licenses, Denturist Certificates, Drug or Device Dispensing Registrations, Business Entity Registration and Mobile Dental Facility and Portable Dental Unit Permits

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- A.** The Board office shall complete an administrative completeness review within 24 days of the date of receipt of an application for a license, certificate, permit, or registration.
1. Within 14 calendar days of receiving an initial or renewal application for a dental license, restricted permit, dental hygiene license, dental consultant license, denturist certificate, drug dispensing registration, business entity registration, mobile dental facility or portable dental unit permit, the Board office shall notify the applicant, in writing, whether the application package is complete or incomplete.
 2. If the application package is incomplete, the Board office shall provide the applicant with a written notice that includes a comprehensive list of the missing information. The 24-day time-frame for the Board office to finish the administrative completeness review is suspended from the date the notice of incompleteness is served until the applicant provides the Board office with all missing information.
 3. If the Board office does not provide the applicant with notice regarding administrative completeness, the application package shall be deemed complete 24 days after receipt by the Board office.
- B.** An applicant with an incomplete application package shall submit all missing information within 60 calendar days of service of the notice of incompleteness.
- C.** Upon receipt of all missing information, the Board office shall notify the applicant, in writing, within 10 calendar days, that the application package is complete. If an applicant fails to submit a complete application package within the time allowed in subsection (B), the Board office shall close the applicant's file. An applicant whose file is closed and who later wishes to obtain a license, certificate, permit, or registration shall apply again as required in R4-11-301.
- D.** The Board shall not approve or deny an application until the applicant has fully complied with the requirements of A.A.C. Title 4, Chapter 11, Article 3.
- E.** The Board shall complete a substantive review of the applicant's qualifications in no more than 90 calendar days from the date on which the administrative completeness review of an application package is complete.
1. If the Board finds an applicant to be eligible for a license, certificate, permit, or registration and grants the license, certificate, permit, or registration, the Board office shall notify the applicant in writing.
 2. If the Board finds an applicant to be ineligible for a license, certificate, permit, or registration, the Board office shall issue a written notice of denial to the applicant that includes:
 - a. Each reason for the denial, with citations to the statutes or rules on which the denial is based;
 - b. The applicant's right to request a hearing on the denial, including the number of days the applicant has to file the request;
 - c. The applicant's right to request an informal settlement conference under A.R.S. § 41-1092.06; and
 - d. The name and telephone number of an agency contact person who can answer questions regarding the application process.
 3. If the Board finds deficiencies during the substantive review of an application package, the Board office may issue a comprehensive written request to the applicant for additional documentation. An additional supplemental written request for information may be issued upon mutual agreement between the Board or Board office and the applicant.
 4. The 90-day time-frame for a substantive review of an applicant's qualifications is suspended from the date of a written request for additional documentation until the date that all documentation is received. The applicant shall submit the additional documentation before the next regularly scheduled Board meeting.
 5. If the applicant and the Board office mutually agree in writing, the 90-day substantive review time-frame may be extended once for no more than 28 days.
- F.** The following time-frames apply for an initial or renewal application governed by this Section:
1. Administrative completeness review time-frame: 24 calendar days.
 2. Substantive review time-frame: 90 calendar days.
 3. Overall time-frame: 114 calendar days.
- G.** An applicant whose license is denied has a right to a hearing, an opportunity for rehearing, and, if the denial is upheld, may seek judicial review pursuant to A.R.S. Title 41, Chapter 6, Article 10, and A.R.S. Title 12, Chapter 7, Article 6.

Historical Note

Former Rule 3C; Former Section R4-11-31 renumbered as Section R4-11-303 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-303 repealed, new Section R4-11-303 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 22 A.A.R. 371, effective April 3, 2016 (Supp. 16-1).

R4-11-304. Application Processing Procedures: Issuance and Denial of Dental Assistant Certificates Radiography Certification by Credential

- A.** Within 14 calendar days of receiving an application from an applicant for a dental assistant radiography certification by credential, the Board or its designee shall notify the applicant, in writing, that the application package is complete or incomplete. If the package is incomplete, the notice shall specify what information is missing.
- B.** An applicant with an incomplete application package shall supply the missing information within 60 calendar days from the date of the notice. If the applicant fails to do so, an applicant shall begin the application process anew.
- C.** Upon receipt of all missing information, within 10 calendar days, the Board or its designee shall notify the applicant, in writing, that the application is complete.
- D.** The Board or its designee shall not process an application until the applicant has fully complied with the requirements of this Article.
- E.** The Board or its designee shall notify an applicant, in writing, whether the certificate is granted or denied, no later than 90 calendar days after the date of the notice advising the applicant that the package is complete.
- F.** The notice of denial shall inform the applicant of the following:
1. The reason for the denial, with a citation to the statute or rule which requires the applicant to pass the examination;
 2. The applicant's right to request a hearing on the denial, including the number of days the applicant has to file the request;
 3. The applicant's right to request an informal settlement conference under A.R.S. § 41-1092.06; and
 4. The name and telephone number of an agency contact person or a designee who can answer questions regarding the application process.

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- G. The following time-frames apply for certificate applications governed by this Section:
1. Administrative completeness review time-frame: 24 calendar days.
 2. Substantive review time-frame: 90 calendar days.
 3. Overall time-frame: 114 calendar days.
- H. An applicant whose certificate is denied has a right to a hearing, an opportunity for rehearing, and, if the denial is upheld, may seek judicial review pursuant to A.R.S. Title 41, Chapter 6, Article 10, and A.R.S. Title 12, Chapter 7, Article 6.

Historical Note

Former Rule 3D; Former Section R4-11-32 renumbered as Section R4-11-304 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-304 repealed, new Section R4-11-304 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Amended by final rulemaking at 22 A.A.R. 371, effective April 3, 2016 (Supp. 16-1).

R4-11-305. Application Processing Procedures: Issuance, Denial, and Renewal of General Anesthesia and Deep Sedation Permits, Parenteral Sedation Permits, Oral Sedation Permits, and Permit to Employ a Physician Anesthesiologist or CRNA

- A. The Board office shall complete an administrative completeness review within 24 days from the date of the receipt of an application for a permit.
1. Within 14 calendar days of receiving an initial or renewal application for a general anesthesia and deep sedation permit, parenteral sedation permit, oral sedation permit or permit to employ a physician anesthesiologist or CRNA the Board office shall notify the applicant, in writing, whether the application package is complete or incomplete.
 2. If the application package is incomplete, the Board office shall provide the applicant with a written notice that includes a comprehensive list of the missing information. The 24-day time-frame for the Board office to finish the administrative completeness review is suspended from the date the notice of incompleteness is served until the applicant provides the Board office with all missing information.
 3. If the Board office does not provide the applicant with notice regarding administrative completeness, the application package shall be deemed complete 24 days after receipt by the Board office.
- B. An applicant with an incomplete application package shall submit all missing information within 60 calendar days of service of the notice of incompleteness.
- C. Upon receipt of all missing information, the Board office shall notify the applicant, in writing, within 10 calendar days, that the application package is complete. If an applicant fails to submit a complete application package within the time allowed in subsection (B), the Board office shall close the applicant's file. An applicant whose file is closed and who later wishes to obtain a permit shall apply again as required in A.A.C. Title 4, Chapter 11, Article 13.
- D. The Board shall not approve or deny an application until the applicant has fully complied with the requirements of this Section and A.A.C. Title 4, Chapter 11, Article 13.
- E. The Board shall complete a substantive review of the applicant's qualifications in no more than 120 calendar days from the date on which the administrative completeness review of an application package is complete.
1. If the Board finds an applicant to be eligible for a permit and grants the permit, the Board office shall notify the applicant in writing.

2. If the Board finds an applicant to be ineligible for a permit, the Board office shall issue a written notice of denial to the applicant that includes:
 - a. Each reason for the denial, with citations to the statutes or rules on which the denial is based;
 - b. The applicant's right to request a hearing on the denial, including the number of days the applicant has to file the request;
 - c. The applicant's right to request an informal settlement conference under A.R.S. § 41-1092.06; and
 - d. The name and telephone number of an agency contact person who can answer questions regarding the application process.
 3. If the Board finds deficiencies during the substantive review of an application package, the Board office shall issue a comprehensive written request to the applicant for additional documentation.
 4. The 120-day time-frame for a substantive review of an applicant's qualifications is suspended from the date of a written request for additional documentation until the date that all documentation is received.
 5. If the applicant and the Board office mutually agree in writing, the 120-day substantive review time-frame may be extended once for no more than 36 days.
- F. The following time-frames apply for an initial or renewal application governed by this Section:
1. Administrative completeness review time-frame: 24 calendar days.
 2. Substantive review time-frame: 120 calendar days.
 3. Overall time-frame: 144 calendar days.

Historical Note

New Section R4-11-305 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 22 A.A.R. 371, effective April 3, 2016 (Supp. 16-1).

ARTICLE 4. FEES

R4-11-401. Retired or Disabled Licensure Renewal Fee

As expressly authorized under A.R.S. § 32-1207(B)(3)(c), the licensure renewal fee for a retired or disabled dentist or dental hygienist is \$15.

Historical Note

Adopted effective December 6, 1974 (Supp. 75-1). Amended effective March 23, 1976 (Supp. 76-2). Former Section R4-11-42 renumbered as Section R4-11-401 and repealed effective July 29, 1981 (Supp. 81-4). Adopted effective February 16, 1995 (Supp. 95-1). Former Section R4-11-401 repealed, new Section R4-11-401 renumbered from R4-11-901 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 748, effective February 2, 2000 (Supp. 00-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 22 A.A.R. 3697, effective February 6, 2017 (Supp. 16-4).

R4-11-402. Business Entity Fees

As expressly authorized under A.R.S. § 32-1213, the Board establishes and shall collect the following fees from a Business Entity offering dental services:

1. Initial triennial registration, \$300 per location;
2. Renewal of triennial registration, \$300 per location; and

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3. Late triennial registration renewal, \$100 per location in addition to the fee under subsection (2).

Historical Note

Adopted effective December 6, 1974 (Supp. 75-1). amended effective March 23, 1976 (Supp. 76-2). Former Section R4-11-43 renumbered as Section R4-11-402, repealed, and new Section R4-11-402 adopted effective July 29, 1981 (Supp. 81-4). Amended effective February 16, 1995 (Supp. 95-1). Former Section R4-11-402 renumbered to R4-11-601, new Section R4-11-402 renumbered from R4-11-902 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 748, effective February 2, 2000 (Supp. 00-1). Section repealed; new Section made by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (05-1). Amended by final rulemaking at 22 A.A.R. 3697, effective February 6, 2017 (Supp. 16-4).

R4-11-403. Licensing Fees

- A. As expressly authorized under A.R.S. §§ 32-1236, 32-1287, and 32-1297.06, the Board establishes and shall collect the following licensing fees:
 1. Dentist triennial renewal fee: \$510;
 2. Dentist prorated initial license fee: \$110;
 3. Dental hygienist triennial renewal fee: \$255;
 4. Dental hygienist prorated initial license fee: \$55;
 5. Denturist triennial renewal fee: \$233; and
 6. Denturist prorated initial license fee: \$46.
- B. The following license-related fees are established in or expressly authorized by statute. The Board shall collect the fees:
 1. Jurisprudence examination fee:
 - a. Dentists: \$300;
 - b. Dental Hygienists: \$100; and
 - c. Denturists: \$250.
 2. Licensure by credential fee:
 - a. Dentists: \$2,000; and
 - b. Dental Hygienists: \$1,000.
 3. Penalty to reinstate an expired license or certificate: \$100 for a dentist, dental hygienist, or denturist in addition to renewal fee specified under subsection (A).
 4. Penalty for a dentist, dental hygienist, or denturist who fails to notify Board of a change of mailing address:
 - a. Failure after 10 days: \$50; and
 - b. Failure after 30 days: \$100.

Historical Note

Adopted effective December 6, 1974 (Supp. 75-1). Former Section R4-11-44 renumbered as Section R4-11-403 and repealed effective July 29, 1981 (Supp. 81-4). Adopted effective February 16, 1995 (Supp. 95-1). Former Section R4-11-403 renumbered to R4-11-602, new Section R4-11-403 renumbered from R4-11-903 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 748, effective February 2, 2000 (Supp. 00-1). Section repealed by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (05-1). New Section made by final rulemaking at 22 A.A.R. 3697, effective February 6, 2017 (Supp. 16-4).

R4-11-404. Repealed**Historical Note**

Adopted effective December 6, 1974 (Supp. 75-1). Former Section R4-11-45 renumbered as Section R4-11-404 without change effective July 29, 1981 (Supp. 81-4).

Repealed effective February 16, 1995 (Supp. 95-1). New Section R4-11-404 renumbered from R4-11-904 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 748, effective February 2, 2000 (Supp. 00-1). Section repealed by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (05-1).

R4-11-405. Charges for Board Services

The Board shall charge the following for the services provided:

1. Duplicate license: \$25;
2. Duplicate certificate: \$25;
3. License verification:
 - a. For licensee: \$25; and
 - b. For non-licensee: \$5;
4. Copy of audio recording: \$10;
5. Photocopies (per page): \$.25;
6. Mailing lists:
 - a. Dentists:
 - i. In-state licensees - paper or labels: \$150;
 - ii. All licensees - paper or labels: \$175; and
 - iii. Mailing list in digital format: \$100;
 - b. Dental hygienists:
 - i. In-state licensees - paper or labels: \$150;
 - ii. All licensees - paper or labels: \$175; and
 - iii. Mailing list in digital format: \$100; and
 - c. Denturists: All certificate holders - paper, labels, or digital format: \$5; and
7. Board meeting agendas and minutes (mailed directly to consumer):
 - a. Agendas and minutes: \$75 for 12 months;
 - b. Agendas only: \$25 for 12 months; and
 - c. Minutes only: \$50 for 12 months.

Historical Note

Adopted effective December 6, 1974 (Supp. 75-1). Former Section R4-11-46 repealed, new Section R4-11-46 adopted effective March 23, 1976 (Supp. 76-2). Former Section R4-11-46 renumbered as Section R4-11-405 without change effective July 29, 1981 (Supp. 81-4). Repealed effective February 16, 1995 (Supp. 95-1). New Section R4-11-405 renumbered from R4-11-905 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 748, effective February 2, 2000 (Supp. 00-1). Amended by final rulemaking at 22 A.A.R. 3697, effective February 6, 2017 (Supp. 16-4).

R4-11-406. Anesthesia and Sedation Permit Fees

- A. As expressly authorized under A.R.S. § 32-1207, the Board establishes and shall collect the following fees:
 1. Section 1301 permit fee: \$300 plus \$25 for each additional location;
 2. Section 1302 permit fee: \$300 plus \$25 for each additional location;
 3. Section 1303 permit fee: \$300 plus \$25 for each additional location; and
 4. Section 1304 permit fee: \$300 plus \$25 for each additional location.
- B. Upon successful completion of an initial onsite evaluation and upon receipt of the required permit fee, the Board shall issue a separate Section 1301, 1302, 1303, or 1304 permit to a dentist for each location requested by the dentist. A permit expires on December 31 of every fifth year.
- C. Permit renewal fees:
 1. Section 1301 permit renewal fee: \$300 plus \$25 for each additional location;

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2. Section 1302 permit renewal fee: \$300 plus \$25 for each additional location;
3. Section 1303 permit renewal fee: \$300 plus \$25 for each additional location; and
4. Section 1304 permit renewal fee: \$300 plus \$25 for each additional location.

Historical Note

Adopted effective March 23, 1976 (Supp. 76-2). Former Section R4-11-47 renumbered as Section R4-11-406 without change effective July 29, 1981 (Supp. 81-4). Repealed effective February 16, 1995 (Supp. 95-1). New Section R4-11-406 renumbered from R4-11-906 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section repealed; new Section R4-11-406 renumbered from R4-11-407 and amended by final rulemaking at 6 A.A.R. 748, effective February 2, 2000 (Supp. 00-1). Amended by final rulemaking at 9 A.A.R. 4130, effective November 8, 2003 (Supp. 03-3). Amended by final rulemaking at 22 A.A.R. 3697, effective February 6, 2017 (Supp. 16-4).

R4-11-407. Renumbered**Historical Note**

Adopted effective March 23, 1976 (Supp. 76-2). Former Section R4-11-48 renumbered as Section R4-11-407 without change effective July 29, 1981 (Supp. 81-4). Repealed effective February 16, 1995 (Supp. 95-1). New Section R4-11-407 renumbered from R4-11-909 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section R4-11-407 renumbered to R4-11-406 by final rulemaking at 6 A.A.R. 748, effective February 2, 2000 (Supp. 00-1).

R4-11-408. Repealed**Historical Note**

Adopted effective March 23, 1976 (Supp. 76-2). Former Section R4-11-49 renumbered as Section R4-11-408 without change effective July 29, 1981 (Supp. 81-4). Repealed effective February 16, 1995 (Supp. 95-1).

R4-11-409. Repealed**Historical Note**

Adopted effective September 12, 1985 (Supp. 85-5). Repealed effective July 21, 1995 (Supp. 95-3).

ARTICLE 5. DENTISTS**R4-11-501. Dentist of Record**

- A. A dentist of record shall ensure that each patient record has the treatment records for a patient treated in any dental office, clinic, hospital dental clinic, or charitable organization that offers dental services, and the full name of a dentist who is responsible for all of the patient's treatment.
- B. A dentist of record shall obtain a patient's consent to change the treatment plan before changing the treatment plan that the patient originally agreed to, including any additional costs the patient may incur because of the change.
- C. When a dentist who is a dentist of record decides to leave the practice of dentistry or a particular place of practice in which the dentist is the dentist of record, the dentist shall ensure before leaving the practice that a new dentist of record is entered on each patient record.
- D. A dentist of record is responsible for the care given to a patient while the dentist was the dentist of record even after being replaced as the dentist of record by another dentist.
- E. A dentist of record shall:

1. Remain responsible for the care of a patient during the course of treatment; and
2. Be available to the patient through the dentist's office, an emergency number, an answering service, or a substituting dentist.

- F. A dentist's failure to comply with subsection (E) constitutes patient abandonment, and the Board may impose discipline under A.R.S. Title 32, Chapter 11, Article 3.

Historical Note

Adopted effective December 6, 1974 (Supp. 75-1). Former Section R4-11-62 renumbered as Section R4-11-501 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-501 repealed, new Section R4-11-501 renumbered from R4-11-1102 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1).

R4-11-502. Affiliated Practice

- A. A dentist in a private for profit setting shall not enter into more than 15 affiliated practice relationships under A.R.S. § 32-1289 at one time.
- B. There is no limit to the number of affiliated practice relationships a dentist may enter into when working in a government, public health, or non-profit organization under Section 501(C)(3) of the Internal Revenue Code.
- C. Each affiliated practice dentist shall be available telephonically or electronically during the business hours of the affiliated practice dental hygienist to provide an appropriate level of contact, communication, and consultation.
- D. The affiliated practice agreement shall include a provision for a substitute dentist in addition to the requirements of A.R.S. § 32-1289(F), to cover an extenuating circumstance that renders the affiliated practice dentist unavailable for contact, communication, or consultation with the affiliated practice dental hygienist.

Historical Note

Adopted effective December 6, 1974 (Supp. 75-1). Amended effective March 23, 1976 (Supp. 76-2). Former Section R4-11-63 renumbered as Section R4-11-502 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-502 renumbered to R4-11-701 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). New Section made by final rulemaking at 13 A.A.R. 962, effective May 5, 2007 (Supp. 07-1).

R4-11-503. Repealed**Historical Note**

Adopted effective December 6, 1974 (Supp. 75-1). Former Section R4-11-64 repealed, new Section R4-11-64 adopted effective March 23, 1976 (Supp. 76-2). Former Section R4-11-64 renumbered as Section R4-11-503 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-503 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-504. Renumbered**Historical Note**

Adopted effective December 6, 1974 (Supp. 75-1). Former Section R4-11-65 repealed, new Section R4-11-65 adopted effective May 23, 1976 (Supp. 76-2). Former Section R4-11-65 renumbered as Section R4-11-504, repealed, and new Section R4-11-504 adopted effective July 29, 1981 (Supp. 81-4). Former Section R4-11-504 renumbered to R4-11-702 by final rulemaking at 5

A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-505. Repealed

Historical Note

Adopted effective March 23, 1976 (Supp. 76-2). Former Section R4-11-66 renumbered as Section R4-11-505 and repealed effective July 29, 1981 (Supp. 81-4).

R4-11-506. Repealed

Historical Note

Adopted effective March 23, 1976 (Supp. 76-2). Former Section R4-11-67 renumbered as Section R4-11-506 and repealed effective July 29, 1981 (Supp. 81-4).

ARTICLE 6. DENTAL HYGIENISTS

R4-11-601. Duties and Qualifications

- A. A dental hygienist may apply preventative and therapeutic agents under the general supervision of a licensed dentist.
- B. A dental hygienist may perform a procedure not specifically authorized by A.R.S. § 32-1281 when all of the following conditions are satisfied:
 1. The procedure is recommended or prescribed by the supervising dentist;
 2. The hygienist has received instruction, training, or education to perform the procedure in a safe manner; and
 3. The procedure is performed under the general supervision of a licensed dentist.
- C. The Board shall ensure that a dental hygienist is qualified to administer local anesthesia and nitrous oxide analgesia as authorized by A.R.S. § 32-1281(F)(1) and (2), by requiring evidence that the hygienist has completed courses in techniques taught at a recognized dental hygiene school or recognized dental school, as defined in A.R.S. § 32-1201(16) and (17), that consist of a minimum of 36 clock hours of instruction, and has passed examinations in theoretical knowledge and clinical competency in the following subject areas:
 1. Review of head and neck anatomy;
 2. Pharmacology of anesthetic and analgesic agents;
 3. Medical - dental history considerations;
 4. Emergency procedures;
 5. Selection of appropriate armamentarium and agents;
 6. Nitrous oxide administration;
 7. Clinical practice, under direct supervision, as defined in A.R.S. § 32-1281(H)(1), including at least three experiences administering each of the following:
 - a. Posterior superior alveolar injection,
 - b. Middle superior alveolar injection,
 - c. Anterior superior alveolar injection,
 - d. Nasopalatine injection,
 - e. Greater - palatine injection,
 - f. Inferior alveolar nerve injection,
 - g. Lingual injection,
 - h. Mental injection,
 - i. Long buccal injections, and
 - j. Nitrous oxide analgesia.
- D. In addition to the recognized course of study described in subsection (C), the hygienist shall successfully complete the examination in local anesthesia given by the Western Regional Examining Board. The hygienist shall submit proof of the successful completion of the local anesthesia examination to the Board. The Board shall then issue a Local Anesthesia Certificate.
- E. For purposes of qualification of a dental hygienist to place interrupted sutures as authorized by A.R.S. § 32-1281(F)(3), the Board recognizes courses in advanced periodontal therapy offered by a recognized dental hygiene school or a recognized

dental school, as defined in A.R.S. § 32-1201(16) and (17), that consist of a minimum of 200 clock hours of instruction and require a dental hygienist's successful completion of those examinations of a theoretical knowledge and clinical competency in the following subject areas:

1. A review of oral histology,
2. Inflammation and pathogenesis of a periodontal pocket,
3. Patient assessment,
4. Dental hygiene treatment planning,
5. Advanced root planing and debridement,
6. Subgingival curettage,
7. Suturing,
8. Wound repair and new attachment, and
9. Clinical experience in each of the following:
 - a. Root planing,
 - b. Subgingival curettage, and
 - c. Suturing.
- F. The hygienist shall submit proof of the successful completion of a recognized course in advanced periodontal therapy, as described in subsection (E), to the Board. The Board shall then issue a certification sticker for Suture Placement, which shall be affixed to the hygienist's license.
- G. A dental hygienist shall not perform an irreversible procedure.
- H. To qualify to use emerging scientific technology as authorized by A.R.S. § 32-1281(D)(2), a dental hygienist shall successfully complete a course of study that meets the following criteria:
 1. Is a course offered by a recognized dental school as defined in A.R.S. § 32-1201(17), a recognized dental hygiene school as defined in A.R.S. § 32-1201(16), or sponsored by a national or state dental or dental hygiene association or government agency;
 2. Includes didactic instruction with a written examination;
 3. Includes hands-on clinical instruction; and
 4. Is technology that is scientifically based and supported by studies published in peer reviewed dental journals.

Historical Note

Adopted effective December 6, 1974 (Supp. 75-1). Former Section R4-11-82 renumbered as Section R4-11-601 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-601 repealed, new Section R4-11-601 renumbered from R4-11-402 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Amended by final rulemaking at 13 A.A.R. 962, effective May 5, 2007 (Supp. 07-1).

R4-11-602. Care of Homebound Patients

Dental hygienists treating homebound patients shall provide only treatment prescribed by the dentist of record in the diagnosis and treatment plan. The diagnosis and treatment plan shall be based on examination data obtained not more than 12 months before the treatment is administered.

Historical Note

Adopted effective December 6, 1974 (Supp. 75-1). Former Section R4-11-83 renumbered as Section R4-11-602 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-602 renumbered to R4-11-1001, new Section R4-11-602 renumbered from R4-11-403 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-603. Limitation on Number Supervised

A dentist shall not supervise more than three dental hygienists at a time.

Historical Note

Adopted effective December 6, 1974 (Supp. 75-1). For-

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mer Section R4-11-84 renumbered as Section R4-11-603 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-603 renumbered to R4-11-1002, new

Section R4-11-603 renumbered from R4-11-408 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-604. Selection Committee and Process

- A. The Board shall appoint a selection committee to screen candidates for the dental hygiene committee. The selection committee consists of three members. The Board shall appoint at least two members who are dental hygienists and one member who is a current Board member. The Board shall fill any vacancy for the unexpired portion of the term.
- B. Each selection committee member's term is one year.
- C. By majority vote, the selection committee shall nominate each candidate for the dental hygiene committee and transmit a list of names to the Board for approval, including at least one alternate.

Historical Note

New Section R4-11-604 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-605. Dental Hygiene Committee

- A. The Board shall appoint seven members to the dental hygiene committee as follows:
 - 1. One dentist appointed at the annual December Board meeting, currently serving as a Board member, for a one year term;
 - 2. One dental hygienist appointed at the annual December Board meeting, currently serving as a Board member and possessing the qualifications required in Article 6, for a one-year term;
 - 3. Four dental hygienists that possess the qualifications required in Article 6; and
 - 4. One lay person.
- B. Except for members appointed as prescribed in subsections (A)(1) and (2), the Board shall appoint dental hygiene committee members for staggered terms of three years, beginning January 1, 1999, and limit each member to two consecutive terms. The Board shall fill any vacancy for the unexpired portion of the term.
- C. The dental hygiene committee shall annually elect a chairperson at the first meeting convened during the calendar year.

Historical Note

New Section R4-11-605 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-606. Candidate Qualifications and Submissions

- A. A dental hygienist who seeks membership on the dental hygiene committee shall possess a license in good standing, issued by the Board.
- B. A dental hygienist who is not a Board member and qualifies under subsection (A) shall submit a letter of intent and resume to the Board.
- C. The selection committee shall consider all of the following criteria when nominating a candidate for the dental hygiene committee:
 - 1. Geographic representation,
 - 2. Experience in postsecondary curriculum analysis and course development,
 - 3. Public health experience, and
 - 4. Dental hygiene clinical experience.

Historical Note

New Section R4-11-606 adopted by final rulemaking at 5

A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-607. Duties of the Dental Hygiene Committee

- A. The committee shall advise the Board on all matters relating to the regulation of dental hygienists.
- B. In performing the duty in subsection (A), the committee may:
 - 1. Act as a liaison for the Board, promoting communication and providing a forum for discussion of dental hygiene regulatory issues;
 - 2. Review applications, syllabi, and related materials and make recommendations to the Board regarding certification of courses in local anesthesia, nitrous oxide analgesia, and suture placement under Article 6 and other procedures which may require certification under Article 6;
 - 3. Review documentation submitted by dental hygienists to determine compliance with the continuing education requirement for license renewal under Article 12 and make recommendations to the Board regarding compliance;
 - 4. Make recommendations to the Board concerning statute and rule development which affect dental hygienists' education, licensure, regulation, or practice;
 - 5. Provide advice to the Board on standards and scope of practice which affect dental hygiene practice;
 - 6. Provide ad hoc committees to the Board upon request;
 - 7. Request that the Board consider recommendations of the committee at the next regularly scheduled Board meeting; and
 - 8. Make recommendations to the Board for approval of dental hygiene consultants.
- C. Committee members who are licensed dentists or dental hygienists may serve as Western Regional Examining Board (WREB) examiners or Board consultants.
- D. The committee shall meet at least two times per calendar year. The chairperson or the president of the Board, or their respective designees, may call a meeting of the committee.
- E. The Board may assign additional duties to the committee.

Historical Note

New Section R4-11-607 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-608. Dental Hygiene Consultants

After submission of a current curriculum vitae or resume and approval by the Board, dental hygiene consultants may:

- 1. Act as Western Regional Examining Board (WREB) examiners for the clinical portion of the dental hygiene examination;
- 2. Act as Western Regional Examining Board (WREB) examiners for the local anesthesia portion of the dental hygiene examination;
- 3. Participate in Board-related procedures, including clinical evaluations, investigation of complaints concerning infection control, insurance fraud, or the practice of supervised personnel, and any other procedures not directly related to evaluating a dentist's quality of care; and
- 4. Participate in onsite office evaluations for infection control, as part of a team.

Historical Note

New Section R4-11-608 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-609. Affiliated Practice

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- A. To perform dental hygiene services under an affiliated practice relationship pursuant to A.R.S. § 32-1289, a dental hygienist shall:
1. Provide evidence to the Board of successfully completing a total of 12 hours of recognized continuing dental education that consists of the following subject areas:
 - a. A minimum of four hours in medical emergencies; and
 - b. A minimum of eight hours in at least two of the following areas:
 - i. Pediatric or other special health care needs,
 - ii. Preventative dentistry, or
 - iii. Public health community-based dentistry, and
 2. Hold a current certificate in basic cardiopulmonary resuscitation (CPR).
- B. A dental hygienist shall complete the required continuing dental education before entering an affiliated practice relationship. The dental hygienist shall complete the continuing dental education in subsection (A) before renewing the dental hygienist's license. The dental hygienist may take the continuing dental education online but shall not exceed the allowable hours indicated in R4-11-1209(B)(1).
- C. To comply with A.R.S. § 32-1289(E) and (F) and this Section, a dental hygienist shall submit a completed affidavit on a form supplied by the Board office. Board staff shall review the affidavit to determine compliance with all requirements.
- D. A dental hygienist who practices or applies to practice under an affiliated practice relationship shall ensure that all signatures in an affiliated practice agreement, amendment, notification, and affidavit are notarized.
- E. Each affiliated practice dentist shall be available telephonically or electronically during the business hours of the affiliated practice dental hygienist to provide an appropriate level of contact, communication, and consultation.
- F. The affiliated practice agreement shall include a provision for a substitute dentist, to cover an extenuating circumstance that renders the affiliated practice dentist unavailable for contact, communication, and consultation with the affiliated practice dental hygienist.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 962, effective May 5, 2007 (Supp. 07-1).

ARTICLE 7. DENTAL ASSISTANTS**R4-11-701. Procedures and Functions Performed by a Dental Assistant under Supervision**

- A. A dental assistant may perform the following procedures and functions under the direct supervision of a licensed dentist:
1. Place dental material into a patient's mouth in response to a licensed dentist's instruction;
 2. Cleanse the supragingival surface of the tooth in preparation for:
 - a. The placement of bands, crowns, and restorations;
 - b. Dental dam application;
 - c. Acid etch procedures; and
 - d. Removal of dressings and packs;
 3. Remove excess cement from inlays, crowns, bridges, and orthodontic appliances with hand instruments;
 4. Remove temporary cement, interim restorations, and periodontal dressings with hand instruments;
 5. Remove sutures;
 6. Place and remove dental dams and matrix bands;
 7. Fabricate and place interim restorations with temporary cement;
 8. Apply sealants;
 9. Apply topical fluorides;

10. Prepare a patient for nitrous oxide and oxygen analgesia administration upon the direct instruction and presence of a dentist; or
 11. Observe a patient during nitrous oxide and oxygen analgesia as instructed by the dentist.
- B. A dental assistant may perform the following procedures and functions under the general supervision of a licensed dentist:
1. Train or instruct patients in oral hygiene techniques, preventive procedures, dietary counseling for caries and plaque control, and provide pre-and post-operative instructions relative to specific office treatment;
 2. Collect and record information pertaining to extraoral conditions; and
 3. Collect and record information pertaining to existing intraoral conditions.

Historical Note

Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-100 renumbered as Section R4-11-701 and amended effective July 29, 1981 (Supp. 81-4). Former Section R4-11-701 renumbered to R4-11-1701, new Section R4-11-701 renumbered from R4-11-502 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-702. Limitations on Procedures or Functions Performed by a Dental Assistant under Supervision

A dental assistant shall not perform the following procedures or functions:

1. A procedure which by law only licensed dentists, licensed dental hygienists, or certified denturists can perform;
2. Intraoral carvings of dental restorations or prostheses;
3. Final jaw registrations;
4. Taking final impressions for any activating orthodontic appliance, fixed or removable prosthesis;
5. Activating orthodontic appliances; or
6. An irreversible procedure.

Historical Note

Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-101 renumbered as Section R4-11-702 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-702 repealed, new Section R4-11-702 renumbered from R4-11-504 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-703. Repealed**Historical Note**

Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-102 renumbered as Section R4-11-703 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-703 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-704. Repealed**Historical Note**

Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-103 renumbered as Section R4-11-704 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-704 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-705. Repealed**Historical Note**

Adopted effective April 27, 1977 (Supp. 77-2). Former

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Section R4-11-104 renumbered as Section R4-11-705 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-705 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-706. Repealed**Historical Note**

Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-105 renumbered as Section R4-11-706 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-706 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-707. Repealed**Historical Note**

Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-106 renumbered as Section R4-11-707 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-707 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-708. Repealed**Historical Note**

Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-107 renumbered as Section R4-11-708 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-708 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-709. Repealed**Historical Note**

Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-108 renumbered as Section R4-11-709 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-709 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-710. Repealed**Historical Note**

Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-109 renumbered as Section R4-11-710 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-710 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

ARTICLE 8. DENTURISTS**R4-11-801. Expired****Historical Note**

Adopted effective March 28, 1978 (Supp. 78-2). Former Section R4-11-120 renumbered as Section R4-11-801 without change effective July 29, 1981 (Supp. 81-4). Section R4-11-801 repealed, new Section filed April 4, 1986, adopted effective January 1, 1988 (Supp. 86-2). Amended effective May 17, 1995 (Supp. 95-2). Former Section R4-11-801 repealed, new Section R4-11-801 renumbered from R4-11-1201 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 2575, effective August 25, 2017 (Supp. 17-3).

R4-11-802. Expired**Historical Note**

Adopted effective March 28, 1978 (Supp. 78-2). Former

Section R4-11-121 renumbered as Section R4-11-802 without change effective July 29, 1981 (Supp. 81-4). Section R4-11-802 repealed, new Section filed April 4, 1986, adopted effective January 1, 1988 (Supp. 86-2). Amended effective May 17, 1995 (Supp. 95-2). Former Section R4-11-802 renumbered to R4-11-1301, new Section R4-11-802 renumbered from R4-11-1202 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 2575, effective August 25, 2017 (Supp. 17-3).

R4-11-803. Renumbered**Historical Note**

Adopted effective March 28, 1978 (Supp. 78-2). Former Section R4-11-122 renumbered as Section R4-11-803 without change effective July 29, 1981 (Supp. 81-4). Section R4-11-803 repealed, new Section filed April 4, 1986, adopted effective January 1, 1988 (Supp. 86-2). Amended effective May 17, 1995 (Supp. 95-2). Former Section R4-11-803 renumbered to R4-11-1302 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-804. Renumbered**Historical Note**

Adopted effective March 28, 1978 (Supp. 78-2). Former Section R4-11-123 renumbered as Section R4-11-804 without change effective July 29, 1981 (Supp. 81-4). Section R4-11-804 repealed, new Section filed April 4, 1986, adopted effective January 1, 1988 (Supp. 86-2). Former Section R4-11-804 renumbered to R4-11-1303 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-805. Renumbered**Historical Note**

Adopted as filed April 4, 1986, adopted effective January 1, 1988 (Supp. 86-2). Amended effective May 17, 1995 (Supp. 95-2). Former Section R4-11-805 renumbered to R4-11-1304 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-806. Renumbered**Historical Note**

Adopted effective May 17, 1995 (Supp. 95-2). Former Section R4-11-806 renumbered to R4-11-1305 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

ARTICLE 9. RESTRICTED PERMITS**R4-11-901. Application for Restricted Permit**

A. An applicant for a restricted permit shall provide the following information and documentation on a form provided by the Board:

1. A sworn statement of the applicant's qualifications for a restricted permit;
2. A photograph of the applicant that is no more than six months old;
3. A letter of endorsement from any other jurisdiction in which an applicant is licensed, sent directly from that jurisdiction to the Board;
4. A letter of endorsement from the applicant's commanding officer or superior if the applicant is in the military or employed by the United States government;

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5. A copy of the applicant's current cardiopulmonary resuscitation certification that meets the requirements of R4-11-301(A)(6); and
 6. A copy of the applicant's pending contract with a charitable dental clinic or organization offering dental or dental hygiene services.
- B.** The Board may request that an applicant provide a copy of a certified document that indicates the reason for a name change if the applicant's application contains different names.

Historical Note

Adopted effective September 7, 1979 (Supp. 79-5). Former Section R4-11-130 renumbered as Section R4-11-901, repealed, and new Section R4-11-901 adopted effective July 29, 1981 (Supp. 81-4). Amended effective April 4, 1986 (Supp. 86-2). Emergency amendment adopted effective June 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Adopted effective July 13, 1992 (Supp. 92-3). Former Section R4-11-901 renumbered to R4-11-401, new Section R4-11-901 renumbered from R4-11-1001 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1).

R4-11-902. Issuance of a Restricted Permit

Before issuing a restricted permit under A.R.S. §§ 32-1237 through 32-1239 or 32-1292, the Board shall investigate the statutory qualifications of the charitable dental clinic or organization. The Board shall not recognize a dental clinic or organization under A.R.S. §§ 32-1237 through 32-1239 or 32-1292 as a charitable dental clinic or organization permitted to employ dentists or dental hygienists not licensed in Arizona who hold restricted permits unless the Board makes the following findings of fact:

1. That the entity is a dental clinic or organization offering professional dental or dental hygiene services in a manner consistent with the public health;
2. That the dental clinic or organization offering dental or dental hygiene services is operated for charitable purposes only, offering dental or dental hygiene services either without compensation to the clinic or organization or with compensation at the minimum rate to provide only reimbursement for dental supplies and overhead costs;
3. That the persons performing dental or dental hygiene services for the dental clinic or organization do so without compensation; and
4. That the charitable dental clinic or organization operates in accordance with applicable provisions of law.

Historical Note

Adopted effective September 7, 1979 (Supp. 79-5). Former Section R4-11-131 renumbered as Section R4-11-902, repealed, and new Section R4-11-902 adopted effective July 29, 1981 (Supp. 81-4). Amended effective April 4, 1986 (Supp. 86-2). Emergency amendment adopted effective June 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Adopted effective July 13, 1992 (Supp. 92-3). Former Section R4-11-902 renumbered to R4-11-402, new Section R4-11-902 renumbered from R4-11-1002 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1).

R4-11-903. Recognition of a Charitable Dental Clinic Orga-**nization**

In order for the Board to make the findings required in R4-11-902, the charitable clinic or organization shall provide information to the Board, such as employment contracts with restricted permit holders, Articles and Bylaws, and financial records.

Historical Note

Adopted effective September 7, 1979 (Supp. 79-5). Former Section R4-11-132 renumbered as Section R4-11-903, repealed, and new Section R4-11-903 adopted effective July 29, 1981 (Supp. 81-4). Former Section R4-11-903 renumbered to R4-11-403, new Section R4-11-903 renumbered from R4-11-1003 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-904. Determination of Minimum Rate

In determining whether professional services are provided at the minimum rate to provide reimbursement for dental supplies and overhead costs under A.R.S. §§ 32-1237(1) or 32-1292(A)(1), the Board shall obtain and review information relating to the actual cost of dental supplies to the dental clinic or organization, the actual overhead costs of the dental clinic or organization, the amount of charges for the dental or dental hygiene services offered, and any other information relevant to its inquiry.

Historical Note

Adopted effective September 7, 1979 (Supp. 79-5). Former Section R4-11-133 renumbered as Section R4-11-904 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-904 renumbered to R4-11-404, new Section R4-11-904 renumbered from R4-11-1004 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1).

R4-11-905. Expired**Historical Note**

Adopted effective September 7, 1979 (Supp. 79-5). Former Section R4-11-134 renumbered as Section R4-11-905 without change effective July 29, 1981 (Supp. 81-4). Amended effective April 4, 1986 (Supp. 86-2). Former Section R4-11-905 renumbered to R4-11-405, new Section R4-11-905 renumbered from R4-11-1005 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 2575, effective August 25, 2017 (Supp. 17-3).

R4-11-906. Expired**Historical Note**

Adopted effective July 29, 1981 (Supp. 81-4). Amended effective April 4, 1986 (Supp. 86-4). Emergency amendment adopted effective June 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Adopted effective July 13, 1992 (Supp. 92-3). Former Section R4-11-906 renumbered to R4-11-406, new Section R4-11-906 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 2575, effective August 25, 2017 (Supp. 17-3).

R4-11-907. Repealed

Historical Note

Adopted effective April 4, 1986 (Supp. 86-2). Former Section R4-11-907 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-908. Repealed**Historical Note**

Adopted effective April 4, 1986 (Supp. 86-2). Former Section R4-11-908 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-909. Renumbered**Historical Note**

Adopted effective May 17, 1995 (Supp. 95-2). Former Section R4-11-909 renumbered to R4-11-407 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

ARTICLE 10. DENTAL TECHNICIANS**R4-11-1001. Expired****Historical Note**

Adopted effective November 28, 1980 (Supp. 80-6). Former Section R4-11-140 renumbered as Section R4-11-1001 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-1001 renumbered to R4-11-901, new Section R4-11-1001 renumbered from R4-11-602 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 2575, effective August 25, 2017 (Supp. 17-3).

R4-11-1002. Expired**Historical Note**

Adopted effective November 28, 1980 (Supp. 80-6). Former Section R4-11-141 renumbered as Section R4-11-1002 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-1002 renumbered to R4-11-902, new Section R4-11-1002 renumbered from R4-11-603 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 2575, effective August 25, 2017 (Supp. 17-3).

R4-11-1003. Renumbered**Historical Note**

Adopted effective November 28, 1980 (Supp. 80-6). Former Section R4-11-142 renumbered as Section R4-11-1003 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-1003 renumbered to R4-11-903 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-1004. Renumbered**Historical Note**

Adopted effective November 28, 1980 (Supp. 80-6). Former Section R4-11-143 renumbered as Section R4-11-1004 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-1004 renumbered to R4-11-904 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-1005. Renumbered**Historical Note**

Adopted effective November 28, 1980 (Supp. 80-6). Former Section R4-11-144 renumbered as Section R4-11-

1005 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-1005 renumbered to R4-11-905 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-1006. Repealed**Historical Note**

Adopted effective September 12, 1985 (Supp. 85-5). Repealed effective July 21, 1995 (Supp. 95-3).

ARTICLE 11. ADVERTISING**R4-11-1101. Advertising**

A dentist may advertise specific dental services or certification in a non-specialty area only if the advertisement includes the phrase "Services provided by an Arizona licensed general dentist." A dental hygienist may advertise specific dental hygiene services only if the advertisement includes the phrase "Services provided by an Arizona licensed dental hygienist." A denturist may advertise specific denture services only if the advertisement includes the phrase "Services provided by an Arizona certified denturist."

Historical Note

Adopted effective July 29, 1981 (Supp. 81-4). Amended by repealing the former guideline on "Management of Craniomandibular Disorders" and adopting a new guideline effective June 16, 1982 (Supp. 82-3). Repealed effective November 20, 1992 (Supp. 92-4). Former Section R4-11-1101 repealed, new Section R4-11-1101 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1).

R4-11-1102. Advertising as a Recognized Specialist

- A. A dentist may advertise as a specialist or use the terms "specialty" or "specialist" to describe professional services only if the dentist limits the dentist's practice exclusively to one or more specialty area that are:
 1. Recognized by a board that certifies specialists for the area of specialty; and
 2. Accredited by the Commission on Dental Accreditation of the American Dental Association.
- B. The following specialty areas meet the requirements of subsection (A):
 1. Endodontics,
 2. Oral and maxillofacial surgery,
 3. Orthodontics and dentofacial orthopedics,
 4. Pediatric dentistry,
 5. Periodontics,
 6. Prosthodontics,
 7. Dental Public Health,
 8. Oral and Maxillofacial Pathology, and
 9. Oral and Maxillofacial Radiology.
- C. For purposes of this Article, a dentist who wishes to advertise as a specialist or a multiple-specialist in a recognized field under subsection (B) shall meet the criteria in one or more of the following categories:
 1. Grandfathered: A dentist who declared a specialty area before December 31, 1964, according to requirements established by the American Dental Association, and has a practice limited to a dentistry area approved by the American Dental Association;
 2. Educationally qualified: A dentist who has successfully completed an educational program of two or more years in a specialty area accredited by the Commission on Dental Accreditation of the American Dental Association, as

specified by the Council on Dental Education of the American Dental Association;

3. Board eligible: A dentist who has met the guidelines of a specialty board that operates in accordance with the requirements established by the American Dental Association in a specialty area recognized by the Board, if the specialty board:
 - a. Has established examination requirements and standards,
 - b. Appraised an applicant's qualifications,
 - c. Administered comprehensive examinations, and
 - d. Upon completion issues a certificate to a dentist who has achieved diplomate status; or
 4. Board certified: A dentist who has met the requirements of a specialty board referenced in subsection (C)(3), and who has received a certificate from the specialty board, indicating the dentist has achieved diplomate status.
- D. A dentist, dental hygienist, or denturist whose advertising implies that services rendered in a dental office are of a specialty area other than those listed in subsection (B) and recognized by a specialty board that has been accredited by the Commission on Dental Accreditation of the American Dental Association violates this Article and A.R.S. § 32-1201(18)(u), and is subject to discipline under A.R.S. Title 32, Chapter 11.

Historical Note

Adopted effective July 29, 1981 (Supp. 81-4). Former Section R4-11-1102 renumbered to R4-11-501 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). New Section made by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1).

R4-11-1103. Reserved

R4-11-1104. Repealed

Historical Note

Adopted effective November 25, 1985 (Supp. 85-6). Former Section R4-11-1104 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-1105. Repealed

Historical Note

Adopted effective September 12, 1985 (Supp. 85-5).
Repealed effective July 21, 1995 (Supp. 95-3).

ARTICLE 12. CONTINUING DENTAL EDUCATION AND RENEWAL REQUIREMENTS

R4-11-1201. Continuing Dental Education

- A. A licensee or certificate holder shall:
1. Satisfy a continuing dental education requirement that is designed to provide an understanding of current developments, skills, procedures, or treatment related to the licensee's or certificate holder's practice; and
 2. Complete the recognized continuing dental education required by this Article each renewal period.
- B. A licensee or certificate holder receiving an initial license or certificate shall complete the prescribed credit hours of recognized continuing dental education by the end of the first full renewal period.

Historical Note

Adopted effective May 21, 1982 (Supp. 82-3). Former Section R4-11-1201 renumbered to R4-11-801, new Section R4-11-1201 renumbered from R4-11-1402 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005

(Supp. 05-1).

R4-11-1202. Continuing Dental Education Compliance and Renewal Requirements

- A. When applying for a renewal license, certificate, or restricted permit, a licensee, certificate holder, or restricted permit holder shall complete a renewal application provided by the Board.
- B. Before receiving a renewal license or certificate, each licensee or certificate holder shall possess a current form of one of the following:
1. A current cardiopulmonary resuscitation (CPR) health-care provider certificate from the American Red Cross, the American Heart Association, or another certifying agency;
 2. Advanced cardiac life support (ACLS) course completion confirmation from the American Heart Association or another agency. The confirmation must indicate that the course was completed within two years immediately before submitting a renewal application; or
 3. Pediatric advanced life support (PALS) course completion confirmation from the American Heart Association or another agency. The confirmation must indicate that the course was completed within two years immediately before submitting a renewal application.
- C. A licensee or certificate holder shall include an affidavit affirming the licensee's or certificate holder's completion of the prescribed credit hours of recognized continuing dental education with a renewal application. A licensee or certificate holder shall include on the affidavit the licensee's or certificate holder's name, license or certificate number, the number of hours completed in each category, and the total number of hours completed for activities defined in R4-11-1209(A)(4).
- D. A licensee or certificate holder shall submit a written request for an extension before the June 30 deadline. If a licensee or certificate holder fails to meet the credit hour requirement because of military service, dental or religious missionary activity, residence in a foreign country, or other extenuating circumstances as determined by the Board, the Board, upon written request, may grant an extension of time to complete the recognized continuing dental education credit hour requirement.
- E. The Board shall:
1. Only accept recognized continuing dental education credits accrued during the prescribed period immediately before license or certificate renewal, and
 2. Not allow recognized continuing dental education credit accrued in a renewal period in excess of the amount required in this Article to be carried forward to the next renewal period.
- F. A licensee or certificate holder shall maintain documentation of attendance for each program for which credit is claimed that verifies the recognized continuing dental education credit hours the licensee or certificate holder participated in during the most recently completed renewal period.
- G. Each year, the Board shall audit continuing dental education requirement compliance on a random basis or when information is obtained which indicates a licensee or certificate holder may not be in compliance with this Article. A licensee or certificate holder selected for audit shall provide the Board with documentation of attendance that shows compliance with the continuing dental education requirements within 60 days from the date the licensee or certificate holder received notice of the audit by certified mail.
- H. If a licensee or certificate holder is found to not be in compliance with the continuing dental education requirements, the

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Board may take any disciplinary or non-disciplinary action authorized by A.R.S. Title 32, Chapter 11.

Historical Note

Adopted effective May 21, 1982 (Supp. 82-3). Former Section R4-11-1202 renumbered to R4-11-802, new Section R4-11-1202 renumbered from R4-11-1403 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 19 A.A.R. 3873, effective January 5, 2014 (Supp. 13-4). Amended by final rulemaking at 21 A.A.R. 921, effective August 3, 2015 (Supp. 15-2).

R4-11-1203. Dentists and Dental Consultants

Dentists and dental consultants shall complete 72 hours of recognized continuing dental education in each renewal period as follows:

1. At least 42 credit hours in any of the following areas: Dental and medical health, preventive services, dental diagnosis and treatment planning, dental recordkeeping, dental clinical procedures, managing medical emergencies, pain management, dental public health, and courses in corrective and restorative oral health and basic dental sciences, which may include current research, new concepts in dentistry, and behavioral and biological sciences that are oriented to dentistry. A licensee who holds a permit to administer general anesthesia, deep sedation, par-enteral sedation, or oral sedation who is required to obtain continuing education pursuant to Article 13 may apply those credit hours to the requirements of this Section;
2. No more than 18 credit hours in the following areas: Dental practice organization and management, patient management skills, and methods of health care delivery;
3. At least three credit hours in chemical dependency, which may include tobacco cessation;
4. At least three credit hours in infectious diseases or infectious disease control;
5. At least three credit hours in CPR healthcare provider, ACLS and PALS. Coursework may be completed online if the course requires a physical demonstration of skills; and
6. At least three credit hours in ethics or Arizona dental jurisprudence.

Historical Note

Adopted effective September 12, 1985 (Supp. 85-5). Repealed effective July 21, 1995 (Supp. 95-3). New Section R4-11-1203 renumbered from R4-11-1404 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 19 A.A.R. 3873, effective January 5, 2014 (Supp. 13-4).

R4-11-1204. Dental Hygienists

A. A dental hygienist shall complete 54 credit hours of recognized continuing dental education in each renewal period as follows:

1. At least 31 credit hours in any of the following areas: Dental and medical health, and dental hygiene services, periodontal disease, care of implants, maintenance of cosmetic restorations and sealants, radiology safety and techniques, managing medical emergencies, pain management, dental recordkeeping, dental public health, and new concepts in dental hygiene;

2. No more than 14 credit hours in one or more of the following areas: Dental hygiene practice organization and management, patient management skills, and methods of health care delivery;
3. At least three credit hours in one or more of the following areas: chemical dependency, tobacco cessation, ethics, risk management, or Arizona dental jurisprudence;
4. At least three credit hours in infectious diseases or infectious disease control; and
5. At least three credit hours in CPR healthcare provider, ACLS and PALS. Coursework may be completed online if the course requires a physical demonstration of skills.

B. A licensee who performs dental hygiene services under an affiliated practice relationship who is required to obtain continuing education under R4-11-609 may apply those credit hours to the requirements of this Section.

Historical Note

New Section R4-11-1204 renumbered from R4-11-1405 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 13 A.A.R. 962, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 19 A.A.R. 3873, effective January 5, 2014 (Supp. 13-4).

R4-11-1205. Denturists

Denturists shall complete 36 credit hours of recognized continuing dental education in each renewal period as follows:

1. At least 21 credit hours in any of the following areas: Medical and dental health, laboratory procedures, clinical procedures, dental recordkeeping, removable prosthetics, pain management, dental public health, and new technology in dentistry;
2. No more than six credit hours in one or more of the following areas: Denturist practice organization and management, patient management skills, and methods of health care delivery;
3. At least one credit hour in chemical dependency, which may include tobacco cessation;
4. At least two credit hours in infectious diseases or infectious disease control;
5. At least three credit hours in CPR healthcare provider, ACLS and PALS. Coursework may be completed online if the course requires a physical demonstration of skills; and
6. At least three credit hours in ethics or Arizona dental jurisprudence.

Historical Note

New Section R4-11-1205 renumbered from R4-11-1406 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 19 A.A.R. 3873, effective January 5, 2014 (Supp. 13-4).

R4-11-1206. Restricted Permit Holders - Dental

In addition to the requirements in R4-11-1202, a dental restricted permit holder shall comply with the following requirements:

1. When applying for renewal under A.R.S. § 32-1238, the restricted permit holder shall provide information to the Board that the restricted permit holder has completed 24 credit hours of recognized continuing dental education yearly.
2. To determine whether to grant the renewal, the Board shall only consider recognized continuing dental educa-

tion credits accrued between July 1 and June 30 immediately before the restricted permit holder submits the renewal application.

3. A dental restricted permit holder shall complete the 24 hours of recognized continuing dental education before renewal as follows:
 - a. At least 12 credit hours in one or more of the subjects enumerated in R4-11-1203(1);
 - b. No more than six credit hours in one or more of the subjects enumerated in R4-11-1203(2);
 - c. At least one credit hour in the subjects enumerated in R4-11-1203(3);
 - d. At least one credit hour in the subjects enumerated in R4-11-1203(4).
 - e. At least three credit hours in the subjects enumerated in R4-11-1203(5); and
 - f. At least one credit hour in the subjects enumerated in R4-11-1203(6).

Historical Note

New Section R4-11-1206 renumbered from R4-11-1407 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 19 A.A.R. 3873, effective January 5, 2014 (Supp. 13-4).

R4-11-1207. Restricted Permit Holders - Dental Hygiene

In addition to the requirements in R4-11-1202, a dental hygiene restricted permit holder shall comply with the following:

1. When applying for renewal under A.R.S. § 32-1292, the restricted permit holder shall provide information to the Board that the restricted permit holder has completed 18 credit hours of recognized continuing dental education yearly.
2. To determine whether to grant renewal, the Board shall only consider recognized continuing dental education credits accrued between July 1 and June 30 immediately before the restricted permit holder submits the renewal application.
3. A dental hygiene restricted permit holder shall complete the 18 hours of recognized continuing dental education before renewal as follows:
 - a. At least 9 credit hours in one or more of the subjects enumerated in R4-11-1204(1);
 - b. No more than three credit hours in one or more of the subjects enumerated in R4-11-1204(2);
 - c. At least one credit hour in the subjects enumerated in R4-11-1204(3);
 - d. At least two credit hours in the subjects enumerated in R4-11-1204(4) and
 - e. At least three credit hours in the subjects enumerated in R4-11-1204(5).

Historical Note

New Section R4-11-1207 renumbered from R4-11-1408 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section repealed; new Section made by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 19 A.A.R. 3873, effective January 5, 2014 (Supp. 13-4).

R4-11-1208. Retired Licensees or Certificate Holders

A retired licensee or certificate holder shall:

1. Except for the number of credit hours required, comply with the requirements in R4-11-1202; and

2. When applying for renewal under A.R.S. § 32-1236 for a dentist, A.R.S. § 32-1287 for a dental hygienist, and A.R.S. § 32-1297.06 for a denturist, provide information to the Board that the retired licensee or certificate holder has completed the following credit hours of recognized continuing dental education per renewal period:
 - a. Dentist - 27 credit hours of which no less than three credit hours shall be for CPR;
 - b. Dental hygienist - 21 credit hours of which no less than three credit hours shall be for CPR; and
 - c. Denturist - 9 credit hours of which no less than three credit hours shall be for CPR.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1).

R4-11-1209. Types of Courses

- A. A licensee or certificate holder shall obtain recognized continuing dental education from one or more of the following activities:
 1. Seminars, symposiums, lectures, or programs designed to provide an understanding of current developments, skills, procedures, or treatment related to the practice of dentistry;
 2. Seminars, symposiums, lectures, or programs designed to provide an understanding of current developments, skills, procedures, or treatment related to the practice of dentistry by means of audio-video technology in which the licensee is provided all seminar, symposium, lecture or program materials and the technology permits attendees to fully participate; or
 3. Curricula designed to prepare for specialty board certification as a specialist or recertification examinations or advanced training at an accredited institution as defined in A.R.S. Title 32, Chapter 11; and
 4. Subject to the limitations in subsection (B), any of the following activities that provide an understanding of current developments, skills, procedures, or treatment related to the practice of dentistry:
 - a. A correspondence course, video, internet or similar self-study course, if the course includes an examination and the licensee or certificate holder passes the examination;
 - b. Participation on the Board, in Board complaint investigations including clinical evaluations or anesthesia and sedation permit evaluations;
 - c. Participation in peer review of a national or state dental, dental hygiene, or denturist association or participation in quality of care or utilization review in a hospital, institution, or governmental agency;
 - d. Providing dental-related instruction to dental, dental hygiene, or denturist students, or allied health professionals in a recognized dental school, recognized dental hygiene school, or recognized denturist school or providing dental-related instruction sponsored by a national, state, or local dental, dental hygiene, or denturist association;
 - e. Publication or presentation of a dental paper, report, or book authored by the licensee or certificate holder that provides information on current developments, skills, procedures, or treatment related to the practice of dentistry. A licensee or certificate holder may claim credit hours:
 - i. Only once for materials presented;

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- ii. Only if the date of publication or original presentation was during the applicable renewal period; and
 - iii. One credit hour for each hour of preparation, writing, and presentation; or
 - f. Providing dental, dental hygiene, or denturist services in a Board-recognized charitable dental clinical or organization.
- B.** The following limitations apply to the total number of credit hours earned per renewal period in any combination of the activities listed in subsection (A)(4):
- 1. Dentists and Dental Hygienists, no more than 24 hours;
 - 2. Denturists, no more than 12 hours;
 - 3. Retired or Restricted Permit Holder Dentists or Dental Hygienists, no more than nine hours; and
 - 4. Retired Denturists, no more than three hours.
- Historical Note**
- New Section made by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 19 A.A.R. 3873, effective January 5, 2014 (Supp. 13-4).
- ARTICLE 13. GENERAL ANESTHESIA AND SEDATION**
- R4-11-1301. General Anesthesia and Deep Sedation**
- A.** Before administering general anesthesia, or deep sedation by any means, in a dental office or dental clinic, a dentist shall possess a Section 1301 permit issued by the Board. The dentist may renew a Section 1301 permit every five years by complying with R4-11-1307.
- B.** To obtain or renew a Section 1301 permit, a dentist shall:
- 1. Submit a completed application on a form provided by the Board office that, in addition to the requirements of subsections (B)(2) and (3), and R4-11-1307, includes:
 - a. General information about the applicant such as:
 - i. Name;
 - ii. Home and office addresses and telephone numbers;
 - iii. Limitations of practice;
 - iv. Hospital affiliations;
 - v. Denial, curtailment, revocation, or suspension of hospital privileges;
 - vi. Denial of membership in, denial of renewal of membership in, or disciplinary action by a dental organization; and
 - vii. Denial of licensure by, denial of renewal of licensure by, or disciplinary action by a dental regulatory body; and
 - b. The dentist's dated and signed affidavit stating that the information provided is true, and that the dentist has read and complied with the Board's statutes and rules;
 - 2. On forms provided by the Board, provide a dated and signed affidavit attesting that any office or dental clinic where the dentist will administer general anesthesia or deep sedation:
 - a. Contains the following properly operating equipment and supplies during the provision of general anesthesia and deep sedation:
 - i. Emergency drugs;
 - ii. Electrocardiograph monitor;
 - iii. Pulse oximeter;
 - iv. Cardiac defibrillator or automated external defibrillator (AED);
 - v. Positive pressure oxygen and supplemental oxygen;
 - vi. Suction equipment, including endotracheal, tonsillar, or pharyngeal and emergency backup medical suction device;
 - vii. Laryngoscope, multiple blades, backup batteries, and backup bulbs;
 - viii. Endotracheal tubes and appropriate connectors;
 - ix. Magill forceps;
 - x. Oropharyngeal and nasopharyngeal airways;
 - xi. Auxiliary lighting;
 - xii. Stethoscope; and
 - xiii. Blood pressure monitoring device; and
 - b. Maintains a staff of supervised personnel capable of handling procedures, complications, and emergency incidents. All personnel involved in administering and monitoring general anesthesia or deep sedation shall hold a current course completion confirmation in cardiopulmonary resuscitation (CPR) Health Care Provider Level;
- C.** Initial applicants shall meet one or more of the following conditions:
- 1. Complete, within the three years before submitting the permit application, a full credit load, as defined by the training program, during one calendar year of training, in anesthesiology or related academic subjects, beyond the undergraduate dental school level in a training program described in R4-11-1306(A), offered by a hospital accredited by the Joint Commission on Accreditation of Hospitals Organization, or sponsored by a university accredited by the American Dental Association Commission on Dental Accreditation;
 - 2. Be, within the three years before submitting the permit application, a Diplomate of the American Board of Oral and Maxillofacial Surgeons or eligible for examination by the American Board of Oral and Maxillofacial surgeons, a Fellow of the American Association of Oral and Maxillofacial surgeons, a Fellow of the American Dental Society of Anesthesiology, a Diplomate of the National Dental Board of Anesthesiology, or a Diplomate of the American Dental Board of Anesthesiology; or
 - 3. For an applicant who completed the requirements of subsections (C)(1) or (C)(2) more than three years before submitting the permit application, provide the following documentation:
 - a. On a form provided by the Board, a written affidavit affirming that the applicant has administered general anesthesia or deep sedation to a minimum of 25 patients within the year before submitting the permit application or 75 patients within the last five years before submitting the permit application;

- b. A copy of the general anesthesia or deep sedation permit in effect in another state or certification of military training in general anesthesia or deep sedation from the applicant's commanding officer; and
 - c. On a form provided by the Board, a written affidavit affirming the completion of 30 clock hours of continuing education taken within the last five years as outlined in R4-11-1306(B)(1)(a) through (f).
- D.** After submitting the application and written evidence of compliance with requirements in subsection (B) and, if applicable, subsection (C) to the Board, the applicant shall schedule an onsite evaluation by the Board during which the applicant shall administer general anesthesia or deep sedation. After the applicant completes the application requirements and successfully completes the onsite evaluation, a Section 1301 permit shall be issued to the applicant.
 - 1. The onsite evaluation team shall consist of:
 - a. Two dentists who are Board members, or Board designees for initial applications; or
 - b. One dentist who is a Board member or Board designee for renewal applications.
 - 2. The onsite team shall evaluate the following:
 - a. The availability of equipment and personnel as specified in subsection (B)(2);
 - b. Proper administration of general anesthesia or deep sedation to a patient by the applicant in the presence of the evaluation team;
 - c. Successful responses by the applicant to oral examination questions from the evaluation team about patient management, medical emergencies, and emergency medications;
 - d. Proper documentation of controlled substances, that includes a perpetual inventory log showing the receipt, administration, dispensing, and destruction of controlled substances;
 - e. Proper recordkeeping as specified in subsection (E) by reviewing the records generated for the patient specified in subsection (D)(2)(b); and
 - f. For renewal applicants, records supporting continued competency as specified in R4-11-1306.
 - 3. The evaluation team shall recommend one of the following:
 - a. Pass. Successful completion of the onsite evaluation;
 - b. Conditional Approval for failing to have appropriate equipment, proper documentation of controlled substances, or proper recordkeeping. The applicant must submit proof of correcting the deficiencies before a permit is issued;
 - c. Category 1 Evaluation Failure. The applicant must review the appropriate subject matter and schedule a subsequent evaluation by two Board Members or Board designees not less than 30 days from the failed evaluation. An example is failure to recognize and manage one emergency;
 - d. Category 2 Evaluation Failure. The applicant must complete Board approved continuing education in subject matter within the scope of the onsite evaluation as identified by the evaluators and schedule a subsequent evaluation by two Board Members or Board designees not less than 60 days from the failed evaluation. An example is failure to recognize and manage more than one emergency; or
 - e. Category 3 Evaluation Failure. The applicant must complete Board approved remedial continuing education with the subject matter outlined in R4-11-1306 as identified by the evaluators and reapply not less than 90 days from the failed evaluation. An example is failure to recognize and manage an anesthetic urgency.
- 4. The onsite evaluation of an additional dental office or dental clinic in which general anesthesia or deep sedation is administered by an existing Section 1301 permit holder may be waived by the Board staff upon receipt in the Board office of an affidavit verifying compliance with subsection (D)(2)(a).
- 5. A Section 1301 mobile permit may be issued if a Section 1301 permit holder travels to dental offices or dental clinics to provide anesthesia or deep sedation. The applicant must submit a completed affidavit verifying:
 - a. That the equipment and supplies for the provision of anesthesia or deep sedation as required in subsection (B)(2)(a) either travel with the Section 1301 permit holder or are in place and in appropriate condition at the dental office or dental clinic where anesthesia or deep sedation is provided, and
 - b. Compliance with subsection (B)(2)(b).
- E.** A Section 1301 permit holder shall keep an anesthesia or deep sedation record for each general anesthesia and deep sedation procedure that includes the following entries:
 - 1. Pre-operative and post-operative electrocardiograph documentation;
 - 2. Pre-operative, intra-operative, and post-operative pulse oximeter documentation;
 - 3. Pre-operative, intra-operative, and post-operative blood pressure and vital sign documentation;
 - 4. A list of all medications given, with dosage and time intervals, and route and site of administration;
 - 5. Type of catheter or portal with gauge;
 - 6. Indicate nothing by mouth or time of last intake of food or water;
 - 7. Consent form; and
 - 8. Time of discharge and status, including name of escort.
- F.** The Section 1301 permit holder, for intravenous access, shall use a new infusion set, including a new infusion line and new bag of fluid, for each patient.
- G.** The Section 1301 permit holder shall utilize supplemental oxygen for patients receiving general anesthesia or deep sedation for the duration of the procedure.
- H.** The Section 1301 permit holder shall continuously supervise the patient from the initiation of anesthesia or deep sedation until termination of the anesthesia or deep sedation procedure and oxygenation, ventilation, and circulation are stable. The Section 1301 permit holder shall not commence with the administration of a subsequent anesthetic case until the patient is in monitored recovery or meets the guidelines for discharge.
- I.** A Section 1301 permit holder may employ the following health care professionals to provide anesthesia or sedation services and shall ensure that the health care professional continuously supervises the patient from the administration of anesthesia or sedation until termination of the anesthesia or sedation procedure and oxygenation, ventilation, and circulation are stable:
 - 1. An allopathic or osteopathic physician currently licensed in Arizona by the Arizona Medical Board or the Arizona Board of Osteopathic Examiners who has successfully completed a residency program in anesthesiology approved by the American Council on Graduate Medical Education (ACGME) or the American Osteopathic Association (AOA) or who is certified by either the American Board of Anesthesiology or the American Osteopathic Board of Anesthesiology and is credentialed with anes-

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- thesia privileges through an Arizona licensed medical facility, or
2. A Certified Registered Nurse Anesthetist (CRNA) currently licensed in Arizona who provides services under the Nurse Practice Act in A.R.S. Title 32, Chapter 15.

J. A Section 1301 permit holder may also administer parenteral sedation without obtaining a Section 1302 permit.

Historical Note

New Section R4-11-1301 renumbered from R4-11-802 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Amended by final rulemaking at 9 A.A.R. 1054, effective May 6, 2003 (Supp. 03-1). Amended by final rulemaking at 19 A.A.R. 341, effective April 6, 2013 (Supp. 13-1).

R4-11-1302. Parenteral Sedation

A. Before administering parenteral sedation in a dental office or dental clinic, a dentist shall possess a Section 1302 permit issued by the Board. The dentist may renew a Section 1302 permit every five years by complying with R4-11-1307.

1. A Section 1301 permit holder may also administer parenteral sedation.
2. A Section 1302 permit holder shall not administer or employ any agents which have a narrow margin for maintaining consciousness including, but not limited to, ultra-short acting barbiturates, propofol, parenteral ketamine, or similarly acting drugs, agents, or techniques, or any combination thereof that would likely render a patient deeply sedated, generally anesthetized or otherwise not meeting the conditions of moderate sedation.

B. To obtain or renew a Section 1302 permit, the dentist shall:

1. Submit a completed application on a form provided by the Board office that, in addition to the requirements of subsections (B)(2) and (3) and R4-11-1307, includes:
 - a. General information about the applicant such as:
 - i. Name;
 - ii. Home and office addresses and telephone numbers;
 - iii. Limitations of practice;
 - iv. Hospital affiliations;
 - v. Denial, curtailment, revocation, or suspension of hospital privileges;
 - vi. Denial of membership in, denial of renewal of membership in, or disciplinary action by a dental organization; and
 - vii. Denial of licensure by, denial of renewal of licensure by, or disciplinary action by a dental regulatory body; and
 - b. The dentist's dated and signed affidavit stating that the information provided is true, and that the dentist has read and complied with the Board's statutes and rules;
2. On forms provided by the Board, provide a dated and signed affidavit attesting that any dental office or dental clinic where the dentist will administer parenteral sedation by intravenous or intramuscular route:
 - a. Contains the following properly operating equipment and supplies during the provision of parenteral sedation by the permit holder or general anesthesia or deep sedation by a physician anesthesiologist or Certified Registered Nurse Anesthetist (CRNA):
 - i. Emergency drugs;
 - ii. Positive pressure oxygen and supplemental oxygen;
 - iii. Stethoscope;

- iv. Suction equipment, including tonsillar or pharyngeal and emergency backup medical suction device;
- v. Oropharyngeal and nasopharyngeal airways;
- vi. Pulse oximeter;
- vii. Auxiliary lighting;
- viii. Blood pressure monitoring device; and
- ix. Cardiac defibrillator or automated external defibrillator (AED); and

- b. Maintains a staff of supervised personnel capable of handling procedures, complications, and emergency incidents, including at least one staff member who:
 - i. Holds a current course completion confirmation in cardiopulmonary resuscitation (CPR) health care provider level;
 - ii. Is present during the parenteral sedation procedure; and
 - iii. After the procedure, monitors the patient until discharge;

3. Hold a valid license to practice dentistry in this state;
4. Maintain a current permit to prescribe and administer controlled substances in this state issued by the United States Drug Enforcement Administration;
5. Provide confirmation of completing coursework within the two years prior to submitting the permit application in one or more of the following:
 - a. Advanced cardiac life support (ACLS) from the American Heart Association or another agency that follows the same procedures, standards, and techniques for training as the American Heart Association;
 - b. Pediatric advanced life support (PALS) in a practice treating pediatric patients; or
 - c. A recognized continuing education course in advanced airway management.

C. Initial applicants shall meet one of the following conditions:

1. Successfully complete Board-recognized undergraduate, graduate, or postgraduate education within the three years before submitting the permit application, that includes the following:
 - a. Sixty (60) didactic hours of basic parenteral sedation to include:
 - i. Physical evaluation;
 - ii. Management of medical emergencies;
 - iii. The importance of and techniques for maintaining proper documentation; and
 - iv. Monitoring and the use of monitoring equipment; and
 - b. Hands-on administration of parenteral sedative medications to at least 20 patients in a manner consistent with this Section; or
2. An applicant who completed training in parenteral sedation more than three years before submitting the permit application shall provide the following documentation:
 - a. On a form provided by the Board, a written affidavit affirming that the applicant has administered parenteral sedation to a minimum of 25 patients within the year or 75 patients within the last five years before submitting the permit application;
 - b. A copy of the parenteral sedation permit in effect in another state or certification of military training in parenteral sedation from the applicant's commanding officer; and
 - c. On a form provided by the Board, a written affidavit affirming the completion of 30 clock hours of con-

tinuing education taken within the last five years as outlined in R4-11-1306(B)(1)(b) through (f).

- D.** After submitting the application and written evidence of compliance with requirements outlined in subsection (B) and, if applicable, subsection (C) to the Board, the applicant shall schedule an onsite evaluation by the Board during which the applicant shall administer parenteral sedation. After the applicant completes the application requirements and successfully completes the onsite evaluation, the Board shall issue a Section 1302 permit to the applicant.
1. The onsite evaluation team shall consist of:
 - a. Two dentists who are Board members, or Board designees for initial applications, or
 - b. One dentist who is a Board member or Board designee for renewal applications.
 2. The onsite team shall evaluate the following:
 - a. The availability of equipment and personnel as specified in subsection (B)(2);
 - b. Proper administration of parenteral sedation to a patient by the applicant in the presence of the evaluation team;
 - c. Successful responses by the applicant to oral examination questions from the evaluation team about patient management, medical emergencies, and emergency medications;
 - d. Proper documentation of controlled substances, that includes a perpetual inventory log showing the receipt, administration, dispensing, and destruction of all controlled substances;
 - e. Proper recordkeeping as specified in subsection (E) by reviewing the records generated for the patient receiving parenteral sedation as specified in subsection (D)(2)(b); and
 - f. For renewal applicants, records supporting continued competency as specified in R4-11-1306.
 3. The evaluation team shall recommend one of the following:
 - a. Pass. Successful completion of the onsite evaluation;
 - b. Conditional Approval for failing to have appropriate equipment, proper documentation of controlled substances, or proper recordkeeping. The applicant must submit proof of correcting the deficiencies before a permit is issued;
 - c. Category 1 Evaluation Failure. The applicant must review the appropriate subject matter and schedule a subsequent evaluation by two Board Members or Board designees not less than 30 days from the failed evaluation. An example is failure to recognize and manage one emergency;
 - d. Category 2 Evaluation Failure. The applicant must complete Board approved continuing education in subject matter within the scope of the onsite evaluation as identified by the evaluators and schedule a subsequent evaluation by two Board Members or Board designees not less than 60 days from the failed evaluation. An example is failure to recognize and manage more than one emergency; or
 - e. Category 3 Evaluation Failure. The applicant must complete Board approved remedial continuing education with the subject matter outlined in R4-11-1306 as identified by the evaluators and reapply not less than 90 days from the failed evaluation. An example is failure to recognize and manage an anesthetic urgency.
 4. The onsite evaluation of an additional dental office or dental clinic in which parenteral sedation is administered by an existing Section 1302 permit holder may be waived by the Board staff upon receipt in the Board office of an affidavit verifying compliance with subsection (D)(2)(a).
 5. A Section 1302 mobile permit may be issued if a Section 1302 permit holder travels to dental offices or dental clinics to provide parenteral sedation. The applicant must submit a completed affidavit verifying:
 - a. That the equipment and supplies for the provision of parenteral sedation as required in R4-11-1302(B)(2)(a) either travel with the Section 1302 permit holder or are in place and in appropriate working condition at the dental office or dental clinic where parenteral sedation is provided, and
 - b. Compliance with R4-11-1302(B)(2)(b).
- E.** A Section 1302 permit holder shall keep a parenteral sedation record for each parenteral sedation procedure that:
1. Includes the following entries:
 - a. Pre-operative, intra-operative, and post-operative pulse oximeter documentation;
 - b. Pre-operative, intra-operative, and post-operative blood pressure and vital sign documentation;
 - c. A list of all medications given, with dosage and time intervals and route and site of administration;
 - d. Type of catheter or portal with gauge;
 - e. Indicate nothing by mouth or time of last intake of food or water;
 - f. Consent form; and
 - g. Time of discharge and status, including name of escort; and
 2. May include pre-operative and post-operative electrocardiograph report.
- F.** The Section 1302 permit holder shall establish intravenous access on each patient receiving parenteral sedation utilizing a new infusion set, including a new infusion line and new bag of fluid.
- G.** The Section 1302 permit holder shall utilize supplemental oxygen for patients receiving parenteral sedation for the duration of the procedure.
- H.** The Section 1302 permit holder shall continuously supervise the patient from the initiation of parenteral sedation until termination of the parenteral sedation procedure and oxygenation, ventilation and circulation are stable. The Section 1302 permit holder shall not commence with the administration of a subsequent anesthetic case until the patient is in monitored recovery or meets the guidelines for discharge.
- I.** A Section 1302 permit holder may employ a health care professional as specified in R4-11-1301(I).

Historical Note

New Section R4-11-1302 renumbered from R4-11-803 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Amended by final rulemaking at 9 A.A.R. 1054, effective May 6, 2003 (Supp. 03-1). Amended by final rulemaking at 19 A.A.R. 341, effective April 6, 2013 (Supp. 13-1).

R4-11-1303. Oral Sedation

- A.** Before administering oral sedation in a dental office or dental clinic, a dentist shall possess a Section 1303 permit issued by the Board. The dentist may renew a Section 1303 permit every five years by complying with R4-11-1307.
1. A Section 1301 permit holder or Section 1302 permit holder may also administer oral sedation without obtaining a Section 1303 permit.

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2. The administration of a single drug for minimal sedation does not require a Section 1303 permit if:
 - a. The administered dose is within the Food and Drug Administration's (FDA) maximum recommended dose as printed in FDA approved labeling for unmonitored home use;
 - i. Incremental multiple doses of the drug may be administered until the desired effect is reached, but does not exceed the maximum recommended dose; and
 - ii. During minimal sedation, a single supplemental dose may be administered. The supplemental dose may not exceed one-half of the initial dose and the total aggregate dose may not exceed one and one-half times the FDA maximum recommended dose on the date of treatment; and
 - b. Nitrous oxide/oxygen may be administered in addition to the oral drug as long as the combination does not exceed minimal sedation.
- B.** To obtain or renew a Section 1303 permit, a dentist shall:
1. Submit a completed application on a form provided by the Board office that, in addition to the requirements of subsections (B)(2) and (3) and R4-11-1307, includes:
 - a. General information about the applicant such as:
 - i. Name;
 - ii. Home and office addresses and telephone numbers;
 - iii. Limitations of practice;
 - iv. Hospital affiliations;
 - v. Denial, curtailment, revocation, or suspension of hospital privileges;
 - vi. Denial of membership in, denial of renewal of membership in, or disciplinary action by a dental organization; and
 - vii. Denial of licensure by, denial of renewal of licensure by, or disciplinary action by a dental regulatory body; and
 - b. The dentist's dated and signed affidavit stating that the information provided is true, and that the dentist has read and complied with the Board's statutes and rules;
 2. On forms provided by the Board, provide a dated and signed affidavit attesting that any dental office or dental clinic where the dentist will administer oral sedation:
 - a. Contains the following properly operating equipment and supplies during the provision of sedation:
 - i. Emergency drugs;
 - ii. Cardiac defibrillator or automated external defibrillator (AED);
 - iii. Positive pressure oxygen and supplemental oxygen;
 - iv. Stethoscope;
 - v. Suction equipment, including tonsillar or pharyngeal and emergency backup medical suction device;
 - vi. Pulse oximeter;
 - vii. Blood pressure monitoring device; and
 - viii. Auxiliary lighting; and
 - b. Maintains a staff of supervised personnel capable of handling procedures, complications, and emergency incidents, including at least one staff member who:
 - i. Holds a current certificate in cardiopulmonary resuscitation (CPR) Health Care Provider Level;
 - ii. Is present during the oral sedation procedure; and
 - iii. After the procedure, monitors the patient until discharge;
- C.** Initial applicants shall meet one of the following:
1. Complete a Board-recognized post-doctoral residency program that includes documented training in oral sedation within the last three years before submitting the permit application; or
 2. Complete a Board recognized post-doctoral residency program that includes documented training in oral sedation more than three years before submitting the permit application shall provide the following documentation:
 - a. On a form provided by the Board, a written affidavit affirming that the applicant has administered oral sedation to a minimum of 25 patients within the year or 75 patients within the last five years before submitting the permit application;
 - b. A copy of the oral sedation permit in effect in another state or certification of military training in oral sedation from the applicant's commanding officer; and
 - c. On a form provided by the Board, a written affidavit affirming the completion of 30 hours of continuing education taken within the last five years as outlined in R4-11-1306(C)(1)(a) through (f); or
 3. Provide proof of participation in 30 clock hours of Board-recognized undergraduate, graduate, or post-graduate education in oral sedation within the three years before submitting the permit application that includes:
 - a. Training in basic oral sedation,
 - b. Pharmacology,
 - c. Physical evaluation,
 - d. Management of medical emergencies,
 - e. The importance of and techniques for maintaining proper documentation, and
 - f. Monitoring and the use of monitoring equipment.
- D.** After submitting the application and written evidence of compliance with requirements in subsection (B) and, if applicable, subsection (C) to the Board, the applicant shall schedule an onsite evaluation by the Board. After the applicant completes the application requirements and successfully completes the onsite evaluation, the Board shall issue a Section 1303 permit to the applicant.
1. The onsite evaluation team shall consist of:
 - a. For initial applications, two dentists who are Board members, or Board designees.
 - b. For renewal applications, one dentist who is a Board member, or Board designee.

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2. The onsite team shall evaluate the following:
 - a. The availability of equipment and personnel as specified in subsection (B)(2);
 - b. Successful responses by the applicant to oral examination questions from the evaluation team about patient management, medical emergencies, and emergency medications;
 - c. Proper documentation of controlled substances, that includes a perpetual inventory log showing the receipt, administration, dispensing, and destruction of controlled substances;
 - d. Proper recordkeeping as specified in subsection (E) by reviewing the forms that document the oral sedation record; and
 - e. For renewal applicants, records supporting continued competency as specified in R4-11-1306.
 3. The evaluation team shall recommend one of the following:
 - a. Pass. Successful completion of the onsite evaluation;
 - b. Conditional Approval for failing to have appropriate equipment, proper documentation of controlled substance, or proper recordkeeping. The applicant must submit proof of correcting the deficiencies before permit will be issued;
 - c. Category 1 Evaluation Failure. The applicant must review the appropriate subject matter and schedule a subsequent evaluation by two Board Members or Board designees not less than 30 days from the failed evaluation. An example is failure to recognize and manage one emergency; or
 - d. Category 2 Evaluation Failure. The applicant must complete Board approved continuing education in subject matter within the scope of the onsite evaluation as identified by the evaluators and schedule a subsequent evaluation by two Board Members or Board designees not less than 60 days from the failed evaluation. An example is failure to recognize and manage more than one emergency.
 4. The onsite evaluation of an additional dental office or dental clinic in which oral sedation is administered by a Section 1303 permit holder may be waived by the Board staff upon receipt in the Board office of an affidavit verifying compliance with subsection (D)(2)(a).
 5. A Section 1303 mobile permit may be issued if the Section 1303 permit holder travels to dental offices or dental clinics to provide oral sedation. The applicant must submit a completed affidavit verifying:
 - a. That the equipment and supplies for the provision of oral sedation as required in R4-11-1303(B)(2)(a) either travel with the Section 1303 permit holder or are in place and in appropriate condition at the dental office or dental clinic where oral sedation is provided, and
 - b. Compliance with R4-11-1303(B)(2)(b).
- E.** A Section 1303 permit holder shall keep an oral sedation record for each oral sedation procedure that:
1. Includes the following entries:
 - a. Pre-operative, intra-operative, and post-operative, pulse oximeter oxygen saturation and pulse rate documentation;
 - b. Pre-operative and post-operative blood pressure;
 - c. Documented reasons for not taking vital signs if a patient's behavior or emotional state prevents monitoring personnel from taking vital signs;
 - d. List of all medications given, including dosage and time intervals;
 - e. Patient's weight;
 - f. Consent form;
 - g. Special notes, such as, nothing by mouth or last intake of food or water; and
 - h. Time of discharge and status, including name of escort; and
 2. May include the following entries:
 - a. Pre-operative and post-operative electrocardiograph report; and
 - b. Intra-operative blood pressures.
- F.** The Section 1303 permit holder shall utilize supplemental oxygen for patients receiving oral sedation for the duration of the procedure.
- G.** The Section 1303 permit holder shall ensure the continuous supervision of the patient from the administration of oral sedation until oxygenation, ventilation and circulation are stable and the patient is appropriately responsive for discharge from the dental office or dental clinic.
- H.** A Section 1303 permit holder may employ a health care professional to provide anesthesia services, if all of the following conditions are met:
1. The physician anesthesiologist or CRNA meets the requirements as specified in R4-11-1301(I);
 2. The Section 1303 permit holder has completed coursework within the two years prior to submitting the permit application in one or more of the following:
 - a. ACLS from the American Heart Association or another agency that follows the same procedures, standards, and techniques for training as the American Heart Association;
 - b. PALS in a practice treating pediatric patients;
 - c. A recognized continuing education course in advanced airway management;
 3. The Section 1303 permit holder ensures that:
 - a. The dental office or clinic contains the equipment and supplies listed in R4-11-1304(B)(2)(a) during the provision of anesthesia or sedation by the physician anesthesiologist or CRNA;
 - b. The anesthesia or sedation record contains all the entries listed in R4-11-1304(D);
 - c. For intravenous access, the physician anesthesiologist or CRNA uses a new infusion set, including a new infusion line and new bag of fluid for each patient; and
 - d. The patient is continuously supervised from the administration of anesthesia or sedation until the termination of the anesthesia or sedation procedure and oxygenation, ventilation and circulation are stable. The Section 1303 permit holder shall not commence with a subsequent procedure or treatment until the patient is in monitored recovery or meets the guidelines for discharge.

Historical Note

New Section R4-11-1303 renumbered from R4-11-805 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Former Section R4-11-1303 renumbered to R4-11-1304; new Section R4-11-1303 made by final rulemaking at 9 A.A.R. 1054, effective May 6, 2003 (Supp. 03-1). Amended by final rulemaking at 19 A.A.R. 341, effective April 6, 2013 (Supp. 13-1).

R4-11-1304. Permit to Employ or Work with a Physician Anesthesiologist or Certified Registered Nurse Anesthetist

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(CRNA)

- A.** This Section does not apply to a Section 1301 permit holder or a Section 1302 permit holder practicing under the provisions of R4-11-1302(I) or a Section 1303 permit holder practicing under the provisions of R4-11-1303(H). A dentist may utilize a physician anesthesiologist or certified registered nurse anesthetist (CRNA) for anesthesia or sedation services while the dentist provides treatment in the dentist's office or dental clinic after obtaining a Section 1304 permit issued by the Board.
1. The physician anesthesiologist or CRNA meets the requirements as specified in R4-11-1301(I).
 2. The dentist permit holder shall provide all dental treatment and ensure that the physician anesthesiologist or CRNA remains on the dental office or dental clinic premises until any patient receiving anesthesia or sedation services is discharged.
 3. A dentist may renew a Section 1304 permit every five years by complying with R4-11-1307.
- B.** To obtain or renew a Section 1304 permit, a dentist shall:
1. Submit a completed application on a form provided by the Board office that, in addition to the requirements of subsections (B)(2) and (3) and R4-11-1307 includes:
 - a. General information about the applicant such as:
 - i. Name;
 - ii. Home and office addresses and telephone numbers;
 - iii. Limitations of practice;
 - iv. Hospital affiliations;
 - v. Denial, curtailment, revocation, or suspension of hospital privileges;
 - vi. Denial of membership in, denial of renewal of membership in, or disciplinary action by a dental organization; and
 - vii. Denial of licensure by, denial of renewal of licensure by, or disciplinary action by a dental regulatory body; and
 - b. The dentist's dated and signed affidavit stating that the information provided is true, and that the dentist has read and complied with the Board's statutes and rules;
 2. On forms provided by the Board, provide a dated and signed affidavit attesting that any dental office or dental clinic where the dentist provides treatment during administration of general anesthesia or sedation by a physician anesthesiologist or CRNA:
 - a. Contains the following properly operating equipment and supplies during the provision of general anesthesia and sedation:
 - i. Emergency drugs;
 - ii. Electrocardiograph monitor;
 - iii. Pulse oximeter;
 - iv. Cardiac defibrillator or automated external defibrillator (AED);
 - v. Positive pressure oxygen and supplemental continuous flow oxygen;
 - vi. Suction equipment, including endotracheal, tonsillar or pharyngeal and emergency backup medical suction device;
 - vii. Laryngoscope, multiple blades, backup batteries and backup bulbs;
 - viii. Endotracheal tubes and appropriate connectors;
 - ix. Magill forceps;
 - x. Oropharyngeal and nasopharyngeal airways;
 - xi. Auxiliary lighting;
 - xii. Stethoscope; and
 - xiii. Blood pressure monitoring device; and
 - b. Maintains a staff of supervised personnel capable of handling procedures, complications, and emergency incidents. All personnel involved in administering and monitoring general anesthesia or sedation shall hold a current course completion confirmation in cardiopulmonary resuscitation (CPR) Health Care Provider level;
3. Hold a valid license to practice dentistry in this state; and
4. Provide confirmation of completing coursework within the last two years prior to submitting the permit application in one or more of the following:
 - a. Advanced cardiac life support (ACLS) from the American Heart Association or another agency that follows the same procedures, standards, and techniques for training as the American Heart Association;
 - b. Pediatric advanced life support (PALS) in a practice treating pediatric patients; or
 - c. A recognized continuing education course in advanced airway management.
- C.** After submitting the application and written evidence of compliance with requirements in subsection (B) to the Board, the applicant shall schedule an onsite evaluation by the Board. After the applicant completes the application requirements and successfully completes the onsite evaluation, the Board shall issue the applicant a Section 1304 permit.
1. The onsite evaluation team shall consist of one dentist who is a Board member, or Board designee.
 2. The onsite team shall evaluate the following:
 - a. The availability of equipment and personnel as specified in subsection (B)(2);
 - b. Proper documentation of controlled substances, that includes a perpetual inventory log showing the receipt, administration, dispensing, and destruction of controlled substances; and
 - c. Proper recordkeeping as specified in subsection (E) by reviewing previous anesthesia or sedation records.
 3. The evaluation team shall recommend one of the following:
 - a. Pass. Successful completion of the onsite evaluation; or
 - b. Conditional approval for failing to have appropriate equipment, proper documentation of controlled substances, or proper recordkeeping. The applicant must submit proof of correcting the deficiencies before a permit is issued.
 4. The evaluation of an additional dental office or dental clinic in which a Section 1304 permit holder provides treatment during the administration general anesthesia or sedation by a physician anesthesiologist or CRNA may be waived by the Board staff upon receipt in the Board office of an affidavit verifying compliance with subsection (B)(2).
- D.** A Section 1304 permit holder shall keep an anesthesia or sedation record for each general anesthesia and sedation procedure that includes the following entries:
1. Pre-operative and post-operative electrocardiograph documentation;
 2. Pre-operative, intra-operative, and post-operative, pulse oximeter documentation;
 3. Pre-operative, intra-operative, and post-operative blood pressure and vital sign documentation; and
 4. A list of all medications given, with dosage and time intervals and route and site of administration;

5. Type of catheter or portal with gauge;
 6. Indicate nothing by mouth or time of last intake of food or water;
 7. Consent form; and
 8. Time of discharge and status, including name of escort.
- E.** For intravenous access, a Section 1304 permit holder shall ensure that the physician anesthesiologist or CRNA uses a new infusion set, including a new infusion line and new bag of fluid for each patient.
- F.** A Section 1304 permit holder shall ensure that the physician anesthesiologist or CRNA utilizes supplemental continuous flow oxygen for patients receiving general anesthesia or sedation for the duration of the procedure.
- G.** The Section 1304 permit holder shall continuously supervise the patient from the administration of anesthesia or sedation until termination of the anesthesia or sedation procedure and oxygenation, ventilation and circulation are stable. The Section 1304 permit holder shall not commence with a subsequent procedure or treatment until the patient is in monitored recovery or meets the guidelines for discharge.

Historical Note

New Section R4-11-1304 renumbered from R4-11-805 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Former Section R4-11-1304 renumbered to R4-11-1305; new Section R4-11-1304 renumbered from R4-11-1303 and amended by final rulemaking at 9 A.A.R. 1054, effective May 6, 2003 (Supp. 03-1). Section repealed; new Section made by final rulemaking at 19 A.A.R. 341, effective April 6, 2013 (Supp. 13-1).

R4-11-1305. Reports of Adverse Occurrences

If a death, or incident requiring emergency medical response, occurs in a dental office or dental clinic during the administration of or recovery from general anesthesia, deep sedation, moderate sedation, or minimal sedation, the permit holder and the treating dentist involved shall submit a complete report of the incident to the Board within 10 days after the occurrence.

Historical Note

New Section R4-11-1305 renumbered from R4-11-806 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Former Section R4-11-1305 renumbered to R4-11-1306; new Section R4-11-1305 renumbered from R4-11-1304 and amended by final rulemaking at 9 A.A.R. 1054, effective May 6, 2003 (Supp. 03-1). Section repealed; new Section made by final rulemaking at 19 A.A.R. 341, effective April 6, 2013 (Supp. 13-1).

R4-11-1306. Education; Continued Competency

- A.** To obtain a Section 1301, permit by satisfying the education requirement of R4-11-1301(B)(6), a dentist shall successfully complete an advanced graduate or post-graduate education program in pain control.
1. The program shall include instruction in the following subject areas:
 - a. Anatomy and physiology of the human body and its response to the various pharmacologic agents used in pain control;
 - b. Physiological and psychological risks for the use of various modalities of pain control;
 - c. Psychological and physiological need for various forms of pain control and the potential response to pain control procedures;
 - d. Techniques of local anesthesia, sedation, and general anesthesia, and psychological management and

- behavior modification, as they relate to pain control in dentistry; and
 - e. Handling emergencies and complications related to pain control procedures, including the maintenance of respiration and circulation, immediate establishment of an airway, and cardiopulmonary resuscitation.
2. The program shall consist of didactic and clinical training. The didactic component of the program shall:
 - a. Be the same for all dentists, whether general practitioners or specialists; and
 - b. Include each subject area listed in subsection (A)(1).
 3. The program shall provide at least one calendar year of training as prescribed in R4-11-1301(B)(6)(a).
- B.** To maintain a Section 1301 or 1302 permit under R4-11-1301 or R4-11-1302 a permit holder shall:
1. Participate in 30 clock hours of continuing education every five years in one or more of the following areas:
 - a. General anesthesia,
 - b. Parenteral sedation,
 - c. Physical evaluation,
 - d. Medical emergencies,
 - e. Monitoring and use of monitoring equipment, or
 - f. Pharmacology of drugs and non-drug substances used in general anesthesia or parenteral sedation; and
 2. Provide confirmation of completing coursework within the two years prior to submitting the renewal application from one or more of the following:
 - a. Advanced cardiac life support (ACLS) from the American Heart Association or another agency that follows the same procedures, standards, and techniques for training as the American Heart Association;
 - b. Pediatric advanced life support (PALS) in a practice treating pediatric patients; or
 - c. A recognized continuing education course in advanced airway management;
 3. Complete at least 10 general anesthesia, deep sedation or parenteral sedation cases a calendar year; and
 4. Apply a maximum of six hours from subsection (B)(2) toward the continuing education requirements for subsection (B)(1).
- C.** To maintain a Section 1303 permit issued under R4-11-1303, a permit holder shall:
1. Participate in 30 clock hours of continuing education every five years in one or more of the following areas:
 - a. Oral sedation,
 - b. Physical evaluation,
 - c. Medical emergencies,
 - d. Monitoring and use of monitoring equipment, or
 - e. Pharmacology of oral sedation drugs and non-drug substances; and
 2. Provide confirmation of completing coursework within the two years prior to submitting the renewal application from one or more of the following:
 - a. Cardiopulmonary resuscitation (CPR) Health Care Provider level from the American Heart Association, American Red Cross or another agency that follows the same procedures, standards, and techniques for training as the American Heart Association or American Red Cross;
 - b. Advanced cardiac life support (ACLS) from the American Heart Association or another agency that follows the same procedures, standards, and tech-

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niques for training as the American Heart Association;

- c. Pediatric advanced life support (PALS);
 - d. A recognized continuing education course in advanced airway management; and
3. Complete at least 10 oral sedation cases a calendar year.

Historical Note

Section R4-11-1306 renumbered from R4-11-1305 and amended by final rulemaking at 9 A.A.R. 1054, effective May 6, 2003 (Supp. 03-1). Amended by final rulemaking at 19 A.A.R. 341, effective April 6, 2013 (Supp. 13-1).

R4-11-1307. Renewal of Permit

- A.** To renew a Section 1301, 1302, or 1303 permit, the permit holder shall:
- 1. Provide written documentation of compliance with the applicable continuing education requirements in R4-11-1306;
 - 2. Provide written documentation of compliance with the continued competency requirements in R4-11-1306;
 - 3. Before December 31 of the year the permit expires, submit a completed application on a form provided by the Board office as described in R4-11-1301, R4-11-1302, or R4-11-1303; and
 - 4. Not less than 90 days before the expiration of a permit holder's current permit, arrange for an onsite evaluation as described in R4-11-1301, R4-11-1302, or R4-11-1303.
- B.** To renew a Section 1304 permit, the permit holder shall:
- 1. Before December 31 of the year the permit expires, submit a completed application on a form provided by the Board office as described in R4-11-1304; and
 - 2. Not less than 90 days before the expiration of a permit holder's current permit, arrange for an onsite evaluation as described in R4-11-1304.
- C.** After the permit holder successfully completes the evaluation and submits the required affidavits, the Board shall renew a Section 1301, 1302, 1303, 1304 permit, as applicable.
- D.** The Board may stagger due dates for renewal applications.

Historical Note

Made by final rulemaking at 19 A.A.R. 341, effective April 6, 2013 (Supp. 13-1).

ARTICLE 14. DISPENSING DRUGS AND DEVICES**R4-11-1401. Prescribing**

- A.** In addition to the requirements of A.R.S. § 32-1298(C), a dentist shall ensure that a prescription order contains the following information:
- 1. Date of issuance;
 - 2. Name and address of the patient to whom the prescription is issued;
 - 3. Name, strength, dosage form, and quantity of the drug or name and quantity of the device prescribed;
 - 4. Name and address of the dentist prescribing the drug; and
 - 5. Drug Enforcement Administration registration number of the dentist, if prescribing a controlled substance.
- B.** Before dispensing a drug or device, a dentist shall present to the patient a written prescription for the drug or device being dispensed that includes on the prescription the following statement in bold type: "This prescription may be filled by the prescribing dentist or by a pharmacy of your choice."

Historical Note

Adopted effective July 21, 1995 (Supp. 95-3). Former Section R4-11-1401 repealed, new Section R4-11-1401 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section repealed; new

Section made by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1).

R4-11-1402. Labeling and Dispensing

- A.** A dentist shall include the following information on the label of all drugs and devices dispensed:
- 1. The dentist's name, address, and telephone number;
 - 2. The serial number;
 - 3. The date the drug or device is dispensed;
 - 4. The patient's name;
 - 5. Name, strength, and quantity of drug or name and quantity of device dispensed;
 - 6. The name of the drug or device manufacturer or distributor;
 - 7. Directions for use and cautionary statement necessary for safe and effective use of the drug or device; and
 - 8. If a controlled substance is prescribed, the cautionary statement "Caution: Federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed."
- B.** Before delivery to the patient, the dentist shall prepare and package the drug or device to ensure compliance with the prescription and personally inform the patient of the name of the drug or device, directions for its use, precautions, and storage requirements.
- C.** A dentist shall purchase all dispensed drugs and devices from a manufacturer, distributor, or pharmacy that is properly licensed in this state or one of the other 49 states, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States of America.
- D.** When dispensing a prescription drug or device from a prescription order, a dentist shall perform the following professional practices:
- 1. Verify the legality and pharmaceutical feasibility of dispensing a drug based upon:
 - a. A patient's allergies,
 - b. Incompatibilities with a patient's currently-taken medications,
 - c. A patient's use of unusual quantities of dangerous drugs or narcotics, and
 - d. The frequency of refills;
 - 2. Verify that the dosage is within proper limits;
 - 3. Interpret the prescription order;
 - 4. Prepare, package, and label, or assume responsibility for preparing, packaging, and labeling, the drug or device dispensed under each prescription order;
 - 5. Check the label to verify that the label precisely communicates the prescriber's directions and hand-initial each label;
 - 6. Record, or assume responsibility for recording, the serial number and date dispensed on the front of the original prescription order; and
 - 7. Record on the original prescription order the name or initials of the dentist who dispensed the order.

Historical Note

Adopted effective July 21, 1995 (Supp. 95-3). Former Section R4-11-1402 renumbered to R4-11-1201, new Section R4-11-1402 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section repealed; new Section made by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1).

R4-11-1403. Storage and Packaging

A dentist shall:

- 1. Keep all prescription-only drugs and devices in a secured area and control access to the secured area by written procedure. The dentist shall make the written procedure

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- available to the Board or its authorized agents on demand for inspection or copying;
2. Keep all controlled substances secured in a locked cabinet or room, control access to the cabinet or room by written procedure, and maintain an ongoing inventory of the contents. The dentist shall make the written procedure available to the Board or its authorized agents on demand for inspection or copying;
 3. Maintain drug storage areas so that the temperature in the drug storage areas does not exceed 85° F;
 4. Not dispense a drug or device that has expired or is improperly labeled;
 5. Not redispense a drug or device that has been returned;
 6. Dispense a drug or device:
 - a. In a prepackaged container or light-resistant container with a consumer safety cap, unless the patient or patient's representative requests a non-safety cap; and
 - b. With a label that is mechanically or electronically printed;
 7. Destroy an outdated, deteriorated, or defective controlled substance according to Drug Enforcement Administration regulations or by using a reverse distributor. A list of reverse distributors may be obtained from the Drug Enforcement Administration; and
 8. Destroy an outdated, deteriorated, or defective non-controlled substance drug or device by returning it to the supplier or by using a reverse distributor. A list of reverse distributors may be obtained from the Drug Enforcement Administration.

Historical Note

Adopted effective July 21, 1995 (Supp. 95-3). Former Section R4-11-1403 renumbered to R4-11-1202, new Section R4-11-1403 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section repealed; new Section made by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1).

R4-11-1404. Recordkeeping

- A. A dentist shall:
 1. Chronologically date and sequentially number prescription orders in the order that the drugs or devices are originally dispensed;
 2. Sequentially file orders separately from patient records, as follows:
 - a. File Schedule II drug orders separately from all other prescription orders;
 - b. File Schedule III, IV, and V drug orders separately from all other prescription orders; and
 - c. File all other prescription orders separately from orders specified in subsections (A)(2)(a) and (b);
 3. Record the name of the manufacturer or distributor of the drug or device dispensed on each prescription order and label;
 4. Record the name or initials of the dentist dispensing the drug or device on each prescription order and label; and
 5. Record the date the drug or device is dispensed on each prescription order and label.
- B. A dentist shall record in the patient's dental record the name, dosage form, and strength of the drug or device dispensed, the quantity or volume dispensed, the date the drug or device is dispensed, and the dental therapeutic reasons for dispensing the drug or device.
- C. A dentist shall maintain:
 1. Purchase records of all drugs and devices for three years from the date purchased; and

2. Dispensing records of all drugs and devices for three years from the date dispensed.
- D. A dentist who dispenses controlled substances:
 1. Shall inventory Schedule II, III, IV, and V controlled substances as prescribed by A.R.S. § 36-2523;
 2. Shall perform a controlled substance inventory on March 1 annually, if directed by the Board, and at the opening or closing of a dental practice;
 3. Shall maintain the inventory for three years from the inventory date;
 4. May use one inventory book for all controlled substances;
 5. When conducting an inventory of Schedule II controlled substances, shall take an exact count;
 6. When conducting an inventory of Schedule III, IV, and V controlled substances, shall take an exact count or may take an estimated count if the stock container contains fewer than 1001 units.
 - E. A dentist shall maintain invoices for drugs and devices dispensed for three years from the date of the invoices, filed as follows:
 1. File Schedule II controlled substance invoices separately from records that are not Schedule II controlled substance invoices;
 2. File Schedule III, IV, and V controlled substance invoices separately from records that are not Schedule III, IV, and V controlled substance invoices; and
 3. File all non-controlled substance invoices separately from the invoices referenced in subsections (E)(1) and (2).
 - F. A dentist shall file Drug Enforcement Administration order form (DEA Form 222) for a controlled substance sequentially and separately from every other record.

Historical Note

Adopted effective July 21, 1995 (Supp. 95-3). Former Section R4-11-1404 renumbered to R4-11-1203, new Section R4-11-1404 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section repealed; new Section made by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1).

R4-11-1405. Compliance

- A. A dentist who determines that there has been a theft or loss of drugs or controlled substances from the dentist's office shall immediately notify a local law enforcement agency and the Board and provide written notice of the theft or loss in the following manner:
 1. For non-controlled substance drug theft or loss, provide the law enforcement agency and the Board with a written report explaining the theft or loss; or
 2. For controlled substance theft or loss, complete a DEA 106 form; and
 3. Provide copies of the DEA 106 form to the Drug Enforcement Administration and the Board within seven days of the discovery.
- B. A dentist who dispenses drugs or devices in a manner inconsistent with this Article is subject to discipline under A.R.S. Title 32, Chapter 11, Article 3.

Historical Note

Adopted effective July 21, 1995 (Supp. 95-3). Former Section R4-11-1405 renumbered to R4-11-1204, new Section R4-11-1405 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section repealed; new Section made by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1).

R4-11-1406. Dispensing for Profit Registration and Renewal

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- A. A dentist who is currently licensed to practice dentistry in Arizona may dispense controlled substances, prescription-only drugs, and prescription-only devices for profit only after providing the Board the following information:
1. A completed registration form that includes the following information:
 - a. The dentist's name and dental license number;
 - b. A list of the types of drugs and devices to be dispensed for profit, including controlled substances; and
 - c. Locations where the dentist desires to dispense the drugs and devices for profit; and
 2. A copy of the dentist's current Drug Enforcement Administration Certificate of Registration for each dispensing location from which the dentist desires to dispense the drugs and devices for profit.
- B. The Board shall issue a numbered certificate indicating the dentist is registered with the Board to dispense drugs and devices for profit.
- C. A dentist shall renew a registration to dispense drugs and devices for profit by complying with the requirements in subsection (A) before the dentist's license renewal date. When a dentist has made timely and complete application for the renewal of a registration, the dentist may continue to dispense until the Board approves or denies the application. Failure to renew a registration shall result in immediate loss of dispensing for profit privileges.

Historical Note

Adopted effective July 21, 1995; inadvertently not published with Supp. 95-3 (Supp. 95-4). Former Section R4-11-1406 renumbered to R4-11-1205, new Section R4-11-1406 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section repealed; new Section made by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1).

R4-11-1407. Renumbered**Historical Note**

Adopted effective July 21, 1995 (Supp. 95-3). Former Section R4-11-1407 renumbered to R4-11-1206 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-1408. Renumbered**Historical Note**

Adopted effective July 21, 1995 (Supp. 95-3). Former Section R4-11-1408 renumbered to R4-11-1207 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-1409. Repealed**Historical Note**

Adopted effective July 21, 1995 (Supp. 95-3). Former Section R4-11-1409 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

ARTICLE 15. COMPLAINTS, INVESTIGATIONS, DISCIPLINARY ACTION**R4-11-1501. Ex-parte Communication**

A complainant, licensee, certificate holder, business entity or mobile dental permit holder against whom a complaint is filed, shall not engage in ex-parte communication by means of a written or oral communication between a decision maker, fact finder, or Board member and only one party to the proceeding.

Historical Note

New Section R4-11-1501 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 19 A.A.R. 334, effective April 6, 2013 (Supp. 13-1).

R4-11-1502. Dental Consultant Qualifications

A dentist, dental hygienist, or denturist approved as a Board dental consultant shall:

1. Possess a valid license or certificate to practice in Arizona;
2. Have practiced at least five years in Arizona; and
3. Not have been disciplined by the Board within the past five years.

Historical Note

New Section R4-11-1502 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Amended by final rulemaking at 19 A.A.R. 334, effective April 6, 2013 (Supp. 13-1).

R4-11-1503. Initial Complaint Review

A. The Board's procedures for complaint notification are:

1. Board personnel shall notify the complainant and licensee, certificate holder, business entity or mobile dental permit holder by certified U.S. Mail when the following occurs:
 - a. A formal interview is scheduled,
 - b. The complaint is tabled,
 - c. A postponement or continuance is granted, and
 - d. A subpoena, notice, or order is issued.
2. Board personnel shall provide the licensee, certificate holder, business entity, or mobile dental permit holder with a copy of the complaint.
3. If a complaint alleges a violation of the state or federal criminal code, the Board shall refer the complaint to the proper law enforcement agency.

B. The Board's procedures for complaints referred to clinical evaluation are:

1. Except as provided in subsection (B)(1)(a), the president's designee shall appoint one or more dental consultants to perform a clinical evaluation. If there is more than one dental consultant, the dental consultants do not need to be present at the same time.
 - a. If the complaint involves a dental hygienist, denturist, or dentist who is a recognized specialist in one of the areas listed in R4-11-1102(B), the president's designee shall appoint a dental consultant from that area of practice or specialty.
 - b. The Board shall not disclose the identity of the licensee to a dental consultant performing a clinical examination before the Board receives the dental consultant's report.
2. The dental consultant shall prepare and submit a clinical evaluation report. The president's designee shall provide a copy of the clinical evaluation report to the licensee or certificate holder. The licensee or certificate holder may submit a written response to the clinical evaluation report.

Historical Note

New Section R4-11-1503 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking

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at 19 A.A.R. 334, effective April 6, 2013 (Supp. 13-1).

R4-11-1504. Postponement of Interview

- A.** The licensee, certificate holder, business entity, or mobile dental permit holder may request a postponement of a formal interview. The Board or its designee shall grant a postponement until the next regularly scheduled Board meeting if the licensee, certificate holder, business entity, or mobile dental permit holder makes a postponement request and the request:
1. Is made in writing,
 2. States the reason for the postponement, and
 3. Is received by the Board within 15 calendar days after the date the respondent received the formal interview request.
- B.** Within 48 hours of receipt of a request for postponement of a formal interview, the Board or its designee shall:
1. Review and either deny or approve the request for postponement; and
 2. Notify in writing the complainant and licensee, certificate holder, business entity, or mobile dental permit holder of the decision to either deny or approve the request for postponement.

Historical Note

New Section R4-11-1504 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section expired under A.R.S. § 41-1056(E) at 9 A.A.R. 3669, effective April 30, 2003 (Supp. 03-3). New Section made by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 19 A.A.R. 334, effective April 6, 2013 (Supp. 13-1).

ARTICLE 16. EXPIRED**R4-11-1601. Expired****Historical Note**

New Section R4-11-1601 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section expired under A.R.S. § 41-1056(E) at 14 A.A.R. 3183, effective April 30, 2008.

ARTICLE 17. REHEARING OR REVIEW**R4-11-1701. Procedure**

- A.** Except as provided in subsection (F), a licensee, certificate holder, or business entity who is aggrieved by an order issued by the Board may file a written motion for rehearing or review with the Board, pursuant to A.R.S. Title 41, Chapter 6, Article 10, specifying the grounds for rehearing or review.
- B.** A licensee, certificate holder, or business entity filing a motion for rehearing or review under this rule may amend the motion at any time before it is ruled upon by the Board. The opposing party may file a response within 15 days after the date the motion for rehearing or review is filed. The Board may require that the parties file supplemental memoranda explaining the issues raised in the motion, and may permit oral argument.
- C.** The Board may grant a rehearing or review of the order for any of the following causes materially affecting a licensee, certificate holder, or business entity's rights:
1. Irregularity in the proceedings of the Board or any order or abuse of discretion, which deprived a licensee, certificate holder, or business entity of a fair hearing;
 2. Misconduct of the Board, its personnel, the administrative law judge, or the prevailing party;
 3. Accident or surprise which could not have been prevented by ordinary prudence;
 4. Excessive or insufficient penalties;

5. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceeding;
 6. That the findings of fact or decision is arbitrary, capricious, or an abuse of discretion;
 7. That the findings of fact or decision is not justified by the evidence or is contrary to law; or
 8. Newly discovered, material evidence which could not, with reasonable diligence, have been discovered and produced at the original hearing.
- D.** The Board may affirm or modify the order or grant a rehearing or review to all or part of the issues for any of the reasons in subsection (C). The Board, within the time for filing a motion for rehearing or review, may grant a rehearing or review on its own initiative for any reason for which it might have granted relief on motion of a party. An order granting a rehearing or review shall specify the grounds on which rehearing or review is granted, and any rehearing or review shall cover only those matters specified.
- E.** When a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 days after such service, serve opposing affidavits.
- F.** If the Board makes specific findings that the immediate effectiveness of the order is necessary for the preservation of public health and safety and that a rehearing or review is impracticable, unnecessary, or contrary to the public interest, the order may be issued as a final order without an opportunity for a rehearing or review. If an order is issued as a final order without an opportunity or rehearing or review, the aggrieved party shall make an application for judicial review of the order within the time limits permitted for application for judicial review of the Board's final order.
- G.** The Board shall rule on the motion for rehearing or review within 15 days after the response has been filed, or at the Board's next meeting after the motion is received, whichever is later.

Historical Note

New Section R4-11-1701 renumbered from R4-11-701 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Amended by final rulemaking at 21 A.A.R. 2971, effective January 2, 2016 (Supp. 15-4).

ARTICLE 18. BUSINESS ENTITIES**R4-11-1801. Application**

Before offering dental services, a business entity required to be registered under A.R.S. § 32-1213 shall apply for registration on an application form supplied by the Board. In addition to the requirements of A.R.S. § 32-1213(B) and the fee under R4-11-402, the registration application shall include a sworn statement from the applicant that:

1. The information provided by the business entity is true and correct, and
2. No information is omitted from the application.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1).

R4-11-1802. Display of Registration

- A.** A business entity shall ensure that the receipt for the current registration period is:
1. Conspicuously displayed in the dental practice in a manner that is always readily observable by patients and visitors, and

2. Exhibited to members of the Board or to duly authorized agents of the Board on request.
- B.** A business entity's receipt for the licensure period immediately preceding shall be kept on display until replaced by the receipt for the current period.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1).

Supplement Separator Page



Supplement to the
Arizona Administrative Code
 The official compilation of Arizona Rules
Replacement Check List

For rules filed in the third quarter between
 July 1 - September 30
 2017

Within the stated calendar quarter, this Title contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information. Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

TITLE 04. Professions and Occupations

Chapter 16. Arizona Medical Board

Sections, Parts, Exhibits, Tables or Appendices modified
 R4-16-205

☐ REMOVE Supp. 16-1
 Pages: 1 - 17

☐ REPLACE with Supp. 17-3
 Pages: 1 - 17

The agency's contact person who can answer questions about rules in this Chapter:

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Disclaimer: Please be advised the person listed is the contact of record as submitted in the rulemaking package for this supplement. The contact and other information may change and is provided as a public courtesy.

PUBLISHER
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Office of the Secretary of State, Administrative Rules Division

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the Administrative Code. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION
September 30, 2017

RULES

A.R.S. § 41-1001(17) states: “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions. Virtually everything in your life is affected in some way by rules published in the Arizona Administrative Code, from the quality of air you breathe to the licensing of your dentist. This chapter is one of more than 230 in the Code compiled in 21 Titles.

ADMINISTRATIVE CODE SUPPLEMENTS

Rules filed by an agency to be published in the Administrative Code are updated quarterly. Supplement release dates are printed on the footers of each chapter:

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2017 is cited as Supp. 17-1.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the Arizona Administrative Register for recent updates to rule Sections.

ARTICLES AND SECTIONS

Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering system separated into subsections.

HISTORICAL NOTES AND EFFECTIVE DATES

Historical notes inform the user when the last time a Section was updated in the Administrative Code. Be aware, since the Office publishes each quarter by entire chapters, not all Sections are updated by an agency in a supplement release. Many times just one Section or a few Sections may be updated in the entire chapter.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in the introduction of a chapter can be found at the Secretary of State’s website, www.azsos.gov/services/legislative-filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the Arizona Administrative Register online at www.azsos.gov/rules, click on the Administrative Register link.

In the Administrative Code the Office includes editor’s notes at the beginning of a chapter indicating that certain rulemaking Sections were made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR

If you are researching rules and come across rescinded chapters on a different paper color, this is because the agency filed a Notice of Exempt Rulemaking. At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

PERSONAL USE/COMMERCIAL USE

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Public Services managing rules editor, Rhonda Paschal, assisted with the editing of this chapter.

TITLE 4. PROFESSIONS AND OCCUPATIONS**CHAPTER 16. ARIZONA MEDICAL BOARD**

(Authority: A.R.S. § 32-1401 et seq.)

Editor's Note: Supp. 16-1 has rules amended as final exempt rules. The proposed exempt rules were published on the Board's website for 30 days and the end which no additional public comments were received (Supp. 16-1).

Editor's Note: Supp. 15-4 has rules that were submitted as final exempt rules. Pursuant to Laws 2015, Chapter 251, Section 3, the Board was required to provide public notice and an opportunity for the public to comment on its proposed exempt rules. Three public meetings were conducted. Even though the proposed exempt rules were not published in the Register, the Office of the Secretary of State makes a distinction between exempt rulemakings and final exempt rulemakings. Exempt rulemakings are those that are submitted to the Office of the Secretary of State without receiving public comment (Supp. 15-4).

Editor's Note: The name of the Allopathic Board of Medical Examiners was changed to the Arizona Medical Board by Laws 2002, Ch. 254, § 9, effective August 22, 2002 (Supp. 03-2).

ARTICLE 1. GENERAL PROVISIONS

Article 1, consisting of Sections R4-16-101 through R4-16-106, adopted effective June 1, 1984.

Former Article 1, consisting of Sections R4-16-01 through R4-16-16, repealed effective June 1, 1984 (Supp. 84-3).

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Article 5, consisting of Sections R4-16-501 through R4-16-505, made by exempt rulemaking at 9 A.A.R. 2274, effective August 12, 2003 (Supp. 03-2).

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ARTICLE 1. GENERAL PROVISIONS**R4-16-101. Definitions**

Unless the context otherwise requires, definitions prescribed under A.R.S. § 32-1401 and the following apply to this Chapter:

1. "ACLS" means advanced cardiac life support performed according to certification standards of the American Heart Association.
2. "Agent" means an item or element that causes an effect.
3. "Approved medical assistant training program" means a program accredited by any of the following:
 - a. The Commission on Accreditation of Allied Health Education Programs;
 - b. The Accrediting Bureau of Health Education Schools;
 - c. A medical assisting program accredited by any accrediting agency recognized by the United States Department of Education; or
 - d. A training program:
 - i. Designed and offered by a licensed allopathic physician;
 - ii. That meets or exceeds any of the prescribed accrediting programs in subsection (a), (b), or (c); and
 - iii. That verifies the entry-level competencies of a medical assistant prescribed under R4-16-402(A).
4. "Auscultation" means the act of listening to sounds within the human body either directly or through use of a stethoscope or other means.
5. "BLS" means basic life support performed according to certification standards of the American Heart Association.
6. "Capnography" means monitoring the concentration of exhaled carbon dioxide of a sedated patient to determine the adequacy of the patient's ventilatory function.
7. "Deep sedation" means a drug-induced depression of consciousness during which a patient:
 - a. Cannot be easily aroused, but
 - b. Responds purposefully following repeated or painful stimulation, and
 - c. May partially lose the ability to maintain ventilatory function.
8. "Discharge" means a written or electronic documented termination of office-based surgery to a patient.
9. "Drug" means the same as in A.R.S. § 32-1901.
10. "Emergency" means an immediate threat to the life or health of a patient.
11. "Emergency drug" means a drug that is administered to a patient in an emergency.
12. "General Anesthesia" means a drug-induced loss of consciousness during which a patient:
 - a. Is unarousable even with painful stimulus; and
 - b. May partially or completely lose the ability to maintain ventilatory, neuromuscular, or cardiovascular function or airway.
13. "Health care professional" means a registered nurse defined in A.R.S. § 32-1601, registered nurse practitioner defined in A.R.S. § 32-1601, physician assistant defined in A.R.S. § 32-2501, and any individual authorized to perform surgery according to A.R.S. Title 32 who participates in office-based surgery using sedation at a physician's office.
14. "Informed consent" means advising a patient of the:
 - a. Purpose for and alternatives to the office-based surgery using sedation,
 - b. Associated risks of office-based surgery using sedation, and
 - c. Possible benefits and complications from the office-based surgery using sedation.
15. "Inpatient" has the same meaning as in A.A.C. R9-10-201.
16. "Malignant hyperthermia" means a life-threatening condition in an individual who has a genetic sensitivity to inhalant anesthetics and depolarizing neuromuscular blocking drugs that occurs during or after the administration of an inhalant anesthetic or depolarizing neuromuscular blocking drug.
17. "Minimal Sedation" means a drug-induced state during which:
 - a. A patient responds to verbal commands,
 - b. Cognitive function and coordination may be impaired, and
 - c. A patient's ventilatory and cardiovascular functions are unaffected.
18. "Moderate Sedation" means a drug-induced depression of consciousness during which:
 - a. A patient responds to verbal commands or light tactile stimulation, and
 - b. No interventions are required to maintain ventilatory or cardiovascular function.
19. "Monitor" means to assess the condition of a patient.
20. "Office-based surgery" means a medical procedure conducted in a physician's office or other outpatient setting that is not part of a licensed hospital or licensed ambulatory surgical center. (A.R.S. § 32-1401(20)).
21. "PALS" means pediatric life support performed according to certification standards of the American Academy of Pediatrics or the American Heart Association.
22. "Patient" means an individual receiving office-based surgery using sedation.
23. "Physician" has the same meaning as doctor of medicine as defined in A.R.S. § 32-1401.
24. "Rescue" means to correct adverse physiologic consequences of deeper than intended level of sedation and return the patient to the intended level of sedation.
25. "Sedation" means minimum sedation, moderate sedation, or deep sedation.
26. "Staff member" means an individual who:
 - a. Is not a health care professional, and
 - b. Assists with office-based surgery using sedation under the supervision of the physician performing the office-based surgery using sedation.
27. "Transfer" means a physical relocation of a patient from a physician's office to a licensed health care institution.

Historical Note

Former Rule 12. Former Section R4-16-01 repealed, new Section R4-16-101 adopted effective June 1, 1984 (Supp. 84-3). Section repealed, new Section renumbered from R4-16-103 effective September 22, 1995 (Supp. 95-3). Amended by final rulemaking at 8 A.A.R. 830, February 7, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 4270, effective November 18, 2002 (Supp. 02-3). Former Section R4-16-101 recodified to R4-16-102 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1). New Section made by final rulemaking at 12 A.A.R. 823, effective February 23, 2006 (Supp. 06-1). Amended by final rulemaking at 14 A.A.R. 380, effective January 8, 2008 (Supp. 08-1).

R4-16-102. Continuing Medical Education

- A.** A physician holding an active license to practice medicine in this state shall complete 40 credit hours of the continuing medical education required by A.R.S. § 32-1434 during the two calendar years preceding biennial registration. A physician may not carry excess hours over to another two-year cycle. One hour of credit is allowed for each clock hour of participation in continuing medical education activities, unless otherwise designated in subsection (B).
- B.** A physician may claim continuing medical education for the following:
1. Participating in an internship, residency, or fellowship at a teaching institution approved by the American Medical Association, the Association of American Medical Colleges, or the American Osteopathic Association. A physician may claim one credit hour of continuing medical education for each one day of training in a full-time approved program, or for a less than full-time training on a pro rata basis. In this subsection teaching institutions define "full-time."
 2. Participating in an education program for an advanced degree in a medical or medically-related field in a teaching institution approved by the American Medical Association, the Association of American Medical Colleges, or the American Osteopathic Association. A physician may claim one credit hour of continuing medical education for each one day of full-time study or less than a full-time study on a pro rata basis. In this subsection teaching institutions define "full-time".
 3. Participating in full-time research in a teaching institution approved by the American Medical Association, the Association of American Medical Colleges, or the American Osteopathic Association. A physician may claim one credit hour of continuing medical education for each one day of full-time research, or less than full-time research on a pro rata basis. In this subsection teaching institutions define "full-time".
 4. Participating in an education program certified as Category 1 by an organization accredited by the Accreditation Council for Continuing Medical Education, 515 North State Street, Suite 2150, Chicago, Illinois 60610.
 5. Participating in a medical education program designed to provide understanding of current developments, skills, procedures, or treatments related to the practice of medicine, that is provided by an organization or institution accredited by the Accreditation Council for Continuing Medical Education.
 6. Serving as an instructor of medical students, house staff, other physicians, or allied health professionals from a hospital or other health care institution with a formal training program, if the instructional activities provide the instructor with understanding of current developments, skills, procedures, or treatments related to the practice of allopathic medicine.
 7. Publishing or presenting a paper, report, or book that deals with current developments, skills, procedures, or treatments related to the practice of allopathic medicine. The physician may claim one credit hour for each hour preparing, writing, and presenting materials:
 - a. Actually published or presented; and
 - b. After the date of publication or presentation.
 8. A credit hour may be earned for any of the following activities that provide an understanding of current developments, skills, procedures, or treatments related to the practice of allopathic medicine:
 - a. Completing a medical education program based on self-instruction that uses videotapes, audiotapes, films, filmstrips, slides, radio broadcasts, or computers;
 - b. Reading scientific journals and books;
 - c. Preparing for specialty board certification or recertification examinations;
 - d. Participating on a staff or quality of care committee, or utilization review committee in a hospital, health care institution, or government agency.
- C.** If a physician holding an active license to practice medicine in this state fails to meet the continuing medical education requirements under subsection (A) because of illness, military service, medical or religious missionary activity, or residence in a foreign country, upon written application, shall grant an extension of time to complete the continuing medical education.
- D.** The Board shall mail to each physician a license renewal form that includes a section regarding continuing medical education compliance. The physician shall sign and return the form certified under penalty of perjury that the continuing medical education requirements under subsection (A) are satisfied for the two-calendar-year period preceding biennial renewal. Failure to receive the license renewal form under subsection (A) shall not relieve the physician of the requirements of subsection (A). The Board may randomly audit a physician to verify compliance with the continuing medical education requirements under subsection (A).

Historical Note

Former Rule 16. Former Section R4-16-02 repealed, new Section R4-16-102 adopted effective June 1, 1984 (Supp. 84-3). Section repealed, new Section renumbered from R4-16-106 effective September 22, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 1881, effective May 3, 2000 (Supp. 00-2). Former Section R4-16-102 recodified to R4-16-103; New Section R4-16-102 recodified from R4-16-101 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1).

R4-16-103. Rehearing or Review of Board Decision

- A.** A motion for rehearing or review shall be filed as follows:
1. Except as provided in subsection (B), any party in a contested case may file a written motion for rehearing or review of the Board's decision, specifying generally the grounds upon which the motion is based.
 2. A motion for rehearing or review shall be filed with the Board and served no later than 30 days after the decision of the Board.
 3. For purposes of this Section, "service" has the same meaning as in A.R.S. § 41-1092.09.
 4. For purposes of this Section, a document is deemed filed when the Board receives the document.
 5. For purposes of the Section, the terms "contested case" and "party" shall have the same meaning as in A.R.S. § 41-1001.
- B.** If the Board makes a specific finding that it is necessary for a particular decision to take immediate effect to protect the public health and safety, or that a rehearing or review of the Board's decision is impracticable or contrary to the public interest, the decision shall be issued as a final decision without opportunity for rehearing or review and shall be a final administrative decision for purposes of judicial review.
- C.** A written response to a motion for rehearing or review may be filed and served within 15 days after service of the motion for rehearing or review. The Board may require the filing of writ-

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ten briefs upon any issues raised in the motion and may provide for oral argument.

- D.** A rehearing or review of a decision may be granted for any of the following reasons materially affecting a party's rights:
1. Irregularity in the administrative proceedings by the Board, its hearing officer, or the prevailing party, or any ruling or abuse of discretion, that deprives the moving party of a fair hearing;
 2. Misconduct of the Board, its hearing officer, or the prevailing party;
 3. Accident or surprise that could have not been prevented by ordinary prudence;
 4. Material evidence, newly discovered, which with reasonable diligence could not have been discovered and produced at the original hearing;
 5. Excessive or insufficient penalties;
 6. Error in the admission or rejection of evidence, or other errors of law that occurred at the hearing;
 7. The decision is the result of a passion or prejudice; or
 8. The decision of findings of fact or decision is not justified by the evidence or is contrary to law.
- E.** A rehearing or review may be granted to all or any of the parties and on all or part of the issues for any of the reasons in subsection (D). The Board may take additional testimony, amend findings of fact and conclusions of law, or make new findings and conclusions, and affirm, modify, or reverse the original decision.
- F.** A rehearing or review, if granted, shall be a rehearing or review only of the question upon which the decision is found erroneous. An order granting a rehearing or review shall specify with particularity the grounds for the order.
- G.** Not later than 15 days after a decision is issued, the Board of its own initiative may order a rehearing or review for any reason that it might have granted a rehearing or review on motion of a party. After giving the parties notice and an opportunity to be heard on the matter, the Board may grant a timely-served motion for a rehearing or review, for a reason not stated in the motion. In either case, the Board shall specify in the order the grounds for the rehearing or review.
- H.** If a motion for rehearing or review is based upon affidavits, they shall be served with the motion. The opposing party may, within 15 days after service, serve opposing affidavits. The Board may extend this period for a maximum of 20 days either by the Board for good cause, or by the parties by written stipulation. The Board may permit reply affidavits.

Historical Note

Former Rule 17; Amended effective August 19, 1977 (Supp. 77-4). Former Section R4-16-03 repealed, new Section R4-16-103 adopted effective June 1, 1984 (Supp. 84-3). Section R4-16-103 renumbered to R4-16-101 effective September 22, 1995 (Supp. 95-3). New Section adopted effective May 20, 1997 (Supp. 97-2). Amended by final rulemaking at 8 A.A.R. 830, February 7, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 4270, effective November 18, 2002 (Supp. 02-3). Former Section R4-16-103 recodified to R4-16-204; new Section R4-16-103 recodified from R4-16-102 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1).

R4-16-104. Recodified**Historical Note**

Former Rule 18. Former Section R4-16-04 repealed, new Section R4-16-104 adopted effective June 1, 1984 (Supp. 84-3). Section repealed effective September 22, 1995 (Supp. 95-3). New Section adopted effective January 20,

1998 (Supp. 98-1). Section recodified to R4-16-206 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1).

R4-16-105. Recodified**Historical Note**

Former Rule 19. Former Section R4-16-05 repealed, new Section R4-16-105 adopted effective June 1, 1984 (Supp. 84-3). Section repealed effective September 22, 1995 (Supp. 95-3). New Section adopted effective January 20, 1998 (Supp. 98-1). Section recodified to R4-16-207 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1).

R4-16-106. Recodified**Historical Note**

Former Rule 21. Former Section R4-16-06 repealed, new Section R4-16-106 adopted effective June 1, 1984 (Supp. 84-3). Section R4-16-106 renumbered to R4-16-102 effective September 22, 1995 (Supp. 95-3). New Section adopted by final rulemaking at 6 A.A.R. 1881, effective May 3, 2000 (Supp. 00-2). Section recodified to R4-16-201 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1).

R4-16-107. Recodified**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 1881, effective May 3, 2000 (Supp. 00-2). Section recodified to R4-16-202 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1).

R4-16-108. Recodified**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 1881, effective May 3, 2000 (Supp. 00-2). Section recodified to R4-16-203 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1).

Table 1. Recodified**Historical Note**

Table 1 adopted effective January 20, 1998 (Supp. 98-1). Table 1 recodified to the end of Article 2 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1).

R4-16-109. Recodified**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 830, February 7, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 4270, effective November 18, 2002 (Supp. 02-3). Section recodified to R4-16-205 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1).

ARTICLE 2. LICENSURE**R4-16-201. Application for Licensure by Examination or Endorsement**

- A.** For purposes of this Article, unless otherwise specified:
1. "ABMS" means American Board of Medical Specialties.
 2. "ECFMG" means Educational Commission for Foreign Medical Graduates.
 3. "FCVS" means Federation Credentials Verification Service.
 4. "FLEX" means Federation Licensing Examination.
 5. "LMCC" means Licentiate of the Medical Council of Canada.
 6. "NBME" means National Board of Medical Examiners.
 7. "Primary source" means the original source or an approved agent of the original source of a specific cre-

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- dential that can verify the accuracy of a qualification reported by an applicant.
8. "SPEX" means Special Purposes Examination.
 9. "USMLE" means United States Medical Licensing Examination.
- B.** An applicant for licensure to practice medicine by Step 3 of the USMLE or endorsement shall submit the following information on an application form available on request from the Board and on the Board's web site:
1. Applicant's full name, Social Security number, business and home addresses, primary e-mail address, business and home telephone numbers, and date and place of birth;
 2. Name of the school of medicine from which the applicant graduated and date of graduation;
 3. A complete list of the applicant's internship, residency, and fellowship training;
 4. List of all licensing examinations taken;
 5. Names of the states, U.S. territories, or provinces in which the applicant has applied for or been granted a license or registration to practice medicine, including license number, date issued, and current status of the license;
 6. A statement of whether the applicant:
 - a. Has had an application for medical licensure denied or rejected by another state or province licensing board, and if so, an explanation;
 - b. Has ever had any disciplinary or rehabilitative action taken against the applicant by another licensing board, including other health professions, and if so, an explanation;
 - c. Has had any disciplinary actions, restrictions, or limitations taken against the applicant while participating in any type of training program or by any health care provider, and if so, an explanation;
 - d. Has been found in violation of a statute, rule, or regulation of any domestic or foreign governmental agency, and if so, an explanation;
 - e. Is currently under investigation by any medical board or peer review body, and if so, an explanation;
 - f. Has been subject to discipline resulting in a medical license being revoked, suspended, limited, cancelled during investigation, restricted, or voluntarily surrendered, or resulting in probation or entry into a consent agreement or stipulation and if so, an explanation;
 - g. Has had hospital privileges revoked, denied, suspended, or restricted, and if so, an explanation;
 - h. Has been named as a defendant in a malpractice matter currently pending or that resulted in a settlement or judgment against the applicant, and if so, an explanation;
 - i. Has been subjected to any regulatory disciplinary action, including censure, practice restriction, suspension, sanction, or removal from practice, imposed by any agency of the federal or state government, and if so, an explanation;
 - j. Has had the authority to prescribe, dispense, or administer medications limited, restricted, modified, denied, surrendered, or revoked by a federal or state agency as a result of disciplinary or other adverse action, and if so, an explanation;
 - k. Has been found guilty or entered into a plea of no contest to a felony, a misdemeanor involving moral turpitude in any state, and if so, an explanation;
 7. Whether the applicant is currently certified by any of the American Board of Medical Specialties;
 8. The applicant's intended specialty;
 9. Consistent with the Board's authority at A.R.S. § 32-1422(B), other information the Board may deem necessary to evaluate the applicant fully;
 10. Whether the applicant completed a training unit prescribed by the Board regarding the requirements of A.R.S. Title 32, Chapter 13 and this Chapter;
 11. In addition to the answers provided under subsections (B)(1) through (B)(10), the applicant shall answer the following confidential question:
 - a. Whether the applicant has received treatment within the last five years for use of alcohol or a controlled substance, prescription-only drug, or dangerous drug or narcotic or a physical, mental, emotional, or nervous disorder or condition that currently affects the applicant's ability to exercise the judgment and skills of a medical professional;
 - b. If the answer to subsection (B)(11)(a) is yes:
 - i. A detailed description of the use, disorder, or condition; and
 - ii. An explanation of whether the use, disorder, or condition is reduced or ameliorated because the applicant receives ongoing treatment and if so, the name and contact information for all current treatment providers and for all monitoring or support programs in which the applicant is currently participating; and
 - c. A copy of any public or confidential agreement or order relating to the use, disorder, or condition, issued by a licensing agency or health care institution within the last five years, if applicable; and
 12. A notarized statement, signed by the applicant, verifying the truthfulness of the information provided, and that the applicant has not engaged in any acts prohibited by Arizona law or Board rules, and authorizing release of any required records or documents to complete application review.
- C.** In addition to the application form required under subsection (B), an applicant for licensure to practice medicine by Step 3 of the USMLE or endorsement shall submit the following:
1. A notarized copy of the applicant's birth certificate or passport;
 2. Evidence of legal name change if the applicant's legal name is different from that shown on the document submitted under subsection (C)(1);
 3. Documentation listed under A.R.S. § 41-1080(A) showing that the applicant's presence in the U.S. is authorized under federal law;
 4. Complete list of all hospital affiliations and medical employment for the five years before the date of application;
 5. Verification of any medical malpractice matter currently pending or resulting in a settlement or judgment against the applicant, including a copy of the complaint and either the agreed terms of settlement or the judgment and a narrative statement specifying the nature of the occurrence resulting in the medical malpractice action. An applicant who is unable to obtain a document required under this subsection may apply under subsection (E) a waiver of the requirement;
 6. A full set of fingerprints and the processing charge specified in R4-16-205;
 7. A paper or digital headshot photograph of the applicant taken no more than 60 days before the date of application; and

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8. The fee authorized under A.R.S. § 32-1436 and specified in R4-16-205.
- D.** In addition to the requirements of subsections (B) and (C), an applicant for licensure to practice medicine by Step 3 of the USMLE or endorsement shall have the following submitted to the Board, electronically or in hard copy, by the primary source, ECFMG, Veridoc, or FCVS:
1. Official transcript or other authentication of graduation from a school of medicine;
 2. Verification of completion of postgraduate training;
 3. Verification of ECFMG certification if the applicant graduated from an unapproved school of medicine;
 4. Examination and Board history report scores for USMLE, FLEX, NBME, and SPEX;
 5. Verification of LMCC exam score or state written exam score;
 6. Verification of licensure from every state in which the applicant has ever held a medical license;
 7. Verification of all hospital affiliations during the five years before the date of application. Under A.R.S. § 32-1422(A)(11)(b), this verification is required to be on the hospital's official letterhead or the electronic equivalent; and
 8. Verification of all medical employment during the five years before the date of application. Under A.R.S. § 32-1422(A)(11)(b), this verification may be submitted by the employer.
- E.** As provided under A.R.S. § 32-1422(F), the Board may waive a documentation requirement specified under subsections (C)(5) and (D).
1. To obtain a waiver under this subsection, an applicant shall submit a written request that includes the following information:
 - a. Applicant's name;
 - b. Date of request;
 - c. Document required under subsection (C)(5) or (D) for which waiver is requested;
 - d. Detailed description of efforts made by the applicant to provide the document as required under subsection (C)(5) or (D);
 - e. Reason the applicant's inability to provide the document as required under subsection (C)(5) or (D) is due to no fault of the applicant; and
 - f. If applicable, documents that support the request for waiver.
 2. The Board shall consider the request for waiver at its next regularly scheduled meeting.
 3. In determining whether to grant the request for waiver, the Board shall consider whether the applicant:
 - a. Made appropriate and sufficient effort to satisfy the requirement under subsection (C)(5) or (D); and
 - b. Demonstrated that compliance with the requirement under subsection (C)(5) or (D) is not possible because:
 - i. The entity responsible for issuing the required document no longer exists;
 - ii. The original of the required document was destroyed by accident or natural disaster;
 - iii. The entity responsible for issuing the required document is unable to provide verification because of armed conflict or political strife; or
 - iv. Another valid reason beyond the applicant's control prevents compliance with the requirement under subsection (C)(5) or (D).
 4. In determining whether to grant the request for waiver, the Board shall:
 - a. Consider whether it is possible for the Board to obtain the required document from other source; and
 - b. Request the applicant to obtain and provide additional information the Board believes will facilitate the Board's decision.
 5. If the Board determines the applicant is unable to comply with a requirement under subsection (C)(5) or (D) in spite of the applicant's best effort and for a reason beyond the applicant's control, the Board may grant the request for waiver and include the decision in the Board's official record for the applicant.
 6. The Board shall provide the applicant with written notice of its decision regarding the request for waiver. The Board's decision is not subject to review or appeal.
- F.** As provided under A.R.S. § 32-1426(B), the Board may require an applicant for licensure by endorsement who passed an examination specified in A.R.S. § 32-1426(A) more than ten years before the date of application to provide evidence the applicant is able to engage safely in the practice of medicine. The Board may consider one or more of the following to determine whether the applicant is able to engage safely in the practice of medicine:
1. If an applicant is board certified by one of the specialties recognized by the ABMS, this criteria is considered met.
 2. If an applicant obtains a passing score on a SPEX examination, this criteria is considered met.
 3. The Board may also consider any combination of the following:
 - a. The applicant's records,
 - b. The applicant's practice history,
 - c. A physical or psychological assessment of the applicant.

Historical Note

Adopted effective September 22, 1995 (Supp. 95-3).
 Amended by final rulemaking at 8 A.A.R. 2319, effective May 9, 2002 (Supp. 02-2). Former Section R4-16-201 recodified to R4-16-301; New Section R4-16-201 recodified from R4-16-106 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1). Amended by exempt rulemaking at 20 A.A.R. 1995, effective July 11, 2014 (Supp. 14-3). Amended by final exempt rulemaking at 21 A.A.R. 2678, effective October 15, 2015 (Supp. 15-4). Amended by final exempt rulemaking at 22 A.A.R. 778, effective January 14, 2016 (Supp. 16-1).

R4-16-201.1. Application for Renewal of License

- A.** Under A.R.S. § 32-1430(A), an individual licensed under A.R.S. Title 32, Chapter 13, shall renew the license every other year on or before the licensee's birthday.
- B.** To renew a license, a licensee shall submit the following information on an application form available on request from the Board and on the Board's web site:
1. The licensee's full name, license number, business and home addresses, primary e-mail address, and business and home telephone numbers;
 2. Identification of changes to medical specialties and fields of practice;
 3. A statement of whether, since the time of last license issuance, the licensee:
 - a. Has had an application for medical licensure denied or rejected by another state or province licensing board and if so, an explanation;
 - b. Has had any disciplinary or rehabilitative action taken against the licensee by another licensing board, including other health professions and if so, an explanation;

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- c. Has had any disciplinary action, restriction, or limitation taken against the licensee by any program or health care provider and if so, an explanation;
 - d. Has been subject to discipline resulting in a medical license being revoked, suspended, limited, cancelled during an investigation, restricted, or voluntarily surrendered, or resulting in probation or entry into a consent agreement or stipulation and if so, an explanation;
 - e. Has had hospital privileges revoked, denied, suspended, or restricted and if so, an explanation (do not report if the licensee's hospital privileges were suspended due to failure to complete hospital records and reinstated after no more than 90 days);
 - f. Has been subjected to disciplinary action including censure, practice restriction, suspension, sanction, or removal from practice by an agency of the state or federal government and if so, an explanation;
 - g. Has had the authority to prescribe, dispense, or administer medications limited, restricted, modified, denied, surrendered, or revoked by a federal or state agency as a result of disciplinary or other adverse action and if so, an explanation;
 - h. Has been found guilty or entered into a plea of no contest to a felony, a misdemeanor involving moral turpitude, or an alcohol or drug-related offense in any state and if so, an explanation; and
 - i. Has failed the SPEX;
4. A statement of whether the licensee understands and complies with the medical records and recordkeeping requirements in A.R.S. §§ 32-3211 and 12-2297;
 5. A statement of whether the licensee has completed at least 40 hours of CME as required under A.R.S. § 32-1434 and R4-6-102;
 6. A statement of whether the licensee requests that the license be inactivated or cancelled; and
 7. A statement of whether the licensee completed a training unit prescribed by the Board regarding the requirements of A.R.S. Title 32, Chapter 13 and this Chapter.
- C.** Additionally, the licensee shall answer the following confidential question:
1. Whether the applicant has received treatment since the last renewal for use of alcohol or a controlled substance, prescription-only drug, or dangerous drug or narcotic or a physical, mental, emotional, or nervous disorder or condition that currently affects the applicant's ability to exercise the judgment and skills of a medical professional;
 2. If the answer to subsection (C)(1) is yes:
 - a. A detailed description of the use, disorder, or condition; and
 - b. An explanation of whether the use, disorder, or condition is reduced or ameliorated because the applicant receives ongoing treatment and if so, the name and contact information for all current treatment providers and for all monitoring or support programs in which the applicant is currently participating; and
 3. A copy of any public or confidential agreement or order relating to the use, disorder, or condition, issued by a licensing agency or health care institution since the last renewal, if applicable.
- D.** To renew a license, a licensee shall submit the following with the required application form:
1. If the document submitted under R4-16-201(C)(3) was a limited form of work authorization issued by the federal government, evidence that the licensee's presence in the U.S. continues to be authorized under federal law;
 2. The renewal fee specified under R4-16-205 and, if applicable, the penalty fee for late renewal; and
 3. An attestation that all information submitted is correct.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 2678, effective October 15, 2015 (Supp. 15-4).

R4-16-202. Application and Reapplication for Pro Bono Registration

- A.** An applicant for a pro bono registration to practice medicine for a maximum of 60 days in a calendar year in Arizona shall submit the following information on an application form available on request from the Board and on the Board's web site:
1. Applicant's full name, Social Security number, business and home addresses, primary e-mail address, and business and home telephone numbers;
 2. List of all states, U.S. territories, and provinces in which the applicant is or has been licensed to practice medicine;
 3. A statement verifying that the applicant:
 - a. Agrees to render all medical services without accepting a fee or salary; or
 - b. Agrees to perform only initial or follow-up examinations at no cost to the patient or the patient's family through a charitable organization,
- B.** In addition to the application form required under subsection (A), an applicant for a pro bono registration to practice medicine shall submit documentation listed under A.R.S. § 41-1080(A) showing that the applicant's presence in the U.S. is authorized under federal law.
- C.** An applicant may make application for a pro bono registration annually. A previously registered applicant may apply for a pro bono registration by submitting the following information on an application form available on request from the Board and on the Board's web site:
1. Applicant's full name, home address and telephone number, and primary e-mail address;
 2. Number of previous pro bono registration;
 3. Name of each state, U.S. territory, and province in which the applicant holds an active medical license;
 4. A statement whether since issuance of the last pro bono registration:
 - a. Any disciplinary action has been taken against the applicant, and
 - b. Any unresolved complaints are currently pending against the applicant with any state board; and
 5. If the document submitted under R4-16-202(B) was a limited form of work authorization issued by the federal government, evidence that the applicant's presence in the U.S. continues to be authorized under federal law.

Historical Note

Adopted effective September 22, 1995 (Supp. 95-3). Amended by final rulemaking at 8 A.A.R. 2319, effective May 9, 2002 (Supp. 02-2). Former Section R4-16-202 recodified to R4-16-302; New Section R4-16-202 recodified from R4-16-107 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1). Amended by final exempt rulemaking at 21 A.A.R. 2678, effective October 15, 2015 (Supp. 15-4).

R4-16-203. Application for Locum Tenens Registration

- A.** An applicant for a locum tenens registration to practice medicine for a maximum of 180 consecutive days in Arizona shall submit an application form available on request from the Board and on the Board's web site that provides the information required under R4-16-201(B).

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- B.** In addition to the application form required under subsection (A), an applicant for a locum tenens registration to practice medicine shall have the following submitted directly to the Board, electronically or in hard copy, by the primary source, ECFMG, Veridoc, or FCVS:
1. Official transcript or other authentication of graduation from a school of medicine;
 2. Verification of completion of postgraduate training;
 3. A statement completed by the sponsoring Arizona-licensed physician giving the reason for the request for issuance of the registration;
 4. Verification of ECFMG certification if the applicant graduated from an unapproved school of medicine; and
 5. Verification of licensure from every state in which the applicant has ever held a medical license.
- C.** In addition to the application form required under subsection (A), an applicant for a locum tenens registration to practice medicine shall submit the following:
1. Documentation listed under A.R.S. § 41-1080(A) showing that the applicant's presence in the U.S. is authorized under federal law;
 2. A full set of fingerprints and the charge specified in R4-16-205;
 3. A copy of a government-issued photo identification; and
 4. The fee specified under R4-16-205.

Historical Note

Adopted effective September 22, 1995 (Supp. 95-3). Amended by final rulemaking at 8 A.A.R. 2319, effective May 9, 2002 (Supp. 02-2). Former Section R4-16-203 recodified to R4-16-303; New Section R4-16-203 recodified from R4-16-108 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1). Amended by final exempt rulemaking at 21 A.A.R. 2678, effective October 15, 2015 (Supp. 15-4).

R4-16-204. Repealed**Historical Note**

Adopted effective September 22, 1995 (Supp. 95-3). Amended by final rulemaking at 8 A.A.R. 2319, effective May 9, 2002 (Supp. 02-2). Former Section R4-16-204 recodified to R4-16-304; New Section R4-16-204 recodified from R4-16-103 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1). Repealed by final exempt rulemaking at 21 A.A.R. 2678, effective October 15, 2015 (Supp. 15-4).

R4-16-205. Fees and Charges

- A.** As specifically authorized under A.R.S. § 32-1436(A), the Board establishes and shall collect the following fees, which are nonrefundable unless A.R.S. § 41-1077 applies:
1. Application for a license through endorsement, USMLE Step 3, or Endorsement with SPX Examination, \$500;
 2. Issuance of an initial license, \$500, prorated from date of issuance to date of license renewal;
 3. Renewal of license for two years, \$500;
 4. Application to reactivate an inactive license, \$500;
 5. Locum tenens registration, \$350;
 6. Annual registration of an approved internship, residency, clinical fellowship program, or short-term residency program, \$50;
 7. Annual teaching license at an approved school of medicine or at an approved hospital internship, residency, or clinical fellowship program, \$250;
 8. Five-day teaching permit at an approved school of medicine or at an approved hospital internship, residency, or clinical fellowship program, \$100;

9. Initial registration to dispense drugs and devices, \$200;
 10. Annual renewal to dispense drugs and devices, \$150;
 11. Penalty fee for late renewal of an active license, \$350; and
 12. Application for temporary license, \$250.
- B.** As specifically authorized under A.R.S. § 32-1436(B), the Board establishes the following charges for the services listed:
1. Processing fingerprints to conduct a criminal background check, \$50;
 2. Providing a duplicate license, \$50;
 3. Verifying a license, \$10 per request;
 4. Providing a copy of records, documents, letters, minutes, applications, and files, \$1 for the first three pages and 25¢ for each additional page;
 5. Providing a copy of annual allopathic medical directory, \$30; and
 6. Providing an electronic medium containing public information about licensed physicians, \$100.

Historical Note

Adopted effective September 22, 1995 (Supp. 95-3). Amended by final rulemaking at 8 A.A.R. 2319, effective May 9, 2002 (Supp. 02-2). Former Section R4-16-205 recodified to R4-16-305; New Section R4-16-205 recodified from R4-16-109 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1). Amended by final rulemaking 19 A.A.R. 1300, effective July 6, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 2569, effective September 2, 2014 (Supp. 14-3). Amended by final exempt rulemaking at 21 A.A.R. 2678, effective October 15, 2015 (Supp. 15-4). Amended by final exempt rulemaking at 22 A.A.R. 778, effective January 14, 2016 (Supp. 16-1). Amended by final exempt rulemaking at 23 A.A.R. 2056, effective August 9, 2017 (Supp. 17-3).

R4-16-205.1. Mandatory Reporting Requirement

- A.** As required under A.R.S. § 32-3208, an applicant, licensee, permit holder, or registrant who is charged with a misdemeanor involving conduct that may affect patient safety or a felony shall provide written notice of the charge to the Board within 10 working days after the charge is filed.
- B.** An applicant, licensee, permit holder, or registrant may obtain a list of reportable misdemeanors on request from the Board and on the Board's web site.
- C.** Failure to comply with A.R.S. § 32-3208 and this Section is unprofessional conduct.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 2678, effective October 15, 2015 (Supp. 15-4).

R4-16-206. Time Frames for Licenses, Permits, and Registrations

- A.** For each type of license, permit, or registration issued by the Board, the overall time frame under A.R.S. § 41-1072(2) is shown on Table 1.
- B.** For each type of license, permit, or registration issued by the Board, the administrative completeness review time frame under A.R.S. § 41-1072(1) is shown on Table 1 and begins on the date the Board receives an application and all required documentation and information.
1. If the required application is not administratively complete, the Board shall send a written deficiency notice to the applicant.
 - a. In the deficiency notice, the Board shall state each deficiency and the information required to complete the application or supporting documentation required to complete the application. In the defi-

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ciency notice, the Board shall include a written notice that the application is withdrawn if the applicant does not submit the additional required information or documentation within the time provided for response.

- b. Within the time provided in Table 1 for response to a deficiency notice, the applicant shall submit to the Board the documentation or information specified in the notice. The time frame for the Board to finish the administrative completeness review is suspended from the date of the notice until the date the Board receives the documentation or information from the applicant.
2. Within 30 days after receipt of a deficiency notice, an applicant who disagrees with the deficiency notice may submit to the Board a written request for a hearing regarding the deficiency notice.
3. The Board shall schedule and conduct the applicant's deficiency hearing according to provisions prescribed under A.R.S. § 32-1427(E).
4. In addition to hearing provisions prescribed under subsection (B)(3), the Board shall send the following to the applicant in writing:
 - a. A notice of the scheduled hearing at least 21 days before the hearing date; and
 - b. The Board's decision within 30 days after the hearing and notice of any applicable right of appeal.
- C. For each type of license, permit, or registration issued by the Board, the substantive review time frame under A.R.S. § 41-1072(3) is shown on Table 1.
 1. The Board may request make a comprehensive written request for additional information from an applicant according to provisions prescribed under A.R.S. § 41-1075 during the substantive review time frame. In any request for additional information, the Board shall include a written notice that the application is withdrawn if the applicant does not submit the additional information within the time provided for response.
 2. In response to a single comprehensive written request from the Board under A.R.S. § 41-1075(A), the applicant shall submit the information identified to the Board within the time to respond specified in Table 1. The time frame for the Board to finish the substantive review is suspended from the date the Board sends the comprehensive written request for additional information until the

date the Board receives the additional information from the applicant.

3. If the Board determines the applicant does not meet all substantive criteria for a license, permit, or registration as required under A.R.S. Title 32, Chapter 13 or this Chapter, the Board shall send written notice of denial to the applicant. The Board shall include notice of any applicable right of appeal in the denial notice.
4. If the applicant meets all substantive criteria for a license, permit, or registration required under A.R.S. Title 32, Chapter 13 and this Chapter, the Board shall issue the applicable license, permit, or registration to the applicant.
- D. An applicant may receive a 30-day extension of the time provided under subsection (B)(1) or (C)(2) by providing written notice to the Board's Executive Director before the time expires.
- E. If a licensee does not apply for license renewal according to the biennial renewal requirement, the licensee's license expires according to provisions prescribed under A.R.S. § 32-1430(A) unless the licensee is under investigation according to provisions under A.R.S. § 32-3202. If a licensee makes timely application according to the biennial renewal requirement but fails to respond timely to a deficiency notice under subsection (B)(1) or a request for additional information under subsection (C)(2) and fails to request from the Executive Director an extension of time to respond, the licensee's license expires according to provisions prescribed under A.R.S. § 32-1430(A).

Historical Note

New Section recodified from R4-16-104 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1). Amended by final rulemaking at 11 A.A.R. 2944, effective September 10, 2005 (Supp. 05-3). Amended by final exempt rulemaking at 21 A.A.R. 2678, effective October 15, 2015 (Supp. 15-4).

R4-16-207. Repealed**Historical Note**

New Section recodified from R4-16-105 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1). Amended by final rulemaking at 11 A.A.R. 2944, effective September 10, 2005 (Supp. 05-3). Repealed by final exempt rulemaking at 21 A.A.R. 2678, effective October 15, 2015 (Supp. 15-4).

Table 1. Time Frames**Time Frames (in calendar days)**

Type of License	Overall Time Frame	Administrative Review Time Frame	Time to Respond to Deficiency Notice	Substantive Review Time Frame	Time to Respond to Request for Additional Information
Initial License by Examination or Endorsement	240	120	365	120	90
Biennial License Renewal	90	45	60	45	60
Locum Tenens or Pro Bono Registration	120	60	90	60	30
Teaching License	40	20	30	20	30
Educational Teaching Permit	20	10	30	10	10
Training Permit	40	20	30	20	30
Short-term Training Permit	40	20	30	20	30
One-year Training Permit	40	20	30	20	30

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Annual Registration to Dispense Drugs and Devices	150	45	30	105	30
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Historical Note

Table 1 recodified from Article 1 to end of Article 2 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1). Amended by final rulemaking at 11 A.A.R. 2944, effective September 10, 2005 (Supp. 05-3). Amended by final exempt rulemaking at 21 A.A.R. 2678, effective October 15, 2015 (Supp. 15-4).

ARTICLE 3. DISPENSING OF DRUGS**R4-16-301. Registration and Renewal**

A. A physician who wishes to dispense a controlled substance as defined in A.R.S. § 32-1901(12), a prescription-only drug as defined in A.R.S. § 32-1901(65), or a prescription-only device as defined in A.R.S. § 32-1901(64) shall be currently licensed to practice medicine in Arizona and shall provide to the Board the following:

1. A completed registration form that includes the following information:
 - a. The physician's name, license number, and field of practice;
 - b. A list of the types of drugs and devices the physician will dispense; and
 - c. The location or locations where the physician will dispense a controlled substance, a prescription-only drug, or a prescription-only device.
2. A copy of the physician's current Drug Enforcement Administration Certificate of Registration for each dispensing location from which the physician will dispense a controlled substance.
3. The fees required in A.R.S. § 32-1436.

B. A physician shall renew a registration to dispense a controlled substance, a prescription-only drug, or a prescription-only device by complying with the requirements in subsection (A) on or before June 30 of each year. If a physician has made timely and complete application for the renewal of a registration, the physician may continue to dispense until the Board approves or denies the renewal application.

C. If the completed annual renewal form, all required documentation, and the fee are not received in the Board's office on or before June 30, the physician shall not dispense any controlled substances, prescription-only drugs, or prescription-only devices until re-registered. The physician shall re-register by filing for initial registration under subsection (A) and shall not dispense a controlled substance, a prescription-only drug, or a prescription-only device until receipt of the re-registration.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 751, effective February 2, 2000 (Supp. 00-1). Former Section R4-16-301 recodified to R4-16-401; New Section R4-16-301 recodified from R4-16-201 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1).

R4-16-302. Packaging and Inventory; Exception

A. A physician shall dispense all controlled substances and prescription-only drugs in prepackaged containers or in light-resistant containers with consumer safety caps, that comply with standards specified in the official compendium as defined in A.R.S. § 32-1901(49) and state and federal law, unless a patient or a patient's representative requests a non-safety cap.

B. All controlled substances and prescription-only drugs dispensed shall be labeled with the following information:

1. The physician's name, address, and telephone number;
2. The date the controlled substance and prescription-only drug is dispensed;
3. The patient's name;

4. The controlled substance and prescription-only drug name, strength, and dosage, form, name of manufacturer, the quantity dispensed, directions for use, and any cautionary statement necessary for the safe and effective use of the controlled substance and prescription-only drug; and

5. A beyond-use-date not to exceed one year from the date of dispensing or the manufacturer's expiration date if less than one year.

C. A physician shall secure all controlled substances in a locked cabinet or room and shall control access to the cabinet or room by a written procedure that includes, at a minimum, designation of the persons who have access to the cabinet or room and procedures for recording requests for access to the cabinet or room. This written procedure shall be made available on demand to the Board or its authorized representatives for inspection or copying. Prescription-only drugs shall be stored so as not to be accessible to patients.

D. Controlled substances and prescription-only drugs not requiring refrigeration shall be maintained in an area where the temperature does not exceed 85° F.

E. A physician shall maintain an ongoing dispensing log for all controlled substances and the prescription-only drug nalbuphine hydrochloride (Nubain) dispensed by the physician. The dispensing log shall include the following:

1. A separate inventory sheet for each controlled substance and prescription-only drug;
2. The date the drug is dispensed;
3. The patient's name;
4. The dosage, controlled substance and prescription-only drug name, strength, dosage, form, and name of the manufacturer;
5. The number of dosage units dispensed;
6. A running total of each controlled substance and prescription-only drug dispensed; and
7. The signature of the physician written next to each entry.

F. A physician may use a computer to maintain the dispensing log required in subsection (E) if the log is quickly accessible through either on-screen viewing or printing of a copy.

G. This Section does not apply to a prepackaged manufacturer sample of a controlled substance and prescription-only drug, unless otherwise provided by federal law.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 751, effective February 2, 2000 (Supp. 00-1). Former Section R4-16-302 recodified to R4-16-402; New Section R4-16-302 recodified from R4-16-202 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1).

R4-16-303. Prescribing and Dispensing Requirements

A. A physician shall record on the patient's medical record the name, strength, dosage, and form, of the controlled substance, prescription-only drug, or prescription-only device dispensed, the quantity or volume dispensed, the date the controlled substance, prescription-only drug, or prescription-only device is dispensed, the medical reasons for dispensing the controlled substance, prescription-only drug, or prescription-only device, and the number of refills authorized.

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- B. Before dispensing a controlled substance, prescription-only drug, or prescription-only device to a patient, a physician shall review the prepared controlled substance, prescription-only drug, or prescription-only device to ensure that:
 1. The container label and contents comply with the prescription, and
 2. The patient is informed of the name of the controlled substance, prescription-only drug, or prescription-only device, directions for use, precautions, and storage requirements.
- C. A physician shall purchase all dispensed controlled substances, prescription-only drugs, or prescription-only devices from a manufacturer or distributor approved by the United States Food and Drug Administration, or a pharmacy holding a current permit from the Arizona Board of Pharmacy.
- D. The person who prepares a controlled substance, prescription-only drug, or prescription-only device for dispensing shall countersign and date the original prescription form for the controlled substance, prescription-only drug, or prescription-only device.
- E. For purposes of this Article, "dispensing" means the delivery of a controlled substance, a prescription-only drug, or a prescription-only device to a patient for use outside the physician's office.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 751, effective February 2, 2000 (Supp. 00-1). Amended by final rulemaking at 6 A.A.R. 4585, effective November 14, 2000 (Supp. 00-4). Former Section R4-16-303 recodified to R4-16-403; New Section R4-16-303 recodified from R4-16-203 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1).

R4-16-304. Recordkeeping and Reporting Shortages

- A. A physician who dispenses a controlled substance or prescription-only drug shall ensure that an original prescription dispensed from the physician's office is dated, consecutively numbered in the order in which it is originally dispensed, and filed separately from patient medical records. A physician shall ensure that an original prescription be maintained in three separate files, as follows:
 1. Schedule II controlled substances;
 2. Schedule III, IV, and V controlled substances; and
 3. Prescription-only drugs.
- B. A physician shall ensure that purchase orders and invoices are maintained for all controlled substances and prescription-only drugs dispensed for profit and not for profit for three years from the date of the purchase order or invoice. Purchase orders and invoices shall be maintained in three separate files as follows:
 1. Schedule II controlled substances only;
 2. Schedule III, IV, and V controlled substances and nalbuphine; and
 3. All other prescription-only drugs.
- C. A physician who discovers a theft or loss of a controlled substance or a dangerous drug, as defined in A.R.S. § 13-3401, from the physician's office shall:
 1. Immediately notify the local law enforcement agency,
 2. Provide that agency with a written report, and
 3. Send a copy to the Drug Enforcement Administration and the Board within seven days of the discovery.
- D. For purposes of this Section, controlled substances are identified, defined, or listed in A.R.S. Title 36, Chapter 27.

Historical Note

New Section recodified from R4-16-204 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1).

R4-16-305. Inspections; Denial and Revocation

- A. A physician shall cooperate with and allow access to the physician's office and records for periodic inspection of dispensing practices by the Board or its authorized representative. Failure to cooperate or allow access shall be grounds for revocation of a physician's registration to dispense a controlled substance, prescription-only drug, or prescription-only device or denial of renewal of the physician's dispensing registration.
- B. Failure to comply with A.R.S. § 32-1491 or this Article constitutes grounds for denial or revocation of dispensing registration.
- C. The Board shall revoke a physician's registration to dispense a controlled substance, prescription-only drug, or prescription-only device upon occurrence of the following:
 1. Suspending, revoking, surrendering, or canceling the physician's license;
 2. Placing the physician's license on inactive status;
 3. Failing to timely renew the physician's license; or
 4. Restricting the physician's ability to prescribe or administer medication, including loss or expiration of the physician's Drug Enforcement Administration Certificate of Registration.
- D. If the Board denies a physician's dispensing registration, the physician may appeal the decision by filing a request, in writing, with the Board, no later than 30 days after receipt of the notice denying the registration.

Historical Note

New Section recodified from R4-16-205 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1).

ARTICLE 4. MEDICAL ASSISTANTS**R4-16-401. Medical Assistant Training Requirements**

- A. A supervising physician or physician assistant shall ensure that a medical assistant satisfies one of the following training requirements before employing the medical assistant:
 1. Completion of an approved medical assistant training program; or
 2. Completion of an unapproved medical assistant training program and passage of the medical assistant examination administered by either the American Association of Medical Assistants or the American Medical Technologists.
- B. This Section does not apply to any person who:
 1. Before February 2, 2000:
 - a. Completed an unapproved medical assistant training program and was employed as a medical assistant after program completion; or
 - b. Was directly supervised by the same physician, physician group, or physician assistant for a minimum of 2000 hours; or
 2. Completes a United States Armed Forces medical services training program.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 830, February 7, 2002 (Supp. 02-1). Former Section R4-16-401 recodified to R4-16-501; New Section R4-16-401 recodified from R4-16-301 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1). Former Section R4-16-401 repealed; New Section R4-16-401 renumbered from R4-16-402 and amended by final rulemaking at 12 A.A.R. 823, effective February 23, 2006 (Supp. 06-1).

R4-16-402. Authorized Procedures for Medical Assistants

- A. A medical assistant may perform, under the direct supervision of a physician or a physician assistant, the medical procedures listed in the 2003 revised edition, Commission on Accredita-

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tion of Allied Health Education Program's, "Standards and Guidelines for an Accredited Educational Program for the Medical Assistant, Section (III)(C)(3)(a) through (III)(C)(3)(c)." This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and may be obtained from the publisher at 35 East Wacker Drive, Suite 1970, Chicago, Illinois 60601, www.caahep.org, or the Arizona Medical Board at 9545 E. Doubletree Ranch Road, Scottsdale, AZ 85258, www.azmd.gov.

B. In addition to the medical procedures in subsection (A), a medical assistant may administer the following under the direct supervision of a physician or physician assistant:

1. Whirlpool treatments,
2. Diathermy treatments,
3. Electronic galvanization stimulation treatments,
4. Ultrasound therapy,
5. Massage therapy,
6. Traction treatments,
7. Transcutaneous Nerve Stimulation unit treatments,
8. Hot and cold pack treatments, and
9. Small volume nebulizer treatments.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 830, February 7, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 4270, effective November 18, 2002 (Supp. 02-3). Former Section R4-16-402 recodified to R4-16-502; New Section R4-16-402 recodified from R4-16-302 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1). Former Section R4-16-402 renumbered to R4-16-401; New Section R4-16-402 renumbered from R4-16-403 and amended by final rulemaking at 12 A.A.R. 823, effective February 23, 2006 (Supp. 06-1).

R4-16-403. Renumbered

Historical Note

New Section made by final rulemaking at 8 A.A.R. 830, February 7, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 4270, effective November 18, 2002 (Supp. 02-3). Former Section R4-16-403 recodified to R4-16-503; New Section R4-16-403 recodified from R4-16-303 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1). Former Section R4-16-403 renumbered to R4-16-402 by final rulemaking at 12 A.A.R. 823, effective February 23, 2006 (Supp. 06-1).

R4-16-404. Recodified

Historical Note

New Section made by final rulemaking at 8 A.A.R. 830, February 7, 2002 (Supp. 02-1). Section recodified to R4-16-504 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1).

R4-16-405. Recodified

Historical Note

New Section made by final rulemaking at 8 A.A.R. 830, February 7, 2002 (Supp. 02-1). Section recodified to R4-16-505 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1).

R4-16-406. Recodified

Historical Note

New Section made by final rulemaking at 8 A.A.R. 830, February 7, 2002 (Supp. 02-1). Section recodified to R4-16-506 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1).

R4-16-407. Recodified

Historical Note

New Section made by final rulemaking at 8 A.A.R. 830, February 7, 2002 (Supp. 02-1). Section recodified to R4-16-507 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1).

R4-16-408. Recodified

Historical Note

New Section made by final rulemaking at 8 A.A.R. 830, February 7, 2002 (Supp. 02-1). Section recodified to R4-16-508 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1).

R4-16-409. Recodified

Historical Note

New Section made by final rulemaking at 8 A.A.R. 830, February 7, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 4270, effective November 18, 2002 (Supp. 02-3). Section recodified to R4-16-509 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1).

R4-16-410. Recodified

Historical Note

New Section made by final rulemaking at 8 A.A.R. 830, February 7, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 4270, effective November 18, 2002 (Supp. 02-3). Section recodified to R4-16-510 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1).

ARTICLE 5. EXECUTIVE DIRECTOR DUTIES

R4-16-501. Interim Evaluation and Investigational Interview

- A.** The executive director may require a physician, who is under investigation by the Board, to submit to a mental, physical, oral, or written medical competency examination after the following:
1. Reviewing the allegations and investigator's summary of findings; and
 2. Consulting with and receiving the agreement of the Board's supervising medical consultant or designee that an examination is necessary.
- B.** The executive director may request a physician to attend an investigational interview to answer questions regarding a complaint against the physician. Before issuing a request for an investigational interview, the executive director shall review the allegations and facts to determine whether an interview is necessary to provide information the Board needs to adjudicate the case. The executive director shall consult with and receive the agreement of either the investigation supervisor or supervising medical consultant that an investigational interview is necessary before requesting one.
- C.** The executive director shall report to the Board at each regularly scheduled Board meeting, a summary of the number and type of evaluations ordered and completed since the preceding Board meeting.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 2274, effective August 12, 2003 (Supp. 03-2). Former Section R4-16-501 recodified to R4-16-601; New Section R4-16-501 recodified from R4-16-401 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1).

R4-16-502. Direct Referral to Formal Interview

The executive director shall refer a case to a formal interview on a future Board meeting agenda, if the medical consultant in cases involving quality of care, the investigative staff, and the lead Board

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member concur after review of the case that a formal interview is appropriate.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 2274, effective August 12, 2003 (Supp. 03-2). Former Section R4-16-502 recodified to R4-16-602; New Section R4-16-502 recodified from R4-16-402 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1).

Editor's Note: At the time of publication, A.R.S. § 32-1401(26) (referenced in R4-16-503) was A.R.S. § 32-1401(24). Laws 2003, Ch. 59, § 1, effective 90 days after the close of the First Regular Session of the Forty-sixth Legislature, will change the subparagraph citation to A.R.S. § 32-1401(26) (Supp. 03-2). This Section was subsequently recodified to a different Section in this Chapter. Refer to the historical notes for more information (05-1).

R4-16-503. Request for Inactive Status and License Cancellation

- A. If a physician requests inactive status or license cancellation and meets the requirements of A.R.S. §§ 32-1431 and 32-1433, and is not participating in the program defined under A.R.S. § 32-1452, the executive director shall grant the request.
- B. The executive director shall provide to the Board at each regularly scheduled Board meeting a list of the individuals granted inactive or cancelled license status since the preceding Board meeting.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 2274, effective August 12, 2003 (Supp. 03-2). Former Section R4-16-503 recodified to R4-16-603; New Section R4-16-503 recodified from R4-16-403 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1).

R4-16-504. Interim Consent Agreement

The executive director may enter into an interim consent agreement with a physician if there is evidence that a restriction is needed to mitigate imminent danger to the public health and safety and the investigative staff, the medical consultant, and the lead Board member concur after review of the case that a consent agreement is appropriate.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 2274, effective August 12, 2003 (Supp. 03-2). Former Section R4-16-504 recodified to R4-16-605; New Section R4-16-504 recodified from R4-16-404 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1).

R4-16-505. Mediated Case

- A. The executive director shall close a case resolved through mediation.
- B. The executive director shall provide to the Board at each regularly scheduled Board meeting a list of the physicians whose cases are resolved through mediation since the preceding Board meeting.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 2274, effective August 12, 2003 (Supp. 03-2). Former Section R4-16-505 recodified to R4-16-606; New Section R4-16-505 recodified from R4-16-405 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1).

R4-16-506. Referral to Formal Hearing

- A. The executive director may directly refer a case to a formal hearing if the investigative staff, the medical consultant, and

the lead Board member concur after review of the physician's case that a formal hearing is appropriate.

- B. The executive director shall provide to the Board at each regularly scheduled Board meeting a list of the physicians whose cases were referred to formal hearing since the preceding Board meeting and whether the referral is for revocation, suspension or is a result of an out-of-state disciplinary action, or is due to complexity of the case.

Historical Note

New Section R4-16-506 recodified from R4-16-406 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1).

R4-16-507. Dismissal of Complaint

- A. The executive director, with the concurrence of the investigative staff, shall dismiss a complaint if the review shows the complaint is without merit and dismissal is appropriate.
- B. The executive director shall provide to the Board at each regularly scheduled Board meeting a list of the physicians about whom complaints were dismissed since the preceding Board meeting.

Historical Note

New Section R4-16-507 recodified from R4-16-407 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1).

R4-16-508. Denial of License

- A. The executive director shall deny a license to an applicant who does not meet statutory requirements for licensure if the executive director, in consultation with the investigative staff and the medical consultant concur after reviewing the application, that the applicant does not meet the statutory requirements.
- B. The executive director shall provide to the Board at each regularly scheduled Board meeting a list of the physicians whose applications were denied since the preceding Board meeting.

Historical Note

New Section R4-16-508 recodified from R4-16-408 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1).

R4-16-509. Non-disciplinary Consent Agreement

The executive director may enter into a consent agreement under A.R.S. § 32-1451(F) with a physician to limit the physician's practice or rehabilitate the physician if there is evidence that a licensee is mentally or physically unable to safely engage in the practice of medicine and the investigative staff, the medical consultant, and the lead Board member concur after review of the case that a consent agreement is appropriate.

Historical Note

New Section R4-16-509 recodified from R4-16-409 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1).

R4-16-510. Appealing Executive Director Actions

- A. Any person aggrieved by an action taken by the executive director may appeal that action to the Board. The aggrieved person shall file a written request to the Board:
 1. Thirty days after notification of the action, if personally served; or
 2. Thirty-five days after the date on the notification, if mailed.
- B. The aggrieved person shall provide, in the written request, evidence showing:
 1. An irregularity in the investigative process or the executive director's review deprived the party of a fair decision; or
 2. Misconduct by Board staff, a Board consultant, or the executive director that deprived the party of a fair decision; or

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3. Material evidence newly discovered that could have a bearing on the decision and that, with reasonable diligence, could not have been discovered and produced earlier.
- C. The fact that the aggrieved party does not agree with the final decision is not grounds for a review by the Board.
- D. If an aggrieved person fails to submit a written request within the time specified in subsection (A), the Board is relieved of the requirement to review actions taken by the executive director. The executive director may, however, evaluate newly provided information that is material or substantial in content to determine whether the Board should review the case.
- E. If a written request is submitted that meets the requirements of subsection (B):
 1. The Board shall consider the written request at its next regularly scheduled meeting.
 2. If the written request provides new material or substantial evidence that requires additional investigation, the investigation shall be conducted as expeditiously as possible and the case shall be forwarded to the Board at the first possible regularly scheduled meeting.

Historical Note

New Section R4-16-510 recodified from R4-16-410 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1).

ARTICLE 6. DISCIPLINARY ACTIONS**R4-16-601. Expired****Historical Note**

New Section R4-16-601 recodified from R4-16-501 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1).
Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 2062, effective September 14, 2010 (Supp. 10-3).

R4-16-602. Expired**Historical Note**

New Section R4-16-602 recodified from R4-16-502 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1).
Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 2062, effective September 14, 2010 (Supp. 10-3).

Editor's Note: To conform with the renumbering in A.R.S., the Arizona Medical Board requested (under A.R.S. § 41-1011 et seq.) a subsection reference update in R4-16-603 [R05-85]. Please refer to the historical notes for more details (Supp. 05-1).

R4-16-603. Expired**Historical Note**

New Section R4-16-603 recodified from R4-16-503 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1).
A.R.S. § 32-1401(26) subsection corrected to A.R.S. § 32-1401(27) under a formal written request from the Board, March 22, 2005 (Supp. 05-1). Amended by final rulemaking at 14 A.A.R. 380, effective January 8, 2008 (Supp. 08-1). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 2062, effective September 14, 2010 (Supp. 10-3).

R4-16-604. Aggravating Factors Considered in Disciplinary Actions

When determining the degree of discipline, the Board may consider certain factors including, but not limited to, the following:

1. Prior disciplinary offenses;
2. Dishonest or selfish motive;
3. Pattern of misconduct; multiple offenses;
4. Bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the Board;

5. Submission of false evidence, false statements, or other deceptive practices during the investigative or disciplinary process;
6. Refusal to acknowledge wrongful nature of conduct; and
7. Vulnerability of the victim.

Historical Note

New Section R4-16-604 recodified from R4-16-504 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1).

R4-16-605. Mitigating Factors Considered in Disciplinary Actions

When determining the degree of discipline, the Board may consider certain factors including, but not limited to, the following:

1. Absence of prior disciplinary record;
2. Absence of dishonest or selfish motive;
3. Timely good faith effort to rectify consequences of misconduct;
4. Interim rehabilitation;
5. Remoteness of prior offenses; and
6. How much control the physician has of processes in the specific practice setting.

Historical Note

New Section R4-16-605 recodified from R4-16-504 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1).

ARTICLE 7. OFFICE-BASED SURGERY USING SEDATION**R4-16-701. Health Care Institution License**

A physician who uses general anesthesia in the physician's office or other outpatient setting that is not part of a licensed hospital or licensed ambulatory surgical center when performing office-based surgery using sedation shall obtain a health care institution license as required by the Arizona Department of Health Services under A.R.S. Title 36, Chapter 4 and 9 A.A.C. 10.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 380, effective January 8, 2008 (Supp. 08-1).

R4-16-702. Administrative Provisions

A. A physician who performs office-based surgery using sedation in the physician's office or other outpatient setting that is not part of a licensed hospital or licensed ambulatory surgical center shall:

1. Establish, document, and implement written policies and procedures that cover:
 - a. Patient's rights,
 - b. Informed consent,
 - c. Care of patients in an emergency, and
 - d. The transfer of patients;
2. Ensure that a staff member who assists with or a health-care professional who participates in office-based surgery using sedation:
 - a. Has sufficient education, training, and experience to perform duties assigned;
 - b. If applicable, has a current license or certification to perform duties assigned; and
 - c. Performs only those acts that are within the scope of practice established in the staff member's or health care professional's governing statutes;
3. Ensure that the office where the office-based surgery using sedation is performed has all equipment necessary:
 - a. For the physician to safely perform the office-based surgery using sedation,
 - b. For the physician or health care professional to safely administer the sedation,

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- c. For the physician or health care professional to monitor the use of sedation, and
- d. For the physician and health care professional administering the sedation to rescue a patient after the sedation is administered to the patient and the patient enters into a deeper state of sedation than what was intended by the physician.
- 4. Ensure that a copy of the patient's rights policy is provided to each patient before performing office-based surgery using sedation;
- 5. Obtain informed consent from the patient before performing an office-based surgery using sedation that:
 - a. Authorizes the office-based surgery, and
 - b. Authorizes the office-based surgery to be performed in the physician's office; and
- 6. Review all policies and procedures every 12 months and update as needed.
- B.** A physician who performs office-based surgery using sedation shall comply with:
 - 1. The local jurisdiction's fire code;
 - 2. The local jurisdiction's building codes for construction and occupancy;
 - 3. The biohazardous waste and hazardous waste standards in 18 A.A.C. 13, Article 14; and
 - 4. The controlled drug administration, supply, and storage standards in 4 A.A.C. 23.
- c. The patient's ventilatory function is monitored by any of the following:
 - i. Direct observation,
 - ii. Auscultation, or
 - iii. Capnography;
- c. The patient's circulatory function is monitored during the surgery by:
 - i. Having a continuously displayed electrocardiogram,
 - ii. Documenting arterial blood pressure and heart rate at least every five minutes, and
 - iii. Evaluating the patient's cardiovascular function by pulse plethysmography,
- d. The patient's temperature is monitored if the physician expects the patient's temperature to fluctuate; and
- e. That a licensed and qualified healthcare professional, other than the physician performing the office-based surgery, whose sole responsibility is attending to the patient, is present throughout the office-based surgery.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 380, effective January 8, 2008 (Supp. 08-1).

R4-16-705. Perioperative Period; Patient Discharge

A physician performing office-based surgery using sedation shall ensure all of the following:

R4-16-703. Procedure and Patient Selection

- A.** A physician shall ensure that each office-based surgery using sedation performed:
 - 1. Can be safely performed with the equipment, staff members, and health care professionals at the physician's office;
 - 2. Is of duration and degree of complexity that allows a patient to be discharged from the physician's office within 24 hours;
 - 3. Is within the education, training, experience skills, and licensure of the physician; and
 - 4. Is within the education, training, experience, skills, and licensure of the staff members and health care professionals at the physician's office.
- B.** A physician shall not perform office-based surgery using sedation if the patient:
 - 1. Has a medical condition or other condition that indicates the procedure should not be performed in the physician's office, or
 - 2. Will require inpatient services at a hospital.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 380, effective January 8, 2008 (Supp. 08-1).

R4-16-704. Sedation Monitoring Standards

A physician who performs office-based surgery using sedation shall ensure from the time sedation is administered until post-sedation monitoring begins:

- 1. A quantitative method of assessing a patient's oxygenation, such as pulse oximetry, is used when minimal sedation is administered to the patient, and
- 2. When moderate or deep sedation is administered to a patient:
 - a. A quantitative method of assessing the patient's oxygenation, such as pulse oximetry, is used;

Historical Note

New Section made by final rulemaking at 14 A.A.R. 380, effective January 8, 2008 (Supp. 08-1).

R4-16-706. Emergency Drugs; Equipment and Space Used for Office-Based Surgery Using Sedation

- A.** In addition to the requirements in R4-16-702(A)(3) and R4-16-703(A)(1), a physician who performs office-based surgery using sedation shall ensure that the physician's office has at a minimum:
 - 1. The following:
 - a. A reliable oxygen source with a SaO₂ monitor;
 - b. Suction;

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- c. Resuscitation equipment, including a defibrillator;
 - d. Emergency drugs; and
 - e. A cardiac monitor;
 - 2. The equipment for patient monitoring according to the standards in R4-16-704;
 - 3. Space large enough to:
 - a. Allow for access to the patient during office-based surgery using sedation, recovery, and any emergency;
 - b. Accommodate all equipment necessary to perform the office-based surgery using sedation; and
 - c. Accommodate all equipment necessary for sedation monitoring;
 - 4. A source of auxiliary electrical power available in the event of a power failure; and
 - 5. Equipment, emergency drugs, and resuscitative capabilities required under this Section for patients less than 18 years of age, if office-based surgery using sedation is performed on these patients; and
 - 6. Procedures to minimize the spread of infection.
- B.** A physician who performs office-based surgery using sedation shall:
- 1. Ensure that all equipment used for office-based surgery using sedation is maintained, tested, and inspected according to manufacturer specifications, and

- 2. Maintain documentation of manufacturer-recommended maintenance of all equipment used in office-based surgery using sedation.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 380, effective January 8, 2008 (Supp. 08-1).

R4-16-707. Emergency and Transfer Provisions

- A.** A physician who performs office-based surgery using sedation shall ensure that before a health care professional participates in or staff member assists with office-based surgery using sedation, the health care professional and staff member receive instruction in the following:
- 1. Policy and procedure in cases of emergency,
 - 2. Policy and procedure for office evacuation, and
 - 3. Safe and timely patient transfer.
- B.** When performing office-based surgery using sedation, a physician shall not use any drug or agent that trigger malignant hyperthermia.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 380, effective January 8, 2008 (Supp. 08-1).

Supplement Separator Page



Supplement to the
Arizona Administrative Code
The official compilation of Arizona Rules
Replacement Check List

For rules filed in the third quarter between
July 1 - September 30
2017

Within the stated calendar quarter, this Title contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information. Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

TITLE 04. Professions and Occupations

Chapter 23. Board of Pharmacy

Sections, Parts, Exhibits, Tables or Appendices modified
R4-23-205, R4-23-703

☐ REMOVE Supp. 17-2
Pages: 1 - 83

☐ REPLACE with Supp. 17-3
Pages: 1 - 84

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Disclaimer: Please be advised the person listed is the contact of record as submitted in the rulemaking package for this supplement. The contact and other information may change and is provided as a public courtesy.

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PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the Administrative Code. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION
September 30, 2017

RULES

A.R.S. § 41-1001(17) states: “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions. Virtually everything in your life is affected in some way by rules published in the Arizona Administrative Code, from the quality of air you breathe to the licensing of your dentist. This chapter is one of more than 230 in the Code compiled in 21 Titles.

ADMINISTRATIVE CODE SUPPLEMENTS

Rules filed by an agency to be published in the Administrative Code are updated quarterly. Supplement release dates are printed on the footers of each chapter:

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2017 is cited as Supp. 17-1.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the Arizona Administrative Register for recent updates to rule Sections.

ARTICLES AND SECTIONS

Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering system separated into subsections.

HISTORICAL NOTES AND EFFECTIVE DATES

Historical notes inform the user when the last time a Section was updated in the Administrative Code. Be aware, since the Office publishes each quarter by entire chapters, not all Sections are updated by an agency in a supplement release. Many times just one Section or a few Sections may be updated in the entire chapter.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in the introduction of a chapter can be found at the Secretary of State’s website, www.azsos.gov/services/legislative-filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the Arizona Administrative Register online at www.azsos.gov/rules, click on the Administrative Register link.

In the Administrative Code the Office includes editor’s notes at the beginning of a chapter indicating that certain rulemaking Sections were made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR

If you are researching rules and come across rescinded chapters on a different paper color, this is because the agency filed a Notice of Exempt Rulemaking. At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

PERSONAL USE/COMMERCIAL USE

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Public Services managing rules editor, Rhonda Paschal, assisted with the editing of this chapter.

TITLE 4. PROFESSIONS AND OCCUPATIONS**CHAPTER 23. BOARD OF PHARMACY**

Authority: A.R.S. § 32-1904 et seq.

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Article 5, consisting of Sections R4-23-501 through R4-23-505, expired effective August 30, 2013 (Supp. 14-1).

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Article 8, consisting of Sections R4-23-801 through R4-23-804, repealed effective November 4, 1998 (Supp. 98-4).

Section	
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ARTICLE 11. PHARMACY TECHNICIANS

Article 11, consisting of R4-23-1101 through R4-23-1105, made by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1).

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ARTICLE 12. PRESCRIPTION MEDICATION DONATION PROGRAM

Article 12, consisting of R4-23-1201 through R4-23-1211, made by final rulemaking at 14 A.A.R. 4320, effective January 3, 2009 (Supp. 08-4).

ARTICLE 1. ADMINISTRATION**R4-23-101. General**

- A. 4 A.A.C. 23 applies to all actions and proceedings of the Board and shall be deemed a part of the record in any Board action or proceeding without formal introduction of, or reference to the rules. A party to a Board action is deemed to have knowledge of the rules. The Board office shall provide a copy of the rules:
1. To each license applicant who submits a completed application packet; and
 2. To each permit applicant during the final compliance inspection after the Board approves the permit application.
- B. The Board, within its jurisdiction, may, in the interest of justice, excuse the failure of any person to comply with the rules.
- C. The Board, within its jurisdiction, may grant an extension of time within which to comply with any rule when it deems the extension to be in the interest of justice.

Historical Note

Former Rules 1.1000, 1.1200, and 1.1300; Amended effective August 23, 1978 (Supp. 78-4). Amended by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1); Historical Note updated (Supp. 06-2).

R4-23-102. Meetings

- A. The Board shall hold not less than four meetings per fiscal year to conduct general business and interview permit and license applicants.
- B. A special meeting of the Board may be held at any time subject to the call of the President or a majority of the Board members and in compliance with the notification requirements of A.R.S. § 38-431.02.

Historical Note

Former Rules 1.2100, 1.2200, 1.2300, and 1.2400. Amended by final rulemaking at 7 A.A.R. 2143, effective May 1, 2001 (Supp. 01-2).

R4-23-103. Repealed**Historical Note**

Former Rules 1.3100, 1.3200, 1.3300, and 1.3400; Amended subsection (C) effective August 9, 1983 (Supp. 83-4). Section repealed by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1); Historical Note updated (Supp. 06-2).

R4-23-104. Repealed**Historical Note**

Former Rules 1.4011, 1.4110, 1.4120, 1.4200, 1.4210, 1.4220, 1.4300, 1.4400, 1.5500, 1.5600, 1.5700, and 1.4500; Amended effective August 23, 1978 (Supp. 78-5); Amended by deleting subsection (B) and renumbering subsections (C) through (J) as subsections (B) through (I) effective August 9, 1983 (Supp. 83-4). Amended effective February 8, 1991 (Supp. 91-1). Section repealed by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1); Historical Note updated (Supp. 06-2).

R4-23-105. Repealed**Historical Note**

Former Rules 1.5100, 1.5200, 1.5300, and 1.5400; Amended subsection (B) effective August 9, 1983 (Supp. 83-4). Section repealed by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1); Historical Note updated (Supp. 06-2).

ical Note updated (Supp. 06-2).

R4-23-106. Repealed**Historical Note**

Former Rules 1.5800 and 1.5900. Section repealed by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1); Historical Note updated (Supp. 06-2).

R4-23-107. Repealed**Historical Note**

Former Rules 1.5910, 1.5920, 1.5921, and 1.5922. Section repealed by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1); Historical Note updated (Supp. 06-2).

R4-23-108. Repealed**Historical Note**

Former Rule 1.5930. Section repealed by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1); Historical Note updated (Supp. 06-2).

R4-23-109. Repealed**Historical Note**

Former Rules 1.7100, 1.7200, and 1.7300. Amended effective July 14, 1977 (Supp. 77-4). Amended effective February 8, 1991 (Supp. 91-1). Section repealed by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1); Historical Note updated (Supp. 06-2).

R4-23-110. Definitions

In addition to definitions in A.R.S. § 32-1901, the following definitions apply to this Chapter:

“Active ingredient” means any component that furnishes pharmacological activity or other direct effect in the diagnosis, cure, mitigation, treatment, or prevention of disease or that affects the structure or any function of the body of man or other animals. The term includes those components that may undergo chemical change in the manufacture of the drug, that are present in the finished drug product in a modified form, and that furnish the specified activity or effect.

“AHCCCS” means the Arizona Health Care Cost Containment System.

“Annual family income” means the combined yearly gross earned income and unearned income of all adult individuals within a family unit.

“Approved course in pharmacy law” means a continuing education activity that addresses practice issues related to state or federal pharmacy statutes, rules, or regulations.

“Approved Provider” means an individual, institution, organization, association, corporation, or agency that is approved by the Accreditation Council for Pharmacy Education (ACPE) in accordance with ACPE’s policy and procedures or by the Board as meeting criteria indicative of the ability to provide quality continuing education.

“Assisted living facility” means a residential care institution as defined in A.R.S. § 36-401.

“Authentication of product history” means identifying the purchasing source, the ultimate fate, and any intermediate handling of any component of a radiopharmaceutical or other drug.

“Automated dispensing system” means a mechanical system in a long-term care facility that performs operations or activities, other than compounding or administration, relative to the

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storage, packaging, counting, labeling, and dispensing of medications, and which collects, controls, and maintains all transaction information.

“Automated storage and distribution system” means a mechanical system that performs operations or activities other than counting, compounding, or administration, relative to the storage, packaging, or distributing of drugs or devices and that collects, controls, and maintains all transaction information.

“Batch” means a specific quantity of drug that has uniform character and quality, within specified limits, and is produced according to a single manufacturing order during the same cycle of manufacture.

“Beyond-use date” means:

A date determined by a pharmacist and placed on a prescription label at the time of dispensing to indicate a time beyond which the contents of the prescription are not recommended to be used; or

A date determined by a pharmacist and placed on a compounded pharmaceutical product’s label at the time of preparation as specified in R4-23-410(B)(3)(d), R4-23-410(I)(6)(e), or R4-23-410(J)(1)(d) to indicate a time beyond which the compounded pharmaceutical product is not recommended to be used.

“Biological safety cabinet” means a containment unit suitable for the preparation of low to moderate risk agents when there is a need for protection of the product, personnel, and environment, consistent with National Sanitation Foundation (NSF) standards, published in the National Sanitation Foundation Standard 49, Class II (Laminar Flow) Biohazard Cabinetry, NSF International P. O. Box 130140, Ann Arbor, MI, revised June 1987 edition, (and no future amendments or editions), incorporated by reference and on file with the Board.

“Care-giver” means a person who cares for someone who is sick or disabled or an adult who cares for an infant or child and includes a patient’s husband, wife, son, daughter, mother, father, sister, brother, legal guardian, nurse, or medical practitioner.

“Community pharmacy” means any place under the direct supervision of a pharmacist where the practice of pharmacy occurs or where prescription orders are compounded and dispensed other than a hospital pharmacy or a limited service pharmacy.

“Component” means any ingredient used in compounding or manufacturing drugs in dosage form, including an ingredient that may not appear in the finished product.

“Compounding and dispensing counter” means a pharmacy counter working area defined in this Section where a pharmacist or a graduate intern, pharmacy intern, pharmacy technician, or pharmacy technician trainee under the supervision of a pharmacist compounds, mixes, combines, counts, pours, or prepares and packages a prescription medication to dispense an individual prescription order or prepackages a drug for future dispensing.

“Computer system” means an automated data-processing system that uses a programmable electronic device to store, retrieve, and process data.

“Computer system audit” means an accounting method, involving multiple single-drug usage reports and audits, used to determine a computer system’s ability to store, retrieve, and process original and refill prescription dispensing information.

“Contact hour” means 50 minutes of participation in a continuing education activity sponsored by an Approved Provider.

“Container” means:

A receptacle, as described in the official compendium or the federal act, that is used in manufacturing or compounding a drug or in distributing, supplying, or dispensing the finished dosage form of a drug; or

A metal receptacle designed to contain liquefied or vaporized compressed medical gas and used in manufacturing, transfilling, distributing, supplying, or dispensing a compressed medical gas.

“Continuing education” means a structured learning process required of a licensee to maintain licensure that includes study in the general areas of socio-economic and legal aspects of health care; the properties and actions of drugs and dosage forms; etiology, characteristics and therapeutics of disease status; or pharmacy practice.

“Continuing education activity” means continuing education obtained through an institute, seminar, lecture, conference, workshop, mediated instruction, programmed learning course, or postgraduate study in an accredited college or school of pharmacy.

“Continuing education unit” or “CEU” means 10 contact hours of participation in a continuing education activity sponsored by an Approved Provider.

“Continuous quality assurance program” or “CQA program” means a planned process designed by a pharmacy permittee to identify, evaluate, and prevent medication errors.

“Correctional facility” has the same meaning as in A.R.S. §§ 13-2501 and 31-341.

“CRT” means a cathode ray tube or other mechanism used to view information produced or stored by a computer system.

“CSPMP” means the Controlled Substances Prescription Monitoring Program established under A.R.S. Title 36, Chapter 28.

“Current good compounding practices” means the minimum standards for methods used in, and facilities or controls used for, compounding a drug to ensure that the drug has the identity and strength and meets the quality and purity characteristics it is represented to possess.

“Current good manufacturing practice” means the minimum standard for methods used in, and facilities or controls used for manufacturing, processing, packing, or holding a drug to ensure that the drug meets the requirements of the federal act as to safety, and has the identity and strength and meets the quality and purity characteristics it is represented to possess.

“Cytotoxic” means a pharmaceutical that is capable of killing living cells.

“Day” means a calendar day unless otherwise specified.

“DEA” means the Drug Enforcement Administration as defined in A.R.S. § 32-1901.

“Declared disaster areas” means areas designated by the governor or by a county, city, or town under A.R.S. § 32-1910 as those areas that have been adversely affected by a natural disaster or terrorist attack and require extraordinary measures to provide adequate, safe, and effective health care for the affected population.

“Delinquent license” means a pharmacist, pharmacy intern, graduate intern, or pharmacy technician license the Board sus-

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pendes for failure to renew or pay all required fees on or before the date the renewal is due.

“Dietary supplement or food supplement” means a product (other than tobacco) that:

Is intended to supplement the diet that contains one or more of the following dietary ingredients: a vitamin, a mineral, an herb or other botanical, an amino acid, a dietary substance for use by humans to supplement the diet by increasing the total daily intake, or a concentrate, metabolite, constituent, extract, or combinations of these ingredients;

Is intended for ingestion in pill, capsule, tablet, or liquid form;

Is not represented for use as a conventional food or as the sole item of a meal or diet; and

Is labeled as a “dietary supplement” or “food supplement.”

“Digital signature” has the same meaning as in A.R.S. § 41-132(E).

“Dispensing pharmacist” means a pharmacist who, in the process of dispensing a prescription medication after the complete preparation of the prescription medication and before delivery of the prescription medication to a patient or patient’s agent, verifies, checks, and initials the prescription medication label, as required in R4-23-402(A).

“Drug sample” means a unit of a prescription drug that a manufacturer provides free of charge to promote the sale of the drug.

“Durable medical equipment” or “DME” means technologically sophisticated medical equipment that may be used by a patient or consumer in a home or residence. DME may be prescription-only devices as defined in A.R.S. § 32-1901(75). DME includes:

Air-fluidized beds,
Apnea monitors,
Blood glucose monitors and diabetic testing strips,
Continuous Positive Airway Pressure (CPAP) machines,
Electronic and computerized wheelchairs and seating systems,
Feeding pumps,
Home phototherapy devices,
Hospital beds,
Infusion pumps,
Medical oxygen and oxygen delivery systems excluding compressed medical gases,
Nebulizers,
Respiratory disease management devices,
Sequential compression devices,
Transcutaneous electrical nerve stimulation (TENS) unit, and
Ventilators.

“Earned income” means monetary payments received by an individual as a result of work performed or rental property owned or leased by the individual, including:

Wages,

Commissions and fees,

Salaries and tips,

Profit from self-employment,

Profit from rent received from a tenant or boarder, and

Any other monetary payments received by an individual for work performed or rental of property.

“Electronic signature” has the same meaning as in A.R.S. § 44-7002.

“Eligible patient” means a patient who a pharmacist determines is eligible to receive an immunization using professional judgment after consulting with the patient regarding the patient’s current health condition, recent health condition, and allergies.

“Emergency drug supply unit” means those drugs that may be required to meet the immediate and emergency therapeutic needs of long-term care facility residents and hospice inpatient facility patients, and which are not available from any other authorized source in sufficient time to prevent risk of harm to residents or patients.

“Extreme emergency” means the occurrence of a fire, water leak, electrical failure, public disaster, or other catastrophe constituting an imminent threat of physical harm to pharmacy personnel or patrons.

“Family unit” means:

A group of individuals residing together who are related by birth, marriage, or adoption; or

An individual who:

Does not reside with another individual; or

Resides only with another individual or group of individuals to whom the individual is unrelated by birth, marriage, or adoption.

“FDA” means the Food and Drug Administration, a federal agency within the United States Department of Health and Human Services, established to set safety and quality standards for foods, drugs, cosmetics, and other consumer products.

“Health care decision maker” has the same meaning as in A.R.S. § 12-2291.

“Health care institution” has the same meaning as in A.R.S. § 36-401.

“Hospice inpatient facility” means a health care institution licensed under A.R.S. § 36-401 and Article 8 that provides hospice services to a patient requiring inpatient services.

“Immediate notice” means a required notice sent by mail, facsimile, or electronic mail to the Board Office within 24 hours.

“Immunizations training program” means an immunization training program for pharmacists, pharmacy interns, and graduate interns that meets the requirements of R4-23-411(E).

“Inactive ingredient” means any component other than an “active ingredient” present in a drug.

“Internal test assessment” means performing quality assurance or other procedures necessary to ensure the integrity of a test.

“ISO Class 5 environment” means an atmospheric environment that complies with the ISO/TC209 International Clean-

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room Standards, specifically ANSI/EST/ISO-14644-1:1999: Cleanrooms and associated controlled environments--Part 1: Classification of air cleanliness, first edition dated May 1, 1999, (and no future amendments or editions), incorporated by reference and on file in the Board office.

“ISO Class 7 environment” means an atmospheric environment that complies with the ISO/TC209 International Cleanroom Standards, specifically ANSI/EST/ISO-14644-1:1999: Cleanrooms and associated controlled environments--Part 1: Classification of air cleanliness, first edition dated May 1, 1999, (and no future amendments or editions), incorporated by reference and on file in the Board office.

“Licensed health care professional” means an individual who is licensed and regulated under A.R.S. Title 32, Chapter 7, 11, 13, 14, 15, 16, 17, 18, 25, 29, or 35.

“Limited-service correctional pharmacy” means a limited-service pharmacy, as defined in A.R.S. § 32-1901, that:

Holds a current Board permit under A.R.S. § 32-1931;

Is located in a correctional facility; and

Uses pharmacists, interns, and support personnel to compound, produce, dispense, and distribute drugs.

“Limited-service long-term care pharmacy” means a limited-service pharmacy, as defined in A.R.S. § 32-1901, that holds a current Board-issued permit and dispenses prescription medication or prescription-only devices to patients in long-term care facilities.

“Limited-service mail-order pharmacy” means a limited-service pharmacy, as defined in A.R.S. § 32-1901, that holds a current Board permit under A.R.S. § 32-1931 and dispenses a majority of its prescription medication or prescription-only devices by mailing or delivering the prescription medication or prescription-only device to an individual by the United States mail, a common or contract carrier, or a delivery service.

“Limited-service nuclear pharmacy” means a limited-service pharmacy, as defined in A.R.S. § 32-1901, that holds a current Board permit under A.R.S. § 32-1931 and provides radiopharmaceutical services.

“Limited-service pharmacy permittee” means a person who holds a current limited-service pharmacy permit in compliance with A.R.S. §§ 32-1929, 32-1930, 32-1931, and A.A.C. R4-23-606.

“Limited-service sterile pharmaceutical products pharmacy” means a limited-service pharmacy, as defined in A.R.S. § 32-1901, that holds a current Board permit under A.R.S. § 32-1931 and dispenses a majority of its prescription medication or prescription-only devices as sterile pharmaceutical products.

“Long-term care consultant pharmacist” means a pharmacist providing consulting services to a long-term care facility.

“Long-term care facility” or “LTCF” means a nursing care institution as defined in A.R.S. § 36-401.

“Lot” means a batch or any portion of a batch of a drug, or if a drug produced by a continuous process, an amount of drug produced in a unit of time or quantity in a manner that assures its uniformity. In either case, a lot is identified by a distinctive lot number and has uniform character and quality with specified limits.

“Lot number” or “control number” means any distinctive combination of letters or numbers, or both, from which the complete history of the compounding or manufacturing, control,

packaging, and distribution of a batch or lot of a drug can be determined.

“Low-income subsidy” means Medicare-provided assistance that may partially or fully cover the costs of drugs and is based on the income of an individual and, if applicable, the individual’s spouse.

“Materials approval unit” means any organizational element having the authority and responsibility to approve or reject components, in-process materials, packaging components, and final products.

“Mechanical counting device for a drug in solid, oral dosage form” means a mechanical device that counts drugs in solid, oral dosage forms for dispensing and includes an electronic balance when used to count drugs.

“Mechanical storage and counting device for a drug in solid, oral dosage form” means a mechanical device that stores and counts and may package or label drugs in solid, oral dosage forms for dispensing.

“Mediated instruction” means information transmitted via intermediate mechanisms such as audio or video tape or telephone transmission.

“Medical practitioner-patient relationship” means that before prescribing, dispensing, or administering a prescription-only drug, prescription-only device, or controlled substance to a person, a medical practitioner, as defined in A.R.S. § 32-1901, shall first conduct a physical examination of that person or have previously conducted a physical examination. This subdivision does not apply to:

A medical practitioner who provides temporary patient supervision on behalf of the patient’s regular treating medical practitioner;

Emergency medical situations as defined in A.R.S. § 41-1831;

Prescriptions written to prepare a patient for a medical examination; or

Prescriptions written, prescription-only drugs, prescription-only devices, or controlled substances issued for use by a county or tribal public health department for immunization programs, emergency treatment, in response to an infectious disease investigation, public health emergency, infectious disease outbreak or act of bioterrorism. For purposes of this subsection, “bioterrorism” has the same meaning as in A.R.S. § 36-781.

“Medicare” means a federal health insurance program established under Title XVIII of the Social Security Act.

“Medication error” means any unintended variation from a prescription or medication order. Medication error does not include any variation that is corrected before the medication is dispensed to the patient or patient’s care-giver, or any variation allowed by law.

“Mobile pharmacy” means a pharmacy that is self-propelled or movable by another vehicle that is self-propelled.

“MPJE” means Multistate Pharmacy Jurisprudence Examination, a Board-approved national pharmacy law examination written and administered in cooperation with NABP.

“NABP” means National Association of Boards of Pharmacy.

“NABPLEX” means National Association of Boards of Pharmacy Licensure Examination.

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“NAPLEX” means North American Pharmacist Licensure Examination.

“Order” means either of the following:

A prescription order as defined in A.R.S. § 32-1901; or

A medication order as defined in A.A.C. R4-23-651.

“Other designated personnel” means a non-pharmacist individual who is permitted in the pharmacy area, for a limited time, under the direct supervision of a pharmacist, to perform non-pharmacy related duties, such as trash removal, floor maintenance, and telephone or computer repair.

“Outpatient” means an individual who is not a residential patient in a health care institution.

“Outpatient setting” means a location that provides medical treatment to an outpatient.

“Patient profile” means a readily retrievable, centrally located information record that contains patient demographics, allergies, and medication profile.

“Pharmaceutical patient care services” means the provision of drug selection, drug utilization review, drug administration, drug therapy monitoring, and other drug-related patient care services intended to achieve outcomes related to curing or preventing a disease, eliminating or reducing a patient’s symptoms, or arresting or slowing a disease process, by identifying and resolving or preventing potential and actual drug-related problems.

“Pharmaceutical product” means a medicinal drug.

“Pharmacy counter working area” means a clear and continuous working area that contains no major obstacles such as a desktop computer, computer monitor, computer keyboard, external computer drive device, printer, facsimile machine, pharmacy balance, typewriter, or pill-counting machine, but may contain individual documents or prescription labels, pens, prescription blanks, refill log, pill-counting tray, spatula, stapler, or other similar items necessary for the prescription-filling process.

“Pharmacy law continuing education” means a continuing education activity that addresses practice issues related to state or federal pharmacy statutes, rules, or regulations, offered by an Approved Provider.

“Pharmacy permittee” means a person who holds a current pharmacy permit that complies with A.R.S. §§ 32-1929, 32-1930, 32-1931, 32-1934, and R4-23-606 and R4-23-652.

“Physician” means a medical practitioner licensed under A.R.S. Title 32, Chapter 13 or 17.

“Physician-in-charge” means a physician who is responsible to the Board for all aspects of a prescription medication donation program required in A.R.S. § 32-1909 and operated in the physician’s office or in a health care institution.

“Poverty level” means the annual family income for a family unit of a particular size, as specified in the poverty guidelines updated annually in the *Federal Register* by the U.S. Department of Health and Human Services.

“Precursor chemical” means a precursor chemical I as defined in A.R.S. § 13-3401(26) and a precursor chemical II as defined in A.R.S. § 13-3401(27).

“Prepackaged drug” means a drug that is packaged in a frequently prescribed quantity, labeled in compliance with A.R.S. §§ 32-1967 and 32-1968, stored, and subsequently dispensed

by a pharmacist or a graduate intern or pharmacy intern under the supervision of a pharmacist, who verifies at the time of dispensing that the drug container is properly labeled, in compliance with A.R.S. § 32-1968, for the patient.

“Prep area” means a specified area either within an ISO class 7 environment or adjacent to but outside an ISO class 7 environment that:

Allows the assembling of necessary drugs, supplies, and equipment for compounding sterile pharmaceutical products, but does not allow the use of paper products such as boxes or bulk drug storage;

Allows personnel to don personnel protective clothing, such as gown, gloves, head cover, and booties before entering the clean compounding area; and

Is a room or a specified area within a room, such as an area specified by a line on the floor.

“Primary care provider” means the medical practitioner who is treating an individual for a disease or medical condition.

“Proprietor” means the owner of a business permitted by the Board under A.R.S. §§ 32-1929, 32-1930, 32-1931, and 32-1934.

“Provider pharmacy” means a pharmacy that contracts with a long-term care facility to supply prescription medication or other services for residents of a long-term care facility.

“Radiopharmaceutical” means any drug that emits ionizing radiation and includes:

Any nonradioactive reagent kit, nuclide generator, or ancillary drug intended to be used in the preparation of a radiopharmaceutical, but does not include drugs such as carbon-containing compounds or potassium-containing salts, that contain trace quantities of naturally occurring radionuclides; and

Any biological product that is labeled with a radionuclide or intended to be labeled with a radionuclide.

“Radiopharmaceutical quality assurance” means performing and interpreting appropriate chemical, biological, and physical tests on radiopharmaceuticals to determine the suitability of the radiopharmaceutical for use in humans and animals. Radiopharmaceutical quality assurance includes internal test assessment, authentication of product history, and appropriate record retention.

“Radiopharmaceutical services” means procuring, storing, handling, compounding, preparing, labeling, quality assurance testing, dispensing, distributing, transferring, recordkeeping, and disposing of radiochemicals, radiopharmaceuticals, and ancillary drugs. Radiopharmaceutical services include quality assurance procedures, radiological health and safety procedures, consulting activities associated with the use of radiopharmaceuticals, and any other activities required for the provision of pharmaceutical care.

“Red C stamp” means a device used with red ink to imprint an invoice with a red letter C at least one inch high, to make an invoice of a Schedule III through IV controlled substance, as defined in A.R.S. § 36-2501, readily retrievable, as required by state and federal rules.

“Refill” means other than the original dispensing of the prescription order, dispensing a prescription order in the same quantity originally ordered or in multiples of the originally ordered quantity when specifically authorized by the prescriber, if the refill is authorized by the prescriber:

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In the original prescription order;

By an electronically transmitted refill order that the pharmacist promptly documents and files; or

By an oral refill order that the pharmacist promptly documents and files.

“Regulated chemical” means the same as in A.R.S. § 13-3401(30).

“Remodel” means to alter structurally the pharmacy area or location.

“Remote drug storage area” means an area that is outside the premises of the pharmacy, used for the storage of drugs, locked to deny access by unauthorized persons, and secured against the use of force.

“Resident” means:

An individual admitted to and living in a long-term care facility or an assisted living facility,

An individual who has a place of habitation in Arizona and lives in Arizona as other than a tourist, or

A person who owns or operates a place of business in Arizona.

“Responsible person” means the owner, manager, or other employee who is responsible to the Board for a permitted establishment’s compliance with the laws and administrative rules of this state and of the federal government pertaining to distribution of drugs, devices, precursor chemicals, and regulated chemicals. Nothing in this definition relieves other individuals from the responsibility to comply with state and federal laws and administrative rules.

“Score transfer” means the process that enables an applicant to take the NAPLEX in a jurisdiction and be eligible for licensure by examination in other jurisdictions.

“Security features” means attributes incorporated into the paper of a prescription order, referenced in A.R.S. § 32-1968(A)(4), that are approved by the Board or its staff and include one or more of the following designed to prevent duplication or aid the authentication of a paper document: laid lines, enhanced laid lines, thermochromic ink, artificial watermark, fluorescent ink, chemical void, persistent void, penetrating numbers, high-resolution border, high-resolution latent images, micro-printing, prismatic printing, embossed images, abrasion ink, holograms, and foil stamping.

“Shared order filling” means the following:

Preparing, packaging, compounding, or labeling an order, or any combination of these functions, that are performed by:

A person with a current Arizona Board license, located at an Arizona pharmacy, on behalf of and at the request of another resident or nonresident pharmacy; or

A person, located at a nonresident pharmacy, on behalf of and at the request of an Arizona pharmacy; and

Returning the filled order to the requesting pharmacy for delivery to the patient or patient’s care-giver or, at the request of this pharmacy, directly delivering the filled order to the patient.

“Shared order processing” means the following:

Interpreting the order, performing order entry verification, drug utilization review, drug compatibility and drug allergy review, final order verification, and when neces-

sary, therapeutic intervention, or any combination of these order processing functions, that are performed by:

A pharmacist or intern, under pharmacist supervision, with a current Arizona Board license, located at an Arizona pharmacy, on behalf of and at the request of another resident or nonresident pharmacy; or

A pharmacist or intern, under pharmacist supervision, located at a nonresident pharmacy, on behalf of and at the request of an Arizona pharmacy; and

After order processing is completed, returning the processed order to the requesting pharmacy for order filling and delivery to the patient or patient’s care-giver or, at the request of this pharmacy, returning the processed order to another pharmacy for order filling and delivery to the patient or patient’s care-giver.

“Shared services” means shared order filling or shared order processing, or both.

“Sight-readable” means that an authorized individual is able to examine a record and read its information from a CRT, microfiche, microfilm, printout, or other method acceptable to the Board or its designee.

“Single-drug audit” means an accounting method that determines the numerical and percentage difference between a drug’s beginning inventory plus purchases and ending inventory plus sales.

“Single-drug usage report” means a computer system printout of original and refill prescription order usage information for a single drug.

“Standard-risk sterile pharmaceutical product” means a sterile pharmaceutical product compounded from sterile commercial drugs using sterile commercial devices or a sterile pharmaceutical optic or ophthalmic product compounded from non-sterile ingredients.

“State of emergency” means a governmental declaration issued under A.R.S. § 32-1910 as a result of a natural disaster or terrorist attack that results in individuals being unable to refill existing prescriptions.

“Sterile pharmaceutical product” means a medicinal drug free from living biological organisms.

“Strength” means:

The concentration of the drug substance (for example, weight/weight, weight/volume, or unit dose/volume basis); or

The potency, that is, the therapeutic activity of a drug substance as indicated by bioavailability tests or by controlled clinical data (expressed, for example, in terms of unity by reference to a standard).

“Substantial-risk sterile pharmaceutical product” means a sterile pharmaceutical product compounded as a parenteral or injectable dosage form from non-sterile ingredients.

“Supervision” means a pharmacist is present, assumes legal responsibility, and has direct oversight of activities relating to acquiring, preparing, distributing, administering, and selling prescription medications by pharmacy interns, graduate interns, pharmacy technicians, or pharmacy technician trainees and when used in connection with the intern training requirements means that, in a pharmacy where intern training occurs, a pharmacy intern preceptor assumes the primary responsibility,

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ity of teaching the intern during the entire period of the training.

“Supplying” means selling, transferring, or delivering to a patient or a patient’s agent one or more doses of:

A nonprescription drug in the manufacturer’s original container for subsequent use by the patient, or

A compressed medical gas in the manufacturer’s or compressed medical gas distributor’s original container for subsequent use by the patient.

“Support personnel” means an individual, working under the supervision of a pharmacist, trained to perform clerical duties associated with the practice of pharmacy, including cashiering, bookkeeping, pricing, stocking, delivering, answering non-professional telephone inquiries, and documenting third-party reimbursement. Support personnel shall not perform the tasks of a pharmacist, pharmacy intern, graduate intern, pharmacy technician, or pharmacy technician trainee.

“Temporary pharmacy facility” means a facility established as a result of a declared state of emergency to temporarily provide pharmacy services within or adjacent to declared disaster areas.

“Tourist” means an individual who is living in Arizona but maintains a place of habitation outside of Arizona and lives outside of Arizona for more than six months during a calendar year.

“Transfill” means a manufacturing process by which one or more compressed medical gases are transferred from a bulk container to a properly labeled container for subsequent distribution or supply.

“Unearned income” means monetary payment received by an individual that is not compensation for work performed or rental of property owned or leased by the individual, including:

Unemployment insurance,

Workers’ compensation,

Disability payments,

Payments from the Social Security Administration,

Payments from public assistance,

Periodic insurance or annuity payments,

Retirement or pension payments,

Strike benefits from union funds,

Training stipends,

Child support payments,

Alimony payments,

Military family allotments,

Regular support payments from a relative or other individual not residing in the household,

Investment income,

Royalty payments,

Periodic payments from estates or trusts, and

Any other monetary payments received by an individual that are not:

As a result of work performed or rental of property owned by the individual,

Gifts,

Lump-sum capital gains payments,

Lump-sum inheritance payments,

Lump-sum insurance payments, or

Payments made to compensate for personal injury.

“Verified signature” or “signature verifying” means in relation to a Board license or permit application or report, form, or agreement, the hand-written or electronic signature of an individual who, by placing a hand-written or electronic signature on a hard-copy or electronic license or permit application or report, form, or agreement agrees with and verifies that the statements and information within or attached to the license or permit application or report, form, or agreement are true in every respect and that inaccurate reporting can result in denial or loss of a license or permit or report, form, or agreement.

“Veteran” means an individual who has served in the United States Armed Forces.

“Wholesale distribution” means distribution of a drug to a person other than a consumer or patient, but does not include:

Selling, purchasing, or trading a drug or offering to sell, purchase, or trade a drug for emergency medical reasons. For purposes of this Section, “emergency medical reasons” includes transferring a prescription drug by a community or hospital pharmacy to another community or hospital pharmacy to alleviate a temporary shortage;

Selling, purchasing, or trading a drug, offering to sell, purchase, or trade a drug, or dispensing a drug as specified in a prescription;

Distributing a drug sample by a manufacturers’ or distributors’ representative; or

Selling, purchasing, or trading blood or blood components intended for transfusion.

“Wholesale distributor” means any person engaged in wholesale distribution of drugs, including: manufacturers; repackers; own-label distributors; private-label distributors; jobbers; brokers; warehouses, including manufacturers’ and distributors’ warehouses, chain drug warehouses, and wholesale drug warehouses; independent wholesale drug traders; and retail pharmacies that conduct wholesale distributions in the amount of at least 5% of gross sales.

Historical Note

Adopted effective August 24, 1992 (Supp. 92-2).

Amended effective December 18, 1992 (Supp. 92-4).

Amended effective November 1, 1993 (Supp. 93-4).

Amended effective April 1, 1995; filed with the Secretary of State January 31, 1995 (Supp. 95-1). Amended effective April 5, 1996 (Supp. 96-2). Amended effective July 8, 1997; amended effective August 5, 1997 (Supp. 97-3).

Amended effective January 12, 1998 (Supp. 98-1).

Amended effective July 7, 1998 (Supp. 98-3). Amended by final rulemaking at 5 A.A.R. 862, effective March 3, 1999 (Supp. 99-1). Amended by final rulemaking at 5 A.A.R. 4441, effective November 2, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 4589, effective

November 14, 2000 (Supp. 00-4). Amended by final

rulemaking at 7 A.A.R. 646, effective January 11, 2001 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 409 and 8 A.A.R. 646, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 416, effective January 10, 2002 (Supp. 02-1). Amended by

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final rulemaking at 8 A.A.R. 1256, effective March 7, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 4052, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 8 A.A.R. 4898 and 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4). Amended by final rulemaking at 9 A.A.R. 1064, effective May 4, 2003 (Supp. 03-1). Amended by final rulemaking at 9 A.A.R. 5030, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 10 A.A.R. 3391, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 10 A.A.R. 3967, effective November 13, 2004 (Supp. 04-3). Amended by final rulemaking at 10 A.A.R. 4356, effective December 4, 2004 (Supp. 04-4). Amended by final rulemaking at 11 A.A.R. 2258, effective August 6, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3). Amended by final rulemaking at 12 A.A.R. 3981, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 520, effective April 7, 2007 (Supp. 07-1). Amended by final rulemaking at 13 A.A.R. 440, effective April 7, 2007 (Supp. 07-1). Amended by final rulemaking at 13 A.A.R. 616, effective April 7, 2007 (Supp. 07-1). Amended by final rulemaking at 13 A.A.R. 3477, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 14 A.A.R. 3405, effective October 4, 2008; amended by final rulemaking at 14 A.A.R. 3410, effective October 4, 2008 (Supp. 08-3). Amended by final rulemaking at 14 A.A.R. 4400, effective January 3, 2009; amended by final rulemaking at 14 A.A.R. 4320, effective January 3, 2009 (Supp. 08-4). Amended by final rulemaking at 18 A.A.R. 2603, effective December 2, 2012 (Supp. 12-4). Amended by final rulemaking at 18 A.A.R. 2609, effective December 2, 2012 (Supp. 12-4). Amended by final rulemaking at 19 A.A.R. 2894, effective November 10, 2013 (Supp. 13-3). Amended by final rulemaking at 20 A.A.R. 1364, effective August 2, 2014 (Supp. 14-2). Amended by exempt rulemaking under Laws 2016, Ch. 284, § 3 at 22 A.A.R. 2606, effective August 31, 2016 (Supp. 16-3).

R4-23-111. Notice of Hearing

- A. Except as provided in A.R.S. § 32-1928(B), the Board shall revoke, suspend, place on probation, or fine a licensee or permittee only after:
1. Notice is served under this Section, and
 2. A hearing is conducted under R4-23-122.
- B. The Board shall give notice of hearing to a party at least 30 days before the date set for the hearing in the manner described in R4-23-115(E) and (F). The notice shall include:
1. A statement of the date, time, place, and nature of the hearing;
 2. A statement of the legal authority and jurisdiction for the hearing;
 3. A reference to the particular section or sections of statute and rule involved; and
 4. A statement of the violation or issue asserted by the Board.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-112. Ex Parte Communications

A party shall not communicate, either directly or indirectly, with a Board member about any substantive issue in a pending matter unless:

1. All parties are present;
2. It is during a scheduled proceeding, where an absent party fails to appear after proper notice; or
3. It is by written motion with copies to all parties.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-113. Motions

- A. Purpose. A party requesting a ruling from the Board shall file a motion. Motions may be made for rulings such as:
1. Continuing or expediting a hearing under R4-23-116;
 2. Vacating a hearing under R4-23-117;
 3. Scheduling a prehearing conference under R4-23-118;
 4. Quashing a subpoena under R4-23-119;
 5. Requesting telephonic testimony under R4-23-120; and
 6. Reconsidering a previous order under R4-23-121.
- B. Form. Unless made during a prehearing conference or hearing, motions shall be made in writing and shall conform to the requirements of R4-23-115. All motions, whether written or oral, shall state the factual and legal grounds supporting the motion, and the requested action.
- C. Time limits. Absent good cause, or unless otherwise provided by law or these rules, written motions shall be filed with the Board office at least 15 days before the hearing. A party demonstrates good cause by showing that the grounds for the motion could not have been known in time, using reasonable diligence and:
1. A ruling on the motion will further administrative convenience, expedition or economy; or
 2. A ruling on the motion will avoid undue prejudice to any party.
- D. Response to motion. A party shall file a written response stating any objection to the motion within five days of service, or as directed by the Board.
- E. Oral argument. A party may request oral argument when filing a motion or response. If necessary to develop a complete record, the Board shall grant oral argument.
- F. Rulings. Rulings on motions, other than those made during a prehearing conference or the hearing, shall be in writing and served on all parties.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-114. Computing Time

In computing any time period, the Board shall exclude the day from which the designated time period begins to run. The Board shall include the last day of the period unless it falls on a Saturday, Sunday, or legal holiday. When the time period is 10 days or less, the Board shall exclude Saturdays, Sundays, and legal holidays.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-115. Filing Documents

- A. Docket. The Board shall open a docket for each hearing. All documents filed in a matter with the Board shall be date stamped on the day received by the Board office and entered in the docket.
- B. Definition. "Documents" include papers such as complaints, answers, motions, responses, notices, and briefs.
- C. Form. A party shall state on the document the name and address of each party served and how service was made under subsection (E). A document shall contain the Board caption and the Board's docket number.

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- D. Signature. A document filed with the Board shall be signed by the party or the party's attorney. A signature constitutes a certification that the signer has read the document, has a good faith basis for submission of the document, and that it is not filed for the purpose of delay or harassment.
- E. Filing and service. A copy of a document filed with the Board shall be served on all parties. Filing with the Board office and service shall be completed by personal delivery; first-class, certified, or express mail; or facsimile.
- F. Date of filing and service. A document is filed with the Board on the date it is received by the Board office, as established by the Board office's date stamp on the face of the document. A copy of a document is served on a party as follows:
 1. On the date it is personally served,
 2. Five days after it is mailed by first-class or express mail,
 3. On the date of the return receipt if it is mailed by certified mail, or
 4. On the date indicated on the facsimile transmission.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-116. Continuing or Expediting a Hearing; Reconvening a Hearing

- A. Continuing or expediting a hearing. When ruling on a motion to continue or expedite, the Board shall consider such factors as:
 1. The time remaining between the filing of the motion and the hearing date;
 2. The position of other parties;
 3. The reasons for expediting the hearing or for the unavailability of the party, representative, or counsel on the date of the scheduled hearing;
 4. Whether testimony of an unavailable witness can be taken telephonically or by deposition; and
 5. The status of settlement negotiations.
- B. Reconvening a hearing. The Board may recess a hearing and reconvene at a future date by a verbal ruling.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-117. Vacating a Hearing

The Board shall vacate a calendared hearing and return the matter to the Board office for further action, if:

1. The parties agree to vacate the hearing;
2. The Board dismisses the matter;
3. The non-Board party withdraws the appeal; or
4. Facts demonstrate to the Board that it is appropriate to vacate the hearing for the purpose of informal disposition, or if the action will further administrative convenience, expedition, and economy and does not conflict with law or cause undue prejudice to any party.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-118. Prehearing Conference

- A. Procedure. The Board may hold a prehearing conference. The conference may be held telephonically. The Board may issue a prehearing order outlining the issues to be discussed.
- B. Record. The Board may record any agreements reached during a prehearing conference by electronic or mechanical means, or memorialize them in an order.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-119. Subpoenas

- A. Form. A party shall request a subpoena in writing from the Board and shall include:
 1. The caption and docket number of the matter;
 2. A list or description of any documents sought;
 3. The full name and home or business address of the custodian of the documents sought or all persons to be subpoenaed;
 4. The date, time, and place to appear or to produce documents pursuant to the subpoena; and
 5. The name, address, and telephone number of the party, or the party's attorney, requesting the subpoena.
- B. The Board may require a brief statement of the relevance of testimony or documents.
- C. Service of subpoena. Any person who is not a party and is at least 18 years of age may serve a subpoena. The person shall serve the subpoena by delivering a copy to the person to be served. The person serving the subpoena shall provide proof of service by filing with the Board office a certified statement of the date and manner of service and the names of the persons served.
- D. Objection to subpoena. A party, or the person served with a subpoena who objects to the subpoena, or any portion of it, may file an objection with the Board. The objection shall be filed within five days after service of the subpoena, or at the outset of the hearing if the subpoena is served fewer than five days before the hearing.
- E. Quashing, modifying subpoenas. The Board shall quash or modify a subpoena if:
 1. It is unreasonable or oppressive, or
 2. The desired testimony or evidence may be obtained by an alternative method.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-120. Telephonic Testimony

The Board may grant a motion for telephonic testimony if:

1. Personal attendance by a party or witness at the hearing will present an undue hardship for the party or witness;
2. Telephonic testimony will not cause undue prejudice to any party; and
3. The proponent of the telephonic testimony pays for any cost of obtaining the testimony telephonically.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-121. Rights and Responsibilities of Parties

- A. Generally. A party may present testimony and documentary evidence and argument with respect to the contested issue and may examine and cross-examine witnesses.
- B. Preparation. A party shall have all witnesses, documents, and exhibits available on the date of the hearing.
- C. Exhibits. A party shall provide a copy of each exhibit to all other parties at the time the exhibit is offered to the Board, unless the exhibit was previously provided to all other parties.
- D. Responding to orders. A party shall comply with an order issued by the Board concerning the conduct of a hearing. Unless an objection is made orally during a pre-hearing conference or hearing, a party shall file a motion requesting the Board to reconsider the order.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-122. Conduct of Hearing

- A.** Public access. Unless otherwise provided by law, all hearings are open to the public and may be conducted in an informal manner as prescribed in A.R.S. § 41-1092 et seq.
- B.** Opening. The Board shall begin the hearing by reading the caption, stating the nature and scope of the hearing, and identifying the parties, counsel, and witnesses for the record.
- C.** Stipulations. The Board shall enter into the record any stipulation, settlement agreement, or consent order entered into by any of the parties before or during the hearing.
- D.** Opening statements. The party with the burden of proof may make an opening statement at the beginning of a hearing. All other parties may make statements in a sequence determined by the Board.
- E.** Order of presentation. After opening statements, the party with the burden of proof shall begin the presentation of evidence, unless the parties agree otherwise or the Board determines that requiring another party to proceed first would be more expeditious or appropriate, and would not prejudice any other party. Copies of documentary evidence may be received in the discretion of the Board. Upon request, parties shall be given an opportunity to compare the copy with the original.
- F.** Examination. A party shall conduct direct and cross examination of witnesses in the order and manner determined by the Board to expedite and ensure a fair hearing. The Board shall make rulings necessary to prevent argumentative, repetitive, or irrelevant questioning and to expedite the examination to the extent consistent with the disclosure of all relevant testimony and information. The Board may take notice of judicially cognizable facts. In addition, the Board may take notice of generally recognized technical or scientific facts within the Board's or its staff's specialized knowledge. A party shall be notified either before or during the hearing or by reference in preliminary reports of the material the Board notices. The Board may use the Board's or its staff's experience, technical competence, and specialized knowledge in the evaluation of the evidence.
- G.** Closing argument. When all evidence has been received, parties shall have the opportunity to present closing oral argument, in a sequence determined by the Board. The Board may permit or require closing oral argument to be supplemented by written memoranda. The Board may permit or require written memoranda to be submitted simultaneously or sequentially, within time periods the Board may prescribe.
- H.** Conclusion of hearing. Unless otherwise provided by the Board, the hearing is concluded upon the submission of all evidence, the making of final argument, and the issuing of a final decision or order of the Board.
- I.** Decisions and orders. Unless otherwise provided by law, any final decisions or order adverse to a party in a hearing shall be in writing or stated in the record. Any final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. Unless otherwise provided by law, each party shall be notified either personally or by mail to the party's last known address of record of any decision or order. Upon request, a copy of the decision or order shall be delivered or mailed to each party and to each party's attorney of record.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-123. Failure of Party to Appear for Hearing

If a party fails to appear at a hearing, the Board may proceed with the presentation of the evidence of the appearing party, or vacate the hearing and return the matter to the Board office for any further action.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-124. Witnesses; Exclusion from Hearing

All witnesses at the hearing shall testify under oath or affirmation. At the request of a party, or at the discretion of the Board, the Board may exclude witnesses who are not parties from the hearing room so that they cannot hear the testimony of other witnesses.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-125. Proof

- A.** Standard of proof. Unless otherwise provided by law, the standard of proof is a preponderance of the evidence.
- B.** Burden of proof. Unless otherwise provided by law:
 1. The party asserting a claim, right, or entitlement has the burden of proof;
 2. A party asserting an affirmative defense has the burden of establishing the affirmative defense; and
 3. The proponent of a motion shall establish the grounds to support the motion.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-126. Disruptions

A person shall not interfere with access to or from the hearing room, or interfere, or threaten interference with the hearing. If a person interferes, threatens interference, or disrupts the hearing, the Board may order the disruptive person to leave or be removed.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-127. Hearing Record

- A.** Maintenance. The Board shall maintain the official administrative record of a matter.
- B.** Transfer of record. Any party requesting a copy of the administrative record or any portion of the administrative record shall make a request to the Board office and shall pay the reasonable costs of duplication.
- C.** Release of exhibits. Exhibits shall be released:
 1. Upon the order of a court of competent jurisdiction; or
 2. Upon motion of the party who submitted the exhibits if the time for judicial appeal has expired and no appeal is pending.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-128. Rehearing or Review and Appeal of Decision

- A.** The Board shall provide for a rehearing and review of its decisions under A.R.S. Title 41, Chapter 6, Article 10, and this Section. For purposes of these rules, the terms "contested case" and "party" are defined in A.R.S. § 41-1001.
- B.** A party to a contested case shall exhaust the party's administrative remedies by filing a motion for rehearing or review within 30 days after the service of the Board decision that is subject to rehearing or review in order to be eligible for judicial review under A.R.S. Title 12, Chapter 7, Article 6. The

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Board shall notify a party in its decision, that is subject to rehearing or review, that the party may file a motion for rehearing or review, and that failure to file a motion for rehearing or review within 30 days after service of the decision has the effect of prohibiting the party from seeking judicial review of the Board's decision.

- C. A party may amend a motion for rehearing or review at any time before the Board rules on the motion.
- D. The Board may grant a rehearing or review for any of the following reasons materially affecting a party's rights:
 1. Irregularity in the proceedings of the Board, or any order or abuse of discretion, that deprived the moving party of a fair hearing;
 2. Misconduct of the Board, its staff, its hearing officer, or the prevailing party;
 3. Accident or surprise that could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
 5. Excessive or insufficient penalty;
 6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceedings;
 7. That the Board's decision is a result of passion or prejudice; or
 8. That the findings of fact or decision is not justified by the evidence or is contrary to law.
- E. The Board may affirm or modify a decision or grant a rehearing to all or any of the parties on all or part of the issues for any of the reasons in subsection (D). An order modifying a decision or granting a rehearing shall specify with particularity the grounds for the order.
- F. If a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 days after service, serve opposing affidavits. The Board may extend this period for a maximum of 20 days, for good cause as described in subsection (I).
- G. Not later than 10 days after the date of a decision, after giving parties notice and an opportunity to be heard, the Board may grant a rehearing or review on its own initiative for any reason for which it might have granted relief on the motion of a party. The Board may grant a motion for rehearing or review, timely served, for a reason not stated in the motion.
- H. If a rehearing is granted, the Board shall hold the rehearing within 60 days after the order granting the rehearing is issued.
- I. The Board may extend all time limits listed in this Section upon a showing of good cause. A party demonstrates good cause by showing that the grounds for the party's motion or other action could not have been known in time, using reasonable diligence, and a ruling on the motion will:
 1. Further administrative convenience, expedition, or economy; or
 2. Avoid undue prejudice to any party.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-129. Notice of Judicial Appeal; Transmitting the Transcript

- A. Notification to the Board office. Within 10 days of filing a complaint for judicial review of a final administrative decision of the Board, the party shall file a copy of the complaint with the Board office. The Board office shall then transmit the administrative record to the Superior Court.

- B. Transcript. A party requesting a transcript shall arrange for transcription at the party's expense. The Board office shall make a copy of the audio taped record available to the transcriber. The party arranging for transcription shall deliver the transcript, certified by the transcriber under oath to be a true and accurate transcription of the audio taped record, to the Board office, together with one unbound copy.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

ARTICLE 2. PHARMACIST LICENSURE**R4-23-201. General**

- A. License required. Before practicing as a pharmacist in Arizona, a person shall possess a valid pharmacist license issued by the Board. There is no temporary licensure.
- B. Methods of licensure. Licensure as a pharmacist shall be either:
 1. By practical examination, using paper and pencil written testing, computer adaptive testing, or other Board-approved testing method; or
 2. By reciprocity.
- C. Practicing pharmacist holding a delinquent license. Before the Board reinstates an Arizona pharmacist license, a pharmacist, whose Arizona pharmacist license is delinquent for five or more years and who is practicing pharmacy outside the Board's jurisdiction with a pharmacist license issued by another jurisdiction, shall:
 1. Pass the MPJE or other Board-approved jurisprudence examination,
 2. Pay all delinquent annual renewal fees, and
 3. Pay penalty fees.
- D. Non-practicing pharmacist holding a delinquent license. Before the Board reinstates an Arizona pharmacist license, a pharmacist, whose Arizona pharmacist license is delinquent for five or more years and who did not practice pharmacy within the last 12 months before seeking reinstatement, shall:
 1. Complete the requirements in subsection (C), and
 2. Appear before the Board to furnish satisfactory proof of fitness to be licensed as a pharmacist.
- E. Verification of license. A pharmacy permittee or pharmacist-in-charge shall not permit a person to practice as a pharmacist until the pharmacy permittee or pharmacist-in-charge verifies that the person is currently licensed by the Board as a pharmacist.

Historical Note

Former Rules 2.1100, 2.1310, 2.1320, and 2.1400.
 Amended effective August 23, 1978 (Supp. 78-4).
 Amended by deleting subsection (E) effective April 20, 1982 (Supp. 82-2). Amended subsections (C) and (D) effective August 12, 1988 (Supp. 88-3). Amended effective February 8, 1991 (Supp. 91-1). Amended effective January 12, 1998 (Supp. 98-1). Amended by final rulemaking at 10 A.A.R. 4356, effective December 4, 2004 (Supp. 04-4). Amended by final rulemaking at 19 A.A.R. 2911, effective November 10, 2013 (Supp. 13-3).

R4-23-202. Licensure by Examination

- A. Eligibility. To be eligible for licensure as a pharmacist by examination, a person shall:
 1. Have a degree in pharmacy from a school or college of pharmacy approved by the Board as specified in A.R.S. § 32-1935, and whose professional degree program, at the time the person graduates, is accredited by the Accreditation Council for Pharmacy Education; or

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2. Qualify under the requirements of A.R.S. § 32-1922(D); and
 3. Complete not less than 1500 hours of intern training as specified in R4-23-303.
- B. Application.**
1. An applicant for licensure by examination shall:
 - a. Submit a completed application for licensure by examination electronically or manually on a form furnished by the Board, and
 - b. Submit with the application form:
 - i. The documents specified in the application form, and
 - ii. The application fee specified in R4-23-205(C).
 2. The Board office shall deem an application form received on the date the Board office electronically or manually date-stamps the form.
 3. An applicant for licensure by examination shall register for NAPLEX and MPJE through NABP's registration process.
 4. The Board shall deem an application for licensure by examination invalid after 12 months from the date the application is received. An applicant whose application form is invalid and who wishes to continue licensure procedures, shall submit a new application form and fee as specified in R4-23-205(C).
- C. Passing grade; notification; re-examination.**
1. To pass the required examinations, an applicant shall obtain a score of at least 75 on both the NAPLEX and MPJE.
 2. The Board office shall:
 - a. Retrieve an applicant's NAPLEX and MPJE score from the NABP database no later than two weeks after the applicant's examination date, and
 - b. Provide written notice by mail to an applicant who fails the NAPLEX or MPJE no later than seven days after the Board office retrieves the applicant's score from NABP.
 3. An applicant who fails the NAPLEX or MPJE may register with the NABP to retake the examination within the 12-month period defined in subsection (B)(4). An applicant who fails the NAPLEX or MPJE three times shall petition the Board as specified in R4-23-401 for Board approval before retaking the examination.
 4. For the purpose of licensure by examination, the Board office shall deem a passing score on the NAPLEX or MPJE invalid after 24 months from the applicant's examination date. An applicant who fails to complete the licensure process within the 24-month period, and who wishes to continue licensure procedures, shall retake the examination(s).
- D. NAPLEX score transfer.**
1. The Board office shall deem a score transfer received on the date the NABP transmits the applicant's official score transfer report to the Board office.
 2. An applicant who receives a passing score on the NAPLEX taken in another jurisdiction shall, within 12 months from the date the Board office receives the applicant's official NABP score transfer report from the NABP, make application for licensure according to subsection (B). After 12 months, an applicant may reapply for licensure in this state under the provisions of subsection (B) or R4-23-203(B).
 3. An applicant who takes the NAPLEX in another jurisdiction and fails the examination may apply for licensure in this state under the provisions of subsection (B).
- E. Licensure.**
1. The Board office shall issue a certificate of licensure and a wall license to a successful applicant upon receipt of:
 - a. The initial licensure fee specified in R4-23-205(A)(1)(a), and
 - b. The wall license fee specified in R4-23-205(E)(1)(a).
 2. A licensee shall maintain the certificate of licensure in the practice site for inspection by the Board or its designee or review by the public.
- F. Time-frames for licensure by examination.**
1. The Board office shall complete an administrative completeness review within 60 days from the date the application form is received.
 - a. The Board office shall issue a written notice of administrative completeness to the applicant if no deficiencies are found in the application form.
 - b. If the application form is incomplete, the Board office shall provide the applicant with a written notice that includes a comprehensive list of the missing information. The 60-day time-frame for the Board office to finish the administrative completeness review is suspended from the date the notice of incompleteness is served until the applicant provides the Board office with all missing information.
 - c. If the Board office does not provide the applicant with written notice regarding administrative completeness, the application form shall be deemed complete 60 days after receipt by the Board office.
 2. An applicant with an incomplete application form shall submit all of the missing information within 90 days of service of the notice of incompleteness.
 - a. If an applicant cannot submit all missing information within 90 days of service of the notice of incompleteness, the applicant may send a written request for an extension to the Board office postmarked or delivered no later than 90 days from service of the notice of incompleteness.
 - b. The written request for an extension shall document the reasons the applicant is unable to meet the 90-day deadline.
 - c. The Board office shall review the request for an extension of the 90-day deadline and grant the request if the Board office determines that an extension of the deadline will enable the applicant to assemble and submit the missing information. An extension shall be for no more than 30 days. The Board office shall notify the applicant in writing of its decision to grant or deny the request for an extension.
 3. If an applicant fails to submit a complete application form within the time allowed, the Board office shall close the applicant's file. An applicant whose file is closed and who later wishes to obtain a license shall apply again according to subsection (B).
 4. The Board office shall complete a substantive review of the applicant's qualifications in no more than 120 days from the date on which the administrative completeness review of an application form is complete.
 - a. If an applicant is found to be ineligible for licensure by examination, the Board office shall issue a written notice of denial to the applicant.
 - b. If an applicant is found to be eligible to take the NAPLEX, the Board office shall notify the NABP that the applicant is eligible to test. The NABP shall issue the applicant an authorization to test letter.

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- c. If an applicant is found to be eligible to take the MPJE, the Board office shall notify the NABP that the applicant is eligible to test. The NABP shall issue the applicant an authorization to test letter.
 - d. The Board office shall deem an applicant's eligibility to test invalid after 12 months from the date the application for licensure by examination is received.
 - e. If the Board office finds deficiencies during the substantive review of an application form, the Board office shall issue a written request to the applicant for additional documentation.
 - f. The 120-day time-frame for a substantive review of eligibility to take the NAPLEX or MPJE is suspended from the date of a written request for additional documentation until the date that all documentation is received. The applicant shall submit the additional documentation according to subsection (F)(2).
 - g. If the applicant and the Board office mutually agree in writing, the 120-day substantive review time-frame may be extended once for no more than 45 days.
5. For the purpose of A.R.S. § 41-1072 et seq., the Board establishes the following time-frames for licensure by examination.
- a. Administrative completeness review time-frame: 60 days.
 - b. Substantive review time-frame: 120 days.
 - c. Overall time-frame: 180 days.

G. License renewal.

- 1. To renew a license, a pharmacist shall submit a completed license renewal application electronically or manually on a form furnished by the Board with the biennial renewal fee specified in R4-23-205(A)(1)(b).
- 2. If the biennial renewal fee is not paid by November 1 of the renewal year specified in A.R.S. § 32-1925, the pharmacist license is suspended and the licensee shall not practice as a pharmacist. The licensee shall pay a penalty as provided in A.R.S. § 32-1925 and R4-23-205(G)(1) to vacate the suspension.
- 3. A licensee shall maintain the renewal certificate of licensure in the practice site for inspection by the Board or its designee or review by the public.
- 4. Time-frames for license renewals. The Board office shall follow the time-frames established in subsection (F).

Historical Note

Former Rules 2.2100, 2.2200, 2.2300, 2.2400, 2.2500, 2.2600, 2.2700, 2.2800, 2.2910, 2.2920, 2.2930, 2.3000, 2.3010, 2.3100; Amended effective August 23, 1978 (Supp. 78-5). Amended effective June 10, 1981 (Supp. 81-3). Former Section R4-23-202 repealed, new Section R4-23-202 adopted effective July 24, 1985 (Supp. 85-4). Amended effective March 13, 1991 (Supp. 91-1). Amended effective January 12, 1998 (Supp. 98-1). Amended by final rulemaking at 8 A.A.R. 409 and 8 A.A.R. 646, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 10 A.A.R. 4356, effective December 4, 2004 (Supp. 04-4). Amended by final rulemaking at 12 A.A.R. 4689, effective February 3, 2007 (Supp. 06-4). Amended by final rulemaking at 14 A.A.R. 3605, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 19 A.A.R. 2911, effective November 10, 2013 (Supp. 13-3).

R4-23-203. Licensure by Reciprocity

- A. Eligibility.** A person is eligible for licensure by reciprocity who:
- 1. Is licensed as a pharmacist in a jurisdiction that provides reciprocity to Arizona licensees,
 - 2. Has passed the NAPLEX or NAPLEX with a score of 75 or better or was licensed by examination in another jurisdiction having essentially the same standards for licensure as this state at the time the pharmacist was licensed,
 - 3. Provides evidence to the Board of having completed the required secondary and professional education and training specified in R4-23-202(A),
 - 4. Has engaged in the practice of pharmacy for at least one year or has met the internship requirements of Article 3 within the year immediately before the date of application, and
 - 5. Has actively practiced as a pharmacist for 400 or more hours within the last calendar year or has an Arizona graduate intern license and has completed 400 hours of internship training in a Board-approved internship training site.

B. Application.

- 1. An applicant for licensure by reciprocity shall:
 - a. Submit a completed application for licensure by reciprocity electronically or manually on a form furnished by the Board, and
 - b. Submit with the application form:
 - i. The documents specified in the application form, and
 - ii. The reciprocity fee specified in R4-23-205(B).
- 2. The Board office shall deem an application form received on the date the Board office electronically or manually date-stamps the form.
- 3. An applicant for licensure by reciprocity shall register for MPJE through NABP's registration process.
- 4. The Board office shall deem an application for licensure by reciprocity invalid after 12 months from the date the application is received. An applicant whose application form is invalid and who wishes to continue licensure procedures, shall submit a new application form and fee as specified in R4-23-205(B).

C. Passing grade; notification; re-examination.

- 1. To pass the required examination, an applicant shall obtain a score of at least 75 on the MPJE.
- 2. The Board office shall:
 - a. Retrieve an applicant's MPJE score from the NABP database no later than two weeks after the applicant's examination date, and
 - b. Provide written notice by mail to an applicant who fails the MPJE no later than seven days after the Board office retrieves the applicant's score from NABP.
- 3. An applicant who fails the MPJE may register with the NABP to retake the examination within the 12-month period specified in subsection (B)(4). An applicant who fails the MPJE three times shall petition the Board as specified in R4-23-401 for Board approval before retaking the examination.
- 4. For the purpose of licensure by reciprocity, the Board office shall deem a passing score on the MPJE invalid after 24 months from the applicant's examination date. An applicant who fails to complete the licensure process within the 24-month period, and who wishes to continue licensure procedures, shall retake the examination.

D. Licensure.

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1. The Board office shall issue a certificate of licensure and a wall license to a successful applicant upon receipt of:
 - a. The initial licensure fee specified in R4-23-205(A)(1)(a), and
 - b. The wall license fee specified in R4-23-205(E)(1)(a).
 2. A licensee shall maintain the certificate of licensure in the practice site for inspection by the Board or its designee or review by the public.
- E.** Time-frames for licensure by reciprocity. The Board office shall follow the time-frames established for licensure by examination in R4-23-202(F).
- F.** License renewal. License renewal shall be the same as specified in R4-23-202(G).

Historical Note

Former Rules 2.4100, 2.4200, 2.4310, 2.4320, 2.4330, 2.4340, 2.4350, 2.4360, 2.4400, 2.4510, 2.4520, 2.4522, 2.4523, 2.4530, 2.4540, 2.4550, 2.4560, 2.4610, 2.4620, and 2.4700; Amended effective August 23, 1978 (Supp. 78-4). Amended subsections (H), (L), (O) through (Q) effective June 10, 1981 (Supp. 81-3). Former Section R4-23-203 repealed, new Section R4-23-203 adopted effective July 24, 1985 (Supp. 85-4). Amended effective March 13, 1991 (Supp. 91-1). Amended effective January 12, 1998 (Supp. 98-1). Amended by final rulemaking at 8 A.A.R. 409 and 8 A.A.R. 646, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 10 A.A.R. 4356, effective December 4, 2004 (Supp. 04-4). Amended by final rulemaking at 14 A.A.R. 3605, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 19 A.A.R. 2911, effective November 10, 2013 (Supp. 13-3).

R4-23-204. Continuing Education Requirements

- A.** General. In accordance with A.R.S. § 32-1925(G), the Board shall not renew a license unless the applicant has, during the two years preceding the application for renewal, participated in 30 contact hours (3.0 CEU's) of continuing education activity sponsored by an Approved Provider as defined in R4-23-110, of which at least three contact hours (0.3 CEU's) are approved courses in pharmacy law. Subject to A.R.S. § 32-1937, a pharmacist licensed for less than 24 months shall obtain continuing education units in an amount determined by multiplying 1.25 hours times the number of months between the date of initial licensure and the next license renewal date.
- B.** Acceptance of continuing education units (CEU's). The Board shall:
1. Only accept CEU's for continuing education activities sponsored by an Approved Provider;
 2. Only accept CEU's accrued during the two-year period immediately before licensure renewal;
 3. Not allow CEU's accrued in a biennial renewal period in excess of the 3.0 CEU's required to be carried forward to the succeeding biennial renewal period;
 4. Allow a pharmacist who leads, instructs, or lectures to a group of health professionals on pharmacy-related topics in continuing education activities sponsored by an Approved Provider to receive CEU's for a presentation by following the same attendance procedures as any other attendee of the continuing education activity; and
 5. Not accept as CEU's the performance of normal teaching duties within a learning institution by a pharmacist whose primary responsibility is the education of health professionals.
- C.** Continuing education records and reporting CEU's. A pharmacist shall:
1. Maintain continuing education records that:
 - a. Verify the continuing education activities the pharmacist participated in during the preceding five years; and
 - b. Consist of a statement of credit or a certificate issued by an Approved Provider at the conclusion of a continuing education activity;
 2. At the time of licensure renewal, attest to the number of CEU's the pharmacist participated in during the renewal period on the biennial renewal form; and
 3. When requested by the Board office, submit proof of continuing education participation within 20 days of the request.
- D.** The Board may revoke, suspend, or place on probation the license of a pharmacist who fails to comply with continuing education participation, recording, or reporting requirements of this Section.
- E.** A pharmacist who is aggrieved by any decision of the Board or its administrative staff concerning continuing education units may request a hearing before the Board.

Historical Note

Adopted effective September 1, 1981 (Supp. 81-5).
 Amended effective March 13, 1991 (Supp. 91-1).
 Amended by final rulemaking at 8 A.A.R. 409 and 8 A.A.R. 646, effective January 10, 2002 (Supp. 02-1).

R4-23-205. Fees

- A.** The Board shall collect the full biennial fee for all initial and renewal license and permit applications listed in subsections (B) and (C).
1. If a license or permit is issued from November of an odd-numbered year through October of an even-numbered year, the licensee or permittee shall renew on or before November 1 of the next odd-numbered year.
 2. If a license or permit is issued from November of an even-numbered year through October of an odd-numbered year, the licensee or permittee shall renew on or before November 1 of the next even-numbered year.
- B.** Licensure fees:
1. Pharmacist:
 - a. Initial licensure: \$180.
 - b. Licensure renewal: \$180.
 2. Pharmacy or graduate intern. Initial licensure: \$50.
 3. Pharmacy technician:
 - a. Initial licensure: \$72.
 - b. Licensure renewal: \$72.
- C.** Vendor permit fees (Resident and nonresident):
1. Pharmacy: \$480 biennially (Including hospital, and limited service).
 2. Drug wholesaler or manufacturer:
 - a. Manufacturer: \$1000 biennially.
 - b. Full-service drug wholesaler: \$1000 biennially.
 - c. Nonprescription drug wholesaler: \$500 biennially.
 3. Drug packager or repackager: \$1000 biennially.
 4. Nonprescription drug, retail:
 - a. Category I (30 or fewer items): \$120 biennially.
 - b. Category II (more than 30 items): \$200 biennially.
 5. Compressed medical gas distributor: \$200 biennially.
 6. Durable medical equipment and compressed medical gas supplier: \$100 biennially.
- D.** Pharmacy technician trainee 36-month, non-renewable, license: \$50.
1. If an individual obtained an initial pharmacy technician trainee license before August 9, 2017, the Board shall

allow the individual to reapply once for a pharmacy technician trainee license if the individual reapplies before the initial license expires and pays a reapplication fee of \$36; and

2. If a pharmacy technician trainee's initial license expires before August 9, 2017, and the pharmacy technician trainee does not reapply before August 9, 2017, the Board shall not allow the former pharmacy technician trainee to reapply.
- E.** Reciprocity fee: \$300.
- F.** Application fee: \$50.
- G.** Certificate fees:
1. Certificate of free sale: \$200 per certificate.
 2. Certificate of good manufacturing practice: \$200 per certificate.
 3. Annual inspection fee calculated at the average hourly rate of a pharmacy inspector multiplied by the duration of the inspection measured in 10-minute increments or portion of a 10-minute increment.
- H.** Other fees:
1. Wall license.
 - a. Pharmacist: \$20.
 - b. Pharmacy or graduate intern: \$10.
 - c. Pharmacy technician: \$10.
 - d. Pharmacy technician trainee: \$10.
 2. Duplicate of any Board-issued license, registration, certificate, or permit: \$10.
 3. Duplicate current renewal license: \$10.
 4. License, permit, or certificate verification: \$15.
- I.** Fees are not refunded under any circumstances except for the Board's failure to comply with its established licensure or permit time frames under R4-23-202 or R4-23-602.
- J.** Penalty. Renewal applications submitted after the expiration date are subject to a penalty as provided in A.R.S. §§ 32-1925 and 32-1931.
1. Licensees: A penalty equal to half the licensee's biennial licensure renewal fee under subsection (B) and not to exceed \$350.
 2. Permittees: A penalty equal to half the permittee's biennial permit fee under subsection (C) and not to exceed \$350.

Historical Note

Adopted effective July 24, 1985 (Supp. 84-5). Amended subsection (A) paragraph (1) effective May 20, 1988 (Supp. 88-2). Amended effective August 12, 1988 (Supp. 88-3). Amended effective February 8, 1991 (Supp. 91-1). Amended effective April 1, 1995; filed with the Secretary of State January 31, 1995 (Supp. 95-1). Amended effective January 12, 1998 (Supp. 98-1). Amended by final rulemaking at 6 A.A.R. 4589, effective November 14, 2000 (Supp. 00-4). Amended by final rulemaking at 8 A.A.R. 409 and 8 A.A.R. 646, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 416, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3). Amended by final rulemaking at 15 A.A.R. 173, effective March 7, 2009 (Supp. 09-1). Amended by final rulemaking at 20 A.A.R. 1364, effective August 2, 2014 (Supp. 14-2). Amended by exempt rulemaking under Laws 2016, Ch. 284, § 3 at 22 A.A.R. 2606, effective August 31, 2016 (Supp. 16-3). Amended by final exempt rulemaking at 23 A.A.R. 2058, effective August 9, 2017; amended by final exempt rulemaking with amendments to subsection (D), at 23 A.A.R. 2383 (Supp. 17-3).

ARTICLE 3. INTERN TRAINING AND PHARMACY INTERN PRECEPTORS

R4-23-301. Intern Licensure

- A.** Licensure as a pharmacy intern or graduate intern is for the purpose of complementing the individual's academic or experiential education in preparation for licensure as a pharmacist. An applicant may request a waiver of intern licensure requirements by submitting a written request as specified in R4-23-401 and appearing in person at a Board meeting.
- B.** The prerequisites for licensure as a pharmacy intern are:
1. Current enrollment, in good standing, in a Board-approved college or school of pharmacy; or
 2. Graduation from a college or school of pharmacy that is not approved by the Board; and
 3. Proof that the applicant is certified by the Foreign Pharmacy Graduate Examination Committee (FPGEC); or
 4. By order of the Board if the Board determines the applicant needs intern training.
- C.** If a pharmacy intern licensee stops attending pharmacy school classes before completing the pharmacy school's requirements for graduation, the licensee shall immediately stop practicing as a pharmacy intern and surrender the pharmacy intern license to the Board or the Board's designee no later than 30 days after the date of the last attended class, unless the licensee petitions the Board as specified in R4-23-401 and receives Board approval to continue working as a pharmacy intern. A student re-entering a pharmacy program who wishes to continue internship training shall reapply for pharmacy intern licensure.
- D.** The prerequisites for licensure as a graduate intern are:
1. Graduation from a Board-approved college or school of pharmacy, and
 2. Application for licensure as a pharmacist by examination or reciprocity, or
 3. By order of the Board if the Board determines that the applicant needs intern training.
- E.** Experiential training. Intern training shall include the activities and services encompassed by the term "practice of pharmacy" as defined in A.R.S. § 32-1901.
- F.** Out-of-state experiential training. An intern shall receive credit for intern training received outside this state if the Board determines that the intern training requirements of the jurisdiction in which the training was received are equal to the minimum requirements for intern training in this state. An applicant seeking credit for intern training received outside this state shall furnish a certified copy of the records of intern training from:
1. The Board of Pharmacy or the intern licensing agency of the other jurisdiction where the training was received; or
 2. In a jurisdiction without an intern licensing agency, the director of the applicant's Board-approved college or school of pharmacy's experiential training program.
- G.** Verification of license. A pharmacy permittee or pharmacist-in-charge shall not permit a person to practice as a pharmacy or graduate intern until the pharmacy permittee or pharmacist-in-charge verifies that the person is currently licensed by the Board as a pharmacy or graduate intern.
- H.** Intern application.
1. An applicant for licensure as a pharmacy intern or graduate intern shall:
 - a. Submit a completed application electronically or manually on a form furnished by the Board, and
 - b. Submit with the application form:
 - i. The documents specified in the application form,

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- ii. The initial licensure fee specified in R4-23-205(A)(2), and
 - iii. The wall license fee specified in R4-23-205(E)(1)(b).
- 2. The Board office shall deem an application form received on the date the Board office electronically or manually date-stamps the form.
- I. Licensure.**
 - 1. If an applicant is found to be ineligible for intern licensure under statute and rule, the Board office shall issue a written notice of denial to the applicant.
 - 2. If an applicant is found to be eligible for intern licensure under statute and rule, the Board office shall issue a certificate of licensure and a wall license. An applicant who is assigned a license number and who has been granted "open" status on the Board's license verification site may begin practice as a pharmacy intern or graduate intern prior to receiving the certificate of licensure.
 - 3. An applicant who is assigned a license number and who has a "pending" status on the Board's license verification site shall not practice as a pharmacy intern or graduate intern until the Board office issues a certificate of licensure as specified in subsection (2).
 - 4. A licensee shall maintain the certificate of licensure in the practice site for inspection by the Board or its designee or review by the public.
- J. Time-frames for intern licensure.** The Board office shall follow the time-frames established in R4-23-202(F).
- K. License renewal.**
 - 1. A pharmacy intern whose license expires before the intern completes the education or training required for licensure as a pharmacist but less than six years after the issuance of the initial pharmacy intern license may renew the intern license for a period equal to the difference between the expiration date of the initial intern license and six years from the issue date of the initial intern license by payment of a prorated renewal fee based on the initial license fee specified in R4-23-205(A)(2).
 - 2. If a pharmacy intern fails to graduate from a Board-approved college or school of pharmacy within six years from the date the Board issues the initial intern license, the intern is not eligible for relicensure as an intern unless the intern obtains Board approval as specified in A.R.S. § 32-1923(E) and R4-23-401. To remain in good standing, an intern who receives Board approval for relicensure shall pay a prorated renewal fee for the number of months of licensure approved by the Board based on the initial license fee specified in R4-23-205(A)(2) before the license expiration date.
 - 3. If an intern receives Board approval for relicensure and does not pay the renewal fee specified in subsection (2) before the license expiration date, the intern license is suspended and the licensee shall not practice as an intern. The licensee shall pay a penalty as provided in A.R.S. § 32-1925 and R4-23-205(G)(1) to vacate the suspension.
- L. Notification of training.**
 - 1. A pharmacy intern who is employed as an intern outside the experiential training program of a Board-approved college or school of pharmacy or a graduate intern shall notify the Board within ten days of starting or terminating training, or changing training site.
 - 2. The director of a Board-approved college or school of pharmacy's experiential training program shall provide the Board an intern training report as specified in R4-23-304(B)(3).

Historical Note

Former Rules 3.1000, 3.1100, 3.1200, 3.2000, 3.2100, and 3.2200; Amended effective August 23, 1978 (Supp. 78-4). Amended effective April 20, 1982 (Supp. 82-2). Amended subsections (A), (F) and (G) effective August 12, 1988 (Supp. 88-3). Amended effective November 1, 1993 (Supp. 93-4). Amended by final rulemaking at 8 A.A.R. 416, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 10 A.A.R. 4356, effective December 4, 2004 (Supp. 04-4). Amended by final rulemaking at 11 A.A.R. 3565, effective November 12, 2005 (Supp. 05-3). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3). Amended by final rulemaking at 14 A.A.R. 3670, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 19 A.A.R. 2911, effective November 10, 2013 (Supp. 13-3).

R4-23-302. Training Site and Pharmacy Intern Preceptors

- A.** To receive credit for intern training hours, a pharmacy or graduate intern shall train in a site that:
 - 1. Holds a valid Arizona pharmacy permit and employs a pharmacy intern preceptor who supervises the intern; or
 - 2. Is an alternative training site. For purposes of this Section, the term alternative training site is a non-pharmacy training site established and monitored by a Board-approved college or school of pharmacy or other non-pharmacy site where pharmacy related activities are performed and where an intern gains experience as specified in R4-23-301(E).
- B.** The Board shall inform a pharmacy or alternative training site that an intern will not get credit for training received at the site if the Board determines that a pharmacy or alternative training site fails to provide experiential training as specified in R4-23-301(E) or violates A.R.S. Chapter 18 Title 32 or Chapter 27 Title 36 or the federal act.
- C.** Pharmacy intern preceptor. To be a pharmacy intern preceptor, a pharmacist shall:
 - 1. Hold a current unrestricted pharmacist license;
 - 2. Have a minimum of one year of experience as an actively practicing pharmacist before acting as a pharmacy intern preceptor;
 - 3. If a pharmacist has been found guilty of violating any federal or state law relating to the practice of pharmacy, drug or device distribution or recordkeeping, or unprofessional conduct, enter into an agreement satisfactory to the Board that places restrictions on the pharmacist's license; and
 - 4. Hold a faculty position in the experiential training program of a Board-approved college or school of pharmacy; or
 - 5. Be approved by the Board as being otherwise qualified as a pharmacy intern preceptor.
- D.** Revocation of preceptorship privileges. The Board shall revoke a pharmacy intern preceptor's privilege to train pharmacy or graduate interns if the Board determines that a pharmacy intern preceptor fails to provide experiential training as specified in R4-23-301(E) or violates A.R.S. Title 32, Chapter 18 or Title 36, Chapter 27 or the federal act. R4-23-111 applies to revocation of preceptor privileges.
- E.** Pharmacist-to-intern ratio. A pharmacy intern preceptor may supervise the training of more than one pharmacy or graduate intern during a calendar quarter. The ratio of pharmacist to intern shall not exceed one pharmacist to two interns in a community pharmacy or limited-service pharmacy setting unless approved by the Board. In considering a request to exceed the ratio, the Board will consider pharmacy space limitations and

whether exceeding the ratio poses a safety risk to the public health. Subject to R4-23-609 and the safety of public health, there is no pharmacist-to-intern ratio in a practice setting directed by a Board-approved college or school of pharmacy experiential training program.

- F. Preceptor responsibilities. A pharmacy intern preceptor assumes the responsibilities of a teacher and mentor in addition to those of a pharmacist. A preceptor shall thoroughly review pharmacy policy and procedure with each intern. A preceptor is responsible for the pharmacy-related actions of an intern during the specific training period. A preceptor shall give an intern the opportunity for skill development and provide an intern with timely and realistic feedback regarding their progress.

Historical Note

Former Rules 3.3000, 3.3100, 3.3200, 3.3300, 3.3310, 3.3320, 3.3330, 3.3340, 3.3400, 3.4000, 3.4100, 3.4200, 3.4300, and 3.4400; Amended effective August 9, 1983 (Supp. 83-4). Amended by final rulemaking at 8 A.A.R. 416, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 14 A.A.R. 3605, effective November 8, 2008 (Supp. 08-3).

R4-23-303. Training Time

- A. Training. The minimum hours of internship training required for licensure by examination shall be 1,500.
1. After enrolling in a Board-approved college or school of pharmacy as prescribed in R4-23-301(B) and receiving a Board-issued pharmacy intern license, a pharmacy intern shall complete all required internship training as part of the pharmacy intern's Board-approved college or school of pharmacy experiential training program.
 2. After receiving a Board-issued pharmacy intern license, an individual who is a graduate of a college or school of pharmacy that is not approved by the Board shall complete a minimum of 1,500 hours of internship training in a training site or sites as defined in R4-23-302(A).
 3. After receiving a Board-issued graduate intern license, a graduate intern shall complete the number of internship training hours required by the Board in a training site or sites as defined in R4-23-302(A).
- B. Start of training and limitation of credit. To receive credit as internship training, the practical experience shall take place in a pharmacy or an alternative training site as specified in R4-23-302(A) and under the supervision of a pharmacy intern preceptor, except for a non-pharmacy site either as part of a Board-approved college or school of pharmacy experiential training program or as approved by the Board or its designee. The Board shall credit no more than 500 hours internship training as a pharmacy or graduate intern in an alternative training site specified in R4-23-302(A)(2).

Historical Note

Former Rules 3.5000 and 3.5200; Amended effective August 23, 1978 (Supp. 78-4). Amended effective August 9, 1983 (Supp. 83-4). Amended by final rulemaking at 8 A.A.R. 416, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 18 A.A.R. 2619, effective December 2, 2012 (Supp. 12-4).

R4-23-304. Reports

- A. Change of employment or mailing address. A pharmacy intern or graduate intern shall notify the Board within ten days of change of employment or mailing address.
- B. Annual reports.
1. A pharmacy intern who is a graduate of a college or school of pharmacy that is not approved by the Board or

is a graduate intern shall provide the Board annual intern training reports for the duration of training. The pharmacy intern shall file an annual intern training report on a report form provided by the Board by calendar year (January 1st through December 31st). An annual intern training report shall be received at the Board's office no later than 30 days after the end of the calendar year. Any intern training hours reported to the Board office more than 30 days after the end of the calendar year in which the training hours were performed shall not be credited toward the total intern training hours required for licensure.

2. After graduation and before sitting for the NAPLEX or MPJE, a pharmacy intern who is a graduate of a Board-approved college or school of pharmacy shall ensure that the director of the Board-approved college or school of pharmacy's experiential training program provides the Board an intern training report that includes:
 - a. The dates and number of training hours experienced, by training site and total; and
 - b. The date signed and experiential training program director's signature verifying that the pharmacy intern successfully completed the experiential training program.

Historical Note

Former Rules 3.6100, 3.6200, 3.6300, and 3.6400; Amended effective August 23, 1978 (Supp. 78-4). Amended by final rulemaking at 8 A.A.R. 416, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 10 A.A.R. 4356, effective December 4, 2004 (Supp. 04-4). Amended by final rulemaking at 18 A.A.R. 2619, effective December 2, 2012 (Supp. 12-4). Amended by final rulemaking at 19 A.A.R. 2911, effective November 10, 2013 (Supp. 13-3).

R4-23-305. Miscellaneous Intern Training Provisions

To prevent a loss of intern hour credit and before beginning training, an intern may ask the Board if a training site meets the requirements specified in R4-23-301(E) and R4-23-302(A).

Historical Note

Former Rule 3.7000; Amended effective August 23, 1978 (Supp. 78-4). Amended by final rulemaking at 8 A.A.R. 416, effective January 10, 2002 (Supp. 02-1).

ARTICLE 4. PROFESSIONAL PRACTICES

R4-23-401. Time-frames for Board Approvals and Special Requests

- A. To request a Board approval required by this Chapter or a special request to deviate from or waive compliance with a requirement of this Chapter, a person shall send a letter by regular mail, e-mail, or facsimile to the Board office, detailing the nature of the approval or special request, including the applicable Arizona Revised Statute or administrative code citation. This Section does not apply to a request from a person regarding the probation, suspension, or revocation of a license or permit.
- B. The Board office shall complete an administrative completeness review within 15 days from the date of receipt of a written request and immediately open a request file for the applicant.
1. The Board office shall issue a written notice of administrative completeness to the applicant if no deficiencies are found in the request.
 2. If the request is incomplete, the Board office shall provide the applicant with a written notice that includes a comprehensive list of the missing information. The 15-day time-frame for the Board office to finish the adminis-

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- trative completeness review is suspended from the date the notice of incompleteness is served until the applicant provides the Board office with all missing information.
3. If the Board office does not provide the applicant with notice regarding administrative completeness, the request is deemed complete 15 days after receipt by the Board office.
- C. An applicant with an incomplete request shall submit all of the missing information within 30 days of service of the notice of incompleteness.
1. If an applicant cannot submit all missing information within 30 days of service of the notice of incompleteness, the applicant may send a written request for an extension to the Board office post-marked or delivered no later than 30 days from service of the notice of incompleteness.
 2. The written request for an extension shall document the reasons the applicant cannot meet the 30-day deadline.
 3. The Board office shall review the request for an extension of the 30-day deadline and grant the request if the Board office determines that an extension of the deadline will enable the applicant to assemble and submit the missing information. An extension shall be for no more than 30 days. The Board office shall notify the applicant in writing of its decision to grant or deny the request for an extension. An applicant who requires an additional extension shall submit an additional written request according to subsections (C)(1) and (C)(2).
- D. If an applicant fails to submit a complete request within the time allowed, the Board office shall close the applicant's request file. An applicant whose request file is closed and who later wishes to obtain an approval or special request shall apply again according to subsection (A).
- E. From the date on which the administrative completeness review of a request is finished, the Board shall complete a substantive review of the applicant's request in no more than 120 days.
1. The Board shall:
 - a. Approve the request,
 - b. Deny the request, or
 - c. If the Board determines deficiencies exist, request that the applicant produce additional documentation.
 2. If the Board approves or denies, the Board office shall issue a written approval or denial.
 3. If the Board finds deficiencies during the substantive review of a request, the Board office shall issue a written request to the applicant for additional documentation.
 4. The 120-day time-frame for a substantive review of a request for approval or special request is suspended from the date of a written request for additional documentation until the date of the next Board meeting after all documentation is received. The applicant shall submit the additional documentation according to subsection (C).
 5. If the applicant and the Board office mutually agree in writing, the 120-day substantive review time-frame may be extended once for no more than 30 days.
- F. If the applicant fails to submit the additional information requested within the time allowed, the Board office shall close the applicant's request file. An applicant whose request file is closed and who later wishes to obtain an approval or special request shall apply again according to subsection (A).
- G. For the purpose of A.R.S. § 41-1072 et seq., the Board establishes the following time-frames for a Board approval required by this Chapter or a special request to deviate from or waive compliance with a requirement of this Chapter:
1. Administrative completeness review time-frame: 15 days;

2. Substantive review time-frame: 120 days; and
3. Overall time-frame: 135 days.

Historical Note

Former Rule 4.1000; Former Section R4-23-401 repealed, new Section R4-23-401 adopted effective August 9, 1983 (Supp. 83-4). Amended effective May 16, 1990 (Supp. 90-2). Repealed effective August 24, 1992 (Supp. 92-3). New Section made by final rulemaking at 9 A.A.R. 3184, effective August 30, 2003 (Supp. 03-3).

R4-23-402. Pharmacist, Graduate Intern, and Pharmacy Intern

- A. A pharmacist or a graduate intern or pharmacy intern under the supervision of a pharmacist shall perform the following professional practices in dispensing a prescription medication from a prescription order:
1. Receive, reduce to written form, and manually initial oral prescription orders;
 2. Obtain and record the name of an individual who communicates an oral prescription order;
 3. Obtain, or assume responsibility to obtain, from the patient, patient's agent, or medical practitioner and record, or assume responsibility to record, in the patient's profile, the following information:
 - a. Name, address, telephone number, date of birth (or age), and gender;
 - b. Individual history including known diseases and medical conditions, known drug allergies or drug reactions, and if available a comprehensive list of medications currently taken and medical devices currently used;
 4. Record, or assume responsibility to record, in the patient's profile, a pharmacist's, graduate intern's, or pharmacy intern's comments relevant to the patient's drug therapy, including other information specific to the patient or drug;
 5. Verify the legality and pharmaceutical feasibility of dispensing a drug based upon:
 - a. A patients' allergies,
 - b. Incompatibilities with a patient's currently-taken medications,
 - c. A patient's use of unusual quantities of dangerous drugs or narcotics,
 - d. A medical practitioner's signature, and
 - e. The frequency of refills;
 6. Verify that a dosage is within proper limits;
 7. Interpret the prescription order, which includes exercising professional judgment in determining whether to dispense a particular prescription;
 8. Compound, mix, combine, or otherwise prepare and package the prescription medication needed to dispense individual prescription orders;
 9. Prepackage or supervise the prepackaging of drugs by a pharmacy technician or pharmacy technician trainee under R4-23-1104. For drugs prepackaged by a pharmacy technician or pharmacy technician trainee, a pharmacist shall:
 - a. Verify the drug to be prepackaged;
 - b. Verify that the label meets the official compendium's standards;
 - c. Check the completed prepackaging procedure and product; and
 - d. Manually initial the completed label; or
 - e. For automated packaging systems, manually initial the completed label or a written log or initial a computer-stored log;

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10. Check prescription order data entry to ensure that the data input:
 - a. Is for the correct patient by verifying the patient's name, address, telephone number, gender, and date of birth or age;
 - b. Is for the correct drug by verifying the drug name, strength, and dosage form;
 - c. Communicates the prescriber's directions precisely by verifying dose, dosage form, route of administration, dosing frequency, and quantity; and
 - d. Is for the correct medical practitioner by verifying the medical practitioner's name, address, and telephone number;
 11. Make a final accuracy check on the completed prescription medication and manually initial the finished label. Manual initialing of a finished label is not required if the pharmacy's computer system complies with the computer documentation requirements of R4-23-408(B)(4);
 12. Record, or assume responsibility to record, a prescription serial number and date dispensed on the original prescription order;
 13. Obtain, or assume responsibility to obtain, permission to refill a prescription order and record, or assume responsibility to record on the original prescription order:
 - a. Date dispensed,
 - b. Quantity dispensed, and
 - c. Name of medical practitioner or medical practitioner's agent who communicates permission to refill the prescription order;
 14. Reduce to written or printed form, or assume responsibility to reduce to written or printed form, a new prescription order received by:
 - a. Facsimile,
 - b. Computer modem, or
 - c. Other means of communication;
 15. Verify, or assume responsibility to verify, that a completed prescription medication is sold only to the correct patient, patient's care-giver, or authorized agent;
 16. Record on the original prescription order the name or initials of the pharmacist, graduate intern, or pharmacy intern who originally dispenses the prescription order; and
 17. Record on the original prescription order the name or initials of the pharmacist, graduate intern, or pharmacy intern who dispenses each refill.
- B.** Only a pharmacist, graduate intern, or pharmacy intern shall provide oral consultation about a prescription medication to a patient or patient's care-giver in an outpatient setting, including a patient discharged from a hospital. The oral consultation is required whenever the following occurs:
1. The prescription medication has not been previously dispensed to the patient in the same strength or dosage form or with the same directions;
 2. The pharmacist, through the exercise of professional judgment, determines that oral consultation is warranted; or
 3. The patient or patient's care-giver requests oral consultation.
- C.** Oral consultation shall include:
1. Reviewing the name and strength of a prescription medication or name of a prescription-only device and the labeled indication of use for the prescription medication or prescription-only device;
 2. Reviewing the prescription's directions for use;
 3. Reviewing the route of administration; and
 4. Providing oral information regarding special instructions and written information regarding side effects, procedure for missed doses, or storage requirements.
- D.** When, in the professional judgement of the pharmacist or graduate intern or pharmacy intern under the supervision of a pharmacist, or when circumstance precludes it, oral consultation may be omitted if the pharmacist, graduate intern, or pharmacy intern:
1. Personally provides written information to the patient or patient's care-giver that summarizes the information that would normally be orally communicated;
 2. Documents, or assumes responsibility to document, both the circumstance and reason for not providing oral consultation by a method approved by the Board or its designee; and
 3. Offers the patient or patient's care-giver the opportunity to communicate with a pharmacist, graduate intern, or pharmacy intern at a later time and provides a method for the patient or patient's care-giver to contact a pharmacist, graduate intern, or pharmacy intern at the pharmacy.
- E.** The pharmacist or graduate intern or pharmacy intern under the supervision of a pharmacist, through the exercise of professional judgment, may provide oral consultation that includes:
1. Common severe adverse effects, interactions, or therapeutic contraindications, and the action required if they occur;
 2. Techniques of self-monitoring drug therapy;
 3. The duration of the drug therapy; and
 4. Prescription refill information.
- F.** Nothing in subsection (B) requires a pharmacist, graduate intern, or pharmacy intern to provide oral consultation if a patient or patient's care-giver refuses the consultation.
- G.** Using a method approved by the Board or its designee, a pharmacist, graduate intern, or pharmacy intern shall document, or assume responsibility to document, that oral consultation is or is not provided.
- H.** Oral consultation documentation. When oral consultation is required as specified in subsection (B), a pharmacist, graduate intern, or pharmacy intern shall:
1. Document, or assume responsibility to document, that oral consultation is provided; or
 2. When a patient refuses oral consultation or a person other than the patient or patient's care-giver picks up a prescription and oral consultation is not provided, document, or assume responsibility to document, that oral consultation is not provided; or
 3. When a pharmacist, graduate intern, or pharmacy intern determines to omit oral consultation under subsection (D) and oral consultation is not provided, document, or assume responsibility to document, both the circumstance and reason that oral consultation is not provided; and
 4. Document, or assume responsibility to document, the name, initials, or identification code of the pharmacist, graduate intern, or pharmacy intern who did or did not provide oral consultation.
- I.** When a prescription is delivered to the patient or patient's care-giver outside the immediate area of a pharmacy and a pharmacist is not present, the prescription shall be accompanied by written or printed patient medication information that, in addition to the requirements in subsection (C), includes:
1. Approved use for the prescription medication;
 2. Possible adverse reactions;
 3. Drug-drug, food-drug, or disease-drug interactions;
 4. Missed dose information; and

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5. Telephone number of the dispensing pharmacy or another method approved by the Board or its designee that allows a patient or patient's care-giver to consult with a pharmacist.
- J. A prescription medication or prescription-only device, delivered to a patient at a location where a licensed health care professional is responsible for administering the prescription medication to the patient, is exempt from the requirement of subsection (C).
- K. A pharmacist, graduate intern, or pharmacy intern shall wear a badge indicating name and title while on duty.
- L. Nothing in this Section prevents a hospital pharmacist from accepting a prescription order according to rules pertaining specifically to hospital pharmacies.
- B. Prescription order-blank advertising prohibited. A pharmacist or pharmacy permittee shall not:
 1. Directly or indirectly furnish to a medical practitioner a prescription order-blank that refers to a specific pharmacist or pharmacy in any manner; or
 2. Actively or passively participate in any arrangement or agreement where a prescription order-blank is prepared, written, or issued in a manner that refers to a specific pharmacist or pharmacy.
- C. Fraudulent claim for service. A pharmacist or pharmacy permittee shall not claim the performance of a service that the pharmacist or pharmacy permittee knows or should know was not performed, such as, claiming to dispense a prescription medication that is not dispensed.
- D. Fraudulent claim for a fee. A pharmacist or pharmacy permittee:
 1. Shall not claim a fee for a service that is not performed or earned;
 2. May divide a prescription order into two or more portions of prescription medication at the request of a patient, or for some other ethical reason, and charge a dispensing fee for the additional service; and
 3. Shall not divide a prescription order merely to obtain an additional fee.
- E. Prohibiting a prescription-only drug or device from being dispensed over the counter. A pharmacist shall ensure that:
 1. A prescription-only drug or device is dispensed only after receipt of a valid prescription order from a licensed medical practitioner;
 2. The dispensed prescription-only drug or device is properly prepared, packaged, and labeled according to this Chapter; and
 3. The prescription order is filed according to this Chapter.
- F. Drugs dispensed in the course of the conduct of a business of dispensing drugs through diagnosis by mail or the internet.
 1. A pharmacist shall not dispense a drug from a prescription order if the pharmacist has knowledge, or reasonably should know under the circumstances, that the prescription order was issued on the basis of an internet-based questionnaire or an internet-based consultation without a medical practitioner-patient relationship as defined in R4-23-110.
 2. A pharmacist who dispenses a prescription-only drug, prescription-only device, or controlled substance in violation of this Section is engaging in unethical conduct in violation of A.R.S. § 32-1901.01.

Historical Note

Former Rule 4.1100; Amended effective August 10, 1978 (Supp. 78-4). Amended effective August 9, 1983 (Supp. 83-4). Amended effective May 16, 1990 (Supp. 90-2). Amended effective July 7, 1998 (Supp. 98-3). Amended by final rulemaking at 6 A.A.R. 4656, effective November 14, 2000 (Supp. 00-4). Amended by final rulemaking at 9 A.A.R. 5030, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 11 A.A.R. 2258, effective August 6, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 274, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 12 A.A.R. 4691, effective February 3, 2007 (Supp. 06-4).

R4-23-403. Repealed**Historical Note**

Former Rule 4.1200; Amended effective August 10, 1978 (Supp. 78-4). Amended effective March 28, 1980 (Supp. 80-2). Amended effective August 9, 1983 (Supp. 83-4). Section repealed, new Section adopted effective May 16, 1990 (Supp. 90-2). Amended effective November 1, 1993 (Supp. 93-4). Amended by final rulemaking at 5 A.A.R. 4441, effective November 2, 1999 (Supp. 99-4). Section repealed by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1).

R4-23-404. Unethical Practices

- A. Rebates prohibited. A pharmacist or pharmacy permittee shall not offer, deliver, receive, or accept any unearned rebate, refund, commission, preference, patronage dividend, discount, or other unearned consideration, whether in the form of money or otherwise, as compensation or inducement to refer a patient, client, or customer to any person, except for a rebate or premium paid completely and directly to a patient. A pharmacist or pharmacy permittee shall not:
 1. Make payment to a medical practitioner in money or other consideration for a prescription order prescribed by the medical practitioner; or
 2. Make payment to a long-term care or assisted living facility or other health care institution in money, discount, rental, or other consideration in an amount above the prevailing rate for:
 - a. Prescription medication or devices dispensed or sold for a patient or resident of the facility or institution; or
 - b. Drug selection or drug utilization review services, drug therapy management services, or other pharmacy consultation services provided for a patient or resident of the facility or institution.

Historical Note

Former Rules 4.2110, 4.2120, 4.2130, 4.2210, 4.2230, 4.2400, 4.2500, 4.2600, 4.4100, 4.4200, 4.4310, 4.4320, 4.4400, and 4.4500; Amended effective August 10, 1978 (Supp. 78-4); Amended subsection (I) effective August 9, 1983 (Supp. 83-4). Amended by deleting subsections (H) through (M) effective November 18, 1983 (Supp. 83-6). Amended by final rulemaking at 8 A.A.R. 1256, effective March 7, 2002 (Supp. 02-1). Amended by final rulemaking at 14 A.A.R. 3405, effective October 4, 2008 (Supp. 08-3).

R4-23-405. Change of Responsibility

A pharmacist designated as the pharmacist-in-charge for a pharmacy, manufacturer, or other establishment shall give immediate notice, as defined in R4-23-110, when:

1. The pharmacist's responsibility as a pharmacist-in-charge is terminated; or
2. The pharmacist knows of a pending termination of the pharmacist's responsibility as the pharmacist-in-charge.

Historical Note

Former Rules 4.5100 and 4.5200; Amended effective August 9, 1983 (Supp. 83-4). Amended effective February 8, 1991 (Supp. 91-1). Amended effective November 1, 1993 (Supp. 93-4). Amended by final rulemaking at 8 A.A.R. 1256, effective March 7, 2002 (Supp. 02-1).

R4-23-406. Repealed**Historical Note**

Adopted as an emergency effective January 10, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Amended as an emergency effective April 2, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days. Adopted effective April 10, 1979 (Supp. 79-1). Former Section R4-23-406 repealed, new Section R4-23-406 adopted effective August 9, 1983 (Supp. 83-4). Amended effective April 1, 1995; filed with the Secretary of State January 31, 1995 (Supp. 95-1). Amended by final rulemaking at 8 A.A.R. 1256, effective March 7, 2002 (Supp. 02-1). Section repealed by final rulemaking at 10 A.A.R. 230, effective March 6, 2004 (Supp. 04-1).

R4-23-407. Prescription Requirements**A. Prescription orders. A pharmacist shall ensure that:**

1. A prescription order dispensed by the pharmacist includes the following information:
 - a. Date of issuance;
 - b. Name and address of the patient for whom or the owner of the animal for which the drug or device is dispensed;
 - c. Drug name, strength, and dosage form or device name;
 - d. Name of the drug's or device's manufacturer or distributor if the prescription order is written generically or a substitution is made;
 - e. Prescribing medical practitioner's directions for use;
 - f. Date of dispensing;
 - g. Quantity prescribed and if different, quantity dispensed;
 - h. For a prescription order for a controlled substance, the medical practitioner's address and DEA number;
 - i. For a written prescription order, the medical practitioner's signature;
 - j. For an electronically transmitted prescription order, the medical practitioner's digital or electronic signature;
 - k. For an oral prescription order, the medical practitioner's name and telephone number; and
 - l. Name or initials of the dispensing pharmacist;
2. A prescription order is kept by the pharmacist or pharmacy permittee as a record of the dispensing of a drug or device for seven years from the date the drug or device is dispensed, except for a drug or device personally administered by a medical practitioner to the medical practitioner's patient; and
3. The dispensing of a drug or device complies with the packaging requirements of the official compendium and state and federal law.

B. Prescription refills. A pharmacist shall ensure that the following information is recorded on the back of a prescription order when it is refilled:

1. Date refilled,
2. Quantity dispensed,
3. Name or approved abbreviation of the manufacturer or distributor if the prescription order is written generically or a substitution is made, and
4. The name or initials of the dispensing pharmacist.

- C. A pharmacist may furnish a copy of a prescription order to the patient for whom it is prescribed or to the authorized representative of the patient if the copy is clearly marked "COPY FOR REFERENCE PURPOSES ONLY" or other similar statement. A copy of a prescription order is not a valid prescription order and a pharmacist shall not dispense a drug or device from the information on a copy.
- D. Transfer of prescription order information. For a transfer of prescription order information to be valid, a pharmacy permittee or pharmacist-in-charge shall ensure that:
 1. Both the original and the transferred prescription order are maintained for seven years after the last dispensing date;
 2. The original prescription order information for a Schedule III, IV, or V controlled substance is transferred only as specified in 21 CFR 1306.25, published April 1, 2008, and no future amendments or editions, incorporated by reference, and on file with the Board, and available from the U.S. Government Printing Office, U.S. Superintendent of Documents, Washington, DC 20402-0001;
 3. The original prescription order information for a non-controlled substance drug is transferred without limitation only up to the number of originally authorized refills;
 4. For a transfer within Arizona:
 - a. The transfer of original prescription order information for a non-controlled substance drug meets the following conditions:
 - i. The transfer of information is communicated directly between:
 - (1) Two licensed pharmacists,
 - (2) A licensed pharmacist and a licensed pharmacy or graduate intern, or
 - (3) Two licensed pharmacy or graduate interns;
 - ii. The following information is recorded by the transferring pharmacist or pharmacy or graduate intern:
 - (1) The word "void" is written on the face of the invalidated original prescription unless it is an electronic or oral transfer and the transferred prescription order information is invalidated in the transferring pharmacy's computer system; and
 - (2) The name and identification code, number, or address and telephone number of the pharmacy to which the prescription is transferred, the name of the receiving pharmacist or pharmacy or graduate intern, the date of transfer, and the name of the transferring pharmacist or pharmacy or graduate intern is written on the back of the prescription or entered into the transferring pharmacy's computer system; and
 - iii. The following information is recorded by the receiving pharmacist or pharmacy or graduate intern on the transferred prescription order:
 - (1) The word "transfer;"
 - (2) Date of issuance of the original prescription order;
 - (3) Original number of refills authorized on the original prescription order;
 - (4) Date of original dispensing;
 - (5) Number of valid refills remaining and the date of the last refill;
 - (6) Name and identification code, number, or address, telephone number, and original

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- prescription number of the pharmacy from which the prescription is transferred;
 - (7) Name of the transferring pharmacist or pharmacy or graduate intern; and
 - (8) Name of the receiving pharmacist or pharmacy or graduate intern;
 - b. The transfer of original prescription order information for a Schedule III, IV, or controlled substance meets the following conditions:
 - i. The transfer of information is communicated directly between two licensed pharmacists;
 - ii. The following information is recorded by the transferring pharmacist:
 - (1) The word "void" is written on the face of the invalidated original prescription order unless it is an electronic or oral transfer and the transferred prescription order information is invalidated in the transferring pharmacy's computer system; and
 - (2) The name, address, and DEA number of the pharmacy to which the prescription is transferred, the name of the receiving pharmacist, the date of transfer, and the name of the transferring pharmacist is written on the back of the prescription order or entered into the transferring pharmacy's computer system; and
 - iii. The following information is recorded by the receiving pharmacist on the transferred prescription order:
 - (1) The word "transfer;"
 - (2) Date of issuance of original prescription order;
 - (3) Original number of refills authorized on the original prescription order;
 - (4) Date of original dispensing;
 - (5) Number of valid refills remaining and the date of the last refill;
 - (6) Name, address, DEA number, and original prescription number of the pharmacy from which the prescription is transferred;
 - (7) Name of the transferring pharmacist; and
 - (8) Name of the receiving pharmacist;
- 5. For a transfer from out-of-state:
 - a. The transfer of original prescription order information for a non-controlled substance drug meets the conditions in subsections (D)(4)(a)(i) and (D)(4)(a)(iii); and
 - b. The transfer of original prescription order information for a Schedule III, IV, or V controlled substance meets the conditions in subsections (D)(4)(b)(i) and (D)(4)(b)(iii); and
- 6. For an electronic transfer, the electronic transfer of original prescription order information meets the following conditions:
 - a. The electronic transfer is between pharmacies owned by the same company using a common or shared database;
 - b. The electronic transfer of original prescription order information for a non-controlled substance drug is performed by a pharmacist or a pharmacy or graduate intern, pharmacy technician trainee, or pharmacy technician under the supervision of a pharmacist;
 - c. The electronic transfer of original prescription order information for a controlled substance is performed between two licensed pharmacists;
 - d. The electronic transfer of original prescription order information for a non-controlled substance drug meets the following conditions:
 - i. The transferring pharmacy's computer system:
 - (1) Invalidates the transferred original prescription order information;
 - (2) Records the identification code, number, or address of the pharmacy to which the prescription order information is transferred;
 - (3) Records the name or identification code of the receiving pharmacist, pharmacy or graduate intern, pharmacy technician trainee, or pharmacy technician; and
 - (4) Records the date of transfer; and
 - ii. The receiving pharmacy's computer system:
 - (1) Records that a prescription transfer occurred;
 - (2) Records the date of issuance of the original prescription order;
 - (3) Records the original number of refills authorized on the original prescription order;
 - (4) Records the date of original dispensing;
 - (5) Records the number of valid refills remaining and the date of the last refill;
 - (6) Records the identification code, number, or address and original prescription number of the pharmacy from which the prescription is transferred;
 - (7) Records the name or identification code of the receiving pharmacist or pharmacy or graduate intern, pharmacy technician trainee, or pharmacy technician; and
 - (8) Records the date of transfer;
 - e. The electronic transfer of original prescription order information for a controlled substance meets the following conditions:
 - i. The transferring pharmacy's computer system:
 - (1) Invalidates the transferred original prescription order information;
 - (2) Records the identification code, number, or address, and DEA number of the pharmacy to which the prescription order information is transferred;
 - (3) Records the name or identification code of the receiving pharmacist;
 - (4) Records the date of transfer; and
 - (5) Records the name or identification code of the transferring pharmacist; and
 - ii. The electronic prescription order information received by the computer system of the receiving pharmacy includes the information required in subsection (D)(4)(b)(iii); and
 - f. In addition to electronic documentation of a transferred prescription order in the computer system, an original prescription order containing the requirements of this Section is filed in compliance with A.R.S. § 32-1964.
- E. Transmission of a prescription order from a medical practitioner to a pharmacy by facsimile machine.
 - 1. A medical practitioner or medical practitioner's agent may transmit a prescription order for a Schedule III, IV, or V controlled substance, prescription-only drug, or non-prescription drug to a pharmacy by facsimile under the following conditions:

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- a. The prescription order is faxed only to the pharmacy of the patient's choice;
 - b. The faxed prescription order:
 - i. Contains all the information required for a prescription order in A.R.S. §§ 32-1968 and 36-2525; and
 - ii. Is only faxed from the medical practitioner's practice location, except that a nurse in a hospital, long-term care facility, or inpatient hospice may send a facsimile of a prescription order for a patient of the facility; and
 - c. The faxed prescription order shall contain the following additional information:
 - i. The date the prescription order is faxed;
 - ii. The facsimile number of the prescribing medical practitioner or the facility from which the prescription order is faxed, and the telephone number of the facility; and
 - iii. The name of the person who transmits the facsimile, if other than the medical practitioner.
2. A medical practitioner or medical practitioner's agent may fax a prescription order for a Schedule II controlled substance for information purposes only, unless the faxed prescription order meets the requirements of A.R.S. § 36-2525(F) and (G).
 3. A pharmacy may receive a faxed prescription order for a Schedule II controlled substance for information purposes only, except a faxed prescription order for a Schedule II controlled substance that meets the requirements of A.R.S. § 36-2525(F) and (G) may serve as the original written prescription order.
 4. To meet the seven-year record retention requirement of A.R.S. § 32-1964, a pharmacy shall receive a faxed prescription order on a plain paper facsimile machine, except a pharmacy that does not have a plain paper facsimile machine may make a Xerox copy of a faxed prescription order received on a non-plain paper facsimile machine.
 5. A medical practitioner or the medical practitioner's agent may fax refill authorizations to a pharmacy if the faxed authorization includes the medical practitioner's telephone number and facsimile number, the medical practitioner's signature or medical practitioner's agent's name, and date of authorization.
- F. Electronic transmission of a prescription order from a medical practitioner to a pharmacy.**
1. Unless otherwise prohibited by law, a medical practitioner or medical practitioner's agent may transmit a prescription order by electronic means, directly or through an intermediary, including an E-prescribing network, to the dispensing pharmacy as specified in A.R.S. § 32-1968.
 2. For electronic transmission of a Schedule II, III, IV, or V controlled substance prescription order, the medical practitioner and pharmacy shall ensure that the transmission complies with any security or other requirements of federal law.
 3. The medical practitioner and pharmacy shall ensure that all electronic transmissions comply with all the security requirements of state or federal law related to the privacy of protected health information.
 4. In addition to the information required to be included on a prescription order as specified in A.R.S. § 32-1968, an electronically transmitted prescription order shall include:
 - a. The date of transmission; and
 - b. If the individual transmitting the prescription is not the medical practitioner, the name of the medical practitioner's authorized agent who transmits the prescription order.
5. A pharmacy receiving an electronically transmitted prescription order shall maintain the prescription order as specified in A.R.S. § 32-1964.
 6. A medical practitioner or medical practitioner's agent shall transmit an electronic prescription order only to the pharmacy of the patient's choice.

Historical Note

Adopted effective November 18, 1983 (Supp. 83-6).
 Amended by final rulemaking at 8 A.A.R. 1256, effective March 7, 2002 (Supp. 02-1). Amended by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 13 A.A.R. 440, effective April 7, 2007 (Supp. 07-1). Amended by final rulemaking at 14 A.A.R. 3605, effective November 8, 2008 (Supp. 08-3).

R4-23-407.1. Dispensing an Opioid Antagonist**A. As used in this Section:**

1. "Community member" means any person in position to assist an individual at risk of experiencing an opioid-related overdose. This includes emergency first responders, peace officers or other law enforcement personnel, fire department personnel, school district employees, and personnel of a facility or center that provides services to individuals at risk of experiencing an opioid-related overdose.
2. "Opioid antagonist" means any drug approved by the U.S. Food and Drug Administration that binds to opioid receptors, effectively blocking or inhibiting the receptor and preventing the body from responding to the opioid. Naloxone hydrochloride is an opioid antagonist.
3. "Opioid-related overdose" means an acute condition caused by excessive opioids. An opioid-related overdose can be identified by a triad of symptoms: decreased level of consciousness, pinpoint pupils, and respiratory depression. Other symptoms may include seizures, muscle spasms, and coma or death. An opioid-related overdose requires medical assistance.

B. Before allowing an opioid antagonist to be dispensed under A.R.S. § 32-1979, a pharmacy permit holder shall have written policies and procedures regarding:

1. Documentation of opioid antagonists dispensed under A.R.S. § 32-1979. The documentation shall:
 - a. Be maintained in a manner consistent with R4-23-407(A)(2);
 - b. Include the information required under R4-23-407(A)(1)(c), (d), (f), and (l); and
 - c. Include the following:
 - i. Quantity dispensed;
 - ii. Directions for use; and
 - iii. The patient's name, address, telephone number, and birth date; or
 - iv. Name, address, telephone number, and birth date of a family member in position to assist the individual at risk of an opioid-related overdose; or
 - v. Name, address, telephone number, and employer of a community member in position to assist an individual at risk of an opioid-related overdose; and
 - vi. Name of the individual providing the education required under subsection (B)(2);

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2. Education to be provided to the individual to whom the opioid antagonist is dispensed. The education shall include:
 - a. How to prevent an opioid-related overdose;
 - b. How to recognize an opioid-related overdose;
 - c. How to administer an opioid antagonist safely to an individual experiencing an opioid-related overdose;
 - d. Precautions regarding:
 - i. Potential side effects, and
 - ii. Possible adverse events associated with administration of the opioid antagonist; and
 - e. Importance of seeking emergency medical assistance for the individual experiencing an opioid-related overdose before or after administering the opioid antagonist; and
 3. Confidentiality, security, and privileged nature of documentation of opioid antagonists dispensed under A.R.S. § 32-1979.
- C.** Before dispensing an opioid antagonist under A.R.S. § 32-1979(A), a licensed pharmacist shall:
1. Complete an opioid prevention and treatment training program that includes the following information:
 - a. How to recognize the symptoms of an opioid-related overdose,
 - b. How to respond to a suspected opioid-related overdose,
 - c. How to administer all preparations of an opioid antagonist, and
 - d. The information needed by an individual to whom an opioid antagonist is dispensed, and
 2. Comply fully with the policies and procedures developed under subsection (B).
- D.** A pharmacist who has completed an opioid prevention and treatment training program described in subsection (C):
1. May administer an opioid antagonist to an individual the pharmacist believes is experiencing an opioid-related overdose, and
 2. Is exempt from civil liability under the terms of A.R.S. § 36-2267(B).
- E.** Dispensing an opioid antagonist under A.R.S. § 32-1979 by invoice to a community member is not wholesale distribution as defined at A.R.S. § 32-1981.

Historical Note

New Section made by emergency rulemaking at 23 A.A.R. 31, effective December 15, 2016 for 180 days (Supp. 16-4). New Section made by final rulemaking before emergency expired at 23 A.A.R. 967, effective June 3, 2017 (Supp. 17-2).

R4-23-408. Computer Records

- A.** Systems manual. A pharmacy permittee or pharmacist-in-charge shall:
1. Develop, implement, and comply with policies and procedures for the following operational aspects of a computer system:
 - a. Examples of all output documentation provided by the computer system that contains original or refill prescription order or patient profile information;
 - b. Steps a pharmacy employee follows when the computer system is not operational due to scheduled or unscheduled system interruption;
 - c. Regular and routine backup file procedure and file maintenance, including secure storage of backup files;
 - d. Audit procedures, personnel code assignments, and personnel responsibilities; and
 - e. Quality assurance mechanism for data entry validation;
 2. Review biennially and, if necessary, revise the policies and procedures required under this Section;
 3. Document the review required under subsection (A)(2);
 4. Assemble the policies and procedures as a written manual or by another method approved by the Board or its designee; and
 5. Make the policies and procedures available within the pharmacy for reference by pharmacy personnel and inspection by the Board or its designee.
- B.** Computer system data storage and retrieval. A pharmacy permittee or pharmacist-in-charge shall ensure that the computer system is capable of:
1. Producing sight-readable information on all original and refill prescription orders and patient profiles;
 2. Providing online retrieval (via CRT display or hard-copy printout) of original prescription order information required in A.R.S. § 32-1968(C), R4-23-402(A), and R4-23-407(A);
 3. Providing online retrieval (via CRT display or hard-copy printout) of patient profile information required in R4-23-402(A);
 4. Providing documentation identifying the pharmacist responsible for dispensing each original or refill prescription order, except a pharmacy permittee with a computer system that is in use before the effective date of this Section that cannot provide documentation identifying the dispensing pharmacist may continue to use the computer system by providing manual documentation identifying the dispensing pharmacist;
 5. Producing a printout of all prescription order information, including a single-drug usage report that contains:
 - a. The name of the prescribing medical practitioner;
 - b. The name and address of the patient;
 - c. The quantity dispensed on each original or refill prescription order;
 - d. The date of dispensing for each original or refill prescription order;
 - e. The name or identification code of the dispensing pharmacist; and
 - f. The serial number of each prescription order; and
 6. Providing a printout of requested prescription order information to an individual pharmacy within 72 hours of the request if prescription order information is maintained in a centralized computer record system.
- C.** A pharmacy permittee or pharmacist-in-charge of a pharmacy that uses a pharmacy computer system:
1. Shall notify the D.E.A. and the Board in writing that original and refill prescription information and patient profiles are stored in a pharmacy computer system;
 2. Shall comply with this Section if the pharmacy computer system's refill records are used as an alternative to the manual refill records required in R4-23-407(B);
 3. Is exempt from the manual refill recordkeeping requirements of R4-23-407(B), if the pharmacy computer system complies with the requirements of this Section; and
 4. Shall ensure that documentation of the accuracy of original and refill information entered into a computer system is provided by each pharmacist using the computer system and kept on file in the pharmacy for seven years from the date of the last refill. Documentation includes one of the following:
 - a. A hard-copy printout of each day's original and refill data that:

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- i. States original and refill data for prescriptions dispensed by each pharmacist is reviewed for accuracy;
 - ii. Includes the printed name of each dispensing pharmacist; and
 - iii. Is signed and initialed by each dispensing pharmacist; or
 - b. A log book or separate file of daily statements that:
 - i. States original and refill data for prescriptions dispensed by each pharmacist is reviewed for accuracy;
 - ii. Includes the printed name of each dispensing pharmacist; and
 - iii. Is signed and initialed by each dispensing pharmacist.
- D. If a pharmacy computer system does not comply with the requirements of subsections (A), (B), and (F), the pharmacy permittee or pharmacist-in-charge shall bring the computer system into compliance within three months of a notice of noncompliance or violation letter. If the computer system is still noncompliant with subsection (A), (B), or (F) after three months, the pharmacy permittee or pharmacist-in-charge shall immediately comply with the manual recordkeeping requirements of R4-23-402 and R4-23-407.
- E. If a pharmacy's personnel perform manual recordkeeping under subsection (D), the pharmacy's personnel shall continue manual recordkeeping until the pharmacist-in-charge sends proof, verified by a Board compliance officer, that the computer system complies with subsections (A), (B), and (F).
- F. Security. To maintain the confidentiality of patient records, a pharmacy permittee or pharmacist-in-charge shall ensure that:
 - 1. The computer system has security and systems safeguards designed to prevent and detect unauthorized access, modification, or manipulation of prescription order information and patient profiles; and
 - 2. After a prescription order is dispensed, any alteration of prescription order information is documented, including the identification of the pharmacist responsible for the alteration.
- G. A computer system that does not comply with all the requirements of subsections (A), (B), and (F) may be used in a pharmacy if:
 - 1. The computer system was in use in the pharmacy before July 11, 2001, and
 - 2. The pharmacy complies with the manual recordkeeping requirements of R4-23-402 and R4-23-407.
- H. Prescription records and retention.
 - 1. Instead of filing the original hard-copy prescription as required in A.R.S. § 32-1964, a pharmacy permittee or pharmacist-in-charge may use an electronic imaging recordkeeping system, if:
 - a. The system is capable of capturing, storing, and reproducing the exact image of a prescription, including the reverse side of the prescription if necessary;
 - b. Any notes of clarification of and alterations to a prescription are directly associated with the electronic image of the prescription;
 - c. The prescription image and any associated notes of clarification to or alterations to a prescription are retained for a period not less than seven years from the date the prescription is last dispensed;
 - d. The original hard-copy prescription is maintained for no less than 30 days after the date dispensed;
 - e. Policies and procedures for the use of an electronic imaging recordkeeping system are developed, implemented, reviewed, and revised in the same manner described in subsection (A) and complied with; and
 - f. The prescription is not for a schedule II controlled substance.
- 2. If a pharmacy's computer system fields are automatically populated by an electronically transmitted prescription order, the automated record constitutes the original prescription and a hard-copy or electronic image is not required if the computer system is capable of maintaining, printing, and providing all the prescription information required in A.R.S. §§ 32-1968 and 36-2525 and R4-23-407(A) within 72 hours of a request by the Board, the Board's compliance officers, other authorized regulatory board agents, or authorized officers of the law.

Historical Note

Adopted effective November 18, 1983 (Supp. 83-6).
 Amended by final rulemaking at 7 A.A.R. 646, effective January 11, 2001 (Supp. 01-1). Amended by final rulemaking at 9 A.A.R. 5030, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 11 A.A.R. 4270, effective December 6, 2005 (Supp. 05-4). Amended by final rulemaking at 12 A.A.R. 274, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3). Amended by final rulemaking at 13 A.A.R. 440, effective April 7, 2007 (Supp. 07-1).

R4-23-409. Returning Drugs and Devices

- A. After a person for whom a drug is prescribed or the person's agent takes the drug from the premises where sold, distributed, or dispensed, a pharmacist or pharmacy permittee shall not accept the drug for return or exchange for the purpose of resale unless the pharmacist determines that:
 - 1. The drug is in its original, manufacturer's, unopened container; and
 - 2. The drug or its container has not been subjected to contamination or deterioration.
- B. The provisions of subsection (A) of this Section do not apply to a drug dispensed to:
 - 1. A hospital inpatient as defined in R4-23-651; or
 - 2. A resident of a long-term care facility where a licensed health care professional administers the drug, and the pharmacist ensures and documents that the drug:
 - a. Has been stored in compliance with the requirements of the official compendium; and
 - b. Is not obviously contaminated or deteriorated.
- C. After a person for whom a device is prescribed or the person's agent takes the device from the premises where sold, distributed, or dispensed, a pharmacist or pharmacy permittee shall not accept the device for return or exchange for the purpose of resale or reuse unless the pharmacist determines that:
 - 1. The device is inspected and is free of defects;
 - 2. The device is rendered incapable of transferring disease; and
 - 3. The device, if resold or reused, is not claimed to be new or unused.

Historical Note

Adopted effective November 18, 1983 (Supp. 83-6).
 Amended by final rulemaking at 8 A.A.R. 1256, effective March 7, 2002 (Supp. 02-1).

R4-23-410. Current Good Compounding Practices

- A. This Section establishes the current good compounding practices to be used by a pharmacist licensed by the Board, in a pharmacy permitted by the Board, and in compliance with

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applicable federal and state law governing the practice of pharmacy.

B. A pharmacy permittee shall ensure compliance with the provisions in this subsection.

1. All substances for compounding that are received, stored, or used by the pharmacy permittee:
 - a. Meet official compendium requirements;
 - b. Are of high quality, such as Chemically Pure (CP), Analytical Reagent (AR), certified American Chemical Society (ACS), or Food Chemical Codex (FCC) grade; or
 - c. Are obtained from a source that, in the professional judgment of the pharmacist, is acceptable and reliable.
2. Before compounding a pharmaceutical product in excess of the quantity dispensed in anticipation of receiving valid prescriptions for the pharmaceutical product, a pharmacist, employed by the pharmacy permittee, shall establish a history of compounding valid prescriptions for the pharmaceutical product.
3. Neither the pharmacy permittee nor a pharmacist employed by the pharmacy permittee provides a compounded pharmaceutical product to a pharmacy, medical practitioner, or other person for dispensing or distributing except that a compounded pharmaceutical product may be provided to a medical practitioner to administer to a patient of the medical practitioner if each container is accompanied by the written list required in subsection (I)(5) and has a label that includes the following:
 - a. The pharmacy's name, address, and telephone number;
 - b. The pharmaceutical product's name and the information required in subsection (I)(4);
 - c. A lot or control number;
 - d. A beyond-use-date based upon the pharmacist's professional judgment, but not more than the maximum guidelines recommended in the Pharmacy Compounding Practices chapter of the official compendium unless there is published or unpublished stability test data that shows a longer period is appropriate;
 - e. The statement "Not For Dispensing;" and
 - f. The statement "For Office or Hospital Administration Only."
4. A pharmacy or pharmacist may advertise or otherwise promote the fact that the pharmacy or pharmacist provides prescription compounding services.

C. A pharmacy permittee shall ensure compliance with the organization, training, and personnel issues in this subsection.

1. Before dispensing a compounded pharmaceutical product, a pharmacist:
 - a. Inspects and approves or rejects, or assumes responsibility for inspecting and approving or rejecting, components, pharmaceutical product containers and closures, in-process materials, and labeling;
 - b. Prepares or assumes responsibility for preparing all compounding records;
 - c. Reviews all compounding records to ensure that no errors occur in the compounding process;
 - d. Ensures the proper use, cleanliness, and maintenance of all compounding equipment; and
 - e. Documents by hand-written initials or signature in the compounding record the completion of the requirements of subsections (C)(1)(a), (b), (c), and (d).
2. A pharmacist engaged in compounding:
 - a. Complies with the current good compounding practices and applicable state pharmacy laws;
 - b. Maintains compounding proficiency through current awareness, training, and continuing education; and
 - c. Ensures that personnel engaged in compounding wear:
 - i. Clean clothing appropriate to the work performed; and
 - ii. Protective apparel, such as coats, aprons, gowns, gloves or masks to protect the personnel from chemical exposure and prevent pharmaceutical product contamination.

D. A pharmacy permittee shall ensure the security, safety, and quality of a compounded pharmaceutical product by conforming with the following standards:

1. Implement procedures to exclude from direct contact with components, pharmaceutical product containers and closures, in-process materials, labeling, and pharmaceutical products, any person with an apparent illness or open lesion that may adversely affect the safety or quality of a compounded pharmaceutical product, until the illness or lesion, as determined by competent medical personnel, does not jeopardize the safety or quality of a compounded pharmaceutical product; and
2. Require all personnel to inform a pharmacist of any health condition that may adversely affect a compounded pharmaceutical product.

E. A pharmacy permittee shall provide compounding facilities that conform with the standards in this subsection.

1. In addition to the minimum area requirements of R4-23-609, R4-23-655, or R4-23-673, the compounding area:
 - a. Complies with the requirements in R4-23-611; and
 - b. Has sufficient space to permit efficient pharmacy practice, free movement of personnel, and visual surveillance by a pharmacist.
2. If sterile pharmaceutical product or radiopharmaceutical product compounding is performed, the compounding area complies with the requirements of R4-23-670, R4-23-681, and R4-23-682.
3. A clean, dry, and temperature-controlled area and, if required, a refrigerated area, in which to store properly labeled containers of bulk drugs, chemicals, and materials used in compounding, that complies with state statutes and rules.

F. To protect pharmaceutical product safety, identity, strength, quality, and purity, a pharmacy permittee shall ensure that equipment and utensils used in pharmaceutical product compounding are:

1. Of appropriate design, adequate size, and suitably located for proper operation, cleaning, and maintenance;
2. Made of material that is not reactive, additive, or absorptive when exposed to components, in-process materials, or pharmaceutical products;
3. Cleaned and protected from contamination before use;
4. Inspected and determined suitable for use before initiation of compounding operations; and
5. Routinely inspected, calibrated, or checked to make proper performance certain.

G. A pharmacy permittee shall ensure that the pharmacist-in-charge establishes, implements, and complies with procedures to prevent cross-contamination when pharmaceutical products that require special precautions to prevent cross-contamination, such as penicillin, are used in a compounding procedure. The procedures shall include either the dedication of equipment or the meticulous cleaning of contaminated equipment before its use in compounding other pharmaceutical products.

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- H.** A pharmacy permittee shall ensure that the pharmacist-in-charge establishes, implements, and complies with control procedures for components and pharmaceutical product containers and closures, either written or electronically stored with printable documentation, that conform with the standards in this subsection.
- Components and pharmaceutical product containers and closures are:
 - Stored off the floor,
 - Handled and stored to prevent contamination, and
 - Rotated so the oldest approved stock is used first.
 - Container closure systems comply with official compendium standards.
 - Pharmaceutical product containers and closures are clean and made of material that is not reactive, additive, or absorptive.
- I.** A pharmacy permittee shall ensure that the pharmacist-in-charge establishes, implements, and complies with pharmaceutical product compounding controls that conform with the standards in this subsection.
- Pharmaceutical product compounding procedures are available in either written form or electronically stored with printable documentation:
 - To ensure that a finished pharmaceutical product has the identity, strength, quality, and purity it is purported or represented to possess, the procedures include, for each pharmaceutical product compounded, a description of:
 - The components, their manufacturer, lot number, expiration date, and amounts, the order of component addition, if applicable, and the compounding process;
 - The equipment and utensils used; and
 - The pharmaceutical product container and closure system proper for the sterility and stability of the pharmaceutical product as it is intended to be used.
 - To test the pharmaceutical product being compounded, the procedures monitor the output and validate the performance of compounding processes that may cause variability in the final pharmaceutical product, including assessing:
 - Dosage form weight variation;
 - Adequacy of mixing to ensure uniformity and homogeneity; and
 - Clarity, completeness, and pH of solutions, if applicable.
 - Components for pharmaceutical product compounding are accurately weighed, measured, or subdivided. To ensure that each weight, measure, or subdivision is correct as stated in the compounding procedures, a pharmacist:
 - Checks and rechecks, or assumes responsibility for checking and re-checking, the operations at each stage of the compounding process; and
 - Documents by hand-written initials or signature the completion and accuracy of the compounding process.
 - Compounding equipment and utensils are properly cleaned and maintained.
 - In addition to the labeling requirements of A.R.S. § 32-1968(D), the label contains:
 - A statement, symbol, designation, or abbreviation that the pharmaceutical product is a compounded pharmaceutical product, and
 - A beyond-use-date as specified in subsection (B)(3)(d).
- J.** A pharmacy permittee shall ensure that the pharmacist-in-charge stores any quantity of compounded pharmaceutical product produced in excess of the quantity dispensed in accordance with subsection (B):
- In an appropriate container with a label that contains:
 - A complete list of components or the pharmaceutical product's name;
 - The preparation date;
 - The assigned lot or control number; and
 - A beyond-use-date as specified in subsection (B)(3)(d); and
 - Under conditions, dictated by the pharmaceutical product's composition and stability characteristics, that ensure its strength, quality, and purity.
- K.** A pharmacy permittee shall ensure that the pharmacist-in-charge establishes, implements, and complies with record-keeping procedures that comply with this subsection:
- Pharmaceutical product compounding procedures and other records required by this Section are maintained by the pharmacy for not less than seven years, and
 - Pharmaceutical product compounding procedures and other records required by this Section are readily available for inspection by the Board or its designee.

Historical Note

Adopted effective August 5, 1997 (Supp. 97-3).
 Amended by final rulemaking at 10 A.A.R. 3391, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 12 A.A.R. 3981, effective December 4, 2006 (Supp. 06-4).

R4-23-411. Pharmacist-administered or Pharmacy or Graduate Intern-administered Immunizations

- A.** Certification to administer immunizations, vaccines, and emergency medications, as defined at A.R.S. § 32-1974(N), to an eligible adult patient or eligible minor patient. As used in this Section, "eligible adult patient" means an eligible patient 13 years of age or older and "eligible minor patient" means an eligible patient at least three years of age but less than 13 years of age. A pharmacist or a pharmacy or graduate intern in the presence of and under the immediate personal supervision of a pharmacist, may administer, without a prescription, immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient, if:
- Both the pharmacist and pharmacy or graduate intern meet the qualifications and standards specified by A.R.S. § 32-1974 and this Section;
 - The Board certifies both the pharmacist and pharmacy or graduate intern as specified in subsection (D);
 - For an eligible adult patient, the immunization or vaccine is:

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- a. Recommended for adults by the United States Centers for Disease Control and Prevention; or
 - b. Recommended by the United States Centers for Disease Control and Prevention's Health Information for International Travel;
 4. For an eligible adult patient, the immunization or vaccine is not on the Arizona Department of Health Services list specified in A.A.C. R9-6-1301 as required under A.R.S. § 32-1974(I);
 5. For an eligible minor patient, the immunization or vaccine is for influenza or a booster dose as described under A.R.S. § 32-1974(B)(2); and
 6. For an eligible minor patient, any immunizations or vaccines other than influenza or a booster dose as described under A.R.S. § 32-1974(B)(2) are administered in response to a public health emergency declared by the Governor under A.R.S. § 36-787.
- B.** A pharmacist or a pharmacy or graduate intern in the presence of and under the immediate personal supervision of a pharmacist, may administer, with a prescription, any immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient, if:
1. Both the pharmacist and pharmacy or graduate intern meet the qualifications and standards specified by A.R.S. § 32-1974 and this Section; and
 2. The Board certifies both the pharmacist and pharmacy or graduate intern as specified in subsection (D).
- C.** A pharmacist or pharmacy or graduate intern who is certified to administer immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient shall:
1. Not delegate the authority to any other pharmacist, pharmacy or graduate intern, or employee; and
 2. Maintain their current certificate for inspection by the Board or its designee or review by the public.
- D.** Qualifications for certification to administer immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient. After receipt of a completed application form, the Board shall issue a certificate authorizing the administration of immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient to a pharmacist or pharmacy or graduate intern who meets the following qualifications:
1. Has a current license to practice pharmacy in this state,
 2. Successfully completes a training program specified in subsection (E), and
 3. Has a current certificate in basic cardiopulmonary resuscitation.
- E.** Immunizations training program requirements. A training program for pharmacists or pharmacy or graduate interns to administer immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient shall include the following courses of study:
1. Basic immunology and the human immune response;
 2. Mechanics of immunity, adverse effects, dose, and administration schedule of available vaccines;
 3. Response to an emergency situation as a result of the administration of an immunization, vaccine, or medication including administering an emergency medication to counteract the adverse effects of the immunization, vaccine, or medication given;
 4. Administration of intramuscular injections;
 5. Other immunization administration methods; and
 6. Recordkeeping and reporting requirements specified in subsection (F).
- F.** Recordkeeping and reporting requirements.
1. A pharmacist or pharmacy or graduate intern certified under this Section to administer immunizations, vaccines, and emergency medications to an eligible patient shall provide to the pharmacy the following information and documentation regarding each immunization, vaccine, or emergency medication administered:
 - a. The name, address, and date of birth of the patient;
 - b. The date of administration and site of injection;
 - c. The name, dose, manufacturer's lot number, and expiration date of the vaccine, immunization, or emergency medication;
 - d. The name and address of the patient's identified primary-care provider or physician;
 - e. The name of the pharmacist or pharmacy or graduate intern administering the immunization, vaccine, or emergency medication;
 - f. A record of the pharmacist's or pharmacy or graduate intern's consultation with the patient determining that the patient is an eligible patient as defined in R4-23-110;
 - g. The date and time that the written report specified in subsection (F)(2) was sent to the patient's primary-care provider or physician;
 - h. Consultation or other professional information provided to the patient by the pharmacist or pharmacy or graduate intern;
 - i. The name and date of the immunization or vaccine information sheet provided to the patient; and
 - j. For an immunization or vaccine given to an eligible minor patient, a consent form signed by the minor's parent or guardian.
 2. The pharmacist or pharmacy or graduate intern shall provide a written report to the patient's primary-care provider or physician containing the documentation required in subsection (F)(1)(a) through (d) within 48 hours after the immunization or vaccination. The pharmacy shall make the required records specified in subsection (F)(1) and a record of compliance with this subsection available in the pharmacy for inspection by the Board or its designee.
 3. A pharmacy's pharmacist-in-charge shall maintain the records required in subsection (F)(1) in the pharmacy for a minimum of seven years from the administration date.
- G.** Confidentiality of records. A pharmacist, pharmacy or graduate intern, pharmacy permittee, or pharmacist-in-charge shall comply with applicable state and federal privacy statutes and rules when releasing patient health information.
- H.** Renewal of a certificate for pharmacist-administered immunizations. A certificate authorizing a pharmacist to administer immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient expires after five years. A pharmacist who wishes to continue administering immunizations, vaccines, and emergency medications shall renew the certification by submitting a renewal request to the Board within the 30 days before the certificate's expiration date and provide to the Board proof of the following:
1. Current certification in basic cardiopulmonary resuscitation, and
 2. Completion of a minimum of five contact hours (0.5 CEU) of continuing education related to immunizations during the five-year renewal period. A pharmacist may use the continuing education hours required in this subsection as part of the total continuing education hours required for pharmacist license renewal.
- I.** Pharmacist-administered or pharmacy or graduate intern-administered adult immunizations that require a prescription

order. A pharmacist or pharmacy or graduate intern certified by the Board to administer adult immunizations or vaccines shall not administer any immunization or vaccine listed in A.A.C. R9-6-1301 without a prescription order. In addition to filing a prescription order as required in A.R.S. § 32-1964, a pharmacist or pharmacy or graduate intern who administers an immunization or vaccine listed in A.A.C. R9-6-1301 shall comply with the recordkeeping requirements of subsection (F)(1).

Historical Note

New Section made by final rulemaking at 10 A.A.R. 3967, effective November 13, 2004 (Supp. 04-3). Amended by final rulemaking at 12 A.A.R. 279, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 14 A.A.R. 3674, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 15 A.A.R. 1930, effective November 3, 2009 (Supp. 09-4). Amended by final rulemaking at 17 A.A.R. 2596, effective February 4, 2012 (Supp. 11-4). Amended by final rulemaking at 23 A.A.R. 211, effective March 5, 2017 (Supp. 17-1).

R4-23-412. Emergency Refill Prescription Dispensing

- A. When a state of emergency is declared under A.R.S. § 32-1910(A) or (B) and the state of emergency results in individuals being unable to refill existing prescriptions, a pharmacist may work in the affected county, city, or town and may dispense a one-time emergency refill prescription of up to a 30-day supply of a prescribed medication to an affected individual if both of the following apply:
 1. In the pharmacist's professional opinion the medication is essential to the maintenance of life or to the continuation of therapy, and
 2. The pharmacist makes a good faith effort to reduce the information to a written prescription marked "emergency prescription" and files and maintains the prescription as required by law.
- B. If the state of emergency declared under A.R.S. § 32-1910(A) or (B) continues for at least 21-days after the pharmacist dispenses an emergency prescription under subsection (A), the pharmacist may dispense one additional emergency refill prescription of up to a 30-day supply of the prescribed medication if the pharmacist complies with subsection (A)(2).
- C. A pharmacist's authority to dispense emergency prescriptions under this Section ends when the declared state of emergency is terminated.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 4400, effective January 3, 2009 (Supp. 08-4).

R4-23-413. Temporary Recognition of Nonresident Licensure

- A. When a state of emergency is declared under A.R.S. § 32-1910(A) or (B):
 1. A pharmacist who is not licensed in this state, but who is currently licensed in another state, may dispense prescription medications in those affected counties, cities, or towns in this state during the time that a declared state of emergency exists under A.R.S. § 32-1910(A) or (B) if both of the following apply:
 - a. The pharmacist provides proof of current licensure in another state, and
 - b. The pharmacist is engaged in a relief effort during a state of emergency.
 2. Acting under the direct supervision of a pharmacist, a pharmacy technician or pharmacy intern not licensed in this state,

but currently licensed or registered in another state, may assist a pharmacist in dispensing prescription medications in affected counties, cities, or towns in this state during the time that a declared state of emergency exists under A.R.S. § 32-1910(A) or (B) if both of the following apply:

- a. The pharmacy technician or pharmacy intern provides proof of current licensure or registration in another state, and
 - b. The pharmacy technician or pharmacy intern is engaged in a relief effort during a state of emergency.
- B. The recognition of nonresident licensure or registration shall end with the termination of the declared state of emergency.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 4400, effective January 3, 2009 (Supp. 08-4).

R4-23-414. Reserved

R4-23-415. Impaired Licensees – Treatment and Rehabilitation

- A. The Board may contract with qualified organizations to operate a program for the treatment and rehabilitation of licensees impaired as the result of alcohol or other drug abuse, pursuant to A.R.S. § 32-1932.01.
- B. Participants in the program are either "confidential" or "known." Confidential participants are self-referred and may remain unidentified to the Board, subject to maintaining compliance with their program contract. Known participants are under Board order to complete a minimum tenure in the program. After a known participant completes the minimum tenure, the Board may terminate the Board order and reinstate the participant's license to practice pharmacy.
- C. The program contract with a qualified organization shall include as a minimum the following:
 1. Duties and responsibilities of each party.
 2. Duration, not to exceed two years, of contract and terms of compensation.
 3. Quarterly reports from the program administrator to the Board indicating:
 - a. Identity of participants;
 - i. By name, if a known participant; or
 - ii. By case number, if a confidential participant;
 - b. Status of each participant, including:
 - i. Clinical findings;
 - ii. Diagnosis and treatment recommendations;
 - iii. Program activities; and
 - iv. General recovery and rehabilitation program information.
 4. The program administrator shall report immediately to the Board the name of any impaired licensee who poses a danger to self or others.
 5. The program administrator shall report to the Board, as soon as possible, the name of any impaired licensee:
 - a. Who refuses to submit to treatment,
 - b. Whose impairment is not substantially alleviated through treatment, or
 - c. Who violates the terms of their contract.
 6. The program administrator shall periodically provide informational programs to the profession, including approved continuing education programs on the topic of drug and chemical impairment, treatment, and rehabilitation.
- D. Under A.R.S. § 32-1903(F), the Board may publish the names of participants under current Board orders.
- E. The Board or its executive director may request the treatment records for any participant. The program administrator shall

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provide treatment records within 10 working days of receiving a written request from the Board or its executive director for such records. Upon request of the program administrator or the Board or its executive director, a program participant shall authorize a drug and alcohol treatment facility or program or a private practitioner or treatment program to release the participant's records to the program administrator or the Board or its executive director.

- F. On the recommendation of the program administrator or a Board member and by mutual consent, the program administrator, Board member, Board staff, and program participant may meet informally to discuss program compliance.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 467, effective January 4, 2000 (Supp. 00-1). Amended by final rulemaking at 14 A.A.R. 3611, effective November 8, 2008 (Supp. 08-3).

R4-23-416. Reserved through

R4-23-420. Reserved

R4-23-421. Repealed

Historical Note

New Section made by final rulemaking at 8 A.A.R. 4052, effective November 9, 2002 (Supp. 02-3). Section repealed by final rulemaking at 17 A.A.R. 2600, effective February 4, 2012 (Supp. 11-4).

R4-23-422. Repealed

Historical Note

New Section made by final rulemaking at 8 A.A.R. 4052, effective November 9, 2002 (Supp. 02-3). Section repealed by final rulemaking at 17 A.A.R. 2600, effective February 4, 2012 (Supp. 11-4).

R4-23-423. Repealed

Historical Note

New Section made by final rulemaking at 8 A.A.R. 4052, effective November 9, 2002 (Supp. 02-3). Section repealed by final rulemaking at 17 A.A.R. 2600, effective February 4, 2012 (Supp. 11-4).

R4-23-424. Repealed

Historical Note

New Section made by final rulemaking at 8 A.A.R. 4052, effective November 9, 2002 (Supp. 02-3). Section repealed by final rulemaking at 17 A.A.R. 2600, effective February 4, 2012 (Supp. 11-4).

R4-23-425. Repealed

Historical Note

New Section made by final rulemaking at 8 A.A.R. 4052, effective November 9, 2002 (Supp. 02-3). Section repealed by final rulemaking at 17 A.A.R. 2600, effective February 4, 2012 (Supp. 11-4).

R4-23-426. Repealed

Historical Note

New Section made by final rulemaking at 8 A.A.R. 4052, effective November 9, 2002 (Supp. 02-3). Section repealed by final rulemaking at 17 A.A.R. 2600, effective February 4, 2012 (Supp. 11-4).

R4-23-427. Repealed

Historical Note

New Section made by final rulemaking at 8 A.A.R. 4052, effective November 9, 2002 (Supp. 02-3). Section repealed by final rulemaking at 17 A.A.R. 2600, effective February 4, 2012 (Supp. 11-4).

R4-23-428. Repealed

Historical Note

New Section made by final rulemaking at 8 A.A.R. 4052, effective November 9, 2002 (Supp. 02-3). Section repealed by final rulemaking at 17 A.A.R. 2600, effective February 4, 2012 (Supp. 11-4).

R4-23-429. Repealed

Historical Note

New Section made by final rulemaking at 8 A.A.R. 4052, effective November 9, 2002 (Supp. 02-3). Section repealed by final rulemaking at 17 A.A.R. 2600, effective February 4, 2012 (Supp. 11-4).

ARTICLE 5. CONTROLLED SUBSTANCES PRESCRIPTION MONITORING PROGRAM

New Article 5, consisting of Sections R4-23-501 through R4-23-505, made effective August 2, 2014 (Supp. 14-2).

Article 5, consisting of Sections R4-23-501 through R4-23-505, expired effective August 30, 2013 (Supp. 14-1).

Article 5, consisting of Sections R4-23-501 and R4-23-502, recodified to Article 8 at 9 A.A.R. 4011, effective August 18, 2003 (Supp. 03-3).

New Article 5, consisting of Sections R4-23-501 through R4-23-505, made by final rulemaking at 14 A.A.R. 3410, effective October 4, 2008 (Supp. 08-3).

R4-23-501. Controlled Substances Prescription Monitoring (CSPMP) Program Registration and Database Access

- A. Under A.R.S. § 36-2606, a medical practitioner who is issued a license under A.R.S. Title 32, Chapter 7, 11, 13, 14, 15, 16, 17, 21, 25, or 29 and possesses a current DEA registration under the Federal Controlled Substances Act shall have a current CSPMP registration issued by the Board.
- B. Application.
 1. An applicant for CSPMP registration shall:
 - a. Submit a completed application for CSPMP registration electronically or manually on a form furnished by the Board, and
 - b. Submit with the application form the documents specified in the application form.
 2. The Board office shall deem an application form received on the date the Board office electronically or manually date-stamps the form.
- C. Registration. Within seven business days of receipt of a completed application specified in subsection (B), the Board office shall determine whether an application is complete. If the application is complete, the Board office shall issue a registration number and provide a current registration certificate to the applicant by mail or electronic transmission. If the application is incomplete, the Board office shall issue a written notice of incompleteness. An applicant with an incomplete application shall comply with the requirements of R4-23-202(F).
- D. Registration renewal. As specified in A.R.S. § 36-2606(C), the Board shall automatically suspend the registration of any registrant that fails to renew the registration on or before May 1 of the year in which the renewal is due. The Board shall vacate a suspension if the registrant submits a renewal application. A suspended registrant with CSPMP database access credentials

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is prohibited from accessing information in the prescription monitoring program database.

E. CSPMP database access.

1. A medical practitioner that chooses to use the CSPMP database shall request access from the CSPMP Director by completing an access user registration form electronically. Upon receipt of the access user registration form, the CSPMP Director or designee shall issue access credentials provided the medical practitioner is in compliance with the registration requirements of this Section.
2. A pharmacist that chooses to use the CSPMP database shall request access from the CSPMP Director by completing an access user registration form electronically. Upon receipt of the access user registration form, the CSPMP Director or designee shall issue access credentials provided the pharmacist has a current active pharmacist license.
3. A medical practitioner or pharmacist who is not licensed in Arizona may request access from the CSPMP Director by:
 - a. Completing an access user registration form electronically;
 - b. Printing the access user registration form;
 - c. Having the access user registration form signed and notarized; and
 - d. Mailing the notarized access user form along with a current copy of the applicant's nonresident state license and driver's license. Upon receipt of the notarized access user registration form and other required documents, the CSPMP Director or designee shall issue access credentials provided the nonresident licensed medical practitioner or pharmacist credentials show an current active license in another state.

Historical Note

Former Rule 5.2110; Amended effective August 9, 1983 (Supp. 83-4). Amended by final rulemaking at 8 A.A.R. 4898, effective January 5, 2003 (Supp. 02-4). Recodified to R4-23-801 at 9 A.A.R. 4011, effective August 18, 2003 (Supp. 03-3). New Section made by final rulemaking at 14 A.A.R. 3410, effective October 4, 2008 (Supp. 08-3). Amended by final rulemaking at 19 A.A.R. 94, effective March 10, 2013 (Supp. 13-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 133, effective August 30, 2013 (Supp. 14-1). New Section made by final rulemaking at 20 A.A.R. 1359, effective August 2, 2014 (Supp. 14-2).

R4-23-502. Requirements for Data Format and Transmission

- A.** Each dispenser shall submit to the Board or its designee by electronic means information regarding each prescription dispensed for a controlled substance listed in Schedules II, III, and IV of A.R.S. Title 36, Chapter 27, the Arizona Uniform Controlled Substances Act. The information reported shall conform to the August 31, 2005 Version 003, Release 000 ASAP Rules-based Standard Implementation Guide for Prescription Monitoring Programs published by the American Society for Automation in Pharmacy as specified in A.R.S. § 36-2608(B). The information submitted for each prescription shall include:
1. The name, address, telephone number, prescription number, and DEA registration number of the dispenser;
 2. The name, address, gender, date of birth, and telephone number of the person or, if for an animal, the owner of the animal for whom the prescription is written;

3. The name, address, telephone number, and DEA registration number of the prescribing medical practitioner;
 4. The quantity and National Drug Code (NDC) number of the Schedule II, III, or IV controlled substance dispensed;
 5. The date the prescription was dispensed;
 6. The number of refills, if any, authorized by the medical practitioner;
 7. The date the prescription was issued;
 8. The method of payment identified as cash or third party; and
 9. Whether the prescription is new or a refill.
- B.** A dispenser shall submit the required information electronically unless the Board or its designee approves a waiver as specified in subsection (D).
- C.** A dispenser's electronic data transfer equipment including hardware, software, and internet connections shall meet the privacy and security standards of the Health Insurance Portability and Accountability Act (HIPAA) of 1996, as amended, and A.R.S. § 12-2292, in addition to common internet industry standards for privacy and security. A dispenser shall ensure that each electronic transmission meets the following data protection requirements:
1. Data shall be at least 128-bit encryption in transmission and at rest; and
 2. Data shall be transmitted via secure e-mail, telephone modem, diskette, CD-ROM, tape, secure File Transfer Protocol(FTP), Virtual Private Network (VPN), or other Board-approved media.
- D.** A dispenser who does not have an automated recordkeeping system capable of producing an electronic report in the Board established format may request a waiver from electronic reporting by submitting a written request to the Board or its designee. The Board or its designee shall grant the request if the dispenser agrees in writing to report the data by submitting a completed universal claim form supplied by the Board or its designee.
- E.** Unless otherwise approved by the Board, a dispenser shall report by the close of business on each Friday the required information for the previous week, Sunday through Saturday. If a Friday falls on a state holiday, the dispenser shall report the information on the following business day. The Board or its designee may approve a less frequent reporting period if a dispenser makes a showing that a less frequent reporting period will not reduce the effectiveness of the system or jeopardize the public health.

Historical Note

Former Rule 5.2510. Amended by final rulemaking at 8 A.A.R. 4898, effective January 5, 2003 (Supp. 02-4). Recodified to R4-23-802 at 9 A.A.R. 4011, effective August 18, 2003 (Supp. 03-3). New Section made by final rulemaking at 14 A.A.R. 3410, effective October 4, 2008 (Supp. 08-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 133, effective August 30, 2013 (Supp. 14-1). New Section made by final rulemaking at 20 A.A.R. 1359, effective August 2, 2014 (Supp. 14-2).

R4-23-503. Access to Controlled Substances Prescription Monitoring Program Data

- A.** Except as provided in A.R.S. § 36-2604(B) and (C) and this Section, prescription information submitted to the Board or its designee is confidential and is not subject to public inspection.
- B.** The Board or its designee shall review the prescription information collected under A.R.S. Title 36, Chapter 28 and R4-23-502. If the Board or its designee has reason to believe an act of unprofessional or illegal conduct has occurred, the Board or its designee shall notify the appropriate professional licensing

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- board or law enforcement or criminal justice agency and provide the prescription information required for an investigation.
- C. The Board or its designee is authorized to release data collected by the program to the following:
1. A person who is authorized to prescribe or dispense a controlled substance to assist that person to provide medical or pharmaceutical care to a patient or to evaluate a patient;
 2. An individual who requests the individual's own controlled substance prescription information under A.R.S. § 12-2293;
 3. A professional licensing board established under A.R.S. Title 32, Chapter 7, 11, 13, 14, 15, 16, 17, 18, 21, 25, or 29. Except as required under subsection (B), the Board or its designee shall provide this information only if the requesting board states in writing that the information is necessary for an open investigation or complaint;
 4. A local, state, or federal law enforcement or criminal justice agency. Except as required under subsection (B), the Board or its designee shall provide this information only if the requesting agency states in writing that the information is necessary for an open investigation or complaint;
 5. The Arizona Health Care Cost Containment System Administration regarding individuals who are receiving services under A.R.S. Title 36, Chapter 29. Except as required under subsection (B), the Board or its designee shall provide this information only if the Administration states in writing that the information is necessary for an open investigation or complaint;
 6. A person serving a lawful order of a court of competent jurisdiction;
 7. A person who is authorized to prescribe or dispense a controlled substance and who performs an evaluation on an individual under A.R.S. § 23-1026; and
 8. The Board staff for purposes of administration and enforcement of A.R.S. Title 36, Chapter 28 and this Article.
- D. The Board or its designee may provide data to public or private entities for statistical, research, or educational purposes after removing information that could be used to identify individual patients or persons who received prescriptions from dispensers.

Historical Note

Former Rules 5.3500, 5.3520, 5.3540, 5.3550, 5.3560, 5.3570, 5.3580, 5.3590, 5.4110, and 5.6110; Repealed effective August 2, 1982 (Supp. 82-4). New Section made by final rulemaking at 14 A.A.R. 3410, effective October 4, 2008 (Supp. 08-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 133, effective August 30, 2013 (Supp. 14-1). New Section made by final rulemaking at 20 A.A.R. 1359, effective August 2, 2014 (Supp. 14-2).

R4-23-504. Computerized Central Database Tracking System Task Force

- A. The Board shall appoint a task force to help it administer the computerized central database tracking system as specified in A.R.S. § 36-2603.
- B. The Task Force shall meet at least once each year and at the call of the chairperson to establish the procedures and conditions relating to the release of prescription information specified in A.R.S. § 36-2604 and R4-23-503.
- C. The Task Force shall determine:
1. The information to be screened;
 2. The frequency and thresholds for screening; and

3. The parameters for using the information to notify medical practitioners, patients, and pharmacies to educate and provide for patient management and treatment options.

- D. The Board shall review and approve the procedures and conditions established by the Task Force as needed but at least once every calendar year.

Historical Note

Former Rule 5.7010; Amended effective August 10, 1978 (Supp. 78-4). Repealed effective August 2, 1982 (Supp. 82-4). New Section made by final rulemaking at 14 A.A.R. 3410, effective October 4, 2008 (Supp. 08-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 133, effective August 30, 2013 (Supp. 14-1). New Section made by final rulemaking at 20 A.A.R. 1359, effective August 2, 2014 (Supp. 14-2).

R4-23-505. Reports

- A. Before releasing prescription monitoring program data, the Board or its designee shall receive a written or electronic request for controlled substance prescription information.
- B. A person authorized to access CSPMP data under R4-23-503(C)(1) through (7) shall submit a written or electronic request that:
1. Specifies the information requested for the report;
 2. For a medical practitioner, provides a statement that the report's purpose is to provide medical or pharmaceutical care to a patient or to evaluate a patient;
 3. For an individual obtaining the individual's own controlled substance prescription information, provides a form of non-expired government-issued photo identification;
 4. For a professional licensing board, states that the information is necessary for an open investigation or complaint;
 5. For a local, state, or federal law enforcement or criminal justice agency, states that the information is necessary for an open investigation or complaint;
 6. For the AHCCCS Administration, states that the information is necessary for an open investigation or complaint; and
 7. For a person serving a lawful order of a court of competent jurisdiction, provides a copy of the court order.
- C. The Board or its designee may provide reports through U.S. mail, other common carrier, facsimile, or secured electronic media or may allow reports to be picked up in-person at the Board office.

Historical Note

Former Rules 5.7100, 5.8100, 5.8500, 5.9100, and 5.9500; Amended effective August 10, 1978 (Supp. 78-4). Repealed effective August 2, 1982 (Supp. 82-4). New Section made by final rulemaking at 14 A.A.R. 3410, effective October 4, 2008 (Supp. 08-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 133, effective August 30, 2013 (Supp. 14-1). New Section made by final rulemaking at 20 A.A.R. 1359, effective August 2, 2014 (Supp. 14-2).

R4-23-506. Repealed**Historical Note**

Adopted effective December 3, 1974 (Supp. 75-1). Repealed effective August 24, 1992 (Supp. 92-3).

ARTICLE 6. PERMITS AND DISTRIBUTION OF DRUGS**R4-23-601. General Provisions**

- A. Permit required to sell a narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor

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sor chemical, or regulated chemical. A person shall have a current Board permit to:

1. Sell a narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical in Arizona; or
 2. Sell a narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical from outside Arizona and ship the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical into Arizona.
- B.** A medical practitioner is exempt from subsection (A) to administer a narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical for the emergency needs of a patient.
- C.** Permit fee. Permits are issued biennially on an odd- and even-year expiration based on the assigned permit number. The fee, specified in R4-23-205, is not refundable under any circumstances except the Board's failure to comply with the permit time-frames established in R4-23-602.
- D.** Record of receipt and disposal of narcotics or other controlled substances, prescription-only drugs or devices, nonprescription drugs, precursor chemicals, or regulated chemicals.
1. Every person manufacturing a narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical, including repackaging or relabeling, shall prepare and retain for not less than three years the manufacturing, repackaging, or relabeling date for each narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical.
 2. Every person receiving, selling, delivering, or disposing of a narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical shall record and retain for not less than three years the following information:
 - a. The name, strength, dosage form, and quantity of each narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical received, sold, delivered, or disposed;
 - b. The name, address, and license or permit number, if applicable, of the person from whom each narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is received;
 - c. The name, address, and license or permit number, if applicable, of the person to whom each narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is sold or delivered, or of the person who disposes of each narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical; and
 - d. The receipt, sale, deliver, or disposal date of each narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical.
 3. The record required in this subsection shall be available for inspection by the Board or its compliance officer during regular business hours.
 4. If the record required in this subsection is stored in a centralized recordkeeping system and not immediately avail-

able for inspection, a permittee, manager, or pharmacist-in-charge shall provide the record within four working days of the Board's or its compliance officer's request.

- E.** Narcotics or other controlled substances, prescription-only drugs or devices, nonprescription drugs, precursor chemicals, or regulated chemicals damaged by water, fire, or from human or animal consumption or use. No person shall sell or offer to sell any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical damaged by water, fire, or from human or animal consumption or use.

Historical Note

Former Rules 6.1100, 6.1200, 6.1300, 6.1400, and 6.1500. Amended effective August 10, 1978 (Supp. 78-4). Amended subsection (C) effective August 9, 1983 (Supp. 83-4). Amended subsection (C) effective August 12, 1988 (Supp. 88-3). Amended by final rulemaking at 6 A.A.R. 4656, effective November 14, 2000 (Supp. 00-4). Amended by final rulemaking at 12 A.A.R. 1912, effective July 1, 2006 (Supp. 06-2). Amended by final rulemaking at 14 A.A.R. 3670, effective November 8, 2008 (Supp. 08-3).

R4-23-602. Permit Application Process and Time-frames

- A.** A person applying for a permit shall:
1. Submit a completed application for the desired permit electronically or manually on a form furnished by the Board, and
 2. Submit with the application form:
 - a. The documents specified in the application form, and
 - b. The permit fee specified in R4-23-205(D).
- B.** The Board office shall deem an application form received on the date the Board office electronically or manually date-stamps the form.
- C.** Time-frames for permits.
1. The Board office shall finish an administrative completeness review within 60 days from the date the application form is received.
 - a. The Board office shall issue a written notice of administrative completeness to the applicant if no deficiencies are found in the application form.
 - b. If the application form is incomplete, the Board office shall provide the applicant with a written notice that includes a comprehensive list of the missing information. The 60-day time-frame for the Board office to finish the administrative completeness review is suspended from the date the notice of incompleteness is served until the applicant provides the Board office with all missing information.
 - c. If the Board office does not provide the applicant with written notice regarding administrative completeness, the application form shall be deemed complete 60 days after receipt by the Board office.
 2. An applicant with an incomplete application form shall submit to the Board office all of the missing information within 90 days of service of the notice of incompleteness.
 - a. If an applicant cannot submit all missing information within 90 days of service of the notice of incompleteness, the applicant may send a written request for an extension to the Board office postmarked or delivered no later than 90 days from service of the notice of incompleteness;
 - b. The written request for an extension shall document the reasons the applicant is unable to meet the 90-day deadline; and

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- c. The Board office shall review the request for an extension of the 90-day deadline and grant the request if the Board office determines that an extension of the 90-day deadline will enable the applicant to assemble and submit the missing information. An extension shall be for no more than 30 days. The Board office shall notify the applicant in writing of its decision to grant or deny the request for an extension.
- 3. If an applicant fails to submit a complete application form within the time allowed, the Board office shall close the applicant's file. An applicant whose file is closed and who later wishes to obtain a permit shall submit a new application and fee as specified in subsection (A).
- 4. For a nonprescription drug permit applicant, a compressed medical gas distributor permit applicant, and a durable medical equipment and compressed medical gas supplier permit applicant, the Board office shall issue a permit on the day that the Board office determines an administratively complete application form is received.
- 5. Except as described in subsection (C)(4), from the date on which the administrative completeness review of an application form is finished, the Board office shall complete a substantive review of the applicant's qualifications in no more than 120 days.
 - a. If an applicant is found to be ineligible, the Board office shall issue a written notice of denial to the applicant.
 - b. If an applicant is found to be eligible, the Board office shall recommend to the Board that the applicant be issued a permit. Upon receipt of the Board office's recommendation, the Board shall either issue a permit to the applicant or if the Board determines the applicant does not meet eligibility requirements, return the matter to the Board office.
 - c. If the Board office finds deficiencies during the substantive review of the application form, the Board office shall issue a written request to the applicant for additional documentation.
 - d. The 120-day time-frame for a substantive review for the issuance or denial of a permit is suspended from the date of the written request for additional documentation until the date that all documentation is received. The applicant shall submit the additional documentation according to subsection (C)(2).
 - e. If the applicant and the Board office mutually agree in writing, the 120-day substantive review time-frame may be extended once for no more than 45 days.
- 6. For the purpose of A.R.S. § 41-1072 et seq., the Board establishes the following time-frames for permits:
 - a. Administrative completeness review time-frame: 60 days.
 - b. Substantive review time-frame:
 - i. Nonprescription drug permit, compressed medical gas distributor permit, and durable medical equipment and compressed medical gas supplier permit: none.
 - ii. Except as described in subsection (C)(6)(b)(i): 120 days.
 - c. Overall time-frame:
 - i. Nonprescription drug permit, compressed medical gas distributor permit, and durable medical equipment and compressed medical gas supplier permit: 60 days.
 - ii. Except as described in subsection (C)(6)(c)(i): 180 days.
- D. Permit renewal.
 - 1. To renew a permit, a permittee shall submit a completed application for permit renewal electronically or manually on a form furnished by the Board with the biennial renewal fee specified in R4-23-205(D).
 - 2. If the biennial renewal fee is not paid by November 1 of the renewal year specified in A.R.S. § 32-1931, the permit is suspended. The permittee shall pay a penalty fee as provided in A.R.S. § 32-1931 and R4-23-205(G)(2) to vacate the suspension.
 - 3. Time-frames for permit renewals. The Board office shall follow the time-frames established in subsection (C).
- E. Display of permit. A permittee shall conspicuously display the permit in the location to which it applies.

Historical Note

Former Rules 6.2100, 6.2200, 6.2300, 6.2400, 6.2500, 6.2600, 6.2610, 6.2620, 6.2630, 6.2640, and 6.2650.

Amended effective August 10, 1978 (Supp. 78-4).

Amended effective August 9, 1983 (Supp. 83-4).

Repealed effective August 12, 1988 (Supp. 88-3). New Section adopted effective August 5, 1997 (Supp. 97-3).

Amended by final rulemaking at 6 A.A.R. 4589, effective November 14, 2000 (Supp. 00-4). Amended by final rulemaking at 20 A.A.R. 1364, effective August 2, 2014 (Supp. 14-2).

R4-23-603. Resident-Nonprescription Drugs, Retail

- A. Permit. A person, including the following, shall not sell or distribute a nonprescription drug without a current Board-issued permit:
 - 1. A grocer;
 - 2. Other non-pharmacy retail outlet; or
 - 3. Mobile or non-fixed location retailer, such as a swap-meet vendor.
- B. A medical practitioner licensed under A.R.S. Title 32 is exempt from the requirements of subsection (A).
- C. Application. To obtain a permit to sell a nonprescription drug, a person shall submit:
 - 1. A completed application form and fee as specified in R4-23-602; and
 - 2. Documentation of compliance with local zoning laws, if required by the Board.
- D. Drug sales. A nonprescription drug permittee:
 - 1. Shall sell a drug only in the original container packaged and labeled by the manufacturer; and
 - 2. Shall not package, repackage, label, or relabel any drug.
- E. Inspection. A nonprescription drug permittee shall consent to inspection during business hours by a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(5).
- F. Quality control. A nonprescription drug permittee shall:
 - 1. Ensure that all drugs stocked, sold, or offered for sale are:
 - a. Kept clean;
 - b. Protected from contamination, excessive heat, cold, sunlight, and other deteriorating factors;
 - c. In compliance with federal law; and
 - d. Received from a supplier with a current Board-issued permit as specified in R4-23-601(A).
 - 2. Develop and implement a program to ensure that:
 - a. Any expiration-dated drug is reviewed regularly;
 - b. Any drug, that exceeds its expiration date, is deteriorated or damaged, or does not comply with federal law, is moved to a quarantine area and not sold or distributed; and

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- c. Any quarantined drug is destroyed or returned to its source of supply.
- G. Notification. A nonprescription drug permittee shall provide written notice by mail, facsimile, or e-mail to the Board office within ten days of changes involving the telephone number, facsimile number, e-mail address, mailing address, or name of business.
- H. Change of ownership. No less than 14 days before a change of ownership occurs that involves changes of stock ownership of 30% or more of the voting stock of a corporation or an existing and continuing corporation that is not actively traded on any securities market or over-the-counter market, the prospective owner shall submit a completed application form and fee as specified in subsection (C).
- I. Relocation. No less than 30 days before an existing nonprescription drug permittee relocates, the permittee shall submit a completed application for relocation electronically or manually on a form furnished by the Board, and the documentation required in subsection (C).
- J. Records. A nonprescription drug permittee shall:
 1. Retain records of the receipt and disposal of nonprescription drugs as required in R4-23-601(D), and
 2. Comply with the requirements of A.R.S. § 32-1977 and federal law for the retail sale of methamphetamine precursors.
- K. Permit renewal. Permit renewal shall be as specified in R4-23-602(D).
- L. Nonprescription drug vending machine outlet. In addition to the requirements of R4-23-601, R4-23-602, and subsections (A) through (K), a person selling or distributing a nonprescription drug in a vending machine shall comply with the following requirements:
 1. Each individual vending machine is considered an outlet and shall have a Board-issued nonprescription drug permit;
 2. Each nonprescription-drug-permitted vending machine shall display in public view an identification seal, furnished by the Board, containing the permit number, vending machine's serial number, owner's name, and telephone contact number;
 3. Each nonprescription-drug-permitted vending machine is assigned a specific location that is within a weather-tight structure, protected from direct sunlight, and maintained at a temperature not less than 59° F and not greater than 86° F;
 4. Each nonprescription drug sold in a vending machine is packaged and labeled in the manufacturer's original FDA-approved container;
 5. A nonprescription-drug-permitted vending machine is subject to inspection by a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(5) as follows:
 - a. The owner, manager, or other staff of the nonprescription drug permittee shall provide access to the contents of the vending machine within 24 hours of a request from a Board compliance officer or other authorized officer of the law; or
 - b. The Board compliance staff shall have independent access to the vending machine;
 6. Before relocating or retiring a nonprescription-drug-permitted vending machine, the owner or manager shall notify the Board in writing. The notice shall include:
 - a. Permit number;
 - b. Vending machine's serial number;
 - c. Action planned (relocate or retire); and
 - d. If retiring a vending machine, the disposition of the nonprescription drug contents of the vending machine;
- 7. The sale or distribution of a precursor chemical or regulated chemical in a vending machine is prohibited; and
- 8. Under no circumstance may expired drugs be sold or distributed.

Historical Note

Adopted effective August 10, 1978 (Supp. 78-4).
 Amended subsection (D) paragraph (1) and added subsection (G) effective April 20, 1982 (Supp. 82-2).
 Amended effective August 12, 1988 (Supp. 88-3).
 Amended effective February 8, 1991 (Supp. 91-1).
 Amended effective August 5, 1997 (Supp. 97-3).
 Amended by final rulemaking at 6 A.A.R. 4589, effective November 14, 2000 (Supp. 00-4). Amended by final rulemaking at 20 A.A.R. 1364, effective August 2, 2014 (Supp. 14-2).

R4-23-604. Resident Drug Manufacturer

- A. Permit. A person shall not manufacture, package, repack, label, or relabel any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical without a current Board-issued drug manufacturer permit.
- B. Application. To obtain a permit to operate a drug manufacturing firm in Arizona, a person shall submit a completed application, on a form furnished by the Board, that includes:
 1. Business name, address, mailing address, if different, telephone number, and facsimile number;
 2. Owner's name, if corporation or partnership, officers or partners, including address and title, and any other trade or business names used;
 3. Whether the owner, corporation, or partnership has conducted a similar business in any other jurisdiction and if so, indicate under what name and location;
 4. Whether the owner, any officer, or active partner has ever been convicted of an offense involving moral turpitude, a felony offense, or any drug-related offense or has any currently pending felony or drug-related charges, and if so, indicate charge, conviction date, jurisdiction, and location;
 5. Whether the owner, any officer, or active partner has ever been denied a drug manufacturer permit in this state or any other jurisdiction, and if so, indicate where and when;
 6. A copy of the drug list required by the FDA;
 7. Plans or construction drawings showing facility size and security for the proposed business;
 8. Applicant's and manager's name, address, emergency telephone number, and resumé indicating educational or experiential qualifications related to drug manufacturer operation;
 9. The applicant's current FDA drug manufacturer or repackager registration number and expiration date;
 10. Documentation of compliance with local zoning laws;
 11. For an application submitted because of ownership change, the former owner's name and business name, if different;
 12. Date signed, and applicant's, corporate officer's, partner's, or manager's verified signature and title; and
 13. Fee specified in R4-23-205.
- C. Before issuing a drug manufacturer permit, the Board shall:
 1. Receive and approve a completed permit application;
 2. Interview the applicant and manager, if different from the applicant, at a Board meeting; and

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3. Receive a satisfactory compliance inspection report on the facility from a Board compliance officer.
- D.** Notification. A resident drug manufacturer permittee shall notify the Board of changes involving the drug list, ownership, address, telephone number, name of business, or manager, including manager's telephone number. The resident drug manufacturer permittee shall submit a written notice via mail, fax, or e-mail to the Executive Director within 24 hours of the change, except any change of ownership requires that the resident drug manufacturer permittee comply with subsection (E).
- E.** Change of ownership. Before a change of ownership occurs that involves changes of stock ownership of more than 30% of the voting stock of a corporation or an existing and continuing corporation that is not actively traded on any securities market or over-the-counter market, the prospective owner shall submit the application packet described under subsection R4-23-604(B).
- F.** Before an existing resident drug manufacturer permittee relocates, the drug manufacturer permittee shall submit the application packet described in subsection R4-23-604(B), excluding the fee. The facility at the new location shall pass a final inspection by a Board compliance officer before operations begin.
- G.** A resident drug manufacturer permittee shall submit the application packet described under subsection R4-23-604(B) for any change of officers in a corporation, excluding the fee and final inspection.
- H.** Manufacturing and distribution.
 1. A drug manufacturer permittee shall manufacture and distribute a drug only:
 - a. To a pharmacy, drug manufacturer, or full-service or nonprescription drug wholesaler currently permitted by the Board;
 - b. To a medical practitioner currently licensed as a medical practitioner as defined in A.R.S. § 32-1901; or
 - c. To a properly permitted, registered, licensed, or certified person or firm of another jurisdiction.
 2. Before manufacturing and distributing a drug that is not listed on a drug manufacturer's permit application, the drug manufacturer permittee shall send to the Board office a written request to amend the permit application, including documentation of FDA approval to manufacture the drug not listed on the original permit application. If a request to amend a permit application includes the documentation required in this subsection, the Board or its designee shall approve the request to amend within 30 days of receipt.
- I.** A drug manufacturer permit is subject to denial, suspension, probation, or revocation under A.R.S. § 32-1927.02.
- J.** Current Good Manufacturing Practice. A drug manufacturer permittee shall comply with the current good manufacturing practice requirements of 21 CFR 210 through 211, (Revised April 1, 2011, incorporated by reference and on file with the Board and available at www.gpo.gov. This incorporated material includes no future editions or amendments.)
- K.** Records. A drug manufacturer permittee shall:
 1. Establish and implement written procedures for maintaining records pertaining to production, process control, labeling, packaging, quality control, distribution, complaints, and any information required by federal or state law;
 2. Retain the records required by this Article and 21 CFR 210 through 211 as incorporated in subsection (J) for at least two years after distribution of a drug or one year after the expiration date of a drug, whichever is longer; and
3. Make the records required by this Article and 21 CFR 210 through 211 as incorporated in subsection (J) available within 48 hours for review by a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(5).
- L.** Inspections. A drug manufacturer permittee shall make the drug manufacturer's facility available for inspection by the Board or its compliance officer under A.R.S. § 32-1904.
- M.** Nonresident drug manufacturer. A nonresident drug manufacturer shall comply with the requirements of R4-23-607.
- N.** Manufacturing radiopharmaceuticals. Before manufacturing a radiopharmaceutical, a drug manufacturer permittee shall:
 1. Comply with the regulatory requirements of the Arizona Radiation Regulatory Agency, the U.S. Nuclear Regulatory Commission, the FDA, and this Section; and
 2. Hold a current Arizona Radiation Regulatory Agency Radioactive Materials License. If a drug manufacturer permittee who manufactures radiopharmaceuticals fails to maintain a current Arizona Radiation Regulatory Agency Radioactive Materials License, the permittee's drug manufacturer permit shall be immediately suspended pending a hearing by the Board.

Historical Note

Former Rules 6.4001, 6.4002, 6.4003, 6.4004, 6.4005, 6.4006, 6.4007, 6.4008, 6.4009, 6.4100, 6.4110, 6.4111, 6.4115, 6.4116, 6.4120, 6.4122, 6.4190, 6.4191, 6.4200, 6.4250, 6.4300, 6.4350, 6.4355, 6.4360, 6.4400, 6.4401, 6.4403, 6.4410, 6.4430, 6.4450, 6.4500, 6.4510, 6.4530, 6.4533, 6.4600, 6.4610, 6.4640, 6.4660, 6.4700, 6.4710, and 6.4750. Adopted effective December 3, 1974 (Supp. 75-1). Amended effective August 10, 1978 (Supp. 78-4). Amended subsection (B) paragraph (2) effective April 20, 1982 (Supp. 82-2). Amended subsections (B), (G), (K) and (L) effective August 12, 1988 (Supp. 88-3). Amended effective August 24, 1992 (Supp. 92-3). Amended effective November 1, 1993 (Supp. 93-4). Amended by final rulemaking at 7 A.A.R. 3815, effective August 9, 2001 (Supp. 01-3). Amended by final rulemaking at 11 A.A.R. 1105, effective April 30, 2005 (Supp. 05-1). Amended by final rulemaking at 19 A.A.R. 702, effective June 1, 2013 (Supp. 13-2).

R4-23-605. Resident Drug Wholesaler Permit

- A.** Permit. A person shall not operate a business or firm for the wholesale distribution of any drug, device, precursor chemical, or regulated chemical without a current Board-issued full-service or nonprescription drug wholesale permit.
- B.** Application.
 1. To obtain a permit to operate a full-service or nonprescription drug wholesale firm in Arizona, a person shall submit a completed application on a form furnished by the Board that includes:
 - a. Whether the application is for a full-service or nonprescription drug wholesale permit;
 - b. Business name, address, mailing address, if different, telephone number, and facsimile number;
 - c. Owner's name, if corporation or partnership, officers or partners, including address and title, and any other trade or business names used;
 - d. Whether the owner, corporation, or partnership has conducted a similar business in any other jurisdiction and if so, indicate under what name and location;

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- e. Whether the owner, any officer or active partner has ever been convicted of an offense involving moral turpitude, a felony offense, or any drug-related offense or has any currently pending felony or drug-related charges, and if so, indicate charge, conviction date, jurisdiction, and location;
 - f. Whether the owner or any officer or active partner has ever been denied a drug wholesale permit in this state or any other jurisdiction, and if so, indicate where and when;
 - g. For a full-service drug wholesale firm:
 - i. The designated representative's name, address, and emergency telephone number;
 - ii. Documentation that the designated representative meets the requirements of A.R.S. § 32-1982(B) and the following as specified in A.R.S. § 32-1982(C):
 - (1) A full set of fingerprints from the designated representative; and
 - (2) The state and federal criminal history record check fee specified by and made payable to the Arizona State Department of Public Safety by money order, certified check, or bank draft; and
 - iii. A \$100,000 bond as specified in A.R.S. § 32-1982(D) submitted on a form supplied by the Board;
 - h. The type of drugs, whether nonprescription, prescription-only, controlled substances, human, or veterinary, the applicant will distribute;
 - i. Plans or construction drawings showing facility size and security for the proposed business;
 - j. Documentation of compliance with local zoning laws;
 - k. For a nonprescription drug wholesale firm, the manager's or designated representative's name, address, emergency telephone number, and resumé indicating educational or experiential qualifications related to drug wholesale operation;
 - l. For an application submitted because of ownership change, the former owner's name and business name, if different;
 - m. Date signed, and applicant's, corporate officer's, partner's, manager's, or designated representative's verified signature and title; and
 - n. Fee specified in R4-23-205.
2. Before issuing a full-service or nonprescription drug wholesale permit, the Board shall:
- a. Receive and approve a completed permit application;
 - b. Interview the applicant and the designated representative, if different from the applicant, at a Board meeting;
 - c. Receive a satisfactory compliance inspection report on the facility from a Board compliance officer; and
 - d. For a full-service drug wholesale permit, issue a fingerprint clearance to a qualified designated representative, as specified in subsection (L). If the fingerprint clearance of a designated representative for a full-service drug wholesale permit applicant is denied, the full-service drug wholesale permit applicant shall appoint another designated representative and submit the documentation, fingerprints, and fee required in subsection (B)(1)(g)(ii).
- C. Notification.** A resident full-service or nonprescription drug wholesale permittee shall notify the Board of changes involving the type of drugs sold or distributed, ownership, address, telephone number, name of business, or manager or designated representative, including the manager's or designated representative's telephone number.
- 1. The resident full-service or nonprescription drug wholesale permittee shall submit a written notice via mail, fax, or e-mail to the Executive Director within 10 days of the change, except any change of ownership requires that the resident full-service or nonprescription drug wholesale permittee comply with subsection (D).
 - 2. For a change of designated representative, a resident full-service drug wholesale permittee shall submit the documentation, fingerprints, and fee required in subsection (B)(1)(g)(ii). If the fingerprint clearance of a designated representative for a full-service drug wholesale permit applicant is denied, the full-service drug wholesale permit applicant shall appoint another designated representative and submit the documentation, fingerprints, and fee required in subsection (B)(1)(g)(ii).
- D. Change of ownership.** Before a change of ownership occurs that involves changes of stock ownership of more than 30% of the voting stock of a corporation or an existing and continuing corporation that is not actively traded on any securities market or over-the-counter market, the prospective owner shall submit the application packet described under subsection (B).
- E. Before an existing resident full-service or nonprescription drug wholesaler permittee relocates,** the resident full-service or nonprescription drug wholesaler permittee shall submit the application packet described under subsection (B), excluding the fee. The facility at the new location shall pass a final inspection by a Board compliance officer before operations begin.
- F. A resident full-service or nonprescription drug wholesale permittee shall submit the application packet described under subsection (B) for any change of officers in a corporation, excluding the fee and final inspection.**
- G. Distribution restrictions.** In addition to the requirements of this subsection, a resident full-service wholesale permittee shall comply with the distribution restrictions specified in A.R.S. § 32-1983.
- 1. Records.
 - a. A full-service drug wholesale permittee shall:
 - i. Maintain records to ensure full accountability of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical including dates of receipt and sales, names, addresses, and DEA registration numbers, if required, of suppliers or sources of merchandise, and customer names, addresses, and DEA registration numbers, if required;
 - ii. File the records required in subsection (G)(1)(a)(i) in a readily retrievable manner for a minimum of three years;
 - iii. Make the records required in subsection (G)(1)(a)(i) available upon request during regular business hours for inspection by a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(5). Records kept at a central location apart from the business location and not electronically retrievable shall be made available within two business days; and
 - iv. In addition to the records requirements of subsection (G)(1)(a)(i), provide a pedigree as specified in A.R.S. § 32-1984(E) for all

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- prescription-only drugs that leave the normal distribution channel as defined in A.R.S. § 32-1981.
- b. A nonprescription drug wholesale permittee shall:
 - i. Maintain records to ensure full accountability of any nonprescription drug, precursor chemical, or regulated chemical including dates of receipt and sales, names, addresses, and DEA registration numbers, if required, of suppliers or sources of merchandise, and customer names, addresses, and DEA registration numbers, if required;
 - ii. File the records required in subsection (G)(1)(b)(i) in a readily retrievable manner for a minimum of three years; and
 - iii. Make the records required in subsection (G)(1)(b)(i) available upon request during regular business hours for inspection by a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(5). Records kept at a central location apart from the business location and not electronically retrievable shall be made available within two business days.
2. Drug sales.
 - a. A full-service drug wholesale permittee shall:
 - i. Not sell, distribute, give away, or dispose of, any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical, except in the original container packaged and labeled by the manufacturer or repackager;
 - ii. Not package, repack, label, or relabel any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical;
 - iii. Not sell, distribute, give away, or dispose of, any narcotic or other controlled substance, or prescription-only drug or device, to anyone except a pharmacy, drug manufacturer, or full-service drug wholesaler currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;
 - iv. Not sell, distribute, give away, or dispose of, any nonprescription drug, precursor chemical, or regulated chemical, to anyone except a pharmacy, drug manufacturer, full-service or nonprescription drug wholesaler, or nonprescription drug retailer currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;
 - v. Provide pedigree records upon request, if immediately available, or within two business days from the date of a request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(5);
 - vi. Maintain a copy of the current permit or license of each person or firm who buys, receives, or disposes of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical; and
 - vii. Provide permit and license records upon request, if immediately available, or within two business days from the date of the request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(5).
 - b. A nonprescription drug wholesale permittee shall:
 - i. Not sell, distribute, give away, or dispose of any nonprescription drug, precursor chemical, or regulated chemical, except in the original container packaged and labeled by the manufacturer or repackager;
 - ii. Not package, repack, label, or relabel any nonprescription drug, precursor chemical, or regulated chemical;
 - iii. Not sell or distribute any nonprescription drug, precursor chemical, or regulated chemical, to anyone except a pharmacy, drug manufacturer, full-service or nonprescription drug wholesaler, or nonprescription drug retailer currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;
 - iv. Maintain a record of the current permit or license of each person or firm who buys, receives, or disposes of any nonprescription drug, precursor chemical, or regulated chemical; and
 - v. Provide permit and license records upon request, if immediately available, or within two business days from the date of the request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(5).
 - c. Nothing in this subsection shall be construed to prevent the return of a narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical to the original source of supply.
 3. Out-of-state drug sales.
 - a. A full-service drug wholesale permittee shall:
 - i. Not sell, distribute, give away, or dispose of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical, except in the original container packaged and labeled by the manufacturer or repackager;
 - ii. Not package, repack, label, or relabel any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical;
 - iii. Not sell, distribute, give away, or dispose of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical, to anyone except a person or firm that is properly permitted, registered, licensed, or certified in another jurisdiction;
 - iv. Provide pedigree records upon request, if immediately available, or within two business days from the date of the request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(5);
 - v. Maintain a copy of the current permit, registration, license, or certificate of each person or firm who buys, receives, or disposes of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical; and
 - vi. Provide permit, registration, license, and certificate records upon request, if immediately

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- available, or within two business days from the date of the request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(5); and
- b. A nonprescription drug wholesale permittee shall:
 - i. Not sell, distribute, give away, or dispose of any nonprescription drug, precursor chemical, or regulated chemical, except in the original container packaged and labeled by the manufacturer or repackager;
 - ii. Not package, repack, label, or relabel any nonprescription drug, precursor chemical, or regulated chemical;
 - iii. Not sell or distribute any nonprescription drug, precursor chemical, or regulated chemical, to anyone except a person or firm that is properly permitted, registered, licensed, or certified in another jurisdiction;
 - iv. Maintain a record of the current permit, registration, license, or certificate of each person or firm who buys, receives, or disposes of any nonprescription drug, precursor chemical, or regulated chemical; and
 - v. Provide permit, registration, license, or certificate records upon request, if immediately available, or within two business days from the date of the request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(5).
4. Cash-and-carry sales.
 - a. A full-service drug wholesale permittee shall complete a cash-and-carry sale or distribution of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical, only after:
 - i. Verifying the validity of the order;
 - ii. Verifying the identity of the pick-up person for each transaction by confirming that the person or firm represented placed the cash-and-carry order; and
 - iii. For a prescription-only drug order, verifying that the cash-and-carry sale or distribution is used only to meet the immediate needs of a particular patient of the person or firm who placed the cash-and-carry order; and
 - b. A nonprescription drug wholesale permittee shall complete a cash-and-carry sale or distribution of any nonprescription drug, precursor chemical, or regulated chemical, only after:
 - i. Verifying the validity of the order; and
 - ii. Verifying the identity of the pick-up person for each transaction by confirming that the person or firm represented placed the cash-and-carry order.
 - H. Prescription-only drug returns or exchanges. A full-service drug wholesale permittee shall ensure that any prescription-only drug returned or exchanged by a pharmacy or chain pharmacy warehouse under A.R.S. § 32-1983(A) meets the following criteria:
 1. The prescription-only drug is not adulterated or counterfeited, except an adulterated or counterfeited prescription-only drug that is the subject of an FDA or manufacturer recall may be returned for destruction or subsequent return to the manufacturer;
 2. The quantity of prescription-only drug returned or exchanged does not exceed the quantity of prescription-only drug that the full-service drug wholesale permittee or a full-service drug wholesale permittee under common ownership sold to the pharmacy or chain pharmacy warehouse; and
 3. The pharmacy or chain pharmacy warehouse provides documentation that:
 - a. Lists the name, strength, and manufacturer of the prescription-only drug being returned or exchanged; and
 - b. States that the prescription-only drug was maintained in compliance with storage conditions prescribed on the drug label or manufacturer's package insert.
 - I. Returned, outdated, damaged, deteriorated, adulterated, misbranded, counterfeited, and contraband drugs.
 1. Except as specified in subsection (H)(1) for a prescription-only drug, a full-service drug wholesale permittee shall ensure that the return of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical meets the following criteria.
 - a. Any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical that is outdated, damaged, deteriorated, adulterated, misbranded, counterfeited, or contraband or suspected of being adulterated, misbranded, counterfeited, or contraband, or otherwise deemed unfit for human or animal consumption shall be quarantined and physically separated from other narcotics or other controlled substances, prescription-only drugs or devices, nonprescription drugs, precursor chemicals, or regulated chemicals until the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is destroyed or returned to the manufacturer or wholesale distributor from which it was acquired as authorized by the Board and the FDA.
 - b. Any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical whose immediate or sealed outer or secondary containers or product labeling are misbranded, counterfeited, or contraband or suspected of being misbranded, counterfeited, or contraband shall be quarantined and physically separated from other narcotics or other controlled substances, prescription-only drugs or devices, nonprescription drugs, precursor chemicals, or regulated chemicals until the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is destroyed or returned to the manufacturer or wholesale distributor from which it was acquired as authorized by the Board and the FDA. When the immediate or sealed outer or secondary containers or product labeling are determined to be misbranded, counterfeited, or contraband or suspected of being misbranded, counterfeited, or contraband, the full-service drug wholesale permittee shall provide notice of the misbranding, counterfeiting, or contrabandage or suspected misbranding, counterfeiting, or contrabandage within three business days of the determination to the Board, FDA, and manufacturer or wholesale distributor from which the narcotic or other con-

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- trolled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical was acquired.
- c. Any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical that has been opened or used, but is not adulterated, misbranded, counterfeited, or contraband or suspected of being misbranded, counterfeited, or contraband, shall be identified as opened or used, or both, and quarantined and physically separated from other narcotics or other controlled substances, prescription-only drugs or devices, nonprescription drugs, precursor chemicals, or regulated chemicals until the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is destroyed or returned to the manufacturer or wholesale distributor from which it was acquired as authorized by the Board and the FDA.
 - d. If the conditions under which a narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical has been returned cast doubt on the narcotic's or other controlled substance's, prescription-only drug's or device's, nonprescription drug's, precursor chemical's, or regulated chemical's safety, identity, strength, quality, or purity, the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical shall be quarantined and physically separated from other narcotics or other controlled substances, prescription-only drugs or devices, nonprescription drugs, precursor chemicals, or regulated chemicals until the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is destroyed or returned to the manufacturer or wholesale distributor from which it was acquired as authorized by the Board and the FDA, except as provided in subsection (I)(1)(d)(i).
 - i. If examination, testing, or other investigation proves that the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical meets appropriate standards of safety, identity, strength, quality, and purity, it does not have to be destroyed or returned to the manufacturer or wholesale distributor.
 - ii. In determining whether the conditions under which a narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical has been returned cast doubt on the narcotic's or other controlled substance's, prescription-only drug's or device's, nonprescription drug's, precursor chemical's, or regulated chemical's safety, identity, strength, quality, or purity, the full-service drug wholesale permittee shall consider, among other things, the conditions under which the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical has been held, stored, or shipped before or during its return and the condition of the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical was acquired.
 - e. For any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical identified under subsections (I)(1)(a) or (b), the full-service drug wholesale permittee shall ensure that the identified item or items and other evidence of criminal activity, and accompanying documentation is retained and not destroyed until its disposition is authorized by the Board and the FDA.
2. A nonprescription drug wholesale permittee shall ensure that the return of any nonprescription drug, precursor chemical, or regulated chemical meets the following criteria.
 - a. Any nonprescription drug, precursor chemical, or regulated chemical that is outdated, damaged, deteriorated, adulterated, misbranded, counterfeited, or contraband or suspected of being adulterated, misbranded, counterfeited, or contraband, or otherwise deemed unfit for human or animal consumption shall be quarantined and physically separated from other nonprescription drugs, precursor chemicals, or regulated chemicals until the nonprescription drug, precursor chemical, or regulated chemical is destroyed or returned to the manufacturer or wholesale distributor from which it was acquired as authorized by the Board and the FDA.
 - b. Any nonprescription drug, precursor chemical, or regulated chemical whose immediate or sealed outer or secondary containers or product labeling are misbranded, counterfeited, or contraband or suspected of being misbranded, counterfeited, or contraband shall be quarantined and physically separated from other nonprescription drugs, precursor chemicals, or regulated chemicals until the nonprescription drug, precursor chemical, or regulated chemical is destroyed or returned to the manufacturer or wholesale distributor from which it was acquired as authorized by the Board and the FDA. When the immediate or sealed outer or secondary containers or product labeling are determined to be misbranded, counterfeited, or contraband or suspected of being misbranded, counterfeited, or contraband, the nonprescription drug wholesale permittee shall provide notice of the misbranding, counterfeiting, or contrabandage or suspected misbranding, counterfeiting, or contrabandage within three business days of the determination to the Board, FDA, and manufacturer or wholesale distributor from which the nonprescription drug, precursor chemical, or regulated chemical was acquired.
 - c. Any nonprescription drug, precursor chemical, or regulated chemical that has been opened or used, but is not adulterated, misbranded, counterfeited, or contraband or suspected of being misbranded, counterfeited, or contraband, shall be identified as opened or used, or both, and quarantined and physically separated from other nonprescription drugs, precursor chemicals, or regulated chemicals until the nonprescription drug, precursor chemical, or regulated chemical is destroyed or returned to the manu-

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- facturer or wholesale distributor from which it was acquired as authorized by the Board and the FDA.
- d. If the conditions under which a nonprescription drug, precursor chemical, or regulated chemical has been returned cast doubt on the nonprescription drug's, precursor chemical's, or regulated chemical's safety, identity, strength, quality, or purity, the nonprescription drug, precursor chemical, or regulated chemical shall be quarantined and physically separated from other nonprescription drugs, precursor chemicals, or regulated chemicals until the nonprescription drug, precursor chemical, or regulated chemical is destroyed or returned to the manufacturer or wholesale distributor from which it was acquired as authorized by the Board and the FDA, except as provided in subsection (I)(2)(d)(i).
 - i. If examination, testing, or other investigation proves that the nonprescription drug, precursor chemical, or regulated chemical meets appropriate standards of safety, identity, strength, quality, and purity, it does not need to be destroyed or returned to the manufacturer or wholesale distributor.
 - ii. In determining whether the conditions under which a nonprescription drug, precursor chemical, or regulated chemical has been returned cast doubt on the nonprescription drug's, precursor chemical's, or regulated chemical's safety, identity, strength, quality, or purity, the nonprescription drug wholesale permittee shall consider, among other things, the conditions under which the nonprescription drug, precursor chemical, or regulated chemical has been held, stored, or shipped before or during its return and the condition of the nonprescription drug, precursor chemical, or regulated chemical and the condition of its container, carton, or product labeling as a result of storage or shipping.
 - e. For any nonprescription drug, precursor chemical, or regulated chemical identified under subsections (I)(2)(a) or (b), the nonprescription drug wholesale permittee shall ensure that the identified item or items and other evidence of criminal activity, and accompanying documentation is retained and not destroyed until its disposition is authorized by the Board and the FDA.
3. A full-service drug wholesale permittee and nonprescription drug wholesale permittee shall comply with the recordkeeping requirements of subsection (G) for all outdated, damaged, deteriorated, adulterated, misbranded, counterfeited and contraband narcotics or other controlled substances, prescription-only drugs or devices, nonprescription drugs, precursor chemicals, or regulated chemicals.
- J. Facility.** A full-service or nonprescription drug wholesale permittee shall:
1. Ensure that the facility occupied by the full-service or nonprescription drug wholesale permittee is of adequate size and construction, well-lighted inside and outside, adequately ventilated, and kept clean, uncluttered, and sanitary;
 2. Ensure that the permittee's warehouse facility:
 - a. Is secure from unauthorized entry; and
 - b. Has an operational security system designed to provide protection against theft;
 3. In a full-service drug wholesale facility, ensure that only authorized personnel may enter areas where any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is kept;
 4. In a nonprescription drug wholesale facility, ensure that only authorized personnel may enter areas where any nonprescription drug, precursor chemical, or regulated chemical is kept;
 5. In a full-service drug wholesale facility, ensure that any thermolabile narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is stored in an area where room temperature is maintained in compliance with storage conditions prescribed on the product label;
 6. In a nonprescription drug wholesale facility, ensure that any thermolabile nonprescription drug, precursor chemical, or regulated chemical is stored in an area where room temperature is maintained in compliance with storage conditions prescribed on the product label;
 7. Make the facility available for inspection by a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(5) during regular business hours;
 8. In a full-service drug wholesale facility, provide a quarantine area for storage of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical that is outdated, damaged, deteriorated, adulterated, misbranded, counterfeited, or contraband or suspected of being adulterated, misbranded, counterfeited, or contraband, otherwise deemed unfit for human or animal consumption, or that is in an open container; and
 9. In a nonprescription drug wholesale facility, provide a quarantine area for storage of any nonprescription drug, precursor chemical, or regulated chemical that is outdated, damaged, deteriorated, adulterated, misbranded, counterfeited, or contraband or suspected of being adulterated, misbranded, counterfeited, or contraband, otherwise deemed unfit for human or animal consumption, or that is in an open container.
- K. Quality controls.**
1. A full-service drug wholesale permittee shall:
 - a. Ensure that any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical that meets the criteria specified in subsection (I)(1) is not sold, distributed, or delivered to any person for human or animal consumption;
 - b. Ensure that a narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is not manufactured, packaged, repackaged, labeled, or relabeled by any of its employees;
 - c. Ensure that any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical stocked, sold, offered for sale, or delivered is:
 - i. Kept clean,
 - ii. Protected from contamination and other deteriorating environmental factors, and
 - iii. Stored in a manner that complies with applicable federal and state law and official compendium storage requirements;

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- d. Maintain manual or automatic temperature and humidity recording devices or logs to document conditions in areas where any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is stored; and
 - e. Develop and implement a program to ensure that:
 - i. Any expiration-dated narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is reviewed regularly;
 - ii. Any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical that has less than 120 days remaining on the expiration date, or is deteriorated, damaged, or does not comply with federal law, is moved to a quarantine area and not sold or distributed; and
 - iii. Any quarantined narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is destroyed or returned to the manufacturer or wholesale distributor from which it was acquired.
2. A nonprescription drug wholesale permittee shall:
- a. Ensure that any nonprescription drug, precursor chemical, or regulated chemical that meets the criteria specified in subsection (I)(2) is not sold, distributed, or delivered to any person for human or animal consumption;
 - b. Ensure that a nonprescription drug, precursor chemical, or regulated chemical is not manufactured, packaged, repackaged, labeled, or relabeled by any of its employees;
 - c. Ensure that any nonprescription drug, precursor chemical, or regulated chemical stocked, sold, offered for sale, or delivered is:
 - i. Kept clean,
 - ii. Protected from contamination and other deteriorating environmental factors, and
 - iii. Stored in a manner that complies with applicable federal and state law and official compendium storage requirements;
 - d. Maintain manual or automatic temperature and humidity recording devices or logs to document conditions in areas where any nonprescription drug, precursor chemical, or regulated chemical is stored; and
 - e. Develop and implement a program to ensure that:
 - i. Any expiration-dated nonprescription drug, precursor chemical, or regulated chemical is reviewed regularly;
 - ii. Any nonprescription drug, precursor chemical, or regulated chemical that has less than 120 days remaining on the expiration date, or is deteriorated, damaged, or does not comply with federal law, is moved to a quarantine area and not sold or distributed; and
 - iii. Any quarantined nonprescription drug, precursor chemical, or regulated chemical is destroyed or returned to the manufacturer or wholesale distributor from which it was acquired.
- L. Fingerprint clearance.
- 1. After receiving the state and federal criminal history record of a designated representative, the Board shall compare the record with the list of criminal offenses that preclude a designated representative from receiving a fingerprint clearance. If the designated representative's criminal history record does not contain any of the offenses listed in subsection (L)(2), the Board shall issue the designated representative a fingerprint clearance.
 - 2. The Board shall not issue a fingerprint clearance to a designated representative who is awaiting trial for or who has been convicted of committing or attempting or conspiring to commit one or more of the following offenses in this state or the same or similar offenses in another state or jurisdiction:
 - a. Unlawfully administering intoxicating liquors, controlled substances, dangerous drugs, or prescription-only drugs;
 - b. Sale of peyote;
 - c. Possession, use, or sale of marijuana, dangerous drugs, prescription-only drugs, or controlled substances;
 - d. Manufacture or distribution of an imitation controlled substance;
 - e. Manufacture or distribution of an imitation prescription-only drug;
 - f. Possession or possession with intent to use an imitation controlled substance;
 - g. Possession or possession with intent to use an imitation prescription-only drug; or
 - h. A felony offense involving sale, distribution, or transportation of, offer to sell, transport, or distribute, or conspiracy to sell, transport, or distribute marijuana, dangerous drugs, prescription-only drugs, or controlled substances.
 - 3. If after conducting a state and federal criminal history record check the Board determines that it is not authorized to issue a fingerprint clearance, the Board shall notify the full-service drug wholesale applicant or permittee that employs the designated representative that the Board is not authorized to issue a fingerprint clearance. This notice shall include the criminal history information on which the denial was based. This criminal history information is subject to dissemination restrictions under A.R.S. § 41-1750 and federal law.
 - 4. The issuance of a fingerprint clearance does not entitle a person to employment.
- Historical Note**
- Former Rules 6.5110, 6.5120, 6.5130, 6.5140, 6.5210, 6.5220, 6.5230, 6.5240, 6.5310, 6.5320, 6.5410, and 6.5420. Amended effective August 10, 1978 (Supp. 78-4). Amended effective April 20, 1982 (Supp. 82-2). Amended subsection (A) effective August 12, 1988 (Supp. 88-3). Amended effective February 8, 1991 (Supp. 91-1). Amended effective August 24, 1992 (Supp. 92-3). Amended by final rulemaking at 6 A.A.R. 4589, effective November 14, 2000 (Supp. 00-4). Amended by final rulemaking at 10 A.A.R. 232, effective March 6, 2004 (Supp. 04-1). Amended by final rulemaking at 11 A.A.R. 1105, effective April 30, 2005 (Supp. 05-1). Amended by final rulemaking at 11 A.A.R. 4270, effective December 6, 2005 (Supp. 05-4). Amended by final rulemaking at 13 A.A.R. 3477, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 19 A.A.R. 702, effective June 1, 2013 (Supp. 13-2).
- R4-23-606. Resident-Pharmacy Permit: Community, Hospital, and Limited Service**

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- A. Permit.** A person shall not operate a pharmacy in Arizona without a current Board-issued pharmacy permit.
- B. Application.**
1. To obtain a permit to operate a pharmacy in Arizona, a person shall submit a completed application form and fee as specified in R4-23-602 that includes:
 - a. Documentation of compliance with local zoning laws, if required by the Board;
 - b. A detailed floor plan showing proposed pharmacy area including size and security;
 - c. A copy of the lease agreement, if applicable; and
 - d. A disclosure statement indicating whether a medical practitioner will receive compensation, either directly or indirectly, from the pharmacy.
 2. Before issuing a pharmacy permit, the Board shall:
 - a. Receive and approve a completed permit application; and
 - b. Receive a satisfactory compliance inspection report on the facility from a Board compliance officer.
 3. Before issuing a pharmacy permit, the Board may interview the applicant and the pharmacist-in-charge, if different from the applicant, at a Board meeting based on the need for additional information.
- C. Notification.** A pharmacy permittee shall notify the Board office within ten days of changes involving the type of pharmacy operated, telephone number, facsimile number, e-mail address, mailing address, name of business, or staff pharmacist. A pharmacy permittee shall provide the Board office immediate notice of a change of the pharmacist-in-charge.
- D. If any nonprescription drugs are sold outside the pharmacy area when the pharmacy area is closed, the pharmacy permittee shall ensure that the business has a current, Board-issued nonprescription drug permit as required in Section R4-23-603.**
- E. Change of ownership.** No less than 14 days before a change of ownership occurs that involves changes of stock ownership of 30% or more of the voting stock of a corporation or an existing and continuing corporation that is not actively traded on any securities market or over-the-counter market, the prospective owner shall submit a completed application form and fee as specified in subsection (B).
- F. Relocation or remodel.**
1. No less than 30 days before the relocation or remodel of an existing pharmacy, the pharmacy permittee shall submit a completed application for remodel or relocation electronically or manually on a form furnished by the Board.
 - a. An application for relocation shall include the documents required by subsections (B)(1)(a) through (d).
 - b. An application for remodel shall include the document required by subsection (B)(1)(b).
 2. The new or remodeled facility shall pass a final inspection by a Board compliance officer before operations begin.
- G. Permit renewal.** Permit renewal shall be as specified in R4-23-602(D).

Historical Note

Former Rules 6.6010, 6.6020, 6.6030, 6.6040, 6.6050, 6.6060, 6.6071, 6.6072, 6.6073, 6.6074, 6.6075, and 6.6076. Amended effective August 10, 1978 (Supp. 78-4). Amended subsections (G) and (H) effective April 20, 1982 (Supp. 82-2). Amended subsection (L) effective July 2, 1982 (Supp. 82-4). Amended subsections (G) and (H) effective August 12, 1988 (Supp. 88-3). Amended effective November 1, 1993 (Supp. 93-4). Section heading amended effective April 5, 1996 (Supp. 96-2). Amended by final rulemaking at 7 A.A.R. 3825, effective

August 9, 2001 (Supp. 01-3). Amended by final rulemaking at 20 A.A.R. 1364, effective August 2, 2014 (Supp. 14-2).

R4-23-607. Nonresident Permits

- A. Permit.** A person who is not a resident of Arizona shall not sell or distribute any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical into Arizona without:
1. Processing a current Board-issued nonresident pharmacy permit, nonresident manufacturer permit, nonresident full-service or nonprescription drug wholesale permit, or nonresident nonprescription drug permit;
 2. Possessing a current equivalent license or permit issued by the licensing authority in the jurisdiction where the person or firm resides;
 3. For a nonresident pharmacy, employing a pharmacist who is designated as the pharmacist-in-charge and who possesses a current Arizona Board-issued pharmacist license; and
 4. For a nonresident pharmacy permit issued before April 7, 2007, complying with subsection (A)(3) and submitting to the Board the pharmacist-in-charge's name, current Arizona Board-issued pharmacist license number, and telephone number by November 1, 2007.
- B. Application.** To obtain a nonresident pharmacy, nonresident manufacturer, nonresident full-service or nonprescription drug wholesale, or nonprescription drug permit, a person shall submit a completed application, on a form furnished by the Board, that includes:
1. Business name, address, mailing address, if different, telephone number, and facsimile number;
 2. Owner's name, if corporation or partnership, officers or partners, including address and title, and any other trade or business names used;
 3. Whether the owner, corporation, or partnership has conducted a similar business in any other jurisdiction and if so, indicate under what name and location;
 4. Whether the owner, any officer, or active partner has ever been convicted of an offense involving moral turpitude, a felony offense, or any drug-related offense or has any currently pending felony or drug-related charges, and if so, indicate charge, conviction date, jurisdiction, and location;
 5. A copy of the applicant's current equivalent license or permit, issued by the licensing authority in the jurisdiction where the person or firm resides and required by subsection (A)(2);
 6. For an application submitted because of ownership change, the former owner's name and business name, if different;
 7. Date signed, and applicant's, corporate officer's, partner's, manager's, administrator's, pharmacist-in-charge's, or designated representative's verified signature and title; and
 8. Fee specified in R4-23-205.
- C. In addition to the requirements of subsection (B), the following information is required on the application:**
1. Nonresident pharmacy.
 - a. The type of pharmacy;
 - b. Whether the owner, any officer, or active partner has ever been denied a pharmacy permit in this state or any other jurisdiction, and if so, indicate where and when;
 - c. If applying for a hospital pharmacy permit, the number of beds, manager's or administrator's name, and a copy of the hospital's current equivalent license or

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- permit issued by the licensing authority in the jurisdiction where the person or firm resides;
- d. Pharmacist-in-charge's name, current Arizona Board-issued pharmacist license number, and telephone number; and
 - e. For an application submitted because of ownership change, the former pharmacy's name, address, and permit number; and
2. Nonresident manufacturer.
 - a. Whether the owner, any officer, or active partner has ever been denied a drug manufacturer permit in this state or any other jurisdiction, and if so, indicate where and when;
 - b. A copy of the drug list required by the FDA;
 - c. Manager's or responsible person's name, address, and emergency telephone number; and
 - d. The firm's current FDA drug manufacturer or repackager registration number and expiration date; and
 3. Nonresident full-service drug wholesaler.
 - a. The designated representative's name, address, and emergency telephone number;
 - b. Documentation that the designated representative meets the requirements of A.R.S. § 32-1982(B) and the following as specified in A.R.S. § 32-1982(C):
 - i. A full set of fingerprints from the designated representative; and
 - ii. The state and federal criminal history record check fee specified by and made payable to the Arizona State Department of Public Safety by money order, certified check, or bank draft; and
 - c. A \$100,000 bond as specified in A.R.S. § 32-1982(D) submitted on a form supplied by the Board; and
 4. Nonresident full-service or nonprescription drug wholesaler.
 - a. The type of drug wholesale permit;
 - b. Whether the owner, any officer, or active partner has ever been denied a drug wholesale permit in this state or any other jurisdiction, and if so, indicate where and when;
 - c. The types of drugs, nonprescription, prescription-only, controlled substances, human, or veterinary, the applicant will distribute;
 - d. Manager's or designated representative's name, address, emergency telephone number, and resumé indicating educational or experiential qualifications related to drug wholesale operation; and
 5. Nonresident nonprescription drug retailer.
 - a. Whether applying for Category I or Category II permit;
 - b. Date business started or planned opening date; and
 - c. Type of business, such as convenience, drug, grocery, or health food store, swap-meet vendor, or vending machine.
- D.** Before issuing a nonresident full-service drug wholesale permit, the Board shall:
1. Receive and approve a completed permit application; and
 2. Issue a fingerprint clearance to a qualified designated representative, as specified in R4-23-605(L). If a nonresident full-service drug wholesale permit applicant's designated representative's fingerprint clearance is denied, the nonresident full-service drug wholesale permit applicant shall appoint another designated representative and submit the documentation, fingerprints, and fee required in subsection (C)(3)(b).
- E.** Notification. A permittee shall submit any notification of change required in this subsection as a written notice via mail, fax, or e-mail to the Executive Director within 10 days of the change, except any change of ownership requires that the nonresident permittee comply with subsection (F).
1. Nonresident pharmacy. A nonresident pharmacy permittee shall notify the Board of changes involving the type of pharmacy operated, ownership, address, telephone number, name of business, or pharmacist-in-charge.
 2. Nonresident manufacturer. A nonresident manufacturer permittee shall notify the Board of changes involving listed drugs, ownership, address, telephone number, name of business, or manager, including manager's telephone number.
 3. Nonresident drug wholesaler. A nonresident full-service or nonprescription drug wholesale permittee shall notify the Board of changes involving the types of drugs sold or distributed, ownership, address, telephone number, name of business, or manager or designated representative, including the manager's or designated representative's telephone number. For a change of designated representative, a nonresident full-service drug wholesale permittee shall submit the documentation, fingerprints, and fee required in subsection (C)(3)(b). If a nonresident full-service drug wholesale permit applicant's designated representative's fingerprint clearance is denied, the nonresident full-service drug wholesale permittee shall appoint another designated representative and submit the documentation, fingerprints, and fee required in subsection (C)(3)(b).
 4. Nonresident nonprescription drug retailer. A nonresident nonprescription drug permittee shall notify the Board of changes involving permit category, ownership, address, telephone number, name of business, or manager, including manager's telephone number.
- F.** Change of ownership. Before a change of ownership occurs that involves changes of stock ownership of more than 30% of the voting stock of a corporation or an existing and continuing corporation that is not actively traded on any securities market or over-the-counter market, the prospective owner shall submit the appropriate application packet described under subsections (B) and (C).
- G.** Drug sales.
1. Nonresident pharmacy. A nonresident pharmacy permittee shall:
 - a. Not sell, distribute, give away, or dispose of any narcotic or other controlled substance or prescription-only drug or device, to anyone in Arizona except:
 - i. A pharmacy, drug manufacturer, or full-service drug wholesaler currently permitted by the Board;
 - ii. A medical practitioner currently licensed under A.R.S. Title 32; or
 - iii. An Arizona resident upon receipt of a valid prescription order for the resident;
 - b. Not sell, distribute, give away, or dispose of any nonprescription drug, precursor chemical, or regulated chemical, to anyone in Arizona except:
 - i. A pharmacy, drug manufacturer, full-service or nonprescription drug wholesaler, or nonprescription drug retailer currently permitted by the Board;
 - ii. A medical practitioner currently licensed under A.R.S. Title 32; or
 - iii. An Arizona resident either upon receipt of a valid prescription order for the resident or in

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- the original container packaged and labeled by the manufacturer;
- c. Except for a drug sale that results from the receipt and dispensing of a valid prescription order for an Arizona resident, maintain a copy of the current permit or license of each person or firm in Arizona who buys, receives, or disposes of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical; and
 - d. Provide permit and license records upon request, if immediately available, or in no less than two business days from the date of the request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(5).
2. Nonresident manufacturer. A nonresident manufacturer permittee shall:
 - a. Not sell, distribute, give away, or dispose of any narcotic or other controlled substance or prescription-only drug or device, to anyone in Arizona except, a pharmacy, drug manufacturer, or full-service drug wholesaler currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;
 - b. Not sell, distribute, give away, or dispose of any nonprescription drug, precursor chemical, or regulated chemical, to anyone in Arizona except, a pharmacy, drug manufacturer, full-service or nonprescription drug wholesaler, or nonprescription drug retailer currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;
 - c. Maintain a copy of the current permit or license of each person or firm in Arizona who buys, receives, or disposes of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical; and
 - d. Provide permit and license records upon request, if immediately available, or in no less than two business days from the date of the request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(5).
 3. Nonresident full-service drug wholesaler. In addition to complying with the distributions restrictions specified in A.R.S. § 32-1983, a nonresident full-service drug wholesale permittee shall:
 - a. Not sell, distribute, give away, or dispose of, any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical to anyone in Arizona, except in the original container, packaged and labeled by the manufacturer or repackager;
 - b. Not package, repack, label, or relabel any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical for shipment or delivery to anyone in Arizona;
 - c. Provide pedigree records upon request, if immediately available, or in no less than two business days from the date of the request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(5);
 - d. Not sell, distribute, give away, or dispose of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical to anyone in Arizona except a pharmacy, drug manufacturer, or full-service drug wholesaler currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;
 - e. Not sell, distribute, give away, or dispose of, any nonprescription drug, precursor chemical, or regulated chemical, to anyone in Arizona except, a pharmacy, drug manufacturer, full-service or nonprescription drug wholesaler, or nonprescription drug retailer currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;
 - f. Maintain a copy of the current permit or license of each person or firm in Arizona who buys, receives, or disposes of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical; and
 - g. Provide permit and license records upon request, if immediately available, or in no less than two business days from the date of the request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(5).
 4. Nonresident nonprescription drug wholesaler. A nonresident nonprescription drug wholesale permittee shall:
 - a. Not sell, distribute, give away, or dispose of any nonprescription drug, precursor chemical, or regulated chemical to anyone in Arizona, except in the original container, packaged and labeled by the manufacturer or repackager;
 - b. Not package, repack, label, or relabel any nonprescription drug, precursor chemical, or regulated chemical for shipment or delivery to anyone in Arizona;
 - c. Not sell, distribute, give away, or dispose of, any nonprescription drug, precursor chemical, or regulated chemical, to anyone in Arizona except, a pharmacy, drug manufacturer, full-service or nonprescription drug wholesaler, or nonprescription drug retailer currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;
 - d. Maintain a copy of the current permit or license of each person or firm in Arizona who buys, receives, or disposes of any nonprescription drug, precursor chemical, or regulated chemical; and
 - e. Provide permit and license records upon request, if immediately available, or in no less than two business days from the date of the request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(5).
 5. Nonresident nonprescription drug retailer. A nonresident nonprescription drug permittee shall not:
 - a. Sell, distribute, give away, or dispose of a nonprescription drug, precursor chemical, or regulated chemical to anyone in Arizona except in the original container packaged and labeled by the manufacturer;
 - b. Package, repack, label, or relabel any drug, precursor chemical, or regulated chemical for shipment or delivery to anyone in Arizona; or
 - c. Sell, distribute, give away, or dispose of any drug, precursor chemical, or regulated chemical to anyone in Arizona that exceeds its expiration date, is contaminated or deteriorated from excessive heat, cold,

sunlight, moisture, or other factors, or does not comply with federal law.

- H. When selling or distributing any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical into Arizona, a nonresident pharmacy, nonresident manufacturer, nonresident full-service or nonprescription drug wholesale, or nonprescription drug permittee shall comply with federal law, the permittee's resident state drug law, and this Section.

Historical Note

Former Rules 6.6110, 6.6120, and 6.6130; Amended effective August 10, 1978 (Supp. 78-4). Repealed effective July 24, 1985 (Supp. 85-4). New Section adopted by final rulemaking at 6 A.A.R. 4589, effective November 14, 2000 (Supp. 00-4). Amended by final rulemaking at 7 A.A.R. 3825, effective August 9, 2001 (Supp. 01-3). Amended by final rulemaking at 10 A.A.R. 232, effective March 6, 2004 (Supp. 04-1). Amended by final rulemaking at 13 A.A.R. 520, effective April 7, 2007 (Supp. 07-1). Amended by final rulemaking at 13 A.A.R. 3477, effective December 1, 2007 (Supp. 07-4).

R4-23-608. Change of Personnel and Responsibility

- A. A community, hospital, or limited-service pharmacy permittee shall give the Board:
1. Notice by mail, facsimile, or electronic mail within ten days of employing or terminating a pharmacist; and
 2. Immediate notice of designating or terminating a pharmacist-in-charge.
- B. Responsibility of ownership and management. The owner and management of a pharmacy shall:
1. Ensure that pharmacists, interns, and other pharmacy employees comply with state and federal laws and administrative rules; and
 2. Not overrule a pharmacist in matters of pharmacy ethics and interpreting laws pertaining to the practice of pharmacy or the distribution of drugs and devices.
- C. The Board may suspend or revoke a pharmacy permit if the owner or management of a pharmacy violates subsection (B).

Historical Note

Former Rules 6.6140 and 6.6150; Amended subsection (A) effective August 9, 1983 (Supp. 83-4). Amended effective November 1, 1993 (Supp. 93-4). Amended by final rulemaking at 7 A.A.R. 4253, effective September 11, 2001 (Supp. 01-3).

R4-23-609. Pharmacy Area of Community Pharmacy

- A. Minimum area of community pharmacy. The minimum area of a community pharmacy, the actual area primarily devoted to stocking drugs restricted to pharmacists, and to the compounding and dispensing of prescription medication, exclusive of office area or other support function area, shall not be less than 300 square feet. A maximum of three pharmacy personnel may practice or work simultaneously in the minimum area. The pharmacy permittee shall provide an additional 60 square feet of floor area for each additional pharmacist, graduate intern, pharmacy intern, pharmacy technician, pharmacy technician trainee, or support personnel who may practice or work simultaneously. All of the allotted square footage area, including adequate shelving, shall lend itself to efficient pharmaceutical practice and permit free movement and visual surveillance of personnel by the pharmacist.
- B. Compounding and dispensing counter. On or after January 6, 2004, a pharmacy permit applicant or remodel or relocation applicant shall provide a compounding and dispensing counter that provides a minimum of three square feet of pharmacy

counter working area of not less than 16 inches in depth and 24 inches in length for the practice of one pharmacist, graduate intern, pharmacy intern, pharmacy technician, or pharmacy technician trainee. For each additional pharmacist, graduate intern, pharmacy intern, pharmacy technician, or pharmacy technician trainee practicing simultaneously, there shall be an additional three square feet of pharmacy counter working area of not less than 16 inches in depth and 24 inches in length. The Board shall determine a pharmacy's total required compounding and dispensing counter area by multiplying the maximum number of personnel allowed in the pharmacy area using the requirements specified in subsection (A) by three square feet per person. A pharmacy permittee or pharmacist-in-charge may operate the pharmacy with a total pharmacy counter working area specified in subsection (A) that is equal to the actual maximum number of pharmacists, graduate interns, pharmacy interns, pharmacy technicians, and pharmacy technician trainees, working simultaneously in the pharmacy area times three square feet per person.

- C. Working area for compounding and dispensing counter. The aisle floor area used by the pharmacist, graduate intern, pharmacy intern, pharmacy technician, or pharmacy technician trainee at the compounding and dispensing counter shall extend the full length of the counter and be clear and continuous for a minimum of 36 inches from any counter, fixture, or structure.
- D. Area for patient counseling. On or after April 1, 1995, a pharmacy permit applicant or remodel or relocation applicant shall provide a separate and distinct patient counseling area that provides patient privacy. This subsection does not apply to a pharmacy exempt from the requirements of R4-23-402(B).
- E. Narcotic cabinet or safe. To prevent diversion, narcotics and other controlled substances may be:
1. Kept in a separate locked cabinet or safe, or
 2. Dispersed throughout the pharmacy's prescription-only drug stock.
- F. Building security standard of community pharmacy area. The pharmacy area shall be enclosed by a permanent barrier or partition from floor or counter to structural ceiling or roof, with entry doors that can be securely locked. The barrier shall be designed so that only a pharmacist can access the area where prescription-only drugs, narcotics, and other controlled substances are stored, compounded and dispensed. The permanent barrier may be constructed of other than a solid material. If constructed of a material other than a solid, the openings or interstices of the material shall not be large enough to permit removal of items in the pharmacy area through the barrier. Any material used in the construction of the permanent barrier must be of sufficient strength and thickness that it cannot be readily or easily removed, penetrated, or bent. The pharmacy permittee shall submit plans and specifications of the permanent barrier to the Board for approval.
- G. Drug storage and security.
1. The pharmacy permittee shall ensure that drugs and devices are stored in a dry, well-lit, ventilated, and clean and orderly area. The pharmacy permittee shall maintain the drug storage area at temperatures that ensure the integrity of the drugs before dispensing as stated in the official compendium defined in A.R.S. § 32-1901(55) or the manufacturer's or distributor's labeling.
 2. If the pharmacy permittee needs additional storage area for drugs that are restricted to sale by a pharmacist, the pharmacy permittee shall ensure that the area is contained by a permanent barrier from floor or counter to structural ceiling or roof. The pharmacy permittee shall lock all doors and gates to the drug storage area. Only a pharma-

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cist with a key is permitted to enter the storage area, except in an extreme emergency.

- H. A pharmacy permittee or pharmacist-in-charge shall ensure that the pharmacy working counter area is protected from unauthorized access while the pharmacy is open for business by a barrier not less than 66 inches in height or another method approved by the Board or its designee.

Historical Note

Former Rules 6.6210, 6.6220, 6.6230, 6.6240, 6.6250, 6.6310, 6.6320, and 6.6330; Amended effective August 10, 1978 (Supp. 78-4). Amended effective August 9, 1983 (Supp. 83-4). Amended effective November 1, 1993 (Supp. 93-4). Amended effective April 1, 1995; filed with the Secretary of State January 31, 1995 (Supp. 95-1). Amended by final rulemaking at 9 A.A.R. 5030, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 19 A.A.R. 97, effective March 10, 2013 (Supp. 13-1).

R4-23-610. Community Pharmacy Personnel and Security Procedures

- A. Every pharmacy shall have a pharmacist designated as the "pharmacist-in-charge."
1. The pharmacist-in-charge shall ensure the communication and compliance of Board directives to the management, other pharmacists, interns, and technicians of the pharmacy.
 2. The pharmacist-in-charge shall:
 - a. Ensure that all pharmacy policies and procedures required under 4 A.A.C. 23 are prepared, implemented, and complied with;
 - b. Review biennially and, if necessary, revise all pharmacy policies and procedures required under 4 A.A.C. 23;
 - c. Document the review required under subsection (A)(2)(b);
 - d. Ensure that all pharmacy policies and procedures required under 4 A.A.C. 23 are assembled as a written or electronic manual; and
 - e. Make all pharmacy policies and procedures required under 4 A.A.C. 23 available in the pharmacy for employee reference and inspection by the Board or its staff.
- B. Personnel permitted in the pharmacy area of a community pharmacy include pharmacists, graduate interns, pharmacy interns, compliance officers, drug inspectors, peace officers acting in their official capacity, other persons authorized by law, pharmacy technicians, pharmacy technician trainees, support personnel, and other designated personnel. Pharmacy interns, graduate interns, pharmacy technicians, pharmacy technician trainees, support personnel, and other designated personnel shall be permitted in the pharmacy area only when a pharmacist is on duty, except in an extreme emergency as defined in R4-23-110.
1. The pharmacist-in-charge shall comply with the minimum area requirements as described in R4-23-609 for a community pharmacy and for compounding and dispensing counter area.
 2. A pharmacist employed by a pharmacy shall ensure that the pharmacy is physically secure while the pharmacist is on duty.
- C. In a community pharmacy, a pharmacist shall ensure that the pharmacy area, and any additional storage area for drugs that is restricted to access only by a pharmacist is locked when a pharmacist is not present, except in an extreme emergency.

- D. A pharmacist is the only person permitted by the Board to unlock the pharmacy area or any additional storage area for drugs restricted to access only by a pharmacist, except in an extreme emergency.
- E. A pharmacy permittee or pharmacist-in-charge shall ensure that any prescription-only drugs and controlled substances received in an area outside the pharmacy area are immediately transferred unopened to the pharmacy area. The pharmacist-in-charge shall ensure that any prescription-only drug and controlled substance shipments are opened and marked by pharmacy personnel in the pharmacy area under the supervision of a pharmacist, graduate intern, or pharmacy intern.
- F. A pharmacy permittee or pharmacist-in-charge may provide a small opening or slot through which a written prescription order or prescription medication container to be refilled may be left in the prescription area when the pharmacist is not present.
- G. A pharmacist shall ensure that prescription medication is not left outside the prescription area or picked up by the patient when the pharmacist is not present by either:
1. Delivering the prescription medication to the patient, or
 2. Securing the prescription medication inside the locked pharmacy, except when using an automated storage and distribution system that complies with the requirements of R4-23-614.

Historical Note

Former Rules 6.6410, 6.6420, 6.6430, 6.6440, 6.6450, 6.6460, 6.6470, 6.6480, and 6.6490; Amended subsection (F), deleted subsection (I) effective August 9, 1983 (Supp. 83-4). Amended effective May 16, 1990 (Supp. 90-2). Amended effective November 1, 1993 (Supp. 93-4). Amended effective April 1, 1995; filed with the Secretary of State January 31, 1995 (Supp. 95-1). Amended by final rulemaking at 5 A.A.R. 4441, effective November 2, 1999 (Supp. 99-4). Amended by final rulemaking at 10 A.A.R. 4453, effective December 4, 2004 (Supp. 04-4). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3). Amended by final rulemaking at 13 A.A.R. 2631, effective September 8, 2007 (Supp. 07-3).

R4-23-611. Pharmacy Facilities

- A. Facilities. A pharmacy permittee or pharmacist-in-charge shall ensure that:
1. A pharmacy's facilities are constructed according to state and local laws and ordinances;
 2. A pharmacy facility's:
 - a. Walls, ceilings, windows, floors, shelves, and equipment are clean and in good repair and order; and
 - b. Counters, shelves, aisles, and open spaces are not cluttered;
 3. Adequate trash receptacles are provided and emptied periodically during the day;
 4. A pharmacy facility of any pharmacy permit issued or pharmacy remodeled after February 1, 2014 provides access to toilet facilities either:
 - a. Within the pharmacy area, or
 - b. No further than a walking distance of 100 feet from the pharmacy area or an alternative distance approved by the Board or its designee;
 5. The toilet facilities are maintained in a sanitary condition and in good repair;
 6. All professional personnel and staff of the pharmacy keep themselves and their apparel clean while in the pharmacy area;

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7. No animals, except licensed assistant animals and guard animals, are allowed in the pharmacy;
 8. The pharmacy facility is kept free of insects and rodents; and
 9. There is a sink with hot and cold running water, other than a sink in a toilet facility, within the pharmacy area for use in preparing drug products.
- B. Supply of drugs and chemicals.** A pharmacy permittee or pharmacist-in-charge shall ensure that:
1. A pharmacy maintains a stock of drugs and chemicals that:
 - a. Are sufficient to meet the normal demands of the trading area or patient base the pharmacy serves; and
 - b. Meet all standards of strength and purity as established by the official compendiums;
 2. All stock, materials, drugs, and chemicals held for ultimate sale or supply to the consumer are not contaminated;
 3. Policies and procedures are developed, implemented, and complied with to prevent the sale or use of a drug or chemical:
 - a. That exceeds its expiration date;
 - b. That is deteriorated or damaged by reason of age, heat, light, cold, moisture, crystallization, chemical reaction, rupture of coating, disintegration, solidification, separation, discoloration, change of odor, precipitation, or other change as determined by organoleptic examination or by other means;
 - c. That is improperly labeled;
 - d. Whose container is defective; or
 - e. That does not comply with federal law; and
 4. The policies and procedures described in subsection (B)(3):
 - a. Are made available in the pharmacy for employee reference and inspection by the Board or its designee; and
 - b. Provide the following:
 - i. Any expiration-dated drug or chemical is reviewed regularly;
 - ii. Any drug or chemical that exceeds its expiration date, is deteriorated or damaged, improperly labeled, has a defective container, or does not comply with federal law, is moved to a quarantine area and not sold or distributed; and
 - iii. Any quarantined drug or chemical is properly destroyed or returned to its source of supply.
 2. A C-V controlled substance register, if C-V controlled substances are sold without an order of a medical practitioner;
 3. Graduates in assorted sizes;
 4. One mortar and pestle, not required if the pharmacy permittee states in the application that compounding will not be performed in the pharmacy;
 5. Spatulas of assorted sizes including one nonmetallic;
 6. Prescription balance, Class A with weights or an electronic balance of equal or greater accuracy, not required if the pharmacy permittee states in the application that compounding will not be performed in the pharmacy;
 7. One ointment tile or equivalent, not required if the pharmacy permittee states in the application that compounding will not be performed in the pharmacy;
 8. A current hard-copy or access to a current electronic copy of the Arizona Pharmacy Act and administrative rules and Arizona Controlled Substance Act;
 9. A professional reference library consisting of a minimum of one current reference or text, in hard-copy or electronic media, addressing the following subject areas:
 - a. Pharmacology or toxicology,
 - b. Therapeutics,
 - c. Drug compatibility, and
 - d. Drug product equivalency;
 10. An assortment of labels, including prescription labels, transfer labels for controlled substances, and cautionary and warning labels;
 11. A red C stamp as defined in R4-23-110, if C-III, C-IV, and C-V controlled substance invoices are not filed separately from other invoices;
 12. Current antidote and drug interaction information; and
 13. Regional poison control phone number prominently displayed in the pharmacy area.

Historical Note

Former Rule 6.6670; Former Section R4-23-612 repealed, new Section R4-23-612 adopted effective August 10, 1978 (Supp. 78-4). Amended effective August 9, 1983 (Supp. 83-4). Amended effective April 5, 1996 (Supp. 96-2). Amended by final rulemaking at 7 A.A.R. 4253, effective September 11, 2001 (Supp. 01-3). Amended by final rulemaking at 19 A.A.R. 4165, effective February 1, 2014 (Supp. 13-4).

R4-23-613. Procedure for Discontinuing a Pharmacy

- A.** A pharmacy permittee or pharmacist-in-charge shall provide written notice to the Board and the Drug Enforcement Administration (D.E.A.) at least 14 days before discontinuing operation of the pharmacy. The notice shall contain the following information:
1. Name, address, pharmacy permit number, and D.E.A. registration number of the pharmacy discontinuing business;
 2. Name, address, pharmacy permit number (if applicable), and D.E.A. registration number (if applicable) of the licensee, permittee, or registrant to whom any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical will be sold or transferred;
 3. Name and address of the location where the discontinuing pharmacy's records of purchase and disbursement of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical will be kept and the person responsible for the records. These records shall be kept for a

Historical Note

Former Rules 6.6510, 6.6520, 6.6530, 6.6540, 6.6550, 6.6560, 6.6570, 6.6580, 6.6600, 6.6610, 6.6620, 6.6630, 6.6640, 6.6650, and 6.6660; Amended subsection (B) effective August 9, 1983 (Supp. 83-4). Amended effective April 1, 1995; filed with the Secretary of State January 31, 1995 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 4253, effective September 11, 2001 (Supp. 01-3). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3). Amended by final rulemaking at 19 A.A.R. 4165, effective February 1, 2014 (Supp. 13-4).

R4-23-612. Equipment

A pharmacy permittee or pharmacist-in-charge shall ensure that a pharmacy has the necessary equipment to allow a pharmacist to practice the profession of pharmacy, including the following:

1. Adequate refrigeration equipment dedicated to the storage of drugs and biologicals;

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- minimum of three years from the date the pharmacy is discontinued;
4. Name and address of the location where the discontinuing pharmacy's prescription files and patient profiles will be kept and the person responsible for the files and profiles. These records shall be kept for a minimum of seven years from the date the last original or refill prescription was dispensed; and
 5. The proposed date of discontinuing business operations.
- B.** The pharmacy permittee shall ensure that all pharmacy signs and symbols are removed from both the inside and outside of the premises.
- C.** The pharmacy permittee or pharmacist-in-charge shall ensure that all state permits and certificates of registration are returned to the Board office and that D.E.A. registration certificates and unused D.E.A. Schedule II order forms are returned to the D.E.A. Regional Office in Phoenix.
- D.** The pharmacist-in-charge of the pharmacy discontinuing business shall ensure that:
1. Only a pharmacist has access to the prescription-only drugs and controlled substances until they are transferred to the licensee, permittee, or registrant listed in subsection (A)(2);
 2. All narcotics or other controlled substances, prescription-only drugs or devices, nonprescription drugs, precursor chemicals, or regulated chemicals are removed from the premises on or before the date the pharmacy is discontinued; and
 3. All controlled substances are transferred as follows:
 - a. Take an inventory of all controlled substances that are transferred using the procedures in R4-23-1003;
 - b. Include a copy of the inventory with the controlled substances that are transferred;
 - c. Keep the original of the inventory with the discontinued pharmacy's records of narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical purchase and disbursement for a minimum of three years from the date the pharmacy is discontinued;
 - d. Use a D.E.A. form 222 to transfer any Schedule II controlled substances; and
 - e. Transfer controlled substances that need destruction in the same manner as all other controlled substances.
- E.** Upon receipt of outdated or damaged controlled substances from a discontinued pharmacy, the licensee, permittee, or registrant described in subsection (A)(2) shall contact a D.E.A. registered reverse distributor for proper destruction of outdated or damaged controlled substances. If there are controlled substances a reverse distributor will not accept, the licensee, permittee, or registrant shall then contact the Board office and request an inspection for the purpose of drug destruction.
- F.** During the three-year record retention period specified in subsection (A)(3), the person described in subsection (A)(3) shall provide to the Board upon its request a discontinued pharmacy's records of the purchase and disbursement of narcotics or other controlled substances, prescription-only drugs or devices, nonprescription drugs, precursor chemicals, or regulated chemicals.
- G.** During the seven-year record retention period specified in subsection (A)(4), the person described in subsection (A)(4) shall provide to the Board upon its request a discontinued pharmacy's records of prescription files and patient profiles.
- effective August 9, 2001 (Supp. 01-3). Amended by final rulemaking at 11 A.A.R. 1105, effective April 30, 2005 (Supp. 05-1). Amended by final rulemaking at 12 A.A.R. 1912, effective July 1, 2006 (Supp. 06-2). Amended by final rulemaking at 14 A.A.R. 3670, effective November 8, 2008 (Supp. 08-3).
- R4-23-614. Automated Storage and Distribution System**
- A.** Before using an automated storage and distribution system, a pharmacy permittee or pharmacist-in-charge shall:
1. Ensure that the automated storage and distribution system and the policies and procedures comply with subsection (B); and
 2. Notify the Board in writing of the intent to use an automated storage and distribution system, including the type or name of the system.
- B.** A pharmacy permittee or pharmacist-in-charge shall establish policies and procedures for appropriate performance and use of the automated storage and distribution system that:
1. Ensure that the automated storage and distribution system is in good working order while maintaining appropriate recordkeeping and security safeguards;
 2. Ensure that an automated storage and distribution system used by the pharmacy that allows access to drugs or devices by a patient:
 - a. Only contains prescriptions that:
 - i. Do not require oral consultation as specified in R4-23-402(B); and
 - ii. Are properly labeled and verified by a pharmacist before placement into the automated storage and distribution system and subsequent release to patients;
 - b. Allows a patient to choose whether or not to use the system;
 - c. Is located either in a wall of a properly permitted pharmacy or within 20 feet of a properly permitted pharmacy if the automated storage and distribution system is secured against the wall or floor in such a manner that prevents the automated storage and distribution system's unauthorized removal;
 - d. Provides a method to identify the patient and only release that patient's prescriptions;
 - e. Is secure from access and removal of drugs or devices by unauthorized individuals;
 - f. Provides a method for a patient to obtain a consultation with a pharmacist if requested by the patient; and
 - g. Does not allow the system to dispense refilled prescriptions if a pharmacist determines that the patient requires oral counseling as specified in R4-23-402(B);
 3. Ensure that an automated storage and distribution system used by the pharmacy that allows access to drugs or devices only by authorized licensed personnel for the purposes of administration based on a valid prescription order or medication order:
 - a. Provides for adequate security to prevent unauthorized individuals from accessing or obtaining drugs or devices; and
 - b. Provides for the filling, stocking, or restocking of all drugs or devices in the system only by a Board licensee or other authorized licensed personnel; and
 4. Implement an ongoing quality assurance program that monitors compliance with the established policies and procedures of the automated storage and distribution system and federal and state law.
- C.** A pharmacy permittee or pharmacist-in-charge shall:

Historical Note

New Section made by final rulemaking at 7 A.A.R. 3825,

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1. Ensure that the policies and procedures required under subsection (B) are prepared, implemented, and complied with;
 2. Review biennially and, if necessary, revise the policies and procedures required under subsection (B);
 3. Document the review required under subsection (C)(2);
 4. Assemble the policies and procedures as a written or electronic manual; and
 5. Make the policies and procedures available for employee reference and inspection by the Board or its staff within the pharmacy and at any location outside the pharmacy where the automated storage and distribution system is used.
- D.** The Board may prohibit a pharmacy permittee or pharmacist-in-charge from using an automated storage and distribution system if the pharmacy permittee or the pharmacy permittee's employees do not comply with the requirements of subsections (A), (B), or (C).

Historical Note

New Section made by final rulemaking at 13 A.A.R. 616, effective April 7, 2007 (Supp. 07-1).

R4-23-615. Mechanical Storage and Counting Device for a Drug in Solid, Oral Dosage Form

- A.** A pharmacy permittee or pharmacist-in-charge shall ensure that a mechanical storage and counting device for a drug in a solid, oral dosage form that is used by a pharmacist or a pharmacy intern, graduate intern, pharmacy technician, or pharmacy technician trainee under the supervision of a pharmacist complies with the following method to identify the contents of the device:
1. The drug name and strength are affixed to the front of each cell or cassette of the device;
 2. A paper or electronic log is kept for each cell or cassette that contains:
 - a. An identification of the cell or cassette by the drug name and strength or the number of the cell or cassette;
 - b. The drug's manufacturer or National Drug Code (NDC) number;
 - c. The expiration date and lot number from the manufacturer's stock bottle that is used to fill the cell or cassette. If multiple lot numbers of the same drug are added to a cell or cassette, each lot number and expiration date shall be documented, and the earliest expiration date shall become the expiration date of the mixed lot of drug in the cell or cassette;
 - d. The date the cell or cassette is filled;
 - e. Documentation of the identity of the licensee who placed the drug into the cell or cassette; and
 - f. If the licensee who filled the cell or cassette is not a pharmacist, documentation of the identity of the pharmacist who supervised the non-pharmacist licensee who filled the cell or cassette; and
 3. The paper or electronic log is available in the pharmacy for inspection by the Board or its designee for not less than two years.
- B.** A pharmacy permittee or pharmacist-in-charge shall ensure that any drug previously counted by a mechanical storage and counting device for a drug in a solid, oral dosage form that has not left the pharmacy is not returned to the drug's cell, cassette, or stock bottle, unless the drug return method is approved by the Board or its designee as specified in subsection (G). This subsection does not prevent a pharmacy permittee or pharmacist-in-charge from using a manual or mechanical counting device to count and dispense a previously counted drug that has not left the pharmacy if the previously counted drug is dispensed before its beyond-use-date.
- C.** A pharmacy permittee or pharmacist-in-charge shall ensure the accuracy of any mechanical storage and counting device for a drug in a solid, oral dosage form that is used by a pharmacist or a pharmacy intern, graduate intern, pharmacy technician, or pharmacy technician trainee under the supervision of a pharmacist by documenting completion of the following:
1. Training in the maintenance, calibration, and use of the mechanical storage and counting device for each employee who uses the mechanical storage and counting device;
 2. Maintenance and calibration of the mechanical storage and counting device as recommended by the device's manufacturer; and
 3. Routine quality assurance and accuracy validation testing for each mechanical storage and counting device.
- D.** A pharmacy permittee or pharmacist-in-charge shall ensure that the documentation required in subsection (C) is available for inspection by the Board or its designee.
- E.** A pharmacy permittee or pharmacist-in-charge shall:
1. Ensure that policies and procedures for the performance and use of a mechanical storage and counting device for a drug in a solid, oral dosage form are prepared, implemented, and complied with;
 2. Review biennially and, if necessary, revise the policies and procedures required under subsection (E)(1);
 3. Document the review required under subsection (E)(2);
 4. Assemble the policies and procedures as a written or electronic manual; and
 5. Make the policies and procedures available within the pharmacy for employee reference and inspection by the Board or its staff.
- F.** The Board may prohibit a pharmacy permittee or pharmacist-in-charge from using a mechanical storage and counting device for a drug in a solid, oral dosage form if the pharmacy permittee or the pharmacy permittee's employees do not comply with the requirements of subsections (A), (B), (C), (D), or (E).
- G.** Returning a drug previously counted by a mechanical storage and counting device for a drug in a solid, oral dosage form that has not left the pharmacy to the drug's cell or cassette.
1. Before returning a drug previously counted by a mechanical storage and counting device that has not left the pharmacy to the drug's cell or cassette, a pharmacy permittee or pharmacist-in-charge shall:
 - a. Apply for approval from the Board or its designee for the drug return method to be used in returning the drug;
 - b. Develop a drug return method that uses technology, such as bar coding, to prevent drug return errors;
 - c. Provide documentation depicting the drug return method;
 - d. Demonstrate the drug return method for a Board Compliance Officer; and
 - e. Receive approval from the Board or its designee for the drug return method to be used in returning the drug.
 2. Before approving a request to waive the drug return prohibition in subsection (B), the Board or its designee shall:
 - a. Receive a request in writing from the pharmacy permittee or pharmacist-in-charge;
 - b. Review the documentation of the drug return method; and
 - c. Receive a satisfactory inspection report from a Board Compliance Officer that the drug return

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method uses technology to prevent drug return errors.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 616, effective April 7, 2007 (Supp. 07-1). Amended by final rulemaking at 14 A.A.R. 3677, effective November 8, 2008 (Supp. 08-3).

R4-23-616. Mechanical Counting Device for a Drug in Solid, Oral Dosage Form

- A.** A pharmacy permittee or pharmacist-in-charge shall ensure the accuracy of any mechanical counting device for a drug in a solid, oral dosage form that is used by a pharmacist or a pharmacy intern, graduate intern, pharmacy technician, or pharmacy technician trainee under the supervision of a pharmacist by documenting completion of the following:
 - 1. Training in the maintenance, calibration, and use of the mechanical counting device for each employee who uses the mechanical counting device;
 - 2. Maintenance and calibration of the mechanical counting device as recommended by the device's manufacturer; and
 - 3. Routine quality assurance and accuracy validation testing for each mechanical counting device.
- B.** A pharmacy permittee or pharmacist-in-charge shall ensure that the documentation required in subsection (A) is available for inspection by the Board or its designee.
- C.** A pharmacy permittee or pharmacist-in-charge shall:
 - 1. Ensure that policies and procedures for the performance and use of a mechanical counting device for a drug in a solid, oral dosage form are prepared, implemented, and complied with;
 - 2. Review biennially and, if necessary, revise the policies and procedures required under subsection (C)(1);
 - 3. Document the review required under subsection (C)(2);
 - 4. Assemble the policies and procedures as a written or electronic manual; and
 - 5. Make the policies and procedures available within the pharmacy for employee reference and inspection by the Board or its staff.
- D.** The Board may prohibit a pharmacy permittee or pharmacist-in-charge from using a mechanical counting device for a drug in a solid, oral dosage form if the pharmacy permittee or the pharmacy permittee's employees do not comply with the requirements of subsections (A), (B), or (C).

Historical Note

New Section made by final rulemaking at 13 A.A.R. 616, effective April 7, 2007 (Supp. 07-1).

R4-23-617. Temporary Pharmacy Facilities or Mobile Pharmacies

- A.** Pharmacies located in declared disaster areas, nonresident pharmacies, and pharmacies licensed or permitted in another state but not licensed or permitted in this state, if necessary to provide pharmacy services during a declared state of emergency, may arrange to temporarily locate to a temporary pharmacy facility or mobile pharmacy or relocate to a temporary pharmacy facility or mobile pharmacy if the pharmacist-in-charge of the temporary pharmacy facility or mobile pharmacy ensures that:
 - 1. The pharmacy is under the control and management of the pharmacist-in-charge or a supervising pharmacist designated by the pharmacist-in-charge;
 - 2. The pharmacy is located within or adjacent to the declared disaster area;
 - 3. The Board is notified of the pharmacy's location;

- 4. The pharmacy is properly secured to prevent theft and diversion of drugs;
 - 5. The pharmacy's records are maintained in accordance with Arizona statutes and rules; and
 - 6. The pharmacy stops providing pharmacy services when the declared state of emergency ends, unless it possesses a current resident pharmacy permit issued by the Board under A.R.S. §§ 32-1929, 32-1930, and 32-1931.
- B.** The Board shall have the authority to approve or deny temporary pharmacy facilities, mobile pharmacies, and shall make arrangements for appropriate monitoring and inspection of the temporary pharmacy facilities and mobile pharmacies on a case-by-case basis.
 - C.** A temporary pharmacy facility wishing to permanently operate at its temporary site shall apply for and have received a permit issued under A.R.S. §§ 32-1929, 32-1930, and 32-1931 by following the application process under R4-23-606.
 - D.** A mobile pharmacy, placed in operation during a declared state of emergency, shall not operate permanently.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 4400, effective January 3, 2009 (Supp. 08-4).

R4-23-618. Reserved**R4-23-619. Reserved****R4-23-620. Continuous Quality Assurance Program**

- A.** Each pharmacy permittee shall implement or participate in a continuous quality assurance (CQA) program. A pharmacy permittee meets the requirements of this Section if it holds a current general, special or rural general hospital license from the Arizona Department of Health Services and is any of the following:
 - 1. Certified by the Centers for Medicare and Medicaid Services to participate in the Medicare or Medicaid programs;
 - 2. Accredited by the Joint Commission on the Accreditation of Healthcare Organizations; or
 - 3. Accredited by the American Osteopathic Association.
- B.** A pharmacy permittee or the pharmacist-in-charge shall ensure that:
 - 1. The pharmacy develops, implements, and utilizes a CQ program consistent with the requirements of this Section and A.R.S. § 32-1973;
 - 2. The medication error data generated by the CQA program is utilized and reviewed on a regular basis, as required by subsection (D); and
 - 3. Training records, policies and procedures, and other program records or documents, other than medication error data, are maintained for a minimum of two years in the pharmacy or in a readily retrievable manner.
- C.** A pharmacy permittee or pharmacist-in-charge shall:
 - 1. Ensure that policies and procedures for the operation and management of the pharmacy's CQA program are prepared, implemented, and complied with;
 - 2. Review biennially and, if necessary, revise the policies and procedures required under subsection (C)(1);
 - 3. Document the review required under subsection (C)(2);
 - 4. Assemble the policies and procedures as a written or electronic manual; and
 - 5. Make the policies and procedures available within the pharmacy for employee reference and inspection by the Board or its staff.
- D.** The policies and procedures shall address a planned process to:

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1. Train all pharmacy personnel in relevant phases of the CQA program;
 2. Identify and document medication errors;
 3. Record, measure, and analyze data collected to:
 - a. Assess the causes and any contributing factors relating to medication errors, and
 - b. Improve the quality of patient care;
 4. Utilize the findings from subsections (D)(2) and (3) to develop pharmacy systems and workflow processes designed to prevent or reduce medication errors; and
 5. Communicate periodically, and at least annually, with pharmacy personnel to review CQA program findings and inform pharmacy personnel of any changes made to pharmacy policies, procedures, systems, or processes as a result of CQA program findings.
- E.** The Board's regulatory oversight activities regarding a pharmacy's CQA program are limited to inspection of the pharmacy's CQA policies and procedures and enforcing the pharmacy's compliance with those policies and procedures.
- F.** A pharmacy's compliance with this Section shall be considered by the Board as a mitigating factor in the investigation and evaluation of a medication error.

Historical Note

New Section made by final rulemaking at 18 A.A.R. 2603, effective December 2, 2012 (Supp. 12-4).

R4-23-621. Shared Services

- A.** Before participating in shared services, a pharmacy shall have either a current resident or non-resident pharmacy permit issued by the Board.
- B.** A pharmacy may provide or utilize shared services functions only if the pharmacies involved:
1. Have the same owner, or
 2. Have a written contract or agreement that outlines the services provided and the shared responsibilities of each party in complying with federal and state pharmacy statutes and rules, and
 3. Share a common electronic file or technology that allows access to information necessary or required to perform shared services in conformance with the pharmacy act and the Board's rules.
- C.** Notifications to patients.
1. Before using shared services provided by another pharmacy, a pharmacy permittee shall:
 - a. Notify patients that their orders may be processed or filled by another pharmacy; and
 - b. Provide the name of that pharmacy or, if the pharmacy is part of a network of pharmacies under common ownership and any of the network pharmacies may process or fill the order, notify the patient of this fact. The notification may be provided through a one-time written notice to the patient or through use of a sign in the pharmacy.
 2. If an order is delivered directly to the patient by a filling pharmacy and not returned to the requesting pharmacy, the filling pharmacy permittee shall ensure that the following is placed on the prescription container or on a separate sheet delivered with the prescription container:
 - a. The local, and if applicable, the toll-free telephone number of the pharmacy utilizing shared services that has access to the patient's records; and
 - b. A statement that conveys to the patient or patient's care-giver the following information: "Written information about this prescription has been provided for you. Please read this information before you take the medication. If you have questions concerning this prescription, a pharmacist is available during normal business hours to answer these questions at (insert the local and toll-free telephone numbers of the pharmacy utilizing shared services that has access to the patient's records)."
- 3.** The provisions of subsection (C) do not apply to orders delivered to patients in facilities where a licensed health care professional is responsible for administering the prescription medication to the patient.
- D.** A pharmacy permittee engaged in shared services shall:
1. Maintain manual or electronic records that identify, individually for each order processed, the name, initials, or identification code of each pharmacist, graduate intern, pharmacy intern, pharmacy technician, and pharmacy technician trainee who took part in the order interpretation, order entry verification, drug utilization review, drug compatibility and drug allergy review, final order verification, therapeutic intervention, or refill authorization functions performed at that pharmacy;
 2. Maintain manual or electronic records that identify, individually for each order filled or dispensed, the name, initials, or identification code of each pharmacist, graduate intern, pharmacy intern, pharmacy technician, and pharmacy technician trainee who took part in the filling, dispensing, and counseling functions performed at that pharmacy;
 3. Report to the Board as soon as practical the results of any disciplinary action taken by another state's pharmacy regulatory agency involving shared services;
 4. Maintain a mechanism for tracking the order during each step of the processing and filling procedures performed at the pharmacy;
 5. Provide for adequate security to protect the confidentiality and integrity of patient information; and
 6. Provide for inspection of any required record or information within 72 hours of any request by the Board or its designee.
- E.** Each pharmacy permittee that provides or utilizes shared services shall develop, implement, review, revise, and comply with joint policies and procedures for shared services in the manner described in R4-23-610(A)(2). Each pharmacy permittee is required to maintain only those portions of the joint policies and procedures that relate to that pharmacy's operations. The policies and procedures shall:
1. Outline the responsibilities of each of the pharmacies;
 2. Include a list of the name, address, telephone numbers, and all license and permit numbers of the pharmacies involved in shared services; and
 3. Include policies and procedures for:
 - a. Notifying patients that their orders may be processed or filled by another pharmacy and providing the name of that pharmacy;
 - b. Protecting the confidentiality and integrity of patient information;
 - c. Dispensing orders when the filled order is not received or the patient comes in before the order is received;
 - d. Maintaining required manual or electronic records to identify the name, initials, or identification code and specific activity or activities of each pharmacist, graduate intern, pharmacy intern, pharmacy technician, or pharmacy technician trainee who performed any shared services;
 - e. Complying with federal and state laws; and
 - f. Operating a continuous quality improvement program for shared services, designed to objectively

and systematically monitor and evaluate the quality and appropriateness of patient care, pursue opportunities to improve patient care, and resolve identified problems.

- F. Nothing in this Section shall prohibit an individual pharmacist licensed in Arizona, who is an employee of or under contract with a pharmacy, or an Arizona-licensed graduate intern, pharmacy intern, pharmacy technician, or pharmacy technician trainee, working under the supervision of the pharmacist, from accessing that pharmacy's electronic database from inside or outside the pharmacy and performing the order processing functions permitted by the pharmacy act, if both of the following conditions are met:

1. The pharmacy establishes controls to protect the confidentiality and integrity of patient information; and
2. None of the database is duplicated, downloaded, or removed from the pharmacy's electronic database.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 520, effective April 7, 2007 (Supp. 07-1). Amended by final rulemaking at 19 A.A.R. 97, effective March 10, 2013 (Supp. 13-1).

R4-23-622. Reserved

through

R4-23-650. Reserved

R4-23-651. Definitions

The following definitions apply to R4-23-651 through R4-23-659:

"Administration" means the giving of a dose of medication to a patient as a result of an order of a medical practitioner.

"Direct copy" means an electronic, facsimile or carbonized copy.

"Dispensing for hospital inpatients" means the interpreting, evaluating, and implementing a medication order including preparing for delivery a drug or device to an inpatient or inpatient's agent in a suitable container appropriately labeled for subsequent administration to, or use by, an inpatient (hereafter referred to as "dispensing").

"Drug distribution" means the delivery of drugs other than "administering" or "dispensing."

"Emergency medical situation" means a condition of emergency in which immediate drug therapy is required for the preservation of health, life, or limb of a person or persons.

"Floor stock" means a supply of essential drugs not labeled for a specific patient and maintained and controlled by the pharmacy at a patient care area for the purpose of timely administration to a patient of the hospital.

"Formulary" means a continually revised compilation of pharmaceuticals (including ancillary information) that reflects the current clinical judgment of the medical staff.

"Hospital pharmacy" means a pharmacy, as defined in A.R.S. § 32-1901, that holds a current permit issued by the Board pursuant to A.R.S. § 32-1931, and is located in a hospital as defined in A.R.S. § 32-1901.

"Inpatient" means any patient who receives non-self-administered drugs from a hospital pharmacy for use while within a facility owned by the hospital.

"Intravenous admixture" means a sterile parenteral solution to which one or more additional drug products have been added.

"Medication order" means a written, electronic, or verbal order from a medical practitioner or a medical practitioner's authorized agent for administration of a drug or device.

"On-call" means a pharmacist is available to:

Consult or provide drug information regarding drug therapy or related issues; or

Dispense a medication order and review a patient's medication order for pharmaceutical and therapeutic feasibility under R4-23-653(E)(2) before any drug is administered to a patient, except as specified in R4-23-653(E)(1).

"Patient care area" means any area for the primary purpose of providing a physical environment that is owned by or operated in conjunction with a hospital, for a patient to obtain health care services, except those areas where a physician, dentist, veterinarian, osteopath, or other medical practitioner engages primarily in private practice.

"Repackaged drug" means a drug product that is transferred by pharmacy personnel from an original manufacturer's container to another container properly labeled for subsequent dispensing.

"Satellite pharmacy" means a work area in a hospital setting under the direction of a pharmacist that is a remote extension of a centrally licensed hospital pharmacy and owned by and dependent upon the centrally licensed hospital pharmacy for administrative control, staffing, and drug procurement.

"Single unit" means a package of medication that contains one discrete pharmaceutical dosage form.

"Supervision" means the process by which a pharmacist directs the activities of hospital pharmacy personnel to a sufficient degree to ensure that all activities are performed accurately, safely, and without risk of harm to patients.

Historical Note

Former Rules 6.7110, 6.7120, and 6.7130; Amended effective August 10, 1978 (Supp. 78-4). Amended subsection (B) effective April 20, 1982 (Supp. 82-2). Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1). Amended effective November 1, 1993 (Supp. 93-4). Amended effective April 5, 1996 (Supp. 96-2). Amended by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4).

R4-23-652. Hospital Pharmacy Permit

- A. The following rules are applicable to all hospitals as defined by A.R.S. § 32-1901 and hospital pharmacies as defined by R4-23-651.
- B. Before opening a hospital pharmacy, a person shall obtain a pharmacy permit as specified in R4-23-602 and R4-23-606.
- C. Discontinued hospitals. If a hospital license is discontinued by the state Department of Health Services, the pharmacy permittee or pharmacist-in-charge shall follow the procedures described in R4-23-613 for discontinuing a pharmacy.

Historical Note

Former Rules 6.7210, 6.7220, 6.7230, 6.7231, 6.7232, and 6.7233. Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1). Amended by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4).

R4-23-653. Personnel: Professional or Technician

- A. Each hospital pharmacy shall be directed by a pharmacist who is licensed to engage in the practice of pharmacy in Arizona

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and is referred to as the Director of Pharmacy. The Director of Pharmacy shall be the pharmacist-in-charge, as defined in A.R.S. § 32-1901 or shall appoint a pharmacist-in-charge. The Director of Pharmacy and the pharmacist-in-charge, if a different individual, shall:

1. Be responsible for all the activities of the hospital pharmacy and for meeting the requirements of the Arizona Pharmacy Act and these rules;
 2. Ensure that the policies and procedures required by these rules are prepared, implemented, and complied with;
 3. Review biennially and, if necessary, revise the policies and procedures required under these rules;
 4. Document the review required under subsection (A)(3);
 5. Assemble the policies and procedures as a written manual or by another method approved by the Board or its designee; and
 6. Make the policies and procedures available within the pharmacy for employee reference and inspection by the Board or its designee.
- B.** In all hospitals, a pharmacist shall be in the hospital during the time the pharmacy is open for pharmacy services, except for an extreme emergency as defined in R4-23-110. Pharmacy services shall be provided for a minimum of 40 hours per week, unless an exception for less than the minimum hours is made upon written request by the hospital and with express permission of the Board or its designee.
- C.** In a hospital where the pharmacy is not open 24 hours per day for pharmacy services, a pharmacist shall be "on-call" as defined in R4-23-651 when the pharmacy is closed.
- D.** The Director of Pharmacy may be assisted by other personnel approved by the Director of Pharmacy in order to operate the pharmacy competently, safely, and adequately to meet the needs of the hospital's patients.
- E.** Pharmacists. A pharmacist or a pharmacy intern or graduate intern under the supervision of a pharmacist shall perform the following professional practices:
1. Verify a patient's medication order before administration of a drug to the patient, except:
 - a. In an emergency medical situation; or
 - b. In a hospital where the pharmacy is open less than 24 hours a day for pharmacy services, a pharmacist shall verify a patient's medication order within four hours of the time the pharmacy opens for pharmacy services;
 2. Verify a medication order's pharmaceutical and therapeutic feasibility based upon:
 - a. The patient's medical condition,
 - b. The patient's allergies,
 - c. The pharmaceutical and therapeutic incompatibilities, and
 - d. The recommended dosage limits;
 3. Measure, count, pour, or otherwise prepare and package a drug needed for dispensing, except a pharmacy technician or pharmacy technician trainee may measure, count, pour, or otherwise prepare and package a drug needed for dispensing under the supervision of a pharmacist according to written policies and procedures approved by the Board or its designee;
 4. Compound, admix, combine, or otherwise prepare and package a drug needed for dispensing, except a pharmacy technician may compound, admix, combine, or otherwise prepare and package a drug needed for dispensing under the supervision of a pharmacist according to written policies and procedures approved by the Board or its designee;
 5. Verify the accuracy, correct procedure, compounding, admixing, combining, measuring, counting, pouring, preparing, packaging, and safety of a drug prepared and packaged by a pharmacy technician or pharmacy technician trainee according to subsections (E)(3) and (4) and according to the policies and procedures in subsection (G);
 6. Supervise drug repackaging and check the completed repackaged product as specified in R4-23-402(A);
 7. Supervise training and education in aseptic technique and drug incompatibilities for all personnel involved in the admixture of parenteral products within the hospital pharmacy;
 8. Consult with the medical practitioner regarding the patient's drug therapy or medical condition;
 9. When requested by a medical practitioner, patient, patient's agent, or when the pharmacist deems it necessary, provide consultation with a patient regarding the medication order, patient's profile, or overall drug therapy;
 10. Monitor a patient's drug therapy for safety and effectiveness;
 11. Provide drug information to patients and health care professionals;
 12. Manage the activities of pharmacy technicians, pharmacy technician trainees, other personnel, and systems to ensure that all activities are performed accurately, safely, and without risk of harm to patients;
 13. Verify the accuracy of all aspects of the original, completed medication order; and
 14. Ensure compliance by pharmacy personnel with a quality assurance program developed by the hospital.
- F.** Pharmacy technicians and pharmacy technician trainees. Before working as a pharmacy technician or pharmacy technician trainee, an individual shall meet the eligibility and licensure requirements prescribed in 4 A.A.C. 23, Article 11.
- G.** Pharmacy technician policies and procedures. Before employing a pharmacy technician or pharmacy technician trainee, a Director of Pharmacy or pharmacist-in-charge shall develop the policies and procedures required under R4-23-1104.
- H.** Pharmacy technician training program.
1. A Director of Pharmacy or pharmacist-in-charge shall comply with the training program requirements of R4-23-1105 based on the needs of the hospital pharmacy;
 2. A pharmacy technician or pharmacy technician trainee shall:
 - a. Perform only those tasks for which training and competency have been demonstrated; and
 - b. Not perform professional practices reserved for a pharmacist, graduate intern, or pharmacy intern in subsection (E), except as specified in subsections (E)(3) and (4).
- I.** Supervision. A hospital pharmacy's Director of Pharmacy and the pharmacist-in-charge, if a different individual, shall supervise all of the activities and operations of a hospital pharmacy. A pharmacist shall supervise all functions and activities of pharmacy technicians, pharmacy technician trainees, and other hospital pharmacy personnel to ensure that all functions and activities are performed competently, safely, and without risk of harm to patients.

Historical Note

Former Rules 6.7310 and 6.7320; Amended effective August 10, 1978 (Supp. 78-4). Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1). Amended effective November 1, 1993 (Supp. 93-4). Amended by final rulemaking at 8 A.A.R. 4902, effective

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January 5, 2003 (Supp. 02-4). Amended by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3).

R4-23-654. Absence of Pharmacist

- A. If a pharmacist will not be on duty in the hospital, the Director of Pharmacy or pharmacist-in-charge shall arrange, before the pharmacist's absence, for the medical staff and other authorized personnel of the hospital to have access to drugs in the remote drug storage area defined in R4-23-110 or in the hospital pharmacy if a drug is not available in a remote drug storage area and is required to treat the immediate needs of a patient. A pharmacist shall be on-call during all absences.
- B. If a pharmacist will not be on duty in the hospital pharmacy, the Director of Pharmacy or pharmacist-in-charge shall arrange, before the pharmacist's absence, for the medical staff and other authorized personnel of the hospital to have telephone access to an on-call pharmacist.
- C. The hospital pharmacy permittee shall ensure that the hospital pharmacy is not without a pharmacist on duty in the hospital for more than 72 consecutive hours.
- D. Remote drug storage area. The Director of Pharmacy or pharmacist-in-charge shall, in consultation with the appropriate committee of the hospital:
 1. Develop and maintain an inventory listing of the drugs to be included in a remote drug storage area; and
 2. Develop, implement, review, and revise in the same manner described in R4-23-653(A) and comply with policies and procedures that ensure proper storage, access, and accountability for drugs in a remote drug storage area.
- E. Access to hospital pharmacy. If a drug is not available from a remote drug storage area and the drug is required to treat the immediate needs of a patient whose health may be compromised, the drug may be obtained from the hospital pharmacy according to the requirements of this subsection.
 1. The Director of Pharmacy or pharmacist-in-charge shall, in consultation with the appropriate committee of the hospital, develop, implement, review, and revise in the same manner described in R4-23-653(A) and comply with policies and procedures to ensure that access to the hospital pharmacy during the pharmacist's absence conforms to the following requirements:
 - a. Access is delegated to only one supervisory nurse in each shift;
 - b. The policy and name of supervisory nurse is communicated in writing to the medical staff of the hospital;
 - c. Access is delegated only to a nurse who has received training from the Director of Pharmacy, pharmacist-in-charge, or Director's designee in the procedures required for proper access, drug removal, and recordkeeping; and
 - d. Access is delegated by the supervisory nurse to another nurse only in an emergency.
 2. If a nurse to whom authority is delegated to access the hospital pharmacy removes a drug from the hospital pharmacy, the nurse shall:
 - a. Record the following information on a form or by another method approved by the Board or its designee:
 - i. Patient's name;
 - ii. Drug name, strength, and dosage form;
 - iii. Quantity of drug removed; and
 - iv. Date and time of removal;

- b. Sign or initial, if a corresponding signature is on file in the hospital pharmacy, the form recording the drug removal;
 - c. Attach the original or a direct copy of the medication order for the drug to the form recording the drug removal; and
 - d. Place the form recording the drug removal conspicuously in the hospital pharmacy.
3. Within four hours after a pharmacist returns from an absence, the pharmacist shall verify all records of drug removal that occurred during the pharmacist's absence according to R4-23-653(E).

Historical Note

Former Rules 6.7410, 6.7420, 6.7430, 6.7440, 6.7450, and 6.7460; Amended subsection (A) effective Aug. 9, 1983 (Supp. 83-4). Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1). Amended by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4). Amended by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3).

R4-23-655. Physical Facility

- A. General. A hospital pharmacy permittee shall ensure that the hospital pharmacy has sufficient equipment and physical facilities for proper compounding, dispensing, and storage of drugs, including parenteral preparations.
- B. Minimum area of hospital pharmacy. The minimum area of a hospital pharmacy depends on the type of hospital, the number of beds, and the pharmaceutical services provided. Any hospital pharmacy permit issued or hospital pharmacy remodeled after January 31, 2003 shall provide a minimum hospital pharmacy area, the actual area primarily devoted to drug dispensing and preparation functions, exclusive of bulk drug storage, satellite pharmacy, and office areas that is not less than 500 square feet. The minimum area requirement, not including unusable area, may be varied upon approval by the Board for out-of-the-ordinary conditions or for systems that require less space.
- C. The Board may also require that a hospital pharmacy permittee or applicant provide:
 1. More than the minimum area if equipment, inventory, personnel, or other factors cause crowding to a degree that interferes with safe pharmacy practice;
 2. Additional dispensing, preparation, or storage areas because of the increased number of specific drugs prescribed per day, the increased use of intravenous and irrigating solutions, and the increased use of disposable and prepackaged products;
 3. Additional dispensing, preparation, or storage areas to handle investigational drugs, emergency drug kits, chemotherapeutics, alcohol and other flammables, poisons, external preparations, and radioisotopes, and to accommodate quality control procedures; and
 4. Additional office space to provide for an increased number of personnel, a drug information library, a poison information library, research support, teaching and conferences, and a waiting area.
- D. Hospital pharmacy area. A hospital pharmacy permittee shall ensure that the hospital pharmacy area is enclosed by a permanent barrier or partition from floor to ceiling with entry doors that can be securely locked, constructed according to R4-23-609(F).
- E. Hospital pharmacy storage areas. The hospital pharmacy permittee, Director of Pharmacy, or pharmacist-in-charge shall

ensure that all undispensed or undistributed drugs are stored in designated areas within the hospital pharmacy or other locked areas under the control of a pharmacist that ensure proper sanitation, temperature, light, ventilation, moisture control, segregation, and security.

Historical Note

Former Rules 6.7471, 6.7472, 6.7473, 6.7474, and 6.7490; Amended effective Aug. 9, 1983 (Supp. 83-4). Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1). Correction to Table 1 ("spare feet" changed to "square feet") (Supp. 91-1). Amended by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4). Amended by final rulemaking at 11 A.A.R. 462, effective March 5, 2005 (Supp. 05-1).

R4-23-656. Sanitation and Equipment

A hospital pharmacy permittee or Director of Pharmacy shall ensure that a hospital pharmacy:

1. Has a professional reference library consisting of hard-copy or electronic media appropriate for the scope of pharmacy services provided by the hospital;
2. Has a sink, other than a sink in a toilet facility, that:
 - a. Has hot and cold running water;
 - b. Is within the hospital pharmacy area for use in preparing drug products; and
 - c. Is maintained in a sanitary condition and in good repair;
3. Maintains a room temperature within a range compatible with the proper storage of drugs;
4. Has a refrigerator and freezer with a temperature maintained within a range compatible with the proper storage of drugs requiring refrigeration or freezing; and
5. Has a designated area for a laminar air flow hood and other supplies required for the preparation of sterile products as specified in R4-23-670.

Historical Note

Former Rule 6.7480. Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1). Amended by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4).

R4-23-657. Security

A. Personnel security standards. A Director of Pharmacy shall ensure that:

1. No one is permitted in the pharmacy unless a pharmacist is present except as provided in this Section and R4-23-654. If only one pharmacist is on duty in the pharmacy and that pharmacist must leave the pharmacy for an emergency or patient care duties, nonpharmacist personnel may remain in the pharmacy to perform duties as outlined in R4-23-653, provided that all C-II controlled substances are secured to prohibit access by other than a pharmacist, and that the pharmacist remains available in the hospital;
2. All hospital pharmacy areas are kept locked by key or programmable lock to prevent access by unauthorized personnel; and
3. Pharmacists, pharmacy or graduate interns, pharmacy technicians, pharmacy technician trainees, and other personnel working in the pharmacy wear identification badges, including name and position, whenever on duty.

B. Prescription blank security. The Director of Pharmacy shall develop, implement, review, and revise in the same manner described in R4-23-653(A) and comply with policies and procedures for the safe distribution and control of prescription blanks bearing identification of the hospital.

Historical Note

Former Rule 6.7500; Amended effective Aug. 9, 1983 (Supp. 83-4). Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1). Amended by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4). Amended by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3).

R4-23-658. Drug Distribution and Control

- A. General. The Director of Pharmacy or pharmacist-in-charge shall in consultation with the medical staff, develop, implement, review, and revise in the same manner described in R4-23-653(A) and comply with written policies and procedures for the effective operation of a drug distribution system that optimizes patient safety.
- B. Responsibility. The Director of Pharmacy is responsible for the safe and efficient procurement, dispensing, distribution, administration, and control of drugs, including the following:
 1. In consultation with the appropriate department personnel and medical staff committee, develop a medication formulary for the hospital;
 2. Proper handling, distribution, and recordkeeping of investigational drugs; and
 3. Regular inspections of drug storage and preparation areas within the hospital.
- C. Physician orders. A Director of Pharmacy or pharmacist-in-charge shall ensure that:
 1. Drugs are dispensed from the hospital pharmacy only upon a written order, direct copy or facsimile of a written order, or verbal order of an authorized medical practitioner; and
 2. A pharmacist reviews the original, direct or facsimile copy, or verbal order before an initial dose of medication is administered, except as specified in R4-23-653(E)(1).
- D. Labeling. A Director of Pharmacy or pharmacist-in-charge shall ensure that all drugs distributed or dispensed by a hospital pharmacy are packaged in appropriate containers and labeled as follows:
 1. For use inside the hospital.
 - a. Labels for all single unit packages contain at a minimum, the following information:
 - i. Drug name, strength, and dosage form;
 - ii. Lot number and beyond-use-date; and
 - iii. Appropriate auxiliary labels;
 - b. Labels for repackaged preparations contain at a minimum the following information:
 - i. Drug name, strength, and dosage form;
 - ii. Lot number and beyond-use-date;
 - iii. Appropriate auxiliary labels; and
 - iv. Mechanism to identify pharmacist accountable for repackaging;
 - c. Labels for all intravenous admixture preparations contain at a minimum the following information:
 - i. Patient's name and location;
 - ii. Name and quantity of the basic parenteral solution;
 - iii. Name and amount of drug added;
 - iv. Date of preparation;
 - v. Beyond-use-date and time;
 - vi. Guidelines for administration;
 - vii. Appropriate auxiliary label or precautionary statement; and
 - viii. Initials of pharmacist responsible for admixture preparation; and

2. For use outside the hospital. Any drug dispensed to a patient by a hospital pharmacy that is intended for self-administration outside of the hospital is labeled as specified in A.R.S. §§ 32-1963.01(C) and 32-1968(D) and A.A.C. R4-23-402.
 - E. Controlled substance accountability. A Director of Pharmacy or pharmacist-in-charge shall ensure that effective policies and procedures are developed, implemented, reviewed, and revised in the same manner described in R4-23-653(A) and complied with regarding the use, accountability, and record-keeping of controlled substances in the hospital, including the use of locked storage areas when controlled substances are stored in patient care areas.
 - F. Emergency services dispensing. If a hospital permits dispensing of drugs from the emergency services department when the pharmacy is unable to provide this service, the Director of Pharmacy, in consultation with the appropriate department personnel and medical staff committee shall develop, implement, review, and revise in the same manner described in R4-23-653(A) and comply with written policies and procedures for dispensing drugs for outpatient use from the hospital's emergency services department. The policies and procedures shall include the following requirements:
 1. Drugs are dispensed only to patients who have been admitted to the emergency services department;
 2. Drugs are dispensed only by an authorized medical practitioner, not a designee or agent;
 3. The nature and type of drugs available for dispensing are designed to meet the immediate needs of the patients treated within the hospital;
 4. Drugs are dispensed only in quantities sufficient to meet patient needs until outpatient pharmacy services are available;
 5. Drugs are prepackaged by a pharmacist or a pharmacy intern, graduate intern, pharmacy technician, or pharmacy technician trainee under the supervision of a pharmacist in suitable containers and appropriately prelabeled with the drug name, strength, dosage form, quantity, manufacturer, lot number, beyond-use-date, and any appropriate auxiliary labels;
 6. Upon dispensing, the authorized medical practitioner completes the label on the prescription container that complies with the requirements of R4-23-658(D); and
 7. The hospital pharmacy maintains a dispensing log, hard-copy prescription, or electronic record, approved by the Board or its designee and includes the patient name and address, drug name, strength, dosage form, quantity, directions for use, medical practitioner's signature or identification code, and DEA registration number, if applicable.
- macy or pharmacist-in-charge, in consultation with the appropriate department personnel and medical staff committee, develops, implements, reviews, and revises in the same manner described in R4-23-653(A) and complies with policies and procedures for self-administration of medications by a patient. The policies and procedures shall specify that self-administration of medications, if allowed, occurs only when:
1. Specifically ordered by a medical practitioner, and
 2. The patient is educated and trained in the proper manner of self-administration.
- B. Drugs brought in by a patient. If a hospital allows a patient to bring a drug into the hospital and before a patient brings a drug into the hospital, the Director of Pharmacy or pharmacist-in-charge shall, in consultation with the appropriate department personnel and medical staff committee, develop, implement, review, and revise in the same manner described in R4-23-653(A) and comply with policies and procedures for a patient-owned drug brought into the hospital. The policies and procedures shall specify the following criteria for a patient-owned drug brought into the hospital:
1. When policy allows the administration of a patient-owned drug, the drug is not administered to the patient unless:
 - a. A pharmacist or medical practitioner identifies the drug, and
 - b. A medical practitioner writes a medication order specifying administration of the identified patient-owned drug; and
 2. If a patient-owned drug will not be used during the patient's hospitalization, the hospital pharmacy's personnel shall:
 - a. Package, seal, and give the drug to the patient's agent for removal from the hospital; or
 - b. Package, seal, and store the drug for return to the patient at the time of discharge from the hospital.
- C. Drug samples. The Director of Pharmacy or pharmacist-in-charge is responsible for the receipt, storage, distribution, and accountability of drug samples within the hospital, including developing, implementing, reviewing, and revising in the same manner described in R4-23-653(A) and complying with specific policies and procedures regarding drug samples.

Historical Note

Former Rules 6.7720, 6.7730, 6.7740, 6.7760, 6.7770, 6.7780, 6.7800, 6.7810, 6.7820, 6.7830, 6.7840, 6.7850, 6.7871, 6.7872, and 6.7873; Amended effective Aug. 9, 1983 (Supp. 83-4). Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1). Correction to Section heading ("rules" changed to "roles") (Supp. 91-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4). Amended by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3).

R4-23-660. Investigational Drugs

The Director of Pharmacy or pharmacist-in-charge shall ensure that:

1. The following information concerning an investigational drug is available for use by hospital personnel:
 - a. Composition,
 - b. Pharmacology,
 - c. Adverse reactions,
 - d. Administration guidelines, and
 - e. All other available information concerning the drug, and

Historical Note

Former Rules 6.7610, 6.7620, and 6.7710; Amended effective Aug. 9, 1983 (Supp. 83-4). Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1). Correction to subsection (I)(5) ("unnecessary" changed to "necessary") (Supp. 91-1). Amended effective November 1, 1993 (Supp. 93-4). Amended by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4). Amended by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3).

R4-23-659. Administration of Drugs

- A. Self-administration. A hospital shall not allow self-administration of medications by a patient unless the Director of Pharmacy or pharmacist-in-charge, in consultation with the appropriate department personnel and medical staff committee, develops, implements, reviews, and revises in the same manner described in R4-23-653(A) and complies with policies and procedures for self-administration of medications by a patient. The policies and procedures shall specify that self-administration of medications, if allowed, occurs only when:

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2. An investigational drug is:
 - a. Properly stored in, labeled, and dispensed from the pharmacy, and
 - b. Not dispensed before the drug is approved by the appropriate medical staff committee of the hospital.

Historical Note

Former Rules 6.7881, 6.7882, and 6.7883; Amended subsection (A) effective Aug. 9, 1983 (Supp. 83-4).

Repealed, new Section adopted effective February 7, 1990 (Supp. 90-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4).

R4-23-661. Repealed**Historical Note**

Former Rules 6.7910, 6.7920, 6.7930, 6.7940, and 6.7950. Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1). Section repealed by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4).

R4-23-662. Repealed**Historical Note**

Adopted effective February 7, 1990 (Supp. 90-1). Section repealed by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4).

R4-23-663. Repealed**Historical Note**

Adopted effective February 7, 1990 (Supp. 90-1). Amended effective November 1, 1993 (Supp. 93-4). Section repealed by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4).

R4-23-664. Repealed**Historical Note**

Adopted effective February 7, 1990 (Supp. 90-1). Subsection label removed (Supp. 91-1). Section repealed by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4).

R4-23-665. Reserved

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R4-23-669. Reserved**R4-23-670. Sterile Pharmaceutical Products**

- A. In addition to the minimum area requirement of R4-23-609(A) and R4-23-655(B) and before compounding a sterile pharmaceutical product, a pharmacy permittee, limited-service pharmacy permittee, or applicant shall provide a minimum sterile pharmaceutical product compounding area that is not less than 100 square feet of contiguous floor area, except any pharmacy permit issued or pharmacy remodeled before November 1, 2006 may continue to use a sterile pharmaceutical product compounding area that is not less than 60 square feet of contiguous floor area, until a pharmacy ownership change occurs that requires issuance of a new permit or the pharmacy is remodeled. The pharmacy permittee or the pharmacist-in-charge shall ensure that the sterile pharmaceutical product compounding area:
 1. Is dedicated to the purpose of preparing and compounding sterile pharmaceutical products;
 2. Is isolated from other pharmacy functions;
 3. Restricts entry or access;
 4. Is free from unnecessary disturbances in air flow;

5. Is made of non-porous and cleanable floor, wall, and ceiling material; and
6. Meets the minimum air cleanliness standards of an ISO Class 7 environment as defined in R4-23-110, except an ISO class 7 environment is not required if all sterile pharmaceutical product compounding occurs within an ISO class 5 environment isolator, such as a glove box, pharmaceutical isolator, barrier isolator, pharmacy isolator, or hospital pharmacy isolator.

- B. In addition to the equipment requirements in R4-23-611 and R4-23-612 or R4-23-656 and before compounding a sterile pharmaceutical product, a pharmacy permittee, limited-service pharmacy permittee, or applicant shall ensure that a pharmacist who compounds a sterile pharmaceutical product has the following equipment:
 1. Environmental control devices capable of maintaining a compounding area environment equivalent to an "ISO class 5 environment" as defined in R4-23-110. Devices capable of meeting these standards include: laminar air-flow hoods, hepa filtered zonal airflow devices, glove boxes, pharmaceutical isolators, barrier isolators, pharmacy isolators, hospital pharmacy isolators, and biological safety cabinets;
 2. Disposal containers designed for needles, syringes, and other material used in compounding sterile pharmaceutical products and if applicable, separate containers to dispose of cytotoxic, chemotherapeutic, and infectious waste products;
 3. Freezer storage units with thermostatic control and thermometer, if applicable;
 4. Packaging or delivery containers capable of maintaining official compendial drug storage conditions;
 5. Infusion devices and accessories, if applicable; and
 6. In addition to the reference library requirements of R4-23-612, a current reference pertinent to the preparation of sterile pharmaceutical products.

- C. Before compounding a sterile pharmaceutical product, the pharmacy permittee, limited-service pharmacy permittee, or pharmacist-in-charge shall:
 1. Prepare, implement, and comply with policies and procedures for compounding and dispensing sterile pharmaceutical products,
 2. Review biennially and if necessary revise the policies and procedures required under subsection (C)(1),
 3. Document the review required under subsection (C)(2),
 4. Assemble the policies and procedures as a written manual or by another method approved by the Board or its designee, and
 5. Make the policies and procedures available in the pharmacy for employee reference and inspection by the Board or its designee.

- D. The assembled policies and procedures shall include, where applicable, the following subjects:
 1. Supervisory controls and verification procedures to ensure the quality and safety of sterile pharmaceutical products;
 2. Clinical services and drug monitoring procedures for:
 - a. Patient drug utilization reviews;
 - b. Inventory audits;
 - c. Patient outcome monitoring;
 - d. Drug information; and
 - e. Education of pharmacy and other health professionals;
 3. Controlled substances;
 4. Supervisory controls and verification procedures for:
 - a. Cytotoxics handling, storage, and disposal;

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- b. Disposal of unused supplies and pharmaceutical products; and
 - c. Handling and disposal of infectious wastes;
- 5. Pharmaceutical product administration, including guidelines for the first dosing of a pharmaceutical product;
- 6. Drug and component procurement;
- 7. Pharmaceutical product compounding, dispensing, and storage;
- 8. Duties and qualifications of professional and support staff;
- 9. Equipment maintenance;
- 10. Infusion devices and pharmaceutical product delivery systems;
- 11. Investigational drugs and their protocols;
- 12. Patient profiles;
- 13. Patient education and safety;
- 14. Quality management procedures for:
 - a. Adverse drug reactions;
 - b. Drug recalls;
 - c. Expired pharmaceutical products;
 - d. Beyond-use-dating for both standard-risk and substantial-risk sterile pharmaceutical products consistent with the requirements of R4-23-410(B)(3)(d);
 - e. Temperature and other environmental controls;
 - f. Documented process and product validation testing; and
 - g. Semi-annual certification of the laminar air flow hood or other ISO class 5 environment, other equipment, and the ISO class 7 environment, including documentation of routine cleaning and maintenance for each laminar air flow hood or other ISO class 5 environment, other equipment, and the ISO class 7 environment; and
- 15. Sterile pharmaceutical product delivery requirements for:
 - a. Shipment to the patient;
 - b. Security; and
 - c. Maintaining official compendial storage conditions.
- E. Standard-risk sterile pharmaceutical product compounding. Before compounding a standard-risk sterile pharmaceutical product, a pharmacy permittee or pharmacist-in-charge shall ensure compliance with the following minimum standards:
 - 1. Compounding occurs only in an ISO class 5 environment within an ISO class 7 environment, and the ISO class 7 environment may have a specified prep area inside the environment;
 - 2. Compounding sterile pharmaceutical products from sterile commercial drugs or sterile pharmaceutical otic or ophthalmic products from non-sterile ingredients occurs using procedures that involve only a few closed-system, basic, simple aseptic transfers and manipulations;
 - 3. Each person who compounds wears adequate personnel protective clothing for sterile preparation that includes gown, gloves, head cover, and booties. Each person who compounds is not required to wear personnel protective clothing when all sterile pharmaceutical compounding occurs within an ISO class 5 environment isolator, and the ISO Class 5 environment isolator is not inside an ISO Class 7 environment; and
 - 4. Each person who compounds completes an annual media-fill test to validate proper aseptic technique.
- F. Substantial-risk sterile pharmaceutical product compounding. Before compounding a substantial-risk sterile pharmaceutical product, a pharmacy permittee or pharmacist-in-charge shall ensure compliance with the following minimum standards:
 - 1. Compounding parenteral or injectable sterile pharmaceutical products from non-sterile ingredients occurs only in an ISO class 5 environment within an ISO class 7 environment and the ISO class 7 environment shall not have a prep area inside the environment;
 - 2. Each person who compounds wears adequate personnel protective clothing for sterile preparation that includes gown, gloves, head cover, and booties. Each person who compounds is not required to wear personnel protective clothing when all sterile pharmaceutical compounding occurs within an ISO class 5 environment isolator, and the ISO Class 5 environment isolator is not inside an ISO Class 7 environment; and
 - 3. Each person who compounds completes a semi-annual media-fill test that simulates the most challenging or stressful conditions for compounding using dry non-sterile media to validate proper aseptic technique.

Historical Note

Adopted effective November 1, 1993 (Supp. 93-4).
 Amended by final rulemaking at 10 A.A.R. 3391, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 12 A.A.R. 3981, effective December 4, 2006 (Supp. 06-4).

R4-23-671. General Requirements for Limited-service Pharmacy

- A. Before opening a limited-service pharmacy, a person shall obtain a permit in compliance with A.R.S. §§ 32-1929, 32-1930, 32-1931, and R4-23-606.
- B. The limited-service pharmacy permittee shall secure the limited-service pharmacy by conforming with the following standards:
 - 1. Permit no one to be in the limited-service pharmacy unless the pharmacist-in-charge or a pharmacist authorized by the pharmacist-in-charge is present;
 - 2. Require the pharmacist-in-charge to designate in writing, by name, title, and specific area, those persons who will have access to particular areas of the limited-service pharmacy;
 - 3. Implement procedures to guard against theft or diversion of drugs, including controlled substances; and
 - 4. Require all persons working in the limited-service pharmacy to wear badges, with their names and titles, while on duty.
- C. To obtain permission to deviate from the minimum area requirement set forth in R4-23-609, R4-23-673, or R4-23-682, a limited-service pharmacy permittee shall submit a written request to the Board and include documentation that the deviation will facilitate experimentation or technological advances in the practice of pharmacy as defined in A.R.S. § 32-1901. If the Board determines the requested deviation from the minimum area requirement will enhance the practice of pharmacy and benefit the public, the Board shall grant the requested deviation.
- D. The Board shall require more than the minimum area in a limited-service pharmacy when the Board determines that equipment, personnel, or other factors in the limited-service pharmacy cause crowding that interferes with safe pharmacy practice.
- E. Before dispensing from a limited-service pharmacy, the limited-service pharmacy permittee or pharmacist-in-charge shall:
 - 1. Prepare, implement, and comply with written policies and procedures for pharmacy operations and drug dispensing and distribution,
 - 2. Review biennially and if necessary revise the policies and procedures required under subsection (E)(1),
 - 3. Document the review required under subsection (E)(2),

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4. Assemble the policies and procedures as a written manual or by another method approved by the Board or its designee, and
5. Make the policies and procedures available in the pharmacy for employee reference and inspection by the Board or its designee.

Historical Note

Adopted effective April 5, 1996 (Supp. 96-2). Amended by final rulemaking at 9 A.A.R. 1064, effective May 4, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 3391, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3).

R4-23-672. Limited-service Correctional Pharmacy

- A. The limited-service pharmacy permittee shall ensure that the limited-service correctional pharmacy complies with the standards for area, personnel, security, sanitation, equipment, drug distribution and control, administration of drugs, drug source, quality assurance, investigational drugs, and inspections as set forth in R4-23-608, R4-23-609(A) through (D) and (F) through (H), R4-23-610(A), R4-23-611, R4-23-612, R4-23-653(E), R4-23-658(B) through (E), R4-23-659, and R4-23-660.
- B. The pharmacist-in-charge of a limited-service correctional pharmacy shall authorize only pharmacists, interns, pharmacy technicians, pharmacy technician trainees, compliance officers, drug inspectors, peace officers, and correctional officers acting in their official capacities, other persons authorized by law, support personnel, and other designated personnel to be in the limited-service correctional pharmacy.
- C. When no pharmacist will be on duty in the correctional facility, the pharmacist-in-charge shall arrange, before there is no pharmacist on duty, for the medical staff and other authorized personnel of the correctional facility to have access to drugs in remote drug storage areas or, if a drug is not available in a remote drug storage area and is required to treat the immediate needs of a patient, in the limited-service correctional pharmacy.
 1. The pharmacist-in-charge shall, in consultation with the appropriate committee of the correctional facility, develop and implement procedures to ensure that remote drug storage areas:
 - a. Contain only properly labeled drugs that might reasonably be needed and can be administered safely during the pharmacist's absence,
 - b. Contain drugs packaged only in amounts sufficient for immediate therapeutic requirements,
 - c. Are accessible only with a physician's written order,
 - d. Provide a written record of each drug withdrawn,
 - e. Are inventoried at least once each week, and
 - f. Are audited for compliance with the requirements of this rule at least once each month.
 2. The pharmacist-in-charge shall, in consultation with the appropriate committee of the correctional facility, develop and implement procedures to ensure that access to the limited-service correctional pharmacy when no pharmacist is on duty conforms to the following requirements:
 - a. Is delegated to only one nurse, who is in a supervisory position;
 - b. Is communicated in writing to medical staff of the correctional facility;
 - c. Is delegated only to a nurse who has received training from the pharmacist-in-charge in proper methods of access, removal of drugs, and recordkeeping procedures; and
 - d. Is delegated by the supervisory nurse to another nurse only in an emergency.
3. When a nurse to whom authority to access the limited-service correctional pharmacy is delegated removes a drug from the limited-service correctional pharmacy, the nurse shall:
 - a. Record the following information on a form:
 - i. Patient's name,
 - ii. Name of the drug and its strength and dosage form,
 - iii. Dose prescribed,
 - iv. Amount of drug removed, and
 - v. Date and time of removal;
 - b. Sign the form recording the drug removal;
 - c. Attach the original or a direct copy of a physician's written order for the drug to the form recording the drug removal; and
 - d. Place the form recording the drug removal conspicuously in the limited-service correctional pharmacy.
4. Within four hours after a pharmacist in the limited-service correctional pharmacy returns to duty following an absence in which the limited-service correctional pharmacy was accessed by a nurse to whom authority had been delegated, the pharmacist shall verify all records of drug removal according to R4-23-402.
- D. When no pharmacist will be on duty in the correctional facility, the pharmacist-in-charge shall arrange, before there is no pharmacist on duty, for the medical staff and other authorized personnel of the correctional facility to have telephone access to a pharmacist.
- E. The limited-service pharmacy permittee shall ensure that the limited-service correctional pharmacy is not without a pharmacist on duty for more than 96 consecutive hours.
- F. In addition to the requirements of R4-23-671, the limited-service pharmacy permittee shall secure the limited-service correctional pharmacy as follows:
 1. Permit no one to be in the limited-service correctional pharmacy unless a pharmacist is on duty except:
 - a. As provided in subsection (C)(3) when a pharmacist is not on duty; or
 - b. A pharmacy technician or pharmacy technician trainee may remain to perform duties in R4-23-1104(A), when a pharmacist is on duty and available in the correctional facility but temporarily absent from the pharmacy, provided:
 - i. All controlled substances are secured in a manner that prohibits access by persons other than a pharmacist;
 - ii. Activities performed by a pharmacy technician or pharmacy technician trainee while the pharmacist is temporarily absent are verified by the pharmacist immediately upon returning to the pharmacy;
 - iii. Any drug measured, counted, poured, or otherwise prepared and packaged by a pharmacy technician or pharmacy technician trainee while the pharmacist is temporarily absent is verified by the pharmacist immediately upon returning to the pharmacy; and
 - iv. Any drug that has not been verified by a pharmacist for accuracy is not dispensed, supplied, or distributed while the pharmacist is temporarily absent from the pharmacy; and

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2. Provide keyed or programmable locks to all areas of the limited-service correctional pharmacy.
- G. The pharmacist-in-charge of a limited-service correctional pharmacy shall ensure that the written policies and procedures for pharmacy operations and drug distribution within the correctional facility include the following:
 1. Physicians' orders, prescription orders, or both;
 2. Authorized abbreviations;
 3. Formulary system;
 4. Clinical services and drug utilization management including:
 - a. Participation in drug selection,
 - b. Drug utilization reviews,
 - c. Inventory audits,
 - d. Patient outcome monitoring,
 - e. Committee participation,
 - f. Drug information, and
 - g. Education of pharmacy and other health professionals;
 5. Duties and qualifications of professional and support staff;
 6. Products of abuse and contraband medications;
 7. Controlled substances;
 8. Drug administration;
 9. Drug product procurement;
 10. Drug compounding, dispensing, and storage;
 11. Stop orders;
 12. Pass or discharge medications;
 13. Investigational drugs and their protocols;
 14. Patient profiles;
 15. Quality management procedures for:
 - a. Adverse drug reactions;
 - b. Drug recalls;
 - c. Expired and beyond-use-date drugs;
 - d. Medication or dispensing errors;
 - e. Drug storage; and
 - f. Education of professional staff, support staff, and patients;
 16. Recordkeeping;
 17. Sanitation;
 18. Security;
 19. Access to remote drug storage areas by non-pharmacists; and
 20. Access to limited-service correctional pharmacy by non-pharmacists.
4. Space in the dispensing area permits efficient pharmaceutical practice, free movement of personnel, and visual surveillance by the pharmacist;
5. A non-dispensing area of at least 30 square feet for each person working simultaneously in the non-dispensing area; and
6. Space in the non-dispensing area permits free movement of personnel and visual surveillance by the pharmacist; or
- B. The limited-service pharmacy permittee shall design and construct the limited-service mail-order pharmacy to conform with the following requirements:
 1. A contiguous area in which both dispensing and non-dispensing pharmacy services are provided;
 2. A contiguous area of at least 300 square feet if three or fewer persons work in the area simultaneously;
 3. A contiguous area that provides 300 square feet plus 60 square feet for each person in excess of three persons if more than three persons work in the area simultaneously; and
 4. Space in the contiguous area permits efficient pharmaceutical practice, free movement of personnel, and visual surveillance by the pharmacist.
- C. The limited-service pharmacy permittee shall ensure that the limited-service mail-order pharmacy complies with the standards set forth in R4-23-608, R4-23-609(B) through (H), R4-23-610 (A) and (C) through (F), R4-23-611, and R4-23-612.
- D. The pharmacist-in-charge of a limited-service mail-order pharmacy shall authorize only pharmacists, interns, pharmacy technicians, pharmacy technician trainees, compliance officers, drug inspectors, peace officers acting in their official capacities, support personnel, other persons authorized by law, and other designated personnel to be in the limited-service mail-order pharmacy.
- E. The pharmacist-in-charge of a limited-service mail-order pharmacy shall ensure that prescription medication is delivered to the patient or locked in the dispensing area when a pharmacist is not present in the pharmacy.
- F. In addition to the delivery requirements of R4-23-402, the limited-service pharmacy permittee shall, during regular hours of operation but not less than five days and a minimum 40 hours per week, provide toll-free telephone service to facilitate communication between patients and a pharmacist who has access to patient records at the limited-service mail-order pharmacy. The limited-service pharmacy permittee shall disclose this toll-free number on a label affixed to each container of drugs dispensed from the limited-service mail-order pharmacy.
- G. The pharmacist-in-charge of a limited-service mail-order pharmacy shall ensure that the written policies and procedures for pharmacy operations and drug distribution include the following:
 1. Prescription orders;
 2. Clinical services and drug utilization management for:
 - a. Drug utilization reviews,
 - b. Inventory audits,
 - c. Patient outcome monitoring,
 - d. Drug information, and
 - e. Education of pharmacy and other health professionals;
 3. Duties and qualifications of professional and support staff;
 4. Controlled substances;
 5. Drug product procurement;
 6. Drug compounding, dispensing, and storage;
 7. Patient profiles;
 8. Quality management procedures for:

Historical Note

Adopted effective April 5, 1996 (Supp. 96-2). Amended by final rulemaking at 10 A.A.R. 4453, effective December 4, 2004 (Supp. 04-4).

R4-23-673. Limited-service Mail-order Pharmacy

- A. The limited-service pharmacy permittee shall design and construct the limited-service mail-order pharmacy to conform with the following requirements:
 1. A dispensing area devoted to stocking, compounding, and dispensing prescription medications, which is physically separate from a non-dispensing area devoted to non-dispensing pharmacy services;
 2. A dispensing area of at least 300 square feet if three or fewer persons work in the dispensing area simultaneously;
 3. A dispensing area that provides 300 square feet plus 60 square feet for each person in excess of three persons if more than three persons work in the dispensing area simultaneously;

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- a. Adverse drug reactions,
- b. Drug recalls,
- c. Expired and beyond-use-date drugs,
- d. Medication or dispensing errors, and
- e. Education of professional and support staff;
- 9. Recordkeeping;
- 10. Sanitation;
- 11. Security;
- 12. Drug delivery requirements for:
 - a. Transportation,
 - b. Security,
 - c. Temperature and other environmental controls,
 - d. Emergency provisions, and
- 13. Patient education.

Historical Note

Adopted effective April 5, 1996 (Supp. 96-2). Amended by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 10 A.A.R. 4453, effective December 4, 2004 (Supp. 04-4).

R4-23-674. Limited-service Long-term Care Pharmacy

- A. A limited-service pharmacy permittee shall ensure that the limited-service long-term care pharmacy complies with:
 - 1. The general requirements of R4-23-671;
 - 2. The professional practice standards of Article 4 and Article 11; and
 - 3. The permits and drug distribution standards of R4-23-606 through R4-23-612, R4-23-670, and this Section.
- B. If a limited-service long-term care pharmacy permittee contracts with a long-term care facility as a Provider Pharmacy, as defined in R4-23-110, the limited-service long-term care pharmacy permittee shall ensure that the long-term care consultant pharmacist and the pharmacist-in-charge of the limited-service long-term care pharmacy comply with R4-23-701, R4-23-701.01, R4-23-701.02, R4-23-701.03, R4-23-701.04, and this Section.
- C. The limited-service long-term care pharmacy permittee or pharmacist-in-charge shall ensure that prescription medication is delivered to the patient's long-term care facility or locked in the dispensing area of the pharmacy when a pharmacist is not present in the pharmacy.
- D. The pharmacist-in-charge of a limited-service long-term care pharmacy shall authorize only those individuals listed in R4-23-610(B) to be in the limited-service long-term care pharmacy.
- E. In consultation with the long-term care facility's medical director and director of nursing, the long-term care consultant pharmacist and pharmacist-in-charge of the long-term care facility's provider pharmacy may develop, if necessary, a medication formulary for the long-term care facility that ensures the safe and efficient procurement, dispensing, distribution, administration, and control of drugs in the long-term care facility.
- F. The limited-service long-term care pharmacy permittee or pharmacist-in-charge shall ensure that the written policies and procedures required in R4-23-671(E) include the following:
 - 1. Clinical services and drug utilization management for:
 - a. Drug utilization reviews,
 - b. Inventory audits,
 - c. Patient outcome monitoring,
 - d. Drug information, and
 - e. Education of pharmacy and other health professionals;
 - 2. Controlled substances;
 - 3. Drug compounding, dispensing, and storage;
 - 4. Drug delivery requirements for:

- a. Transportation,
- b. Security,
- c. Temperature and other environmental controls, and
- d. Emergency provisions;
- 5. Drug product procurement;
- 6. Duties and qualifications of professional and support staff;
- 7. Emergency drug supply unit procedures;
- 8. Formulary, including development, review, modification, use, and documentation, if applicable;
- 9. Patient profiles;
- 10. Patient education;
- 11. Prescription orders, including:
 - a. Approved abbreviations,
 - b. Stop-order procedures, and
 - c. Leave-of-absence and discharge prescription order procedures;
- 12. Quality management procedures for:
 - a. Adverse drug reactions,
 - b. Drug recalls,
 - c. Expired and beyond-use-date drugs,
 - d. Medication or dispensing errors, and
 - e. Education of professional and support staff;
- 13. Recordkeeping;
- 14. Sanitation; and
- 15. Security.

Historical Note

New Section made by final rulemaking at 9 A.A.R. 1064, effective May 4, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 19 A.A.R. 2894, effective November 10, 2013 (Supp. 13-3).

R4-23-675. Limited-service Sterile Pharmaceutical Products Pharmacy

- A. The limited-service pharmacy permittee or the pharmacist-in-charge shall ensure that the limited-service sterile pharmaceutical products pharmacy complies with the standards for area, personnel, security, sanitation, equipment, sterile pharmaceutical products, and limited-service pharmacies established in R4-23-608, R4-23-609, R4-23-610, R4-23-611, R4-23-612, R4-23-670, and R4-23-671.
- B. The pharmacist-in-charge of a limited-service sterile pharmaceutical products pharmacy shall authorize only pharmacists, interns, compliance officers, peace officers acting in their official capacities, pharmacy technicians, pharmacy technician trainees, support personnel, and other designated personnel to be in the limited-service sterile pharmaceutical products pharmacy.
- C. The pharmacist-in-charge of a limited-service sterile pharmaceutical products pharmacy shall ensure that prescription medication is delivered to the patient or locked in the dispensing area when a pharmacist is not present in the pharmacy.
- D. In addition to the delivery requirements of R4-23-402, the limited-service pharmacy permittee shall, during regular hours of operation, but not less than a minimum 40 hours per week, provide toll-free telephone service to facilitate communication between patients and a pharmacist who has access to patient records at the limited-service sterile pharmaceutical products pharmacy. The limited-service pharmacy permittee shall disclose this toll-free number on a label affixed to each container dispensed from the limited-service sterile pharmaceutical products pharmacy.
- E. The limited-service pharmacy permittee or the pharmacist-in-charge shall ensure development, implementation, review and revision in the same manner described in R4-23-671(E) and

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compliance with policies and procedures for pharmacy operations, including pharmaceutical product compounding, dispensing, and distribution, that comply with the requirements of R4-23-402, R4-23-410, R4-23-670, and R4-23-671.

- F. The non-dispensing roles of the pharmacist may include chart reviews, audits, drug therapy monitoring, committee participation, drug information, and in-service training of pharmacy and other health professionals.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 3391, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3). Amended by final rulemaking at 119 A.A.R. 2895, effective November 10, 2013 (Supp. 13-3).

R4-23-676. Reserved

through

R4-23-680. Reserved

R4-23-681. General Requirements for Limited-service Nuclear Pharmacy

- A. To be an authorized nuclear pharmacist, a pharmacist shall:
1. Hold a current pharmacist license issued by the Board; and
 2. Be certified as a nuclear pharmacist by:
 - a. The Board of Pharmaceutical Specialties, or
 - b. A similar group recognized by the Arizona State Board of Pharmacy; or
 3. Satisfy each of the following requirements:
 - a. Meet minimal standards of training for status as an authorized user of radioactive material, as specified by the Arizona Radiation Regulatory Agency and the United States Nuclear Regulatory Commission;
 - b. Submit certification of completion of a Board-approved nuclear pharmacy training program or other training program recognized by the Arizona Radiation Regulatory Agency, with 200 hours of didactic training in the following areas:
 - i. Radiation physics and instrumentation,
 - ii. Radiation protection,
 - iii. Mathematics pertaining to the use and measurement of radioactivity,
 - iv. Radiation biology, and
 - v. Radiopharmaceutical chemistry;
 - c. Submit evidence of a minimum of 500 hours of clinical/practical nuclear pharmacy training under the supervision of an authorized nuclear pharmacist in the following areas:
 - i. Procuring radioactive materials;
 - ii. Compounding radiopharmaceuticals;
 - iii. Performing routine quality control procedures;
 - iv. Dispensing radiopharmaceuticals;
 - v. Distributing radiopharmaceuticals;
 - vi. Implementing basic radiation protection procedures; and
 - vii. Consulting and educating the nuclear medicine community, patients, pharmacists, other health professionals, and the general public; and
 - d. Submit written certification, signed by a preceptor who is an authorized nuclear pharmacist, that the above training was satisfactorily completed.
- B. Radiopharmaceuticals are prescription-only drugs that require specialized techniques in their handling and testing, to obtain optimum results and minimize hazards.

1. A person shall not sell, barter, or otherwise dispose of, or be in possession of any radiopharmaceutical except under the conditions detailed in A.R.S. § 32-1929.
 2. A person shall not manufacture, compound, sell, or dispense any radiopharmaceutical unless the person is a pharmacist or a pharmacy intern acting under the direct supervision of a pharmacist in accordance with A.R.S. § 32-1961 and these rules, with the exception of the following, if the following are licensed by the Arizona Radiation Regulatory Agency to use radiopharmaceuticals in compliance with A.R.S. § 30-673;
 - a. A medical practitioner who administers a radiopharmaceutical to the medical practitioner's patient as provided in A.R.S. § 32-1921(A),
 - b. A hospital nuclear medicine department, and
 - c. A medical practitioner's office.
 3. The Board shall cooperate with the Arizona Radiation Regulatory Agency and other interested state and federal agencies, in the enforcement of these rules for the protection of the public. This cooperation may include exchange of licensing and other information, joint inspections, and other activities where indicated.
- C. In addition to compliance with all the applicable federal and state laws and rules governing drugs, whether radioactive or not, a limited-service nuclear pharmacy permittee shall comply with all laws and rules of the Arizona Radiation Regulatory Agency and the U.S. Nuclear Regulatory Commission, including emergency and safety provisions.
- D. A limited-service nuclear pharmacy permittee shall comply with the education, experience, and licensing requirements of the Arizona Radiation Regulatory Agency.
- E. A limited-service nuclear pharmacy permittee shall ensure that radiopharmaceuticals are transferred only to a person or firm that holds a current Radioactive Materials License issued by the Arizona Radiation Regulatory Agency.

Historical Note

Adopted effective December 3, 1974 (Supp. 75-1). Amended subsections (A), (C) and (D) effective Aug. 12, 1988 (Supp. 88-3). Amended effective July 8, 1997 (Supp. 97-3).

R4-23-682. Limited-service Nuclear Pharmacy

- A. Before operating a limited-service nuclear pharmacy, a person shall obtain a permit in compliance with A.R.S. §§ 32-1929, 32-1930, and 32-1931, and R4-23-606.
- B. A permit to operate a limited-service nuclear pharmacy shall be issued only to a person who is or employs an authorized nuclear pharmacist and holds a current Arizona Radiation Regulatory Agency Radioactive Materials License. A limited-service nuclear pharmacy permittee that fails to maintain a current Arizona Radiation Regulatory Agency Radioactive Materials License shall be immediately suspended pending revocation by the Board. A limited-service nuclear pharmacy permittee shall have copies of Arizona Radiation Regulatory Agency inspection reports available upon request for Board inspection.
1. A limited-service nuclear pharmacy permittee shall designate an authorized nuclear pharmacist as the pharmacist-in-charge. The pharmacist-in-charge shall be responsible to the Board:
 - a. For the operations of the pharmacy related to the practice of pharmacy and distribution of drugs and devices;
 - b. For communicating Board directives to the management, pharmacists, interns, and other personnel of the pharmacy; and

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- c. For the pharmacy's compliance with all federal and state pharmacy laws and rules.
 - 2. An authorized nuclear pharmacist shall directly supervise all personnel performing tasks in the preparation and distribution of radiopharmaceuticals and ancillary drugs.
 - 3. An authorized nuclear pharmacist shall be present whenever the limited-service nuclear pharmacy is open for business.
- C.** A limited-service nuclear pharmacy permittee shall ensure that the limited-service nuclear pharmacy complies with the standards for personnel, area, security, sanitation, and general requirements in R4-23-608, R4-23-609, R4-23-610, R4-23-611, and R4-23-671.
- 1. A limited-service nuclear pharmacy shall contain separate areas for:
 - a. Preparing and dispensing radiopharmaceuticals,
 - b. Receiving and shipping radiopharmaceuticals,
 - c. Storing radiopharmaceuticals, and
 - d. Decaying radioactive waste.
 - 2. The Board may require more than the minimum area in instances where equipment, inventory, personnel, or other factors cause crowding to a degree that interferes with safe pharmacy practice.
- D.** The pharmacist-in-charge shall designate in writing, by title and specific area, the persons who may have access to particular pharmacy areas.
- E.** A limited-service nuclear pharmacy permittee shall maintain records of acquisition, inventory, and disposition of radiopharmaceuticals, other radioactive substances, and other drugs in accordance with federal and state statutes and rules.
- 1. A prescription order, in addition to the requirements in A.R.S. § 32-1968(C) and R4-23-407(A), shall contain:
 - a. The date and time of calibration of the radiopharmaceutical,
 - b. The name of the procedure for which the radiopharmaceutical is prescribed, and
 - c. The words "Physician's Use Only" instead of the name of the patient if the radiopharmaceutical is nontherapeutic or for a nonblood product.
 - 2. The lead container used to store and transport a radiopharmaceutical shall have a label that, in addition to the requirements in A.R.S. § 32-1968(D), includes:
 - a. The date and time of calibration of the radiopharmaceutical,
 - b. The name of the radiopharmaceutical,
 - c. The molybdenum 99 content to USP limits,
 - d. The name of the procedure for which the radiopharmaceutical is prescribed,
 - e. The words "Physician's Use Only" instead of the name of the patient if the radiopharmaceutical is nontherapeutic or for a nonblood product,
 - f. The words "Caution: Radioactive Material," and
 - g. The standard radiation symbol.
 - 3. The radiopharmaceutical container shall have a label that includes:
 - a. The date and time of calibration of the radiopharmaceutical;
 - b. The name of the patient, recorded before dispensing, if the radiopharmaceutical is therapeutic or for a blood product;
 - c. The words "Physician's Use Only" instead of the name of the patient if the radiopharmaceutical is nontherapeutic or for a nonblood product;
 - d. The name of the radiopharmaceutical;
 - e. The dose of radiopharmaceutical;
 - f. The serial number;
 - g. The words "Caution: Radioactive Material"; and
 - h. The standard radiation symbol.
- F.** The following minimum requirements are in addition to the requirements of the Arizona Radiation Regulatory Agency, the applicable U.S. Nuclear Regulatory Commission regulations, and the applicable regulations of the federal Food and Drug Administration. A limited-service nuclear pharmacy permittee shall provide:
- 1. In addition to the minimum pharmacy area requirements in R4-23-609:
 - a. An area for the storing, compounding, and dispensing of radiopharmaceuticals completely separate from pharmacy areas for nonradioactive drugs;
 - b. A minimum of 80 sq. ft. for a hot lab and storage area; and
 - c. A minimum of 300 sq. ft. of compounding and dispensing area;
 - 2. The following equipment:
 - a. Fume hood, approved by the Arizona Radiation Regulatory Agency;
 - b. Laminar flow hood;
 - c. Dose calibrator;
 - d. Refrigerator;
 - e. Prescription balance, Class A, and weights or an electronic balance of equal or greater accuracy;
 - f. Well scintillation counter;
 - g. Incubator oven;
 - h. Microscope;
 - i. An assortment of labels, including prescription labels and cautionary and warning labels;
 - j. Glassware necessary for compounding and dispensing radiopharmaceuticals as required by the Arizona Radiation Regulatory Agency;
 - k. Other equipment necessary for radiopharmaceutical quality control for products compounded or dispensed as required by the Arizona Radiation Regulatory Agency;
 - l. Current antidote and drug interaction information; and
 - m. Regional poison control phone number prominently displayed in the pharmacy area;
 - 3. Supplies necessary for compounding and dispensing radiopharmaceuticals as required by the Arizona Radiation Regulatory Agency;
 - 4. A professional reference library consisting of a minimum of one current reference or text addressing each of the following subject areas:
 - a. Therapeutics,
 - b. Nuclear pharmacy practice, and
 - c. Imaging;
 - 5. Current editions and supplements of:
 - a. A.R.S. §§ 30-651 through 30-696 pertaining to the Arizona Radiation Regulatory Agency,
 - b. Rules of the Arizona Radiation Regulatory Agency,
 - c. Regulations of the federal Food and Drug Administration pertaining to radioactive drugs,
 - d. Arizona Pharmacy Act and rules,
 - e. Arizona Uniform Controlled Substances Act, and
 - f. Radiological Health Handbook.
- G.** The pharmacist-in-charge of a limited-service nuclear pharmacy shall prepare, implement, review, and revise in the same manner described in R4-23-671(E) and comply with written policies and procedures for pharmacy operations and drug distribution.
- H.** The written policies and procedures of a limited-service nuclear pharmacy shall include the following:

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1. Prescription orders;
2. Clinical services and drug utilization management including:
 - a. Drug utilization reviews,
 - b. Inventory audits,
 - c. Patient outcome monitoring,
 - d. Drug information, and
 - e. Education of pharmacy and other health professionals;
3. Duties and qualifications of professional and support staff;
4. Radioactive material handling, storage, and disposal;
5. Drug product procurement;
6. Drug compounding, dispensing, and storage;
7. Investigational drugs and their protocols;
8. Patient profiles;
9. Quality management procedures for:
 - a. Adverse drug reaction reports;
 - b. Drug recall;
 - c. Expired and beyond-use-date drugs;
 - d. Medication or dispensing errors;
 - e. Radiopharmaceutical quality assurance;
 - f. Radiological health and safety;
 - g. Drug storage and disposition; and
 - h. Education of professional staff, support staff, and patients;
10. Recordkeeping;
11. Sanitation;
12. Security;
13. Drug delivery requirements for:
 - a. Transportation,
 - b. Security,
 - c. Radiological health and safety procedures,
 - d. Temperature and other environmental controls, and
 - e. Emergency provisions; and
14. Patient education.

Historical note

Adopted effective July 8, 1997 (Supp. 97-3). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3).

R4-23-683. Reserved

through

R4-23-690. Reserved

R4-23-691. Repealed

Historical Note

Adopted effective Dec. 3, 1974 (Supp. 75-1). Amended effective Aug. 12, 1988 (Supp. 88-3). Amended effective November 1, 1993 (Supp. 93-4). Repealed effective July 8, 1997 (Supp. 97-3).

R4-23-692. Compressed Medical Gas (CMG) Distributor-Resident or Nonresident

A. Permit.

1. A person shall not manufacture, process, transfill, package, or label a compressed medical gas in Arizona, or manufacture, process, transfill, package, or label a compressed medical gas outside Arizona and ship into Arizona without a current Board-issued resident or nonresident compressed medical gas distributor permit.
2. Before operating as a compressed medical gas distributor, a person shall register with the FDA as a medical gas manufacturer and comply with the drug listing requirements of the federal act.

- B. Application.** To obtain a resident or nonresident CMG distributor permit, a person shall submit a completed application form and fee as specified in R4-23-602.
 1. A resident CMG distributor permit applicant shall include documentation of compliance with local zoning laws, if required by the Board.
 2. A nonresident CMG distributor permit applicant that resides in a jurisdiction that issues an equivalent license or permit shall include a copy of the equivalent license or permit.
- C. Notification.** A resident or nonresident CMG distributor permittee shall provide written notice by mail, facsimile, or e-mail to the Board office within ten days of changes involving the telephone number, facsimile number, e-mail address, mailing address, or name of business.
- D. Change of ownership.** No less than 14 days before a change of ownership occurs that involves changes of stock ownership of 30% or more of the voting stock of a corporation or an existing and continuing corporation that is not actively traded on any securities market or over-the-counter market, the prospective owner shall submit a completed application form and fee as specified in subsection (B).
- E. Relocation.**
 1. No less than 30 days before an existing resident CMG distributor permittee relocates, the permittee shall submit a completed application for relocation electronically or manually on a form furnished by the Board, and the documentation required in subsection (B).
 2. A nonresident CMG distributor permittee shall provide written notice by mail, facsimile, or e-mail to the Board office no less than ten days before relocating.
- F.** A resident or nonresident CMG distributor permittee shall sell or distribute a compressed medical gas pursuant to a compressed medical gas order only to durable medical equipment and compressed medical gas suppliers and other entities that are registered, licensed, or permitted to use, administer, or distribute compressed medical gases.
- G. Facility.** A resident or nonresident CMG distributor permittee shall ensure the facility is clean, uncluttered, sanitary, temperature controlled, and secure from unauthorized access.
- H. Current Good Manufacturing Practice:** A resident or nonresident CMG distributor permittee shall comply with the current good manufacturing practice requirements of 21 CFR parts 210 and 211, (Revised April 1, 2013, incorporated by reference and on file with the Board and available at www.gpo.gov. This incorporated material includes no future editions or amendments).
- I. Records:** A resident or nonresident CMG distributor permittee shall establish and implement written procedures for maintaining records pertaining to production, transfilling, process control, labeling, packaging, quality control, distribution, returns, recalls, training of personnel, complaints, and any information required by federal or state law.
 1. A permittee shall retain the records required by Section R4-23-601, this Section, and 21 CFR parts 210 and 211 for not less than three years or one year after the expiration date of the compressed medical gas, whichever is longer.
 2. A permittee shall make the records required by Section R4-23-601, this Section, and 21 CFR parts 210 and 211 available on inspection by the Board or its compliance officer, or if stored in a centralized recordkeeping system apart from the inspection location and not electronically retrievable, shall provide the records within four working days of a request by the Board or its compliance officer.
- J. Inspection.**

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1. A resident CMG distributor permittee shall make the CMG distributor's facility available for inspection by the Board or its compliance officers under A.R.S. § 32-1904.
 2. Within ten days from the date of a request by the Board or its staff, a nonresident CMG distributor permittee shall provide a copy of the most recent inspection report completed by the permittee's resident licensing authority or the FDA, or a copy of the most recent inspection report completed by a third-party auditor approved by the permittee's resident licensing authority or the Board or its designee. The Board may inspect, or may employ a third-party auditor to inspect, a nonresident permittee as specified in A.R.S. § 32-1904.
- K.** Permit renewal. Permit renewal shall be as specified in R4-23-602(D).
- L.** Nothing in this Section shall be construed to prohibit the emergency administration of oxygen by licensed health care personnel, emergency medical technicians, first responders, fire fighters, law enforcement officers, and other emergency personnel trained in the proper use of emergency oxygen.
- Historical Note**
 Adopted effective January 12, 1998 (Supp. 98-1).
 Amended by final rulemaking at 19 A.A.R. 97, effective March 10, 2013 (Supp. 13-1). Amended by final rulemaking at 20 A.A.R. 1364, effective August 2, 2014 (Supp. 14-2).
- R4-23-693. Durable Medical Equipment (DME) and Compressed Medical Gas (CMG) Supplier-Resident or Nonresident**
- A.** Permit. A person shall not sell, lease, or supply durable medical equipment or a compressed medical gas to a patient or consumer in Arizona for use in a home or residence without a current Board-issued resident or nonresident durable medical equipment and compressed medical gas supplier permit.
1. The permit requirements of this Section shall not apply to the following unless there is a separate business entity engaged in the business of providing durable medical equipment or a compressed medical gas to a patient or consumer for use in a home or residence:
 - a. A medical practitioner licensed under A.R.S. Title 32;
 - b. A hospital, long-term care facility, hospice, or other health care facility using durable medical equipment or a compressed medical gas in the normal course of treating a patient; and
 - c. A pharmacy.
 2. Nothing in this Section shall be construed to prohibit a person with a current Board-issued nonprescription drug permit from the retail sale of nonprescription drugs or devices.
- B.** Application. To obtain a resident or nonresident DME and CMG supplier permit, a person shall submit a completed application form and fee as specified in R4-23-602.
1. A resident DME and CMG supplier permit applicant shall include documentation of compliance with local zoning laws, if required by the Board.
 2. A nonresident DME and CMG supplier permit applicant that resides in a jurisdiction that issues an equivalent license or permit shall include a copy of the equivalent license or permit.
- C.** Notification. A resident or nonresident DME and CMG supplier permittee shall provide written notice by mail, facsimile, or e-mail to the Board office within ten days of changes involving the telephone number, facsimile number, email address, mailing address, or name of business.
- D.** Change of ownership. No less than 14 days before a change of ownership occurs that involves changes of stock ownership of 30% or more of the voting stock of a corporation or an existing and continuing corporation that is not actively traded on any securities market or over-the-counter market, the prospective owner shall submit a completed application form and fee as specified in subsection (B).
- E.** Relocation.
1. No less than 30 days before an existing resident DME and CMG supplier permittee relocates, the permittee shall submit a completed application for relocation electronically or manually on a form furnished by the Board, and the documentation required in subsection (B).
 2. A nonresident DME and CMG supplier permittee shall provide written notice by mail, facsimile, or e-mail to the Board office no less than ten days before relocating.
- F.** Orders. A resident or nonresident DME and CMG supplier shall sell, lease, or provide:
1. Durable medical equipment that is a prescription-only device as defined in A.R.S. § 32-1901(75) only pursuant to a prescription order or medication order from a medical practitioner; and
 2. A compressed medical gas only pursuant to a compressed medical gas order from a medical practitioner.
- G.** Restriction. A DME and CMG supplier permit shall authorize the permittee to procure, possess, and provide a prescription-only device or compressed medical gas to a patient or consumer as specified in subsection (F). A DME and CMG supplier permit does not authorize the permittee to procure, possess, or provide narcotics or other controlled substances, prescription-only drugs other than compressed medical gases, precursor chemicals, or regulated chemicals.
- H.** Facility. A resident or nonresident DME and CMG supplier permittee shall ensure the facility is clean, uncluttered, sanitary, temperature controlled, and secure from unauthorized access. A permittee shall maintain separate and identified storage areas in the facility and in the delivery vehicles for clean, dirty, contaminated, or damaged durable medical equipment or compressed medical gases.
- I.** A resident or nonresident DME and CMG supplier permittee shall not manufacture, process, transfill, package, or label a compressed medical gas, except as set forth in subsection (J).
- J.** Records. A resident or nonresident DME and CMG supplier permittee shall establish and implement written procedures for maintaining records pertaining to acquisition, distribution, returns, recalls, training of personnel, maintenance, cleaning, and complaints. A permittee shall:
1. Ensure that a prescription order, medication order, or compressed medical gas order is obtained as specified in subsection (F);
 2. Ensure that each compressed medical gas container supplied by the permittee contains a label bearing the name and address of the permittee;
 3. Ensure that all appropriate warning labels are present on the durable medical equipment or compressed medical gas;
 4. Retain the records required by Section R4-23-601 and this Section for not less than three years, or if supplying a compressed medical gas, one year after the expiration date of the compressed medical gas, whichever is longer; and
 5. Make the records required by Section R4-23-601 and this Section available on inspection by the Board or its compliance officer, or if stored in a centralized recordkeeping system apart from the inspection location and not electronically retrievable for inspection, shall provide the

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records within four working days of a request by the Board or its staff.

K. Inspection.

1. A resident DME and CMG supplier permittee shall make the DME and CMG supplier's facility available for inspection by the Board or its compliance officers under A.R.S. § 32-1904.
2. Within ten days from the date of a request by the Board or its staff, a nonresident DME and CMG supplier permittee shall provide a copy of the most recent inspection report completed by the permittee's resident licensing authority, or a copy of the most recent inspection report completed by a third-party auditor approved by the permittee's resident licensing authority or the Board or its designee. The Board may inspect, or may employ a third-party auditor to inspect, a nonresident permittee as specified in A.R.S. § 32-1904.

L. Permit renewal. Permit renewal shall be as specified in R4-23-602(D).**M.** Nothing in this Section shall be construed to prohibit the emergency administration of oxygen by licensed health care personnel, emergency medical technicians, first responders, fire fighters, law enforcement officers, and other emergency personnel trained in the proper use of emergency oxygen.**Historical Note**

Adopted effective January 12, 1998 (Supp. 98-1).

Amended by final rulemaking at 20 A.A.R. 1364, effective August 2, 2014 (Supp. 14-2).

ARTICLE 7. NON-PHARMACY LICENSED OUTLETS – GENERAL PROVISIONS**R4-23-701. Long-term Care Facilities Pharmacy Services: Consultant Pharmacist****A.** The long-term care consultant pharmacist as defined in R4-23-110 shall:

1. Possess a valid Arizona pharmacist license issued by the Board;
2. Ensure the provision of pharmaceutical patient care services as defined in R4-23-110;
3. Review the distribution and storage of drugs and devices and assist the facility in establishing policies and procedures for the distribution and storage of drugs and devices;
4. Provide resident evaluation programs that relate to monitoring the therapeutic response and utilization of all drugs and devices prescribed or administered to residents, using as guidelines the most current indicators established by the Centers for Medicare and Medicaid Services, United States Department of Health and Human Services as required in 42 CFR 483.60 (revised October 1, 2010, incorporated by reference and on file with the Board. This incorporated material contains no future editions or amendments.).
5. Serve as a resource for pharmacy-related education services within the facility;
6. Participate in quality management of resident care in the facility; and
7. Communicate with the provider pharmacy regarding areas of mutual concern and resolution.

B. A long-term care consultant pharmacist shall ensure that:

1. When a provider pharmacy is not open for business, arrangements are made in advance by the long-term care consultant pharmacist, in cooperation with the pharmacist-in-charge of the provider pharmacy and the director of nursing and medical staff of the long-term care facility, for providing emergency drugs for the licensed nursing

staff to administer to the residents of the facility using an emergency drug supply unit located at the facility;

2. The label and packaging of prescription-only and nonprescription drugs intended for use within a long-term care facility complies with state and federal law; and

3. The long-term care facility:

- a. Stores controlled substances listed in A.R.S. § 36-2513 in a separately locked and permanently affixed compartment, unless the facility uses a single-unit package medication distribution system; and
- b. Maintains accurate records of controlled substance administration or ultimate disposition.

C. The long-term care consultant pharmacist shall:

1. Ensure availability of records and reports designed to provide the data necessary to evaluate the drug use of each long-term care facility resident that include the following:
 - a. Provider pharmacy patient profiles and long-term care facility medication administration records;
 - b. Reports of suspected adverse drug reactions;
 - c. Inspection reports of drug storage areas with emphasis on detecting outdated drugs; and
 - d. Accountability reports, that include:
 - i. Date and time of administration,
 - ii. Name of the person who administered the drug,
 - iii. Documentation and verification of any wasted or partial doses,
 - iv. Exception reports for refused doses, and
 - v. All drug destruction forms; and
2. Identify and report drug irregularities and dispensing errors to the prescriber, the director of nursing of the facility, and the provider pharmacy.

D. A long-term care consultant pharmacist or pharmacist-in-charge of a provider pharmacy shall ensure that:

1. Discontinued or outdated drugs, including controlled substances, are destroyed or disposed of in a timely manner using methods consistent with federal, state, and local requirements and subject to review by the Board or its staff; and
2. Drug containers with illegible or missing labels are:
 - a. Identified; and
 - b. Replaced or relabeled by a pharmacist employed by the pharmacy that dispensed the prescription medication.

Historical Note

Former Rules 6.8110, 6.8120, 6.8130, 6.8140, 6.8150, 6.8160, and 6.8170; Amended effective Aug. 10, 1978 (Supp. 78-4). Section repealed, new Section adopted effective December 18, 1992 (Supp. 92-4). Amended by final rulemaking at 9 A.A.R. 1064, effective May 4, 2003 (Supp. 03-1). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3). Amended by final rulemaking at 19 A.A.R. 2894, effective November 10, 2013 (Supp. 13-3).

R4-23-701.01. Long-term Care Facilities Pharmacy Services: Provider Pharmacy

The limited-service pharmacy permittee or pharmacist-in-charge of a provider pharmacy shall ensure that:

1. A prescription medication is provided only by a valid prescription order for an individual long-term care facility resident, properly labeled for that resident, as specified in this subsection. Nothing in this Section shall prevent a provider pharmacy from supplying nonprescription drugs in a manufacturer's unopened container or emergency

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- drugs using an emergency drug supply unit as specified in R4-23-701.02;
2. A prescription medication label for a long-term care facility resident complies with A.R.S. §§ 32-1968 and 36-2525 and contains:
 - a. The drug name, strength, dosage form, and quantity; and
 - b. The beyond-use-date;
 3. Only a pharmacist employed by the pharmacy that dispensed the prescription medication may, through the exercise of professional judgment, relabel or alter a prescription medication label that is illegible or missing;
 4. The provider pharmacy develops and implements drug recall policies and procedures that protect the health and safety of facility residents. The drug recall procedures shall include immediate discontinuation of any patient level recalled drug and notification of the prescriber and director of nursing of the facility; and
 5. Drugs previously dispensed to a resident of the long-term care facility by another pharmacy, and drugs previously dispensed by the provider pharmacy, are not repackaged.

Historical Note

Adopted effective December 18, 1992 (Supp. 92-4).
 Amended by final rulemaking at 9 A.A.R. 1064, effective May 4, 2003 (Supp. 03-1). Amended by final rulemaking at 19 A.A.R. 2894, effective November 10, 2013 (Supp. 13-3).

R4-23-701.02. Long-term Care Facilities Pharmacy Services: Emergency Drugs

- A. The limited-service pharmacy permittee or pharmacist-in-charge of a provider pharmacy shall ensure that:
 1. An emergency drug supply unit is available within the long-term care facility,
 2. Drugs contained in an emergency drug supply unit remain the property of the provider pharmacy, and
 3. Controlled substance drugs contained in an emergency drug supply unit are included in all inventories required under A.R.S. § 36-2523(B) and R4-23-1003(A).
- B. An emergency drug supply unit shall meet the following criteria:
 1. The drugs are necessary to meet the immediate and emergency therapeutic needs of long-term care facility residents as determined by the provider pharmacy's pharmacist-in-charge in consultation with the long-term care facility's medical director and nursing director;
 2. The purpose of the emergency drug supply unit in a long-term care facility is not to relieve a provider pharmacy of the responsibility for timely provision of the resident's routine drug needs, but to ensure that an emergency drug supply unit is available for facility residents in need of immediate and emergency therapeutic drugs; and
 3. The drugs are provided in a manufacturer's unit of use package or are prepackaged and labeled to include the drug name, strength, dosage form, manufacturer, lot number, and expiration date and provider pharmacy's name, address, telephone number, and pharmacist's initials.
- C. The limited-service pharmacy permittee or pharmacist-in-charge of a provider pharmacy shall ensure that an emergency drug supply unit:
 1. Is stored in an area that:
 - a. Is temperature controlled; and
 - b. Prevents unauthorized access;
 2. Contains on the exterior of the emergency drug supply unit a label to indicate that the contents are for emergency use only;
3. Contains on the exterior of the emergency drug supply unit a complete list of the contents of the unit by drug name, strength, dosage form, and quantity and the provider pharmacy's name, address, and telephone number;
4. Contains on the exterior of the emergency drug supply unit a label that indicates the date of the earliest drug expiration date;
5. Contains on the exterior of the emergency drug supply unit a label that indicates the date of and pharmacist responsible for the last inspection of the emergency drug supply unit; and
6. Is secured with a tamper-evident seal, or is locked and sealed in a manner that obviously reveals when the unit has been opened or tampered with.
- D. The limited-service pharmacy permittee or pharmacist-in-charge of a provider pharmacy shall:
 1. Prepare, implement, review, and revise in the same manner described in R4-23-671(E) and comply with written policies and procedures for the storage and use of an emergency drug supply unit in a long-term care facility;
 2. Make the policies and procedures available in the provider pharmacy and long-term care facility for employee reference and inspection by the Board or its staff;
 3. Ensure that the written policies and procedures include the following:
 - a. Drug removal procedures that require:
 - i. The long-term care facility's personnel receive a valid prescription order for each drug removed from the emergency drug supply unit,
 - ii. The long-term care facility's personnel notify the provider pharmacy when a drug is removed from the emergency drug supply unit,
 - b. Outdated drug replacement procedures, and
 - c. Security and inspection procedures;
 4. Exchange or restock the emergency drug supply unit weekly, or more often as necessary, to ensure the availability of an adequate supply of emergency drugs within the long-term care facility. Restocking of the emergency drug supply unit at the facility shall be completed by an Arizona licensed pharmacist employed by the provider pharmacy, or by an Arizona licensed intern, graduate intern, technician or technician trainee under the direct onsite supervision of an Arizona licensed pharmacist; and
 5. Educate pharmacy and long-term care facility personnel in the storage and use of an emergency drug supply unit.
- E. In addition to the requirements of subsections (A) through (D), an automated emergency drug supply unit may be used provided:
 1. The pharmacy permittee or pharmacist-in-charge of the provider pharmacy notifies the Board or its staff in writing of the intent to use an automated emergency drug supply unit, including the name and type of unit;
 2. The provider pharmacy is notified electronically when the automated emergency drug supply unit has been accessed;
 3. All events involving the access of the automated emergency drug supply unit are recorded electronically and maintained for not less than two years;
 4. The provider pharmacy is capable of producing a report of all transactions of the automated emergency drug supply unit including a single drug usage report as required in R4-23-408(B)(5) on inspection by the Board or its staff;
 5. The provider pharmacy develops written policies and procedures for:

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- a. Accessing the automated emergency drug supply unit in the event of a system malfunction or downtime,
 - b. Authorizing and modifying user access,
 - c. An ongoing quality assurance program that includes:
 - i. Training in the use of the automated emergency drug supply unit for all authorized users,
 - ii. Maintenance and calibration of the automated emergency drug supply unit as recommended by the device manufacturer; and
 - 6. Documentation of the requirements of subsection (E)(5)(c)(ii) is maintained for inspection by the Board or its staff for not less than two years.
- F.** The Board may prohibit a pharmacy permittee or pharmacist-in-charge of a provider pharmacy from using an automated emergency drug supply unit if the pharmacy permittee or pharmacy permittee's employees do not comply with the requirements of subsections (A) through (E).

Historical Note

Adopted effective December 18, 1992 (Supp. 92-4).
 Amended by final rulemaking at 9 A.A.R. 1064, effective May 4, 2003 (Supp. 03-1). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3). Amended by final rulemaking at 19 A.A.R. 2894, effective November 10, 2013 (Supp. 13-3).

R4-23-701.03. Long-term Care Facilities Pharmacy Services: Emergency Drug Prescription Order

The limited-service pharmacy permittee or pharmacist-in-charge of a provider pharmacy shall ensure that every emergency drug prescription order is evaluated according to the requirements of R4-23-402(A) by a pharmacist within 72 hours of the first dose of drug administered by long-term care facility personnel under the emergency drug prescription order.

Historical Note

Adopted effective December 18, 1992 (Supp. 92-4).
 Amended by final rulemaking at 9 A.A.R. 1064, effective May 4, 2003 (Supp. 03-1).

R4-23-701.04. Long-term Care Facilities Pharmacy Services: Automated Dispensing Systems

- A.** Before using an automated dispensing system as defined in R4-23-110, a pharmacy permittee or pharmacist-in-charge of a provider pharmacy shall:
- 1. Notify the Board or its staff in writing of the intent to use an automated dispensing system, including the name and type of system;
 - 2. Obtain a separate controlled substances registration at the location of each long-term care facility at which an automated dispensing system containing controlled substances will be located as required by federal law; and
 - 3. Maintain copies of the registrations required under subsection (A)(2) at the provider pharmacy for inspection by the Board or its staff.
- B.** A pharmacy permittee or pharmacist-in-charge of a provider pharmacy shall ensure:
- 1. Drugs contained in an automated dispensing system remain the property of the provider pharmacy,
 - 2. Controlled substance drugs contained in an automated dispensing system are included in all inventories required under A.R.S. § 36-2523(B) and R4-23-1003(A),
 - 3. Schedule II drugs are not stocked in an automated dispensing system, and
 - 4. A separate emergency drug supply unit is available in the long-term care facility to meet the requirements of R4-23-701.02.
- C.** A pharmacy permittee or pharmacist-in-charge of a provider pharmacy shall:
- 1. Ensure that policies and procedures as required in subsection (D) for the use of an automated dispensing system in a long-term care facility are prepared, implemented, and complied with;
 - 2. Review biennially and, if necessary, revise the policies and procedures required under subsection (D);
 - 3. Document the review required under subsection (C)(2);
 - 4. Assemble the policies and procedures as a written or electronic manual; and
 - 5. Make the policies and procedures available for employee reference and inspection by the Board or its staff within the pharmacy and at any location outside of the pharmacy where the automated dispensing system is used.
- D.** A pharmacy permittee or pharmacist-in-charge of a provider pharmacy shall ensure the written policies and procedures include:
- 1. Drug removal procedures that include the following:
 - a. A drug is provided only by a valid prescription order for an individual long-term care facility resident;
 - b. A drug is dispensed from an automated dispensing system only after a pharmacist has:
 - i. Reviewed and verified the resident's prescription order as required by R4-23-402(A), and
 - ii. Electronically authorized the access for that drug for that particular resident, and
 - c. The automated dispensing system labels each individual drug packet with a resident specific label that complies with R4-23-701.01(2) and contains the resident's room number or facility identification number; and
 - 2. Security procedures that include the following:
 - a. The pharmacy permittee or pharmacist-in-charge of the provider pharmacy is responsible for authorizing user access, including adding and removing users and modifying user access;
 - b. Each authorized user is a licensee of the Board or authorized licensed personnel of the long-term care facility; and
 - c. The automated dispensing system is secured at the long-term care facility by electronic or mechanical means or a combination thereof designed to prevent unauthorized access;
 - 3. Drug stocking procedures that include the following:
 - a. Automated dispensing systems that use non-removable containers that do not allow prepackaging of the container as set out in subsection (D)(3)(b):
 - i. Are stocked at the long-term care facility by an Arizona licensed pharmacist employed by the provider pharmacy, or by an Arizona licensed intern, graduate intern, technician or technician trainee under the direct onsite supervision of an Arizona licensed pharmacist; and
 - ii. Utilize bar code or other technologies to ensure the correct drug is placed in the correct canister or container; and
 - b. Automated dispensing systems that use removable containers may be stocked at the long-term care facility by an authorized user provided:
 - i. The prepackaging of the container occurs at the provider pharmacy;
 - ii. A pharmacist verifies the container has been properly filled and labeled, and the container is secured with a tamper-evident seal;

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- iii. The individual containers are transported to the long-term care facility in a secure, tamper-evident shipping container; and
 - iv. The automated dispensing system uses microchip, bar-coding, or other technologies to ensure the containers are accurately loaded in the automated dispensing system; and
- 4. Recordkeeping and report procedures that include the following:
 - a. All events involving the access of the automated dispensing system are recorded electronically and maintained for not less than two years;
 - b. The provider pharmacy is capable of producing a report of all transactions of the automated dispensing system including:
 - i. A single drug usage report that complies with R4-23-408(B)(5); and
 - ii. An authorized user history including date and time of access and type of transaction; and
 - c. The provider pharmacy has procedures to safeguard the storage, packaging, and distribution of drugs by monitoring:
 - i. Current inventory;
 - ii. Expiration dates;
 - iii. Controlled substance dispensing;
 - iv. Re-dispense requests; and
 - v. Wastage.
- E. A pharmacy permittee or pharmacist-in-charge of a provider pharmacy shall:
 - 1. Ensure that an electronic log is kept for each container fill that includes:
 - a. An identification of the container by drug name and strength, and container number;
 - b. The drug's manufacturer or National Drug Code (NDC) number;
 - c. The expiration date and lot number from the manufacturer's stock bottle that is used to fill the container. If multiple lot numbers of the same drug are added to a container, each lot number and expiration date shall be documented;
 - d. The date the container is filled;
 - e. Documentation of the identity of the licensee who placed the drug into the container; and
 - f. If the licensee who filled the container is not a pharmacist, documentation of the identity of the pharmacist who supervised the non-pharmacist licensee; and
 - 2. Maintain the electronic log for inspection by the Board or its staff for not less than two years.
- F. A pharmacy permittee or pharmacist-in-charge of a provider pharmacy shall:
 - 1. Implement an ongoing quality assurance program that monitors performance of the automated dispensing system and compliance with the established policies and procedures that includes:
 - a. Training in the use of the automated dispensing system for all authorized users,
 - b. Maintenance and calibration of the automated dispensing system as recommended by the device manufacturer,
 - c. Routine accuracy validation testing no less than every three months, and
 - d. Downtime and malfunction procedures to ensure the timely provision of medication to the long-term care facility resident, and
 - 2. Maintain documentation of the requirements of subsections (F)(1)(b) and (F)(1)(c) for inspection by the Board or its staff for not less than two years.
- G. The Board may prohibit a pharmacy permittee or pharmacist-in-charge from using an automated dispensing system in a long-term care facility if the pharmacy permittee or the pharmacy permittee's employees do not comply with the requirements of subsections (A) through (F).

Historical Note

New Section made by final rulemaking at 19 A.A.R. 2894, effective November 10, 2013 (Supp. 13-3).

R4-23-702. Hospice Inpatient Facilities

- A. If a pharmacy permittee contracts to provide pharmacy services to the patients of a hospice inpatient facility as defined in R4-23-110, the pharmacy permittee shall ensure that:
 - 1. A prescription medication is provided only by a valid prescription order for an individual hospice inpatient facility patient, properly labeled for that patient, as specified in this subsection. Nothing in this section shall prevent a provider pharmacy from supplying non-prescription drugs in a manufacturer's unopened container;
 - 2. A prescription medication label for a hospice inpatient facility patient complies with A.R.S. §§ 32-1968 and 36-2525 and contains:
 - a. The drug name, strength, dosage form, and quantity; and
 - b. The beyond-use date; and
 - 3. If the label on the hospice inpatient facility patient's drug container becomes damaged or soiled, a pharmacist employed by the pharmacy that dispensed the drug container, through the exercise of professional judgment, may relabel the drug container. Only a pharmacist is permitted to label a drug container or alter the label of a drug container.
- B. A pharmacist may help hospice inpatient facility personnel develop written policies and procedures for the procurement, administration, storage, control, recordkeeping, and disposal of drugs in the facility.
- C. The provider pharmacy may contract with the hospice inpatient facility to provide pharmacist services at the facility that include evaluation of the patient's response to medication therapy, identification of potential adverse drug reactions, and recommended appropriate corrective action.
- D. A provider pharmacy that places an emergency drug supply unit at a hospice inpatient facility shall comply with the requirements of R4-23-701.02.
- E. A pharmacy shall not place an automated dispensing system as defined in R4-23-701.04 in a hospice inpatient facility.
- F. Drugs previously dispensed to a patient of the hospice inpatient facility by another pharmacy, and drugs previously dispensed by the provider pharmacy, shall not be repackaged.

Historical Note

Former Rules 6.8210, 6.8211, 6.8212, 6.8213, 6.8214, 6.8221, 6.8222, 6.8223, 6.8824, 6.8231, 6.8232, 6.8233, 6.8241, 6.8242, and 6.8243; Amended effective August 10, 1978 (Supp. 78-4). Repealed effective December 18, 1992 (Supp. 92-4). New Section made by final rulemaking at 19 A.A.R. 2894, effective November 10, 2013 (Supp. 13-3).

R4-23-703. Assisted Living Facilities

- A. Before dispensing, selling, or delivering a prescription or non-prescription drug to an assisted living facility resident, a pharmacy permittee shall verify the assisted living facility has a

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current and active license issued by the Arizona Department of Health Services.

- B.** A pharmacy permittee shall ensure that, except as provided under subsection (C):
1. A controlled substance prescription drug is dispensed, sold, or delivered to an assisted living facility resident only after receiving a valid prescription order for the controlled substance prescription drug from the resident's medical practitioner; and
 2. The controlled substance prescription drug is labeled in accordance with A.R.S. §§ 32-1963.01, 32-1968, and 36-2525 and includes the beyond-use date on the label.
- C.** A pharmacy permittee may dispense, sell, or deliver to an assisted living facility resident a Schedule III, IV, or V controlled substance prescription if the pharmacy permittee:
1. Receives a written or oral prescription order for the Schedule III, IV, or V controlled substance from:
 - a. The resident's medical practitioner,
 - b. An individual licensed by the Arizona Board of Nursing who is acting within the scope of practice of the individual's license, or
 - c. The manager or a caregiver of the assisted living facility if the resident's medical practitioner has a written agreement with the assisted living facility designating a representative of the assisted living facility as an agent of the medical practitioner and a licensed medical practitioner provided the prescription order;
 2. Complies with subsection (D)(2); and
 3. Labels the Schedule III, IV, or V controlled substance as specified under subsection (B)(2).
- D.** A pharmacy permittee may dispense, sell, or deliver to an assisted living facility resident a non-controlled substance prescription or non-prescription drug if the pharmacy permittee:
1. Receives a written or oral prescription order for the non-controlled substance prescription or non-prescription drug from:
 - a. The resident's medical practitioner,
 - b. An individual licensed by the Arizona Board of Nursing who is acting within the scope of practice of the individual's license, or
 - c. An assisted living facility manager or caregiver acting under the authority of a licensed medical practitioner;
 2. Determines the written or oral prescription order:
 - a. Meets the requirements of R4-23-407, and
 - b. Includes the name and title of the individual transmitting the prescription order; and
 3. Labels the non-narcotic prescription or non-prescription drug in accordance with A.R.S. §§ 32-1963.01 and 32-1968 and includes the beyond-use date on the label.
- E.** If the label on an assisted living facility resident's drug container becomes damaged or soiled, a pharmacist employed by the pharmacy permittee that dispensed the drug container, through the exercise of professional judgment, may relabel the drug container. Only a pharmacist is permitted to label a drug container or alter the label of a drug container.
- F.** A pharmacist may help assisted living facility personnel develop written policies and procedures regarding procuring, administering, storing, controlling, keeping records, and disposing of drugs in the facility and provide information concerning safe and effective supervision of drug self-administration.
- G.** A pharmacy permittee shall not place an emergency drug supply unit as described in R4-23-701.02 or an automated dis-

pensing system as described in R4-23-701.04 in an assisted living facility.

- H.** A pharmacist shall not repackage a drug previously dispensed to an assisted living facility resident.

Historical Note

Former Rules 6.8310, 6.8320, 6.8330, 6.8340, 6.8350, 6.8360, and 6.8370; Amended effective August 10, 1978 (Supp. 78-4). Amended by final rulemaking at 5 A.A.R. 2561, effective July 16, 1999 (Supp. 99-3). Amended by final rulemaking at 19 A.A.R. 2894, effective November 10, 2013 (Supp. 13-3). Amended by final rulemaking at 23 A.A.R. 2424, effective October 14, 2017 (Supp. 17-3).

R4-23-704. Customized Patient Medication Packages

In lieu of dispensing two or more prescribed drugs in separate containers, a pharmacist may, with the consent of the patient, the patient's caregiver, the prescriber, or the facility caring for the patient, provide a customized patient medication package. The pharmacist preparing a customized patient medication package shall abide by the guidelines set forth in the current edition of the official compendium for labeling, packaging, and recordkeeping, and state and federal law.

Historical Note

Former Rules 6.8410, 6.8411, 6.8412, 6.8413, 6.8414, 6.8415, 6.8416, and 6.8417. Section R4-23-704 repealed by final rulemaking at 5 A.A.R. 862, effective March 3, 1999 (Supp. 99-1). Amended by final rulemaking at 19 A.A.R. 2894, effective November 10, 2013 (Supp. 13-3).

R4-23-705. Repealed**Historical Note**

Former Rules 6.8420, 6.8421, 6.8422, 6.8423, 6.8424, 6.8425, 6.8426, 6.8427, 6.8428, and 6.8429. Amended effective August 10, 1978 (Supp. 78-4). Amended effective August 24, 1992 (Supp. 92-3). Repealed effective December 18, 1992 (Supp. 92-4).

R4-23-706. Repealed**Historical Note**

Former Rules 6.8431, 6.8432, 6.8433, 6.8434, 6.8435, 6.8436, and 6.8437; Amended effective August 10, 1978 (Supp. 78-4). Amended subsections (C), (E), (F), and (G) effective April 20, 1982 (Supp. 82-2). Section R4-23-706 repealed by final rulemaking at 5 A.A.R. 862, effective March 3, 1999 (Supp. 99-1).

R4-23-707. Repealed**Historical Note**

Former Rules 6.8441, 6.8442, 6.8450, 6.8451, 6.8452, 6.8453, 6.8454, 6.8455, 6.8456, and 6.8457. Section R4-23-707 repealed by final rulemaking at 5 A.A.R. 862, effective March 3, 1999 (Supp. 99-1).

R4-23-708. Repealed**Historical Note**

Former Rules 6.8461, 6.8462, 6.8463, and 6.8464. Section R4-23-708 repealed by final rulemaking at 5 A.A.R. 862, effective March 3, 1999 (Supp. 99-1).

R4-23-709. Repealed**Historical Note**

Former Rules 6.8471, 6.8472, and 6.8473. Section R4-23-709 repealed by final rulemaking at 5 A.A.R. 862, effective March 3, 1999 (Supp. 99-1).

ARTICLE 8. DRUG CLASSIFICATION

Article 8, consisting of Sections R4-23-801 and R4-23-802, recodified from Article 5 at 9 A.A.R. 4011, effective August 18, 2003 (Supp. 03-3).

R4-23-801. Dietary Supplements

A person who sells, distributes, or provides a product that is labeled as a dietary supplement and is labeled or marketed as a treatment for any deficiency disease, for the correction of any symptom of disease, or for the prevention, mitigation, or cure of any disease, either by direct statement or by inference, is selling, distributing, or providing a drug and is subject to the requirements of A.R.S. Title 32, Chapter 18 and 4 A.A.C. 23.

Historical Note

Former Rules 7.1110, 7.1120, and 7.1130. Repealed effective November 4, 1998 (Supp. 98-4). Recodified from R4-23-501 at 9 A.A.R. 4011, effective August 18, 2003 (Supp. 03-3).

R4-23-802. Veterinary

Veterinary preparation: A veterinary drug manufacturer or supplier may distribute:

1. A prescription-only veterinary drug to:
 - a. A veterinary medical practitioner licensed under A.R.S. Title 32, Chapter 21,
 - b. A full-service drug wholesaler permitted under A.R.S. Title 32, Chapter 18, or
 - c. A pharmacy permitted under A.R.S. Title 32, Chapter 18, and
2. A nonprescription veterinary drug to:
 - a. A veterinary medical practitioner licensed under A.R.S. Title 32, Chapter 21,
 - b. A nonprescription drug retailer permitted under A.R.S. Title 32, Chapter 18,
 - c. A full-service or nonprescription drug wholesaler permitted under A.R.S. Title 32, Chapter 18, or
 - d. A pharmacy permitted under A.R.S. Title 32, Chapter 18.

Historical Note

Former Rules 7.1210, 7.1220, and 7.1230. Repealed effective November 4, 1998 (Supp. 98-4). Recodified from R4-23-502 at 9 A.A.R. 4011, effective August 18, 2003 (Supp. 03-3).

R4-23-803. Repealed**Historical Note**

Former Rules 7.1300, 7.1400, 7.1500, and 7.1000. Repealed effective November 4, 1998 (Supp. 98-4).

R4-23-804. Repealed**Historical Note**

Former Rules 7.2100, 7.2200, 7.2300, 7.2410, 7.2420, and 7.2430. Repealed effective November 4, 1998 (Supp. 98-4).

ARTICLE 9. PENALTIES AND MISCELLANEOUS**R4-23-901. Penalty for Violations**

Any person, firm, or corporation violating any provision of 4 A.A.C. 23 is subject to the penalties in A.R.S. § 32-1996. In addition, a license or permit issued under the provisions of A.R.S. Title 32, Chapter 18 is subject to suspension or revocation for violation of 4 A.A.C. 23.

Historical Note

Former Rule 9.0000. Amended by final rulemaking at 6 A.A.R. 3177, effective August 3, 2000 (Supp. 00-3).

ARTICLE 10. UNIFORM CONTROLLED SUBSTANCES AND DRUG OFFENSES**R4-23-1001. Repealed****Historical Note**

Adopted effective August 2, 1982 (Supp. 82-4). Section repealed by final rulemaking at 6 A.A.R. 3177, effective August 3, 2000 (Supp. 00-3).

R4-23-1002. Repealed**Historical Note**

Adopted effective August 2, 1982 (Supp. 82-4). Repealed effective November 4, 1998 (Supp. 98-4).

R4-23-1003. Records and Order Forms**A. Records.**

1. If the pharmacist-in-charge of a pharmacy is replaced by another pharmacist-in-charge, the new pharmacist-in-charge shall complete an inventory of all controlled substances in the pharmacy within 10 days of assuming the responsibility. This inventory and any other required controlled substance inventory shall:
 - a. Include an exact count of all Schedule II controlled substances;
 - b. Include an exact count of all Schedule III through Schedule V controlled substances or an estimated count if the stock container contains fewer than 1001 units;
 - c. Indicate the date the inventory is taken and whether the inventory is taken before opening of business or after close of business for the pharmacy;
 - d. Be signed by:
 - i. The pharmacist-in-charge; or
 - ii. For other required inventories, the pharmacist who does the inventory;
 - e. Be kept separately from all other records; and
 - f. Be available in the pharmacy for inspection by the Board or its designee for not less than three years.
2. A loss of a controlled substance shall be reported:
 - a. Within 10 days of discovery;
 - b. On a DEA form 106;
 - c. By the pharmacist-in-charge of a pharmacy or a manufacturer;
 - d. By the permittee or designated representative of a full-service wholesaler; and
 - e. To the federal Drug Enforcement Administration (DEA), the Narcotic Division of the Department of Public Safety (DPS), and the Board of Pharmacy. A copy of the DEA form 106 shall be kept on file by the pharmacy permittee. The DEA form 106 shall state whether the police investigated the loss.
3. Every person manufacturing any controlled substance, including repackaging or relabeling, shall record and retain for not less than three years the manufacturing, repackaging, or relabeling date for each controlled substance.
4. Every person receiving, selling, delivering, or disposing of any controlled substance shall record and retain for not less than three years the following information:
 - a. The name, strength, dosage form, and quantity of each controlled substance received, sold, delivered, or disposed;
 - b. The name, address, and DEA registration number of the person from whom each controlled substance is received;
 - c. The name, address, and DEA registration number of the person to whom each controlled substance is

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sold or delivered or who disposes of each controlled substance; and

d. The date of each transaction.

5. A full-service drug wholesale permittee or the designated representative shall complete an inventory of all controlled substances in the manner prescribed in subsection (A)(1). The permittee or designated representative shall conduct this inventory:

a. On May 1 of each year or as directed by the Board; and

b. If there is a change of ownership, or discontinuance of business, or within 10 days of a change of a designated representative.

6. A drug manufacturer permittee or the pharmacist-in-charge shall complete an inventory of all controlled substances in the manner prescribed in subsection (A)(1). The permittee or pharmacist-in-charge shall conduct this inventory:

a. On May 1 of each year or as directed by the Board; and

b. If there is a change of ownership, or discontinuance of business, or within 10 days of a change of a pharmacist-in-charge.

- B. Order form. For purposes of A.R.S. § 36-2524, "Order Form" means DEA Form 222c.

Historical Note

Adopted effective August 2, 1982 (Supp. 82-4).

Amended effective November 1, 1993 (Supp. 93-4).

Amended effective April 1, 1995; filed January 31, 1995 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 3177, effective August 3, 2000 (Supp. 00-3). Amended by final rulemaking at 12 A.A.R. 1912, effective July 1, 2006 (Supp. 06-2). Amended by final rulemaking at 14 A.A.R. 3670, effective November 8, 2008 (Supp. 08-3).

R4-23-1004. Repealed

Historical Note

Adopted effective August 2, 1982 (Supp. 82-4). Repealed effective November 4, 1998 (Supp. 98-4).

R4-23-1005. Substances Excepted from the Schedules of Controlled Substances

- A. All over-the-counter non-narcotic substances containing limited amounts of controlled substances that are excluded from all controlled substance schedules by 21 CFR 1308.22 (Revised April 1, 2012, incorporated by reference and on file with the Board. This incorporated material contains no future editions or amendments.), are excluded from all controlled substance schedules in Arizona.
- B. All chemical preparations or mixtures containing one or more controlled substances listed in any schedule that are exempted from all controlled substance schedules by 21 CFR 1308.24 (Revised April 1, 2012, incorporated by reference and on file with the Board. This incorporated material contains no future editions or amendments.), are excluded from all controlled substance schedules in Arizona.
- C. All prescription-only drugs that are exempted by 21 CFR 1308.32 (Revised April 1, 2012, incorporated by reference and on file with the Board. This incorporated material contains no future editions or amendments.), are excluded from all controlled substance schedules in Arizona.

Historical Note

Adopted effective August 2, 1982 (Supp. 82-4).

Amended by final rulemaking at 6 A.A.R. 3177, effective August 3, 2000 (Supp. 00-3). Amended by final rulemak-

ing at 18 A.A.R. 2609, effective December 2, 2012 (Supp. 12-4).

R4-23-1006. Substances Excepted from Drug Offenses

The following materials, compounds, mixtures, or preparations containing any stimulant or depressant substance included in A.R.S. §§ 13-3401(6)(b) or 13-3401(6)(c) are excepted from the definition of dangerous drugs under the authority of A.R.S. § 32-1904(B)(14):

1. Over-the-counter drugs excepted in R4-23-1005(A).
2. Chemical preparations excepted in R4-23-1005(B).
3. Prescription-only drugs excepted in R4-23-1005(C).

Historical Note

Adopted effective August 2, 1982 (Supp. 82-4).

Amended by final rulemaking at 6 A.A.R. 3177, effective August 3, 2000 (Supp. 00-3).

ARTICLE 11. PHARMACY TECHNICIANS

Article 11, consisting of R4-23-1101 through R4-23-1105, made by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1).

R4-23-1101. Licensure and Eligibility

- A. License required. A person shall not work as a pharmacy technician or pharmacy technician trainee in Arizona, unless the person possesses a pharmacy technician or pharmacy technician trainee license issued by the Board.
- B. Eligibility.
1. To be eligible for licensure as a pharmacy technician trainee, a person shall:
 - a. Be of good moral character,
 - b. Be at least 18 years of age, and
 - c. Have a high school diploma or the equivalent of a high school diploma.
 2. To be eligible for licensure as a pharmacy technician, a person shall:
 - a. Meet the requirements of subsection (B)(1),
 - b. Complete a pharmacy technician training program that meets the standards prescribed in R4-23-1105, and
 - c. Pass the Pharmacy Technician Certification Board (PTCB) examination or another Board-approved pharmacy technician examination.
- C. A pharmacy technician delinquent license. Before an Arizona pharmacy technician license will be reinstated, a pharmacy technician whose Arizona pharmacy technician license is delinquent for five or more consecutive years shall furnish to the Board satisfactory proof of fitness to be licensed as a pharmacy technician and pay all past due biennial renewal fees and penalty fees. Satisfactory proof includes:
1. For a person with a delinquent license who is practicing as a pharmacy technician out-of-state with a pharmacy technician license issued by another jurisdiction:
 - a. Proof of current, unrestricted pharmacy technician licensure in another jurisdiction; and
 - b. Proof of employment as a pharmacy technician during the last 12 months; or
 2. For a person with a delinquent license who did not practice as a pharmacy technician within the last 12 months:
 - a. Take and pass a Board-approved pharmacy technician examination, and
 - b. Complete 20 contact hours or two CEUs of continuing education activity sponsored by an approved provider, including at least two contact hours or 0.2 CEUs of continuing education activity in pharmacy law.

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Historical Note

New Section made by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 19 A.A.R. 102, effective March 10, 2013 (Supp. 13-1).

R4-23-1102. Pharmacy Technician Licensure

- A.** Eligibility. An applicant for licensure as a pharmacy technician shall provide the Board proof that the applicant is eligible under R4-23-1101(B)(2), including documentation that the applicant:
 - 1. Completed a pharmacy technician training program that meets the standards prescribed in R4-23-1105(B)(2); and
 - 2. Passed the Pharmacy Technician Certification Board (PTCB) examination or another Board-approved pharmacy technician examination; or
 - 3. Meets the requirements of R4-23-1105(D)(1) or (2).
- B.** Application.
 - 1. An applicant for licensure as a pharmacy technician shall:
 - a. Submit a completed application electronically or manually on a form furnished by the Board, and
 - b. Submit with the application form:
 - i. The documents specified in the application form,
 - ii. The initial licensure fee specified in R4-23-205(A)(3)(a), and
 - iii. The wall license fee specified in R4-23-205(E)(1)(c).
 - 2. The Board office shall deem an application form received on the date the Board office electronically or manually date-stamps the form.
- C.** Licensure.
 - 1. If an applicant is found to be ineligible for pharmacy technician licensure under statute and rule, the Board office shall issue a written notice of denial to the applicant.
 - 2. If an applicant is found to be eligible for pharmacy technician licensure under statute and rule, the Board office shall issue a certificate of licensure and a wall license. An applicant who is assigned a license number and who has been granted "open" status on the Board's license verification site may begin practice as a pharmacy technician prior to receiving the certificate of licensure.
 - 3. An applicant who is assigned a license number and who has a "pending" status on the Board's license verification site shall not practice as a pharmacy technician until the Board office issues a certificate of licensure as specified in subsection (2).
 - 4. A licensee shall maintain the certificate of licensure in the practice site for inspection by the Board or its designee or review by the public.
- D.** License renewal.
 - 1. To renew a license, a pharmacy technician shall submit a completed license renewal application electronically or manually on a form furnished by the Board with the biennial renewal fee specified in R4-23-205(A)(3)(b).
 - 2. If the biennial renewal fee is not paid by November 1 of the renewal year specified in A.R.S. § 32-1925, the pharmacy technician license is suspended and the licensee shall not practice as a pharmacy technician. The licensee shall pay a penalty as provided in A.R.S. § 32-1925 and R4-23-205(G)(1) to vacate the suspension.
 - 3. A licensee shall maintain the renewal certificate of licensure in the practice site for inspection by the Board or its designee or review by the public.

- E.** Time-frames for pharmacy technician licensure and license renewal. The Board office shall follow the time-frames established in R4-23-202(F).
- F.** Verification of license. A pharmacy permittee or pharmacist-in-charge shall not permit a person to practice as a pharmacy technician until the pharmacy permittee or pharmacist-in-charge verifies that the person is currently licensed by the Board as a pharmacy technician.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 19 A.A.R. 102, effective March 10, 2013 (Supp. 13-1). Amended by final rulemaking at 19 A.A.R. 2911, effective November 10, 2013 (Supp. 13-3).

R4-23-1103. Pharmacy Technician Trainee Licensure

- A.** Eligibility. An applicant for licensure as a pharmacy technician trainee shall provide the Board proof that the applicant is eligible under R4-23-1101(B)(1).
- B.** Application.
 - 1. An applicant for licensure as a pharmacy technician trainee shall:
 - a. Submit a completed application electronically or manually on a form furnished by the Board, and
 - b. Submit with the application form:
 - i. The documents specified in the application form,
 - ii. The licensure fee specified in R4-23-205(A)(4), and
 - iii. The wall license fee specified in R4-23-205(E)(1)(d).
 - 2. The Board office shall deem an application form received on the date the Board office electronically or manually date-stamps the form.
- C.** Licensure.
 - 1. If an applicant is found to be ineligible for pharmacy technician trainee licensure under statute and rule, the Board office shall issue a written notice of denial to the applicant.
 - 2. If an applicant is found to be eligible for pharmacy technician trainee licensure under statute and rule, the Board office shall issue a certificate of licensure and a wall license. An applicant who is assigned a license number and who has been granted "open" status on the Board's license verification site may begin practice as a pharmacy technician trainee prior to receiving the certificate of licensure.
 - 3. An applicant who is assigned a license number and who has a "pending" status on the Board's license verification site shall not practice as a pharmacy technician trainee until the Board office issues a certificate of licensure as specified in subsection (2).
 - 4. A licensee shall maintain the certificate of licensure in the practice site for inspection by the Board or its designee or review by the public.
 - 5. A pharmacy technician trainee license is valid for 24 months from the date issued. A pharmacy technician trainee who does not complete the prescribed training program and pass the Pharmacy Technician Certification Board (PTCB) examination or another Board-approved pharmacy technician examination before the pharmacy technician trainee's license expires is not eligible for licensure as a pharmacy technician and shall not practice as a pharmacy technician or pharmacy technician trainee.
- D.** Re-application for licensure.

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1. The Board may allow a pharmacy technician trainee whose license expires before the pharmacy technician trainee completes the prescribed training program and passes the Pharmacy Technician Certification Board (PTCB) examination or another Board-approved pharmacy technician examination to reapply for licensure not more than one time. A pharmacy technician trainee whose license has expired may make a special request to the Board under R4-23-401 for approval to reapply for licensure.
 2. The Board shall base its decision to grant or deny a special request to reapply for licensure on an assessment of:
 - a. The reasons the pharmacy technician trainee did not complete a pharmacy technician training program and the likelihood that the pharmacy technician trainee will complete a pharmacy technician training program within the next 24 months,
 - b. The reasons the pharmacy technician trainee failed the pharmacy technician examination and the likelihood that the pharmacy technician trainee will pass the pharmacy technician examination within the next 24 months, and
 - c. Other extenuating circumstances.
 3. A pharmacy technician trainee that receives Board approval to reapply for licensure shall submit a completed application manually on a form furnished by the Board and pay the licensure fee specified in R4-23-205(A)(4).
- E.** Time-frames for pharmacy technician trainee licensure. The Board office shall follow the time-frames established in R4-23-202(F).
- F.** Verification of license. A pharmacy permittee or pharmacist-in-charge shall not permit a person to practice as a pharmacy technician trainee until the pharmacy permittee or pharmacist-in-charge verifies that the person is currently licensed by the Board as a pharmacy technician trainee.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 19 A.A.R. 2911, effective November 10, 2013 (Supp. 13-3).

R4-23-1104. Pharmacy Technicians and Pharmacy Technician Trainees

- A.** Permissible activities of a pharmacy technician trainee. Acting in compliance with all applicable statutes and rules and under the supervision of a pharmacist, a pharmacy technician trainee may assist a graduate intern, pharmacy intern, or pharmacist with the following when applicable to the pharmacy practice site:
1. Record on the original prescription order the prescription serial number and date dispensed;
 2. Initiate or accept verbal or electronic refill authorization from a medical practitioner or medical practitioner's agent and record, on the original prescription order or by an alternative method approved by the Board or its designee, the medical practitioner's name, patient name, name and quantity of prescription medication, specific refill information, and name of medical practitioner's agent, if any;
 3. Record information in the refill record or patient profile;
 4. Type and affix a label for a prescription medication or enter information for a new or refill prescription medication into a computer, if a pharmacist verifies the accuracy and initials in handwriting or by another method approved by the Board or its designee the finished label prepared by the technician before the prescription medication is dispensed to the patient;
- 5.** Reconstitute a prescription medication, if a pharmacist checks the ingredients and procedure before reconstitution and verifies the final product after reconstitution;
- 6.** Retrieve, count, or pour a prescription medication, if a pharmacist verifies the contents of the prescription medication against the original prescription medication container or by an alternative drug identification method approved by the Board or its designee;
- 7.** Prepackage drugs in accordance with R4-23-402(A); and
- 8.** Measure, count, pour, or otherwise prepare and package a drug needed for hospital inpatient dispensing, if a pharmacist verifies the accuracy, measuring, counting, pouring, preparing, packaging, and safety of the drug before the drug is delivered to a patient care area.
- B.** Permissible activities of a pharmacy technician. Acting in compliance with all applicable statutes and rules and under the supervision of a pharmacist, a pharmacy technician may:
1. Perform the activities listed in subsection (A); and
 2. After completing a pharmacy technician drug compounding training program developed by the pharmacy permittee or pharmacist-in-charge under R4-23-1105(C), assist a pharmacist, graduate intern, or pharmacy intern in compounding prescription medications and sterile or non-sterile pharmaceuticals in accordance with written policies and procedures, if the preparation, accuracy, and safety of the final product is verified by a pharmacist before dispensing.
- C.** When performing the activities listed in subsections (A) and (B) for which the pharmacy technician or pharmacy technician trainee has been trained, the pharmacy technician or pharmacy technician trainee shall perform those functions accurately.
- D.** Prohibited activities. A pharmacy technician or pharmacy technician trainee shall not perform a function reserved for a pharmacist, graduate intern, or pharmacy intern in accordance with R4-23-402 or R4-23-653.
- E.** A pharmacy technician or pharmacy technician trainee shall wear a badge indicating name and title while on duty.
- F.** Before employing a pharmacy technician or pharmacy technician trainee, a pharmacy permittee or pharmacist-in-charge shall develop, implement, review, and revise in the same manner described in R4-23-653(A) and comply with policies and procedures for pharmacy technician and pharmacy technician trainee activities as specified in subsection (G).
- G.** The policies and procedures shall include the following:
1. For all practice sites:
 - a. Supervisory controls and verification procedures to ensure the quality and safety of pharmaceutical service;
 - b. Employment performance expectations for a pharmacy technician and pharmacy technician trainee;
 - c. The activities a pharmacy technician or pharmacy technician trainee may perform as specified in R4-23-1104(A) and (B);
 - d. Pharmacist and patient communication;
 - e. Reporting, correcting, and avoiding medication and dispensing errors;
 - f. Security procedures for:
 - i. Confidentiality of patient prescription records, and
 - ii. The pharmacy area;
 - g. Automated medication distribution system;
 - h. Compounding procedures for pharmacy technicians; and

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- i. Brief overview of state and federal pharmacy statutes and rules;
2. For community and limited-service pharmacy practice sites:
 - a. Prescription dispensing procedures for:
 - i. Accepting a new written prescription,
 - ii. Accepting a refill request,
 - iii. Selecting a drug product,
 - iv. Counting and pouring,
 - v. Labeling, and
 - vi. Obtaining refill authorization;
 - b. Computer data entry procedures for:
 - i. New and refill prescriptions,
 - ii. Patient's drug allergies,
 - iii. Drug-drug interactions,
 - iv. Drug-food interactions,
 - v. Drug-disease state contraindications,
 - vi. Refill frequency,
 - vii. Patient's disease and medical condition,
 - viii. Patient's age or date of birth and gender, and
 - ix. Patient profile maintenance; and
3. For hospital pharmacy practice sites:
 - a. Medication order procurement and data entry,
 - b. Drug preparation and packaging,
 - c. Outpatient and inpatient drug delivery, and
 - d. Inspection of drug storage and preparation areas and patient care areas.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3). Amended by final rulemaking at 19 A.A.R. 102, effective March 10, 2013 (Supp. 13-1).

R4-23-1105. Pharmacy Technician Trainee Training Program, Pharmacy Technician Drug Compounding Training Program, and Alternative Pharmacy Technician Training

- A. Nothing in this Section prevents additional offsite training of a pharmacy technician.
- B. Pharmacy technician trainee training program.
 1. A pharmacy permittee or pharmacist-in-charge shall develop, implement, review, and revise in the same manner described in R4-23-653(A) and comply with a pharmacy technician trainee training program based on the needs of the individual pharmacy.
 2. A pharmacy permittee or pharmacist-in-charge shall ensure that the pharmacy technician trainee training program includes training guidelines that:
 - a. Define the specific tasks a pharmacy technician trainee is expected to perform,
 - b. Specify how and when the pharmacist-in-charge will assess the pharmacy technician trainee's competency, and
 - c. Address the policies and procedures specified in R4-23-1104(G) and the permissible activities specified in R4-23-1104(A).
 3. A pharmacist-in-charge shall:
 - a. Document the date that a pharmacy technician trainee has successfully completed the training program, and
 - b. Maintain the documentation required in this subsection for inspection by the Board or its designee.
 4. A pharmacy technician trainee shall perform only those tasks, listed in R4-23-1104(A), for which training and competency has been demonstrated.
- C. Pharmacy technician drug compounding training program.

1. A pharmacy permittee or pharmacist-in-charge shall develop, implement, review, and revise in the same manner described in R4-23-653(A) and comply with a pharmacy technician drug compounding training program based on the needs of the individual pharmacy;
2. A pharmacy permittee or pharmacist-in-charge shall ensure that the pharmacy technician drug compounding training program includes training guidelines that:
 - a. Define the specific tasks a pharmacy technician is expected to perform,
 - b. Specify how and when the pharmacist-in-charge will assess the pharmacy technician's competency, and
 - c. Address the following procedures and tasks:
 - i. Area preparation,
 - ii. Component preparation,
 - iii. Aseptic technique and product preparation,
 - iv. Packaging and labeling, and
 - v. Area clean up;
3. A pharmacist-in-charge shall:
 - a. Document the date that a pharmacy technician has successfully completed the pharmacy technician drug compounding training program, and
 - b. Maintain the documentation required in this subsection for inspection by the Board or its designee.
- D. Alternative pharmacy technician training.
 1. An individual who has passed the required Board-approved pharmacy technician examination, but has not followed the normal path to pharmacy technician licensure by obtaining a pharmacy technician trainee license and working while completing a pharmacy technician trainee training program as specified in subsection (B), may obtain a pharmacy technician license, if the individual has employment in pharmacy and completes an on-the-job training program as part of the individual's employment orientation that includes: reading and discussing with the pharmacist-in-charge of the pharmacy where employed, the Board rules concerning pharmacy technicians and pharmacy technician trainees, the pharmacy technician and pharmacy technician trainee job description, and the policies and procedures manual of that pharmacy.
 2. An individual who has completed a pharmacy technician certificate program and has passed the required Board-approved pharmacy technician examination, but has not followed the normal path to pharmacy technician licensure by obtaining a pharmacy technician trainee license and working while completing a pharmacy technician trainee training program as specified in subsection (B), may obtain a pharmacy technician license, if the individual has employment in pharmacy and completes an on-the-job training program as part of the individual's employment orientation that includes: reading and discussing with the pharmacist-in-charge of the pharmacy where employed, the Board rules concerning pharmacy technicians and pharmacy technician trainees, the pharmacy technician and pharmacy technician trainee job description, and the policies and procedures manual of that pharmacy.
 3. A pharmacist-in-charge shall:
 - a. Document the date that an individual licensed under subsection (D)(1) or (2) has successfully completed the on-the-job training program as part of the individual's employment orientation as required under subsection (D)(1) or (2), and
 - b. Maintain the documentation required in this subsection for inspection by the Board or its designee.

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- E. A pharmacy technician shall perform only those tasks, listed in R4-23-1104(B), for which training and competency has been demonstrated.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3). Amended by final rulemaking at 19 A.A.R. 102, effective March 10, 2013 (Supp. 13-1).

R4-23-1106. Continuing Education Requirements

- A. General. According to A.R.S. § 32-1925(I), the Board shall not renew a pharmacy technician license unless the applicant has during the two years preceding the application for renewal:
1. Participated in 20 contact hours or two CEUs of continuing education activity sponsored by an Approved Provider defined in R4-23-110, and
 2. At least two of the contact hours or 0.2 of the CEUs are approved courses in pharmacy law. For a pharmacy technician licensed less than 24 months the continuing education contact hours are calculated by multiplying 0.83 hours times the number of months between the date of initial licensure and the licensee's next license renewal date.
- B. Valid CEUs. The Board shall:
1. Only accept CEUs for continuing education activities sponsored by an Approved Provider;
 2. Only accept CEUs accrued during the two-year period immediately before licensure renewal;
 3. Not allow CEUs accrued in a biennial renewal period in excess of the required two CEUs to be carried forward to the succeeding biennial renewal period;
 4. Allow a pharmacy technician who leads, instructs, or lectures to a group of health professionals on pharmacy-related topics in continuing education activities sponsored by an Approved Provider to receive CEUs for a presentation by following the same attendance procedures as any other attendee of the continuing education activity; and
 5. Not accept as a CEU a pharmacy technician's normal teaching duties within a learning institution if the pharmacy technician's primary responsibility is the education of health professionals.
- C. Continuing education records and reporting CEUs. A pharmacy technician shall:
1. Maintain continuing education records that:
 - a. Verify the continuing education activities the pharmacy technician participated in during the preceding five years; and
 - b. Consist of a statement of credit or a certificate issued by an Approved Provider at the conclusion of a continuing education activity;
 2. At the time of licensure renewal, attest to the number of CEUs the pharmacy technician participated in during the renewal period on the biennial renewal form; and
 3. When requested by the Board office, submit proof of continuing education participation within 20 days of the request.
- D. The Board shall deem a pharmacy technician's failure to comply with the continuing education participation, recording, or reporting requirements of this Section as unprofessional conduct and grounds for disciplinary action by the Board under A.R.S. § 32-1927.01.
- E. A pharmacy technician who is aggrieved by any decision of the Board concerning continuing education units may request a hearing before the Board.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 1105, effective April 30, 2005 (Supp. 05-1).

ARTICLE 12. PRESCRIPTION MEDICATION DONATION PROGRAM**R4-23-1201. Eligibility Requirements for Participation in the Program**

A physician's office, a pharmacy, or a health care institution may participate in the prescription medication donation program, under A.R.S. § 32-1909, if all of the following requirements, as applicable, are met:

1. The physician-in-charge of the participating physician's office has a current license issued under A.R.S. Title 32, Chapter 13 or 17;
2. The pharmacy has a current permit issued under A.R.S. Title 32, Chapter 18;
3. The health care institution has a current license issued under A.R.S. Title 36, Chapter 4 and has a physician-in-charge or pharmacist-in-charge of dispensing; and
4. The physician's office, the pharmacy, or the health care institution complies with all federal and state drug laws, rules, and regulations.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 4320, effective January 3, 2009 (Supp. 08-4).

R4-23-1202. Donating Medications

- A. The following may donate an eligible prescription medication, as specified in R4-23-1203, to a physician's office, a pharmacy, or a health care institution that participates in the prescription medication donation program:
1. An individual for whom the prescription medication was prescribed on a patient-specific prescription order or that individual's health care decision maker;
 2. A manufacturer that has a current permit issued under A.R.S. Title 32, Chapter 18; or
 3. A health care institution that has a current license issued under A.R.S. Title 36, Chapter 4.
- B. An individual or health care decision maker electing to donate an eligible prescription medication shall not have taken possession of the prescription medication before the donation and shall make the donation through a medical practitioner, pharmacy, or health care institution.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 4320, effective January 3, 2009 (Supp. 08-4).

R4-23-1203. Eligible Prescription Medications

A prescription medication may be donated to a physician's office, a pharmacy, or a health care institution that participates in the prescription medication donation program if the prescription medication:

1. Is not a:
 - a. Controlled substance;
 - b. Drug sample; or
 - c. Drug that can only be dispensed to a patient registered with the drug's manufacturer, because donation could prevent the manufacturer from maintaining required patient registration data;
2. Is in its original sealed and tamper-evident unit dose packaging that is unopened or has only its outside packaging opened and its single unit dose packaging undisturbed;
3. Has been in the possession of a licensed health care professional, manufacturer, pharmacy, or health care institution.

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- tion and not in the possession of the individual specified in R4-23-1202(A)(1);
4. Has been stored according to federal and state drug law and the requirements of the manufacturer's package insert;
 5. Has an expiration date or beyond-use-date later than six months after the date of donation;
 6. Is in packaging that shows the lot number and expiration date or beyond-use-date of the prescription medication;
 7. Does not have any physical signs of tampering or adulteration; and
 8. Is in packaging that does not have any physical signs of tampering, except for the outside packaging as specified in subsection (2).

Historical Note

New Section made by final rulemaking at 14 A.A.R. 4320, effective January 3, 2009 (Supp. 08-4).

R4-23-1204. Eligibility Requirements to Receive Donated Prescription Medications

An individual is eligible to receive donated prescription medications from the prescription medication donation program if the individual:

1. Is a resident of Arizona;
2. Has an annual family income that is less than or equal to 300% of the poverty level;
3. Satisfies one of the following:
 - a. Has no health insurance coverage;
 - b. Has health insurance coverage that does not pay for the prescription medication prescribed;
 - c. Is an American or Alaska Native who:
 - i. Is eligible for, but chooses not to use, the Indian Health Service to receive prescription medications; and
 - ii. Either has no other health insurance coverage or has health insurance coverage that does not pay for the prescription medication prescribed; or
 - d. Is a veteran who:
 - i. Is eligible for, but chooses not to use, Veterans Health Administration benefits to receive prescription medications; and
 - ii. Either has no other health insurance coverage or has health insurance coverage that does not pay for the prescription medication prescribed;
4. Is ineligible for enrollment in AHCCCS; and
5. If eligible for Medicare, is ineligible for a full low-income subsidy.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 4320, effective January 3, 2009 (Supp. 08-4).

R4-23-1205. Donor Form

A. Before donating a prescription medication, a donor shall sign a form that includes:

1. A statement attesting that the donor is one of the entities identified in R4-23-1202(A) and intends to voluntarily donate the prescription medication to the prescription medication donation program;
2. If the donor is the individual named on the prescription or the individual's health care decision maker:
 - a. The individual's name and address;
 - b. The name of the individual's health care decision maker, if applicable;

- c. The name of the medical practitioner, pharmacy, or health care institution through which the donation is being made;
 - d. The following information about the donated prescription medication:
 - i. The brand name or generic name of the prescription medication donated;
 - ii. If a generic medication, the name of the manufacturer or the national drug code number of the prescription medication donated;
 - iii. The strength of the prescription medication donated;
 - iv. The quantity of the prescription medication donated;
 - v. The lot number of the prescription medication donated; and
 - vi. The expiration date or beyond-use-date of the prescription medication donated;
 - e. A statement attesting that the individual or the individual's health care decision maker has not had possession of the donated prescription medication;
 - f. The dated signature of the individual or the individual's health care decision maker;
 - g. If the donation is an ongoing donation as authorized under subsection (B), a statement that conforms to subsection (B);
 - h. A statement by the medical practitioner, pharmacy, or health care institution attesting that the medical practitioner, pharmacy, or health care institution through which the donation is being made has stored the donated prescription medication as required in R4-23-1203(4);
 - i. A statement by the medical practitioner, pharmacy, or health care institution attesting that the drugs being donated meet the specific requirements of R4-23-1203(1); and
 - j. The dated signature of the medical practitioner or of an authorized agent for the pharmacy or health care institution through which the donation is being made;
3. If the donor is a manufacturer:
 - a. The name and address of the manufacturer;
 - b. The information about the donated prescription medication specified in subsection (A)(2)(d);
 - c. A statement by the manufacturer that the manufacturer has stored the donated prescription medication as required in R4-23-1203(4); and
 - d. The dated signature of the manufacturer's authorized agent; and
 4. If the donor is a health care institution:
 - a. The name and address of the health care institution;
 - b. The information about the donated prescription medication specified in subsection (A)(2)(d);
 - c. A statement attesting that the health care institution has stored the donated prescription medication as required in R4-23-1203(4);
 - d. A statement by the health care institution attesting that the drugs being donated meet the specific requirements of R4-23-1203(1); and
 - e. The dated signature of the health care institution's authorized agent.
- B.** An individual who resides in a health care institution, or the individual's health care decision maker, may elect to make an ongoing donation of future unused eligible prescription medication:

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1. When future unused eligible prescription medication is a result of the individual's prescription medication being changed or discontinued by the individual's primary care provider; and
 2. By indicating the following on a donor form that complies with subsection (A): "From this day forward, I wish to donate all my remaining unused prescription medications that are eligible, under R4-23-1203, to the prescription medication donation program."
- C. To stop an ongoing donation, an individual who resides in a health care institution, or the individual's health care decision maker, shall submit written notice to the receiving physician's office, pharmacy, or health care institution indicating the individual's, or the health care decision maker's, desire to stop the ongoing donation.
7. The lot number of the prescription medication transferred;
 8. The expiration date or beyond-use-date of the prescription medication transferred;
 9. The date the prescription medication is transferred to a participating physician's office, pharmacy, or health care institution; and
 10. The name and address of the participating physician's office, pharmacy, or health care institution to which the donated prescription medication is transferred.
- B. Before transferring possession of a prescription medication donated by a manufacturer, the manufacturer shall create an invoice that includes the manufacturer's name and address and the information described in subsections (A)(3) through (10).
- C. Before transferring possession of a prescription medication donated by a health care institution, the health care institution shall create an invoice that includes the health care institution's name and address and the information described in subsections (A)(3) through (10).
- D. A medical practitioner, pharmacy, health care institution, or manufacturer required to create an invoice under subsection (A), (B), or (C) shall:

Historical Note

New Section made by final rulemaking at 14 A.A.R. 4320, effective January 3, 2009 (Supp. 08-4).

R4-23-1206. Recipient Form

Before receiving a donated prescription medication from the prescription medication donation program, a recipient of a donated prescription medication shall sign a form:

1. Identifying the physician's office, pharmacy, or health care institution that is dispensing the donated prescription medication;
2. Stating that the recipient has been advised of and understands the immunity provisions of the program under A.R.S. § 32-1909(E) and (F);
3. Attesting that the recipient meets the eligibility requirements specified in R4-23-1204; and
4. Including the following:
 - a. The brand name or generic name of the prescription medication received;
 - b. If a generic medication, the name of the manufacturer or the national drug code number of the prescription medication received;
 - c. The strength of the prescription medication received;
 - d. The quantity of the prescription medication received;
 - e. The recipient's name and address; and
 - f. The dated signature of the recipient.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 4320, effective January 3, 2009 (Supp. 08-4).

R4-23-1207. Recordkeeping

- A. Before transferring possession of a prescription medication donated by an individual or an individual's health care decision maker, a medical practitioner, pharmacy, or health care institution that has possession of the donated prescription medication and through which the donation is being made shall create an invoice that includes the following:
1. The name and address of the medical practitioner, pharmacy, or health care institution that has possession of the donated prescription medication;
 2. The name of the individual who made the donation;
 3. The brand name or generic name of the prescription medication transferred;
 4. If a generic medication, the name of the manufacturer or the national drug code number of the prescription medication transferred;
 5. The strength of the prescription medication transferred;
 6. The quantity of the prescription medication transferred;

- B. Before transferring possession of a prescription medication donated by a manufacturer, the manufacturer shall create an invoice that includes the manufacturer's name and address and the information described in subsections (A)(3) through (10).
- C. Before transferring possession of a prescription medication donated by a health care institution, the health care institution shall create an invoice that includes the health care institution's name and address and the information described in subsections (A)(3) through (10).
- D. A medical practitioner, pharmacy, health care institution, or manufacturer required to create an invoice under subsection (A), (B), or (C) shall:
1. Transmit a copy of the invoice and the donor form required under R4-23-1205 to the participating physician's office, pharmacy, or health care institution to which a donated prescription medication is transferred;
 2. Maintain a copy of the invoice for a minimum of three years from the date of the invoice;
 3. Maintain a copy of the donor form for a minimum of three years from the date signed; and
 4. Make a copy of the invoice or donor form available upon request for inspection by the Board, its designee, or other authorized officers of the law.
- E. A physician's office, a pharmacy, or a health care institution that participates in the prescription medication donation program shall:
1. Maintain:
 - a. The documents required under R4-23-1206 for a minimum of three years from the date signed; and
 - b. Each invoice and donor form received under subsection (D)(1) for a minimum of three years from the date received; and
 2. Make the documents required under R4-23-1206 and subsection (D)(1) available upon request for inspection by the Board, its designee, or other authorized officers of the law.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 4320, effective January 3, 2009 (Supp. 08-4).

R4-23-1208. Handling Fee

A physician's office, a pharmacy, or a health care institution that dispenses a donated prescription medication may charge a recipient of a donated prescription medication a handling fee of no more than \$4.50 per prescription to cover inspection, stocking, and dispensing costs.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 4320, effective January 3, 2009 (Supp. 08-4).

R4-23-1209. Policies and Procedures

A physician's office, a pharmacy, or a health care institution that participates in the prescription medication donation program shall:

1. Develop, implement, and comply with policies and procedures for the receipt, storage, and distribution of pre-

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- scription medications donated to the physician's office, the pharmacy, or the health care institution;
2. Review biennially and, if necessary, revise the policies and procedures required under this Section;
 3. Document the review required under subsection (2);
 4. Assemble the policies and procedures as a written manual or in a readily accessible electronic format;
 5. Make the policies and procedures available for reference by a physician's office, pharmacy, or health care institution personnel and, upon request, for inspection by the Board or its designee; and
 6. Ensure that the written or electronic policies and procedures required under subsection (1) include provisions to ensure:
 - a. That each transferred prescription medication meets the eligibility requirements of Sections R4-23-1202 and R4-23-1203;
 - b. That each individual who receives a donated prescription medication under the prescription medication donation program signs the recipient form specified in R4-23-1206;
 - c. Compliance with the applicable requirements for recordkeeping in Section R4-23-1207;
 - d. Compliance with the requirements of Section R4-23-1210; and
 - e. Compliance with the requirements of Section R4-23-1211.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 4320, effective January 3, 2009 (Supp. 08-4).

R4-23-1210. Dispensing Donated Prescription Medications

- A. Before dispensing a donated prescription medication under the program, a participating physician's office, pharmacy, or health care institution shall:
 1. Obtain and maintain a current drug identification reference or text in hard-copy or electronic media format;
 2. Inspect the donated prescription medication to ensure that the prescription medication has not been adulterated;
 3. Certify that the donated prescription medication has been stored in compliance with the requirements of the manufacturer's package insert;
 4. Comply with all federal and state laws regarding storage and distribution of a donated prescription medication;
 5. Obtain a prescription order of a licensed medical practitioner for the recipient to receive the donated prescription medication; and
 6. Properly label the donated prescription medication to be dispensed.
- B. As specified in subsection (C) a participating physician's office, pharmacy, or health care institution may transfer a prescription medication donated under this Article to another participating physician's office, pharmacy, or health care institution, but the donated prescription medication shall not be resold.
- C. A participating physician's office, pharmacy, or health care institution may transfer a donated prescription medication to another participating physician's office, pharmacy, or health care institution, if:
 1. The transferring physician's office, pharmacy, or health care institution has available a prescription medication that the receiving physician's office, pharmacy, or health care institution needs;
 2. The transferring physician's office, pharmacy, or health care institution prepares an invoice that includes its name

- and address and the information described in R4-23-1207(B)(3) through (10);
3. A copy of the invoice required in subsection (C)(2) is sent to the receiving physician's office, pharmacy, or health care institution with the transferred prescription medication; and
4. The transferring physician's office, pharmacy, or health care institution and the receiving physician's office, pharmacy, or health care institution each:
 - a. Keep a copy of the invoice required in subsection (C)(2) on file for three years from the date of transfer; and
 - b. Make the invoice records available, upon request, for inspection by the Board or its designee.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 4320, effective January 3, 2009 (Supp. 08-4).

R4-23-1211. Responsibilities of the Physician-in-charge or Pharmacist-in-charge of a Participating Physician's Office, Pharmacy, or Health Care Institution

The physician-in-charge of a participating physician's office; the pharmacist-in-charge of a participating pharmacy; or the physician-in-charge or pharmacist-in-charge of dispensing for a participating health care institution shall, either personally or through a designee:

1. Coordinate the receipt of prescription medications donated by manufacturers or health care institutions or through medical practitioners, pharmacies, or health care institutions from eligible donors;
2. Check each donated prescription medication against the invoice and any additional alternate record and resolve any discrepancies;
3. Store and secure donated prescription medications as required by federal and state law;
4. Inspect each donated prescription medication for adulteration;
5. Certify that each donated prescription medication has been stored in compliance with the manufacturer's package insert;
6. Ensure that expired, adulterated, or unidentifiable donated prescription medication is not dispensed;
7. Ensure that prescription medications identified under subsection (6) are destroyed within 30 days of identification as specified in subsection (9);
8. Ensure safety in drug recalls by destroying any donated prescription medication that may be subject to recall if its lot number cannot exclude it from recall;
9. Ensure destruction of expired, adulterated, unidentifiable, and recalled donated prescription medication by:
 - a. Following federal, state, and local guidelines for drug destruction;
 - b. Creating a list of expired, adulterated, unidentifiable, or recalled donated prescription medications to be destroyed;
 - c. Following the destruction, signing the list described in subsection (9)(b) and having the list signed by a witness verifying the destruction; and
 - d. Keeping the list described in subsection (9)(b) on file for three years from the date of destruction;
10. Redact or remove all previous patient or pharmacy labeling on a donated prescription medication before dispensing the donated prescription medication;
11. Ensure that all dispensed donated prescription medications comply with the labeling requirements of A.R.S. § 32-1968(D);

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12. Place on the label of each dispensed donated prescription medication a beyond-use-date that does not exceed the beyond-use-date or expiration date from the original label of the donated prescription medication or, if the dispensed donated prescription medication comes from multiple packages, the earliest beyond-use-date or expiration date from the donated prescription medication packages; and
13. Maintain the records required in this Article.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 4320, effective January 3, 2009 (Supp. 08-4).



Supplement to the
Arizona Administrative Code
The official compilation of Arizona Rules
Replacement Check List

For rules filed in the third quarter between
July 1 - September 30
2017

Within the stated calendar quarter, this Title contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information. Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

TITLE 06. Economic Security

Chapter 01. Department of Economic Security

Sections, Parts, Exhibits, Tables or Appendices modified
R6-1-101 through R6-1-107

☐ REMOVE Supp. 04-1
Pages: 1 - 7

☐ REPLACE with Supp. 17-3
Pages: 1 - 7

The agency's contact person who can answer questions about rules in this Chapter:

Name: Anthony J. Hill
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Disclaimer: Please be advised the person listed is the contact of record as submitted in the rulemaking package for this supplement. The contact and other information may change and is provided as a public courtesy.

PUBLISHER
Arizona Department of State
Office of the Secretary of State, Administrative Rules Division

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the Administrative Code. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION
September 30, 2017

RULES

A.R.S. § 41-1001(17) states: “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions. Virtually everything in your life is affected in some way by rules published in the Arizona Administrative Code, from the quality of air you breathe to the licensing of your dentist. This chapter is one of more than 230 in the Code compiled in 21 Titles.

ADMINISTRATIVE CODE SUPPLEMENTS

Rules filed by an agency to be published in the Administrative Code are updated quarterly. Supplement release dates are printed on the footers of each chapter:

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2017 is cited as Supp. 17-1.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the Arizona Administrative Register for recent updates to rule Sections.

ARTICLES AND SECTIONS

Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering system separated into subsections.

HISTORICAL NOTES AND EFFECTIVE DATES

Historical notes inform the user when the last time a Section was updated in the Administrative Code. Be aware, since the Office publishes each quarter by entire chapters, not all Sections are updated by an agency in a supplement release. Many times just one Section or a few Sections may be updated in the entire chapter.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in the introduction of a chapter can be found at the Secretary of State’s website, www.azsos.gov/services/legislative-filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the Arizona Administrative Register online at www.azsos.gov/rules, click on the Administrative Register link.

In the Administrative Code the Office includes editor’s notes at the beginning of a chapter indicating that certain rulemaking Sections were made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR

If you are researching rules and come across rescinded chapters on a different paper color, this is because the agency filed a Notice of Exempt Rulemaking. At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

PERSONAL USE/COMMERCIAL USE

This chapter is posted as a public courtesy online, and is for private use only. Those who wish to use the contents for resale or profit should contact the Office about Commercial Use fees. For information on commercial use fees review A.R.S. § 39-121.03 and 1 A.A.C. 1, R1-1-113.

Public Services managing rules editor, Rhonda Paschal, assisted with the editing of this chapter.

TITLE 6. ECONOMIC SECURITY**CHAPTER 1. DEPARTMENT OF ECONOMIC SECURITY**

Authority: A.R.S. § 41-1954 et seq.

ARTICLE 1. PUBLIC PARTICIPATION IN RULEMAKING*Article 1 consisting of Sections R6-1-101 through R6-1-107 adopted effective September 22, 1988.**Former Article 1 renumbered as Article 2 effective September 22, 1988.*

Section	
R6-1-101.	Rulemaking Docket and Record 2
R6-1-102.	Manner of Submissions 2
R6-1-103.	Petition to Make, Amend, or Repeal a Rule 2
R6-1-104.	Request for Rulemaking Notices 2
R6-1-105.	Oral Proceedings; Request for; Nature of 2
R6-1-106.	Petition for Delayed Effective Date 3
R6-1-107.	Written Criticisms of Existing Rules 3

ARTICLE 2. DEBT SETOFF*Former Article 1 consisting of Section R6-1-101 renumbered as Article 2, Section R6-1-201 effective September 22, 1988.*

Section	
R6-1-201.	Request for Review 3
R6-1-202.	Review of Debt Setoff 3

ARTICLE 3. EXPIRED*Article 3, consisting of R6-1-301 through R6-1-309, expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).*

Section

R6-1-301.	Expired 4
R6-1-302.	Expired 4
R6-1-303.	Expired 4
R6-1-304.	Expired 4
R6-1-305.	Expired 4
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R6-1-307.	Expired 4
R6-1-308.	Expired 4
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ARTICLE 4. FINGERPRINTING

Section	
R6-1-401.	Definitions 4
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ARTICLE 5. CIVIL RIGHTS*Article 5, consisting of Section R6-1-501, recodified from R6-3-103 effective February 13, 1996 (Supp. 96-1).*

Section	
R6-1-501.	Civil Rights 6

ARTICLE 1. PUBLIC PARTICIPATION IN RULEMAKING**R6-1-101. Rulemaking Docket and Record**

- A.** The Department of Economic Security (“the Department”) shall maintain the official public rulemaking docket and agency rulemaking record required by A.R.S. §§ 41-1021 and 41-1029 in the office of the Department’s Rules Unit, in the Department’s central headquarters in Phoenix. Any person may review the docket and record Monday through Friday from 8:00 a.m. to 5:00 p.m., except on state holidays.
- B.** The Department may electronically maintain the rulemaking docket and agency rulemaking record, and shall facilitate public review of documents stored electronically by either providing the documents in paper or electronic form.
- C.** Any person who reviews a rulemaking docket or record shall sign a log that shall include the following information:
1. The person’s name, current address, daytime telephone number, and e-mail address, if available;
 2. The name of any partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any nature, or another agency that the person is representing as a registered lobbyist or otherwise;
 3. The docket or record that the person is reviewing;
 4. Whether the person is requesting the records for a commercial purpose;
 5. The date of review; and
 6. The person’s signature.

Historical Note

Former Section R6-1-101 renumbered as R6-1-201; new Section R6-1-101 adopted effective September 22, 1988 (Supp. 88-3). Amended effective December 22, 1993 (Supp. 93-4). Amended by final rulemaking at 23 A.A.R. 2757, effective November 18, 2017 (Supp. 17-3).

R6-1-102. Manner of Submissions

- A.** The Department shall accept petitions, requests, submissions, criticisms, or other materials related to the rulemaking process in either paper form or electronically.
- B.** When submitting in paper form, the writing shall be legibly handwritten or typed on 8 1/2” by 11” white paper.

Historical Note

Adopted effective September 22, 1988 (Supp. 88-3). Amended effective December 22, 1993 (Supp. 93-4). Amended by final rulemaking at 23 A.A.R. 2757, effective November 18, 2017 (Supp. 17-3).

R6-1-103. Petition to Make, Amend, or Repeal a Rule

- A.** Any person may ask the Department to make a new rule or to amend or repeal an existing rule pursuant to A.R.S. § 41-1033 by filing a written petition with the Department’s Director.
- B.** The petition shall contain:
1. The petitioner’s name, current address, daytime telephone number, and e-mail address, if available;
 2. The name of any partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any nature, or another agency that the petitioner is representing as a registered lobbyist or otherwise;
 3. The specific language of the rule that the person wishes the Department to make, amend, or repeal;
 4. The reason for the request, including the reason why any existing rule is inadequate, unreasonable, unduly burdensome, or otherwise improper;
 5. A copy of any material that is referenced or otherwise incorporated in the petition; and
 6. The signature of the petitioner.

- C.** Upon receipt of a petition, the Director’s Office shall stamp the petition to indicate the date of receipt. If a petitioner submits a petition electronically, the Department shall consider the date of the electronic correspondence to be the receipt date.
- D.** No later than 60 days after receipt of a petition, the Department shall send the petitioner a written notice of the action taken on the petition. The Department shall send the notice electronically unless otherwise specified in the petition. The notice shall state the petitioner may appeal the Department’s action under A.R.S. § 41-1033(B).

Historical Note

Adopted effective September 22, 1988 (Supp. 88-3). Amended effective December 22, 1993 (Supp. 93-4). Amended by final rulemaking at 23 A.A.R. 2757, effective November 18, 2017 (Supp. 17-3).

R6-1-104. Request for Rulemaking Notices

- A.** A person who wishes to obtain a notice of the establishment of a rulemaking docket pursuant to A.R.S. § 41-1021(C), or a notice of proposed rulemaking pursuant to A.R.S. § 41-1022(C) shall file a written request for such notice with the Department’s Director. The request shall contain:
1. The name, current address, and e-mail address, if available, of the requestor;
 2. A statement describing the nature of the notice being requested, directed either to proposed rulemaking in general or to specific rules or subject matter; and
 3. The signature of the requestor.
- B.** The Department’s Rules Unit shall maintain a mailing list of all docket requests and requests for notice of proposed rulemaking. Requestors shall renew the request for notice by January 30 of each even-numbered year or the Department shall purge the request. The requestor shall keep current any address and information filed with the Department.
- C.** The Department shall send all information requested under this section electronically, unless the requestor requests a paper copy. The Department shall provide all requested documents according to the provisions of A.R.S. § 39-121 et seq.

Historical Note

Adopted effective September 22, 1988 (Supp. 88-3). Amended effective December 22, 1993 (Supp. 93-4). Amended by final rulemaking at 23 A.A.R. 2757, effective November 18, 2017 (Supp. 17-3).

R6-1-105. Oral Proceedings; Request for; Nature of

- A.** When requested under A.R.S. § 41-1023(C), the Department shall schedule an oral proceeding in at least one of the districts established under A.R.S. § 41-1961. The Department may provide internet or teleconference access to an oral proceeding.
- B.** A written request for an oral proceeding filed with the Department under A.R.S. § 41-1023(C) shall contain:
1. The name, current address, daytime telephone number, and e-mail address, if available, of each requestor;
 2. The name of any partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any nature, or another agency that the requestor is representing as a registered lobbyist or otherwise;
 3. A statement identifying the rule for which the oral proceeding is requested; and
 4. The signature of each requestor.
- C.** A person requesting an oral proceeding may indicate a specific city or district where the person would like the proceeding to be held. If such a location is included, the petition shall also explain how the proposed location will afford interested members of the public a reasonable opportunity to participate.

- D. The presiding officer shall conduct an oral proceeding in an informal manner as described in this subsection.
1. A person may make an oral presentation without being placed under oath or affirmation.
 2. Any person who makes an oral presentation shall fill out a speaker's registration card prior to speaking.
 3. The presiding officer shall conduct the proceeding in a way that avoids undue repetition and assures a reliable record on any proposed rulemaking.
 4. Any person may file a written submission at an oral proceeding, in addition to an oral presentation.
 5. Prior to taking oral presentations, the presiding officer shall summarize the contents of the rule under consideration and the economic impact and small business statements filed with the rule.
 6. Prior to the close of the record of the oral proceeding, the presiding officer shall summarize all subsequent rulemaking steps, procedures, and time-frames.
 7. The presiding officer shall record the oral proceeding by electronic or other means. At the start of the oral proceeding, the presiding officer shall announce that the proceeding is being recorded.

Historical Note

Adopted effective September 22, 1988 (Supp. 88-3).
Amended effective December 22, 1993 (Supp. 93-4).
Amended by final rulemaking at 23 A.A.R. 2757, effective November 18, 2017 (Supp. 17-3).

R6-1-106. Petition for Delayed Effective Date

- A. A person who wishes to delay the effective date of a rule under A.R.S. § 41-1032(B) shall file a petition with the Department's Director prior to the proposed rule's close of record.
- B. A petition for delayed effective date shall contain:
1. The petitioner's name, current address, daytime telephone number, and e-mail address, if available;
 2. The name of any partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any nature, or another agency that the petitioner is representing as a registered lobbyist or otherwise;
 3. A statement describing the effect the rule may have on the petitioner, and the reason why delaying the effective date of a rule to a specified date will lessen or eliminate that effect;
 4. A demonstration under A.R.S. § 41-1032(B) that good cause exists for, and the public interest will not be harmed by, the later effective date; and
 5. The signature of the petitioner.
- C. The Department shall notify the petitioner in writing, by mail or electronically, of the Department's determination regarding the petition within 60 days of receipt of the petition.

Historical Note

Adopted effective September 22, 1988 (Supp. 88-3).
Amended effective December 22, 1993 (Supp. 93-4).
Amended by final rulemaking at 23 A.A.R. 2757, effective November 18, 2017 (Supp. 17-3).

R6-1-107. Written Criticisms of Existing Rules

The Department shall retain written criticisms of existing rules that have been filed with the Department and shall consider such writings when conducting the five-year review required by A.R.S. § 41-1056.

Historical Note

Adopted effective September 22, 1988 (Supp. 88-3).
Amended effective December 22, 1993 (Supp. 93-4).
Amended by final rulemaking at 23 A.A.R. 2757, effective November 18, 2017 (Supp. 17-3).

November 18, 2017 (Supp. 17-3).

ARTICLE 2. DEBT SETOFF**R6-1-201. Request for Review**

- A. A person indebted to the Department of Economic Security ("the Department"), who has had all or part of the debt set off pursuant to A.R.S. §§ 5-525(C) or 42-133(E) ("the debtor"), may request a review of the setoff.
- B. The request for review shall:
1. Be in writing;
 2. Be filed with the Department office which set off the debt, at the address indicated on the notice of debt setoff ("the notice"), no later than 30 days after the mailing date of the notice;
 3. List any prior judicial or administrative proceedings regarding the debt;
 4. Set forth all reasons why the setoff is inaccurate or improper;
 5. Be signed by the debtor or the debtor's authorized representative; and
 6. Have an attached copy of the notice of debt setoff.
- C. As used in this Section, the date of the notice of debt setoff shall be the following dates, as applicable to the debtor:
1. The date that the State Lottery Office gives the debtor a written statement of winnings indicating the amount of the setoff; or
 2. The date of the written notice generated by the Department, advising the debtor of the setoff.
- D. Notwithstanding subsection (B), the Department may consider a timely request for review which does not include all the documentation listed in subsection (B) if:
1. The debtor has good cause for failing to provide the information, and
 2. The lack of information does not substantially prejudice the Department's ability to evaluate the request.

Historical Note

Adopted as an emergency effective March 2, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days. Former Section R6-1-101 adopted as an emergency effective March 2, 1984 now adopted without change as a permanent rule effective April 30, 1984 (Supp. 84-2). Former Section R6-1-101 renumbered without change as R6-1-201 (Supp. 88-3). Amended and subsections (B)(2) through (C) renumbered to Section R6-1-202 effective December 22, 1993 (Supp. 93-4).

R6-1-202. Review of Debt Setoff

- A. The Director of the Department of Economic Security shall appoint representatives who shall conduct the review in accordance with A.R.S. §§ 5-525 or 42-133, as applicable, and in a manner which will observe the substantial rights of the debtor.
- B. The Department shall limit the scope of its review to the identity of the debtor and the amount of the debt setoff when the validity of the debt was established by judicial review in a court of competent jurisdiction, agency hearing, or final administrative decision made in accordance with the law. If it is found that the debt was not established in accordance with one of the foregoing methods listed in this subsection, the setoff action shall be stayed and remanded to the appropriate Department authority for resolution. Unless otherwise prohibited by law, the Department may correct clerical errors that have occurred in the administration of the debt setoff.
- C. In reviewing the debt setoff, the Department shall consider all relevant evidence, including, without limitation, evidence submitted by the debtor and the documents and records in the Department's files.

- D. The Department shall dispose of a request for review by:
1. Dismissal, if the debtor fails to state with specificity in the request for review why the debt does not exist or why the amount of debt is incorrect;
 2. Withdrawal, if the debtor withdraws the request for review in writing at any time before the Department issues a decision; or
 3. Decision.
- E. Every decision shall be in writing and shall be mailed to the last known address of the debtor or the debtor's authorized representative.
- F. The Department's decision is final unless the debtor files a petition for judicial review with the Superior Court within 35 days of the date the decision is mailed to the debtor as provided in A.R.S. § 12-904. A debtor who files a petition for review shall mail a copy to the Department office which issued the decision.

Historical Note

Renumbered from R6-1-201(B)(2) through (C) and amended effective December 22, 1993 (Supp. 93-4).

ARTICLE 3. EXPIRED

Article 3, consisting of R6-1-301 through R6-1-309, expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

R6-1-301. Expired**Historical Note**

Adopted effective October 11, 1989 (Supp. 89-4).
Amended effective December 22, 1993 (Supp. 93-4).
Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

R6-1-302. Expired**Historical Note**

Adopted effective October 11, 1989 (Supp. 89-4). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

R6-1-303. Expired**Historical Note**

Adopted effective October 11, 1989 (Supp. 89-4).
Amended effective December 22, 1993 (Supp. 93-4).
Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

R6-1-304. Expired**Historical Note**

Adopted effective October 11, 1989 (Supp. 89-4).
Amended effective December 22, 1993 (Supp. 93-4).
Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

R6-1-305. Expired**Historical Note**

Adopted effective October 11, 1989 (Supp. 89-4).
Amended effective December 22, 1993 (Supp. 93-4).
Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

R6-1-306. Expired**Historical Note**

Adopted effective October 11, 1989 (Supp. 89-4).
Amended effective December 22, 1993 (Supp. 93-4).
Section expired under A.R.S. § 41-1056(E) at 10 A.A.R.

1165, effective October 31, 2003 (Supp. 04-1).

R6-1-307. Expired**Historical Note**

Adopted effective October 11, 1989 (Supp. 89-4).
Amended effective December 22, 1993 (Supp. 93-4).
Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

R6-1-308. Expired**Historical Note**

Adopted effective October 11, 1989 (Supp. 89-4).
Amended effective December 22, 1993 (Supp. 93-4).
Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

R6-1-309. Expired**Historical Note**

Adopted effective October 11, 1989 (Supp. 89-4).
Amended effective December 22, 1993 (Supp. 93-4).
Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

ARTICLE 4. FINGERPRINTING**R6-1-401. Definitions**

In this Article, unless the context otherwise requires:

1. "Certification" means a status conferred by the Department upon personnel who have submitted required materials for fingerprint clearance, and who have been accordingly cleared, permitting them to provide services either with supervision or without supervision to juveniles.
2. "Certification form" means the notarized criminal history disclosure submitted to the Department as required by A.R.S. § 46-141(D).
3. "Department" means the Arizona Department of Economic Security.
4. "Direct visual supervision" means within sight and hearing of provider personnel with full certification.
5. "Full certification" means that personnel are certified to provide service directly to juveniles without supervision.
6. "Juvenile" means an individual who is under 18 years of age.
7. "License" means the whole or part of a Department permit, certificate, registration, or similar form of permission or authorization required by law but shall not include foster home licenses, child care home certifications, adoptive home certifications or licenses for facilities for developmentally disabled persons.
8. "Provider" means a federally recognized Indian tribe, county, political subdivision, military base, person, corporation, partnership or association with whom the Department contracts, or which the Department licenses, to provide services.
9. "Provider personnel" or "personnel" means paid or unpaid persons who have direct contact with juveniles and provide direct services to juveniles for a provider, including consultants, subcontractors, volunteers, students and persons otherwise affiliated with the provider.
10. "Restricted certification" means that personnel are certified to provide services to juveniles with supervision as authorized by A.R.S. § 46-141(G).
11. "Sanction" means denial, cancellation, revocation or termination of a license or contract.
12. "Services directly to juveniles" means in-person interaction between the personnel and the juvenile client.

13. "Supervision" means within sight and hearing at all times of a supervisor with full certification when providing services of any nature directly to juveniles, including psychological, medical or any ancillary services.

Historical Note

Adopted effective December 2, 1992 (Supp. 92-4).

R6-1-402. Provider Responsibilities

- A. A provider shall submit to the Department the fingerprints, the completed certification form, the processing fee and any other documents required by the Department before provider personnel are allowed or required to provide services directly to juveniles.
- B. If a provider does not submit all the documents or the certification form required in subsection (A) above or submits incomplete documents, the Department shall return the documents to the provider. The provider shall prohibit personnel from providing services directly to juveniles until all the documents are completed and resubmitted to the Department.
- C. If personnel have been certified by the Department of Health Services, the Supreme Court or the Department of Youth Treatment and Rehabilitation to work for the provider, the provider shall submit a copy of the certification to the Department. That certification shall satisfy the certification requirements of this Article.
- D. A provider shall maintain a list of names of volunteers who will work only under direct visual supervision. The list shall be made available to the Department upon request.

Historical Note

Adopted effective December 2, 1992 (Supp. 92-4).

R6-1-403. Exempt Providers

A federally recognized Indian tribe or military base provider is exempt from the provisions of this Article except R6-1-405 if the provider certifies in accordance with A.R.S. § 46-141(H).

Historical Note

Adopted effective December 2, 1992 (Supp. 92-4).

R6-1-404. Effect of Certification Form Disclosures

- A. Personnel who disclose conviction of, commission of or pending trial for an offense listed in A.R.S. § 46-141(F) shall not be allowed to provide services to juveniles.
- B. Personnel who disclose a conviction of or a pending trial for an offense listed in A.R.S. § 46-141(G) shall not be allowed to provide services directly to juveniles without supervision pending completion of the criminal history verification. Services may be provided with supervision.
- C. Personnel who disclose no convictions, pending trials or commission of any offenses listed in A.R.S. § 46-141(D) may provide services directly to juveniles without supervision pending completion of the criminal history verification.

Historical Note

Adopted effective December 2, 1992 (Supp. 92-4).

R6-1-405. Costs

If the Department allows the costs of fingerprint checks as an allowable cost when negotiating a contract, the provider shall not then charge the cost of fingerprinting to its personnel.

Historical Note

Adopted effective December 2, 1992 (Supp. 92-4).

R6-1-406. Certification and Sanctions

- A. The Department shall grant certification to provider personnel whose criminal records check discloses no criminal history as proscribed by A.R.S. § 46-141.

- B. The Department shall deny certification to personnel who disclose, or whose criminal history check shows, that they have committed, been convicted of or are awaiting trial for any offense listed in A.R.S. § 46-141(F).
- C. The Department shall grant restricted certification to personnel who disclose, or whose criminal records check shows, that they have been convicted of or are awaiting trial for any offense listed in A.R.S. § 46-141(G).
- D. Personnel who are awaiting trial on any of the crimes listed in A.R.S. § 46-141, and whose certification is denied or restricted as a result of the pending charges, may, upon a showing of acquittal, dismissal, or conviction of a lesser nonlisted crime, resubmit pursuant to R6-1-402.
- E. The Department shall notify the provider and provider's personnel of the denial of certification or the granting of full or restricted certification. A provider which places provider personnel who have disclosed a criminal history on the certification form which would allow only a restricted certification in a job position requiring or allowing the personnel to provide services directly to juveniles without supervision shall be subject to sanction.
- F. A provider which allows volunteers who are exempted from the certification requirements by A.R.S. § 46-141(I) to provide services to juveniles without direct visual supervision shall be subject to sanction.
- G. A provider which fails to provide direct visual supervision at all times of volunteers exempted from the certification requirements by A.R.S. § 46-141(I) shall be subject to sanction.
- H. A provider which fails to provide supervision at all times to personnel granted a restricted certification pursuant to A.R.S. § 46-141 shall be subject to sanction.

Historical Note

Adopted effective December 2, 1992 (Supp. 92-4).

R6-1-407. Effect of Confirmed Proscribed Criminal History

- A. Denial: Upon notification by the Department of denial of certification, the provider shall immediately prohibit those personnel from providing services in any capacity allowing provision of direct services to juveniles, or the employer's license or contract shall be subject to sanction.
- B. Restriction: Upon notification by the Department of restricted certification, the provider shall prohibit these personnel from unsupervised contact with juveniles or the provider's license or contract shall be subject to sanction.

Historical Note

Adopted effective December 2, 1992 (Supp. 92-4).

R6-1-408. Certification Expiration

- A. A certification is valid for the full period of time that personnel are continuously employed by, or volunteer for, the provider unless it is revoked.
- B. A certification shall be revoked if the Department receives information that provider personnel have been convicted of, committed, or are awaiting trial for an offense listed in A.R.S. § 46-141.

Historical Note

Adopted effective December 2, 1992 (Supp. 92-4).

R6-1-409. Subsequent Offenses

- A. The provider shall notify the Department in writing within three working days after the provider receives information that any person who has been certified has committed, been convicted of, or is awaiting trial for any criminal offense listed in A.R.S. § 46-141(F).
1. The certification of the person shall be immediately revoked under the provisions of R6-1-408(B).

2. The provider shall immediately prohibit the person from acting in any capacity requiring or allowing contact with juveniles.
- B. The provider shall notify the Department, in writing, within three working days after the provider receives information that any person who has been certified has been convicted of, or is awaiting trial for, any criminal offense listed in A.R.S. § 46-141(G).
 1. The certification of the person shall be immediately revoked under the provisions of R6-1-408(B).
 2. The provider shall immediately prohibit the person from acting in any capacity requiring or allowing unsupervised contact with juveniles.
- C. Failure to notify the Department as required in subsections (A) and (B) above shall subject the provider to sanction.

Historical Note

Adopted effective December 2, 1992 (Supp. 92-4).

ARTICLE 5. CIVIL RIGHTS

R6-1-501. Civil Rights

- A. Statement of compliance: Pursuant to the provisions of the Civil Rights Act of 1964, no person in the state of Arizona will be excluded from participation in, denied the benefits of, or subjected to discrimination under assistance payments programs on the basis of race, color, religion, sex, or national origin. The Department shall administer such programs in accordance with the laws, regulations, policies, and practices enumerated in the subsections below.
- B. Definition of compliance: The Department shall follow policies and practices including, but not limited to, those described below.
 1. No individual will, on the basis of race, color, religion, sex, or national origin, be denied any benefit provided under an assistance payment program, or be provided a benefit which is different, or in a different manner, from that provided to others under the same program.
 2. No individual will, on the basis of race, color, religion, sex, or national origin, be subjected to segregation or separate treatment in any manner related to receipt of any benefit under an assistance payments program, nor will an individual be restricted in any way from any advantage or privilege enjoyed by others receiving benefits under the same program. This includes any distinction with respect to spaces provided for service, waiting rooms, and restrooms. Neither will separate times be set aside on the basis of race, color, religion, sex, or national origin for the provision of assistance.
 3. Employees of the Department will not be assigned case-loads or clientele on the basis of race, color, religion, sex, or national origin of the persons being assisted.
 4. Criteria or methods of administration shall not subject individuals to discrimination or defeat or substantially impair the objectives of an assistance payments program on the basis of the individual's race, color, religion, sex, or national origin.
 5. The Department shall conduct assistance payments programs in accordance with the requirements of existing laws and regulations, which shall extend not only to those activities which are conducted directly by the Department but also to all related activities which are conducted by other agencies, institutions, organizations, political subdivisions, and vendors.
 6. The Department shall maintain records and submit reports as required by federal authorities to assure compliance with regulations. During normal business hours of the Department, access will be permitted to its facilities, records, and other sources of information as may be pertinent to as certain compliance with regulations.
7. The Department will make available to applicants, recipients, and public officials that information required by federal authorities to appraise such persons of the protections against discrimination assured them by the Civil Rights Act of 1964.
- C. Methods of administration.
 1. The Department shall inform and instruct its staff of obligations under the Civil Rights Act of 1964, existing regulations, and the Statement of Compliance by:
 - a. Making copies of all pertinent documents available to the entire staff.
 - b. Conducting, as a regular part of the In-service Training Program:
 - i. Meetings to explain to all staff personnel the intent and meaning of such documents and to instruct them in their obligation to carry out the policies contained therein.
 - ii. Orientation of new staff personnel regarding their responsibilities to comply with the Civil Rights Act of 1964.
 - iii. Periodic reminders of Civil Rights Act requirements in appropriate staff meetings and memoranda or other official correspondence.
 - iv. Cultural awareness training to all staff personnel concerning ethnic differences among various groups residing in Arizona who comprise the Department's clientele.
 - v. Constant review of practices and policies to assure that no individual is discriminated against because of race, color, religion, sex, or natural origin.
 2. The Department will inform and instruct other appropriate agencies, institutions, organizations, political subdivisions, and vendors of their obligations to comply with the Civil Rights Act of 1964, existing regulations, and the Statement of Compliance filed by the Department as a condition to their initial or continued financial participation in any assistance payments program. This will be accomplished by:
 - a. Making clear the requirements of the Civil Rights Act and implementing regulations and policies to fulfill these requirements.
 - b. Determining that the agency, institution, organization, political subdivision, or vendor has executed an assurance in the form prescribed by federal authorities which is currently effective and applicable to the program under which the activity is conducted. This includes the use of memoranda which verifies specific obligations and undertakings or certification of compliance on each voucher presented to the Department for payment. Regular on-the-spot checks will be made by the Department's staff to assure compliance by any other agency, institution, organization, political subdivision, or vendor participating in an assistance payments program.
 - c. The Department will inform its clientele and other interested persons that financial assistance and other program benefits are provided on a non-discriminatory basis and of their right to file a complaint with the Department, the federal authorities, or both, if they believe that discrimination on the basis of race, color, religion, sex, or national origin is practiced. Informing clientele will be accomplished by furnish-

Department of Economic Security

- ing a written notice and the Statement of Compliance to all clientele and other interested persons.
- d. All complaints alleging discrimination because of race, color, religion, sex, or national origin shall be filed in writing, shall describe the type of discrimination alleged, indicate when and where such alleged discrimination occurred, and describe any pertinent facts and circumstances relating to the alleged discrimination. The complaint shall be signed by the complainant. All complaints shall be addressed to the Director of the Department of Economic Security, who will initiate a thorough investigation through established procedure. After the complaint has been investigated, the Director shall determine whether or not any discriminatory practice has occurred. If appropriate, the Director will take such action as the Director deems necessary to correct past practices and prevent future recurrence of such discrimination. The Department shall cease making referrals or vendor payments to any entity which does not fully comply with the Civil Rights Act of 1964. The complainant shall be advised in writing of the Department's determination regarding the complaint.
 - i. The Department will maintain a file of approved facilities, agencies, resources, and vendors who have executed Statements of Compliance with the Civil Rights Act of 1964. Verified complaints will be referred by the Department for corrective action. If, after a reasonable time, such corrective action has not been taken, the Department will advise and remove the facility, agency, or vendor from its approved list of resources.
 - ii. The Department will maintain adequate records to show action taken as a result of each complaint and will make this information available to appropriate federal authorities.
 - iii. Department employees who receive anonymous verbal complaints are required to report them to their supervisor. The supervisor will decide upon further action to be taken in such cases.
 - e. At least once each year, or more frequently for those cases in which discriminatory practices are alleged or suspected, a representative of the Department will visit institutions, organizations, political subdivisions, or vendors who participate in a program to verify that their practices conform to the Civil Rights Act and the regulations issued pursuant thereto and as reflected in the Statement of Compliance. The Department will periodically determine if discriminatory practices are engaged in by its personnel and will take corrective action as required to ensure that actions are in compliance with the Civil Rights Act and regulations issued pursuant thereto, as reflected in the Statement of Compliance.
 - f. Policies and procedures will provide effective verbal and written communication with non-English-speaking applicants and recipients. These policies and procedures will be made known to all Department employees. Supervisors will be required to ensure that their staff complies with such policies and procedures.
 - g. Assistance payments program information will be disseminated to the general public, using appropriate and effective media to reach minority populations.
 - h. Department advisory committees will include representatives of racial and ethnic minority groups to the extent feasible.
 - i. The Department shall provide data revealing the extent to which members of minority groups are beneficiaries of, participants in, or both, federally funded assistance payments programs.

Historical Note

R6-1-501 recodified from R6-3-103 effective February 13, 1996 (Supp. 96-1).

Supplement Separator Page



Supplement to the
Arizona Administrative Code
 The official compilation of Arizona Rules
Replacement Check List

For rules filed in the third quarter between
 July 1 - September 30
 2017

Within the stated calendar quarter, this Title contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information. Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

TITLE 09. Health Services

Chapter 04. Department of Health Services - Noncommunicable Diseases

Sections, Parts, Exhibits, Tables or Appendices modified

Article 6. Opioid Poisoning-Related Reporting

R9-6-601 and R9-6-602

☐ REMOVE Supp. 07-2
 Pages: 1 - 13

☐ REPLACE with Supp. 17-3
 Pages: 1 - 17

The agency's contact person who can answer questions about rules in this Chapter:

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Disclaimer: Please be advised the person listed is the contact of record as submitted in the rulemaking package for this supplement. The contact and other information may change and is provided as a public courtesy.

PUBLISHER
Arizona Department of State
Office of the Secretary of State, Administrative Rules Division

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the Administrative Code. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION
September 30, 2017

RULES

A.R.S. § 41-1001(17) states: “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions. Virtually everything in your life is affected in some way by rules published in the Arizona Administrative Code, from the quality of air you breathe to the licensing of your dentist. This chapter is one of more than 230 in the Code compiled in 21 Titles.

ADMINISTRATIVE CODE SUPPLEMENTS

Rules filed by an agency to be published in the Administrative Code are updated quarterly. Supplement release dates are printed on the footers of each chapter:

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2017 is cited as Supp. 17-1.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the Arizona Administrative Register for recent updates to rule Sections.

ARTICLES AND SECTIONS

Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering system separated into subsections.

HISTORICAL NOTES AND EFFECTIVE DATES

Historical notes inform the user when the last time a Section was updated in the Administrative Code. Be aware, since the Office publishes each quarter by entire chapters, not all Sections are updated by an agency in a supplement release. Many times just one Section or a few Sections may be updated in the entire chapter.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in the introduction of a chapter can be found at the Secretary of State’s website, www.azsos.gov/services/legislative-filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the Arizona Administrative Register online at www.azsos.gov/rules, click on the Administrative Register link.

In the Administrative Code the Office includes editor’s notes at the beginning of a chapter indicating that certain rulemaking Sections were made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR

If you are researching rules and come across rescinded chapters on a different paper color, this is because the agency filed a Notice of Exempt Rulemaking. At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

PERSONAL USE/COMMERCIAL USE

This chapter is posted as a public courtesy online, and is for private use only. Those who wish to use the contents for resale or profit should contact the Office about Commercial Use fees. For information on commercial use fees review A.R.S. § 39-121.03 and 1 A.A.C. 1, R1-1-113.

Public Services managing rules editor, Rhonda Paschal, assisted with the editing of this chapter.

TITLE 9. HEALTH SERVICES**CHAPTER 4. DEPARTMENT OF HEALTH SERVICES - NONCOMMUNICABLE DISEASES****ARTICLE 1. DEFINITIONS**

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ARTICLE 6. OPIOID POISONING-RELATED REPORTING

New Article 6, consisting of Sections R9-4-601 and R9-4-602 made by emergency rulemaking at 23 A.A.R. 2857, effective September 21, 2017, for 180 days (Supp. 17-3).

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ARTICLE 1. DEFINITIONS**R9-4-101. Definitions, General**

In this Chapter, unless otherwise specified:

1. "Dentist" means an individual licensed under A.R.S. Title 32, Chapter 11, Article 2.
2. "Department" means the Arizona Department of Health Services.
3. "Diagnosis" means the identification of a disease or injury, by an individual authorized by law to make the identification, that is the cause of an individual's current medical condition.
4. "Hospital" means the same as in A.A.C. R9-10-201.
5. "ICD-9-CM" means the version of the ICD-9-CM: International Classification of Diseases codes used by a hospital for billing purposes.
6. "Physician" means an individual licensed as a doctor of allopathic medicine under A.R.S. Title 32, Chapter 13, or as a doctor of osteopathic medicine under A.R.S. Title 32, Chapter 17.

Historical Note

Adopted effective September 25, 1991 (Supp. 91-3).
Amended by final rulemaking at 6 A.A.R. 2948, effective July 18, 2000 (Supp. 00-3). Amended by final rulemaking at 12 A.A.R. 179, effective March 11, 2006 (Supp. 06-1).

R9-4-102. Repealed**Historical Note**

Adopted effective August 15, 1989 (Supp. 89-3).
Amended effective April 9, 1993 (Supp. 93-2). Section repealed by final rulemaking at 6 A.A.R. 2948, effective July 18, 2000 (Supp. 00-3).

R9-4-103. Repealed**Historical Note**

Adopted effective August 15, 1989 (Supp. 89-3).
Amended effective March 4, 1993 (Supp. 93-1). Section repealed by final rulemaking at 7 A.A.R. 55, effective December 12, 2000 (Supp. 00-4).

R9-4-104. Repealed**Historical Note**

Adopted effective January 1, 1992, filed September 25, 1991 (Supp. 91-3). "Register" corrected to "Registry" in subsection (1) (Supp. 93-1). Repealed by final rulemaking at 12 A.A.R. 179, effective March 11, 2006 (Supp. 06-1).

R9-4-105. Repealed**Historical Note**

Adopted effective September 25, 1991 (Supp. 91-3).
Section repealed by final rulemaking at 7 A.A.R. 712, effective January 17, 2001 (Supp. 01-1).

ARTICLE 2. PESTICIDE ILLNESS**R9-4-201. Definitions**

In this Article, unless otherwise specified:

1. "Cluster illness" means sickness in two or more individuals that is caused by or may be related to one pesticide exposure incident, as determined by the history, signs, or symptoms of the sickness; laboratory findings regarding the individuals; the individuals' responses to treatment for the sickness; or the geographic proximity of the individuals.

2. "Documented" means evidenced by written information such as pesticide applicator reports, statements of individuals with pesticide illness, or medical records.
3. "Health care professional" means a physician, a registered nurse practitioner, a physician assistant, or any other individual who is authorized by law to diagnose human illness.
4. "Medical director" means the individual designated by a poison control center as responsible for providing medical direction for the poison control center or for approving and coordinating the activities of the individuals who provide medical direction for the poison control center.
5. "Pest" has the same meaning as in A.R.S. Title 3, Chapter 2, Article 5 or as used in A.R.S. Title 3, Chapter 2, Article 6 and A.R.S. Title 32, Chapter 22.
6. "Pesticide" means any substance or mixture of substances, including inert ingredients, intended for preventing, destroying, repelling, or mitigating any pest or intended for use as a plant regulator, defoliant, or desiccant, but does not include an antimicrobial agent, such as a disinfectant, sanitizer, or deodorizer, used for cleaning.
7. "Pesticide illness" means any sickness reasonably believed by a health care professional or medical director to be caused by or related to documented exposure to any pesticide, based upon professional judgment and:
 - a. The history, signs, or symptoms of the sickness;
 - b. Laboratory findings regarding the individual; or
 - c. The individual's response to treatment for the sickness.
8. "Physician assistant" has the same meaning as in A.R.S. § 32-2501.
9. "Poison control center" means an organization that is a member of and may be certified by the American Association of Poison Control Centers.
10. "Registered nurse practitioner" has the same meaning as in A.R.S. § 32-1601.

Historical Note

Adopted effective August 15, 1989 (Supp. 89-3).
Amended effective April 9, 1993 (Supp. 93-2). Former Section R9-4-201 renumbered to R9-4-202; new Section R9-4-201 adopted by final rulemaking at 6 A.A.R. 2948, effective July 18, 2000 (Supp. 00-3).

R9-4-202. Pesticide Illness Reporting Requirements

A health care professional or medical director who participates in the diagnosis of or identifies an individual with pesticide illness shall file a report of pesticide illness with the Department as follows:

1. The health care professional or medical director shall report a pesticide illness within five working days from the date of diagnosis or identification, except:
 - a. The health care professional or medical director shall report a pesticide illness where the individual with pesticide illness is hospitalized or dies no later than one working day from the time of hospital admission or death; and
 - b. The health care professional or medical director shall report cluster illnesses no later than one working day from the time the second individual with pesticide illness is diagnosed or identified.
2. The health care professional or medical director shall submit the report to the Department by telephone; in person; in a writing sent by fax, delivery service, or mail; or by an electronic reporting system if an electronic reporting system is developed by the Department. The report shall contain the following information:

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- a. The name, address, and telephone number of the individual with pesticide illness;
 - b. The date of birth of the individual with pesticide illness;
 - c. The gender of the individual with pesticide illness;
 - d. The occupation of the individual with pesticide illness, if the documented pesticide exposure is related to the occupation;
 - e. The dates of onset of illness and of diagnosis or identification as pesticide illness;
 - f. The name of the pesticide, if known;
 - g. The name, business address, and telephone number of the health care professional or medical director making the report;
 - h. A statement specifying whether the illness is caused by a documented pesticide exposure or is related to a documented pesticide exposure; and
 - i. The health care professional's or medical director's reason for believing that the illness is caused by or related to documented exposure to a pesticide.
3. The health care professional or medical director may designate a representative to make the report to the Department on behalf of the health care professional or medical director.

Historical Note

New Section renumbered from R9-4-201 and amended by final rulemaking at 6 A.A.R. 2948, effective July 18, 2000 (Supp. 00-3).

ARTICLE 3. BLOOD LEAD LEVELS**R9-4-301. Definitions**

In this Article, unless otherwise specified:

1. "Adult" means an individual 16 years of age or older.
2. "Child" means an individual younger than 16 years of age.
3. "Clinical laboratory" has the same meaning as in A.R.S. § 36-451.
4. "Patient" means the individual whose blood has been tested for lead content.
5. "Public" means funded by and operated under the direction of the federal or state government or a political subdivision of the state.
6. "Public insurance" means a public program, such as the Arizona Health Care Cost Containment System, Kids-Care, Indian Health Services, or TRICARE, that pays for medical services.
7. "Whole blood" means human blood from which plasma, erythrocytes, leukocytes, and thrombocytes have not been separated.

Historical Note

Adopted effective August 15, 1989 (Supp. 89-3).
Amended effective March 4, 1993 (Supp. 93-1). Former Section R9-4-301 renumbered to R9-4-302; new Section R9-4-301 adopted by final rulemaking at 7 A.A.R. 55, effective December 12, 2000 (Supp. 00-4).

R9-4-302. Reporting Significant Blood Lead Levels

- A. A physician who receives a laboratory result showing a level of lead equal to or greater than 10 micrograms of lead per deciliter of whole blood for a child or 25 micrograms of lead per deciliter of whole blood for an adult shall report the blood lead level to the Department as follows:
 1. The physician shall report the blood lead level within five working days from the date of receipt of the laboratory result if the blood lead level is less than 45 micrograms of lead per deciliter of whole blood for a child or less than

60 micrograms of lead per deciliter of whole blood for an adult.

2. The physician shall report the blood lead level within one working day from the date of receipt of the laboratory result if the blood lead level is equal to or greater than 45 micrograms of lead per deciliter of whole blood for a child or equal to or greater than 60 micrograms of lead per deciliter of whole blood for an adult.
 3. A physician may designate a representative to make the report to the Department on behalf of the physician.
- B. A clinical laboratory director shall report to the Department the results of all tests for lead in whole blood as follows:
 1. The clinical laboratory director shall report the blood lead test result within five working days from the date of completing the test if the blood lead level is equal to or greater than 10 but less than 45 micrograms of lead per deciliter of whole blood for a child or equal to or greater than 25 but less than 60 micrograms of lead per deciliter of whole blood for an adult.
 2. The clinical laboratory director shall report the blood lead test result within one working day from the date of completing the test if the blood lead level is equal to or greater than 45 micrograms of lead per deciliter of whole blood for a child or equal to or greater than 60 micrograms of lead per deciliter of whole blood for an adult.
 3. The clinical laboratory director shall report blood test results that are less than 10 micrograms of lead per deciliter of whole blood for a child or less than 25 micrograms of lead per deciliter of whole blood for an adult at least once each month.
 4. A clinical laboratory director may designate a representative to make the report to the Department on behalf of the clinical laboratory director.
 - C. A physician or clinical laboratory director shall submit each report to the Department by telephone; in a writing sent by fax, delivery service, or mail; or by an electronic reporting system authorized by the Department.
 - D. A report shall include the following information:
 1. The patient's name, address, and telephone number;
 2. The patient's date of birth;
 3. The patient's gender;
 4. If the patient is an adult, the patient's occupation and the name, address, and telephone number of the patient's employer;
 5. An indication of the patient's funding source and the specific health plan name, if applicable:
 - a. Public insurance,
 - b. Private insurance,
 - c. Self-pay,
 - d. Workplace monitoring program,
 - e. Other, or
 - f. Unknown;
 6. The type of blood draw used (venous or capillary);
 7. The date the blood was drawn;
 8. The blood lead level;
 9. The date the blood lead level was received by the physician or determined by the laboratory;
 10. The name, address, and telephone number of the laboratory that tested the blood; and
 11. The name, practice name, address, and telephone number of the physician who ordered the test.

Historical Note

New Section renumbered from R9-4-301 and amended by final rulemaking at 7 A.A.R. 55, effective December 12, 2000 (Supp. 00-4).

ARTICLE 4. CANCER REGISTRY**R9-4-401. Definitions**

In this Article, unless otherwise specified:

1. "Accession number" means a unique number, separate from a medical record number, assigned by a hospital's cancer registry to a patient for identification purposes.
2. "Admitted" means the same as in A.A.C. R9-10-201.
3. "Analytic patient" means a patient, who is:
 - a. Diagnosed at a facility, or
 - b. Administered any part of a first course of treatment at the facility.
4. "Basal cell" means a cell of the inner-most layer of the skin.
5. "Behavioral health service agency" means the same as "agency" in A.A.C. R9-20-101.
6. "Business day" means any day of the week other than a Saturday, a Sunday, a legal holiday, or a day on which the Department is authorized or obligated by law or executive order to close.
7. "Calendar day" means any day of the week, including a Saturday or a Sunday.
8. "Calendar year" means January 1 through December 31.
9. "Cancer" means a group of diseases characterized by uncontrolled cell growth and the spread of abnormal cells.
10. "Cancer registry" means a unit within a hospital or clinic that collects, stores, summarizes, distributes, and maintains information specified in R9-4-403 about patients who:
 - a. Are admitted to the hospital;
 - b. Receive diagnostic evaluation at, or cancer-directed treatment from, the hospital or clinic; or
 - c. Show evidence of cancer, carcinoma in situ, or a benign tumor of the central nervous system while receiving treatment from the hospital or clinic.
11. "Carcinoma" means a type of cancer that is characterized as a malignant tumor derived from epithelial tissue.
12. "Carcinoma in situ" means a cancer that is confined to epithelial tissue within the site of origin.
13. "Case report" means an electronic or paper document that includes the information in R9-4-403 for a patient.
14. "Chemotherapy" means the treatment of cancer using specific chemical agents or drugs that are selectively destructive to malignant cells and tissues.
15. "Clinic" means a facility that is not physically connected to or affiliated with a hospital, where a physician, doctor of naturopathic medicine, dentist, or registered nurse practitioner provides cancer diagnosis, cancer treatment, or both, and that is:
 - a. An outpatient treatment center, as defined in A.A.C. R9-10-101,
 - b. An outpatient surgical center, as defined in A.A.C. R9-10-101, or
 - c. An outpatient radiation treatment center.
16. "Clinical evaluation" means an examination of the body of an individual for the presence of disease or injury to the body, and review of any laboratory test results for the individual by a physician, doctor of naturopathic medicine, dentist, or registered nurse practitioner.
17. "Clinical or pathological" means an analysis of evidence either acquired solely before a first course of treatment was initiated, or acquired both before a first course of treatment, and supplemented or modified by evidence acquired during and subsequent to surgery.
18. "Code" means a single number or letter, a set of numbers or letters, or a set of both numbers and letters, that represents specific information.
19. "Cytology" means the microscopic examination of cells.
20. "Date of first contact" means the day, month, and year a reporting facility first began to provide cancer-related medical services, nursing services, or health-related services, as defined in A.R.S. § 36-401, to a patient.
21. "Date of last contact" means the day, month, and year that a reporting facility last knew a patient to be alive.
22. "Designee" means a person assigned by the governing authority of a hospital or clinic or by an individual acting on behalf of the governing authority to gather information for or report to the Department, as specified in R9-4-403 or R9-4-404.
23. "Discharge" means the same as in A.A.C. R9-10-201.
24. "Discharge date" means the month, day, and year when a patient is discharged from a hospital.
25. "Disease progression" means the process of a disease becoming more severe or spreading from one area of a human body to another area of the human body.
26. "Distant lymph node" means a lymph node that is not in the same general area of a human body as the primary site of a tumor.
27. "Distant site" means an area of a human body that is not adjacent to or in the same general area of the human body as the primary site of a tumor.
28. "Doctor of naturopathic medicine" means an individual licensed under A.R.S. Title 32, Chapter 14.
29. "Electronic" means the same as in A.R.S. § 44-7002.
30. "First course of treatment" means the initial set of cancer- or non-cancer-directed treatment that is planned when a cancer is diagnosed and administered to the patient before disease progression or recurrence.
31. "Follow-up report" means an electronic document that includes the information stated in R9-4-404(A)(2) for a patient.
32. "Governing authority" means the same as in A.R.S. § 36-401.
33. "Grade" means the degree of resemblance of a tumor to normal tissue, and gives an indication of the severity of the cancer.
34. "Health care institution" means the same as in A.A.C. R9-10-101.
35. "Histology" means the microscopic structure of cells, tissues, and organs in relation to their function.
36. "Inpatient beds" means the same as in A.R.S. § 36-401.
37. "Laterality" means the side of a paired organ or the side of the body in which the primary site of a tumor is located.
38. "Licensed capacity" means the same as in A.R.S. § 36-401.
39. "Lymph" means the clear, watery, sometimes faintly yellowish fluid that circulates throughout the lymphatic system.
40. "Lymph node" means any of the small bodies located along lymphatic vessels, particularly at the neck, armpit, and groin, that filter bacteria and foreign particles from lymph.
41. "Lymphatic system" means the organ system that consists of lymph, lymph nodes, and vessels or channels that contain and convey lymph throughout a human body.
42. "Malignant" means an inherent tendency of a tumor to sequentially spread to areas of a human body beyond the site of origin.

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43. "Medical record number" means a unique number assigned by a hospital, clinic, physician, doctor of naturopathic medicine, dentist, or registered nurse practitioner to an individual for identification purposes.
44. "Melanocyte" means a skin cell that makes melanin, which is a dark pigment.
45. "Melanoma" means a dark-pigmented, malignant tumor arising from a melanocyte and occurring most commonly in the skin.
46. "Metastasis" means the spread of a cancer from a primary site into a regional site or a distant site.
47. "Narrative description" means a written text describing an act, occurrence, or course of events.
48. "Organ" means a somewhat independent part of a human body, such as a heart or a kidney, that performs a specific function.
49. "Organ system" means one or more organs and associated tissues that perform a specific function, such as the circulatory system.
50. "Outpatient radiation treatment center" means a facility in which a person, licensed as specified in 12 A.A.C. 1, Article 7, provides radiation treatment.
51. "Papillary tumor" means a benign tumor of the skin producing finger-like projections from the skin surface.
52. "Pathology laboratory" means a facility in which human cells or tissues are examined for the purpose of diagnosing cancer and that is licensed under 9 A.A.C. 10, Article 1.
53. "Patient" means an individual who has been diagnosed with a cancer, carcinoma in situ, or benign tumor of the central nervous system, including melanoma, but excluding skin cancer that is:
 - a. Confined to the primary site; or
 - b. Present at regional sites or distant sites, but was diagnosed on or after January 1, 2003.
54. "Primary site" means a specific organ or organ system within a human body where the first cancer tumor originated.
55. "Principal diagnosis" means the primary condition for which an individual is admitted to a hospital or treated by the hospital.
56. "Radiation treatment" means the exposure of a human body to a stream of particles or electromagnetic waves for the purpose of selectively destroying certain cells or tissues.
57. "Reconstructive surgery" means a medical procedure that involves cutting into a body tissue or organ with instruments to repair damage or restore function to, or improve the shape and appearance of a body structure that is missing, defective, damaged, or misshapen by cancer or cancer-directed therapies.
58. "Recurrence" means the reappearance of a tumor after previous removal or treatment of the tumor, after a period in which the patient was believed to be free of cancer.
59. "Reference date" means the date on which the hospital's cancer registry began reporting patient information to the Department.
60. "Regional lymph node" means a lymph node that is in the same general area of a human body as the primary site of a tumor.
61. "Regional site" means an area of a human body that is adjacent to or in the same general area of the human body as the primary site of a tumor.
62. "Registered nurse practitioner" means an individual who meets the definition of registered nurse practitioner in A.R.S. § 32-1601, and is licensed under A.R.S. Title 32, Chapter 15.
63. "Rehabilitation services" means the same as in A.A.C. R9-10-201.
64. "Release" means to transfer care of a patient from a hospital to a physician, a doctor of naturopathic medicine, a registered nurse practitioner, an outpatient treatment center, another hospital, the patient, the patient's parent if the patient is under 18 years of age and unmarried, or the patient's legal guardian.
65. "Reporting facility" means a hospital, clinic, physician, doctor of naturopathic medicine, dentist, or registered nurse practitioner that submits a case report to the Department.
66. "Secondary diagnosis" means all other diagnoses of an individual made after the principal diagnosis.
67. "Sequence number" means a unique number assigned by a cancer registry to a specific cancer within the body of a patient.
68. "Skin cancer" means cancer of any of the following types:
 - a. Papillary tumor;
 - b. Squamous cell;
 - c. Basal cell; or
 - d. Other carcinoma of the skin, where a specific diagnosis has not been determined.
69. "Special hospital" means the same as in A.A.C. R9-10-201.
70. "Squamous cell" means a flat, scale-like skin cell.
71. "Stage group" means a scheme for categorizing a patient, based on the staging classification of the patient's cancer, to enable a physician, doctor of naturopathic medicine, or registered nurse practitioner to provide better treatment and outcome information to the patient.
72. "Staging classification" means the categorizing of a cancer according to the size and spread of a tumor from its primary site, based on an analysis of three basic components:
 - a. The tumor at the primary site,
 - b. Regional lymph nodes, and
 - c. Metastasis.
73. "Subsite" means a specific area within a primary site where a cancer tumor originated.
74. "Substantiate stage" means a narrative describing the stage group of a cancer at the time of diagnosis.
75. "Treatment" means the administration to a patient of medical services, nursing services, or health-related services, as defined in A.R.S. § 36-401, that are intended to relieve illness or injury.
76. "Tumor" means an abnormal growth of tissue resulting from uncontrolled multiplication of cells and serving no physiological function.
77. "Usual industry" means the primary type of activity carried out by the business where a patient was employed for the most number of years of the patient's working life before the diagnosis of cancer.
78. "Usual occupation" means the kind of work performed during the most number of years of a patient's working life before the diagnosis of cancer.
79. "Working life" means that portion of a patient's life during which the patient was employed for a salary or wages.

Historical Note

Adopted effective January 1, 1992, filed September 25, 1991 (Supp. 91-3). Section repealed; new Section made by final rulemaking at 12 A.A.R. 179, effective March

11, 2006 (Supp. 06-1). Amended by final rulemaking at 3708, effective November 11, 2006 (Supp. 06-3).

R9-4-401.01. Repealed

Historical Note

New Section made by final rulemaking at 9 A.A.R. 1859, effective June 3, 2003 (Supp. 03-2). Section repealed by final rulemaking at 12 A.A.R. 179, effective March 11, 2006 (Supp. 06-1).

R9-4-402. Exceptions

This Article does not apply to a hospital that is:

1. Licensed as a special hospital and a behavioral health service agency, or
2. A special hospital that limits admission to individuals requiring rehabilitation services.

Historical Note

Adopted effective January 1, 1992, filed September 25, 1991 (Supp. 91-3). Section repealed; new Section made by final rulemaking at 12 A.A.R. 179, effective March 11, 2006 (Supp. 06-1).

R9-4-403. Case Reports

A. A physician, doctor of naturopathic medicine, dentist, registered nurse practitioner, or the designee of a clinic shall:

1. Prepare a case report in a format provided by the Department;
2. Include the following information in the case report:
 - a. The name, address, and telephone number, or the identification number assigned by the Department to the reporting facility;
 - b. The patient's name, and if applicable, the patient's maiden name and any other name by which the patient is known;
 - c. The patient's address at the date of last contact, and address at diagnosis of cancer;
 - d. The patient's date of birth, Social Security number, sex, race, and ethnicity;
 - e. The date of first contact with the patient for the cancer being reported;
 - f. The patient's usual industry and usual occupation, if the patient is an adult;
 - g. The patient's medical record number, if assigned;
 - h. The date of diagnosis of the cancer being reported;
 - i. If the diagnosis was not made at the reporting facility, the name and address of the facility at which the diagnosis was made;
 - j. The primary site and subsite of the cancer being reported;
 - k. The tumor size, histology, grade, and laterality at diagnosis;
 - l. A code that describes the presence or absence of malignancy in a tumor;
 - m. Whether the cancer had spread from the primary site at the time of diagnosis and if so, to where;
 - n. The extent to which the cancer has spread from the primary site;
 - o. A narrative description of the extent to which the cancer had spread at diagnosis;
 - p. Whether the diagnosis was made by histology, cytology, clinical evaluation, diagnostic x-ray, or any other method, or whether the method by which the diagnosis was made is unknown;
 - q. For each treatment the patient received, the type of treatment, date of treatment, and the name of the facility where the treatment was performed;

- r. Whether any residual tumor cells were left at the edges of a surgical site, after surgery to remove a tumor at the primary site;
- s. Whether the patient is alive or dead, including the date of last contact if the patient is alive, and the date, place, and cause of death if the patient is dead;
- t. Whether or not the patient has evidence of a current cancer, carcinoma in situ, or benign tumor of the central nervous system as of the date of last contact or death, or whether this information is unknown;
- u. The name of the physician, nurse practitioner, or doctor of naturopathic medicine providing medical services, as defined in A.R.S. § 36-401, to the patient;
- v. The name of the individual or the code that identifies the individual completing the case report;
- w. The date the case report was completed; and
- x. Whether the patient has a history of other cancers, and if so, identification of the primary site and the date the other cancer was diagnosed; and

3. Use codes and a coding format supplied by the Department for data items specified in subsection (A)(2) that require codes on the case report.

B. The cancer registry of a hospital with a licensed capacity of fewer than 50 inpatient beds that reports as specified in R9-4-404(A) and the cancer registry of a hospital with a licensed capacity of 50 or more inpatient beds shall:

1. Prepare a case report in a format provided by the Department;
2. Include the information specified in subsection (A) and the following information on the case report:
 - a. The patient's accession number;
 - b. The sequence number of the cancer being reported;
 - c. The date the patient was admitted to the hospital for diagnostic evaluation, cancer-directed treatment, or evidence of cancer, carcinoma in situ, or a benign tumor of the central nervous system, if applicable;
 - d. The date the patient was discharged from the hospital after the patient received diagnostic evaluation or treatment at the hospital, if applicable;
 - e. The source of payment for diagnosis or treatment of cancer, or both;
 - f. The level of the facility's involvement in the diagnosis or treatment, or both, of the patient for cancer;
 - g. The year in which the hospital first provided diagnosis or treatment to the patient for the cancer being reported;
 - h. The patient's county of residence at diagnosis of cancer;
 - i. The patient's marital status and age at diagnosis of cancer, place of birth, and, if applicable, name of the patient's spouse;
 - j. If the patient is under 18 years of age and unmarried, the name of the patient's parent or legal guardian;
 - k. The patient's religious preference, if applicable;
 - l. Whether the patient's laboratory results show the presence of specific substances known as Tumor Marker 1 and Tumor Marker 2, which are derived from tumor tissue and whose detection in the blood of a human body indicates the presence of a specific type of tumor;
 - m. A narrative description of how the cancer was diagnosed;
 - n. The number of regional lymph nodes examined and the number in which evidence of cancer was detected;

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- o. The clinical or pathological staging classification, based on the analysis of tumor, lymph node, and metastasis;
 - p. The patient's clinical or pathological stage group;
 - q. The occupation of the individual who determined the clinical or pathological stage group of the patient;
 - r. A narrative description of the clinical evaluation of x-ray diagnostic films and scans of the patient, and the dates of the films or scans;
 - s. A narrative description of laboratory tests performed for the patient, including the date, type, and results of any of the patient's laboratory tests;
 - t. A narrative description of the results of the patient's clinical evaluation;
 - u. The procedures used by the reporting facility to obtain a diagnosis and staging classification, including the dates on which the procedures were performed, and the name of the facilities where the procedures were performed, if different from the reporting facility;
 - v. A narrative description of any cancer-related surgery on the patient, including the date of surgery, name of the facility where the surgery was performed, if different from the reporting facility, and type of surgery;
 - w. The code associated with the type of surgery performed on the patient and the date of surgery;
 - x. The codes associated with the:
 - i. Surgical approach;
 - ii. Extent of lymph node surgery;
 - iii. Number of lymph nodes removed;
 - iv. Surgery of regional sites, distant sites, or distant lymph nodes; and
 - v. Reason for no surgery or that surgery was performed;
 - y. Whether reconstructive surgery on the patient was performed as a first course of treatment, delayed, or not performed;
 - z. A narrative description of cancer-related radiation treatment administered to the patient, including the date of radiation treatment, name of the facility where the radiation treatment was performed, if different from the reporting facility, and type of radiation;
 - aa. The code associated with the type of radiation treatment administered to the patient and the date of radiation treatment;
 - bb. A narrative description of cancer-related chemotherapy administered to the patient, including the date of cancer-related chemotherapy, name of the facility that administered the chemotherapy, if different from the reporting facility, and type of chemotherapy;
 - cc. The code associated with the type of chemotherapy administered to the patient and the date of chemotherapy;
 - dd. If the patient's treatment included both surgery and radiation treatment, the sequence of the two treatments;
 - ee. If applicable, a narrative description of any other types of cancer or non-cancer-directed first course of treatment, not otherwise coded on the case report for the patient, including:
 - i. Additional surgery, chemotherapy, radiation, or other treatment, administered to the patient;
 - ii. The dates of the treatment;
 - iii. The names of the facilities where the treatment was performed, if different from the reporting facility; and
 - iv. The type of treatment;
 - ff. If additional cancer of the type diagnosed at the primary site is found after cancer-directed treatment, the date and location of the additional cancer, and whether the additional cancer was found at the primary site, a regional site, or a distant site;
 - gg. If the patient has died, whether an autopsy was performed; and
 - hh. The type of records used by the reporting facility to complete the case report; and
3. Use codes and coding format supplied by the Department for data items specified in subsection (B)(2) that require codes in the case report.

Historical Note

Adopted effective January 1, 1992, filed September 25, 1991 (Supp. 91-3). Section repealed; new Section made by final rulemaking at 12 A.A.R. 179, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 12 A.A.R. 3708, effective November 11, 2006 (Supp. 06-3).

R9-4-404. Requirements for Submitting Case Reports and Allowing Review of Hospital Records

- A.** The cancer registry of a hospital with a licensed capacity of 50 or more inpatient beds shall ensure that:
1. An electronic case report is submitted to the Department within 180 calendar days from the date a patient is first released from the hospital; and
 2. An electronic follow-up report, including a change of patient address, if applicable, a summary of additional first course of treatment, if applicable, and the information in R9-4-403(A)(2)(q), (s), (t), and (u) and R9-4-403(B)(2)(gg), is submitted to the Department at least annually for:
 - a. All living analytic patients in the hospital's cancer registry database, and
 - b. All analytic patients in the hospital's cancer registry database who have died since the last follow-up report.
- B.** The cancer registry or other designee of a hospital with a licensed capacity of fewer than 50 inpatient beds shall either report as specified in subsection (A), or shall at least once every six months:
1. Prepare and submit a written report to the Department:
 - a. For all individuals:
 - i. Released by the hospital since the last report was prepared, and
 - ii. Whose medical records include ICD-9-CM diagnosis codes specified in a list provided to the hospital by the Department,
 - b. Containing ICD-9-CM diagnosis codes that are arranged in numeric order, and
 - c. Including the following information associated with each ICD-9-CM diagnosis code:
 - i. The individual's medical record number assigned by the hospital,
 - ii. The individual's age,
 - iii. The individual's admission and discharge dates, and
 - iv. Whether the diagnosis code reflects the individual's principal or secondary diagnosis, and

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2. Allow the Department to review the records listed in R9-4-405(A) to obtain the information specified in R9-4-403 about a patient.
 - C. If the designee of a clinic submitted 100 or more case reports to the Department in the previous calendar year or expects to submit 100 or more case reports in the current calendar year, the designee of the clinic shall:
 1. Submit a case report to the Department for each patient who is not referred by the clinic to a hospital for the first course of treatment; and
 2. Ensure that the case report in subsection (C)(1) is submitted in electronic format within 90 calendar days of:
 - a. Initiation of treatment of the patient at the clinic; or
 - b. Diagnosis of cancer in the patient, if the clinic did not provide treatment.
 - D. If the designee of a clinic submitted fewer than 100 case reports to the Department in the previous calendar year and expects to submit fewer than 100 case reports in the current calendar year, the designee of the clinic shall submit an electronic or paper case report to the Department for each patient, within 30 calendar days from the date of diagnosis of cancer in the patient, if the clinic:
 1. Diagnoses cancer in the patient without a pathology report from a pathology laboratory, and
 2. Does not refer the patient to a hospital for the first course of treatment.
 - E. A physician, doctor of naturopathic medicine, dentist, or registered nurse practitioner shall submit an electronic or paper case report to the Department for each patient, within 30 calendar days from the date of diagnosis of cancer in the patient, if the physician, doctor of naturopathic medicine, dentist, or registered nurse practitioner:
 1. Diagnoses cancer in the patient without a pathology report from a pathology laboratory, and
 2. Does not refer the patient to a hospital or clinic for the first course of treatment.
 - F. A clinic, physician, dentist, registered nurse practitioner, or doctor of naturopathic medicine that receives a letter from the Department, requesting any of the information specified in R9-4-403 about a patient, shall provide to the Department the requested information on the patient within 15 business days from the date of the request.
 - G. A clinic, physician, dentist, registered nurse practitioner, or doctor of naturopathic medicine that receives a letter from a hospital, requesting any of the information specified in R9-4-403 about a patient, shall provide to the hospital the requested information on the patient within 15 business days from the date of the request.
 - H. A pathology laboratory shall:
 1. Allow the Department to review pathology reports at least once every 90 calendar days to obtain the information specified in R9-4-403; and
 2. Provide to the Department copies, in electronic or written format, of pathology reports of patients.
- a hospital, clinic, physician, doctor of naturopathic medicine, dentist, or registered nurse practitioner required to report under R9-4-404 shall allow the Department to review any of the following records, as are applicable to the facility:
1. A report meeting the requirements of R9-4-404(B)(1);
 2. Patient medical records;
 3. Medical records of individuals not diagnosed with cancer;
 4. Pathology reports;
 5. Cytology reports;
 6. Logs containing information about surgical procedures, as specified in A.A.C. R9-10-214(A)(6) or A.A.C. R9-10-1709(A); and
 7. Records other than those specified in subsections (A)(1) through (A)(6) that contain information about diagnostic evaluation, cancer-directed treatment, or other treatment provided to an individual by the hospital, clinic, physician, doctor of naturopathic medicine, dentist, or registered nurse practitioner.
- B. The Department shall consider a hospital, clinic, physician, doctor of naturopathic medicine, dentist, or registered nurse practitioner required to report under R9-4-404 as meeting the criteria in R9-4-404 if the hospital, clinic, physician, doctor of naturopathic medicine, dentist, or registered nurse practitioner submits a case report to the Department for at least 97% of the patients for whom a case report is required under R9-4-404 during a calendar year.
 - C. The Department shall consider a hospital required to report under R9-4-404(A)(2) as meeting the criteria in R9-4-404(A)(2) if the hospital submits a follow-up report specified in R9-4-404(A)(2) to the Department once each calendar year for at least:
 1. Eighty percent of all analytic patients from the hospital's reference date; and
 2. Ninety percent of all analytic patients diagnosed within the last five years or from the hospital's reference date, whichever is shorter.
 - D. The Department shall return a case report not prepared according to R9-4-403 to the hospital, clinic, physician, doctor of naturopathic medicine, dentist, or registered nurse practitioner that submitted the case report, identifying the revisions that are needed in the case report. The hospital, clinic, physician, doctor of naturopathic medicine, dentist, or registered nurse practitioner shall submit the revised case report to the Department within 15 business days from the date the Department requests the revision.
 - E. Upon written request by the Department, a hospital shall prepare a case report based on a simulated medical record provided by the Department for the purpose of demonstrating the variability with which data is reported. The hospital shall return the case report to the Department within 15 business days from the date of the request.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 179, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 12 A.A.R. 3708, effective November 11, 2006 (Supp. 06-3).

ARTICLE 5. BIRTH DEFECTS MONITORING PROGRAM**R9-4-501. Definitions**

In this Article, unless otherwise specified:

1. "Admitted" means the same as in A.A.C. R9-10-201.
2. "Birth defect" means an abnormality:
 - a. Of body structure, function, or chemistry, or of chromosomal structure or composition;
 - b. That is present at or before birth; and

Historical Note

Adopted effective January 1, 1992, filed September 25, 1991 (Supp. 91-3). Section repealed by final rulemaking at 9 A.A.R. 1859, effective June 3, 2003 (Supp. 03-2). New Section made by final rulemaking at 12 A.A.R. 179, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 12 A.A.R. 3708, effective November 11, 2006 (Supp. 06-3).

R9-4-405. Data Quality Assurance

- A. To ensure completeness and accuracy of cancer reporting, upon notice from the Department of at least five business days,

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- c. That may be diagnosed before or at birth, or later in life.
3. "Business day" means any day of the week other than a Saturday, a Sunday, a legal holiday, or a day on which the Department is authorized or obligated by law or executive order to close.
4. "Calendar day" means any day of the week, including a Saturday or a Sunday.
5. "Clinic" means:
 - a. A person under contract or subcontract with CRS to provide the medical services specified in 9 A.A.C. 7, Article 4;
 - b. An outpatient treatment center, as defined in A.A.C. R9-10-101, or
 - c. An outpatient surgical center, as defined in A.A.C. R9-10-101.
6. "Clinical evaluation" means an examination of the body of an individual and review of the individual's laboratory test results to determine the presence or absence of a medical condition.
7. "Clinical laboratory" means a facility that:
 - a. Meets the definition in A.R.S. § 36-451;
 - b. Is operated, licensed, or certified by the U.S. government; and
 - c. Is located within Arizona.
8. "Code" means a single number or letter, a set of numbers or letters, or a set of both numbers and letters, that represents specific information.
9. "Conception" means the formation of an entity by the union of a human sperm and ovum, resulting in a pregnancy.
10. "Co-twin" means a sibling of a patient, who was born to the same mother as the patient and as a result of the same pregnancy as the patient.
11. "CRS" means the Children's Rehabilitative Services program, established within the Department as specified in A.R.S. Title 36, Chapter 2, Article 3.
12. "Date of first contact" means the day, month, and year a physician, clinic, or other person specified in R9-4-503(A) first began to provide medical services, nursing services, or health-related services to a patient or the patient's mother.
13. "Date of last contact" means the day, month, and year:
 - a. Of a patient's death; or
 - b. That a physician, clinic, or other person specified in R9-4-503(A) last clinically evaluated, diagnosed, or provided treatment to a patient or the patient's mother.
14. "Designee" means an individual assigned by the governing power of a hospital, high-risk perinatal practice, genetic testing facility, or prenatal diagnostic facility or by another individual acting on behalf of the governing power to gather information for or report to the Department, as specified in R9-4-502, R9-4-503, or R9-4-504.
15. "Discharge" means the same as in A.A.C. R9-10-201.
16. "Discharge date" means the month, day, and year of an individual's discharge from a hospital.
17. "Electronic" means the same as in A.R.S. § 44-7002.
18. "Enrolled" means approved to receive services specified in 9 A.A.C. Chapter 7 from CRS.
19. "Estimated date of confinement" means an approximation of the date on which a woman will give birth, based on the clinical evaluation of the woman.
20. "Estimated gestational age" means an approximation of the duration of a pregnancy, based on the date of the last menstrual period of the pregnant woman.
21. "Facility" means a building and associated personnel and equipment that perform or are used in connection with performing a particular service or activity.
22. "Family medical history" means an account of past and present illnesses or diseases experienced by individuals who are biologically related to a patient.
23. "Follow-up services" means activities intended to assist the parent or guardian of a patient who has a birth defect to:
 - a. Learn about the birth defect and, if applicable, how the birth defect may be prevented; or
 - b. Obtain applicable medical services, nursing services, health-related services, or support services.
24. "Genetic condition" means a disease or other abnormal state present at birth or before birth, as a result of an alteration of DNA, that impairs normal physiological functioning of a human body.
25. "Genetic testing facility" means an organization, institution, corporation, partnership, business, or entity that conducts tests to detect, analyze, or diagnose a genetic condition in an individual, including an evaluation to determine the structure of an individual's chromosomes.
26. "Governing power" means the individual, agency, group, or corporation appointed, elected, or otherwise designated, in which the ultimate responsibility and authority for the conduct of a hospital, high-risk perinatal practice, genetic testing facility, or prenatal diagnostic facility are vested.
27. "Guardian" means an individual appointed as a legal guardian by a court of competent jurisdiction.
28. "Health-related services" means the same as in A.R.S. § 36-401.
29. "High-risk perinatal practice" means a clinic or physician that routinely provides medical services prenatally to a patient or a patient's mother with perinatal risk factors to prevent, clinically evaluate, diagnose, or treat the patient for a possible birth defect.
30. "Log" means a chronological list of individuals for or on whom medical services, nursing services, or health-related services were provided by a designated unit of a hospital or by another person specified in R9-4-503(A).
31. "Medical condition" means a disease, injury, other abnormal physiological state, or pregnancy.
32. "Medical records" means the same as in A.R.S. § 12-2291.
33. "Medical record number" means a unique number assigned by a hospital, clinic, physician, or registered nurse practitioner to an individual for identification purposes.
34. "Medical services" means the same as in A.R.S. § 36-401.
35. "Midwife" means an individual licensed under A.R.S. Title 36, Chapter 6, Article 7, or certified under A.R.S. Title 32, Chapter 15.
36. "Mother" means the woman:
 - a. Who is pregnant with or gives birth to a patient, or
 - b. From whose fertilized egg a patient develops.
37. "Multiple gestation" means a pregnancy in which a patient is not the only fetus carried in a mother's womb.
38. "Nursing services" means the same as in A.R.S. § 36-401.
39. "Ordered" means instructed by a physician, registered nurse practitioner, or physician assistant to perform a test on an individual.
40. "Parent" means the:
 - a. Biological or adoptive father of an individual; or

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- b. Woman who:
 - i. Is the mother of an individual; or
 - ii. Adopts an individual.
- 41. "Pathology laboratory" means a facility in which human cells, body fluids, or tissues are examined for the purpose of diagnosing diseases and that is licensed under 9 A.A.C. 10, Article 1.
- 42. "Patient" means an individual, regardless of current age:
 - a. Who, from conception to one year of age, was clinically evaluated for a possible birth defect or a medical condition that may be related to a birth defect:
 - i. By:
 - (1) A physician,
 - (2) A midwife,
 - (3) A registered nurse practitioner, or
 - (4) A physician assistant; or
 - ii. At a hospital or clinic;
 - b. Whose mother was clinically evaluated during her pregnancy with the individual:
 - i. For a medical condition that may be related to a possible birth defect, and
 - ii. By an individual or facility specified in subsection (42)(a);
 - c. Who, from conception to one year of age, was tested by a genetic testing facility or other clinical laboratory;
 - d. Whose mother was tested during her pregnancy with the individual by a:
 - i. Genetic testing facility or other clinical laboratory, or
 - ii. Prenatal diagnostic facility; or
 - e. Who, from conception to one year of age, was provided treatment or whose mother during her pregnancy with the individual was provided treatment by a hospital, clinic, physician, registered nurse practitioner, or other person specified in R9-4-503(A) for a medical condition that may be related to a possible birth defect.
- 43. "Perinatal risk factor" means a situation or circumstance that may increase the chance of an individual being born with a birth defect, such as:
 - a. A family medical history of birth defects or other medical conditions;
 - b. The exposure of the individual or the individual's mother or biological father to radiation, medicines, chemicals, or diseases before the individual's birth; or
 - c. An abnormal result of a test performed for the individual or the individual's mother by a prenatal diagnostic facility or clinical laboratory, including a genetic testing facility.
- 44. "Physician assistant" means an individual licensed under A.R.S. Title 32, Chapter 25.
- 45. "Prenatal diagnostic facility" means an organization, institution, corporation, partnership, business, or entity that conducts diagnostic ultrasound or other medical procedures that may diagnose a birth defect in a human being.
- 46. "Principal diagnosis" means the primary reason for which an individual is:
 - a. Admitted to a hospital;
 - b. Treated by a hospital, clinic, physician, registered nurse practitioner, or physician assistant; or
 - c. Tested by a genetic testing facility or prenatal diagnostic facility.
- 47. "Procedure" means a set of activities performed on a patient or the mother of a patient that:
 - a. Are invasive;
 - b. Are intended to diagnose or treat a disease, illness, or injury;
 - c. Involve a risk to the patient or patient's mother from the activities themselves or from anesthesia; and
 - d. Require the individual performing the set of activities to be trained in the set of activities.
- 48. "Refer" means to provide direction to an individual or the individual's parent or guardian to obtain medical services or a test for assessment, diagnosis, or treatment of a birth defect or other medical condition.
- 49. "Registered nurse practitioner" means an individual who meets the definition of registered nurse practitioner in A.R.S. § 32-1601, and is licensed under A.R.S. Title 32, Chapter 15.
- 50. "Routinely" means occurring in the regular or customary course of business.
- 51. "Secondary diagnosis" means all other diagnoses for an individual besides the principal diagnosis.
- 52. "Singleton gestation" means a pregnancy in which a patient is the only fetus carried in a mother's womb.
- 53. "Support services" means activities, not related to the diagnosis or treatment of a birth defect, intended to maintain or improve the physical, mental, or psychosocial capabilities of a patient or those individuals biologically or legally related to the patient.
- 54. "Surgical procedure" means making an incision into an individual's body for the:
 - a. Correction of a deformity or defect,
 - b. Repair of an injury,
 - c. Excision of a part of the individual's body, or
 - d. Diagnosis, amelioration, or cure of a disease.
- 55. "Test" means:
 - a. An analysis performed on body fluid, tissue, or excretion by a genetic testing facility or other clinical laboratory to evaluate for the presence or absence of a disease; or
 - b. A procedure performed on the body of a patient or the patient's mother that may be used to evaluate for the presence or absence of a birth defect.
- 56. "Transfer" means for a hospital to discharge a patient or the patient's mother and send the patient or the patient's mother to another hospital for inpatient medical services without the intent that the patient or the patient's mother will return to the sending hospital.
- 57. "Treatment" means the same as in A.A.C. R9-10-101.
- 58. "Unit" means an area of a hospital designated to provide an organized service, as defined in A.A.C. R9-10-201.

Historical Note

Adopted effective September 25, 1991 (Supp. 91-3).

Former Section R9-4-501 renumbered to R9-4-502; new

Section R9-4-501 adopted by final rulemaking at 7

A.A.R. 712, effective January 17, 2001 (Supp. 01-1).

Amended by final rulemaking at 13 A.A.R. 1702, effective June 30, 2007 (Supp. 07-2).

R9-4-502. Reporting Sources; Information Submitted to the Department**A. The designee of a hospital shall:**

- 1. Prepare a written report each month in a format specified by the Department identifying all individuals:
 - a. Who are patients or the mothers of patients; and
 - b. Whose:

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- i. Discharge date is within the month for which the report is being prepared, as specified in subsection (A)(2)(d); and
 - ii. Medical record includes for the principal diagnosis, a secondary diagnosis, or a procedure performed on the individual, an ICD-9-CM diagnosis or procedure code specified in a list provided to the hospital by the Department;
 2. Include the following information in the report specified in subsection (A)(1):
 - a. The name, address, and telephone number of the hospital, or the identification number assigned by the Department to the hospital;
 - b. The name and telephone number of the designee of the hospital;
 - c. The date the report was completed;
 - d. The month for which the report is being prepared; and
 - e. For each patient or the mother of the patient:
 - i. The patient's or mother's medical record number;
 - ii. The name of the patient or patient's mother, if available, and, if applicable, any other name by which the patient or patient's mother is known;
 - iii. The race and ethnicity of the patient or patient's mother;
 - iv. The patient's gender and date of birth, if applicable;
 - v. The admission and discharge dates;
 - vi. The principal and secondary diagnoses or the ICD-9-CM diagnosis codes for the principal and secondary diagnoses for the patient or patient's mother; and
 - vii. The procedure codes for the patient or patient's mother; and
 3. Submit the report specified in subsection (A)(1) to the Department, in a format specified by the Department, within 30 calendar days after the end of the month for which the report is being prepared.
- B. The designee of a high-risk perinatal practice shall:
 1. Prepare a written report each month in a format specified by the Department for all individuals:
 - a. Who are patients or the mothers of patients; and
 - b. Whose:
 - i. Date of last contact is within the month for which the report is being prepared, as specified in subsection (B)(2)(d); and
 - ii. Medical record includes a principal or secondary diagnosis specified in a list provided to the high-risk perinatal practice by the Department;
 2. Include the following information in the report specified in subsection (B)(1):
 - a. The name, address, and telephone number of the high-risk perinatal practice, or the identification number assigned by the Department to the high-risk perinatal practice;
 - b. The name and telephone number of the designee of the high-risk perinatal practice;
 - c. The date the report was completed;
 - d. The month for which the report is being prepared; and
 - e. For each patient or the mother of the patient:
 - i. The patient's or mother's medical record number, if assigned;
 - ii. The mother's name;
 - iii. The mother's date of birth;
 - iv. The mother's estimated date of confinement;
 - v. The patient's gender, if known;
 - vi. Whether the patient is from a singleton or multiple gestation;
 - vii. The location and date of the patient's birth, if known;
 - viii. Whether the patient was born alive or dead, if known;
 - ix. The date of last contact with the mother;
 - x. The principal and secondary diagnoses for the patient or the patient's mother; and
 - xi. If the principal and secondary diagnoses for the patient were made before the patient's birth, whether the principal and secondary diagnoses were confirmed at birth; and
 3. Submit the report specified in subsection (B)(1) to the Department, in a format specified by the Department, within 30 calendar days after the end of the month for which the report is being prepared.
- C. The designee of a genetic testing facility shall:
 1. Prepare a written report each month, in a format specified by the Department, for all individuals:
 - a. Who are patients or the mothers of patients, and
 - b. For whom the genetic testing facility performed a test:
 - i. Completed within the month for which the report is being prepared, as specified in subsection (C)(2)(d); and
 - ii. Specified in a list provided by the Department to the genetic testing facility;
 2. Include the following information in the report specified in subsection (C)(1):
 - a. The name, address, and telephone number of the genetic testing facility, or the identification number assigned by the Department to the genetic testing facility;
 - b. The name and telephone number of the designee of the genetic testing facility;
 - c. The date the report was completed;
 - d. The month for which the report is being prepared; and
 - e. For each patient or mother of a patient:
 - i. If the test was performed on the patient:
 - (1) The patient's name, date of birth, and gender; and
 - (2) The name of the patient's parent or guardian;
 - ii. If the test was performed on the mother of the patient:
 - (1) The mother's name and date of birth;
 - (2) The estimated gestational age of the patient when the test was performed, if available; and
 - (3) The mother's estimated date of confinement when the test was performed, if available;
 - iii. The name of the physician, registered nurse practitioner, or physician assistant who ordered the test for the patient or the patient's mother; and
 - iv. Information about the test, including:
 - (1) The type of test performed on the patient or the patient's mother,
 - (2) The date the test was completed, and
 - (3) The results of the test; and

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3. Submit the report specified in subsection (C)(1) to the Department, in a format specified by the Department, within 30 calendar days after the end of the month for which the report is being prepared.
 - D.** The designee of a prenatal diagnostic facility shall:
 1. Submit an electronic or paper report to the Department:
 - a. For each mother:
 - i. On whom the prenatal diagnostic facility conducts a test specified in a list provided by the Department to the prenatal diagnostic facility, and
 - ii. Whose test result indicates a diagnosis specified in a list provided by the Department to the prenatal diagnostic facility; and
 - b. Within 30 calendar days from the date of the test;
 2. Include the following information in the report specified in subsection (D)(1):
 - a. The name, address, and telephone number of the prenatal diagnostic facility, or the identification number assigned by the Department to the prenatal diagnostic facility;
 - b. The name and telephone number of the designee of the prenatal diagnostic facility;
 - c. The date the report was completed;
 - d. The mother's name and date of birth;
 - e. The estimated gestational age of the patient at the time of the test;
 - f. The mother's estimated date of confinement;
 - g. The outcome of the pregnancy, if known;
 - h. The name of the physician, registered nurse practitioner, or physician assistant who ordered the test for the mother; and
 - i. Information about the test, including:
 - i. The type of test performed on the mother,
 - ii. The date the test was completed, and
 - iii. The results of the test.
- c. Reports from:
 - i. Physicians or other individuals who clinically evaluated, diagnosed, or treated a patient or the patient's mother,
 - ii. High-risk perinatal practices,
 - iii. Prenatal diagnostic facilities,
 - iv. Genetic testing facilities,
 - v. Pathology laboratories, or
 - vi. Other facilities or clinical laboratories that performed a test for a patient or the patient's mother;
- d. Logs and registers containing information about surgical procedures, as specified in A.A.C. R9-10-214(A)(6) or A.A.C. R9-10-1709(A);
- e. Other logs that may contain information about a patient or the mother of a patient with a birth defect, such as:
 - i. Labor and delivery unit logs,
 - ii. Nursery unit logs,
 - iii. Pediatric unit logs,
 - iv. Intensive care unit logs,
 - v. Autopsy logs, and
 - vi. Ultrasound logs;
- f. Autopsy reports; and
- g. Records other than those specified in subsections (B)(1)(a) through (f) that contain information about or may lead to information about:
 - i. A patient,
 - ii. The patient's mother, or
 - iii. The patient's biological sibling; and
2. Collect the following information from a person or facility specified in subsection (A), as applicable to a patient or the mother of a patient:
 - a. The name, address, and telephone number of the person or facility, or the identification number assigned by the Department to the person or facility;
 - b. The date of first contact and the date of last contact;
 - c. The date the patient was admitted to a hospital;
 - d. The date the patient was discharged from a hospital;
 - e. The dates the mother of the patient was admitted to and discharged from a hospital for:
 - i. The birth of the patient, or
 - ii. Treatment related to a possible birth defect in the patient;
 - f. The name and address of the hospital or other location in which the patient was born;
 - g. The name and address of a hospital in which the patient or the mother of the patient was admitted for treatment related to a possible birth defect in the patient;
 - h. The specific unit of a hospital that provided medical services to the patient or the patient's mother;
 - i. The medical record number of the patient or the patient's mother;
 - j. The patient's name and any other name by which the patient is known;
 - k. The names, addresses, and dates of birth of the patient's parents;
 - l. The name, address and telephone number of the patient's guardian, if a parent of the patient does not have physical custody of the patient;
 - m. The patient's date of birth and hour of birth;
 - n. The estimated date of confinement for the pregnancy resulting in the patient's birth;
 - o. The estimated gestational age, length, weight, and head circumference of the patient at birth;

Historical Note

Adopted effective September 25, 1991 (Supp. 91-3). New Section R9-4-502 renumbered from R9-4-501 and amended by final rulemaking at 7 A.A.R. 712, effective January 17, 2001 (Supp. 01-1). Section repealed; new Section made by final rulemaking at 13 A.A.R. 1702, effective June 30, 2007 (Supp. 07-2).

R9-4-503. Review of Records; Information Collected

- A.** Upon notice from the Department of at least five business days, the following persons or facilities shall allow the Department access to the facility and the electronic or written records specified in subsection (B)(1) to collect the information specified in subsection (B)(2):
 1. A hospital,
 2. A clinic,
 3. A physician,
 4. A midwife,
 5. A registered nurse practitioner,
 6. A genetic testing facility,
 7. A prenatal diagnostic facility,
 8. A physician assistant,
 9. A clinical laboratory, or
 10. A medical examiner.
- B.** The Department may:
 1. Review any of the following records in electronic or written format, as are applicable to the person or facility specified in subsection (A):
 - a. Patient medical records;
 - b. Medical records for the mother of a patient;

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- p. The patient's gender, race, and ethnicity;
- q. The race and ethnicity of the patient's biological mother and father;
- r. The address of the patient's mother at the time of the patient's birth;
- s. The address and telephone number of the patient at the date of last contact;
- t. The county in which the patient was born;
- u. The name of each physician, registered nurse practitioner, physician assistant, or other person that clinically evaluated, diagnosed, ordered a test for, or treated the patient or the patient's mother;
- v. The names of any facility from which or to which the patient or the patient's mother was transferred or referred;
- w. Whether the patient was referred to or is enrolled in CRS and, if so, the date of referral or enrollment;
- x. Whether the patient is receiving any other follow-up services, medical services, nursing services, or health-related services related to a birth defect, and, if so, the name of the person providing the services and the date the provision of the services began;
- y. The name of the insurance company, if applicable, that:
 - i. Paid for the birth of the patient, and
 - ii. Is currently covering medical expenses for the patient or the patient's mother;
- z. Any perinatal risk factors documented in:
 - i. The patient's medical record,
 - ii. The patient's mother's medical record, or
 - iii. The patient's family medical history;
- aa. Whether any tests were performed on the patient or the patient's mother by a genetic testing facility and, if so:
 - i. The types of tests performed,
 - ii. The test dates,
 - iii. The test results,
 - iv. The age or estimated gestational age of the patient at the time of each test,
 - v. The estimated date of confinement of the patient's mother at the time of each test,
 - vi. The name of the genetic testing facility that performed each test; and
 - vii. The names of the individuals who interpreted the test results;
- bb. Whether any tests were performed on the patient or the patient's mother by a prenatal diagnostic facility and, if so:
 - i. The types of tests performed,
 - ii. The test dates,
 - iii. The test results,
 - iv. The estimated gestational age of the patient at the time of each test,
 - v. The estimated date of confinement of the patient's mother at the time of each test,
 - vi. The name of the prenatal diagnostic facility that performed each test, and
 - vii. The names of the individuals who interpreted the test results;
- cc. Whether any other types of tests were performed on the patient or the patient's mother that may enable the diagnosis of a birth defect and, if so:
 - i. The types of tests performed,
 - ii. The test dates,
 - iii. The test results,
- iv. The age or estimated gestational age of the patient at the time of each test,
- v. The estimated date of confinement of the patient's mother at the time of each test,
- vi. The names of the facilities that performed the tests, and
- vii. The names of the individuals who interpreted the test results;
- dd. Whether any surgical procedures associated with a birth defect were performed on the patient or the patient's mother and, if so:
 - i. The types of surgical procedures performed,
 - ii. The dates of the surgical procedures,
 - iii. The results of the surgical procedures,
 - iv. The ages or estimated gestational ages of the patient at the time of the surgical procedures,
 - v. The estimated date of confinement of the patient's mother at the times of the surgical procedures, and
 - vi. The names of the facilities at which the surgical procedures were performed, and
 - vii. The names of the individuals who performed the surgical procedures;
- ee. For each diagnosis made for the patient or the patient's mother:
 - i. The diagnosis,
 - ii. Whether the diagnosis is a principal or secondary diagnosis,
 - iii. The facility at which the diagnosis was made,
 - iv. The date on which the diagnosis was made, and
 - v. The name of the individual who made the diagnosis;
- ff. The number of times the patient's mother has been pregnant;
- gg. The number of times a pregnancy of the patient's mother has lasted:
 - i. More than 37 weeks,
 - ii. Between 20 and 37 weeks, and
 - iii. Less than 20 weeks;
- hh. The number of children who were born as a result of the patient's mother's pregnancies, and whether the children were born alive or dead;
- ii. Whether the patient is from a singleton or multiple gestation, and, if from a multiple gestation, whether a co-twin of the patient:
 - i. Is identical or fraternal;
 - ii. Is alive, and, if not alive, the co-twin's date of death; and
 - iii. Has:
 - (1) The same birth defect as the patient,
 - (2) A different birth defect from that of the patient, or
 - (3) No birth defect;
- jj. If the patient is being adopted or living with a guardian rather than a parent;
- kk. If the patient is being adopted, the name, address, and telephone number of the individual who will adopt the patient;
- ll. The date of last contact; and
- mm. If the patient has died:
 - i. The patient's date and county of death,
 - ii. The facility in which the patient's death occurred, and
 - iii. Whether an autopsy was performed on the patient.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 1702, effective June 30, 2007 (Supp. 07-2).

R9-4-504. Data Quality Assurance

- A. The Department may request a hospital, high-risk perinatal practice, genetic testing facility, or prenatal diagnostic facility to revise a report:
1. That was submitted to the Department by the designee of the hospital, high-risk perinatal practice, genetic testing facility, or prenatal diagnostic facility under R9-4-502;
 2. That was not prepared according to R9-4-502; and
 3. By identifying the revisions that are needed in the report.
- B. If a person receives a request from the Department for revision of a report under subsection (A), the person shall return a revised report, containing the revisions requested by the Department, to the Department within 15 business days after the date of the Department's request, or by a date agreed to by the person and the Department.
- C. The Department may discuss the information submitted to the Department as specified in R9-4-502 or collected as specified in R9-4-503(B)(2) with any of the entities specified in R9-4-503(A) to obtain additional information about a patient's diagnosis or treatment.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 1702, effective June 30, 2007 (Supp. 07-2).

ARTICLE 6. OPIOID POISONING-RELATED REPORTING EMERGENCY RULEMAKING

R9-4-601. Definitions

In this Article, unless otherwise specified:

1. "Administrator" means the individual who is a senior leader in a health care institution or correctional facility.
2. "Ambulance service" has the same meaning as in A.R.S. § 36-2201.
3. "Business day" means the period from 8:00 a.m. to 5:00 p.m. on a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday.
4. "Clinical laboratory" has the same meaning as in A.R.S. § 36-451.
5. "Correctional facility" has the same meaning as in A.A.C. R9-6-101.
6. "Dispense" has the same meaning as in A.R.S. § 32-1901.
7. "Emergency medical services provider" has the same meaning as in A.R.S. § 36-2201.
8. "Health care institution" has the same meaning as in A.R.S. § 36-401.
9. "Health professional" has the same meaning as in A.R.S. § 32-3201.
10. "Law enforcement agency" has the same meaning as in A.A.C. R13-1-101.
11. "Medical examiner" has the same meaning as in A.R.S. § 36-301.
12. "Naloxone" means a prescription medication, as defined in A.R.S. § 32-1901, that is used to block the effects of an opioid in an individual.
13. "Neonatal abstinence syndrome" means a set of signs of opioid withdrawal occurring in an individual shortly after birth that are indicative of opioid exposure while in the womb.
14. "Opioid" means the same as "opiate" in A.R.S. § 36-2501.
15. "Opioid overdose" means respiratory depression, slowing heart rate, or unconsciousness or mental confusion

caused by the administration, including self-administration, of an opioid to an individual.

16. "Pharmacist" has the same meaning as in A.R.S. § 32-1901.

Historical Note

New Section made by emergency rulemaking at 23 A.A.R. 2857, effective September 21, 2017, for 180 days (Supp. 17-3).

EMERGENCY RULEMAKING**R9-4-602. Opioid Poisoning-Related Reporting Requirements**

- A. An ambulance service, an emergency medical services provider, or a law enforcement agency shall, either personally or through a representative, submit a report to the Department, in a Department-provided format and within five business days after an encounter with an individual with a suspected opioid overdose, that includes:
1. The following information about the ambulance service, emergency medical services provider, or law enforcement agency:
 - a. Name;
 - b. Street address, city, county, and zip code;
 - c. Whether the entity reporting is:
 - i. An ambulance service,
 - ii. An emergency medical services provider, or
 - iii. A law enforcement agency; and
 - d. If applicable, the certificate number issued by the Department to the ambulance service; and
 2. The name, title, telephone number, and email address of a point of contact for the entity required to report;
 3. The street address, city, county, state, and zip code of the location at which the ambulance service, emergency medical services provider, or law enforcement agency encountered the individual;
 4. If applicable, the date and time the ambulance service, emergency medical services provider, or law enforcement agency was dispatched to the location specified according to subsection (A)(3);
 5. The following information about the individual with a suspected opioid overdose or who died of a suspected opioid overdose:
 - a. Name,
 - b. Date of birth,
 - c. Age in years,
 - d. Gender,
 - e. Race and ethnicity, and
 - f. Reason for suspecting that the individual had an opioid overdose;
 6. Whether naloxone was administered to the individual before the ambulance service, emergency medical services provider, or law enforcement agency encountered the individual and, if so:
 - a. The number of doses of naloxone administered to the individual; and
 - b. As applicable, that the naloxone was administered to the individual by:
 - i. Another individual; or
 - ii. Another entity and, if so the type of entity that administered the naloxone to the individual;
 7. Whether naloxone was administered to the individual by the ambulance service, emergency medical services provider, or law enforcement agency and, if so, the number of doses of naloxone administered to the individual;
 8. The following information about the disposition of the individual:

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- a. Whether the individual was pronounced dead at the location specified according to subsection (A)(3);
- b. Whether the individual was transported to a hospital and; if so:
 - i. The name of the hospital to which the individual was transported, and
 - ii. The type of entity that transported the individual to the hospital; and
- c. If known, whether the individual:
 - i. Survived the suspected opioid overdose,
 - ii. Died from the suspected opioid overdose, or
 - iii. Died from another cause after experiencing a suspected opioid overdose; and
9. The date of the report.
- B.** An administrator of a health care institution licensed under 9 A.A.C. 10 or a pharmacist, as applicable, is not required to submit a report to the Department under this Article for:
 1. An opioid overdose resulting from the administration of the opioid to a patient in the health care institution if the opioid overdose is addressed through the health care institution's quality management program; or
 2. Naloxone dispensed in connection with a surgical procedure, as defined in A.A.C. R9-10-101, performed in the health care institution.
- C.** Except as prohibited by Title 42 Code of Federal Regulations, Chapter I, Subchapter A, Part 2 or as specified in subsection (B), a health professional or the administrator of a health care institution licensed under 9 A.A.C. 10 shall, either personally or through a representative, submit a report to the Department, in a Department-provided format and within five business days after an encounter with an individual with a suspected opioid overdose, that includes:
 1. The name, street address, city, county, zip code, and telephone number of the health professional or health care institution;
 2. If different from the person in subsection (C)(1), the name, title, street address, city, county, zip code, telephone number, and email address of the individual reporting on behalf of the person in subsection (C)(1);
 3. The following information about the individual with a suspected opioid overdose:
 - a. The individual's name;
 - b. The individual's street address, city, county, state, and zip code;
 - c. The individual's date of birth;
 - d. The individual's gender;
 - e. The individual's race and ethnicity;
 - f. Whether the individual is pregnant and, if so, the expected date of delivery;
 - g. If applicable, the name of the individual's guardian; and
 - h. Whether naloxone was administered to the individual before the health professional or health care institution encountered the individual and, if so:
 - i. The type of entity that administered the naloxone to the individual, or
 - ii. That the naloxone was administered to the individual by another individual;
 4. The following information about the diagnosis of opioid overdose:
 - a. The reason for suspecting that the individual had an opioid overdose;
 - b. The date of the suspected opioid overdose;
 - c. The date of diagnosis; and
 - d. Except as provided in subsection (G), if the diagnosis was confirmed through one or more tests performed by a clinical laboratory, for each test:
 - i. The name, address, and telephone number of the clinical laboratory;
 - ii. The date a specimen was collected from the individual;
 - iii. The type of specimen collected;
 - iv. The type of laboratory test performed; and
 - v. The laboratory test result and date of the result;
5. The following information about the suspected opioid overdose:
 - a. Whether the opioid overdose appeared to be intentional or unintentional;
 - b. The location where the opioid overdose took place;
 - c. Whether the individual was alone at the time of the opioid overdose;
 - d. Whether the individual was transported to the health professional or health care institution by an ambulance service, an emergency medical services provider, or a law enforcement agency and, if so, the type of entity that transported the individual;
 - e. The specific opioid that appeared to be responsible for the opioid overdose; and
 - f. If known, whether:
 - i. The individual was prescribed an opioid within the 90 calendar days before the date of the suspected opioid overdose;
 - ii. The individual had been referred to receive behavioral health services, as defined in A.R.S. § 36-401; or
 - iii. The opioid overdose was the first time the individual had had an opioid overdose and, if not, the number of previous opioid overdoses the individual was known to have had;
6. Whether the individual with the suspected opioid overdose:
 - a. Survived the suspected opioid overdose and:
 - i. Was admitted to the health care institution;
 - ii. Was transferred to another health care institution and, if so, the name of the health care institution;
 - iii. Was discharged to a law enforcement agency;
 - iv. Was discharged to home; or
 - v. Left the health care institution against medical advice;
 - b. Died from the suspected opioid overdose and, if so, the date of death; or
 - c. Died from another cause after experiencing a suspected opioid overdose and, if so, the date of death; and
7. The date of the report.
- D.** Except as prohibited by Title 42 Code of Federal Regulations, Chapter I, Subchapter A, Part 2, a health professional or the administrator of a health care institution licensed under 9 A.A.C. 10 shall, either personally or through a representative, submit a report to the Department, in a Department-provided format and within five business days after an encounter with an individual with suspected neonatal abstinence syndrome, that includes:
 1. The name, street address, city, county, zip code, and telephone number of the health professional or health care institution;
 2. If different from the person in subsection (D)(1), the name, title, street address, city, county, zip code, tele-

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- phone number, and email address of the individual reporting on behalf of the person in subsection (D)(1);
3. The following information about the individual with suspected neonatal abstinence syndrome:
 - a. The individual's name;
 - b. The individual's date of birth;
 - c. The individual's gender;
 - d. The individual's race and ethnicity;
 - e. The name of the individual's mother; and
 - f. If not the individual's mother, the name of the individual's guardian;
 4. The following information about a diagnosis of neonatal abstinence syndrome:
 - a. The reason for suspecting that the individual has neonatal abstinence syndrome;
 - b. The date of the onset of signs of neonatal abstinence syndrome;
 - c. The date of diagnosis;
 - d. Except as provided in subsection (G), if the diagnosis was confirmed through one or more tests performed by a clinical laboratory, for each test:
 - i. The name, address, and telephone number of the clinical laboratory;
 - ii. The date a specimen was collected from the individual;
 - iii. The type of specimen collected;
 - iv. The type of laboratory test performed; and
 - v. The laboratory test result and date of the result; and
 - e. Whether any of the following supported a diagnosis of neonatal abstinence syndrome:
 - i. A maternal history of opioid use,
 - ii. A positive laboratory test for opioid use by the individual's mother, or
 - iii. A positive laboratory test for opioids in the individual;
 5. If known, the following information about the suspected neonatal abstinence syndrome:
 - a. The source of the opioid believed to have caused the neonatal abstinence syndrome; and
 - b. If the source of the opioid used by the individual's mother was not through a prescription order, as defined in A.R.S. § 32-1901, the specific opioid used by the individual's mother; and
 6. The date of the report.
- E.** Except as specified in subsection (B), a pharmacist shall, either personally or through a representative, submit a report to the Department, in a format provided by the Arizona Board of Pharmacy and within five business days after dispensing naloxone to an individual, that includes:
1. The following information about the pharmacist:
 - a. Name;
 - b. Pharmacy street address, city, county, and zip code; and
 - c. The professional license number issued to the pharmacist under A.R.S. Title 32;
 2. The number of doses of naloxone dispensed to the individual by the pharmacist;
 3. The date the naloxone was dispensed; and
 4. The date of the report.
- F.** A medical examiner shall, either personally or through a representative, submit a report to the Department, in a Department-provided format and within five business days after the completion of the death investigation required in A.R.S. § 11-594 on the human remains of a deceased individual with a suspected opioid overdose, that includes:
1. The following information about the medical examiner:
 - a. Name; and
 - b. Street address, city, county, and zip code;
 2. The following information about the deceased individual with a suspected opioid overdose:
 - a. The deceased individual's name;
 - b. The deceased individual's date of birth;
 - c. The deceased individual's gender;
 - d. The deceased individual's race and ethnicity;
 - e. Whether the deceased individual was pregnant and, if so, the expected date of delivery;
 - f. If applicable, the name of the deceased individual's guardian; and
 - g. Whether naloxone was administered to the deceased individual before the deceased individual's death and, if known:
 - i. The type of entity that administered the naloxone to the deceased individual, or
 - ii. That the naloxone was administered to the deceased individual by another individual;
 3. The following information about the diagnosis of opioid overdose:
 - a. The reason for suspecting that the deceased individual had an opioid overdose;
 - b. The date of the opioid overdose;
 - c. The date of diagnosis; and
 - d. If the diagnosis was confirmed by clinical laboratory tests:
 - i. The name, address, and telephone number of the clinical laboratory;
 - ii. The date a specimen was collected from the deceased individual;
 - iii. The type of specimen collected;
 - iv. The type of laboratory test performed; and
 - v. The laboratory test result and date of the result;
 4. If applicable, a copy of the clinical laboratory test results;
 5. If known, the following information about the suspected opioid overdose:
 - a. Whether the opioid overdose appeared to be intentional or unintentional;
 - b. The location where the opioid overdose took place;
 - c. Whether the deceased individual was alone at the time of the opioid overdose;
 - d. The specific opioid that appeared to be responsible for the opioid overdose;
 - e. Whether the deceased individual was prescribed an opioid within the 90 calendar days before the date of the opioid overdose; and
 - f. Whether the opioid overdose was the first time the deceased individual was known to have had an opioid overdose and, if not, the number of previous opioid overdoses the deceased individual had had;
 6. Whether the deceased individual with the suspected opioid overdose:
 - a. Died from the suspected opioid overdose and, if so, the date of death; or
 - b. Died from another cause after experiencing a suspected opioid overdose and, if so, the date of death; and
 7. The date of the report.
- G.** A director of a clinical laboratory, on the premises of a health care institution licensed as a hospital, as defined in A.A.C. R9-10-101, or performing laboratory tests under an arrangement with a hospital, shall submit a report to the Department, in a Department-provided format and within five business days after completing laboratory tests on one or more specimens

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from an individual that indicate a positive result for the presence of an opioid or an opioid metabolite, that includes:

1. The name and address of the clinical laboratory;
2. The name and telephone number of the director of the clinical laboratory;
3. The name and, if available, the address of the individual;
4. The date of birth of the individual;
5. The gender of the individual;
6. The laboratory identification number;
7. For each laboratory test performed:
 - a. The date of collection of the specimen;
 - b. The type of specimen collected;
 - c. The type of laboratory test performed on the specimen;

- d. The laboratory test result, including quantitative values and reference ranges, if applicable; and
- e. The date of the laboratory test result; and

8. The date of the report.

- H.** Information collected on individuals pursuant to this Article is confidential, subject to disclosure provisions in A.R.S. Title 12, Chapter 13, Article 7.1, and 9 A.A.C. 1, Article 3.

Historical Note

New Section made by emergency rulemaking at 23 A.A.R. 2857, effective September 21, 2017, for 180 days (Supp. 17-3).

Supplement Separator Page



Supplement to the
Arizona Administrative Code
 The official compilation of Arizona Rules
Replacement Check List

For rules filed in the third quarter between
 July 1 - September 30
 2017

Within the stated calendar quarter, this Title contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information. Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

TITLE 09. Health Services

Chapter 06. Department of Health Services - Communicable Diseases and Infestations

Sections, Parts, Exhibits, Tables or Appendices modified

R9-6-101, R9-6-201 through R9-6-207, R9-6-301 through R9-6-398, R9-6-1002,
 R9-6-1102, R9-6-1103, R9-6-1202

☐ REMOVE Supp. 13-3
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☐ REPLACE with Supp. 17-3
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PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the Administrative Code. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION
September 30, 2017

RULES

A.R.S. § 41-1001(17) states: “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions. Virtually everything in your life is affected in some way by rules published in the Arizona Administrative Code, from the quality of air you breathe to the licensing of your dentist. This chapter is one of more than 230 in the Code compiled in 21 Titles.

ADMINISTRATIVE CODE SUPPLEMENTS

Rules filed by an agency to be published in the Administrative Code are updated quarterly. Supplement release dates are printed on the footers of each chapter:

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2017 is cited as Supp. 17-1.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the Arizona Administrative Register for recent updates to rule Sections.

ARTICLES AND SECTIONS

Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering system separated into subsections.

HISTORICAL NOTES AND EFFECTIVE DATES

Historical notes inform the user when the last time a Section was updated in the Administrative Code. Be aware, since the Office publishes each quarter by entire chapters, not all Sections are updated by an agency in a supplement release. Many times just one Section or a few Sections may be updated in the entire chapter.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in the introduction of a chapter can be found at the Secretary of State’s website, www.azsos.gov/services/legislative-filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the Arizona Administrative Register online at www.azsos.gov/rules, click on the Administrative Register link.

In the Administrative Code the Office includes editor’s notes at the beginning of a chapter indicating that certain rulemaking Sections were made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR

If you are researching rules and come across rescinded chapters on a different paper color, this is because the agency filed a Notice of Exempt Rulemaking. At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

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Public Services managing rules editor, Rhonda Paschal, assisted with the editing of this chapter.

TITLE 9. HEALTH SERVICES

CHAPTER 6. DEPARTMENT OF HEALTH SERVICES - COMMUNICABLE DISEASES AND INFESTATIONS

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Article 2, consisting of Sections R9-6-201 through R9-6-203, renumbered to Article 5, Sections R9-6-501 through R9-6-503 effective October 19, 1993 (Supp. 93-4).

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Article 8, consisting of Sections R9-6-801 through R9-6-808, renumbered to Article 4, Sections R9-6-401 through R9-6-408 (Supp. 93-4).

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Article 8 consisting of Sections R9-6-801 through R9-6-808 readopted as an emergency effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days. Emergency expired.

Article 8 consisting of Sections R9-6-801 through R9-6-808 readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days. Emergency expired.

Article 8 consisting of Sections R9-6-801 through R9-6-809 readopted as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days.

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ARTICLE 1. GENERAL**R9-6-101. Definitions**

In this Chapter, unless otherwise specified:

1. "Active tuberculosis" means the same as in A.R.S. § 36-711.
2. "Administrator" means the individual who is the senior leader at a child care establishment, health care institution, correctional facility, school, pharmacy, or shelter.
3. "Agency" means any board, commission, department, office, or other administrative unit of the federal government, the state, or a political subdivision of the state.
4. "Agent" means an organism that may cause a disease, either directly or indirectly.
5. "AIDS" means Acquired Immunodeficiency Syndrome.
6. "Airborne precautions" means, in addition to use of standard precautions:
 - a. Either:
 - i. Placing an individual in a private room with negative air-pressure ventilation, at least six air exchanges per hour, and air either:
 - (1) Exhausted directly to the outside of the building containing the room, or
 - (2) Recirculated through a HEPA filtration system before being returned to the interior of the building containing the room; or
 - ii. If the building in which an individual is located does not have an unoccupied room meeting the specifications in subsection (6)(a)(i):
 - (1) Placing the individual in a private room, with the door to the room kept closed when not being used for entering or leaving the room, until the individual is transferred to a health care institution that has a room meeting the specifications in subsection (6)(a)(i) or to the individual's residence, as medically appropriate; and
 - (2) Ensuring that the individual is wearing a mask covering the individual's nose and mouth; and
 - b. Ensuring the use by other individuals, when entering the room in which the individual is located, of a device that is:
 - i. Designed to protect the wearer against inhalation of an atmosphere that may be harmful to the health of the wearer, and
 - ii. At least as protective as a National Institute for Occupational Safety and Health-approved N-95 respirator.
7. "Approved test for tuberculosis" means a Mantoux skin test or other test for tuberculosis recommended by the Centers for Disease Control and Prevention or the Tuberculosis Control Officer appointed under A.R.S. § 36-714.
8. "Arizona State Laboratory" means the part of the Department authorized by A.R.S. Title 36, Chapter 2, Article 2, and A.R.S. § 36-132(A)(11) that performs serological, microbiological, entomological, and chemical analyses.
9. "Average window period" means the typical time between exposure to an agent and the ability to detect infection with the agent in human blood.
10. "Barrier" means a mask, gown, glove, face shield, face mask, or other membrane or filter to prevent the transmission of infectious agents and protect an individual from exposure to body fluids.
11. "Body fluid" means semen, vaginal secretion, tissue, cerebrospinal fluid, synovial fluid, pleural fluid, peritoneal fluid, pericardial fluid, amniotic fluid, urine, blood, lymph, or saliva.
12. "Carrier" means an infected individual without symptoms who can spread the infection to a susceptible individual.
13. "Case" means an individual:
 - a. With a communicable disease whose condition is documented:
 - i. By laboratory results that support the presence of the agent that causes the disease;
 - ii. By a health care provider's diagnosis based on clinical observation; or
 - iii. By epidemiologic associations with the communicable disease, the agent that causes the disease, or toxic products of the agent;
 - b. Who has experienced diarrhea, nausea, or vomiting as part of an outbreak; or
 - c. Who has experienced a vaccinia-related adverse event.
14. "Case definition" means the disease-specific criteria that must be met for an individual to be classified as a case.
15. "Chief medical officer" means the senior health care provider in a correctional facility or that individual's designee who is also a health care provider.
16. "Child" means an individual younger than 18 years of age.
17. "Child care establishment" means:
 - a. A "child care facility," as defined in A.R.S. § 36-881;
 - b. A "child care group home," as defined in A.R.S. § 36-897;
 - c. A child care home registered with the Arizona Department of Education under A.R.S. § 46-321; or
 - d. A child care home certified by the Arizona Department of Economic Security under A.R.S. Title 46, Chapter 7, Article 1.
18. "Clinical signs and symptoms" means evidence of disease or injury that can be observed by a health care provider or can be inferred by the health care provider from a patient's description of subjective complaints.
19. "Cohort room" means a room housing only individuals infected with the same agent and no other agent.
20. "Communicable disease" means an illness caused by an agent or its toxic products that arises through the transmission of that agent or its products to a susceptible host, either directly or indirectly.
21. "Communicable period" means the time during which an agent may be transmitted directly or indirectly:
 - a. From an infected individual to another individual;
 - b. From an infected animal, arthropod, or vehicle to an individual; or
 - c. From an infected individual to an animal.
22. "Confirmatory test" means a laboratory analysis approved by the U.S. Food and Drug Administration to be used after a screening test to diagnose or monitor the progression of HIV infection.
23. "Contact" means an individual who has been exposed to an infectious agent in a manner that may have allowed transmission of the infectious agent to the individual during the communicable period.
24. "Correctional facility" means any place used for the confinement or control of an individual:
 - a. Charged with or convicted of an offense,
 - b. Held for extradition, or
 - c. Pursuant to a court order for law enforcement purposes.

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25. "Court-ordered subject" means a subject who is required by a court of competent jurisdiction to provide one or more specimens of blood or other body fluids for testing.
26. "Dentist" means an individual licensed under A.R.S. Title 32, Chapter 11, Article 2.
27. "Department" means the Arizona Department of Health Services.
28. "Designated service area" means the same as in R9-18-101.
29. "Diagnosis" means an identification of a disease by an individual authorized by law to make the identification.
30. "Disease" means a condition or disorder that causes the human body to deviate from its normal or healthy state.
31. "Emerging or exotic disease" means:
 - a. A new disease resulting from change in an existing organism;
 - b. A known disease not usually found in the geographic area or population in which it is found;
 - c. A previously unrecognized disease appearing in an area undergoing ecologic transformation; or
 - d. A disease reemerging as a result of a situation such as antimicrobial resistance in a known infectious agent, a breakdown in public health measures, or deliberate release.
32. "Entity" has the same meaning as "person" in A.R.S. § 1-215.
33. "Epidemiologic investigation" means the application of scientific methods to ascertain a diagnosis; identify risk factors for a disease; determine the potential for spreading a disease; institute control measures; and complete forms and reports such as communicable disease, case investigation, and outbreak reports.
34. "Fever" means a temperature of 100.4° F or higher.
35. "Food establishment" has the same meaning as in the document incorporated by reference in A.A.C. R9-8-107.
36. "Food handler" means:
 - a. A paid or volunteer full-time or part-time worker who prepares or serves food or who otherwise touches food in a food establishment; or
 - b. An individual who prepares food for or serves food to a group of two or more individuals in a setting other than a food establishment.
37. "Foodborne" means that food serves as a mode of transmission of an infectious agent.
38. "Guardian" means an individual who is invested with the authority and charged with the duty of caring for an individual by a court of competent jurisdiction.
39. "HBsAg" means hepatitis B surface antigen.
40. "Health care institution" has the same meaning as in A.R.S. § 36-401.
41. "Health care provider" means the same as in A.R.S. § 36-661.
42. "Health education" means supplying to an individual or a group of individuals:
 - a. Information about a communicable disease or options for treatment of a communicable disease, and
 - b. Guidance about methods to reduce the risk that the individual or group of individuals will become infected or infect other individuals.
43. "HIV" means Human Immunodeficiency Virus.
44. "HIV-related test" has the same meaning as in A.R.S. § 36-661.
45. "Infected" or "infection" means when an individual has an agent for a disease in a part of the individual's body where the agent may cause a disease.
46. "Infectious active tuberculosis" means pulmonary or laryngeal active tuberculosis in an individual, which can be transmitted from the infected individual to another individual.
47. "Infectious agent" means an agent that can be transmitted to an individual.
48. "Infant" means a child younger than 12 months of age.
49. "Isolate" means:
 - a. To separate an infected individual or animal from others to limit the transmission of infectious agents, or
 - b. A pure strain of an agent obtained from a specimen.
50. "Isolation" means separation, during the communicable period, of an infected individual or animal from others to limit the transmission of infectious agents.
51. "Laboratory report" means a document that:
 - a. Is produced by a laboratory that conducts a test or tests on a subject's specimen; and
 - b. Shows the outcome of each test, including personal identifying information about the subject.
52. "Local health agency" means a county health department, a public health services district, a tribal health unit, or a U.S. Public Health Service Indian Health Service Unit.
53. "Local health officer" means an individual who has daily control and supervision of a local health agency or the individual's designee.
54. "Medical evaluation" means an assessment of an individual's health by a physician, physician assistant, or registered nurse practitioner.
55. "Medical examiner" means an individual:
 - a. Appointed as a county medical examiner by a county board of supervisors under A.R.S. § 11-592, or
 - b. Employed by a county board of supervisors under A.R.S. § 11-592 to perform the duties of a county medical examiner.
56. "Multi-drug resistant tuberculosis" means active tuberculosis that is caused by bacteria that are not susceptible to the antibiotics isoniazid and rifampin.
57. "Officer in charge" means the individual in the senior leadership position in a correctional facility or that individual's designee.
58. "Outbreak" means an unexpected increase in incidence of a disease, infestation, or sign or symptom of illness.
59. "Parent" means a biological or adoptive mother or father.
60. "Person" has the same meaning as in A.R.S. § 1-215.
61. "Petition" means a formal written application to a court requesting judicial action on a matter.
62. "Pharmacy" has the same meaning as in A.R.S. § 32-1901.
63. "Physician" means an individual licensed as a doctor of:
 - a. Allopathic medicine under A.R.S. Title 32, Chapter 13;
 - b. Naturopathic medicine under A.R.S. Title 32, Chapter 14;
 - c. Osteopathic medicine under A.R.S. Title 32, Chapter 17; or
 - d. Homeopathic medicine under A.R.S. Title 32, Chapter 29.
64. "Physician assistant" has the same meaning as in A.R.S. § 32-2501.
65. "Pupil" means a student attending a school.
66. "Quarantine" means the restriction of activities of an individual or animal that has been exposed to a case or carrier of a communicable disease during the communi-

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- cable period, to prevent transmission of the disease if infection occurs.
67. "Registered nurse practitioner" has the same meaning as in A.R.S. § 32-1601.
 68. "Respiratory disease" means a communicable disease with acute onset of fever and symptoms such as cough, sore throat, or shortness of breath.
 69. "Risk factor" means an activity or circumstance that increases the chances that an individual will become infected with or develop a communicable disease.
 70. "School" means:
 - a. An "accommodation school," as defined in A.R.S. § 15-101;
 - b. A "charter school," as defined in A.R.S. § 15-101;
 - c. A "private school," as defined in A.R.S. § 15-101;
 - d. A "school," as defined in A.R.S. § 15-101;
 - e. A college or university;
 - f. An institution that offers a "private vocational program," as defined in A.R.S. § 32-3001; or
 - g. An institution that grants a "degree," as defined in A.R.S. § 32-3001, for completion of an educational program of study.
 71. "Screening test" means a laboratory analysis approved by the U.S. Food and Drug Administration as an initial test to indicate the possibility that an individual is infected with a communicable disease.
 72. "Sexual contact" means vaginal intercourse, anal intercourse, fellatio, cunnilingus, or other deliberate interaction with another individual's genital area for a non-medical or non-hygienic reason.
 73. "Shelter" means:
 - a. A facility or home that provides "shelter care," as defined in A.R.S. § 8-201;
 - b. A "homeless shelter," as defined in A.R.S. § 16-121; or
 - c. A "shelter for victims of domestic violence," as defined in A.R.S. § 36-3001.
 74. "Significant exposure" means the same as in A.R.S. § 32-3207.
 75. "Standard precautions" means the use of barriers by an individual to prevent parenteral, mucous membrane, and nonintact skin exposure to body fluids and secretions other than sweat.
 76. "Subject" means an individual whose blood or other body fluid has been tested or is to be tested.
 77. "Submitting entity" means the same as in A.R.S. § 13-1415.
 78. "Suspect case" means an individual whose medical history, signs, or symptoms indicate that the individual:
 - a. May have or is developing a communicable disease;
 - b. May have experienced diarrhea, nausea, or vomiting as part of an outbreak; or
 - c. May have experienced a vaccinia-related adverse event.
 79. "Syndrome" means a pattern of signs and symptoms characteristic of a disease.
 80. "Test" means an analysis performed on blood or other body fluid to evaluate for the presence or absence of a disease.
 81. "Test result" means information about the outcome of a laboratory analysis of a subject's specimen and does not include personal identifying information about the subject.
 82. "Treatment" means a procedure or method to cure, improve, or palliate an illness or a disease.
 83. "Tuberculosis control officer" means the same as in A.R.S. § 36-711.
 84. "Vaccine" means a preparation of a weakened or killed agent, a portion of the agent's structure, or a synthetic substitute for a portion of the agent's structure that, upon administration into the body of an individual or animal, stimulates a response in the body to produce or increase immunity to a particular disease.
 85. "Vaccinia-related adverse event" means a reaction to the administration of a vaccine against smallpox that requires medical evaluation of the reaction.
 86. "Victim" means an individual on whom another individual is alleged to have committed a sexual offense, as defined in A.R.S. § 13-1415.
 87. "Viral hemorrhagic fever" means disease characterized by fever and hemorrhaging and caused by a virus.
 88. "Waterborne" means that water serves as a mode of transmission of an infectious agent.
 89. "Working day" means the period from 8:00 a.m. to 5:00 p.m. on a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday.

Historical Note

Adopted effective January 28, 1987 (Supp. 87-1).
 Amended effective September 14, 1990 (Supp. 90-3).
 Amended effective October 19, 1993 (Supp. 93-4).
 Amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Amended by final rulemaking at 15 A.A.R. 215, effective March 7, 2009 (Supp. 09-1). Amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-102. Release of Information

A person shall release information, including protected health information as defined in 45 CFR 160.103, to the Department or a local health agency upon request if the information is:

1. Requested by the Department or the local health agency for the purpose of:
 - a. Detecting, preventing, or controlling a communicable disease; or
 - b. Preventing injury or disability that may result from a communicable disease; and
2. In the possession of the person.

Historical Note

Adopted effective May 2, 1991 (Supp. 91-2). Former Section R9-6-102 renumbered to R9-6-105, new Section R9-6-102 renumbered from R9-6-106 and amended effective October 19, 1993 (Supp. 93-4). Amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Former R9-6-102 renumbered to R9-6-201; new R9-6-102 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 14 A.A.R. 4522, effective December 2, 2008 (Supp. 08-4).

R9-6-103. Disclosure of Communicable Disease-Related Information to a Good Samaritan

- A. In this Section, unless otherwise specified, the following definitions apply:
 1. "Affidavit" means a voluntary declaration or statement of facts that is made in writing and under oath or affirmation.

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2. "Assisted person" means the individual with whom a Good Samaritan alleges interaction constituting a significant exposure risk.
 3. "Available" means in the possession of or accessible by the Designated Officer who is reviewing a disclosure request.
 4. "Communicable disease-related information" has the same meaning as in A.R.S. § 36-661.
 5. "Designated Officer" means an individual appointed by the Director or a local health officer to:
 - a. Review a disclosure request from a Good Samaritan;
 - b. Determine whether disclosure of communicable disease-related information is required under A.R.S. § 36-664(E) and this Section; and
 - c. Respond to the Good Samaritan.
 6. "Director" has the same meaning as in A.R.S. § 36-101.
 7. "Disclosure request" means the information submitted by a Good Samaritan according to A.R.S. § 36-664(E) and subsection (C) or (D).
 8. "Emergency care or assistance" means actions performed by an individual on or for another individual, which are necessary to prevent death or impairment of the health of the other individual.
 9. "Emergency department" has the same meaning as in A.A.C. R9-11-101.
 10. "Good Samaritan" has the same meaning as in A.R.S. § 36-661.
 11. "In writing" means:
 - a. An original document,
 - b. A photocopy,
 - c. A facsimile, or
 - d. An e-mail.
 12. "Medical consultation" means discussion between a Good Samaritan and:
 - a. A physician or a registered nurse practitioner working in an emergency department or urgent care unit;
 - b. An occupational health provider as defined in A.A.C. R9-6-801; or
 - c. Any other health care provider knowledgeable in determining circumstances when post-exposure prophylaxis is necessary.
 13. "Mucous membrane" means a thin, pliable layer of tissue that lines passageways and cavities in the human body that lead to the outside, such as the mouth, gastrointestinal tract, nose, vagina, and urethra.
 14. "Notarized" means signed and dated by a notary.
 15. "Notary" means any individual authorized to perform the acts specified under A.R.S. § 41-313.
 16. "Post-exposure prophylaxis" means treatment provided to an individual who may have been exposed to a communicable disease, which is intended to prevent infection of the individual.
 17. "Significant exposure risk" has the same meaning as in A.R.S. § 36-661.
 18. "Under oath or affirmation" means a sworn or affirmed statement made by a Good Samaritan to a notary under the penalty of perjury.
 19. "Urgent care unit" has the same meaning as in A.A.C. R9-11-201.
- B.** A significant exposure risk may occur when a Good Samaritan's interaction with an individual results in:
1. A transfer of blood or body fluids from the individual onto the mucous membranes or into breaks in the skin of the Good Samaritan; or
 2. A sharing of airspace between the Good Samaritan and the individual.
- C.** If a Good Samaritan makes a disclosure request to the Department or a local health agency 72 hours or less after an alleged significant exposure risk, the disclosure request shall include:
1. The Good Samaritan's name;
 2. The Good Samaritan's mailing address or e-mail address;
 3. The telephone number at which the Good Samaritan may be reached during a working day;
 4. A description of the accident, fire, or other life-threatening emergency, in which the Good Samaritan rendered emergency care or assistance;
 5. A description of the:
 - a. Emergency care or assistance rendered by the Good Samaritan at the accident, fire, or other life-threatening emergency; and
 - b. Circumstances that the Good Samaritan believes constitute a significant exposure risk;
 6. If known, the name of the assisted person;
 7. If known, the date of birth of the assisted person; and
 8. Any additional information that may identify the assisted person.
- D.** If a Good Samaritan makes a disclosure request to the Department or a local health agency more than 72 hours after an alleged significant exposure risk, the disclosure request shall include:
1. A statement in writing that the Good Samaritan is requesting communicable disease-related information for an assisted person as allowed under A.R.S. § 36-664(E);
 2. Documentation concerning the accident, fire, or other life-threatening emergency in which the Good Samaritan rendered emergency care or assistance; and
 3. A notarized affidavit that contains:
 - a. The information specified in subsections (C)(1) through (8);
 - b. A statement that the Good Samaritan understands that the Good Samaritan may seek medical consultation to determine whether post-exposure prophylaxis for a communicable disease is needed;
 - c. A statement that the Good Samaritan certifies that the declarations contained within the affidavit are truthful to the best of the Good Samaritan's knowledge; and
 - d. The Good Samaritan's signature.
- E.** Within two working days after the Department or a local health agency receives a disclosure request from a Good Samaritan, the Designated Officer shall:
1. If the Designated Officer determines that the information provided as specified in subsection (C) or (D) indicates a significant exposure risk to the Good Samaritan and communicable disease-related information is available for the assisted person:
 - a. Attempt to contact the Good Samaritan by telephone and provide the Good Samaritan with the communicable disease-related information:
 - i. For the assisted person;
 - ii. Pertaining to the specific communicable disease or diseases that may be transmitted through the interaction between the Good Samaritan and the assisted person; and
 - iii. Without revealing the assisted person's name;
 - b. Attempt to contact the Good Samaritan by telephone and notify the Good Samaritan that disclosure of communicable disease-related information for one communicable disease does not rule out the possibility that the Good Samaritan was exposed to other communicable diseases about which information is not available to the Designated Officer;

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- c. Attempt to contact the Good Samaritan by telephone and provide to the Good Samaritan information concerning the agent causing the communicable disease for which the Designated Officer is disclosing communicable disease-related information, including:
 - i. A description of the disease or syndrome caused by the agent, including its symptoms;
 - ii. A description of how the agent is transmitted to others;
 - iii. The average window period for the agent;
 - iv. An explanation that exposure to an individual with a communicable disease does not mean that infection has occurred or will occur;
 - v. Measures to reduce the likelihood of transmitting the agent to others and that it is necessary to continue the measures until a negative test result is obtained after the average window period has passed or until an infection, if detected, is eliminated;
 - vi. That it is necessary to notify others that they may be or may have been exposed to the agent through interaction with the Good Samaritan; and
 - vii. The availability of assistance from the Department, local health agencies, or other resources; and
 - d. Send to the Good Samaritan in writing:
 - i. The information specified in subsection (E)(1)(a);
 - ii. The notification specified in subsection (E)(1)(b);
 - iii. The information specified in subsection (E)(1)(c); and
 - iv. A statement that the confidentiality of the disclosed communicable disease-related information is protected by A.R.S. §§ 36-664(G) and 36-666(A)(2);
2. If the Designated Officer determines that the information provided as specified in subsection (C) or (D) indicates a significant exposure risk to the Good Samaritan, but the Designated Officer is unable to provide communicable disease-related information for the assisted person:
- a. Attempt to contact the Good Samaritan by telephone and notify the Good Samaritan that either:
 - i. Communicable disease-related information, pertaining to the specific communicable disease or diseases that may be transmitted through the interaction between the Good Samaritan and the assisted person, is not available to the Designated Officer; or
 - ii. The Designated Officer is unable to identify the assisted person from the information provided in the Good Samaritan's disclosure request, as specified in subsection (C) or (D);
 - b. Attempt to contact the Good Samaritan by telephone and notify the Good Samaritan that:
 - i. The Good Samaritan's interaction with the assisted person may pose a significant exposure risk to the Good Samaritan; and
 - ii. The Good Samaritan may seek medical consultation on the need for post-exposure prophylaxis; and
 - c. Send to the Good Samaritan in writing the notifications specified in subsections (E)(2)(a) and (b); and
3. If the Designated Officer determines that the information provided as specified in subsection (C) or (D) does not

indicate a significant exposure risk to the Good Samaritan:

- a. Attempt to contact the Good Samaritan by telephone and notify the Good Samaritan that the Designated Officer will not disclose any available communicable disease-related information for the assisted person; and
- b. Send to the Good Samaritan in writing:
 - i. The notification specified in subsection (E)(3)(a);
 - ii. A statement that the Designated Officer's decision not to disclose communicable disease-related information to the Good Samaritan is based on A.R.S. § 36-664(E) and this Section;
 - iii. The Designated Officer's reasons for not disclosing communicable disease-related information to the Good Samaritan; and
 - iv. A statement that the Good Samaritan has the right to obtain a hearing as specified in A.R.S. § 41-1092.03(B).

Historical Note

Renumbered from R9-6-107 and amended effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Section renumbered to R9-6-301 by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). New Section made by final rulemaking at 14 A.A.R. 4641, effective January 31, 2009 (Supp. 08-4).

R9-6-104. Repealed**Historical Note**

Renumbered from R9-6-108 and amended effective October 19, 1993 (Supp. 93-4). Section repealed by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2).

R9-6-105. Renumbered**Historical Note**

Adopted effective January 20, 1992 (Supp. 92-1). Former Section R9-6-105 renumbered to R9-6-107, new Section R9-6-105 renumbered from R9-6-102 and amended effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Section renumbered to R9-6-501 by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3).

R9-6-106. Renumbered**Historical Note**

Amended effective June 4, 1980 (Supp. 80-3). Former Section R9-6-112 renumbered and amended as Section R9-6-106 effective January 28, 1987 (Supp. 87-1). Former Section R9-6-106 renumbered to R9-6-102, new Section R9-6-106 adopted effective October 19, 1993 (Supp. 93-4). Section renumbered to R9-6-601 by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3).

Exhibit I-A. Repealed**Historical Note**

New Exhibit I-A made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit I-A repealed by final rulemaking at 15 A.A.R. 215, effective March 7, 2009 (Supp. 09-1).

R9-6-107. Repealed

Historical Note

Adopted effective September 14, 1990 (Supp. 90-3). Former Section R9-6-107 renumbered to R9-6-103, new Section R9-6-107 renumbered from R9-6-105 and amended effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Amended by final rulemaking at 5 A.A.R. 496, effective January 19, 1999 (Supp. 99-1). Section repealed by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3).

R9-6-108. Renumbered**Historical Note**

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2). Amended and readopted as an emergency effective August 8, 1988 pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted as an emergency and Paragraph (9) corrected effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Adopted without change as a permanent rule effective May 22, 1989 (Supp. 89-2). Renumbered to R9-6-104 effective October 19, 1993 (Supp. 93-4).

R9-6-109. Reserved**R9-6-110. Reserved****R9-6-111. Repealed****Historical Note**

Corrected Departmental reference in subsection (C) (Supp. 76-5). Amended effective June 4, 1980 (Supp. 80-3). Repealed effective January 28, 1987 (Supp. 87-1).

R9-6-112. Renumbered**Historical Note**

Amended effective June 4, 1980 (Supp. 80-3). Former Section R9-6-112 renumbered and amended as Section R9-6-106 effective January 28, 1987 (Supp. 87-1).

R9-6-113. Repealed**Historical Note**

Former Section R9-6-113 repealed, new Section R9-6-113 adopted effective June 4, 1980 (Supp. 80-3). Amended paragraph 4, effective January 31, 1983 (Supp. 83-1). Repealed effective January 28, 1987 (Supp. 87-1).

R9-6-114. Repealed**Historical Note**

Corrected Departmental reference in subsections (B) and (C) (Supp. 76-5). Former Section R9-6-114 repealed, new Section R9-6-114 adopted effective June 4, 1980 (Supp. 80-3). Repealed effective January 28, 1987 (Supp. 87-1).

ARTICLE 2. COMMUNICABLE DISEASE AND INFESTATION REPORTING

R9-6-201. Definitions

In this Article, unless otherwise specified:

1. "Clinical laboratory" has the same meaning as in A.R.S. § 36-451.
2. "Drug" has the same meaning as in A.R.S. § 32-1901.
3. "Epidemiologic curve" means a graphic display of the number of cases over time.

4. "Normally sterile site" means an anatomic location, or tissue or body fluid from an anatomic location, in which microorganisms are not found in the absence of disease and includes:
 - a. The lower respiratory tract;
 - b. Blood;
 - c. Bone marrow;
 - d. Cerebrospinal fluid;
 - e. Pleural fluid;
 - f. Peritoneal fluid;
 - g. Synovial fluid;
 - h. Pericardial fluid;
 - i. Amniotic fluid;
 - j. Lymph;
 - k. A closed abscess; or
 - l. Another anatomic location other than the skin, mouth, eyes, upper respiratory tract, middle ear, urogenital tract, or gastrointestinal tract.
5. "Health care provider required to report" means a physician, physician assistant, registered nurse practitioner, or dentist who diagnoses, treats, or detects a case or suspect case of a communicable disease listed in Table 2.1 or detects an occurrence listed in Table 2.1.
6. "Pharmacist" has the same meaning as in A.R.S. § 32-1901.
7. "Point of contact" means an individual through whom the Department or a local health agency can obtain information upon request.
8. "Whole blood" means human blood from which plasma, erythrocytes, leukocytes, and thrombocytes have not been separated.

Historical Note

Former Section R9-6-211 renumbered and amended and subsection (C) renumbered from R9-6-212 and amended effective May 2, 1991 (Supp. 91-2). Former Section R9-6-201 renumbered to R9-6-501, new Section R9-6-201 renumbered from R9-6-601, repealed, and a new Section R9-6-201 adopted effective October 19, 1993 (Supp. 93-4). Former R9-6-201 repealed; new R9-6-201 renumbered from R9-6-102 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-202. Reporting Requirements for a Health Care Provider Required to Report or an Administrator of a Health Care Institution or Correctional Facility

- A. A health care provider required to report shall, either personally or through a representative, submit a report, in a Department-provided format, to the local health agency within the time limitation in Table 2.1 and as specified in subsection (C) or (D).
- B. An administrator of a health care institution or correctional facility in which a case or suspect case of a communicable disease listed in Table 2.1 is diagnosed, treated, or detected or an occurrence listed in Table 2.1 is detected shall, either personally or through a representative, submit a report, in a Department-provided format, to the local health agency within the time limitation in Table 2.1 and as specified in subsection (C) or (D).
- C. Except as described in subsection (D), for each case, suspect case, or occurrence for which a report on an individual is required by subsection (A) or (B) and Table 2.1, a health care provider required to report or an administrator of a health care

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institution or correctional facility shall submit a report that includes:

1. The following information about the case or suspect case:
 - a. Name;
 - b. Residential and mailing addresses;
 - c. County of residence;
 - d. Whether the individual is living on a reservation and, if so, the name of the reservation;
 - e. Whether the individual is a member of a tribe and, if so, the name of the tribe;
 - f. Telephone number and, if available, email address;
 - g. Date of birth;
 - h. Race and ethnicity;
 - i. Gender;
 - j. If known, whether the individual is pregnant;
 - k. If known, whether the individual is alive or dead;
 - l. If known, the individual's occupation;
 - m. If the individual is attending or working in a school or child care establishment or working in a health care institution or food establishment, the name and address of the school, child care establishment, health care institution, or food establishment; and
 - n. For a case or suspect case who is a child requiring parental consent for treatment, the name, residential address, telephone number, and, if available, email address of the child's parent or guardian, if known;
 2. The following information about the disease:
 - a. The name of the disease;
 - b. The date of onset of symptoms;
 - c. The date of diagnosis;
 - d. The date of specimen collection;
 - e. Each type of specimen collected;
 - f. Each type of laboratory test completed;
 - g. The date of the result of each laboratory test; and
 - h. A description of the laboratory test results, including quantitative values if available;
 3. If reporting a case or suspect case of tuberculosis:
 - a. The site of infection;
 - b. A description of the treatment prescribed, if any, including:
 - i. The name of each drug prescribed,
 - ii. The dosage prescribed for each drug, and
 - iii. The date of prescription for each drug; and
 - c. Whether the diagnosis was confirmed by a laboratory and, if so, the name, address, and phone number of the laboratory;
 4. If reporting a case or suspect case of chancroid, gonorrhea, or *Chlamydia trachomatis* infection:
 - a. The gender of the individuals with whom the case or suspect case had sexual contact;
 - b. A description of the treatment prescribed, if any, including:
 - i. The name of each drug prescribed,
 - ii. The dosage prescribed for each drug, and
 - iii. The date of prescription for each drug;
 - c. The site of infection; and
 - d. Whether the diagnosis was confirmed by a laboratory and, if so, the name, address, and phone number of the laboratory;
 5. If reporting a case or suspect case of syphilis:
 - a. The information required under subsection (C)(4); and
 - b. Identification of:
 - i. The stage of the disease, or
 - ii. Whether the syphilis is congenital;
 6. If reporting a case of congenital syphilis in an infant, and in addition to the information required under subsection (C)(5) and A.R.S. § 36-694(A), the following information:
 - a. The name and date of birth of the infant's mother;
 - b. The residential address, mailing address, telephone number, and, if available, email address of the infant's mother;
 - c. The date and test results for the infant's mother of the prenatal syphilis test required in A.R.S. § 36-693; and
 - d. If the prenatal syphilis test of the infant's mother indicated that the infant's mother was infected with syphilis:
 - i. Whether the infant's mother received treatment for syphilis,
 - ii. The name and dosage of each drug prescribed to the infant's mother for treatment of syphilis and the date each drug was prescribed, and
 - iii. The name and phone number of the health care provider required to report who treated the infant's mother for syphilis;
 7. The name, address, telephone number, and, if available, email address of the individual making the report; and
 8. The name, address, telephone number, and, if available, email address of the:
 - a. Health care provider, if reporting under subsection (A) and different from the individual specified in subsection (C)(7); or
 - b. Health care institution or correctional facility, if reporting under subsection (B).
- D.** For each outbreak for which a report is required by subsection (A) or (B) and Table 2.1, a health care provider required to report or an administrator of a health care institution or correctional facility shall submit a report that includes:
1. A description of the signs and symptoms;
 2. If possible, a diagnosis and identification of suspected sources;
 3. The number of known cases and suspect cases;
 4. A description of the location and setting of the outbreak;
 5. The name, address, telephone number, and, if available, email address of the individual making the report; and
 6. The name, address, telephone number, and, if available, email address of the:
 - a. Health care provider, if reporting under subsection (A) and different from the individual specified in subsection (D)(5); or
 - b. Health care institution or correctional facility, if reporting under subsection (B).
- E.** When an HIV-related test is ordered for an infant who was perinatally exposed to HIV to determine whether the infant is infected with HIV, the health care provider who orders the HIV-related test or the administrator of the health care institution in which the HIV-related test is ordered shall:
1. Report the results of the infant's HIV-related test to the Department, either personally or through a representative, within five working days after receiving the results of the HIV-related test;
 2. Include the following information in the report specified in subsection (E)(1):
 - a. The name and date of birth of the infant;
 - b. The residential address, mailing address, and telephone number of the infant;
 - c. The name and date of birth of the infant's mother;
 - d. The date of the last medical evaluation of the infant;
 - e. The types of HIV-related tests ordered for the infant;

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- f. The dates of the infant's HIV-related tests;
 - g. The results of the infant's HIV-related tests; and
 - h. The ordering health care provider's name, address, and telephone number; and
3. Include with the report specified in subsection (E)(1) a report for the infant's mother including the following information:
- a. The name and date of birth of the infant's mother;
 - b. The residential address, mailing address, and telephone number of the infant's mother;
 - c. The date of the last medical evaluation of the infant's mother;
 - d. The types of HIV-related tests ordered for the infant's mother;
 - e. The dates of the HIV-related tests for the infant's mother;
 - f. The results of the HIV-related tests for the infant's mother;
 - g. What HIV-related risk factors the infant's mother has;
 - h. Whether the infant's mother delivered the infant vaginally or by C-section;
 - i. Whether the infant's mother was receiving HIV-related drugs prior to the infant's birth to reduce the risk of perinatal transmission of HIV; and
 - j. The name, address, and telephone number of the health care provider who ordered the HIV-related tests for the infant's mother.

Historical Note

Renumbered from R9-6-213 and amended effective May 2, 1991 (Supp. 91-2). Former Section R9-6-202 renumbered to R9-6-502, new Section R9-6-202 renumbered from R9-6-602 and amended effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Amended by final rulemaking at 8 A.A.R. 4467, effective December 1, 2002 (Supp. 02-4). Amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

Table 1. Repealed**Historical Note**

New Table 1 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Table 1 amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Table 1 repealed by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

Table 2.1. Reporting Requirements for a Health Care Provider Required to Report or an Administrator of a Health Care Institution or Correctional Facility

☎*,O	Amebiasis	☎	Glanders	O	Respiratory disease in a health care institution or correctional facility
☎	Anaplasmosis	☎	Gonorrhea	☎*	Rubella (German measles)
☎	Anthrax	☎	<i>Haemophilus influenza</i> , invasive disease	☎	Rubella syndrome, congenital
☎	Arboviral infection	☎	Hansen's disease (Leprosy)	☎*,O	Salmonellosis
☎	Babesiosis	☎	Hantavirus infection	O	Scabies
☎	Basidiobolomycosis	☎	Hemolytic uremic syndrome	☎*,O	Shigellosis
☎	Botulism	☎*,O	Hepatitis A	☎	Smallpox
☎	Brucellosis	☎	Hepatitis B and Hepatitis D	☎	Spotted fever rickettsiosis (e.g., Rocky Mountain spotted fever)
☎*,O	Campylobacteriosis	☎	Hepatitis C	☎	Streptococcal group A infection, invasive disease
☎	Chagas infection and related disease (American trypanosomiasis)	☎*,O	Hepatitis E	☎	Streptococcal group B infection in an infant younger than 90 days of age, invasive disease
☎	Chancroid	☎	HIV infection and related disease	☎	<i>Streptococcus pneumoniae</i> infection (pneumococcal invasive disease)
☎	Chikungunya	☎	Influenza-associated mortality in a child	☎ ¹	Syphilis
☎	<i>Chlamydia trachomatis</i> infection	☎	Legionellosis (Legionnaires' disease)	☎*,O	Taeniasis
☎*	Cholera	☎	Leptospirosis	☎	Tetanus
☎	Coccidioidomycosis (Valley Fever)	☎	Listeriosis	☎	Toxic shock syndrome
☎	Colorado tick fever	☎	Lyme disease	☎	Trichinosis
O	Conjunctivitis, acute	☎	Lymphocytic choriomeningitis	☎	Tuberculosis, active disease
☎	Creutzfeldt-Jakob disease	☎	Malaria	☎	Tuberculosis latent infection in a child 5 years of age or younger (positive screening test result)
☎*,O	Cryptosporidiosis	☎	Measles (rubeola)	☎	Tularemia
☎	<i>Cyclospora</i> infection	☎	Melioidosis	☎	Typhoid fever
☎	Cysticercosis	☎	Meningococcal invasive disease	☎	Typhus fever
☎	Dengue	☎	Mumps	☎	Vaccinia-related adverse event
O	Diarrhea, nausea, or vomiting	☎	Novel coronavirus infection (e.g., SARS or MERS)	☎	Vancomycin-resistant or Vancomycin-intermediate <i>Staphylococcus aureus</i>
☎	Diphtheria	☎	Pertussis (whooping cough)	☎	Varicella (chickenpox)
☎	Ehrlichiosis	☎	Plague	☎*,O	<i>Vibrio</i> infection
☎	Emerging or exotic disease	☎	Poliomyelitis (paralytic or non-paralytic)	☎	Viral hemorrhagic fever
☎	Encephalitis, parasitic	☎	Psittacosis (ornithosis)	☎	West Nile virus infection
☎	Encephalitis, viral	☎	Q fever	☎	Yellow fever
☎	<i>Escherichia coli</i> , Shiga toxin-producing	☎	Rabies in a human	☎*,O	Yersiniosis (enteropathogenic <i>Yersinia</i>)
☎*,O	Giardiasis	☎	Relapsing fever (borreliosis)	☎	Zika virus infection

Key:

- ☎ Submit a report by telephone or through an electronic reporting system authorized by the Department within 24 hours after a case or suspect case is diagnosed, treated, or detected, or an occurrence is detected.
- * Submit a report within 24 hours after a case or suspect case is diagnosed, treated, or detected, instead of reporting within the general reporting deadline, if the case or suspect case is a food handler or works in a child care establishment or a health care institution.
- ¹ Submit a report within one working day if the case or suspect case is a pregnant woman.
- ☎ Submit a report within one working day after a case or suspect case is diagnosed, treated, or detected.
- ☎ Submit a report within five working days after a case or suspect case is diagnosed, treated, or detected.
- O Submit a report within 24 hours after detecting an outbreak.

Historical Note

New Table 2.1 made by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-203. Reporting Requirements for an Administrator of a School, Child Care Establishment, or Shelter

- A.** An administrator of a school, child care establishment, or shelter shall, either personally or through a representative, submit a report, in a Department-provided format, to the local health agency within the time limitation in Table 2.2 and as specified in subsection (B).
- B.** For each individual with a disease, infestation, or symptoms of a communicable disease or infestation listed in Table 2.2, or an outbreak of the communicable disease or infestation, an administrator of a school, child care establishment, or shelter shall submit a report that includes:
1. The name and address of the school, child care establishment, or shelter;
 2. The number of individuals with the disease, infestation, or symptoms;
 3. The date and time that the disease or infestation was detected or that the symptoms began;
 4. The number of rooms, grades, or classes affected and the name of each;
 5. The following information about each individual with the disease, infestation, or symptoms:
 - a. Name;
 - b. Date of birth or age;

- c. If the individual is a child, name and contact information for the individual's parent or guardian;
 - d. Residential address and telephone number; and
 - e. Whether the individual is a staff member, a student, a child in care, or a resident;
6. The number of individuals attending or residing at the school, child care establishment, or shelter; and
 7. The name, address, telephone number, and, if available, email address of the individual making the report.


















Historical Note

Renumbered from R9-6-214 and amended effective May 2, 1991 (Supp. 91-2). Former Section R9-6-203 renumbered to R9-6-503, new Section R9-6-202 adopted effective October 19, 1993 (Supp. 93-4). Former R9-6-203 renumbered to R9-6-206; new R9-6-203 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).




Table 2. Renumbered**Historical Note**

New Table 2 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Table 2, renumbered to Table 2.2 by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

Table 2.2. Reporting Requirements for an Administrator of a School, Child Care Establishment, or Shelter

	Campylobacteriosis		Mumps
	Conjunctivitis, acute		Pertussis (whooping cough)
	Cryptosporidiosis		Rubella (German measles)
	Diarrhea, nausea, or vomiting		Salmonellosis
	<i>Escherichia coli</i> , Shiga toxin-producing		Scabies
	<i>Haemophilus influenzae</i> , invasive disease		Shigellosis
	Hepatitis A		Streptococcal group A infection
	Measles		Varicella (chickenpox)
	Meningococcal invasive disease		

Key:

-  Submit a report within 24 hours after detecting a case or suspect case.
-  Submit a report within five working days after detecting a case or suspect case.
-  Submit a report within 24 hours after detecting an outbreak.

Historical Note

New Table 2.2 renumbered from Table 2 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-204. Clinical Laboratory Director Reporting Requirements

- A.** Except as specified in subsection (D), a director of a clinical laboratory that obtains a test result described in Table 2.3 or that receives a specimen for detection of an infectious agent or toxin listed in Table 2.3 shall, either personally or through a representative, submit a report, in a Department-provided format, and, if applicable, an isolate or a specimen to the Department within the time limitation and as specified in Table 2.3 and subsection (B) or (C).
- B.** For each specimen for which an immediate report is required by subsection (A) and Table 2.3, a clinical laboratory director shall ensure the report includes:
1. The name and address of the laboratory;
 2. The name and telephone number of the director of the clinical laboratory;
 3. The name and, as available, the address, telephone number, and email address of the subject;
 4. The date of birth of the subject;
 5. The gender of the subject;
 6. The laboratory identification number;
 7. The specimen type;
 8. The date of collection of the specimen;
 9. The type of test ordered on the specimen; and
 10. The ordering health care provider's name, address, telephone number, and, if available, email address.
- C.** Except as provided in Table 2.3 and as specified in subsection (D), for each test result for a subject for which a report is required by subsection (A) and Table 2.3, a clinical laboratory director shall ensure the report includes:
1. The name and address of the laboratory;
 2. The name and telephone number of the director of the clinical laboratory;
 3. The name and, as available, the address, telephone number, and email address of the subject;
 4. The date of birth of the subject;
 5. The gender of the subject;
 6. The laboratory identification number;

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7. The specimen type;
 8. The date of collection of the specimen;
 9. The date of the result of the test;
 10. The type of test completed on the specimen;
 11. The test result, including quantitative values and reference ranges, if applicable; and
 12. The ordering health care provider's name, address, telephone number, and, if available, email address.
- D.** When the Arizona State Laboratory obtains a test result from anonymous HIV testing sent to the Arizona State Laboratory as described in R9-6-1005, the director of the Arizona State Laboratory shall, either personally or through a representative:
1. Submit a report to the Department within five working days after obtaining a positive test result; and
 2. Include in the report the following information:
 - a. The laboratory identification number of the subject;
 - b. The date of birth, gender, race, and ethnicity of the subject;
 - c. The date the specimen was collected;
 - d. The type of tests completed on the specimen;
 - e. The test results, including quantitative values if available; and
- f. The name, address, and telephone number of the person who submitted the specimen to the Arizona State Laboratory.

Historical Note

Adopted effective October 19, 1993 (Supp. 93-4). Former R9-6-204 renumbered to R9-6-302; new R9-6-204 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

Table 3. Repealed**Historical Note**

New Table 3 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Table 3 amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Table 3 repealed by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

Table 2.3. Clinical Laboratory Director Reporting Requirements

	<i>Anaplasma</i> spp.	 ①, *	<i>Francisella tularensis</i>		<i>Plasmodium</i> spp.
①, *	Arboviruses	①, *	<i>Haemophilus influenzae</i> , from a normally sterile site	①, *	Rabies virus from a human
	<i>Babesia</i> spp.	①	Hantavirus	①, *	Rabies virus from an animal
  *	<i>Bacillus anthracis</i>	① ¹	Hepatitis A virus (anti-HAV-IgM serologies, detection of viral nucleic acid, or genetic sequencing)		Respiratory syncytial virus
①, *	<i>Bordetella pertussis</i>	 ¹	Hepatitis B virus (anti-Hepatitis B core-IgM serologies, Hepatitis B surface or envelope antigen serologies, detection of viral nucleic acid, or genetic sequencing)	①, *	<i>Rickettsia</i> spp. – any test result
①, *	<i>Brucella</i> spp.	 ¹	Hepatitis C virus	① ¹ , *	Rubella virus and anti-rubella-IgM serologies
①, *	<i>Burkholderia mallei</i> and <i>B. pseudomallei</i>	 ¹	Hepatitis D virus	①, *	<i>Salmonella</i> spp.
 *	<i>Campylobacter</i> spp.	 ¹ , *	Hepatitis E virus	①, *	<i>Shigella</i> spp.
 *	Carbapenem-resistant Enterobacteriaceae (CRE)		HIV—any test result (by culture, antigen, antibodies to the virus, detection of viral nucleic acid, or genetic sequencing), except from a negative screening test	 *	<i>Streptococcus</i> group A, from a normally sterile site
	CD ₄ -T-lymphocyte count		HIV—any test result for an infant (by culture, antigen, antibodies to the virus, detection of viral nucleic acid, or genetic sequencing)		<i>Streptococcus</i> group B, from a normally sterile site in an infant younger than 90 days of age
①, *	Chikungunya virus	 *	Influenza virus	 *	<i>Streptococcus pneumoniae</i> and its drug sensitivity pattern, from a normally sterile site
	<i>Chlamydia trachomatis</i>	①, +	<i>Legionella</i> spp. (excluding single serological results)	 ¹	<i>Treponema pallidum</i> (syphilis) or rapid plasma reagin
	<i>Chlamydia psittaci</i> / <i>Chlamydia psittaci</i>	①	<i>Leptospira</i> spp.		<i>Trypanosoma cruzi</i> (Chagas disease)
 	<i>Clostridium botulinum</i> toxin (botulism)	①	<i>Lymphocytic choriomeningitis</i> virus	①, *	Vancomycin-resistant or Vancomycin-intermediate <i>Staphylococcus aureus</i>
 *	<i>Coccidioides</i> spp.	①, *	<i>Listeria</i> spp., from a normally sterile site	  *	Variola virus (smallpox)

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①	<i>Coxiella burnetii</i>	☎ ^{1,*}	Measles virus and anti-measles-IgM serologies	①,*	<i>Vibrio</i> spp.
①	<i>Cryptosporidium</i> spp.	☒ ²	Methicillin-resistant <i>Staphylococcus aureus</i> , from a normally sterile site	☎,☎, *	Viral hemorrhagic fever agent
①	<i>Cyclospora</i> spp.	① ^{1,*}	Mumps virus and anti-mumps-IgM serologies	☒	West Nile virus
①,* ⁴	Dengue virus	①,* ³	<i>Mycobacterium tuberculosis</i> complex and its drug sensitivity pattern	☎,*	Yellow fever virus
☒	<i>Ehrlichia</i> spp.	☒,* ⁴	<i>Neisseria gonorrhoeae</i> and, if performed, the drug sensitivity pattern	☎,☎, *	<i>Yersinia pestis</i> (plague)
☎,☎	Emerging or exotic disease agent	☎,*	<i>Neisseria meningitidis</i> , from a normally sterile site	①,*	<i>Yersinia</i> spp. (other than <i>Y. pestis</i>)
☒	<i>Entamoeba histolytica</i>	①	Norovirus	①,*	Zika virus
①,*	<i>Escherichia coli</i> , <i>Shiga</i> toxin-producing	☎	Novel coronavirus infection (e.g., SARS or MERS)		

Key:

- ☎ Submit a report immediately after receiving one specimen for detection of the agent. Report the receipt of subsequent specimens within five working days after receipt.
 - ☎ Submit a report within 24 hours after obtaining a positive test result.
 - ① Submit a report within one working day after obtaining a positive test result.
 - ☒ Submit a report within five working days after obtaining a positive test result or a test result specified in Table 2.3.
 - * Submit an isolate of the organism for each positive culture, if available, or a specimen for each positive test result to the Arizona State Laboratory within one working day.
 - + Submit an isolate of the organism for each positive culture to the Arizona State Laboratory within one working day.
- When appearing after one of the symbols above, the following modify the requirement:
- ¹ When reporting a positive result for any of the specified tests, report the results of all other tests performed for the subject as part of the disease panel or as a reflex test.
 - ² Submit a report only when an initial positive result is obtained for an individual.
 - ³ Submit an isolate or specimen of the organism, as applicable, only when an initial positive result is obtained for an individual, when a change in resistance pattern is detected, or when a positive result is obtained ≥ 12 months after the initial positive result is obtained for an individual.
 - ⁴ Submit an isolate or specimen, as applicable, only by request.
 - ⁵ Submit an isolate of the organism, if available, or a specimen when a positive result is obtained for an individual < 5 years of age.

Historical Note

Table 2.3 made by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-205. Reporting Requirements for a Pharmacist or an Administrator of a Pharmacy

- A. A pharmacist who fills an individual's initial prescription for two or more of the drugs listed in subsection (B) or an administrator of a pharmacy in which an individual's initial prescription for two or more of the drugs listed in subsection (B) is filled shall, either personally or through a representative, submit a report, in a Department-provided format, that complies with subsection (C) to the Department within five working days after the prescription is filled.
- B. A combination of two or more of the following drugs when initially prescribed for an individual triggers the reporting requirement of subsection (A):
 1. Isoniazid,
 2. Streptomycin,
 3. Any rifamycin,
 4. Pyrazinamide, or
 5. Ethambutol.
- C. A pharmacist or an administrator of a pharmacy shall submit a report required under subsection (A) that includes:
 1. The following information about the individual for whom the drugs are prescribed:
 - a. Name,
 - b. Address,
 - c. Telephone number, and
 - d. Date of birth; and
 2. The following information about the prescription:

- a. The name of the drugs prescribed,
- b. The date of prescription, and
- c. The name and telephone number of the prescribing health care provider.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-206. Local Health Agency Responsibilities Regarding Communicable Disease Reports

- A. The Department shall notify each local health agency of the format to be used by:
 1. A health care provider required to report when making a report required under R9-6-202(A) and Table 2.1;
 2. An administrator of a health care institution or correctional facility when making a report required under R9-6-202(B) and Table 2.1; and
 3. An administrator of a school, child care establishment, or shelter when making a report required under R9-6-203(A) and Table 2.2.
- B. A local health agency shall inform health care providers required to report and administrators of health care institutions, correctional facilities, schools, child care establishments, and shelters of the format to use when making a report, as specified in subsection (A).

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- C. Except as specified in Table 2.4 and Article 3, a local health agency shall provide to the Department the information contained in each report of a case, suspect case, or occurrence received by the local health agency under R9-6-202 or R9-6-203, including any report of disease in a nonresident of the jurisdiction who is or has been diagnosed or treated in the jurisdiction, within five working days after receipt and shall specify:
1. Which of the following best describes the individual identified in each report:
 - a. The individual meets the case definition for a case of the specific disease,
 - b. The individual is a suspect case,
 - c. The individual does not meet the case definition for a case or suspect case of the specific disease, or
 - d. The local health agency has not yet determined the status of the disease in the individual; and
 2. The status of the epidemiologic investigation for each report.
- D. Except as specified in Table 2.4 and Article 3, a local health agency shall submit to the Department a report, in a Department-provided format, of an epidemiologic investigation conducted by the local health agency:
1. In response to a report of a case, suspect case, or occurrence:
 - a. Submitted under R9-6-202 or R9-6-203, or
 - b. About which the local health agency was notified by the Department;
 2. Within 30 calendar days after receiving the report submitted under R9-6-202 or R9-6-203 or notification by the Department;
 3. If an epidemiologic investigation is required for the reported disease under Article 3; and
 4. Including in the report of the epidemiologic investigation:
 - a. The information described in:
 - i. R9-6-202(C) for a report submitted under R9-6-202,
 - ii. R9-6-203(B) for a report submitted under R9-6-203, or
 - iii. R9-6-202(C) for a report about which the Department notified the local health agency;
 - b. A description of all laboratory or other test results, performed in addition to the laboratory tests described in R9-6-202(C) and contributing to the diagnosis;
 - c. A description of the case's symptoms of the disease and other signs that may be observed that indicate that the individual may have the disease, if applicable;
 - d. A classification of the case according to the case definition;
 - e. A description of the condition or status of the case at the end of the epidemiologic investigation;
 - f. A description of the case's specific risk factors for acquiring the disease or other epidemiologic evidence of how the case acquired the infection that resulted in the disease;
 - g. A description of how the local health agency provided or arranged for the case to receive health education about the nature of the disease and how to prevent transmission or limit disease progression;
 - h. A description of the case's specific risk factors for transmitting the disease considered by the local health agency when conducting an assessment of contacts;
 - i. A description of the control measures used by the local health agency to reduce the spread of the disease; and
 - j. The date the report of the case, suspect case, or occurrence was submitted or the Department notified the local health agency.
- E. For each instance when the local health agency receives a report or reports indicating an outbreak or possible outbreak, the local health agency shall:
1. Within 24 hours after receiving the report or reports, provide to the Department, in a Department-provided format, the following information:
 - a. The location of the outbreak or possible outbreak;
 - b. If known, the number of cases and suspect cases;
 - c. The date that the outbreak was reported or the dates that cases suggestive of an outbreak were reported;
 - d. The setting of the outbreak or possible outbreak;
 - e. The name of the disease suspected or known to be the cause of the outbreak or possible outbreak; and
 - f. The name and telephone number of an individual at the local health agency who can serve as a point of contact regarding the outbreak or possible outbreak; and
 2. Within 30 calendar days after receiving the last report or reports associated with the outbreak, submit to the Department a report, in a Department-provided format, of the epidemiologic investigation conducted by the local health agency in response to the outbreak or possible outbreak, including:
 - a. A description of the outbreak location and setting;
 - b. The date that the local health agency was notified of the outbreak;
 - c. A description of how the local health agency verified the outbreak;
 - d. The number of individuals reported to be ill during the outbreak;
 - e. The number of individuals estimated to be at risk for illness as a result of the outbreak;
 - f. The specific case definition used;
 - g. A summary profile of the signs and symptoms;
 - h. An epidemiologic curve;
 - i. A copy of the laboratory evidence collected, including all laboratory test results, for all specimens submitted for testing to a laboratory other than the Arizona State Laboratory;
 - j. Hypotheses of how the outbreak occurred;
 - k. A description of the control measures used and the dates the control measures were implemented;
 - l. The conclusions drawn based upon the results of the epidemiologic investigation;
 - m. Recommendations for preventing future outbreaks; and
 - n. The name, address, and telephone number of the individual making the report to the Department.

Historical Note

Section renumbered from R9-6-203 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

Table 4. Repealed**Historical Note**

New Table 4 made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Table 4



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repealed by final rulemaking at 23 A.A.R. 2605, effective
January 1, 2018 (Supp. 17-3).

Table 2.4. Local Health Agency Reporting Requirements

 , →	Amebiasis		Gonorrhea	①, →, *	Rubella (German measles)
 , →	Anaplasmosis	①, →	<i>Haemophilus influenza</i> , invasive disease	 , →, *	Rubella syndrome, congenital
 , →, *	Anthrax	 , →	Hansen's disease (Leprosy)	①, →	Salmonellosis
 , →	Arboviral infection	①, →	Hantavirus infection	①, →	Shigellosis
 , →	Babesiosis	①, →	Hemolytic uremic syndrome	 , →, *	Smallpox
 , →	Basidiobolomycosis	①, →	Hepatitis A	①, →	Spotted fever rickettsiosis (e.g., Rocky Mountain spotted fever)
 , →, *	Botulism	 , →	Hepatitis B and Hepatitis D		Streptococcal group A infection, invasive disease
 , →, *	Brucellosis	 , →	Hepatitis E		Streptococcal group B infection in an infant younger than 90 days of age, invasive disease
 , →	Campylobacteriosis	 , →	HIV infection and related disease		<i>Streptococcus pneumoniae</i> infec- tion, (pneumococcal invasive dis- ease)
 , →	Chagas infection and related dis- ease (American Trypanosomia- sis)	①, →	Influenza-associated mortal- ity in a child	 , →	Syphilis
 , →	Chancroid (<i>Haemophilus ducreyi</i>)	①, →	Legionellosis (Legionnaires' disease)	 , →	Taeniasis
 , →	Chikungunya	①, →	Leptospirosis	 , →	Tetanus
	<i>Chlamydia trachomatis</i> infection	①, →, *	Listeriosis	 , →	Toxic shock syndrome
①, →	Cholera	 , →	Lyme disease	①, →	Trichinosis
	Coccidioidomycosis (Valley Fever)	①, →	Lymphocytic choriomeningi- tis	①, →, *	Tuberculosis, active disease
 , →	Colorado tick fever	 , →	Malaria	①, →	Tuberculosis latent infection in a child five years of age or younger (positive screening test result)
 , →	Creutzfeldt-Jakob disease	 , →, *	Measles (rubeola)	 , →, *	Tularemia
 , →	Cryptosporidiosis	①, →, *	Melioidosis	 , →, *	Typhoid fever
 , →	<i>Cyclospora</i> infection	 , →, *	Meningococcal invasive dis- ease	①, →	Typhus fever
 , →	Cysticercosis	①, →, *	Mumps	①, →	Vaccinia-related adverse event
①, →	Dengue	 , →	Novel coronavirus (e.g., SARS or MERS)	①, →	Vancomycin-resistant or Vanco- mycin-intermediate <i>Staphylococ- cus aureus</i>
 , →	Diphtheria	①, →	Pertussis (whooping cough)	①, →, *	Varicella (chickenpox)
 , →	Ehrlichiosis	 , →, *	Plague	 , → ¹	<i>Vibrio</i> infection
 , →	Emerging or exotic disease	 , →, *	Poliomyelitis (paralytic or non-paralytic)	①, →	Viral hemorrhagic fever
 , →	Encephalitis, parasitic	 , →	Psittacosis (ornithosis)	 , →, *	West Nile virus infection
①, →	Encephalitis, viral	①, →	Q Fever	 , →	Yellow fever
①, →	<i>Escherichia coli</i> , Shiga toxin- producing	 , →, *	Rabies in a human	 , →, *	Yersiniosis (enteropathogenic <i>Yersinia</i>)
 , →	Giardiasis	①, →	Relapsing fever (borreliosis)	①, →, *	Zika virus infection
①, →, *	Glanders			①, →, *	

Key:

-  Notify the Department within 24 hours after receiving a report under R9-6-202 or R9-6-203.
- ① Notify the Department within one working day after receiving a report under R9-6-202 or R9-6-203.
-  Notify the Department within five working days after receiving a report under R9-6-202 or R9-6-203.
- Submit an epidemiologic investigation report within 30 calendar days after receiving a report under R9-6-202 or R9-6-203 or notifica-
tion by the Department.

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- * Ensure that an isolate of the organism for each positive culture, if available, or a specimen for each positive test result is submitted to the Arizona State Laboratory within one working day.
- ¹ Submit an epidemiologic investigation report only if a case or suspect case has died as a result of the communicable disease.

Historical Note

New Table 2.4 made by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-207. Federal or Tribal Entity Reporting

A. To the extent permitted by law, a federal or tribal entity shall comply with the reporting requirements in this Article as follows:

1. If the federal or tribal entity is participating in the diagnosis or treatment of an individual, the federal or tribal entity shall comply with the reporting requirements in R9-6-202 and Table 2.1 for a health care provider;
2. If the federal or tribal entity is operating a facility that provides health care services, the federal or tribal entity shall comply with the reporting requirements in R9-6-202 and Table 2.1 for an administrator of a health care institution;
3. If the federal or tribal entity is operating a correctional facility, the federal or tribal entity shall comply with the reporting requirements in R9-6-202 and Table 2.1 for an administrator of a correctional facility;
4. If the federal or tribal entity is operating a facility that provides child care services, the federal or tribal entity shall comply with the reporting requirements in R9-6-203 and Table 2.2 for an administrator of a child care establishment;
5. If the federal or tribal entity is operating a facility that offers instruction to students in a grade level from kindergarten through grade 12, a college or university, a "private vocational program" as defined in A.R.S. § 32-3001, or an institution that grants a "degree" as defined in A.R.S. § 32-3001, the federal or tribal entity shall comply with the reporting requirements in R9-6-203 and Table 2.2 for an administrator of a school;
6. If the federal or tribal entity is operating a clinical laboratory, the federal or tribal entity shall comply with the reporting requirements in R9-6-204 and Table 2.3 for a clinical laboratory director; and
7. If the federal or tribal entity is operating a facility that provides pharmacy services, the federal or tribal entity shall comply with the reporting requirements in R9-6-205 for an administrator of a pharmacy.

B. For the purposes of this Section, "federal or tribal entity" means a person operating within this state, whether on federal or tribal land or otherwise, under the authority of an agency or other administrative subdivision of the federal government or a tribal nation and who is:

1. Licensed as a doctor of allopathic, naturopathic, osteopathic, or homeopathic medicine under the laws of this or another state;
2. Licensed as a physician assistant under the laws of this or another state;
3. Licensed as a registered nurse practitioner under the laws of this or another state;
4. Licensed as a dentist under the laws of this or another state;
5. Operating a facility that provides health care services;
6. Operating a correctional facility;
7. Operating a facility that provides child care services;
8. Operating a facility that offers instruction to students in a grade level from kindergarten through grade 12, a college or university, a "private vocational program" as defined in A.R.S. § 32-3001, or an institution that grants a "degree" as defined in A.R.S. § 32-3001;

9. Operating a clinical laboratory; or
10. Operating a facility that provides pharmacy services.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-208. Reserved

R9-6-209. Reserved

R9-6-210. Reserved

R9-6-211. Renumbered

Historical Note

Renumbered to R9-6-201 effective May 2, 1991 (Supp. 91-2).

R9-6-212. Renumbered

Historical Note

Renumbered to R9-6-201(C) effective May 2, 1991 (Supp. 91-2).

R9-6-213. Renumbered

Historical Note

Renumbered to R9-6-202 effective May 2, 1991 (Supp. 91-2).

R9-6-214. Renumbered

Historical Note

Renumbered to R9-6-203 effective May 2, 1991 (Supp. 91-2).

ARTICLE 3. CONTROL MEASURES FOR COMMUNICABLE DISEASES AND INFESTATIONS

R9-6-301. Definitions

In this Article, unless otherwise specified:

1. "Aquatic venue" means an artificially constructed structure or modified natural structure that:
 - a. Is used:
 - i. For water contact recreation, as defined in A.A.C. R9-8-801; or
 - ii. To treat a diagnosed injury, illness, or medical condition under the supervision of a health professional, as defined in A.R.S. § 32-3201;
 - b. Is open to all individuals or to all residents of a community, members of a club or camp, individuals being treated by a specific health professional, or patrons of other such establishments; and
 - c. Includes a:
 - i. Natural bathing place as defined in A.A.C. R18-5-201,
 - ii. Public spa as defined in A.A.C. R18-5-201,
 - iii. Public swimming pool as defined in A.A.C. R18-5-201,
 - iv. Semi-artificial bathing place as defined in A.A.C. R18-5-201,
 - v. Semi-public spa as defined in A.A.C. R18-5-201,

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- vi. Semi-public swimming pool as defined in A.A.C. R18-5-201, and
 - vii. Water-play area, an artificially constructed depression in which water issues from showers or other nozzles and drains away to leave little or no standing water.
2. "Blood bank" means a facility where human whole blood or a blood component is collected, prepared, tested, processed, or stored, or from which human whole blood or a blood component is distributed.
 3. "Blood center" means a mobile or stationary facility that procures human whole blood or a blood component that is transported to a blood bank.
 4. "Contact precautions" means, in addition to use of standard precautions:
 - a. Placing an individual in a private room or a cohort room with a distance of three or more feet separating the individual's bed from the bed of another individual; and
 - b. Ensuring the use of a gown and gloves by other individuals when entering the room in which the individual is located.
 5. "Contaminated" means to have come in contact with a disease-causing agent or toxin.
 6. "Disinfection" means killing or inactivating communicable-disease-causing agents on inanimate objects by directly applied chemical or physical means.
 7. "Disinfection" means any physical, biological, or chemical process to reduce or eliminate undesired arthropod or rodent populations.
 8. "Droplet precautions" means, in addition to use of standard precautions:
 - a. Placing an individual in a private room or a cohort room with a distance of three or more feet and a curtain separating the individual's bed from the bed of another individual;
 - b. Ensuring that the individual wears a mask covering the individual's mouth and nose, if medically appropriate, when not in the room described in subsection (8)(a); and
 - c. Ensuring the use of a mask covering the mouth and nose by other individuals when entering the room in which the individual is located.
 9. "Follow-up" means the practice of investigating and monitoring cases, carriers, contacts, or suspect cases to detect, treat, or prevent disease.
 10. "Incapacitated adult" means an individual older than 18 years of age for whom a guardian has been appointed by a court of competent jurisdiction.
 11. "Isolation precautions" means methods to limit the transmission of an infectious agent, based on the infectious agent and the location of infection in or on the infected individual or animal, that includes isolation of the infected individual or animal and may include any one or combination of the following:
 - a. Standard precautions,
 - b. Contact precautions,
 - c. Droplet precautions, or
 - d. Airborne precautions.
 12. "Midwife" has the same meaning as in A.R.S. § 36-751.
 13. "Multi-drug-resistant organism" means a bacterial agent on a Department-provided list that is known to not be killed or whose growth is not slowed by specific classes of antibiotics.
 14. "Pediculocide" means a shampoo or cream rinse manufactured and labeled for controlling head lice.
 15. "Person in charge" means the individual present at a food establishment who is responsible for the food establishment's operation at the time in question.
 16. "Plasma center" means a facility where the process of plasmapheresis or another form of apheresis is conducted.
 17. "State health officer" means the Director of the Department or the Director's designee.
 18. "Vector" means a living animal, usually a mosquito, tick, flea, or other arthropod, that may transmit an infectious agent to an individual.

Historical Note

Adopted effective October 19, 1993 (Supp. 93-4).
 Amended effective April 4, 1997 (Supp. 97-2). Former R9-6-301 repealed; new R9-6-301 renumbered from R9-6-103 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-302. Local Health Agency Control Measures

A local health agency shall:

1. Review each report received under Article 2 for completeness and accuracy;
2. Confirm each diagnosis;
3. Conduct epidemiologic and other investigations required by this Chapter or in cooperation with the Department;
4. Facilitate notification of known contacts;
5. Conduct surveillance;
6. Determine trends;
7. Implement control measures, quarantines, isolations, and exclusions as required by the Arizona Revised Statutes and this Chapter;
8. Disseminate surveillance information to health care providers;
9. Provide health education to a disease case or contact to reduce the risk of transmission of the respective disease; and
10. Report to the Department, as specified in R9-6-206 and this Article.

Historical Note

Renumbered from R9-6-702 and amended effective October 19, 1993 (Supp. 93-4). Former R9-6-302 renumbered to R9-6-304; new R9-6-302 renumbered from R9-6-204 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-303. Isolation, Quarantine, Exclusion, and Other Control Measures

- A.** When a local health agency is required by this Article to isolate or quarantine an individual or group of individuals, the local health agency:
1. Shall issue a written order:
 - a. For isolation or quarantine and other control measures;
 - b. To each individual or group of individuals and, for each individual who is a minor or incapacitated adult, the individual's parent or guardian, except as provided in subsection (A)(2);
 - c. That specifies:
 - i. The isolation or quarantine and other control measure requirements being imposed, includ-

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- ing, if applicable, requirements for physical examinations and medical testing to ascertain and monitor each individual's health status;
- ii. The identity of each individual or group of individuals subject to the order;
- iii. The premises at which each individual or group of individuals is to be isolated or quarantined;
- iv. The date and time at which isolation or quarantine and other control measure requirements begin; and
- v. The justification for isolation or quarantine and other control measure requirements, including, if known, the disease for which the individual or individuals are believed to be cases, suspect cases, or contacts; and
- d. That may provide information about existing medical treatment, if available and necessary to render an individual less infectious, and the consequences of an individual's failure to obtain the medical treatment; and
- 2. May post the written order in a conspicuous place at the premises at which a group of individuals is to be isolated or quarantined if:
 - a. The written order applies to the group of individuals, and
 - b. It would be impractical to provide a copy to each individual in the group.
- B. A local health agency may issue a written order for additional control measures:
 - 1. Except as provided in subsection (A)(2), to each affected individual, group of individuals, or person and, for each individual who is a minor or incapacitated adult, the individual's parent or guardian;
 - 2. That specifies:
 - a. The control measure requirements being imposed, including, if applicable, requirements for:
 - i. Being excluded from working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a school or child care establishment;
 - ii. Avoiding other locations where the individual or an individual in the group of individuals may pose a health risk to other individuals;
 - iii. Observing airborne precautions, droplet precautions, or contact precautions and the methods by which the individual shall comply with the requirement;
 - iv. Prophylaxis or immunization, as applicable, as an alternative to or to reduce the length of exclusion;
 - v. Physical examinations and medical testing to ascertain and monitor the individual's health status; or
 - vi. Not creating a situation where additional individuals may be exposed to the communicable disease;
 - b. The identity of each individual, group of individuals, or person subject to the order;
 - c. The date and time at which the control measure requirements begin; and
 - d. The justification for the control measure requirements, including:
 - i. If known, the disease for which the individual or individuals are believed to be cases, suspect cases, or contacts; and
 - ii. If applicable, the possible consequences of the individual, group of individuals, or person failing to follow the recommendations of the Department or the local health agency to control the spread of the communicable disease; and
 - 3. That may provide information about the disease, existing medical treatment, if applicable, and the consequences of an individual's failure to comply with the order.
- C. Within 10 calendar days after the issuing of a written order described in subsection (A) or (B), if a local health agency determines that isolation, quarantine, or other control measure requirements need to continue for more than 10 calendar days after the date of the order, the local health agency shall file a petition for a court order that:
 - 1. Authorizes the continuation of isolation, quarantine, or other control measure requirements pertaining to an individual, a group of individuals, or a person;
 - 2. Includes the following:
 - a. The isolation, quarantine, or other control measure requirements being imposed, including, if applicable, requirements for physical examinations and medical testing to ascertain and monitor an individual's health status;
 - b. The identity of each individual, group of individuals, or person subject to isolation, quarantine, or other control measure requirements;
 - c. If applicable, the premises at which each individual or group of individuals is isolated or quarantined;
 - d. The date and time at which isolation, quarantine, or other control measure requirements began; and
 - e. The justification for isolation, quarantine, or other control measure requirements, including, if applicable and known, the disease for which the individual or individuals are believed to be cases, suspect cases, or contacts; and
 - 3. Is accompanied by the sworn affidavit of a representative of the local health agency or the Department attesting to the facts asserted in the petition, together with any further information that may be relevant and material to the court's consideration.
- D. A local health agency that files a petition for a court order under subsection (C) shall provide notice to each individual, group of individuals, or person identified in the petition according to the Arizona Rules of Civil Procedure, except that notice shall be provided within 24 hours after the petition is filed.
- E. In the event of noncompliance with a written order issued under subsection (A) or (B), a local health agency may contact law enforcement to request assistance in enforcing the order.
- F. If the Department determines that isolation, quarantine, or other control measure requirements are necessary, the Department, under A.R.S. § 36-136(G), may take any of the actions specified in subsections (A) through (E).

Historical Note

Renumbered from R9-6-703 and amended effective October 19, 1993 (Supp. 93-4). Former R9-6-303 renumbered to R9-6-305; new R9-6-303 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-303 renumbered to R9-6-304; new R9-6-303 renumbered from R9-6-388 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-304. Food Establishment Control Measures

The person in charge of a food establishment shall ensure compliance with all food handler exclusion requirements in this Article or as ordered by a local health agency or the Department.

Historical Note

Renumbered from R9-6-704 and amended effective October 19, 1993 (Supp. 93-4). Former R9-6-304 renumbered to R9-6-306; new R9-6-304 renumbered from R9-6-302 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-304 renumbered to R9-6-305; new R9-6-304 renumbered from R9-6-303 by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-305. Control Measures for Multi-drug-resistant Organisms

Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution transferring a case with active infection of a bacterial disease, for which the agent is known to be a multi-drug-resistant organism, to another health care provider or health care institution or to a correctional facility shall, either personally or through a representative, ensure that the receiving health care provider, health care institution, or correctional facility is informed that the patient is infected with a multi-drug-resistant organism.
2. An administrator of the correctional facility transferring a case with active infection of a bacterial disease, for which the agent is known to be a multi-drug-resistant organism, to another correctional facility or to a health care institution shall, either personally or through a representative, ensure that the receiving correctional facility or health care institution is informed that the individual is infected with a multi-drug-resistant organism.

Historical Note

Renumbered from R9-6-705 and amended effective October 19, 1993 (Supp. 93-4). Former R9-6-305 renumbered to R9-6-308; new R9-6-305 renumbered from R9-6-303 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-305 renumbered to R9-6-306; new R9-6-305 renumbered from R9-6-304 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-305 renumbered to R9-6-306; new Section R9-6-305 made by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-306. Amebiasis

Case control measures: A local health agency shall:

1. Exclude an amebiasis case or suspect case with diarrhea from:
 - a. Working as a food handler, caring for children in or attending a child care establishment, or caring for patients or residents in a health care institution until:
 - i. Either:
 - (1) Treatment with an amebicide is initiated, and
 - (2) A stool specimen negative for amoebae is obtained from the amebiasis case or suspect case; or
 - ii. The local health agency has determined that the amebiasis case or suspect case is unlikely to infect other individuals; and

- b. Using an aquatic venue for two weeks after diarrhea has resolved;
2. Conduct an epidemiologic investigation of each reported amebiasis case or suspect case; and
3. For each amebiasis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

Historical Note

Renumbered from R9-6-706 and amended effective October 19, 1993 (Supp. 93-4). Former R9-6-306 renumbered to R9-6-309; new R9-6-306 renumbered from R9-6-304 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-306 renumbered to R9-6-307; new R9-6-306 renumbered from R9-6-305 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-306 renumbered to R9-6-308; new Section R9-6-306 renumbered from R9-6-305 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-307. Anaplasmosis

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported anaplasmosis case or suspect case; and
2. For each anaplasmosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

Historical Note

Former Section R9-6-115, Paragraph (5), renumbered and amended as R9-6-707 effective January 28, 1987 (Supp. 87-1). Former R9-6-307 renumbered to R9-6-310; new R9-6-307 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-307 renumbered to R9-6-308; new R9-6-307 renumbered from R9-6-306 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-307 repealed; new Section R9-6-307 made by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-308. Anthrax

A. Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of an anthrax case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported anthrax case or suspect case;
3. For each anthrax case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
4. Ensure that an isolate or a specimen, as available, from each anthrax case or suspect case is submitted to the Arizona State Laboratory.

B. Environmental control measures: A local health agency shall, in conjunction with the Department and applicable federal agencies, provide or arrange for disinfection of areas or objects contaminated by *Bacillus anthracis* through sterilization by dry heating, incineration of objects, or other appropriate means.

Historical Note

Adopted effective October 19, 1993 (Supp. 93-4). Amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Former R9-6-308 renumbered to R9-6-311; new R9-6-308 renumbered from R9-

6-305 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-308 renumbered to R9-6-309; new R9-6-308 renumbered from R9-6-307 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-308 renumbered to R9-6-311; new Section R9-6-308 renumbered from R9-6-306 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-309. Arboviral Infection

- A.** Case control measures: A local health agency shall:
1. Conduct an epidemiologic investigation of each reported arboviral infection case or suspect case;
 2. For each arboviral infection case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
 3. Ensure that each arboviral infection case is provided with health education that includes measures to:
 - a. Avoid mosquito bites, and
 - b. Reduce mosquito breeding sites.
- B.** Environmental control measures: In cooperation with the Department, a local health agency or another local agency responsible for vector control within a jurisdiction shall conduct an assessment of the environment surrounding each arboviral infection case or suspect case and implement vector control measures as necessary.

Historical Note

Renumbered from R9-6-708 and amended effective October 19, 1993 (Supp. 93-4). Amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Former R9-6-309 renumbered to R9-6-312; new R9-6-309 renumbered from R9-6-306 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-309 renumbered to R9-6-310; new R9-6-309 renumbered from R9-6-308 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-309 renumbered to R9-6-312; new Section R9-6-309 made by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-310. Babesiosis

- Case control measures: A local health agency shall:
1. Conduct an epidemiologic investigation of each reported babesiosis case or suspect case; and
 2. For each babesiosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

Historical Note

Renumbered from R9-6-709 and amended effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Former R9-6-310 renumbered to R9-6-313; new R9-6-310 renumbered from R9-6-307 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-310 renumbered to R9-6-311; new R9-6-310 renumbered from R9-6-309 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-310 renumbered to R9-6-313; new Section R9-6-310 made by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-311. Basidiobolomycosis

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported basidiobolomycosis case or suspect case; and
2. For each basidiobolomycosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

Historical Note

Repealed effective May 2, 1991 (Supp. 91-2). New Section R9-6-311 renumbered from R9-6-710 and amended effective October 19, 1993 (Supp. 93-4). Former R9-6-311 renumbered to R9-6-314; new R9-6-311 renumbered from R9-6-308 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-311 renumbered to R9-6-313; new R9-6-311 renumbered from R9-6-310 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-311 renumbered to R9-6-314; new Section R9-6-311 renumbered from R9-6-308 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-312. Botulism

- A.** Case control measures: A local health agency shall:
1. Upon receiving a report under R9-6-202 of a botulism case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
 2. Conduct an epidemiologic investigation of each reported botulism case or suspect case; and
 3. For each botulism case or suspect case:
 - a. Submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
 - b. Ensure that one or more specimens from each botulism case or suspect case are submitted to the Arizona State Laboratory.
- B.** Environmental control measures: An individual in possession of:
1. Food known to be contaminated by *Clostridium botulinum* or *Clostridium botulinum* toxin shall boil the contaminated food for 10 minutes and then discard it, and
 2. Utensils known to be contaminated by *Clostridium botulinum* or *Clostridium botulinum* toxin shall boil the contaminated utensils for 10 minutes before reuse or disposal.

Historical Note

Adopted effective October 19, 1993 (Supp. 93-4). Former R9-6-312 renumbered to R9-6-315; new R9-6-312 renumbered from R9-6-309 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-312 renumbered to R9-6-314; new R9-6-312 made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-312 renumbered to R9-6-316; new Section R9-6-312 renumbered from R9-6-309 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-313. Brucellosis

- Case control measures: A local health agency shall:
1. Conduct an epidemiologic investigation of each reported brucellosis case or suspect case;
 2. For each brucellosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
 3. Ensure that an isolate or a specimen, as available, from each brucellosis case is submitted to the Arizona State Laboratory.

Historical Note

Renumbered from R9-6-711 and amended effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Former R9-6-313 renumbered to R9-6-316; new R9-6-313 renumbered from R9-6-310 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-313 renumbered to R9-6-315; new R9-6-313 renumbered from R9-6-311 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-313 renumbered to R9-6-317; new Section R9-6-313 renumbered from R9-6-310 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-314. Campylobacteriosis

Case control measures: A local health agency shall:

1. Exclude a campylobacteriosis case or suspect case with diarrhea from:
 - a. Working as a food handler, caring for children in or attending a child care establishment, or caring for patients or residents in a health care institution until:
 - i. Diarrhea has resolved,
 - ii. A stool specimen negative for *Campylobacter* spp. is obtained from the campylobacteriosis case or suspect case, or
 - iii. The local health agency has determined that the case or suspect case is unlikely to infect other individuals; and
 - b. Using an aquatic venue until diarrhea has resolved;
2. Conduct an epidemiologic investigation of each reported campylobacteriosis case or suspect case; and
3. For each campylobacteriosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

Historical Note

Adopted effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Former R9-6-314 renumbered to R9-6-318; new R9-6-314 renumbered from R9-6-311 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-314 renumbered to R9-6-316; new R9-6-314 renumbered from R9-6-312 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-314 renumbered to R9-6-319; new Section R9-6-314 renumbered from R9-6-311 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-315. Carbapenem-resistant Enterobacteriaceae

A. Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall:
 - a. Institute isolation precautions as necessary for a carbapenem-resistant enterobacteriaceae case or carrier to prevent transmission; and
 - b. If a carbapenem-resistant enterobacteriaceae case or carrier is being transferred to another health care provider or health care institution or to a correctional facility, comply with R9-6-305.
2. An administrator of a correctional facility, either personally or through a representative, shall:
 - a. Institute isolation precautions as necessary for a carbapenem-resistant enterobacteriaceae case or carrier to prevent transmission; and

- b. If a carbapenem-resistant enterobacteriaceae case or carrier is being transferred to another correctional facility or to a health care institution, comply with R9-6-305.
3. A local health agency, in consultation with the Department, shall:
 - a. Ensure that a case or carrier of carbapenem-resistant enterobacteriaceae is isolated as necessary to prevent transmission; and
 - b. Upon request, ensure that an isolate or a specimen, as available, from each case or carrier of carbapenem-resistant enterobacteriaceae is submitted to the Arizona State Laboratory.
- B. Outbreak control measures:** A local health agency shall:
1. Conduct an epidemiologic investigation for each outbreak or suspected outbreak of carbapenem-resistant enterobacteriaceae; and
 2. For each outbreak or suspected outbreak of carbapenem-resistant enterobacteriaceae, submit to the Department the information required under R9-6-206(E).

Historical Note

Renumbered from R9-6-712 and amended effective October 19, 1993 (Supp. 93-4). Former R9-6-315 renumbered to R9-6-321; new R9-6-315 renumbered from R9-6-312 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-315 renumbered to R9-6-317; new R9-6-315 renumbered from R9-6-313 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-315 renumbered to R9-6-320; new Section R9-6-315 made by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-316. Chagas Infection and Related Disease (American Trypanosomiasis)

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported Chagas infection or disease case or suspect case; and
2. For each Chagas infection or disease case:
 - a. Submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
 - b. Provide to the Chagas infection or disease case or ensure that another person provides to the Chagas infection or disease case health education that includes:
 - i. The treatment options for Chagas infection or disease,
 - ii. Where the Chagas infection or disease case may receive treatment for Chagas infection or disease, and
 - iii. For women of childbearing age, the risks of transmission of Chagas infection or disease to a fetus.

Historical Note

Renumbered from R9-6-713 and amended effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Former R9-6-316 repealed; new R9-6-316 renumbered from R9-6-313 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-316 renumbered to R9-6-318; new R9-6-316 renumbered from R9-6-314 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-316 renumbered to R9-6-322; new Section R9-6-316 renumbered

from R9-6-312 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-317. Chancroid (*Haemophilus ducreyi*)

- A.** Case control measures: A local health agency shall:
1. Conduct an epidemiologic investigation of each reported chancroid case or suspect case;
 2. For each chancroid case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
 3. Comply with the requirements specified in R9-6-1103 concerning treatment and health education for a chancroid case.
- B.** Contact control measures: When a chancroid case has named a contact, a local health agency shall comply with the requirements specified in R9-6-1103 concerning notification, testing, treatment, and health education for the contact.

Historical Note

Renumbered from R9-6-714 and amended effective October 19, 1993 (Supp. 93-4). Former R9-6-317 renumbered to R9-6-323; new R9-6-317 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-317 renumbered to R9-6-319; new R9-6-317 renumbered from R9-6-315 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-317 renumbered to R9-6-323; new Section R9-6-317 renumbered from R9-6-313 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-318. Chikungunya

- A.** Case control measures: A local health agency shall:
1. Upon receiving a report under R9-6-202 of a chikungunya case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
 2. Conduct an epidemiologic investigation of each reported chikungunya case or suspect case;
 3. For each chikungunya case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
 4. Ensure that each chikungunya case is provided with health education that includes measures to:
 - a. Avoid mosquito bites, and
 - b. Reduce mosquito breeding sites.
- B.** Environmental control measures: In cooperation with the Department, a local health agency or another local agency responsible for vector control within a jurisdiction shall conduct an assessment of the environment surrounding each chikungunya case or suspect case and implement vector control measures as necessary.

Historical Note

Adopted effective October 19, 1993 (Supp. 93-4). Former R9-6-318 renumbered to R9-6-324; new R9-6-318 renumbered from R9-6-314 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-318 renumbered to R9-6-320; new R9-6-318 renumbered from R9-6-316 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-318 renumbered to R9-6-324; new Section R9-6-318 made by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-319. *Chlamydia trachomatis* Infection

- A.** Case control measures: A local health agency shall comply with the requirements specified in R9-6-1103 concerning treatment and health education for a *Chlamydia trachomatis* infection case that seeks treatment from the local health agency.
- B.** Contact control measures: If an individual who may have been exposed to chlamydia through sexual contact with a *Chlamydia trachomatis* infection case seeks treatment for symptoms of chlamydia infection from a local health agency, the local health agency shall comply with the requirements specified in R9-6-1103 concerning treatment and health education for the individual.

Historical Note

Renumbered from R9-6-715 and amended effective October 19, 1993 (Supp. 93-4). Former R9-6-319 renumbered to R9-6-326; new R9-6-319 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-319 renumbered to R9-6-321; new R9-6-319 renumbered from R9-6-317 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-319 renumbered to R9-6-325; new Section R9-6-319 renumbered from R9-6-314 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-320. Cholera

- A.** Case control measures: A local health agency shall:
1. Upon receiving a report under R9-6-202 of a cholera case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
 2. Exclude a cholera case or suspect case from:
 - a. Working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment until a stool specimen negative for toxigenic *Vibrio cholerae* is obtained from the cholera case or suspect case; and
 - b. Using an aquatic venue until diarrhea has resolved;
 3. Conduct an epidemiologic investigation of each reported cholera case or suspect case; and
 4. For each cholera case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).
- B.** Contact control measures: A local health agency shall provide follow-up for each cholera contact for five calendar days after exposure.

Historical Note

Renumbered from R9-6-716 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-320 renumbered to Section R9-6-321; new Section R9-6-320 adopted effective April 4, 1997 (Supp. 97-2). Section repealed; new Section made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-320 renumbered to R9-6-322; new R9-6-320 renumbered from R9-6-318 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-320 renumbered to R9-6-326; new Section R9-6-320 renumbered from R9-6-315 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-321. *Clostridium difficile*

Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution transferring a known *Clostridium difficile* case with active infection and diarrhea to another

health care provider or health care institution or to a correctional facility shall, either personally or through a representative, ensure that the receiving health care provider, health care institution, or correctional facility is informed that the patient is a known *Clostridium difficile* case.

2. If a known *Clostridium difficile* case with active infection and diarrhea is being transferred from a correctional facility to another correctional facility or to a health care institution, an administrator of the correctional facility, either personally or through a representative, shall ensure that the receiving correctional facility or health care institution is informed that the individual is a known *Clostridium difficile* case.

Historical Note

Renumbered from R9-6-717 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-321 renumbered to R9-6-322; new Section R9-6-321 renumbered from R9-6-320 effective April 4, 1997 (Supp. 97-2). Former R9-6-321 renumbered to R9-6-322; new R9-6-321 renumbered from R9-6-315 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-321 renumbered to R9-6-323; new R9-6-321 renumbered from R9-6-319 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-321 renumbered to R9-6-327; new Section R9-6-321 made by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-322. Coccidioidomycosis (Valley Fever)

Outbreak control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported outbreak of coccidioidomycosis; and
2. For each outbreak of coccidioidomycosis, submit to the Department the information required under R9-6-206(E).

Historical Note

Renumbered from R9-6-718 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-322 renumbered to R9-6-323; new Section R9-6-322 renumbered from R9-6-321 effective April 4, 1997 (Supp. 97-2). Former R9-6-322 renumbered to R9-6-329; new R9-6-322 renumbered from R9-6-321 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-322 renumbered to R9-6-324; new R9-6-322 renumbered from R9-6-320 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-322 renumbered to R9-6-328; new Section R9-6-322 renumbered from R9-6-316 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-323. Colorado Tick Fever

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported Colorado tick fever case or suspect case; and
2. For each Colorado tick fever case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

Historical Note

Renumbered from R9-6-719 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-323 renumbered to R9-6-324; new Section R9-6-323 renumbered from R9-6-322 and amended effective April 4, 1997 (Supp. 97-2). Amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Former R9-6-323 renumbered to R9-6-330; new R9-6-323

renumbered from R9-6-317 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-323 renumbered to R9-6-325; new R9-6-323 renumbered from R9-6-321 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-323 renumbered to R9-6-329; new Section R9-6-323 renumbered from R9-6-317 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-324. Conjunctivitis: Acute

- A. Case control measures: An administrator of a school or child care establishment, either personally or through a representative, shall exclude an acute conjunctivitis case from attending the school or child care establishment until the symptoms of acute conjunctivitis subside or treatment for acute conjunctivitis is initiated and maintained for 24 hours.
- B. Outbreak control measures: A local health agency shall:
 1. Conduct an epidemiologic investigation of each reported conjunctivitis outbreak; and
 2. For each conjunctivitis outbreak, submit to the Department the information required under R9-6-206(E).

Historical Note

Renumbered from R9-6-720 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-324 renumbered to R9-6-326; new Section R9-6-324 renumbered from R9-6-323, effective April 4, 1997 (Supp. 97-2). Former R9-6-324 renumbered to R9-6-331; new R9-6-324 renumbered from R9-6-318 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-324 renumbered to R9-6-326; new R9-6-324 renumbered from R9-6-322 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-324 renumbered to R9-6-330; new Section R9-6-324 renumbered from R9-6-318 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-325. Creutzfeldt-Jakob Disease

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported Creutzfeldt-Jakob disease case or suspect case; and
2. For each Creutzfeldt-Jakob disease case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

Historical Note

Renumbered from R9-6-721 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-325 renumbered to R9-6-327; new Section R9-6-325 adopted effective April 4, 1997 (Supp. 97-2). Former R9-6-325 renumbered to R9-6-333; new R9-6-325 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-325 renumbered to R9-6-327; new R9-6-325 renumbered from R9-6-323 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-325 renumbered to R9-6-331; new Section R9-6-325 renumbered from R9-6-319 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-326. Cryptosporidiosis

A. Case control measures: A local health agency shall:

1. Exclude a cryptosporidiosis case or suspect case with diarrhea from:
 - a. Working as a food handler, caring for patients or residents in a health care institution, or caring for chil-

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- dren in or attending a child care establishment until diarrhea has resolved; and
- b. Using an aquatic venue for two weeks after diarrhea has resolved;
- 2. Conduct an epidemiologic investigation of each reported cryptosporidiosis case or suspect case; and
- 3. For each cryptosporidiosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

- B.** Environmental control measures: A local health agency shall conduct a sanitary inspection or ensure that a sanitary inspection is conducted of each facility or location regulated under 9 A.A.C. 8 that is associated with an outbreak of cryptosporidiosis.

Historical Note

Adopted effective October 19, 1993 (Supp. 93-4). Former Section R9-6-326 renumbered to R9-6-329; new Section R9-6-326 renumbered from R9-6-324 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-326 renumbered to R9-6-335; new R9-6-326 renumbered from R9-6-319 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-326 renumbered to R9-6-328; new R9-6-326 renumbered from R9-6-324 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-326 renumbered to R9-6-332; new Section R9-6-326 renumbered from R9-6-320 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-327. Cyclospora Infection

Case control measures: A local health agency shall:

- 1. Conduct an epidemiologic investigation of each reported *Cyclospora* infection case or suspect case; and
- 2. For each *Cyclospora* infection case submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

Historical Note

Renumbered from R9-6-722 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-327 renumbered to R9-6-330; new Section R9-6-327 renumbered from R9-6-325 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-327 renumbered to R9-6-336; new R9-6-327 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-327 renumbered to R9-6-329; new R9-6-327 renumbered from R9-6-325 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-327 renumbered to R9-6-333; new Section R9-6-327 renumbered from R9-6-321 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-328. Cysticercosis

Case control measures: A local health agency shall:

- 1. Conduct an epidemiologic investigation of each reported cysticercosis case or suspect case; and
- 2. For each cysticercosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

Historical Note

Renumbered from R9-6-701 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-328 renumbered to R9-6-331; new Section R9-6-328 adopted effective April 4, 1997 (Supp. 97-2). Former R9-6-328 renumbered to R9-6-337; new R9-6-328 made by final

rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-328 renumbered to R9-6-330; new R9-6-328 renumbered from R9-6-326 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-328 renumbered to R9-6-334; new Section R9-6-328 renumbered from R9-6-322 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-329. Dengue

A. Case control measures: A local health agency shall:

- 1. Upon receiving a report under R9-6-202 of a dengue case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
- 2. Conduct an epidemiologic investigation of each reported dengue case or suspect case;
- 3. For each dengue case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
- 4. Ensure that each dengue case is provided with health education that includes measures to:
 - a. Avoid mosquito bites, and
 - b. Reduce mosquito breeding sites.

- B.** Environmental control measures: In cooperation with the Department, a local health agency or another local agency responsible for vector control within a jurisdiction shall conduct an assessment of the environment surrounding each dengue case or suspect case and implement vector control measures as necessary.

Historical Note

Adopted effective October 19, 1993 (Supp. 93-4). Section R9-6-329 renumbered to R9-6-332; new Section R9-6-329 renumbered from R9-6-326 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-329 repealed; new R9-6-329 renumbered from R9-6-322 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-329 renumbered to R9-6-331; new R9-6-329 renumbered from R9-6-327 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-329 renumbered to R9-6-335; new Section R9-6-329 renumbered from R9-6-323 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-330. Diarrhea, Nausea, or Vomiting

A. Outbreak control measures: A local health agency shall:

- 1. Conduct an epidemiologic investigation of each reported outbreak of diarrhea, nausea, or vomiting;
- 2. Submit to the Department the information required under R9-6-206(E); and
- 3. Exclude each case that is part of an outbreak of diarrhea, nausea, or vomiting from:
 - a. Working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment until:
 - i. Diarrhea and vomiting have resolved, or
 - ii. The local health agency has determined that the case is unlikely to infect other individuals; and
 - b. Using an aquatic venue for two weeks after diarrhea has resolved.

- B.** Environmental control measures: A local health agency shall conduct a sanitary inspection or ensure that a sanitary inspection is conducted of each facility or location regulated under 9 A.A.C. 8 that is associated with an outbreak of diarrhea, nausea, or vomiting.

Historical Note

Renumbered from R9-6-723 and amended effective October 19, 1993 (Supp. 93-4). Section R9-6-330 renumbered to R9-6-333; new Section R9-6-330 renumbered from R9-6-327 effective April 4, 1997 (Supp. 97-2). Amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Former R9-6-330 repealed; new R9-6-330 renumbered from R9-6-323 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-330 renumbered to R9-6-332; new R9-6-330 renumbered from R9-6-328 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 1928, effective April 30, 2013 (Supp. 13-3). New Section R9-6-330 renumbered from R9-6-324 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-331. Diphtheria**A. Case control measures:**

1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall:
 - a. Isolate and institute droplet precautions for a pharyngeal diphtheria case or suspect case until two successive sets of cultures negative for *Corynebacterium diphtheriae* are obtained from nose and throat specimens collected from the case or suspect case at least 24 hours apart and at least 24 hours after cessation of treatment; and
 - b. Isolate and institute contact precautions for a cutaneous diphtheria case or suspect case until two successive sets of cultures negative for *Corynebacterium diphtheriae* are obtained from skin specimens collected from the case or suspect case at least 24 hours apart and at least 24 hours after cessation of treatment.
2. A local health agency shall:
 - a. Upon receiving a report under R9-6-202 of a diphtheria case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
 - b. Conduct an epidemiologic investigation of each reported diphtheria case or suspect case; and
 - c. For each diphtheria case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

B. Contact control measures: A local health agency shall:

1. Exclude each diphtheria contact from working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a school or child care establishment until a set of cultures negative for *Corynebacterium diphtheriae* is obtained from the contact's nose and throat specimens;
2. In consultation with the Department, quarantine a contact of a diphtheria case, if indicated, until two successive sets of cultures negative for *Corynebacterium diphtheriae* are obtained from nose and throat specimens collected from the contact at least 24 hours apart;
3. Offer each previously immunized diphtheria contact prophylaxis and a vaccine containing diphtheria toxoid; and
4. Offer each unimmunized diphtheria contact prophylaxis and the primary vaccine series.

Historical Note

Renumbered from R9-6-724 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-331 renumbered to R9-6-334; new Section R9-6-331 renumbered from R9-6-328 effective April 4, 1997 (Supp. 97-2). Amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Former R9-6-331 renumbered to R9-6-339; new R9-6-331 renumbered from R9-6-324 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-331 renumbered to R9-6-333; new R9-6-331 renumbered from R9-6-329 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-331 renumbered to R9-6-336; new Section R9-6-331 renumbered from R9-6-325 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-332. Ehrlichiosis**Case control measures: A local health agency shall:**

1. Conduct an epidemiologic investigation of each reported ehrlichiosis case or suspect case; and
2. For each ehrlichiosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

Historical Note

Renumbered from R9-6-725 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-332 renumbered to R9-6-335; new Section R9-6-332 renumbered from R9-6-329 effective April 4, 1997 (Supp. 97-2). Former R9-6-332 repealed; new R9-6-332 renumbered from R9-6-334 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-332 renumbered to R9-6-334; new R9-6-332 renumbered from R9-6-330 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-332 renumbered to R9-6-338; new Section R9-6-332 renumbered from R9-6-326 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-333. Emerging or Exotic Disease**A. Case control measures: A local health agency shall:**

1. Upon receiving a report under R9-6-202 of an emerging or exotic disease case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
2. In consultation with the Department, isolate an emerging or exotic disease case or suspect case as necessary to prevent transmission;
3. Conduct an epidemiologic investigation of each reported emerging or exotic disease case or suspect case; and
4. For each emerging or exotic disease case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

B. Contact control measures: A local health agency, in consultation with the Department, shall quarantine or exclude an emerging or exotic disease contact as necessary, according to R9-6-303, to prevent transmission.**Historical Note**

Renumbered from R9-6-726 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-333 renumbered to R9-6-336; new Section R9-6-333 renumbered from R9-6-330 effective April 4, 1997 (Supp. 97-2). Former R9-6-333 renumbered to R9-6-341; new R9-

6-333 renumbered from R9-6-325 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-333 renumbered to R9-6-335; new R9-6-333 renumbered from R9-6-331 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-333 renumbered to R9-6-339; new Section R9-6-333 renumbered from R9-6-327 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-334. Encephalitis, Viral or Parasitic

Case control measures: A local health agency shall:

1. Upon receiving a report of encephalitis under R9-6-202, notify the Department:
 - a. For a case or suspect case of parasitic encephalitis, within 24 hours after receiving the report and provide to the Department the information contained in the report; and
 - b. For a case or suspect case of viral encephalitis, within one working day after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported viral or parasitic encephalitis case or suspect case; and
3. For each encephalitis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

Historical Note

Renumbered from R9-6-727 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-334 renumbered to R9-6-337; new Section R9-6-334 renumbered from R9-6-331 effective April 4, 1997 (Supp. 97-2). Former R9-6-334 renumbered to R9-6-332; new R9-6-334 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-334 renumbered to R9-6-336; new R9-6-334 renumbered from R9-6-332 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-334 renumbered to R9-6-340; new Section R9-6-334 renumbered from R9-6-328 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-335. *Escherichia coli*, Shiga Toxin-producing

A. Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 or R9-6-203 of a Shiga toxin-producing *Escherichia coli* case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
2. Exclude a Shiga toxin-producing *Escherichia coli* case or suspect case with diarrhea from:
 - a. Working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment until:
 - i. Two successive stool specimens, collected from the Shiga toxin-producing *Escherichia coli* case or suspect case at least 24 hours apart, are negative for Shiga toxin-producing *Escherichia coli*;
 - ii. Diarrhea has resolved; or
 - iii. The local health agency has determined that the case or suspect case is unlikely to infect other individuals; and
 - b. Using an aquatic venue for two weeks after diarrhea has resolved;

3. Conduct an epidemiologic investigation of each reported Shiga toxin-producing *Escherichia coli* case or suspect case; and
4. For each Shiga toxin-producing *Escherichia coli* case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

B. Environmental control measures: A local health agency shall:

1. If an animal located in a private residence is suspected to be the source of infection for a Shiga toxin-producing *Escherichia coli* case or outbreak, provide health education for the animal's owner about Shiga toxin-producing *Escherichia coli* and the risks of becoming infected with Shiga toxin-producing *Escherichia coli*; and
2. If an animal located in a setting other than a private residence is suspected to be the source of infection for a Shiga toxin-producing *Escherichia coli* case or outbreak:
 - a. Provide health education for the animal's owner about Shiga toxin-producing *Escherichia coli* and the risks of becoming infected with Shiga toxin-producing *Escherichia coli*; and
 - b. Require the animal's owner to provide information to individuals with whom the animal may come into contact about Shiga toxin-producing *Escherichia coli* and methods to reduce the risk of transmission.

Historical Note

Renumbered from R9-6-728 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-335 renumbered to R9-6-338; new Section R9-6-335 renumbered from R9-6-332 effective April 4, 1997 (Supp. 97-2). Former R9-6-335 renumbered to R9-6-342; new R9-6-335 renumbered from R9-6-326 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-335 renumbered to R9-6-337; new R9-6-335 renumbered from R9-6-333 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-335 renumbered to R9-6-341; new Section R9-6-335 renumbered from R9-6-329 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-336. Giardiasis

Case control measures: A local health agency shall:

1. Exclude a giardiasis case or suspect case with diarrhea from:
 - a. Working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment until:
 - i. Treatment for giardiasis is initiated and diarrhea has resolved; or
 - ii. The local health agency has determined that the case or suspect case is unlikely to infect other individuals; and
 - b. Using an aquatic venue for two weeks after diarrhea has resolved;
2. Conduct an epidemiologic investigation of each reported giardiasis case or suspect case; and
3. For each giardiasis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

Historical Note

Renumbered from R9-6-729 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-336 renumbered to R9-6-339; new Section R9-6-336 renumbered from R9-6-333 effective April 4, 1997 (Supp. 97-2). Former R9-6-336 renumbered to R9-6-343; new R9-6-336 renumbered from R9-6-327 and amended by final

rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-336 renumbered to R9-6-338; new R9-6-336 renumbered from R9-6-334 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-336 renumbered to R9-6-342; new Section R9-6-336 renumbered from R9-6-331 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-337. Glanders

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a glanders case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported glanders case or suspect case;
3. For each glanders case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
4. Ensure that an isolate or a specimen, as available, from each glanders case or suspect case is submitted to the Arizona State Laboratory.

Historical Note

Renumbered from R9-6-730 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-337 renumbered to R9-6-340; new Section R9-6-337 renumbered from R9-6-334 effective April 4, 1997 (Supp. 97-2). Former R9-6-337 renumbered to R9-6-344; new R9-6-337 renumbered from R9-6-328 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-337 renumbered to R9-6-339; new R9-6-337 renumbered from R9-6-335 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-337 renumbered to R9-6-343; new Section R9-6-337 made by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-338. Gonorrhea

A. Case control measures:

1. For the prevention of gonorrheal ophthalmia, a physician, physician assistant, registered nurse practitioner, or midwife attending the birth of an infant in this state shall treat the eyes of the infant immediately after the birth with one of the following, unless treatment is refused by the parent or guardian:
 - a. Erythromycin ophthalmic ointment 0.5%, or
 - b. Tetracycline ophthalmic ointment 1%.
2. A local health agency shall comply with the requirements specified in R9-6-1103 concerning treatment and health education for a gonorrhea case that seeks treatment from the local health agency.

B. Contact control measures: If an individual who may have been exposed to gonorrhea through sexual contact with a gonorrhea case seeks treatment for symptoms of gonorrhea from a local health agency, the local health agency shall comply with the requirements specified in R9-6-1103 concerning treatment and health education for the individual.

Historical Note

Renumbered from R9-6-731 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-338 renumbered to R9-6-341; new Section R9-6-338 renumbered from R9-6-335 effective April 4, 1997 (Supp. 97-2). Former R9-6-338 renumbered to R9-6-346; new R9-

6-338 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-338 renumbered to R9-6-340; new R9-6-338 renumbered from R9-6-336 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-338 renumbered to R9-6-344; new Section R9-6-338 renumbered from R9-6-332 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-339. *Haemophilus influenzae*: Invasive Disease

A. Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and institute droplet precautions for a *Haemophilus influenzae* meningitis or epiglottitis case or suspect case for 24 hours after the initiation of treatment.
2. A local health agency shall:
 - a. Upon receiving a report under R9-6-202 or R9-6-203 of a *Haemophilus influenzae* invasive disease case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
 - b. Conduct an epidemiologic investigation of each reported *Haemophilus influenzae* invasive disease case or suspect case; and
 - c. For each *Haemophilus influenzae* invasive disease case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

B. Contact control measures: A local health agency shall evaluate the level of risk of transmission from each contact's exposure to a *Haemophilus influenzae* invasive disease case and, if indicated, shall provide or arrange for each contact to receive immunization or treatment.

Historical Note

Renumbered from R9-6-732 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-339 renumbered to R9-6-342; new Section R9-6-339 renumbered from R9-6-336 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-339 renumbered to R9-6-347; new R9-6-339 renumbered from R9-6-331 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-339 renumbered to R9-6-341; new R9-6-339 renumbered from R9-6-337 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-339 renumbered to R9-6-345; new Section R9-6-339 renumbered from R9-6-333 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-340. Hansen's Disease (Leprosy)

A. Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported Hansen's disease case or suspect case; and
2. For each Hansen's disease case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

B. Contact control measures: In consultation with the Department, a local health agency shall examine contacts of a Hansen's disease case, if indicated, for signs and symptoms of leprosy at six-to-twelve month intervals for five years after the last exposure to an infectious case.

Historical Note

Renumbered from R9-6-733 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-340 renumbered to R9-6-343; new Section R9-6-340 renumbered from R9-6-337 effective April 4, 1997 (Supp. 97-2). Former R9-6-340 renumbered to R9-6-348; new R9-6-340 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-340 renumbered to R9-6-343; new R9-6-340 renumbered from R9-6-338 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-340 renumbered to R9-6-346; new Section R9-6-340 renumbered from R9-6-334 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-341. Hantavirus Infection

- A.** Case control measures: A local health agency shall:
1. Upon receiving a report under R9-6-202 of a hantavirus infection case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
 2. Ensure that a hantavirus infection case or, if the case is a child or incapacitated adult, the parent or guardian of the case receives health education about reducing the risks of becoming reinfected with or of having others become infected with hantavirus;
 3. Conduct an epidemiologic investigation of each reported hantavirus infection case or suspect case; and
 4. For each hantavirus infection case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).
- B.** Environmental control measures: A local health agency shall conduct an environmental assessment for each hantavirus infection case or suspect case.

Historical Note

Renumbered from R9-6-734 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-341 renumbered to R9-6-344; new Section R9-6-341 renumbered from R9-6-338 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-341 renumbered to R9-6-349; new R9-6-341 renumbered from R9-6-333 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-341 renumbered to R9-6-344; new R9-6-341 renumbered from R9-6-339 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-341 renumbered to R9-6-347; new Section R9-6-341 renumbered from R9-6-335 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-342. Hemolytic Uremic Syndrome

- A.** Case control measures: A local health agency shall:
1. Upon receiving a report under R9-6-202 of a hemolytic uremic syndrome case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
 2. Conduct an epidemiologic investigation of each reported hemolytic uremic syndrome case or suspect case; and
 3. For each hemolytic uremic syndrome case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

- B.** Contact control measures: A local health agency shall exclude a hemolytic uremic syndrome contact with diarrhea of unknown cause from working as a food handler until diarrhea has resolved.

Historical Note

Renumbered from R9-6-735 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-342 renumbered to R9-6-345; new Section R9-6-342 renumbered from R9-6-339 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-342 renumbered to R9-6-350; new R9-6-342 renumbered from R9-6-335 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-342 renumbered to R9-6-345; new R9-6-342 made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-342 renumbered to R9-6-348; new Section R9-6-342 renumbered from R9-6-336 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-343. Hepatitis A

- A.** Case control measures: A local health agency shall:
1. Upon receiving a report under R9-6-202 or R9-6-203 of a hepatitis A case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
 2. Exclude a hepatitis A case or suspect case from working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment during the first 14 calendar days of illness or for seven calendar days after onset of jaundice;
 3. Conduct an epidemiologic investigation of each reported hepatitis A case or suspect case; and
 4. For each hepatitis A case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).
- B.** Contact control measures: A local health agency shall:
1. Exclude a hepatitis A contact with symptoms of hepatitis A from working as a food handler during the first 14 calendar days of illness or for seven calendar days after onset of jaundice;
 2. For 45 calendar days after exposure, monitor a food handler who was a contact of a hepatitis A case during the infectious period for symptoms of hepatitis A; and
 3. Evaluate the level of risk of transmission from each contact's exposure to a hepatitis A case and, if indicated, provide or arrange for each contact to receive prophylaxis and immunization.

Historical Note

Renumbered from R9-6-736 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-343 renumbered to R9-6-346; new Section R9-6-343 renumbered from R9-6-340 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-343 renumbered to R9-6-351; new R9-6-343 renumbered from R9-6-336 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-343 renumbered to R9-6-346; new R9-6-343 renumbered from R9-6-340 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 1928, effective April 30, 2013 (Supp. 13-3). New Section R9-6-343 renumbered from R9-6-337 and amended by

final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-344. Hepatitis B and Hepatitis D

A. Case control measures:

1. A local health agency shall:
 - a. Evaluate a health care provider identified as the source of hepatitis B virus transmission in the work place and, if indicated, ensure reassignment of the health care provider to a position where the occupational risk of transmission is eliminated;
 - b. Conduct an epidemiologic investigation of each reported case or suspect case of hepatitis B or hepatitis B co-infected with hepatitis D; and
 - c. For each acute case of hepatitis B or hepatitis B co-infected with hepatitis D or case of perinatal hepatitis B, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).
2. The operator of a blood bank, blood center, or plasma center shall notify a donor of a test result with significant evidence suggestive of hepatitis B, as required under A.R.S. § 32-1483 and 21 CFR 630.6.

B. Contact control measures: A local health agency shall:

1. Refer each non-immune hepatitis B contact to a health care provider for prophylaxis and initiation of the hepatitis B vaccine series, and
2. Provide health education related to the progression of hepatitis B disease and the prevention of transmission of hepatitis B infection to each non-immune hepatitis B contact.

Historical Note

Renumbered from R9-6-737 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-344 renumbered to R9-6-347; new Section R9-6-344 renumbered from R9-6-341 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-344 renumbered to R9-6-352; new R9-6-344 renumbered from R9-6-337 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-344 renumbered to R9-6-347; new R9-6-344 renumbered from R9-6-341 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-344 renumbered to R9-6-349; new Section R9-6-344 renumbered from R9-6-338 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-345. Hepatitis C

Outbreak control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported hepatitis C outbreak;
2. For each hepatitis C outbreak, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(E);
3. Evaluate a health care provider identified as the source of hepatitis C virus transmission in the work place and, if indicated, ensure reassignment of the health care provider to a position where the occupational risk of transmission is eliminated; and
4. Ensure that health education related to the progression of hepatitis C disease and the prevention of transmission of hepatitis C infection is provided to each individual who may have been exposed to hepatitis C during the outbreak.

Historical Note

Renumbered from R9-6-738 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-345 renumbered to R9-6-348; new Section R9-6-345 renumbered from R9-6-342 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-345 renumbered to R9-6-353; new R9-6-345 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-345 renumbered to R9-6-348; new R9-6-345 renumbered from R9-6-342 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-345 renumbered to R9-6-350; new Section R9-6-345 renumbered from R9-6-339 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-346. Hepatitis E

Case control measures: A local health agency shall:

1. Exclude a hepatitis E case or suspect case from working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment during the first 14 calendar days of illness or for seven calendar days after onset of jaundice;
2. Conduct an epidemiologic investigation of each reported hepatitis E case or suspect case; and
3. For each hepatitis E case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

Historical Note

Renumbered from R9-6-739 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-346 renumbered to R9-6-349; new Section R9-6-346 renumbered from R9-6-343 effective April 4, 1997 (Supp. 97-2). Former R9-6-346 renumbered to R9-6-354; new R9-6-346 renumbered from R9-6-338 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-346 renumbered to R9-6-349; new R9-6-346 renumbered from R9-6-343 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-346 renumbered to R9-6-351; new Section R9-6-346 renumbered from R9-6-340 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-347. HIV Infection and Related Disease

A. Case control measures:

1. A local health agency shall:
 - a. Conduct an epidemiologic investigation, including a review of medical records, of each reported HIV-infected individual or suspect case; and
 - b. For each HIV-infected individual, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).
2. The operator of a blood bank, blood center, or plasma center shall notify a donor of a test result with significant evidence suggestive of HIV infection, as required under A.R.S. § 32-1483 and 21 CFR 630.6.
3. The Department and a local health agency shall offer anonymous HIV-testing to an individual as specified in R9-6-1005.

B. Contact control measures: The Department or the Department's designee shall confidentially notify an individual reported to be at risk for HIV infection under A.R.S. § 36-664(I) as specified in R9-6-1006(A).

C. Environmental control measures: An employer, as defined under A.R.S. § 23-401, or health care provider shall comply

with the requirements specified in A.R.S. § 23-403 and A.A.C. R20-5-602.

Historical Note

Renumbered from R9-6-740 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-347 renumbered to R9-6-350; new Section R9-6-347 renumbered from R9-6-344 effective April 4, 1997 (Supp. 97-2). Former R9-6-347 renumbered to R9-6-355; new R9-6-347 renumbered from R9-6-339 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-347 renumbered to R9-6-350; new R9-6-347 renumbered from R9-6-344 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-347 renumbered to R9-6-352; new Section R9-6-347 renumbered from R9-6-341 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-348. Influenza-Associated Mortality in a Child

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a case or suspect case of an influenza-associated death of a child, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported case or suspect case of influenza-associated mortality in a child; and
3. For each case of influenza-associated mortality in a child, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

Historical Note

Renumbered from R9-6-741 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-348 renumbered to R9-6-351; new Section R9-6-348 renumbered from R9-6-345 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-348 renumbered to R9-6-356; new R9-6-348 renumbered from R9-6-340 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-348 renumbered to R9-6-352; new R9-6-348 renumbered from R9-6-345 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-348 renumbered to R9-6-353; new Section R9-6-348 renumbered from R9-6-342 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-349. Legionellosis (Legionnaires' Disease)

A. Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a legionellosis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported legionellosis case or suspect case; and
3. For each legionellosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

B. Environmental control measures: The owner of a water, cooling, or ventilation system or equipment that is determined by the Department or a local health agency to be associated with a case of *Legionella* infection shall comply with the environmental control measures recommended by the Department or local health agency to prevent the exposure of other individuals.

Historical Note

Renumbered from R9-6-742 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-349 renumbered to R9-6-352; new Section R9-6-349 renumbered from R9-6-346 effective April 4, 1997 (Supp. 97-2). Former R9-6-349 renumbered to R9-6-357; new R9-6-349 renumbered from R9-6-341 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-349 renumbered to R9-6-353; new R9-6-349 renumbered from R9-6-346 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-349 renumbered to R9-6-354; new Section R9-6-349 renumbered from R9-6-344 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-350. Leptospirosis

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a leptospirosis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported leptospirosis case or suspect case; and
3. For each leptospirosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

Historical Note

Renumbered from R9-6-743 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-350 renumbered to R9-6-353; new Section R9-6-350 renumbered from R9-6-347 effective April 4, 1997 (Supp. 97-2). Former R9-6-350 renumbered to R9-6-358; new R9-6-350 renumbered from R9-6-342 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-350 renumbered to R9-6-355; new R9-6-350 renumbered from R9-6-347 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-350 renumbered to R9-6-355; new Section R9-6-350 renumbered from R9-6-345 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-351. Listeriosis

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a listeriosis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported listeriosis case or suspect case;
3. For each listeriosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
4. Ensure that an isolate or a specimen, as available, from each listeriosis case is submitted to the Arizona State Laboratory.

Historical Note

Renumbered from R9-6-744 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-351 renumbered to R9-6-354; new Section R9-6-351 renumbered from R9-6-348 effective April 4, 1997 (Supp. 97-2). Former R9-6-351 renumbered to R9-6-359; new R9-6-351 renumbered from R9-6-343 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-351 renumbered to R9-6-356;

new R9-6-351 made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-351 renumbered to R9-6-356; new Section R9-6-351 renumbered from R9-6-346 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-352. Lyme Disease

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported Lyme disease case or suspect case; and
2. For each Lyme disease case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

Historical Note

Renumbered from R9-6-745 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-352 renumbered to R9-6-355; new Section R9-6-352 renumbered from R9-6-349 effective April 4, 1997 (Supp. 97-2). Former R9-6-352 renumbered to R9-6-360; new R9-6-352 renumbered from R9-6-344 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-352 renumbered to R9-6-357; new R9-6-352 renumbered from R9-6-348 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-352 renumbered to R9-6-357; new Section R9-6-352 renumbered from R9-6-347 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-353. Lymphocytic Choriomeningitis

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a lymphocytic choriomeningitis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported lymphocytic choriomeningitis case or suspect case; and
3. For each lymphocytic choriomeningitis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

Historical Note

Renumbered from R9-6-746 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-353 renumbered to R9-6-356; new Section R9-6-353 renumbered from R9-6-350 effective April 4, 1997 (Supp. 97-2). Former R9-6-353 renumbered to R9-6-361; new R9-6-353 renumbered from R9-6-345 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-353 renumbered to R9-6-358; new R9-6-353 renumbered from R9-6-349 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-353 renumbered to R9-6-359; new Section R9-6-353 renumbered from R9-6-348 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-354. Malaria

A. Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported malaria case or suspect case; and
2. For each malaria case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

B. Environmental control measures: In cooperation with the Department, a local health agency or another local agency responsible for vector control within a jurisdiction shall conduct an assessment of the environment surrounding each malaria case or suspect case and implement vector control measures as necessary.

Historical Note

Renumbered from R9-6-748 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-354 renumbered to R9-6-357; new Section R9-6-354 renumbered from R9-6-351 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-354 renumbered to R9-6-362; new R9-6-354 renumbered from R9-6-346 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-354 renumbered to R9-6-359; new R9-6-354 made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-354 renumbered to R9-6-360; new Section R9-6-354 renumbered from R9-6-349 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-355. Measles (Rubeola)

A. Case control measures:

1. An administrator of a school or child care establishment, either personally or through a representative, shall:
 - a. Exclude a measles case from the school or child care establishment and from school- or child-care-establishment-sponsored events from the onset of illness through the fourth calendar day after the rash appears; and
 - b. Exclude a measles suspect case from the school or child care establishment and from school- or child-care-establishment-sponsored events until the local health agency has determined that the suspect case is unlikely to infect other individuals.
2. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and institute airborne precautions for a measles case from onset of illness through the fourth calendar day after the rash appears.
3. An administrator of a health care institution, either personally or through a representative, shall exclude a measles:
 - a. Case from working at the health care institution from the onset of illness through the fourth calendar day after the rash appears; and
 - b. Suspect case from working at the health care institution until the local health agency has determined that the suspect case may return to work.
4. A local health agency shall:
 - a. Upon receiving a report under R9-6-202 or R9-6-203 of a measles case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
 - b. Conduct an epidemiologic investigation of each reported measles case or suspect case;
 - c. For each measles case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
 - d. Ensure that one or more specimens from each measles case or suspect case, as required by the Department, are submitted to the Arizona State Laboratory.
5. An administrator of a correctional facility or shelter, either personally or through a representative, shall com-

ply with the measles control measures recommended by a local health agency or the Department.

B. Contact control measures:

1. When a measles case has been at a school or child care establishment, the administrator of the school or child care establishment, either personally or through a representative, shall:
 - a. Consult with the local health agency to determine who shall be excluded and how long each individual shall be excluded from the school or child care establishment, and
 - b. Comply with the local health agency's recommendations for exclusion.
2. A local health agency shall:
 - a. Determine which measles contacts will be quarantined or excluded, according to R9-6-303, to prevent transmission; and
 - b. Provide or arrange for immunization of each non-immune measles contact within 72 hours after last exposure, if possible.
3. An administrator of a health care institution shall ensure that a paid or volunteer full-time or part-time worker at a health care institution does not participate in the direct care of a measles case or suspect case unless the worker is able to provide evidence of immunity to measles through one of the following:
 - a. A record of immunization against measles with two doses of live virus vaccine given on or after the first birthday and at least one month apart;
 - b. A statement signed by a physician, physician assistant, registered nurse practitioner, state health officer, or local health officer affirming serologic evidence of immunity to measles; or
 - c. Documentary evidence of birth before January 1, 1957.

Historical Note

Renumbered from R9-6-749 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-355 renumbered to R9-6-358; new Section R9-6-355 renumbered from R9-6-352 effective April 4, 1997 (Supp. 97-2). Former R9-6-355 renumbered to R9-6-363; new R9-6-355 renumbered from R9-6-347 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-355 renumbered to R9-6-360; new R9-6-355 renumbered from R9-6-350 by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-355 renumbered to R9-6-362; new Section R9-6-355 renumbered from R9-6-350 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-356. Melioidosis

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a melioidosis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported melioidosis case or suspect case;
3. For each melioidosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
4. Ensure that an isolate or a specimen, as available, from each melioidosis case or suspect case is submitted to the Arizona State Laboratory.

Historical Note

Former Section R9-6-115, Paragraph (38), renumbered and amended as R9-6-750 effective January 28, 1987 (Supp. 87-1). Renumbered from R9-6-750 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-356 renumbered to R9-6-360; new Section R9-6-356 renumbered from R9-6-353 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-356 renumbered to R9-6-365; new R9-6-356 renumbered from R9-6-348 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-356 renumbered to R9-6-361; new R9-6-356 renumbered from R9-6-351 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-356 renumbered to R9-6-363; new Section R9-6-356 renumbered from R9-6-351 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-357. Meningococcal Invasive Disease

A. Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and institute droplet precautions for a meningococcal invasive disease case for 24 hours after the initiation of treatment.
2. A local health agency shall:
 - a. Upon receiving a report under R9-6-202 or R9-6-203 of a meningococcal invasive disease case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
 - b. Conduct an epidemiologic investigation of each reported meningococcal invasive disease case or suspect case;
 - c. For each meningococcal invasive disease case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
 - d. Ensure that an isolate or a specimen, as available, from each meningococcal invasive disease case is submitted to the Arizona State Laboratory.

- B. Contact control measures:** A local health agency shall evaluate the level of risk of transmission from each contact's exposure to a meningococcal invasive disease case and, if indicated, provide or arrange for each contact to receive prophylaxis.

Historical Note

Adopted effective October 19, 1993 (Supp. 93-4). Former Section R9-6-357 renumbered to R9-6-361; new Section R9-6-357 renumbered from R9-6-354 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-357 repealed; new R9-6-357 renumbered from R9-6-349 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-357 renumbered to R9-6-362; new R9-6-357 renumbered from R9-6-352 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-357 renumbered to R9-6-364; new Section R9-6-357 renumbered from R9-6-352 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-358. Methicillin-resistant *Staphylococcus aureus* (MRSA)

A. Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution transferring a known methicillin-resistant *Staphylococcus aureus* case with active infection

to another health care provider or health care institution or to a correctional facility shall, either personally or through a representative, ensure that the receiving health care provider, health care institution, or correctional facility is informed that the patient is a known methicillin-resistant *Staphylococcus aureus* case.

2. If a known methicillin-resistant *Staphylococcus aureus* case with active infection is being transferred from a correctional facility to another correctional facility or to a health care institution, an administrator of the correctional facility, either personally or through a representative, shall ensure that the receiving correctional facility or health care institution is informed that the individual is a known methicillin-resistant *Staphylococcus aureus* case.

B. Outbreak control measures:

1. A local health agency, in consultation with the Department, shall:
 - a. Conduct an epidemiologic investigation of each reported outbreak of methicillin-resistant *Staphylococcus aureus* in a health care institution or correctional facility; and
 - b. For each outbreak of methicillin-resistant *Staphylococcus aureus* in a health care institution or correctional facility, submit to the Department the information required under R9-6-206(E).
2. When an outbreak of methicillin-resistant *Staphylococcus aureus* occurs in a health care institution or correctional facility, the administrator of the health care institution or correctional facility, either personally or through a representative, shall comply with the control measures recommended by a local health agency or the Department.

Historical Note

Former Section R9-6-115, Paragraph (39), renumbered and amended as R9-6-751 effective January 28, 1987 (Supp. 87-1). Renumbered from R9-6-751 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-358 renumbered to R9-6-362; new Section R9-6-358 renumbered from R9-6-355 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-358 renumbered to R9-6-367; new R9-6-358 renumbered from R9-6-350 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-358 renumbered to R9-6-363; new R9-6-358 renumbered from R9-6-353 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-358 renumbered to R9-6-365; new Section R9-6-358 made by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-359. Mumps

A. Case control measures:

1. An administrator of a school or child care establishment, either personally or through a representative, shall:
 - a. Exclude a mumps case from the school or child care establishment for five calendar days after the onset of glandular swelling; and
 - b. Exclude a mumps suspect case from the school or child care establishment and from school- or child-care-establishment-sponsored events until evaluated and determined to be noninfectious by a physician, physician assistant, registered nurse practitioner, or local health agency.
2. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and institute droplet precautions

with a mumps case for five calendar days after the onset of glandular swelling.

3. An administrator of a health care institution, either personally or through a representative, shall exclude a mumps:
 - a. Case from working at the health care institution for five calendar days after the onset of glandular swelling; and
 - b. Suspect case from working at the health care institution until evaluated and determined to be noninfectious by a physician, physician assistant, registered nurse practitioner, or local health agency.
4. A local health agency shall:
 - a. Upon receiving a report under R9-6-202 or R9-6-203 of a mumps case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
 - b. Conduct an epidemiologic investigation of each reported mumps case or suspect case;
 - c. For each mumps case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
 - d. Ensure that one or more specimens from each mumps case or suspect case, as required by the Department, are submitted to the Arizona State Laboratory.
5. An administrator of a correctional facility or shelter, either personally or through a representative, shall comply with the mumps control measures recommended by a local health agency or the Department.

B. Contact control measures:

1. When a mumps case has been at a school or child care establishment, the administrator of the school or child care establishment, either personally or through a representative, shall:
 - a. Consult with the local health agency to determine who shall be excluded and how long each individual shall be excluded from the school or child care establishment, and
 - b. Comply with the local health agency's recommendations for exclusion.
2. An administrator of a health care institution shall ensure that a paid or volunteer full-time or part-time worker at a health care institution does not participate in the direct care of a mumps case or suspect case unless the worker is able to provide evidence of immunity to mumps through one of the following:
 - a. A record of immunization against mumps with two doses of live virus vaccine given on or after the first birthday and at least one month apart; or
 - b. A statement signed by a physician, physician assistant, registered nurse practitioner, state health officer, or local health officer affirming serologic evidence of immunity to mumps.
3. A local health agency shall determine which mumps contacts will be:
 - a. Quarantined or excluded, according to R9-6-303, to prevent transmission; and
 - b. Advised to obtain an immunization against mumps.

Historical Note

Adopted effective January 28, 1987 (Supp. 87-1). Renumbered from R9-6-752 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-359 renumbered to R9-6-363; new Section R9-6-359 adopted effective April 4, 1997 (Supp. 97-2). Former R9-6-359

repealed; new R9-6-359 renumbered from R9-6-351 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-359 renumbered to R9-6-364; new R9-6-359 renumbered from R9-6-354 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-359 renumbered to R9-6-366; new Section R9-6-359 renumbered from R9-6-353 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-360. Norovirus

- A.** Outbreak control measures: A local health agency shall:
1. Conduct an epidemiologic investigation of each reported norovirus outbreak;
 2. Submit to the Department the information required under R9-6-206(E); and
 3. Exclude each case that is part of a norovirus outbreak from working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment until:
 - a. Diarrhea has resolved, or
 - b. The local health agency has determined that the case or suspect case is unlikely to infect other individuals.
- B.** Environmental control measures: A local health agency shall conduct a sanitary inspection or ensure that a sanitary inspection is conducted of each facility or location regulated under 9 A.A.C. 8 that is associated with a norovirus outbreak.

Historical Note

Former Section R9-6-115, Paragraph (40), renumbered and amended as R9-6-753 effective January 28, 1987 (Supp. 87-1). Renumbered from R9-6-753 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-360 renumbered to R9-6-364; new Section R9-6-360 renumbered from R9-6-356 and amended effective April 4, 1997 (Supp. 97-2). Amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Former R9-6-360 renumbered to R9-6-368; new R9-6-360 renumbered from R9-6-352 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-360 renumbered to R9-6-365; new R9-6-360 renumbered from R9-6-355 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-360 renumbered to R9-6-367; new Section R9-6-360 renumbered from R9-6-354 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-361. Novel Coronavirus (e.g., SARS or MERS)

- A.** Case control measures:
1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and institute both airborne precautions and contact precautions for a novel coronavirus case or suspect case, including a case or suspect case of severe acute respiratory syndrome or Middle East respiratory syndrome, until evaluated and determined to be non-infectious by a physician, physician assistant, or registered nurse practitioner.
 2. A local health agency shall:
 - a. Upon receiving a report under R9-6-202 of a novel coronavirus case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;

- b. In consultation with the Department, ensure that isolation and both airborne precautions and contact precautions have been instituted for a novel coronavirus case or suspect case to prevent transmission;
- c. Conduct an epidemiologic investigation of each reported novel coronavirus case or suspect case; and
- d. For each novel coronavirus case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

- B.** Contact control measures: A local health agency, in consultation with the Department, shall determine which novel coronavirus contacts will be quarantined or excluded, according to R9-6-303, to prevent transmission.

Historical Note

Former Section R9-6-115, Paragraph (41), renumbered and amended as R9-6-754 effective January 28, 1987 (Supp. 87-1). Renumbered from R9-6-754 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-361 renumbered to R9-6-365; new Section R9-6-361 renumbered from R9-6-357 effective April 4, 1997 (Supp. 97-2). Former R9-6-361 renumbered to R9-6-369; new R9-6-361 renumbered from R9-6-353 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-361 renumbered to R9-6-366; new R9-6-361 renumbered from R9-6-356 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-361 renumbered to R9-6-368; new Section R9-6-361 made by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-362. Pediculosis (Lice Infestation)

- A.** Case control measures:
1. An administrator of a school or child care establishment, either personally or through a representative, shall exclude a pediculosis case from the school or child care establishment until the case is treated with a pediculocide.
 2. An administrator of a shelter shall ensure that a pediculosis case is treated with a pediculocide and that the case's clothing and personal articles are disinfested.
- B.** Contact control measures: An administrator of a school or child care establishment that excludes a pediculosis case from the school or child care establishment, either personally or through a representative, shall ensure that a parent or guardian of a child who is a contact is notified that a pediculosis case was identified at the school or child care establishment.

Historical Note

Former Section R9-6-115, Paragraph (42), renumbered and amended as R9-6-755 effective January 28, 1987 (Supp. 87-1). Renumbered from R9-6-755 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-362 renumbered to R9-6-366; new Section R9-6-362 renumbered from R9-6-358 effective April 4, 1997 (Supp. 97-2). Former R9-6-362 renumbered to R9-6-370; new R9-6-362 renumbered from R9-6-354 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-362 renumbered to R9-6-367; new R9-6-362 renumbered from R9-6-357 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-362 renumbered to R9-6-369; new Section R9-6-362 renumbered from R9-6-355 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-363. Pertussis (Whooping Cough)

A. Case control measures:

1. An administrator of a school or child care establishment, either personally or through a representative, shall:
 - a. Exclude a pertussis case from the school or child care establishment for 21 calendar days after the date of onset of cough or for five calendar days after the date of initiation of antibiotic treatment for pertussis; and
 - b. Exclude a pertussis suspect case from the school or child care establishment until evaluated and determined to be noninfectious by a physician, physician assistant, registered nurse practitioner, or local health agency.
2. An administrator of a health care institution, either personally or through a representative, shall:
 - a. Exclude a pertussis case from working at the health care institution for 21 calendar days after the date of onset of cough or for five calendar days after the date of initiation of antibiotic treatment for pertussis; and
 - b. Exclude a pertussis suspect case from working at the health care institution until evaluated and determined to be noninfectious by a physician, physician assistant, registered nurse practitioner, or local health agency.
3. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and initiate droplet precautions for a pertussis case for five calendar days after the date of initiation of antibiotic treatment for pertussis.
4. A local health agency shall:
 - a. Upon receiving a report under R9-6-202 or R9-6-203 of a pertussis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
 - b. Conduct an epidemiologic investigation of each reported pertussis case or suspect case; and
 - c. For each pertussis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).
5. An administrator of a correctional facility or shelter, either personally or through a representative, shall comply with the pertussis control measures recommended by a local health agency or the Department.

B. Contact control measures:

1. When a pertussis case has been at a school or child care establishment, the administrator of the school or child care establishment, either personally or through a representative, shall:
 - a. Consult with the local health agency to determine who shall be excluded and how long each individual shall be excluded from the school or child care establishment, and
 - b. Comply with the local health agency's recommendations for exclusion.
2. A local health agency shall identify contacts of a pertussis case and shall:
 - a. Determine which pertussis contacts will be quarantined or excluded, according to R9-6-303, to prevent transmission; and
 - b. If indicated, provide or arrange for a pertussis contact to receive antibiotic prophylaxis.

Historical Note

Former Section R9-6-115, Paragraph (43), renumbered and amended as R9-6-756 effective January 28, 1987

(Supp. 87-1). Renumbered from R9-6-756 and amended effective October 19, 1993 (Supp. 93-4). Section R9-6-363 renumbered to R9-6-367; new Section R9-6-363 renumbered from R9-6-359 effective April 4, 1997 (Supp. 97-2). Former R9-6-363 renumbered to R9-6-371; new R9-6-363 renumbered from R9-6-355 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-363 renumbered to R9-6-368; new R9-6-363 renumbered from R9-6-358 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 1928, effective April 30, 2013 (Supp. 13-3). New Section R9-6-363 renumbered from R9-6-356 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-364. Plague**A. Case control measures:**

1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and institute droplet precautions for a pneumonic plague case or suspect case until 72 hours of antibiotic therapy have been completed with favorable clinical response.
2. An individual handling the body of a deceased plague case shall use droplet precautions.
3. A local health agency shall:
 - a. Upon receiving a report under R9-6-202 of a plague case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
 - b. Conduct an epidemiologic investigation of each reported plague case or suspect case;
 - c. For each plague case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
 - d. Ensure that an isolate or a specimen, as available, from each plague case or suspect case is submitted to the Arizona State Laboratory.

- B. Contact control measures:** A local health agency shall provide follow-up to pneumonic plague contacts for seven calendar days after last exposure to a pneumonic plague case.

Historical Note

Former Section R9-6-115, Paragraph (44), renumbered and amended as R9-6-757 effective January 28, 1987 (Supp. 87-1). Renumbered from R9-6-757 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-364 renumbered to R9-6-368; new Section R9-6-364 renumbered from R9-6-360 effective April 4, 1997 (Supp. 97-2). Former R9-6-364 renumbered to R9-6-372; new R9-6-364 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-364 renumbered to R9-6-369; new R9-6-364 renumbered from R9-6-359 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-364 repealed; new Section R9-6-364 renumbered from R9-6-357 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-365. Poliomyelitis (Paralytic or Non-paralytic)

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a poliomyelitis case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;

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2. Conduct an epidemiologic investigation of each reported poliomyelitis case or suspect case;
3. For each poliomyelitis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
4. Ensure that one or more specimens from each poliomyelitis case or suspect case, as required by the Department, are submitted to the Arizona State Laboratory.

Historical Note

Former Section R9-6-115, Paragraph (4), renumbered and amended as R9-6-758 effective January 28, 1987 (Supp. 87-1). Renumbered from R9-6-758 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-365 renumbered to R9-6-372; new Section R9-6-365 renumbered from R9-6-361 effective April 4, 1997 (Supp. 97-2). Former R9-6-365 renumbered to R9-6-373; new R9-6-365 renumbered from R9-6-356 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-365 renumbered to R9-6-370; new R9-6-365 renumbered from R9-6-360 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-365 renumbered to R9-6-371; new Section R9-6-365 renumbered from R9-6-358 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-366. Psittacosis (Ornithosis)

- A.** Case control measures: A local health agency shall:
1. Conduct an epidemiologic investigation of each reported psittacosis case or suspect case; and
 2. For each psittacosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).
- B.** Environmental control measures: A local health agency shall:
1. If a bird infected with *Chlamydia psittaci* or *Chlamydophila psittaci* is located in a private residence:
 - a. Provide health education for the bird's owner about psittacosis and the risks of becoming infected with psittacosis, and
 - b. Advise the bird's owner to obtain treatment for the bird; and
 2. If a bird infected with *Chlamydia psittaci* or *Chlamydophila psittaci* is located in a setting other than a private residence:
 - a. Provide health education for the bird's owner about psittacosis and the risks of becoming infected with psittacosis,
 - b. Ensure that the bird is treated or destroyed and any contaminated structures are disinfected, and
 - c. Require the bird's owner to isolate the bird from contact with members of the public and from other birds until treatment of the bird is completed or the bird is destroyed.

Historical Note

Former Section R9-6-115, Paragraph (46), renumbered and amended as R9-6-759 effective January 28, 1987 (Supp. 87-1). Renumbered from R9-6-759 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-366 renumbered to R9-6-374; new Section R9-6-366 renumbered from R9-6-362 effective April 4, 1997 (Supp. 97-2). Former R9-6-366 renumbered to R9-6-374; new R9-6-366 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-366 renumbered to R9-6-371; new R9-6-366 renumbered from R9-6-361 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

Section R9-6-366 renumbered to R9-6-372; new Section R9-6-366 renumbered from R9-6-359 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-367. Q Fever

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a Q fever case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported Q fever case or suspect case; and
3. For each Q fever case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

Historical Note

Section R9-6-367 renumbered from R9-6-363 effective April 4, 1997 (Supp. 97-2). Former R9-6-367 renumbered to R9-6-375; new R9-6-367 renumbered from R9-6-358 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-367 renumbered to R9-6-372; new R9-6-367 renumbered from R9-6-362 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-367 renumbered to R9-6-373; new Section R9-6-367 renumbered from R9-6-360 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-368. Rabies in a Human

A. Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a human rabies case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported human rabies case or suspect case;
3. For each human rabies case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
4. Ensure that a specimen from each human rabies case or suspect case, as required by the Department, is submitted to the Arizona State Laboratory.

B. Contact control measures: A local health agency shall evaluate the level of risk of transmission from each contact's exposure to a human rabies case and, if indicated, provide or arrange for each contact to receive prophylaxis.

Historical Note

Section R9-6-368 renumbered from R9-6-364 effective April 4, 1997 (Supp. 97-2). Former R9-6-368 renumbered to R9-6-376; new R9-6-368 renumbered from R9-6-360 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-368 renumbered to R9-6-375; new R9-6-368 renumbered from R9-6-363 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-368 renumbered to R9-6-374; new Section R9-6-368 renumbered from R9-6-361 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-369. Relapsing Fever (Borreliosis)

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a borreliosis case or suspect case, notify the Department within one

- working day after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported borreliosis case or suspect case; and
3. For each borreliosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

Historical Note

Adopted effective April 4, 1997 (Supp. 97-2). Former R9-6-369 renumbered to R9-6-379; new R9-6-369 renumbered from R9-6-361 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-369 renumbered to R9-6-376; new R9-6-369 renumbered from R9-6-364 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-369 repealed; new Section R9-6-369 renumbered from R9-6-362 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-370. Respiratory Disease in a Health Care Institution or Correctional Facility

Outbreak control measures:

1. A local health agency shall:
 - a. Conduct an epidemiologic investigation of each reported outbreak of respiratory disease in a health care institution or correctional facility; and
 - b. For each outbreak of respiratory disease in a health care institution or correctional facility, submit to the Department the information required under R9-6-206(E).
2. When an outbreak of respiratory disease occurs in a health care institution or correctional facility, the administrator of the health care institution or correctional facility, either personally or through a representative, shall comply with the control measures recommended by a local health agency.

Historical Note

Adopted effective April 4, 1997 (Supp. 97-2). Former R9-6-370 renumbered to R9-6-380; new R9-6-370 renumbered from R9-6-362 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-370 renumbered to R9-6-377; new R9-6-370 renumbered from R9-6-365 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-370 renumbered to R9-6-375; new Section R9-6-370 made by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-371. Rubella (German Measles)

A. Case control measures:

1. An administrator of a school or child care establishment, either personally or through a representative, shall:
 - a. Exclude a rubella case from the school or child care establishment and from school- or child-care-establishment-sponsored events from the onset of illness through the seventh calendar day after the rash appears; and
 - b. Exclude a rubella suspect case from the school or child care establishment and from school- or child-care-establishment-sponsored events until evaluated and determined to be noninfectious by a physician, physician assistant, registered nurse practitioner, or local health agency.

2. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative and in consultation with the local health agency, shall isolate and institute droplet precautions for a rubella case through the seventh calendar day after the rash appears.
3. An administrator of a health care institution, either personally or through a representative, shall exclude a rubella:
 - a. Case from working at the health care institution from the onset of illness through the seventh calendar day after the rash appears; and
 - b. Suspect case from working at the health care institution until evaluated and determined to be noninfectious by a physician, physician assistant, registered nurse practitioner, or local health agency.
4. A local health agency shall:
 - a. Upon receiving a report under R9-6-202 or R9-6-203 of a rubella case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
 - b. Conduct an epidemiologic investigation of each reported rubella case or suspect case;
 - c. For each rubella case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
 - d. Ensure that one or more specimens from each rubella case or suspect case, as required by the Department, are submitted to the Arizona State Laboratory.
5. An administrator of a correctional facility or shelter, either personally or through a representative, shall comply with the rubella control measures recommended by a local health agency or the Department.

B. Contact control measures:

1. An administrator of a health care institution shall ensure that a paid or volunteer full-time or part-time worker at a health care institution does not participate in the direct care of a rubella case or suspect case or of a patient who is or may be pregnant unless the worker first provides evidence of immunity to rubella consisting of:
 - a. A record of immunization against rubella given on or after the first birthday; or
 - b. A statement signed by a physician, physician assistant, registered nurse practitioner, state health officer, or local health officer affirming serologic evidence of immunity to rubella.
2. When a rubella case has been at a school or child care establishment, the administrator of the school or child care establishment, either personally or through a representative, shall:
 - a. Consult with the local health agency to determine who shall be excluded and how long each individual shall be excluded from the school or child care establishment, and
 - b. Comply with the local health agency's recommendations for exclusion.
3. A local health agency shall:
 - a. Determine which rubella contacts will be quarantined or excluded, according to R9-6-303, to prevent transmission; and
 - b. Provide or arrange for immunization of each non-immune rubella contact within 72 hours after last exposure, if possible.

Historical Note

Adopted effective April 4, 1997 (Supp. 97-2). Former R9-6-371 renumbered to R9-6-381; new R9-6-371 renumbered from R9-6-363 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-371 renumbered to R9-6-378; new R9-6-371 renumbered from R9-6-366 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-371 renumbered to R9-6-376; new Section R9-6-371 renumbered from R9-6-365 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-372. Rubella Syndrome, Congenital**A. Case control measures:**

1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and implement contact precautions for an infant congenital rubella syndrome case until:
 - a. The infant congenital rubella syndrome case reaches one year of age; or
 - b. Two successive negative virus cultures, from specimens collected at least one month apart, are obtained from the infant congenital rubella syndrome case after the infant congenital rubella syndrome case reaches three months of age.
2. A local health agency shall:
 - a. Upon receiving a report under R9-6-202 of a congenital rubella syndrome case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
 - b. Conduct an epidemiologic investigation of each reported congenital rubella syndrome case or suspect case;
 - c. For each congenital rubella syndrome case, as specified in Table 2.4, the information required under R9-6-206(D); and
 - d. Ensure that one or more specimens from each congenital rubella syndrome case or suspect case, as required by the Department, are submitted to the Arizona State Laboratory.

- B. Contact control measures:** An administrator of a health care institution shall ensure that a paid or volunteer full-time or part-time worker at a health care institution who is known to be pregnant does not participate in the direct care of a congenital rubella syndrome case or suspect case unless the worker first provides evidence of immunity to rubella that complies with R9-6-371(B)(1).

Historical Note

Section R9-6-372 renumbered from R9-6-365 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-372 renumbered to R9-6-382; new R9-6-372 renumbered from R9-6-364 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-372 renumbered to R9-6-379; new R9-6-372 renumbered from R9-6-367 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-372 renumbered to R9-6-378; new Section R9-6-372 renumbered from R9-6-366 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-373. Salmonellosis**A. Case control measures:** A local health agency shall:

1. Upon receiving a report under R9-6-202 or R9-6-203 of a salmonellosis case or suspect case, notify the Department

within one working day after receiving the report and provide to the Department the information contained in the report;

2. Exclude a salmonellosis case or suspect case with diarrhea from:
 - a. Working as a food handler, caring for children in or attending a child care establishment, or caring for patients or residents in a health care institution until:
 - i. Diarrhea has resolved,
 - ii. A stool specimen negative for *Salmonella* spp. is obtained from the salmonellosis case or suspect case, or
 - iii. The local health agency has determined that the case or suspect case is unlikely to infect other individuals; and
 - b. Using an aquatic venue until diarrhea has resolved;
 3. Conduct an epidemiologic investigation of each reported salmonellosis case or suspect case; and
 4. For each salmonellosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).
- B. Environmental control measures:** A local health agency shall:
 1. If an animal infected with *Salmonella* spp. is located in a private residence, provide health education for the animal's owner about salmonellosis and the risks of becoming infected with *Salmonella* spp.; and
 2. If an animal infected with *Salmonella* spp. is located in a setting other than a private residence:
 - a. Provide health education for the animal's owner about salmonellosis and the risks of becoming infected with *Salmonella* spp., and
 - b. Require the animal's owner to provide information to individuals with whom the animal may come into contact about salmonellosis and methods to reduce the risk of transmission.

Historical Note

Adopted effective April 4, 1997 (Supp. 97-2). Former R9-6-373 renumbered to R9-6-383; new R9-6-373 renumbered from R9-6-365 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-373 renumbered to R9-6-380; new R9-6-373 made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-373 renumbered to R9-6-379; new Section R9-6-373 renumbered from R9-6-367 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-374. Scabies**A. Case control measures:**

1. An administrator of a school or child care establishment, either personally or through a representative, shall exclude a scabies case from the school or child care establishment until treatment for scabies is completed.
2. An administrator of a health care institution or shelter, either personally or through a representative, shall exclude a scabies case from participating in the direct care of a patient or resident until treatment for scabies is completed.
3. An administrator of a shelter, either personally or through a representative, shall ensure that a scabies case receives treatment for scabies and that the case's clothing and personal articles are disinfested.
4. An administrator of a correctional facility, either personally or through a representative, shall ensure that a sca-

bies case receives treatment for scabies and that the case's clothing and personal articles are disinfested.

- B. Contact control measures: An administrator of a school, child care establishment, health care institution, or shelter, either personally or through a representative, shall advise a scabies contact with symptoms of scabies to obtain examination and, if necessary, treatment.
- C. Outbreak control measures: A local health agency shall:
 1. Provide health education regarding prevention, control, and treatment of scabies to individuals affected by a scabies outbreak;
 2. When a scabies outbreak occurs in a health care institution, notify the licensing agency of the outbreak; and
 3. For each scabies outbreak, submit to the Department the information required under R9-6-202(D).

Historical Note

Section R9-6-374 renumbered from R9-6-366 effective April 4, 1997 (Supp. 97-2). Former R9-6-374 renumbered to R9-6-386; new R9-6-374 renumbered from R9-6-366 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-374 renumbered to R9-6-381; new R9-6-374 made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-374 renumbered to R9-6-380; new Section R9-6-374 renumbered from R9-6-368 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-375. Shigellosis

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 or R9-6-203 of a shigellosis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
2. Exclude a shigellosis case or suspect case with diarrhea from:
 - a. Working as a food handler, caring for children in or attending a child care establishment, or caring for patients or residents in a health care institution until:
 - i. Diarrhea has resolved,
 - ii. A stool specimen negative for *Shigella* spp. is obtained from the shigellosis case or suspect case, or
 - iii. The local health agency has determined that the case or suspect case is unlikely to infect other individuals; and
 - b. Using an aquatic venue for one week after diarrhea has resolved;
3. Conduct an epidemiologic investigation of each reported shigellosis case or suspect case; and
4. For each shigellosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

Historical Note

Adopted effective April 4, 1997 (Supp. 97-2). Former R9-6-375 renumbered to R9-6-387; new R9-6-375 renumbered from R9-6-367 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-375 renumbered to R9-6-382; new R9-6-375 renumbered from R9-6-368 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-375 renumbered to R9-6-381; new Section R9-6-375 renumbered from R9-6-370

and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-376. Smallpox

A. Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and institute both airborne precautions and contact precautions for a smallpox case or suspect case, until evaluated and determined to be noninfectious by a physician, physician assistant, or registered nurse practitioner.
2. A local health agency shall:
 - a. Upon receiving a report under R9-6-202 of a smallpox case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
 - b. In consultation with the Department:
 - i. Ensure that isolation and both airborne precautions and contact precautions have been instituted for a smallpox case or suspect case to prevent transmission, and
 - ii. Conduct an epidemiologic investigation of each reported smallpox case or suspect case;
 - c. For each smallpox case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
 - d. Ensure that a specimen from each smallpox case or suspect case, as required by the Department, is submitted to the Arizona State Laboratory.

B. Contact control measures: A local health agency, in consultation with the Department, shall:

1. Quarantine or exclude a smallpox contact as necessary, according to R9-6-303, to prevent transmission; and
2. Monitor the contact for smallpox symptoms, including fever, each day for 21 calendar days after last exposure.

Historical Note

Section renumbered from R9-6-368 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-376 renumbered to R9-6-383; new R9-6-376 renumbered from R9-6-369 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-376 renumbered to R9-6-382; new Section R9-6-376 renumbered from R9-6-371 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-377. Spotted Fever Rickettsiosis (e.g., Rocky Mountain Spotted Fever)

A. Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a spotted fever rickettsiosis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
2. Ensure that a spotted fever rickettsiosis case or, if the case is a child or incapacitated adult, the parent or guardian of the case receives health education about reducing the risks of becoming reinfected with or of having others become infected with spotted fever rickettsiosis;
3. Conduct an epidemiologic investigation of each reported spotted fever rickettsiosis case or suspect case; and
4. For each spotted fever rickettsiosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

- B.** Environmental control measures: In cooperation with the Department, a local health agency or another local agency responsible for vector control within a jurisdiction shall conduct an assessment of the environment surrounding each spotted fever rickettsiosis case or suspect case and implement vector control measures as necessary.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-377 renumbered to R9-6-384; new R9-6-377 renumbered from R9-6-370 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-377 renumbered to R9-6-383; new Section R9-6-377 made by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-378. Streptococcal Group A Infection

- A.** Streptococcal group A infection, invasive or non-invasive: Case control measures: An administrator of a school, child care establishment, or health care institution or a person in charge of a food establishment, either personally or through a representative, shall exclude a streptococcal group A infection case with streptococcal lesions or streptococcal sore throat from working as a food handler, attending or working in a school, caring for children in or attending a child care establishment, or caring for patients or residents in a health care institution for 24 hours after the initiation of treatment for streptococcal group A infection.
- B.** Invasive streptococcal group A infection: Outbreak control measures: A local health agency shall:
1. Conduct an epidemiologic investigation of each reported outbreak of streptococcal group A invasive infection;
 2. For each streptococcal group A invasive infection case involved in an outbreak, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
 3. For each outbreak of streptococcal group A invasive infection, submit to the Department the information required under R9-6-206(E).

Historical Note

New Section made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-378 renumbered to R9-6-385; new R9-6-378 renumbered from R9-6-371 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-378 renumbered to R9-6-384; new Section R9-6-378 renumbered from R9-6-372 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-379. Streptococcal Group B Invasive Infection in an Infant Younger Than 90 Days of Age

Case control measures: A local health agency shall:

1. Confirm the diagnosis of streptococcal group B invasive infection for each reported case or suspect case of streptococcal group B invasive infection in an infant younger than 90 days of age; and
2. For each case of streptococcal group B infection in an infant younger than 90 days of age, submit to the Department the information required under R9-6-202(C).

Historical Note

Section renumbered from R9-6-369 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Section repealed; new Section renumbered from R9-6-372 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Sec-

tion R9-6-379 renumbered to R9-6-385; new Section R9-6-379 renumbered from R9-6-373 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-380. *Streptococcus pneumoniae* Invasive Infection

Outbreak control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported outbreak of *Streptococcus pneumoniae* invasive infection; and
2. For each outbreak of *Streptococcus pneumoniae* invasive infection, submit to the Department the information required under R9-6-206(E).

Historical Note

Section renumbered from R9-6-370 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-380 renumbered to R9-6-386; new R9-6-380 renumbered from R9-6-373 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-380 renumbered to R9-6-386; new Section R9-6-380 renumbered from R9-6-374 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-381. Syphilis

A. Case control measures:

1. A syphilis case shall obtain serologic testing for syphilis three months, six months, and one year after initiating treatment, unless more frequent or longer testing is recommended by a local health agency.
2. A health care provider for a pregnant syphilis case shall order serologic testing for syphilis at 28 to 32 weeks gestation and at delivery.
3. A local health agency shall:
 - a. Conduct an epidemiologic investigation, including a review of medical records, of each reported syphilis case or suspect case, confirming the stage of the disease;
 - b. For each syphilis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D);
 - c. If the syphilis case is pregnant, ensure that the syphilis case obtains the serologic testing for syphilis required in subsection (A)(1) and (A)(2); and
 - d. Comply with the requirements specified in R9-6-1103 concerning treatment and health education for a syphilis case.
4. The operator of a blood bank, blood center, or plasma center shall notify a donor of a test result with significant evidence suggestive of syphilis, as required under A.R.S. § 32-1483 and 21 CFR 630.6.

B. Contact control measures: When a syphilis case has named a contact, a local health agency shall comply with the requirements specified in R9-6-1103 concerning notification, testing, treatment, and health education for the contact.

C. Outbreak control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported syphilis outbreak; and
2. For each syphilis outbreak, submit to the Department the information required under R9-6-206(E).

Historical Note

Section renumbered from R9-6-371 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-381 renumbered to R9-6-387; new R9-6-381 renumbered from R9-6-374 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1,

2008 (Supp. 08-2). Section R9-6-381 renumbered to R9-6-387; new Section R9-6-381 renumbered from R9-6-375 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-382. Taeniasis

Case control measures: A local health agency shall:

1. Exclude a taeniasis case with *Taenia* spp. from working as a food handler, caring for children in or attending a child care establishment, or caring for patients or residents in a health care institution until free of infestation;
2. Conduct an epidemiologic investigation of each reported taeniasis case; and
3. For each taeniasis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

Historical Note

Section renumbered from R9-6-372 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-382 renumbered to R9-6-388; new R9-6-382 renumbered from R9-6-375 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-382 renumbered to R9-6-388; new Section R9-6-382 renumbered from R9-6-376 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-383. Tetanus

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported tetanus case or suspect case; and
2. For each tetanus case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

Historical Note

Section renumbered from R9-6-373 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-383 renumbered to R9-6-389; new R9-6-383 renumbered from R9-6-376 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-383 renumbered to R9-6-389; new Section R9-6-383 renumbered from R9-6-377 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-384. Toxic Shock Syndrome

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported toxic shock syndrome case or suspect case; and
2. For each toxic shock syndrome case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

Historical Note

New Section made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-384 renumbered to R9-6-390; new R9-6-384 renumbered from R9-6-377 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 1928, effective April 30, 2013 (Supp. 13-3). New Section R9-6-384 renumbered from R9-6-378 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-385. Trichinosis

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a trichinosis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported trichinosis case or suspect case; and
3. For each trichinosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

Historical Note

New Section made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-385 renumbered to R9-6-391; new R9-6-385 renumbered from R9-6-378 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-385 renumbered to R9-6-390; new Section R9-6-385 renumbered from R9-6-379 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-386. Tuberculosis

A. Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and institute airborne precautions for:
 - a. An individual with infectious active tuberculosis until:
 - i. At least three successive sputum smears collected at least eight hours apart, at least one of which is taken first thing in the morning as soon as possible after the individual awakens from sleep, are negative for acid-fast bacilli;
 - ii. Anti-tuberculosis treatment is initiated with multiple antibiotics; and
 - iii. Clinical signs and symptoms of active tuberculosis are improved;
 - b. A suspect case of infectious active tuberculosis until:
 - i. At least two successive tests for tuberculosis, using a product and methodology approved by the U.S. Food and Drug Administration for use when making decisions whether to discontinue isolation and airborne precautions, for the suspect case are negative; or
 - ii. At least three successive sputum smears collected from the suspect case as specified in subsection (A)(1)(a)(i) are negative for acid-fast bacilli, anti-tuberculosis treatment of the suspect case is initiated with multiple antibiotics, and clinical signs and symptoms of active tuberculosis are improved; and
 - c. A case or suspect case of multi-drug resistant active tuberculosis until a tuberculosis control officer has approved the release of the case or suspect case.
2. An administrator of a health care institution, either personally or through a representative, shall notify a local health agency at least one working day before discharging a tuberculosis case or suspect case.
3. A local health agency shall:
 - a. Upon receiving a report under R9-6-202 of a tuberculosis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;

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- b. Exclude an individual with infectious active tuberculosis or a suspect case from working, unless the individual's work setting has been approved by a tuberculosis control officer, until the individual with infectious active tuberculosis or suspect case is released from airborne precautions according to the applicable criteria in subsection (A)(1);
 - c. Conduct an epidemiologic investigation of each reported tuberculosis case, suspect case, or latent infection in a child five years of age or younger;
 - d. For each tuberculosis case or suspect case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D);
 - e. Ensure that an isolate or a specimen, as available, from each tuberculosis case is submitted to the Arizona State Laboratory; and
 - f. Comply with the requirements specified in R9-6-1202.
- B. Contact control measures:**
- 1. A contact of an individual with infectious active tuberculosis shall allow a local health agency to evaluate the contact's tuberculosis status.
 - 2. A local health agency shall comply with the tuberculosis contact control measures specified in R9-6-1202.
- C. An individual is not a tuberculosis case if the individual has a positive result from an approved test for tuberculosis but does not have clinical signs or symptoms of disease.**

Historical Note

Section renumbered from R9-6-374 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-386 renumbered to R9-6-392; new R9-6-386 renumbered from R9-6-380 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-386 renumbered to R9-6-391; new Section R9-6-386 renumbered from R9-6-380 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-387. Tularemia**Case control measures:**

- 1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate a pneumonic tularemia case until 72 hours of antibiotic therapy have been completed with favorable clinical response.
- 2. A local health agency shall:
 - a. Upon receiving a report under R9-6-202 of a tularemia case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
 - b. Conduct an epidemiologic investigation of each reported tularemia case or suspect case;
 - c. For each tularemia case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
 - d. Ensure that an isolate or a specimen, as available, from each tularemia case or suspect case is submitted to the Arizona State Laboratory.

Historical Note

Section renumbered from R9-6-375 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-387 renumbered to R9-6-393; new R9-6-387 renumbered from R9-6-381 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-387 repealed; new Sec-

tion R9-6-387 renumbered from R9-6-381 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-388. Typhoid Fever**A. Case control measures: A local health agency shall:**

- 1. Upon receiving a report under R9-6-202 of a typhoid fever case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
- 2. Conduct an epidemiologic investigation of each reported typhoid fever case or suspect case;
- 3. For each typhoid fever case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D);
- 4. Exclude a typhoid fever case or suspect case from working as a food handler, caring for children in or attending a child care establishment, or caring for patients or residents in a health care institution until:
 - a. At least one month after the date of onset of illness; and
 - b. After two successive stool specimens, collected from the typhoid fever case at least 24 hours apart and at least 48 hours after cessation of antibiotic therapy, are negative for *Salmonella typhi*;
- 5. If a stool specimen from a typhoid fever case who has received antibiotic therapy is positive for *Salmonella typhi*, enforce the exclusions specified in subsection (A)(4) until two successive stool specimens, collected from the typhoid fever case at least one month apart and 12 or fewer months after the date of onset of illness, are negative for *Salmonella typhi*;
- 6. If a positive stool specimen, collected at least 12 months after onset of illness, is obtained from a typhoid fever case who has received antibiotic therapy, redesignate the case as a carrier; and
- 7. Exclude a typhoid fever carrier from working as a food handler, caring for children in or attending a child care establishment, or caring for patients or residents in a health care institution until three successive stool specimens, collected from the typhoid fever carrier at least one month apart, are negative for *Salmonella typhi*.

- B. Contact control measures: A local health agency shall exclude a typhoid fever contact from working as a food handler, caring for children in or attending a child care establishment, or caring for patients or residents in a health care institution until two successive stool specimens, collected from the typhoid fever contact at least 24 hours apart, are negative for *Salmonella typhi*.**

Historical Note

New Section made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-388 renumbered to R9-6-303; new R9-6-388 renumbered from R9-6-382 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-388 renumbered to R9-6-392; new Section R9-6-388 renumbered from R9-6-382 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-389. Typhus Fever**Case control measures: A local health agency shall:**

- 1. Upon receiving a report under R9-6-202 of a typhus fever case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;

2. Conduct an epidemiologic investigation of each reported typhus fever case or suspect case; and
3. For each typhus fever case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

Historical Note

New Section recodified from R9-19-313 at 11 A.A.R. 3578, effective September 2, 2005 (Supp. 05-4). Former R9-6-389 renumbered to R9-6-394; new R9-6-389 renumbered from R9-6-383 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-389 renumbered to R9-6-393; new Section R9-6-389 renumbered from R9-6-383 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-390. Vaccinia-related Adverse Event

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a case or suspect case of a vaccinia-related adverse event, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported case or suspect case of a vaccinia-related adverse event; and
3. For each case of a vaccinia-related adverse event, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

Historical Note

Section R9-6-390 renumbered from R9-6-384 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-390 renumbered to R9-6-394; new Section R9-6-390 renumbered from R9-6-385 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-391. Vancomycin-Resistant or Vancomycin-Intermediate *Staphylococcus aureus*

Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and implement contact precautions for a case or suspect case of vancomycin-resistant or vancomycin-intermediate *Staphylococcus aureus*.
2. A diagnosing health care provider or an administrator of a health care institution transferring a known case with active infection or a known carrier of vancomycin-resistant or vancomycin-intermediate *Staphylococcus aureus* to another health care provider or health care institution shall, either personally or through a representative, comply with R9-6-305.
3. A local health agency, in consultation with the Department, shall:
 - a. Upon receiving a report under R9-6-202 of a case or suspect case of vancomycin-resistant or vancomycin-intermediate *Staphylococcus aureus*, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
 - b. Ensure that a case or suspect case of vancomycin-resistant or vancomycin-intermediate *Staphylococcus aureus* is isolated as necessary to prevent transmission;
 - c. Conduct an epidemiologic investigation of each reported case or suspect case of vancomycin-resistant or vancomycin-intermediate *Staphylococcus aureus*;

or vancomycin-intermediate *Staphylococcus aureus*;

- d. For each case of vancomycin-resistant or vancomycin-intermediate *Staphylococcus aureus*, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
- e. Ensure that an isolate or a specimen, as available, from each case of vancomycin-resistant or vancomycin-intermediate *Staphylococcus aureus* is submitted to the Arizona State Laboratory.

Historical Note

Section R9-6-391 renumbered from R9-6-385 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-391 renumbered to R9-6-395; new Section R9-6-391 renumbered from R9-6-386 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-392. Varicella (Chickenpox)

A. Case control measures:

1. An administrator of a school or child care establishment, either personally or through a representative, shall exclude a varicella case from the school or child care establishment and from school- or child-care-establishment-sponsored events until lesions are dry and crusted.
2. An administrator of a health care institution, either personally or through a representative, shall isolate and implement airborne precautions for a varicella case until the case is no longer infectious.
3. A local health agency shall:
 - a. Conduct an epidemiologic investigation of each reported case of death due to primary varicella infection; and
 - b. For each reported case of death due to varicella infection, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

B. Contact control measures:

1. When a varicella case has been at a school or child care establishment, the administrator of the school or child care establishment, either personally or through a representative, shall:
 - a. Consult with the local health agency to determine who shall be excluded and how long each individual shall be excluded from the school or child care establishment, and
 - b. Comply with the local health agency's recommendations for exclusion.
2. A local health agency shall determine which contacts of a varicella case will be:
 - a. Excluded from a school or child care establishment, and
 - b. Advised to obtain an immunization against varicella.

Historical Note

Section R9-6-392 renumbered from R9-6-386 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-392 renumbered to R9-6-396; new Section R9-6-392 renumbered from R9-6-388 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-393. Vibrio Infection

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a *Vibrio* infection case or suspect case, notify the Department within one working day after receiving the report and provide to

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- the Department the information contained in the report;
2. Exclude a *Vibrio* infection case or suspect case with diarrhea from:
 - a. Working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment until:
 - i. Diarrhea has resolved, or
 - ii. The local health agency has determined that the case or suspect case is unlikely to infect other individuals; and
 - b. Using an aquatic venue until diarrhea has resolved;
 3. Conduct an epidemiologic investigation of each reported *Vibrio* infection case or suspect case; and
 4. For each *Vibrio* infection case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

Historical Note

Section R9-6-393 renumbered from R9-6-387 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-393 renumbered to R9-6-397; new Section R9-6-393 renumbered from R9-6-389 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-394. Viral Hemorrhagic Fever

- A.** Case control measures:
1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and implement both droplet precautions and contact precautions for a viral hemorrhagic fever case or suspect case for the duration of the illness.
 2. A local health agency shall:
 - a. Upon receiving a report under R9-6-202 of a viral hemorrhagic fever case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
 - b. Conduct an epidemiologic investigation of each reported viral hemorrhagic fever case or suspect case;
 - c. For each viral hemorrhagic fever case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
 - d. Ensure that one or more specimens from each viral hemorrhagic fever case or suspect case are submitted to the Arizona State Laboratory.
- B.** Contact control measures: A local health agency, in consultation with the Department, shall quarantine a viral hemorrhagic fever contact as necessary to prevent transmission.

Historical Note

Section R9-6-394 renumbered from R9-6-389 by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 1928, effective April 30, 2013 (Supp. 13-3). New Section R9-6-394 renumbered from R9-6-390 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-395. West Nile Virus Infection

- A.** Case control measures: A local health agency shall:
1. Conduct an epidemiologic investigation of each reported West Nile virus infection case or suspect case;
 2. For each case of West Nile virus infection, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and

3. Ensure that each West Nile virus infection case is provided with health education that includes measures to:
 - a. Avoid mosquito bites, and
 - b. Reduce mosquito breeding sites.
- B.** Environmental control measures: In cooperation with the Department, a local health agency or another local agency responsible for vector control within a jurisdiction shall conduct an assessment of the environment surrounding each West Nile virus infection case or suspect case and implement vector control measures as necessary.

Historical Note

New Section R9-6-395 renumbered from R9-6-391 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-396. Yellow Fever

- A.** Case control measures: A local health agency shall:
1. Upon receiving a report under R9-6-202 of a yellow fever case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
 2. Conduct an epidemiologic investigation of each reported yellow fever case or suspect case;
 3. For each yellow fever case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D);
 4. Ensure that each yellow fever case is provided with health education that includes measures to:
 - a. Avoid mosquito bites, and
 - b. Reduce mosquito breeding sites; and
 5. Ensure that an isolate or a specimen, as available, from each yellow fever case or suspect case is submitted to the Arizona State Laboratory.
- B.** Environmental control measures: In cooperation with the Department, a local health agency or another local agency responsible for vector control within a jurisdiction shall conduct an assessment of the environment surrounding each yellow fever case or suspect case and implement vector control measures as necessary.

Historical Note

New Section R9-6-396 renumbered from R9-6-392 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-397. Yersiniosis (Enteropathogenic *Yersinia*)

- Case control measures: A local health agency shall:
1. Upon receiving a report under R9-6-202 of a yersiniosis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
 2. Exclude a yersiniosis case or suspect case with diarrhea from:
 - a. Working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment until:
 - i. Diarrhea has resolved,
 - ii. A stool specimen negative for enteropathogenic *Yersinia* is obtained from the case or suspect case, or
 - iii. The local health agency has determined that the case or suspect case is unlikely to infect other individuals; and
 - b. Using an aquatic venue for two weeks after diarrhea has resolved;
 3. Conduct an epidemiologic investigation of each reported yersiniosis case or suspect case;

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4. For each yersiniosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
5. Ensure that an isolate or a specimen, as available, from each yersiniosis case is submitted to the Arizona State Laboratory.

Historical Note

New Section R9-6-397 renumbered from R9-6-393 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-398. Zika Virus Infection**A. Case control measures: A local health agency shall:**

1. Upon receiving a report under R9-6-202 of a Zika virus infection case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported Zika virus infection case or suspect case;
3. For each Zika virus infection case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D);
4. Ensure that one or more specimens from each Zika virus infection case or suspect case, as required by the Department, are submitted to the Arizona State Laboratory; and
5. Provide to the Zika virus infection case or ensure that another person provides to the Zika virus infection case health education that includes measures to:
 - a. Avoid mosquito bites,
 - b. Reduce mosquito breeding sites, and
 - c. Reduce the risk of sexual or congenital transmission of Zika virus.

B. Environmental control measures: In cooperation with the Department, a local health agency or another local agency responsible for vector control within a jurisdiction shall conduct an assessment of the environment surrounding each Zika virus infection case or suspect case and implement vector control measures as necessary.**Historical Note**

New Section R9-6-398 made by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

Exhibit III-A. Repealed**Historical Note**

Exhibit III-A made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-A repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

Exhibit III-B. Repealed**Historical Note**

Exhibit III-B made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-B repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

Exhibit III-C. Repealed**Historical Note**

Exhibit III-C made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-C repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

Exhibit III-D. Repealed**Historical Note**

Exhibit III-D made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-D repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

Exhibit III-E. Repealed**Historical Note**

Exhibit III-E made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-E repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

Exhibit III-F. Repealed**Historical Note**

Exhibit III-F made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-F repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

Exhibit III-G. Repealed**Historical Note**

Exhibit III-G made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-G repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

Exhibit III-H. Repealed**Historical Note**

Exhibit III-H made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-H repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

Exhibit III-I. Repealed**Historical Note**

Exhibit III-I made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-I repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

Exhibit III-J. Repealed**Historical Note**

Exhibit III-J made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-J repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

Exhibit III-K. Repealed**Historical Note**

Exhibit III-K made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-K repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

Exhibit III-L. Repealed**Historical Note**

Exhibit III-L made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-L repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

Exhibit III-M. Repealed

Historical Note

Exhibit III-M made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-M repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

Exhibit III-N. Repealed**Historical Note**

Exhibit III-N made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-N repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

ARTICLE 4. AIDS DRUG ASSISTANCE PROGRAM (ADAP)

R9-6-401. Definitions

In this Article, unless otherwise specified:

1. "ADAP" means the AIDS Drug Assistance Program.
2. "Adult" means an individual who is:
 - a. Eighteen or more years old;
 - b. Married; or
 - c. Emancipated, as specified in A.R.S. Title 12, Chapter 15.
3. "Advocacy" means the act of supporting, recommending, or arguing in favor of a cause or course of action for the benefit of an individual or group of individuals.
4. "AHCCCS" means the Arizona Health Care Cost Containment System.
5. "Annual family income" means the combined yearly gross earned income and unearned income of all adult individuals within a family unit.
6. "Applicant" means an individual for whom a request for initial enrollment in ADAP is submitted to the Department, as specified in R9-6-404.
7. "Applying for a low-income subsidy" means submitting forms and supporting documentation to the Social Security Administration for determining eligibility for receiving a low-income subsidy.
8. "Biological substance" means a compound made by or derived from a plant or animal source.
9. "Business day" means any day of the week other than a Saturday, Sunday, legal holiday, or day on which the Department is authorized or obligated by law or executive order to close.
10. "Calendar day" means any day of the week, including a Saturday, Sunday, or legal holiday.
11. "Case management services" means the activities performed by a case manager for an HIV-infected individual or the individuals in the HIV-infected individual's family unit.
12. "Case manager" means an individual who:
 - a. Assesses the needs of an HIV-infected individual for health services, housing, support services, and financial assistance;
 - b. Assists the HIV-infected individual with obtaining health services, housing, support services, or financial assistance, as applicable;
 - c. Coordinates the interaction of the HIV-infected individual with service providers; and
 - d. Monitors the interaction of the HIV-infected individual with service providers to:
 - i. Determine the effects of each service provider's activities on the needs of the HIV-infected individual, and
 - ii. Develop strategies to reduce unmet needs.
13. "CD4-T-lymphocyte count" means the number of a specific type of white blood cell in a cubic millimeter of blood.
14. "Community service organization" means a nonprofit entity that assists an individual who is infected with HIV or affected by another individual's infection with HIV by providing the services listed below or coordinating the interaction of the individual with service providers to obtain or retain:
 - a. Rehabilitation services,
 - b. Case management services,
 - c. Support services,
 - d. Advocacy,
 - e. Financial assistance, or
 - f. Housing.
15. "Confirmatory test" means a laboratory analysis, such as a Western blot analysis, approved by the U.S. Food and Drug Administration to be used after a screening test to diagnose or monitor the progression of HIV infection.
16. "Current" means within the six months before the:
 - a. Date of application, or
 - b. Date on which an enrolled individual submits to the Department the documents required in R9-6-407 for continuing enrollment.
17. "Date of application" means the month, day, and year that an individual submits the documents specified in R9-6-404 to the Department as an application for initial enrollment in ADAP.
18. "Diagnosis" means an identification of a communicable disease by an individual authorized by law to make the identification.
19. "Drug" means a chemical or biological substance determined by the U.S. Food and Drug Administration to be useful in the treatment of individuals with HIV infection and available only through a prescription order.
20. "Earned income" means monetary payments received by an individual as a result of work performed or rental of property owned or leased by the individual, including:
 - a. Wages,
 - b. Commissions and fees,
 - c. Salaries and tips,
 - d. Profit from self-employment,
 - e. Profit from rent received from a tenant or boarder, and
 - f. Any other monetary payments received by an individual for work performed or rental of property.
21. "Employed" means working for a person for money in the form of wages or a salary.
22. "Enrolling in a Medicare drug plan" means submitting information to the Centers for Medicare and Medicaid Services during an initial enrollment period or general enrollment period and selecting a Medicare drug plan.
23. "Family unit" means:
 - a. A group of individuals residing together who are related by birth, marriage, or adoption; or
 - b. An individual who:
 - i. Does not reside with another individual; or
 - ii. Resides only with another individual or group of individuals to whom the individual is unrelated by birth, marriage, or adoption.
24. "Formulary" means a list of drugs that are available to an individual through the individual's health insurance or ADAP.
25. "General enrollment period" means the interval of time between November 15 and December 31 of each calendar year during which an individual:

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- a. May enroll in a Medicare drug plan if the individual, before May 15, 2006:
 - i. Was enrolled in Medicare,
 - ii. Was eligible to enroll in a Medicare drug plan, and
 - iii. Did not enroll in a Medicare drug plan; or
- b. Currently enrolled in a Medicare drug plan may select a different Medicare drug plan.
26. "Gift" means something given voluntarily by an individual to another individual without payment in return.
27. "Guardian" means an individual appointed as a legal guardian by a court of competent jurisdiction.
28. "Health-related services" means the same as in A.R.S. § 36-401.
29. "Health services" means medical services, nursing services, or health-related services provided to an individual.
30. "HIV infection" means the same as in A.R.S. § 36-661.
31. "Homeless" means having a primary nighttime sleeping place that is not:
 - a. Designed to be a sleeping place for human beings, or
 - b. Ordinarily used as a primary nighttime sleeping place for human beings.
32. "Initial enrollment period" means the interval of time during which an individual may first enroll in a Medicare drug plan.
33. "Job" means a position in which an individual is employed.
34. "Low-income subsidy" means Medicare-provided assistance that may partially or fully cover the costs of drugs and is based on the income of an individual and, if applicable, the individual's spouse.
35. "Medical services" means the same as in A.R.S. § 36-401.
36. "Medicare" means a federal health insurance program established under Title XVIII of the Social Security Act.
37. "Medicare drug plan" means insurance approved by Medicare to cover some of the costs of drugs for individuals enrolled in Medicare.
38. "Non-permanent housing" means a living situation in which an individual is:
 - a. Homeless, or
 - b. Living in a shelter or other temporary living arrangement.
39. "Nonprofit" means owned and operated under the direction of an entity that is recognized as exempt under § 501 of the U.S. Internal Revenue Code.
40. "Nursing services" means the same as in A.R.S. § 36-401.
41. "Physician" means an individual licensed as a doctor of allopathic medicine under A.R.S. Title 32, Chapter 13, or as a doctor of osteopathic medicine under A.R.S. Title 32, Chapter 17.
42. "Physician assistant" means an individual licensed under A.R.S. Title 32, Chapter 25.
43. "Poverty level" means the annual family income for a family unit of a particular size, as specified in the poverty guidelines updated annually in the Federal Register by the U.S. Department of Health and Human Services.
44. "Prescription order" means the same as in A.R.S. § 32-1901.
45. "Primary care provider" means the physician, registered nurse practitioner, or physician assistant who is treating an applicant or enrolled individual for HIV infection.
46. "Provisional enrollment" means an interval of time, determined by the Department, during which an individual who meets the eligibility criteria specified in R9-6-403(1) through (4) may receive drugs on the ADAP formulary through the vendor pharmacy while the individual is waiting for:
 - a. An eligibility determination for AHCCCS enrollment or a low-income subsidy; or
 - b. Enrollment in a Medicare drug plan.
47. "Public assistance" means a government program that provides a monetary payment, or that supplies goods or services that have a monetary value, to individuals, based on need, such as Supplemental Security Income, Temporary Aid to Needy Families, Food Stamps, or non-federally funded General Assistance.
48. "Registered nurse practitioner" means an individual who meets the definition of registered nurse practitioner in A.R.S. § 32-1601 and is licensed under A.R.S. Title 32, Chapter 15.
49. "Regular" means recurring at fixed intervals.
50. "Rehabilitation services" means the same as in A.A.C. R9-10-201.
51. "Representative" means the:
 - a. Guardian of an individual;
 - b. Parent of an individual who is not an adult; or
 - c. Person designated as an agent for an individual through a power of attorney, as specified in A.R.S. Title 14, Chapter 5, Article 5.
52. "Reservist" means a member of the Reserves of the U.S. Army, Air Force, Navy, Marine Corps, or Coast Guard.
53. "Resident" means an individual who has a place of habitation in Arizona and lives in Arizona as other than a tourist.
54. "Restricted drug" means a drug on the ADAP formulary that is approved by the Department on a case-by-case basis for enrolled individuals who meet medical indications for the use of the drug.
55. "Routine training" means military education and related hands-on activities designed to make an individual ready for the tasks the individual would be expected to perform as a member of the U.S. Air Force, Army, Coast Guard, Marine Corps, or Navy.
56. "Screening test" means a laboratory analysis approved by the U.S. Food and Drug Administration as an initial test to indicate the possibility that an individual is HIV infected.
57. "Self-employed" means receiving money as a direct result of the work performed by an individual rather than from wages or a salary paid to the individual.
58. "Service provider" means an individual who provides medical services, nursing services, health-related services, or support services for an HIV-infected individual.
59. "Shelter" means a facility that provides individuals with a temporary place to sleep at night with the expectation that the individual will go elsewhere during the daylight hours.
60. "Support services" means activities, not related to the treatment of HIV infection, intended to maintain or improve the physical, mental, or psychosocial capabilities of an HIV-infected individual or the individual's family unit and that may include:
 - a. Providing opportunities for social interactions for HIV-infected individuals;
 - b. Taking care of a child of an HIV-infected individual while the HIV-infected individual receives medical services;
 - c. Providing food or meals to an HIV-infected individual in the HIV-infected individual's residence; or

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- d. Providing information about available support services or materials about how to reduce the risk of spreading HIV.
- 61. "Temporary" means transient, with no expectation of permanence.
- 62. "Third-party payor" means a person other than an HIV-infected individual, such as health insurance or an employer, that is responsible for paying a portion of the costs of drugs for the HIV-infected individual.
- 63. "Tourist" means an individual who is living in Arizona but maintains a place of habitation outside of Arizona and lives outside of Arizona for more than six months during a calendar year.
- 64. "Treatment" means the administration to an individual of health services intended to relieve illness or injury.
- 65. "Unearned income" means monetary payments received by an individual that are not compensation for work performed or rental of property owned or leased by the individual, including:
 - a. Unemployment insurance;
 - b. Workers' compensation;
 - c. Disability payments;
 - d. Payments from the Social Security Administration;
 - e. Payments from public assistance;
 - f. Periodic insurance or annuity payments;
 - g. Retirement or pension payments;
 - h. Strike benefits from union funds;
 - i. Training stipends;
 - j. Child support payments;
 - k. Alimony payments;
 - l. Military family allotments;
 - m. Regular support payments from a relative or other individual not residing in the household;
 - n. Investment income;
 - o. Royalty payments;
 - p. Periodic payments from estates or trusts; and
 - q. Any other monetary payments received by an individual that are not:
 - i. As a result of work performed or rental of property owned by the individual,
 - ii. Gifts,
 - iii. Lump-sum capital gains payments,
 - iv. Lump-sum inheritance payments,
 - v. Lump-sum insurance payments, or
 - vi. Payments made to compensate for personal injury.
- 66. "Vendor pharmacy" means an entity that contracts with the Department to perform the activities specified in R9-6-409(C).
- 67. "Veteran" means an individual who has served in the United States Armed Forces.
- 68. "Viral load test" means a laboratory analysis to determine the amount of HIV circulating in the body of an individual.

Historical Note

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2). Amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted without change as an emergency effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired.

Adopted without change as a permanent rule effective May 22, 1989. Amended as an emergency effective June 26, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Emergency amendment readopted without change effective October 17, 1989 (Supp. 89-4). Amended effective September 19, 1990 (Supp. 90-3). Renumbered from R9-6-801 effective October 19, 1993 (Supp. 93-4). Former Section R9-6-401 renumbered to R9-6-402; new Section R9-6-401 made by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Amended by final rulemaking at 13 A.A.R. 3329, effective November 10, 2007 (Supp. 07-3).

R9-6-402. Limitations and Termination of Program

ADAP ceases to provide drugs when available funding is exhausted or terminated. ADAP is not an entitlement program and does not create a right to assistance absent available funding.

Historical Note

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2). Amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted without change as an emergency effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Adopted without change as a permanent rule effective May 22, 1989 (Supp. 89-2). Amended effective September 19, 1990 (Supp. 90-3). Amended as an emergency effective August 8, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-3). Emergency expired. Emergency amendments re-adopted without change effective November 19, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-4). Emergency expired. Emergency amendments re-adopted without change effective February 28, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-1). Emergency expired. Renumbered from R9-6-802 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-402 renumbered to R9-6-403; new Section R9-6-402 renumbered from R9-6-401 and amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2).

R9-6-403. Eligibility Requirements

An individual is eligible to enroll in ADAP if the individual:

1. Has a diagnosis of HIV infection from a physician, registered nurse practitioner, or physician assistant;
2. Is a resident of Arizona, as established by documentation that complies with R9-6-404(A)(9);
3. Has an annual family income that is less than or equal to 300% of the poverty level;
4. Satisfies one of the following:
 - a. Has no health insurance coverage;
 - b. Has health insurance coverage that:
 - i. Does not cover drugs, or
 - ii. Does not include on its formulary at least one of the drugs prescribed for the individual that is on the ADAP formulary;
 - c. Is an American Indian or Alaska Native who:
 - i. Is eligible for, but chooses not to use, the Indian Health Service to receive drugs; and
 - ii. Either has no other health insurance coverage or has health insurance coverage that:

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- (1) Does not cover drugs, or
- (2) Does not include on its formulary at least one of the drugs prescribed for the individual that is on the ADAP formulary; or
- d. Is a veteran who:
 - i. Is eligible for, but chooses not to use, Veterans Health Administration benefits to receive drugs; and
 - ii. Either has no other health insurance coverage or has health insurance coverage that:
 - (1) Does not cover drugs, or
 - (2) Does not include on its formulary at least one of the drugs prescribed for the individual that is on the ADAP formulary;
- 5. Is ineligible for enrollment in AHCCCS, as established by documentation issued by AHCCCS; and
- 6. If eligible for Medicare:
 - a. Is ineligible for a full low-income subsidy, as established by documentation issued by the Social Security Administration; and
 - b. Has enrolled in a Medicare drug plan.

Historical Note

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2).

Amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired.

Readopted without change as an emergency effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired.

Amended subsection (B) and adopted as a permanent rule effective May 22, 1989 (Supp. 89-2). Amended as an emergency effective August 8, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-3). Emergency expired. Emergency amendments re-adopted without change effective November 19, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-4). Emergency expired. Emergency amendments re-adopted without change effective February 28, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-1). Emergency expired. Renumbered from R9-6-803 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-403 renumbered to R9-6-404; new Section R9-6-403 renumbered from R9-6-402 and amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Amended by final rulemaking at 13 A.A.R. 3329, effective November 10, 2007 (Supp. 07-3).

R9-6-404. Initial Application Process

- A. An applicant for initial enrollment in ADAP or the applicant's representative shall submit to the Department the following documents:
 - 1. A Department-provided form, completed by the applicant or the applicant's representative containing:
 - a. The applicant's name, date of birth, and gender;
 - b. Except as provided in subsection (A)(1)(c), the applicant's residential address and mailing address;
 - c. If the applicant is in non-permanent housing, the address of a community service organization that has agreed to receive written communications for the applicant;

- d. If applicable, the name of the applicant's representative and the mailing address of the applicant's representative, if different from the applicant's mailing address;
- e. The telephone number of the applicant or a person that has agreed to receive telephone communications for the applicant;
- f. The number of individuals in the applicant's family unit and the names and ages of the individuals;
- g. The names of individuals, other than the persons specified in subsection (A)(1)(q)(iii), with whom the applicant authorizes the Department to speak about the applicant's enrollment in ADAP;
- h. The applicant's annual family income;
- i. The applicant's race and ethnicity;
- j. Whether the applicant or an adult in the applicant's family unit:
 - i. Is employed;
 - ii. Is self-employed;
 - iii. Is receiving public assistance;
 - iv. Is receiving regular monetary payments from a source not specified in subsection (A)(1)(j)(i) through subsection (A)(1)(j)(iii) and, if so, an identification of the source of the monetary payments; or
 - v. Is using a source not specified in subsection (A)(1)(j)(i) through subsection (A)(1)(j)(iv) or savings to assist the applicant in obtaining food, water, housing, or clothing for the applicant and if so, an identification of the source;
- k. Whether the applicant is receiving benefits from AHCCCS;
- l. The date the applicant or the applicant's representative is scheduled to meet with AHCCCS to discuss eligibility for AHCCCS, if applicable;
- m. Whether the applicant is eligible for Medicare benefits and, if not, the date on which the applicant will be eligible for Medicare benefits;
- n. If the applicant is eligible for Medicare benefits, whether:
 - i. The applicant or the applicant's representative has applied for a low-income subsidy for the applicant and, if so, the date of the application for the low-income subsidy; and
 - ii. Either:
 - (1) The applicant or the applicant's representative has applied for a Medicare drug plan for the applicant and, if so, the date of the application for the Medicare drug plan; or
 - (2) The applicant is enrolled in a Medicare drug plan;
- o. Whether the applicant has health insurance other than Medicare that would pay for drugs on the ADAP formulary;
- p. Whether the applicant has served on active duty:
 - i. In the U.S. Air Force, Army, Coast Guard, Marine Corps, or Navy;
 - ii. In the Army National Guard or Air National Guard; or
 - iii. As a reservist serving on active duty other than for routine training purposes;
- q. A statement by the applicant or the applicant's representative confirming that the applicant or the applicant's representative:

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- i. Understands that the applicant or the applicant's representative is required to submit to the Department proof of ineligibility for enrollment in AHCCCS and for a low-income subsidy within 30 calendar days after the date of application, if not provided to the Department with the application;
 - ii. Understands that the applicant or the applicant's representative is required to submit to the Department proof of enrollment in a Medicare drug plan, if the applicant is eligible for Medicare, within 30 calendar days after the date of application, if not provided to the Department with the application;
 - iii. Grants permission to the Department to discuss the information provided to the Department under subsection (A) with:
 - (1) AHCCCS, for the purpose of determining AHCCCS eligibility;
 - (2) Medicare and the Social Security Administration, for the purpose of determining eligibility for a low-income subsidy and enrollment in a Medicare drug plan;
 - (3) The applicant's primary care provider or designee;
 - (4) The vendor pharmacy, to assist with drug distribution; and
 - (5) Any other entity as necessary to establish eligibility for enrollment in ADAP or assist with drug distribution to the applicant;
 - iv. Understands that the applicant or the applicant's representative is required to submit to the Department proof of annual family income as part of the application; and
 - v. Understands that the applicant or the applicant's representative is required to notify the Department of changes specified in R9-6-406(A);
 - r. A statement by the applicant or the applicant's representative attesting that:
 - i. To the best of the knowledge and belief of the applicant or the applicant's representative, the information provided to the Department as specified in subsection (A), including the information in the documents accompanying the form specified in subsection (A)(1), is accurate and complete;
 - ii. The applicant meets the eligibility criteria specified in R9-6-403; and
 - iii. The applicant or applicant's representative understands that eligibility does not guarantee that the Department will be able to provide drugs and understands that an individual's enrollment in ADAP may be terminated as specified in R9-6-408; and
 - s. The dated signature of the applicant or the applicant's representative;
2. The Department-provided form specified in subsection (B), completed by the applicant's primary care provider;
 3. A written prescription order signed by the applicant's primary care provider or a copy of the written prescription order for each drug on the list specified in subsection (B)(5);
 4. A copy of current documentation from AHCCCS stating that the applicant's eligibility for enrollment in AHCCCS has not yet been determined or that AHCCCS is denying eligibility to the applicant;
 5. If the applicant is eligible for Medicare, a copy of current documentation from the Social Security Administration stating that the applicant's eligibility for a low-income subsidy has not yet been determined or that the applicant is ineligible for a full low-income subsidy;
 6. If the applicant is eligible for Medicare, a copy of the applicant's Medicare prescription card or copy of a letter from the company providing the applicant's Medicare drug plan, confirming that the applicant has applied for or is enrolled in a Medicare drug plan;
 7. Proof of annual family income, including the following items as applicable to the applicant's family unit:
 - a. For each job held by an adult in the family unit:
 - i. Paycheck stubs from the 30 calendar days before the date of application, or
 - ii. A statement from the employer listing gross wages for the 30 calendar days before the date of application;
 - b. From each self-employed adult in the family unit, documentation of the current net income from self-employment, such as:
 - i. An income tax return submitted for the previous tax year to the U.S. Internal Revenue Service or the Arizona Department of Revenue;
 - ii. The Internal Revenue Service Forms 1099 prepared for the previous tax year for the self-employed adult in the family unit;
 - iii. A profit and loss statement for the self-employed adult's business; or
 - iv. Bank statements from the self-employed adult's checking and savings accounts;
 - c. A letter from each entity providing public assistance to an adult in the family unit, describing payments from public assistance;
 - d. A letter from an entity providing a monetary award to an adult in the family unit to cover educational expenses other than tuition, describing the monetary award; and
 - e. Documentation showing the amount and source of any regular monetary payments received by an adult in the family unit from sources other than those specified in subsection (A)(7)(a) through subsection (A)(7)(d);
 8. If the applicant or the applicant's representative has stated on the form specified in subsection (A)(1) that the applicant has no source of regular monetary payments and is unable to provide any of the documentation specified in subsection (A)(7), a Department-provided form, completed and signed within 30 calendar days before the date of application, containing:
 - a. Information completed by the applicant or the applicant's representative stating whether:
 - i. An adult in the applicant's family unit receives money from intermittent work performed by the adult in the family unit for which no paycheck stub is received and, if so, the average monthly earnings, and the adult's occupation;
 - ii. The applicant is homeless or living in a shelter;
 - iii. The applicant is receiving assistance from another individual; and
 - iv. The applicant has another source of assistance for obtaining food, water, housing, and clothing, and, if so, an identification of the source;

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- b. A statement by the applicant or the applicant's representative attesting that to the best of the knowledge and belief of the applicant or the applicant's representative, the information submitted under subsection (A)(8)(a) is accurate and complete;
 - c. The dated signature of the applicant or the applicant's representative;
 - d. A statement by the applicant's case manager or primary care provider attesting that to the best of the knowledge and belief of the applicant's case manager or primary care provider the information submitted under subsection (A)(8)(a) is accurate and complete; and
 - e. The dated signature of the applicant's case manager or primary care provider;
9. Proof that the applicant is a resident of Arizona that includes:
- a. One of the following that shows the Arizona residential address included on the Department-provided form specified in subsection (A)(1) and the name of the applicant or an adult in the applicant's family unit:
 - i. Documentation issued by a governmental entity related to participation in public assistance, dated within 60 calendar days before the date of application;
 - ii. Current documentation from AHCCCS related to the applicant's eligibility for enrollment in AHCCCS;
 - iii. Current documentation from the Social Security Administration or the Department of Veterans Affairs related to the applicant's eligibility for benefits;
 - iv. Current documentation from the Arizona Department of Economic Security related to the applicant's eligibility for unemployment insurance benefits;
 - v. A property tax statement for the most recent tax year issued by a governmental entity;
 - vi. A homeowners' association assessment or fee statement, dated within 60 calendar days before the date of application;
 - vii. A current lease agreement; or
 - viii. A mortgage statement for the most recent tax year;
 - b. If the applicant is unable to produce documentation that satisfies subsection (A)(9)(a), two of the following that show the Arizona residential address included on the Department-provided form specified in subsection (A)(1) and the name of the applicant or an adult in the applicant's family unit:
 - i. A utility bill dated within 60 calendar days before the date of application;
 - ii. A tax statement, other than a property tax statement, issued by a governmental entity for the most recent tax year;
 - iii. An Internal Revenue Service Form W-2 for the most recent tax year;
 - iv. A check stub or statement of direct deposit issued by an employer for the most recent pay period;
 - v. A bank or credit union statement dated within 60 calendar days before the date of application;
 - vi. A non-expired Arizona driver license issued by the Arizona Department of Transportation's Motor Vehicle Division;
 - vii. A non-expired Arizona vehicle registration issued by the Arizona Department of Transportation's Motor Vehicle Division;
 - viii. A non-expired Arizona identification card issued by the Arizona Department of Transportation's Motor Vehicle Division;
 - ix. A tribal enrollment card or other type of tribal identification; or
 - x. A current immigration identification card issued by U.S. Citizenship and Immigration Services; or
 - c. If the applicant is unable to produce documentation that satisfies either subsection (A)(9)(a) or (b), two of the following that include the name of the applicant or an adult in the applicant's family unit:
 - i. A document listed in subsection (A)(9)(b)(i) through subsection (A)(9)(b)(x) that includes the Arizona residential address shown on the Department-provided form specified in subsection (A)(1);
 - ii. A letter issued by an entity providing non-permanent housing to the applicant, including the Arizona residential address of the non-permanent housing that is the same as the Arizona residential address for the applicant shown on the Department-provided form specified in subsection (A)(1);
 - iii. A written statement issued by a community service organization, verifying that the applicant is homeless and a resident of Arizona;
 - iv. A credit card, primary care provider's office, insurance company, or mobile telephone company billing statement dated within 60 calendar days before the date of application, including the Arizona residential address shown on the Department-provided form specified in subsection (A)(1);
 - v. A current vehicle insurance card, including the Arizona residential address shown on the Department-provided form specified in subsection (A)(1);
 - vi. An official document, such as an Arizona voter registration card, issued by a governmental entity and including the Arizona residential address shown on the Department-provided form specified in subsection (A)(1);
 - vii. A written statement issued by the applicant's case manager indicating that the case manager has conducted a home visit with the applicant at the Arizona residential address shown on the Department-provided form specified in subsection (A)(1) within 30 calendar days before the date of application; or
 - viii. A written statement issued by the applicant's primary care provider, verifying that the applicant is a resident of Arizona; and
10. If the applicant or the applicant's representative has stated on the Department-provided form specified in subsection (A)(8) that the applicant receives assistance from another individual, a letter from the individual to support the statement of the applicant or the applicant's representative.
- B.** The primary care provider of an applicant for initial enrollment in ADAP shall complete for the applicant a Department-provided form containing:
- 1. The applicant's name;

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2. The primary care provider's name, business address, telephone number, fax number, and professional license number;
 3. A statement that the applicant has been diagnosed with HIV infection;
 4. The dates of and results for the most recent confirmatory test, CD4-T-lymphocyte count, and, if available, viral load test conducted for the applicant;
 5. A list of each drug from the current ADAP formulary prescribed for the applicant by the primary care provider;
 6. A statement by the primary care provider that the primary care provider understands that the primary care provider is required to notify the Department of changes specified in R9-6-406(B);
 7. A statement by the primary care provider attesting that, to the best of the primary care provider's knowledge and belief, the information provided to the Department as specified in subsection (B) is accurate and complete; and
 8. The dated signature of the primary care provider.
- C. For purposes of enrollment in ADAP, an applicant or the applicant's representative may report annual family income using actual family income for the most recent 12 months or estimated annual family income determined by multiplying the most recent monthly family income by 12.

Historical Note

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2).

Amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted as an emergency and subsection (A) corrected effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Amended subsection (B) and adopted as a permanent rule effective May 22, 1989 (Supp. 89-2).

Renumbered from R9-6-804 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-404 renumbered to R9-6-405; new Section R9-6-404 renumbered from R9-6-403 and amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2).

Amended by final rulemaking at 13 A.A.R. 3329, effective November 10, 2007 (Supp. 07-3).

R9-6-405. Enrollment Process; Provisional Enrollment

- A. The Department shall:
1. Review the documents submitted by an applicant as required in R9-6-404(A);
 2. Determine whether the applicant is eligible under R9-6-403;
 3. Grant or deny enrollment based on applicant eligibility, the date of application, and the availability of funds; and
 4. Notify the applicant or the applicant's representative of the Department's decision within five business days after receiving the documents specified in R9-6-404(A).
- B. An applicant or the applicant's representative shall execute any consent forms or releases of information necessary for the Department to verify eligibility.
- C. The Department shall send an applicant or the applicant's representative a written notice of denial, setting forth the information required under A.R.S. § 41-1092.03, if:
1. The applicant or the applicant's representative fails to provide documentation establishing eligibility for enrollment in ADAP,

2. The documentation submitted to the Department under R9-6-404 is found to contain false information, or
 3. The Department does not have funds available to enroll the applicant in ADAP.
- D. The Department shall grant a 30-day provisional enrollment in ADAP to an applicant if:
1. The Department determines that the applicant meets the requirements of R9-6-403(1) through (4); and
 2. The applicant or the applicant's representative attests in writing that the applicant has applied for AHCCCS enrollment and, if eligible for Medicare, a low-income subsidy and a Medicare drug plan, but is unable to provide documentation that complies with R9-6-403(5) or (6) or both.
- E. The Department shall provide an applicant to whom the Department has granted provisional enrollment in ADAP with the drugs on the list specified in R9-6-404(B)(5) during the provisional enrollment period.
- F. Except as specified in subsection (H), to continue ADAP enrollment beyond a 30-day provisional enrollment period, an applicant or the applicant's representative shall provide to the Department, before the end of the 30-day provisional enrollment period, documentation that complies with R9-6-403(5) and, if applicable, R9-6-403(6).
- G. Except as specified in subsection (H), if an applicant with provisional enrollment or the applicant's representative fails to provide documentation as required in subsection (F) to the Department before end of a 30-day provisional enrollment period, the Department shall send the applicant or the applicant's representative a written notice of denial, setting forth the information required under A.R.S. § 41-1092.03.
- H. The Department may grant an extension of provisional enrollment to an applicant beyond a 30-day provisional enrollment period if the applicant or the applicant's representative provides documentation to the Department that the applicant has applied for AHCCCS enrollment and, if eligible for Medicare, a low-income subsidy and Medicare drug plan and:
1. AHCCCS has not yet determined whether the applicant is eligible for AHCCCS enrollment; or
 2. If the applicant is eligible for Medicare:
 - a. The Social Security Administration has not yet determined whether the applicant is eligible for a low-income subsidy, or
 - b. The applicant cannot enroll in a Medicare drug plan until the next general enrollment period.

Historical Note

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2).

Amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired.

Readopted as an emergency and subsection (B), Paragraph (2) corrected effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Adopted without change as a permanent rule effective May 22, 1989 (Supp. 89-2).

Renumbered from R9-6-805 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-405 renumbered to R9-6-406; new Section R9-6-405 renumbered from R9-6-404 and amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2).

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Amended by final rulemaking at 13 A.A.R. 3329, effective November 10, 2007 (Supp. 07-3).

R9-6-406. Notification Requirements

- A.** An enrolled individual or the enrolled individual's representative shall notify the Department in writing or by telephone and comply with the applicable requirements specified in R9-6-407 within 30 calendar days after any of the following occurs:
1. The residential or mailing address or the telephone number of the enrolled individual changes from that provided to the Department under R9-6-404(A)(1) or R9-6-407;
 2. The enrolled individual adds or deletes an individual with whom the Department may speak about the enrolled individual's ADAP enrollment from the list specified in R9-6-404(A)(1)(g);
 3. The enrolled individual begins receiving treatment for HIV infection from a primary care provider different from the primary care provider who completed:
 - a. The form specified in R9-6-404(B), or
 - b. The most recent form specified in R9-6-407(D);
 4. The enrolled individual has:
 - a. Been determined eligible for and enrolled to receive drug coverage through AHCCCS;
 - b. Received notification of drug coverage from a third-party payor other than AHCCCS, the Indian Health Service, or the Veterans Health Administration; or
 - c. Been determined eligible for a low-income subsidy;
 5. The enrolled individual's annual family income has:
 - a. Increased to an amount above 300% of the poverty level, or
 - b. Decreased to an amount that may make the enrolled individual eligible for enrollment in AHCCCS; or
 6. The enrolled individual establishes residency outside Arizona.
- B.** An enrolled individual's primary care provider shall:
1. Notify the Department in writing or by telephone:
 - a. That the enrolled individual has died, within 14 calendar days after the primary care provider learns of the death; and
 - b. That the enrolled individual is receiving treatment for HIV infection from a different primary care provider, within 14 calendar days after the primary care provider learns of the change in primary care provider; and
 2. Include in the notification:
 - a. The name and date of birth of the enrolled individual;
 - b. If notifying under subsection (B)(1)(a), the date of death; and
 - c. If notifying under subsection (B)(1)(b), the name, business address, and telephone number of the new primary care provider.
- C.** An enrolled individual's primary care provider shall notify the vendor pharmacy, as specified in R9-6-409(A):
1. When prescribing a new drug for the enrolled individual, or
 2. Within seven calendar days after discontinuing a drug that was contained in the list completed by the enrolled individual's primary care provider under R9-6-404(B) or R9-6-407(D).
- D.** An enrolled individual's case manager shall notify the Department in writing or by telephone within 30 calendar days after the case manager learns that:
1. The residential or mailing address or the telephone number of the enrolled individual has changed from that provided to the Department under R9-6-404(A)(1) or R9-6-407;

2. The enrolled individual has begun receiving treatment for HIV infection from a primary care provider who is different from the primary care provider who completed:
 - a. The form specified in R9-6-404(B), or
 - b. The most recent form specified in R9-6-407(D);
3. The enrolled individual has:
 - a. Been determined eligible for and enrolled to receive drug coverage through AHCCCS;
 - b. Received notification of drug coverage from a third-party payor other than AHCCCS, the Indian Health Service, or the Veterans Health Administration; or
 - c. Been determined eligible for a low-income subsidy;
4. The enrolled individual's annual family income has:
 - a. Increased to an amount above 300% of the poverty level; or
 - b. Decreased to an amount that may make the enrolled individual eligible for enrollment in AHCCCS;
5. The enrolled individual has established residency outside Arizona; or
6. The enrolled individual has died.

Historical Note

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2).

Amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired.

Readopted without change as an emergency effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired.

Adopted without change as a permanent rule effective May 22, 1989 (Supp. 89-2). Amended effective September 19, 1990 (Supp. 90-3). Renumbered from R9-6-806 effective October 19, 1993 (Supp. 93-4). Former Section R9-6-406 renumbered to R9-6-407; new Section R9-6-406 renumbered from R9-6-405 and amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Former R9-6-406 renumbered to R9-6-407; new R9-6-406 made by final rulemaking at 13 A.A.R. 3329, effective November 10, 2007 (Supp. 07-3).

R9-6-407. Continuing Enrollment

- A.** To continue enrollment in ADAP, an enrolled individual or the enrolled individual's representative shall:
1. When the enrolled individual's residential or mailing address changes, comply with subsection (B);
 2. When the enrolled individual's primary care provider changes, comply with subsection (C);
 3. When the enrolled individual's annual family income decreases to an amount that may make the individual eligible for enrollment in AHCCCS, comply with subsection (E);
 4. When the enrolled individual becomes eligible for Medicare, comply with subsection (F);
 5. Before the expiration of each six-month period after an individual's initial enrollment, comply with subsection (G); and
 6. Before the expiration of each 24-month period after an individual's initial enrollment, comply with subsection (H).
- B.** When an enrolled individual's residential or mailing address changes, the enrolled individual or the enrolled individual's representative shall:

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1. Complete a Department-provided form containing for the enrolled individual the information specified in R9-6-404(A)(1)(a) through R9-6-404(A)(1)(h) and R9-6-404(A)(1)(j), (k), (m), (n), and (o);
 2. Attest on the form specified in subsection (B)(1) that:
 - a. To the best of the knowledge and belief of the enrolled individual or the enrolled individual's representative, the information submitted in the form and the documents submitted with the form are accurate and complete;
 - b. The enrolled individual meets the eligibility criteria specified in R9-6-403; and
 - c. The enrolled individual or the enrolled individual's representative understands that eligibility does not guarantee that the Department will be able to provide drugs and that an individual's enrollment in ADAP may be terminated as specified in R9-6-408;
 3. Grant permission on the form specified in subsection (B)(1) for the Department to discuss the enrolled individual's enrollment with:
 - a. AHCCCS, for the purpose of determining AHCCCS eligibility;
 - b. Medicare and the Social Security Administration, for the purpose of determining eligibility for a low-income subsidy and enrollment in a Medicare drug plan;
 - c. The applicant's primary care provider or designee;
 - d. The vendor pharmacy, to assist with drug distribution; and
 - e. Any other entity as necessary to establish eligibility for enrollment in ADAP or assist with drug distribution;
 4. Sign and date the form specified in subsection (B)(1); and
 5. Submit to the Department within 30 calendar days of the change:
 - a. The form specified in subsection (B)(1); and
 - b. Proof of Arizona residency, as specified in R9-6-404(A)(9), showing the new Arizona residential address included on the form specified in subsection (B)(1).
- C.** When an enrolled individual's primary care provider changes, the enrolled individual or the enrolled individual's representative shall:
1. Comply with subsections (B)(1) through (4);
 2. Obtain from the new primary care provider the Department-provided form specified in subsection (D), completed by the new primary care provider; and
 3. Submit the form specified in subsection (B)(1) and the form specified in subsection (C)(2) to the Department within 30 calendar days after the change.
- D.** The primary care provider of an enrolled individual shall complete for the enrolled individual a Department-provided form containing:
1. The information required under R9-6-404(B)(1), (2), and (5) through (8); and
 2. The dates of and results for the most recent CD4-T-lymphocyte count and, if available, viral load test conducted for the enrolled individual.
- E.** When an enrolled individual's annual family income decreases to an amount that may make the individual eligible for enrollment in AHCCCS, the enrolled individual or the enrolled individual's representative shall:
1. Apply for enrollment in AHCCCS within 30 calendar days after the change in annual family income; and
 2. If the enrolled individual is determined to be ineligible for AHCCCS enrollment, submit to the Department within 30 calendar days after the change, documentation that complies with R9-6-403(5).
- F.** When an enrolled individual becomes eligible for Medicare, the enrolled individual or the enrolled individual's representative shall, within 30 calendar days after the enrolled individual becomes eligible for Medicare:
1. Apply for a low-income subsidy and for a Medicare drug plan, and
 2. If the enrolled individual is determined to be ineligible for a low-income subsidy, submit to the Department documentation that complies with R9-6-403(6).
- G.** Before the expiration of each six-month period after an individual's initial enrollment, the enrolled individual or the enrolled individual's representative shall submit to the Department:
1. Proof of annual family income, as specified in R9-6-404(A)(7) or (8); and
 2. Proof that the enrolled individual is a resident of Arizona, as specified in R9-6-404(A)(9).
- H.** Before the expiration of each 24-month period after an individual's initial enrollment, the enrolled individual or the enrolled individual's representative shall:
1. Comply with subsections (B)(1) through (4);
 2. Obtain from the enrolled individual's primary care provider the Department-provided form completed as specified in subsection (D); and
 3. Submit to the Department:
 - a. The form specified in subsection (H)(1),
 - b. The form specified in subsection (H)(2),
 - c. Proof of annual family income, as specified in R9-6-404(A)(7) or (8), and
 - d. Proof that the enrolled individual is a resident of Arizona, as specified in R9-6-404(A)(9).
- I.** The Department shall:
1. Review information about an enrolled individual and determine eligibility for continuing enrollment for the enrolled individual:
 - a. Every six months after the individual's initial enrollment;
 - b. When the Department receives information from the enrolled individual or the enrolled individual's representative under subsection (A); or
 - c. When the Department no longer has sufficient funds to provide continuing enrollment to all enrolled individuals;
 2. Grant continuing enrollment to an enrolled individual, subject to the availability of funds, when:
 - a. The enrolled individual or the enrolled individual's representative complies with subsection (A); and
 - b. The Department determines that:
 - i. The information in the documents submitted to the Department is accurate and complete, and
 - ii. The enrolled individual is eligible under R9-6-403; and
 3. Notify the enrolled individual or the enrolled individual's representative of the Department's decision within five business days after receipt of the documents required in subsection (A).
- J.** If the Department denies continuing enrollment to an enrolled individual, the Department shall send to the enrolled individual or the enrolled individual's representative a written notice of denial setting forth the information required under A.R.S. § 41-1092.03.

Historical Note

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days

(Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2).

Emergency not renewed. Former Section R9-6-808 renumbered as Section R9-6-807, amended, and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted as an emergency and subsection (C) corrected effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Adopted without change as a permanent rule effective May 22, 1989 (Supp. 89-2). Renumbered from R9-6-807 effective October 19, 1993 (Supp. 93-4). Former Section R9-6-407 repealed; new Section R9-6-407 renumbered from R9-6-406 and amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Former R9-6-407 renumbered to R9-6-409; new R9-6-407 renumbered from R9-6-406 and amended by final rulemaking at 13 A.A.R. 3329, effective November 10, 2007 (Supp. 07-3).

R9-6-408. Termination from ADAP Services

- A.** The Department may terminate an individual's enrollment in ADAP if:
 1. The Department learns that information submitted to the Department by the individual or the individual's representative under R9-6-404(A) or (C), R9-6-407(A), or R9-6-409(E) is inaccurate or incomplete;
 2. The vendor pharmacy does not receive a request from the individual or the individual's representative for any refill of a drug for a period of 90 calendar days; or
 3. The individual or the individual's representative exhibits violent or threatening behavior to an employee of the Department or the vendor pharmacy, as established by documentation such as a police report or a written document from the individual.
- B.** The Department may terminate approval of a restricted drug for an individual enrolled in ADAP if the Department learns that the enrolled individual:
 1. Is not following the instructions of the enrolled individual's primary care provider regarding the use of the restricted drug; or
 2. Has not had additional laboratory analyses performed, as required in R9-6-409(E)(1)(i)(ii), to support continuing use of the restricted drug.
- C.** The Department shall send to an individual or the individual's representative a written notice of termination setting forth the information required under A.R.S. § 41-1092.03 if the Department terminates:
 1. The individual's enrollment in ADAP, or
 2. Approval of a restricted drug for the individual.

Historical Note

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2). Former Section R9-6-809 renumbered as Section R9-6-808, amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired.

Readopted without change as an emergency effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired.

Adopted without change as a permanent rule effective May 22, 1989 (Supp. 89-2). Renumbered from R9-6-808

effective October 19, 1993 (Supp. 93-4). Former Section R9-6-408 renumbered to R9-6-409; new Section R9-6-408 made by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Section repealed; new Section made by final rulemaking at 13 A.A.R. 3329, effective November 10, 2007 (Supp. 07-3).

R9-6-409. Drug Prescription and Distribution Requirements

- A.** A primary care provider shall:
 1. Issue a prescription order:
 - a. For each drug from the ADAP formulary prescribed for an applicant or enrolled individual by the primary care provider;
 - b. For dispensing up to a 30-day supply of the drug; and
 - c. To authorize no more than a six-month supply of the drug, including the original prescription order and all refills;
 2. Submit:
 - a. A written prescription order or copy of a written prescription order to the Department as specified in R9-6-404(A)(3); and
 - b. A written or oral prescription order to the vendor pharmacy when:
 - i. Prescribing a drug for a newly enrolled individual,
 - ii. Prescribing a new drug for an enrolled individual, or
 - iii. Authorizing an additional six-month supply of a drug for an enrolled individual; and
 3. Notify the vendor pharmacy when discontinuing a drug for an enrolled individual.
- B.** The Department shall forward a written prescription order submitted to the Department as specified in subsection (A)(2)(a) to the vendor pharmacy within three business days of approving an individual for initial enrollment.
- C.** The vendor pharmacy shall:
 1. Maintain a supply of the drugs on the ADAP formulary available for dispensing;
 2. Receive prescription orders issued by an enrolled individual's primary care provider;
 3. Before dispensing drugs, verify:
 - a. With an enrolled individual or the enrolled individual's representative the address to which the enrolled individual or the enrolled individual's representative wants the drugs delivered, and
 - b. An individual's enrollment status;
 4. Dispense up to a 30-day supply of a drug to an enrolled individual:
 - a. Upon receipt of a:
 - i. Prescription order as specified in subsection (C)(2), or
 - ii. Request from the enrolled individual or the enrolled individual's representative for a refill of the drug;
 - b. To the address identified, as specified in subsection (C)(3)(a); and
 - c. So the drug is dispensed to the enrolled individual no later than three business days after the vendor pharmacy:
 - i. Receives a prescription order or request for refill, as specified in subsection (C)(4)(a);
 - ii. Has verified the address to which the drug is to be delivered, as specified in subsection (C)(3)(a); and

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- iii. Has verified the individual's enrollment status, as specified in subsection (C)(3)(b); and
 - 5. Notify the Department upon receiving a request for dispensing a drug for an individual who is neither enrolled nor provisionally enrolled in ADAP.
- D.** The Department may authorize replacement of a drug when:
 - 1. The drug has been dispensed by the vendor pharmacy to an enrolled individual; and
 - 2. The enrolled individual or the enrolled individual's representative claims the dispensed drug was lost, stolen, or damaged.
- E.** The primary care provider of an enrolled individual may request approval of a restricted drug for the enrolled individual by:
 - 1. Completing a Department-provided form for each requested restricted drug that contains the following information:
 - a. The name, business address, and telephone number of the primary care provider;
 - b. The date of the request;
 - c. The enrolled individual's name and date of birth;
 - d. The indications for the use of the restricted drug;
 - e. The most recent results of laboratory analyses to support the request and the dates of the laboratory analyses;
 - f. A justification for use of the restricted drug by the enrolled individual;
 - g. An attestation by the primary care provider that:
 - i. To the best of the primary care provider's knowledge and belief, the information presented in the request is accurate and complete; and
 - ii. The primary care provider understands that the primary care provider is required to provide instructions to the enrolled individual regarding the use of the restricted drug and monitor the enrolled individual's use of the restricted drug;
 - h. The dated signature of the primary care provider;
 - i. An attestation by the enrolled individual or the enrolled individual's representative that the enrolled individual or the enrolled individual's representative understands that the enrolled individual is required to:
 - i. Follow the instructions of the enrolled individual's primary care provider regarding the use of the restricted drug; and
 - ii. Have periodic laboratory analyses performed to support continuing use of the restricted drug; and
 - j. The dated signature of the enrolled individual or the enrolled individual's representative;
 - 2. Issuing a written or oral prescription order for the restricted drug to the vendor pharmacy; and
 - 3. Submitting to the Department:
 - a. The completed drug-specific form specified in subsection (E)(1), and
 - b. Copies of the results of the most recent laboratory analyses to support the request for the restricted drug.
- F.** If the restricted drug requested under subsection (E) is approved by the Department for an enrolled individual, the enrolled individual's primary care provider shall:
 - 1. Provide instructions to the enrolled individual regarding the use of the restricted drug; and
 - 2. Monitor the enrolled individual's use of and clinical response to the restricted drug.
- G.** When the Department receives a drug-specific form requesting a restricted drug for an enrolled individual, the Department shall:
 - 1. Review the documents submitted according to subsection (E)(3);
 - 2. Determine whether the information submitted to the Department:
 - a. Is complete; and
 - b. Substantiates that the enrolled individual's use of the restricted drug is indicated; and
 - 3. Notify the following of the Department's decision within five business days after receiving the request:
 - a. The enrolled individual or the enrolled individual's representative;
 - b. The enrolled individual's primary care provider; and
 - c. The vendor pharmacy.
- H.** If the Department denies a request for approval of a restricted drug for an enrolled individual, the Department shall send to the enrolled individual or the enrolled individual's representative a written notice of denial setting forth the information required under A.R.S. § 41-1092.03.
- I.** The Department shall only authorize the distribution of drugs that are included on the ADAP formulary.

Historical Note

Adopted effective October 19, 1993 (Supp. 93-4).
 Amended effective April 4, 1997 (Supp. 97-2). Former Section R9-6-409 renumbered to R9-6-902; new Section R9-6-409 renumbered from R9-6-408 and amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Former R9-6-409 renumbered to R9-6-410; new R9-6-409 renumbered from R9-6-407 and amended by final rulemaking at 13 A.A.R. 3329, effective November 10, 2007 (Supp. 07-3).

Exhibit A. Renumbered**Historical Note**

Exhibit A "Consent for HIV Testing" (English) form adopted effective April 4, 1997 (Supp. 97-2). Exhibit A renumbered to Article 9 by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2).

Exhibit B. Renumbered**Historical Note**

Exhibit B "Consentimiento Para la Prueba de VIH" (Consent for HIV Testing-Spanish) form adopted effective April 4, 1997 (Supp. 97-2). Exhibit B renumbered to Article 9 by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2).

R9-6-410. Confidentiality

In administering ADAP, the Department shall comply with all applicable federal and state laws relating to confidentiality of information.

Historical Note

Adopted effective October 19, 1993 (Supp. 93-4). Section renumbered to R9-6-903 by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Section R9-6-410 renumbered from R9-6-409 and amended by final rulemaking at 13 A.A.R. 3329, effective November 10, 2007 (Supp. 07-3).

R9-6-411. Repealed

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Historical Note

Amended effective February 25, 1976 (Supp. 76-1).
Repealed effective October 19, 1993 (Supp. 93-4).

R9-6-412. Repealed**Historical Note**

Correction, adding Historical Note: Amended effective February 25, 1976 (Supp. 87-1). Repealed effective October 19, 1993 (Supp. 93-4).

R9-6-413. Repealed**Historical Note**

Amended effective February 25, 1976 (Supp. 76-1).
Amended effective June 4, 1980 (Supp. 80-3). Amended effective January 28, 1987 (Supp. 87-1). Repealed effective October 19, 1993 (Supp. 93-4).

R9-6-414. Repealed**Historical Note**

Amended effective February 25, 1976 (Supp. 76-1).
Repealed effective October 19, 1993 (Supp. 93-4).

R9-6-415. Repealed**Historical Note**

Amended effective February 25, 1976 (Supp. 76-1).
Repealed effective October 19, 1993 (Supp. 93-4).

R9-6-416. Repealed**Historical Note**

Amended effective February 25, 1976 (Supp. 76-1).
Repealed effective October 19, 1993 (Supp. 93-4).

R9-6-417. Repealed**Historical Note**

Repealed effective October 19, 1993 (Supp. 93-4).

R9-6-418. Repealed**Historical Note**

Amended effective February 25, 1976 (Supp. 76-1).
Repealed effective October 19, 1993 (Supp. 93-4).

R9-6-419. Repealed**Historical Note**

Repealed effective October 19, 1993 (Supp. 93-4).

R9-6-420. Reserved**R9-6-421. Reserved****R9-6-422. Reserved****R9-6-423. Reserved****R9-6-424. Reserved****R9-6-425. Reserved****R9-6-426. Reserved****R9-6-427. Reserved****R9-6-428. Reserved****R9-6-429. Reserved****R9-6-430. Reserved****R9-6-431. Repealed****Historical Note**

Repealed effective October 19, 1993 (Supp. 93-4).

R9-6-432. Repealed**Historical Note**

Amended effective February 25, 1976 (Supp. 76-1).
Repealed effective October 19, 1993 (Supp. 93-4).

R9-6-433. Repealed**Historical Note**

Repealed effective October 19, 1993 (Supp. 93-4).

ARTICLE 5. RABIES CONTROL**R9-6-501. Definitions**

In this Article, unless otherwise specified:

1. "Animal control agency" means a board, commission, department, office, or other administrative unit of federal or state government or of a political subdivision of the state that has the responsibility for controlling rabies in animals in a particular geographic area.
2. "Approved rabies vaccine" means a rabies vaccine authorized for use in this state by the state veterinarian under A.A.C. R3-2-409.
3. "Cat" means an animal of the genus species *Felis domesticus*.
4. "Currently vaccinated" means that an animal was last immunized against rabies with an approved rabies vaccine:
 - a. At least 28 days and no longer than one year before being exposed, if the animal has only received an initial dose of approved rabies vaccine;
 - b. No longer than one year before being exposed, if the approved rabies vaccine is approved for annual use under A.A.C. R3-2-409; or
 - c. No longer than three years before being exposed, if the approved rabies vaccine is approved for triennial use under A.A.C. R3-2-409.
5. "Dog" means an animal of the genus species *Canis familiaris*.
6. "Euthanize" means to kill an animal painlessly.
7. "Exposed" means bitten by or having touched a rabid animal or an animal suspected of being rabid.
8. "Ferret" means an animal of the genus species *Mustela putorius*.
9. "Not currently vaccinated" means that an animal does not meet the definition of "currently vaccinated."
10. "Rabid" means infected with rabies virus, a rhabdovirus of the genus *Lyssavirus*.
11. "Suspect case" means an animal whose signs or symptoms indicate that the animal may be rabid.

Historical Note

Amended effective December 22, 1976 (Supp. 76-5).
Correction, this Section shown as amended effective December 22, 1976 should read amended effective May 12, 1977 (Supp. 77-3). Corrections, subsections (A), (B) and (C) (Supp. 77-5). Amended effective April 10, 1980 (Supp. 80-2). Former Section R9-6-116 renumbered without change as R9-6-501 effective January 28, 1987 (Supp. 87-1). Section R9-6-501 repealed, new Section adopted effective January 20, 1992 (Supp. 92-1). Former Section R9-6-501 renumbered to R9-6-701, new Section R9-6-501 renumbered from R9-6-201 and amended effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Former R9-6-501 renumbered to R9-6-502; new R9-6-501 renumbered from R9-

6-105 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3).

R9-6-502. Management of Exposed Animals

- A.** An animal control agency shall manage an exposed dog, cat, or ferret as follows:
1. If the exposed dog, cat, or ferret is currently vaccinated, the animal control agency shall:
 - a. Revaccinate the animal with an approved rabies vaccine within seven days after the date that the animal is exposed; and
 - b. Confine and observe the animal in the owner's home or, at the owner's expense, in a veterinary hospital or the animal control agency's facility, as determined by the animal control agency, for 45 days after the animal is exposed; or
 2. If the exposed dog, cat, or ferret is not currently vaccinated, the animal control agency shall:
 - a. Euthanize the animal; or
 - b. At the owner's request, confine the animal for 180 days, at the owner's expense, in a veterinary hospital or the animal control agency's facility, as determined by the animal control agency, and vaccinate the animal with an approved rabies vaccine 28 days before it is released from confinement.
- B.** An animal control agency that is aware of an exposed animal, other than a cat, dog, ferret, or livestock, shall:
1. Make every effort to capture the exposed animal as soon as it is identified, and
 2. Euthanize the animal as soon as it is captured.
- C.** An animal control agency shall release from confinement a dog, cat, or ferret exposed to a suspect case when the animal control agency receives a negative rabies report on the suspect case from the Department.
- D.** Livestock shall be handled according to A.A.C. R3-2-408.

Historical Note

Amended effective December 22, 1976 (Supp. 76-5).
Correction, this Section shown as amended effective December 22, 1976 should read amended effective May 12, 1977 (Supp. 77-3). Amended effective April 10, 1980 (Supp. 80-2). Amended as an emergency effective August 31, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-4). Emergency expired. Former R9-6-117 amended as a permanent rule by adding a new subsection (C) and repealing the former subsections (C), (D) and (E) effective January 21, 1983 (Supp. 83-1). Former Section R9-6-117 renumbered without change as R9-6-502 effective January 28, 1987 (Supp. 87-1). Section R9-6-502 repealed, new Section adopted effective January 20, 1992 (Supp. 92-1). Former Section R9-6-502 renumbered to R9-6-702, new Section R9-6-502 renumbered from R9-6-202 and amended effective October 19, 1993 (Supp. 93-4). Former R9-6-502 renumbered to R9-6-503; new R9-6-502 renumbered from R9-6-501 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3).

R9-6-503. Suspect Cases

- A.** An animal control agency shall ensure confinement of a dog, cat, or ferret that is a suspect case until:
1. The animal dies,
 2. The animal is euthanized, or
 3. A veterinarian determines that the animal is not rabid.
- B.** When an animal control agency euthanizes a suspect case, the animal control agency shall avoid damaging the brain, so that rabies testing can be performed.

Historical Note

Amended effective December 22, 1976 (Supp. 76-5).
Correction, this Section shown as amended effective December 22, 1976 should read amended effective May 12, 1977 (Supp. 77-3). Amended effective April 10, 1980 (Supp. 80-2). Amended as an emergency effective August 31, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-4). Emergency expired. Former R9-6-118 amended as a permanent rule by repealing subsection (C) and renumbering subsections (D) through (I) effective January 21, 1983 (Supp. 83-1). Former Section R9-6-118 renumbered without change as R9-6-503 effective January 28, 1987 (Supp. 87-1). Section R9-6-503 repealed, new Section adopted effective January 20, 1992 (Supp. 92-1). Former Section R9-6-503 renumbered to R9-6-703, new Section R9-6-503 renumbered from R9-6-203 and amended effective October 19, 1993 (Supp. 93-4). Former R9-6-503 renumbered to R9-6-504; new R9-6-503 renumbered from R9-6-502 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3).

R9-6-504. Animal Control Agency Reporting Requirements

By April 30 of each year, an animal control agency shall submit a report to the Department that contains the number of animal bites to humans reported as occurring in the animal control agency's jurisdiction during the preceding calendar year and a breakdown of the bites by:

1. Species of animal,
2. Age of victim, and
3. Month of occurrence.

Historical Note

Amended effective December 22, 1976 (Supp. 76-5).
Correction, this Section shown as amended effective December 22, 1976 should read amended effective May 12, 1977 (Supp. 77-3). Amended effective April 10, 1980 (Supp. 80-2). Amended as an emergency effective August 31, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-4). Emergency expired. Former R9-6-119 amended as a permanent rule by repealing subsections (A) and (B), renumbering and amending subsections (C) through (I) effective January 21, 1983 (Supp. 83-1). Former Section R9-6-119 renumbered without change as R9-6-504 effective January 28, 1987 (Supp. 87-1). Section R9-6-504 repealed, new Section adopted effective January 20, 1992 (Supp. 92-1). Former Section R9-6-504 renumbered to R9-6-704 effective October 19, 1993 (Supp. 93-4). Section renumbered from R9-6-503 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3).

R9-6-505. Renumbered

Historical Note

Adopted effective January 20, 1992 (Supp. 92-1). Former Section R9-6-505 renumbered to R9-6-705 effective October 19, 1993 (Supp. 93-4).

R9-6-506. Renumbered

Historical Note

Adopted effective January 20, 1992 (Supp. 92-1). Former Section R9-6-506 renumbered to R9-6-706 effective October 19, 1993 (Supp. 93-4).

Table 1. Renumbered

Historical Note

Adopted effective January 20, 1992 (Supp. 92-1). Former Section R9-6-506, Table 1 renumbered to R9-6-706 Table 1 effective October 19, 1993 (Supp. 93-4).

Table 2. Renumbered**Historical Note**

Adopted effective January 20, 1992 (Supp. 92-1). Former Section R9-6-506, Table 2 renumbered to R9-6-706, Table 2 effective October 19, 1993 (Supp. 93-4).

ARTICLE 6. REPORTING POST-EXPOSURE RABIES PROPHYLAXIS**R9-6-601. Reporting Requirements**

A physician or an authorized designee, shall submit a written or electronic report to the Department of all patients who receive post-exposure rabies prophylaxis. The report shall include:

1. Name, age, address, and telephone number of the person exposed;
2. Date of report;
3. Reporting institution or physician;
4. Date of exposure;
5. Body part exposed;
6. Type of exposure: Bite or saliva contact (non-bite);
7. Species of animal;
8. Animal disposition: quarantined, euthanized, died, unable to locate;
9. Animal rabies test results if any: positive or negative;
10. Treatment regimen; and
11. Date treatment was initiated.

Historical Note

Adopted effective January 28, 1987 (Supp. 87-1). Former Section R9-6-601 renumbered to R9-6-201, new Section R9-6-601 adopted effective October 19, 1993 (Supp. 93-4). Section renumbered from R9-6-106 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former Section R9-6-601 renumbered to R9-6-1201; new Section R9-6-601 made by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4).

R9-6-602. Renumbered**Historical Note**

Adopted effective January 28, 1987 (Supp. 87-1). Former Section R9-6-602 renumbered to R9-6-202, new Section R9-6-601 adopted effective October 19, 1993 (Supp. 93-4). Section repealed; new Section made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former Section R9-6-602 renumbered to R9-6-1202 by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4).

R9-6-603. Renumbered**Historical Note**

Adopted effective January 28, 1987 (Supp. 87-1). Amended effective September 14, 1990 (Supp. 90-3). Repealed effective October 19, 1993 (Supp. 93-4), new Section R9-6-603 adopted effective October 19, 1993 (Supp. 93-4). Section repealed; new Section made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former Section R9-6-603 renumbered to R9-6-1203 by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4).

R9-6-604. Renumbered**Historical Note**

Adopted effective January 28, 1987 (Supp. 87-1). Amended effective September 14, 1990 (Supp. 90-3). Repealed effective October 19, 1993 (Supp. 93-4). New Section made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former Section R9-6-604 renumbered to R9-6-1204 by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4).

R9-6-605. Repealed**Historical Note**

Adopted effective January 28, 1987 (Supp. 87-1). Amended effective September 14, 1990 (Supp. 90-3). Repealed effective October 19, 1993 (Supp. 93-4).

R9-6-606. Emergency Expired**Historical Note**

Adopted as an emergency effective October 12, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-4). Emergency expired. Emergency rule readopted without change effective February 22, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-1). Emergency expired. Emergency rule readopted with changes effective July 3, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-3). Emergency expired.

ARTICLE 7. REQUIRED IMMUNIZATIONS FOR CHILD CARE OR SCHOOL ENTRY**R9-6-701. Definitions**

In this Article, unless otherwise specified:

1. "Administration of vaccine" means the inoculation of a child with an immunizing agent by an individual authorized by federal or state law.
2. "AHCCCS" means the Arizona Health Care Cost Containment System.
3. "ASIIS" means the Arizona State Immunization Information System, an immunization reporting system that collects, stores, analyzes, releases, and reports immunization data.
4. "Case" has the same meaning as in R9-6-101.
5. "Catch-up immunization schedule" means the times established in Table 2 for the immunization of a child who has not completed the vaccine series required in Table 1 before entry into a child care or school.
6. "CDC" means the Centers for Disease Control and Prevention.
7. "Charter school" has the same meaning as in A.R.S. § 15-101.
8. "Child" means:
 - a. An individual 18 years of age or less, or
 - b. An individual more than 18 years of age attending school.
9. "Child care" means:
 - a. A child care facility as defined in A.R.S. § 36-881; or
 - b. A child care group home as defined in A.R.S. § 36-897.
10. "Child care administrator" means an individual, or the individual's designee, having daily control and supervision of a child care.
11. "Communicable period" means the time during which an individual is capable of infecting another individual with a communicable disease.

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12. "Contact person" means an individual who, on behalf of a school or child care and upon request of the Department, provides information to the Department.
13. "Day" means a calendar day, and excludes the:
 - a. Day of the act, or event, from which a designated period of time begins to run, and
 - b. Last day of the period if a Saturday, Sunday, or official state holiday.
14. "DTaP" means diphtheria, tetanus, and acellular pertussis vaccine.
15. "DTP" means diphtheria, tetanus, and pertussis vaccine.
16. "Enroll" means to accept into a school by the school or into a child care by the child care.
17. "Entry" means the first day of attendance at a child care or at a specific grade level in a school.
18. "Head Start program" means a federally funded program administered under 42 U.S.C. 9831 to 42 U.S.C. 9852.
19. "Hep A" means hepatitis A vaccine.
20. "Hep B" means hepatitis B vaccine.
21. "Hib" means *Haemophilus influenzae* type b vaccine.
22. "Immunization" has the same meaning as in A.R.S. § 36-671.
23. "Immunization registry" means a storage of immunization data for vaccines.
24. "Immunization registry administrator" means an individual, or the individual's designee, having daily control and supervision of an immunization registry.
25. "Imported" means entered through a fully automated process without electronic manipulation of the data.
26. "IRMS number" means a numeric identifier the Department issues to a person whose information is stored in ASIIS.
27. "KidsCare" means a federally funded program administered by AHCCCS under A.R.S. § 36-2982.
28. "Kindergarten" means the grade level in a school that precedes first grade.
29. "Laboratory evidence of immunity" has the same meaning as in A.R.S. § 36-671.
30. "Local health agency" has the same meaning as "health agency" in A.R.S. § 36-671.
31. "Local health officer" means an individual or the individual's designee having daily control and supervision of a local health agency.
32. "Medical exemption" means to excuse a child from immunization against a specified disease if the required immunization may be detrimental to the child's health, as determined by a physician.
33. "Medical services" has the same meaning as in A.R.S. § 36-401.
34. "MMR" means measles, mumps, and rubella vaccine.
35. "MV" means meningococcal vaccine.
36. "Outbreak" means an unexpected increase in the incidence of a disease as determined by the Department or local health agency.
37. "Physician" has the same meaning as in A.R.S. § 15-871.
38. "Polio" means poliomyelitis vaccine.
39. "Practical nurse" has the same meaning as in A.R.S. § 32-1601.
40. "Private school" has the same meaning as in A.R.S. § 15-101.
41. "Provider" means an individual who administers a vaccine, or an entity that is responsible for administering a vaccine.
42. "Public school" has the same meaning as "school" in A.R.S. § 15-101.
43. "Registered nurse" has the same meaning as in A.R.S. § 32-1601.
44. "Registered nurse practitioner" has the same meaning as in A.R.S. § 32-1601.
45. "Responsible person" has the same meaning as "parent" in R9-5-101.
46. "Route of administration" means a method of inoculation with a vaccine.
47. "School" has the same meaning as in A.R.S. § 36-671.
48. "School administrator" has the same meaning as in A.R.S. § 36-671.
49. "Suspect case" has the same meaning as in R9-6-101.
50. "Td" means tetanus and diphtheria vaccine.
51. "Tdap" means tetanus, diphtheria, and acellular pertussis vaccine.
52. "Temporary" means lasting for a limited time.
53. "Underinsured" means having medical insurance that does not cover all or part of the cost of a vaccination.
54. "Uninsured" means not having medical insurance.
55. "Vaccine" has the same meaning as "biological product" defined in 21 CFR 600.3h (April 1, 2000).
56. "VAR" means varicella vaccine.
57. "VFC" means Vaccines for Children, a federal program administered by the Department.
58. "VFC PIN number" means a numeric identifier that the VFC issues to a person participating in the VFC.
59. "WIC" means Women, Infants, and Children, a federal program administered by the Department.
60. "WIC administrator" means an individual, or the individual's designee, having daily control and supervision of a WIC.

Historical Note

Former Section R9-6-115, Paragraph (47), renumbered and amended as R9-6-701 effective January 28, 1987 (Supp. 87-1). Amended effective September 14, 1990 (Supp. 90-3). Former Section R9-6-701 renumbered to Section R9-6-328, new Section R9-6-701 renumbered from R9-6-501 and amended effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Amended by final rulemaking at 5 A.A.R. 496, effective January 19, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 1310, effective March 17, 2000 (Supp. 00-1). Former Section R9-6-701 renumbered to R9-6-702; new Section R9-6-701 made by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 2283, effective June 7, 2005 (Supp. 05-2). Amended by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4).

R9-6-702. Required Immunizations for Child Care or School Entry

- A. Except as provided in R9-6-706, the school administrator or child care administrator shall:
1. Ensure that a child attending a school or child care has been immunized for each of the following diseases according to Table 1 or Table 2:
 - a. Diphtheria;
 - b. Tetanus;
 - c. Hepatitis A, for a child 1 through 5 years of age in child care in Maricopa County;
 - d. Hepatitis B;
 - e. Pertussis;
 - f. Poliomyelitis;
 - g. Measles (rubeola);
 - h. Mumps;

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- i. Rubella (German Measles);
 - j. *Haemophilus influenzae* type b;
 - k. Varicella; and
 - l. Meningococcal; and
 - 2. If a child does not have proof of immunization according to Table 1 or Table 2, exclude the child from:
 - a. School entry; or
 - b. Child care, unless the child is immunized against the diseases listed in subsection (A)(1) within 15 days following entry.
 - B.** Unless exempt according to R9-6-706, a child who has not received VAR according to Table 1 or Table 2 shall:
 - 1. Receive VAR according to the following:
 - a. By September 1, 2005 for a child who is entering kindergarten, first grade, or seventh grade;
 - b. By September 1, 2006 for a child who is entering kindergarten through second grade, seventh grade, or eighth grade;
 - c. By September 1, 2007 for a child who is entering kindergarten through third grade, or seventh grade through ninth grade;
 - d. By September 1, 2008 for a child who is entering kindergarten through fourth grade, or seventh grade through tenth grade;
 - e. By September 1, 2009 for a child who is entering kindergarten through fifth grade, or seventh grade through 11th grade; and
 - f. By September 1, 2010 for a child who is entering kindergarten through 12th grade; and
 - 2. Be excluded from school entry by a school administrator until the child meets the requirements in Table 2.
 - C.** Unless exempt according to R9-6-706, a child, 11 years of age or older, who has not received MV according to Table 1 or Table 2 shall:
 - 1. Receive MV according to the following:
 - a. By September 1, 2008 for a child entering sixth grade;
 - b. By September 1, 2009 for a child entering sixth and seventh grade;
 - c. By September 1, 2010 for a child entering sixth through eighth grade;
 - d. By September 1, 2011 for a child entering sixth through ninth grade;
 - e. By September 1, 2012 for a child entering sixth through 10th grade;
 - f. By September 1, 2013 for a child entering sixth through 11th grade; and
 - g. By September 1, 2014 for a child entering sixth through 12th grade; and
 - 2. Be excluded from school entry by a school administrator until the child meets the requirements in this Section.
 - D.** Unless exempt according to R9-6-706, a child, 11 years of age or older, who has not received Tdap according to Table 1 or Table 2 shall:
 - 1. Receive the Tdap according to the following:
 - a. By September 1, 2008 for a child entering sixth grade;
 - b. By September 1, 2009 for a child entering sixth and seventh grade;
 - c. By September 1, 2010 for a child entering sixth through eighth grade;
 - d. By September 1, 2011 for a child entering sixth through ninth grade;
 - e. By September 1, 2012 for a child entering sixth through 10th grade;
 - f. By September 1, 2013 for a child entering sixth through 11th grade; and
 - g. By September 1, 2014 for a child entering sixth through 12th grade; and
 - 2. Be excluded from school entry by a school administrator until the child meets the requirements in this Section.
- E.** If the Department receives written notification from the CDC that there is a shortage of a vaccine for a disease listed in subsection (A)(1), or that the CDC is limiting the amount of a vaccine for a disease listed in subsection (A)(1), the Department shall:
 - 1. Provide written notification to each school and child care in this state of the shortage or limitation of the vaccine;
 - 2. Suspend compliance with subsections (A), (B), (C), and (D); and
 - 3. Upon receiving written notification from the CDC that the vaccine is available, notify each school and child care in this state:
 - a. That the vaccine is available, and
 - b. Of the time by which an individual is required to comply with subsections (A), (B), (C), and (D).
- F.** The Department shall notify each school and child care in this state that the Department no longer requires compliance with subsections (A), (B), (C), and (D) for a disease listed in subsection (A)(1) if:
 - 1. The disease is declared eradicated by:
 - a. The World Health Organization, and
 - b. The Advisory Committee on Immunization Practices; and
 - 2. The Department no longer recommends immunization against the disease.

Historical Note

Former Section R9-6-115, Paragraph (1), renumbered and amended as R9-6-702 effective January 28, 1987 (Supp. 87-1). Former Section R9-6-702 renumbered to Section R9-6-302, new Section R9-6-702 renumbered from R9-6-502 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-702 renumbered to R9-6-703; new Section R9-6-702 renumbered from R9-6-701 and amended by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 2283, effective June 7, 2005 (Supp. 05-2). Amended by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4).

R9-6-703. Responsibilities of Individuals and Local Health Agencies for Administering Vaccines

- A.** Upon request of a responsible person, a local health agency shall provide for the immunization of a child against any disease listed in R9-6-702(A)(1).
- B.** An individual administering a vaccine shall ensure that the dosage and route of administration of each vaccine are provided according to the manufacturer's recommendations.
- C.** Before administering a vaccine to a child, the individual administering the vaccine shall:
 - 1. Provide the responsible person with the following written information:
 - a. A description of the disease,
 - b. A description of the vaccine,
 - c. A statement of the risks of the disease and the risks and benefits of immunization, and
 - d. Contraindications for administering the vaccine; and
 - 2. Obtain a statement signed by the responsible person confirming that the responsible person:
 - a. Was provided the written information described in subsection (C)(1),

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- b. Was provided an opportunity to read the written information,
 - c. Was provided an opportunity to ask questions, and
 - d. Requests that the designated vaccine be administered to the child.
- D.** Following the administration of a vaccine, the individual administering the vaccine shall provide written information to the responsible person or, if a child is immunized at school, to the child to give to the responsible person, that includes:
- 1. The vaccine administered,
 - 2. The reactions to the vaccine that might be expected, and
 - 3. The course of action if a severe reaction occurs.
- E.** An individual administering a vaccine shall provide a written record as set forth in R9-6-704 to the immunized child or to the responsible person.

Historical Note

Former Section R9-6-115, Paragraph (2), renumbered and amended as R9-6-703 effective January 28, 1987 (Supp. 87-1). Former Section R9-6-703 renumbered to Section R9-6-303, new Section R9-6-703 renumbered from R9-6-503 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-703 renumbered to R9-6-704; new Section R9-6-703 renumbered from R9-6-702 and amended by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3).

R9-6-704. Standards for Documentary Proof of Immunity

- A.** An individual may establish proof of a child's immunity to a disease listed in R9-6-702(A)(1) by one of the following:
- 1. An immunization record that contains:
 - a. The child's name;
 - b. The child's date of birth;
 - c. The type of vaccine administered;
 - d. The month and year of each immunization, other than MMR, for a child who received an immunization before January 1, 2003;
 - e. The month, day, and year of MMR immunization for a child who received an immunization before January 1, 2003;
 - f. The month, day, and year of each immunization for a child who received an immunization on or after January 1, 2003; and
 - g. The name of the individual administering the vaccine or the name of the entity that the individual administering the vaccine represents;
 - 2. Laboratory evidence of immunity;
 - 3. An Arizona school immunization record that includes:
 - a. The child's name;
 - b. The child's date of birth;
 - c. The grade of the child on the date of enrollment;
 - d. Whether the child is male or female;
 - e. The type of vaccine administered;
 - f. The month and year of each immunization, other than MMR, for a child who received an immunization before January 1, 2003;
 - g. The month, day, and year of MMR immunization for a child who received an immunization before January 1, 2003; and
 - h. The month, day, and year of each immunization for a child who received an immunization on or after January 1, 2003;
 - 4. A school immunization record from another state;
 - 5. An electronic version of the child's immunization record containing the information in subsection (A)(1)(a) through (f) generated by an immunization registry, and signed and dated by any of the following:

- a. A local health officer,
 - b. A school administrator,
 - c. A child care administrator,
 - d. A WIC administrator,
 - e. An immunization registry administrator or immunization registry administrator's designee; or
 - f. A physician, physician's designee, practical nurse, or registered nurse;
6. An electronic version of the child's immunization record generated by a school, signed and dated by the school administrator or the school administrator's designee, and containing the information in subsection (A)(1)(a) through (f); or
7. A statement of immunity as described in subsection (B).
- B.** A physician, the physician's designee, practical nurse, or registered nurse may sign a statement of immunity stating that a child is immune to a disease, but shall not sign a statement of immunity to measles or rubella without obtaining serologic evidence of immunity.

Historical Note

Adopted effective January 28, 1987 (Supp. 87-1). Former Section R9-6-704 renumbered to Section R9-6-304, new Section R9-6-704 renumbered from R9-6-504 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-704 renumbered to R9-6-705; new Section R9-6-704 renumbered from R9-6-703 and amended by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 2283, effective June 7, 2005 (Supp. 05-2).

R9-6-705. Responsibilities of Schools and Child Care

- A.** Except as provided in R9-6-706, a school administrator or a child care administrator shall ensure that an immunization record for each child attending a school or child care is maintained at the school or child care and contains the applicable documentary proof of immunity listed in R9-6-704.
- B.** If a child does not meet the requirements for immunization according to Table 1 or Table 2 or requirements for exemption from immunization according to R9-6-706, a school administrator shall:
- 1. Not allow the child to enter the school, or
 - 2. If the child is already attending the school, remove the child from school as authorized by A.R.S. § 15-872.
- C.** If a child does not meet the requirements for immunization according to Table 1 or Table 2 or requirements for exemption from immunization according to R9-6-706, a child care administrator shall notify the responsible person in writing at the time of entry that:
- 1. The child may attend the child care for not more than 15 days from the date of the notification; and
 - 2. If the child is not immunized by the 15th day following notification, the child is not permitted to attend the child care.
- D.** A school administrator or child care administrator shall determine that a child is in compliance with an immunization requirement in this Article for a specific disease if:
- 1. The child's immunization record contains proof of immunity required in R9-6-704, and the child has received the required immunizations according to Table 1 or Table 2; or
 - 2. A responsible person has submitted to the school or child care documentation of an exemption from immunization according to R9-6-706.
- E.** At the time of enrollment, if a child's immunization record is not available, does not contain proof of immunity required in

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R9-6-704, or does not contain proof of an exemption according to R9-6-706, a school administrator or school administrator's designee, or a child care administrator shall notify the responsible person:

1. That the child is not in compliance with immunization requirements;
 2. In writing, that:
 - a. For the child enrolling in a school, all immunizations are required to be completed according to Table 1 or Table 2 and proof provided to the school before entry; or
 - b. For the child enrolling in a child care, all immunizations required in Table 1 or Table 2 are required to be completed and proof provided to the child care within 15 days of the notification; and
 3. In writing, that the responsible person is required to send the child to a physician or local health agency to obtain written proof of immunization before entry.
- F.** If a school administrator or a child care administrator questions the accuracy of a child's immunization record and is unable to verify the accuracy of the immunization record, the school administrator or the child care administrator shall notify, in writing, the responsible person:
1. That the responsible person is required to send the child to a physician or local health agency to review the child's immunization history and provide immunizations as needed;
 2. For a child attending a school, that the child is not allowed to return to school until the child's immunization record meets the standards of documentary proof in R9-6-704 and is presented to the school; and
 3. For a child attending a child care, that beginning 15 days following the notification, the child is not allowed to attend the child care, unless the child's immunization record meets the standards of documentary proof in R9-6-704 and is presented to the child care.
- G.** A school administrator or child care administrator shall maintain a list that contains the name of each child who:
1. Is exempt from providing proof of immunity according to R9-6-706, or
 2. Has not provided proof of immunity in compliance with R9-6-704.
- H.** A school administrator or child care administrator shall not allow a child who lacks proof of immunity against a disease listed in R9-6-702(A) to attend the school or child care during an outbreak of the disease for which the child lacks proof of immunity. The Department or local health agency shall determine the start and termination of an outbreak.

Historical Note

Adopted effective January 28, 1987 (Supp. 87-1). Former Section R9-6-705 renumbered to Section R9-6-305, new Section R9-6-705 renumbered from R9-6-505 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-705 renumbered to R9-6-706; new Section R9-6-705 renumbered from R9-6-704 and amended by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3).

R9-6-706. Exemptions from Immunizations

- A.** A child who has reached a fifth birthday is exempt from the Hib immunization requirement.
- B.** A child who is 7 through 10 years of age is exempt from the pertussis immunization requirement.
- C.** A child:
 1. Until September 1, 2011, is exempt from the VAR immunization requirement if the child's responsible person

states, verbally or in writing, that the child has had varicella; and

2. After September 1, 2011, is not exempt from the VAR immunization requirement unless the child provides laboratory evidence of immunity to varicella.
- D.** A child who submits laboratory evidence of immunity to a disease to a school or child care is not required to be immunized against that disease as a condition for school or child care entry.
- E.** For a child attending a school, a parent or guardian shall submit to the school a written statement of exemption from immunization for personal beliefs as required in A.R.S. § 15-873(A)(1) or written certification of medical exemption as required in A.R.S. § 15-873(A)(2) on a form provided by the Department that contains:
1. The child's name;
 2. The child's date of birth;
 3. The type of exemption requested;
 4. The immunizations from which the parent or guardian is requesting an exemption;
 5. Whether the medical exemption is permanent or temporary, if applicable;
 6. The date the medical exemption terminates, if applicable;
 7. The parent or guardian's signature and the date signed; and
 8. The physician's or registered nurse practitioner's signature and the date signed, if applicable.
- F.** For a child attending a child care, a responsible person shall submit to the child care a written statement of exemption from immunization on a form provided by the Department that includes:
1. The child's name,
 2. The child's date of birth,
 3. The type of exemption,
 4. The immunizations from which the responsible person is requesting an exemption,
 5. If a medical exemption, whether the medical exemption is permanent or temporary,
 6. If temporary, the date the medical exemption terminates, if applicable,
 7. The responsible person's signature and the date signed, and
 8. The physician's or registered nurse practitioner's signature and the date signed, if applicable.
- G.** A child care administrator or school administrator shall:
1. Record an exemption on a child's immunization record,
 2. Allow a child with a temporary medical exemption to attend a child care or school until the date the temporary exemption terminates, and
 3. Notify a child's responsible person in writing of the date the child is required to complete all immunizations before the temporary medical exemption terminates.

Historical Note

Former Section R9-6-115, Paragraph (3), renumbered and amended as R9-6-706 effective January 28, 1987 (Supp. 87-1). Former Section R9-6-706 renumbered to Section R9-6-306, new Section R9-6-706 renumbered from R9-6-506 and amended effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Former Section R9-6-706 renumbered to R9-6-707; new Section R9-6-706 renumbered from R9-6-705 and amended by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 2283, effective June 7, 2005

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(Supp. 05-2). Amended by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4).

Table 1. Renumbered

Historical Note

Adopted effective January 20, 1992 (Supp. 92-1). Article 7, Table 1 renumbered from Article 5, Table 1 and amended effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Amended by final rulemaking at 5 A.A.R. 496, effective January 19, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 1310, effective March 17, 2000 (Supp. 00-1). Table 1 renumbered to follow R9-6-707 by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3).

Table 2. Renumbered

Historical Note

Adopted effective January 20, 1992 (Supp. 92-1). Article 7, Table 2 renumbered from Article 5, Table 2 and amended effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Amended by final rulemaking at 5 A.A.R. 496, effective January 19, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 1310, effective March 17, 2000 (Supp. 00-1). Table 2 renumbered to follow R9-6-707 by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3).

R9-6-707. Reporting Requirements

- A.** By November 15 of each year, a school administrator shall submit a report to the Department or local health agency on a form provided by the Department that contains:
 1. The name and address of the school;
 2. An identification of whether it is a public school, private school, or charter school;
 3. The name, telephone number, and fax number of a contact person;
 4. The name and district number of the school district, if applicable;
 5. The county the school is located in;
 6. Each grade taught at the school;
 7. The number of children enrolled at the school in designated grades as of the date of the report;
 8. The number of children with documentary proof of immunization status, including the number of children who are in each of the following categories:
 - a. Have received each immunization required for their age,
 - b. Have a medical exemption,
 - c. Are exempt for personal beliefs according to A.R.S. § 15-873, and
 - d. Have submitted laboratory evidence of immunity as defined in A.R.S. § 36-671, and
 9. The number of doses received per child of each vaccine required in Table 1.
- B.** If requested by the Department or local health agency, a school administrator or child care administrator shall provide the following outbreak, case, or suspect case information:
 1. Immunization information in R9-6-704;
 2. Attendance information specifying each date each child was present at the school or child care during the communicable period; and
 3. Any other information relating to the outbreak, case, or suspect case that is requested by the Department or local health agency.
- C.** A school administrator that has an individual authorized by law to administer vaccines and receives vaccines provided by the Department shall:
 1. Prepare a report on a form provided by the Department each calendar month that contains:
 - a. A VFC PIN number;
 - b. The provider name or business name, address, telephone number, and fax number;
 - c. The beginning date and end date of the report;
 - d. The number of children immunized during the preceding calendar month;
 - e. The age and date of birth of each child immunized during the preceding calendar month;
 - f. Whether each child immunized during the preceding calendar month is:
 - i. Covered by KidsCare;
 - ii. Covered by AHCCCS;
 - iii. Uninsured;
 - iv. A Native American or an Alaskan native;
 - v. Underinsured; and
 - vi. Non-VFC eligible, if applicable;
 - g. The number of doses of each vaccine administered during the preceding calendar month; and
 - h. The manufacturer, manufacturer's lot number, and expiration date of each vaccine listed in Table 1 that was administered during the preceding calendar month; and
 2. Send the report required in subsection (C)(1) by the fifth day of the following month to:
 - a. The local health agency, if the vaccine was provided by the local health agency; or
 - b. The Department, if the vaccine was provided by the Department.
- D.** By November 15 of each year, a child care administrator shall submit to the Department or local health agency a report on a form provided by the Department that contains:
 1. The name, mailing address, and telephone number of the child care;
 2. The date of the report;
 3. The name of a contact person;
 4. The Department license or certificate number of the child care, if applicable;
 5. The name of the child care administrator;
 6. Whether the children are in child care;
 7. Whether the children in child care are in a Head Start program;
 8. The number of children attending the child care who were less than 5 years of age as of October 1; and
 9. The number of children less than five years of age as of October 1 for whom the child care has immunization records on file specifying the number of children who are in each of the following categories:
 - a. Have received each immunization required for their age;
 - b. Have medical exemptions;
 - c. Are exempt for religious beliefs according to the rules in 9 A.A.C. 5 regulating child care facilities or child care group homes; and
 - d. Have submitted laboratory evidence of immunity.
- E.** In addition to the report required in subsection (D), by November 15 of each year, a child care administrator shall submit to the Department or local health agency a report on a form provided by the Department that contains:
 1. The information in subsection (D)(1) through (D)(4),
 2. The information in subsection (D)(6), and
 3. For each child less than 5 years of age as of October 1:

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- a. The birth date of the child;
 - b. How many doses of each vaccine listed in Table 1 the child has received;
 - c. For each vaccine listed in Table 1 except MMR, the month, day, and year of the most recent immunization;
 - d. For MMR, the month, day, and year of each immunization; and
 - e. Whether each child has a medical or religious exemption.
- F.** By March 30 of each year, a local health officer shall forward to the Department the information contained in the reports received by the local health agency according to subsections (A) and (D).
- G.** A local health officer who receives and distributes vaccine provided by the Department shall submit to the Department the report required in subsection (C) every calendar month.
- H.** As required by A.R.S. § 36-135, a health care professional shall submit for each vaccine administered to a child the information required in A.R.S. § 36-135(B), the IRMS number, and the VPC PIN number, if applicable, to the Department as follows:
- 1. If reporting by mail or fax, the health care professional shall use a form provided by the Department.
 - 2. If reporting by telephone, the health care professional shall call a telephone number provided by the Department
- for this purpose between 8:00 a.m. and 5:00 p.m., Monday through Friday, except state holidays.
3. If reporting electronically, the health care professional shall:
- a. Connect to the ASIIS web page through a secure Internet connection and enter the information; or
 - b. Ensure that the information is submitted in a format that can be imported into ASIIS and:
 - i. Provide a compact disk or digital video disk that contains the information to the Department; or
 - ii. Transfer the information to the Department through a secure file transfer protocol.

Historical Note

Former Section R9-6-115, Paragraph (5), renumbered and amended as R9-6-707 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-307 effective October 19, 1993 (Supp. 93-4). Adopted effective April 4, 1997 (Supp. 97-4). Former Section R9-6-707 renumbered to R9-6-708; new Section R9-6-707 renumbered from R9-6-706 and amended by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3). Amended by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4).

Table 1. Immunization Requirements for Child Care or School Entry

Age at Entry into a Child Care or School	Number of Doses of Vaccine Required	Special Notes and Exceptions
<2 months	1 Hep B	(See Note 1)
2 through 3 months	1 DTP or DTaP 1 Polio 1 Hib 1 Hep B	(See Note 1)
4 through 5 months	2 DTP or DTaP 2 Polio 2 Hib 2 Hep B	(See Note 1)
6 through 11 months	3 DTP or DTaP 2 Polio 3 Hib 2 Hep B	(Hib exception - See Note 2 for a child 7 months through 59 months of age.) (See Note 1)
12 through 14 months	3 DTP or DTaP 3 Polio 1-4 Hib 1 MMR 3 Hep B 1 Varicella	(See Note 2) (See Note 3) (See Note 1) (See Note 6)
15 through 59 months	4 DTP or DTaP 3 Polio 1-4 Hib 1-2 MMR 3 Hep B 1 Varicella	(See Note 2) (See Note 3) (See Note 1) (See Note 8)
1 through 5 years (Only required for Maricopa County child care)	2 Hep A	(See Note 4)

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Kindergarten or 1st grade entry 4 through 6 years	5 DTP or DTaP 4 Polio 2 MMR 3 Hep B 1 Varicella	Exception - A 5th dose is not required if the 4th dose of diphtheria-tetanus containing vaccine was received after the 4th birthday. Exception - A 4th dose is not required if the 3rd dose of polio was received after the 4th birthday. (See Note 3) A child entering school shall receive a 2nd dose, 1 month or more after the date of the 1st dose. (See Note 8)
7 years through 10 years	4 Tetanus-diphtheria containing vaccines (no pertussis) 4 Polio 2 MMR 3 Hep B 1 Varicella	Exception – A 4th dose is not required if the 1st dose of diphtheria-tetanus containing vaccine was received after 12 months of age. Exception – A 4th dose is not required if the 3rd dose of polio was received after the 4th birthday. (See Note 7) (See Note 3) A child entering school shall receive the Hep B series according to Note 1. (See Note 8)
11 years	1 MV	(See Note 5)
11 years or older	4 Tetanus-diphtheria containing vaccines including 1 Tdap. 1 Tdap, in addition to the 4 Tetanus-diphtheria containing vaccines, if 5 years have passed since the date of a child's last dose of tetanus-diphtheria containing vaccine and the child has not received Tdap. 1 Tetanus-diphtheria containing vaccine, if 10 years or more have passed since the date of the child's last dose of Tdap or tetanus-diphtheria containing vaccine. 4 Polio 2 MMR 3 Hep B 1-2 Varicella	(See Note 6) Exception – A 4th dose is not required if the 1st dose of diphtheria-tetanus containing vaccine was received after 12 months of age. Exception – A 4th dose is not required if the 3rd dose of polio was received after the 4th birthday. (See Note 7) (See Note 3) A child entering school shall receive the Hep B series according to Note 1. (See Note 8)

1. A child shall receive the 1st dose of Hep B no later than 15 days following child care entry. A child shall receive the 2nd dose of Hep B 4 weeks or more after the date of the 1st dose. A child who is 6 months of age or older shall receive the 3rd dose 2-5 months after the

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- date of the 2nd dose and 4 months or more after the date of the 1st dose. For a child 11-15 years of age who receives the optional Merck Recombivax HB Adult Formulation vaccine, only 2 doses are required 4 or more months apart.
2. The recommended schedule for 4 dose Hib vaccine is 2, 4, and 6 months of age with a booster dose at 12-15 months of age. The optimal schedule for 3 dose Hib vaccine is 2 and 4 months of age with a booster dose at 12-15 months of age. There shall be a minimum interval of 4 weeks between each of the first 3 doses. A child shall receive a booster dose no earlier than 12 months of age and no earlier than 8 weeks after the previous dose. A child who starts the Hib series after 7 months of age may be required to complete a full 3 or 4 dose series. A child who starts Hib at 15 months of age or older shall receive 1 dose at 15-59 months of age.
 3. A child who is 12 months of age or older, shall receive measles, mumps, and rubella vaccines as individual antigens or as a combined MMR vaccine. A child shall receive the 1st dose of MMR before school entry, or no later than 15 days following child care entry. A child who is 4 years of age or older and who is entering school shall receive a 2nd dose of MMR 1 month or more after the date of the 1st dose.
 4. A child who is 1 through 5 years of age shall receive the 1st dose of hepatitis A vaccine no later than 15 days following child care entry in Maricopa County. A child shall receive a 2nd dose 6 months following the date of the 1st dose.
 5. A child shall receive MV according to R9-6-702(C) no later than 15 days following school entry.
 6. A child shall receive a dose of Tdap before the 2 doses of tetanus-diphtheria containing vaccine.
 7. Polio vaccine is not required for individuals 18 years of age or older.
 8. A child shall receive VAR according to R9-6-702(B) no later than 15 days following child care or school entry. A child who receives VAR at 12 months through 12 years of age shall receive one dose. A child who receives the 1st dose of VAR at 13 years of age or older shall receive the 2nd dose if 4 weeks or more have passed since the date of the 1st dose.

Historical Note

Table 1 renumbered from placement after R9-6-706 and amended by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 2283, effective June 7, 2005 (Supp. 05-2). Amended by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4).

Table 2. Catch-up Immunization Schedule for Child Care or School Entry

Vaccine	Dose	Time Intervals, Special Notes, and Exceptions
1. Diphtheria, Tetanus, and Pertussis a. For a Child Younger Than 7 Years of Age: DTP or any combination of DTP or DTaP	1st	A child shall receive the 1st dose before school entry, or no later than 15 days following child care entry.
	2nd	If 4 weeks or more have passed since the date of the 1st dose, a child shall receive the 2nd dose before school entry, or no later than 15 days following child care entry.
	3rd	If 4 weeks or more have passed since the date of the 2nd dose, a child shall receive the 3rd dose before continued attendance at school, or no later than 15 days following continued attendance at child care.
	4th	If 6 months or more have passed since the date of the 3rd dose, a child shall receive the 4th dose before continued attendance at school, or no later than 15 days following continued attendance at child care.
	5th or more	A child shall receive a 5th dose before continued attendance at school, or no later than 15 days following child care entry. Exception - A 5th dose is not required if the child received the 4th dose after the child's 4th birthday.
b. For a Child 7 through 10 Years of Age: Tetanus-diphtheria containing vaccines (no pertussis)	1st	A child shall receive a 1st dose before school entry.
	2nd	If 4 weeks or more have passed since the date of the 1st dose, a child shall receive the 2nd dose before school entry.
	3rd	If 6 months or more have passed since the date of the 2nd dose, a child shall receive the 3rd dose before school entry.

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	4th	A 4th dose is not required if the 1st dose of diphtheria-tetanus containing vaccine was received after 12 months of age.
c. For a Child 11 Years of Age and Older: Tetanus-diphtheria containing vaccines including 1 Tdap	1st	(See Note 2 below) A child shall receive a 1st dose before school entry.
	2nd	If 4 weeks or more have passed since the date of the 1st dose, a child shall receive the 2nd dose before school entry.
	3rd	If 6 months or more have passed since the date of the 2nd dose, a child shall receive the 3rd dose before school entry.
	4th	Exception – A 4th dose is not required if the 1st dose of diphtheria-tetanus containing vaccine was received after 12 months of age.
2. Polio	1st	(See Note 3 below.) A child shall receive the 1st dose before school entry, or no later than 15 days following child care entry.
	2nd	If 4 weeks or more have passed since the date of the 1st dose, a child shall receive the 2nd dose before school entry, or no later than 15 days following child care entry.
	3rd	If 4 weeks or more have passed since the date of the 2nd dose, the child shall receive the 3rd dose before school entry, or no later than 15 days following child care entry.
	4th	If 8 weeks or more have passed since the date of the 3rd dose, the child shall receive the 4th dose before school entry. Exception - A 4th dose is not required if the 3rd dose was received after the 4th birthday.
3. MMR – Measles, Mumps, Rubella	1st	A child who is 12 months of age or older shall receive the 1st dose before school entry, or no later than 15 days following child care entry.
	2nd	If 1 month or more has passed since the date of the 1st dose, a child who is 4 years of age or older, entering kindergarten through 12th grade, shall receive the 2nd dose before school entry.
4. Hib - <i>Haemophilus influenzae</i> type b (Not required for individuals aged 5 years of age and older.)	1st through 4th	A child who is younger than 5 years of age shall receive a dose no later than 15 days following child care entry. (See Note 4 below.)
5. Hep B – Hepatitis B	1st	A child shall receive the 1st dose before school entry, or no later than 15 days following child care entry.
	2nd	If 4 weeks or more have passed since the date of the 1st dose, a child shall receive the 2nd dose before school entry, or no later than 15 days following child care entry.

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	3rd	If 2 months or more have passed since the date of the 2nd dose, and 4 months or more have passed since the date of the 1st dose and the child is at least 6 months of age, a child shall receive the 3rd dose before school entry, or no later than 15 days following child care entry. Exception - A child who is 11 through 15 years of age who is receiving the Merck Recombivax HB Adult Formulation vaccine is not required to receive a 3rd dose.
6. Hep A – Hepatitis A Only required for Maricopa County child care	1st	A child who is 1 through 5 years of age shall receive the 1st dose no later than 15 days following child care entry.
	2nd	If 6 months or more have passed since the date of the 1st dose, a child shall receive the 2nd dose no later than 15 days following child care entry.
7. Varicella	1st	(See Note 5 below.) A child who is 12 months of age through 12 years shall receive one dose before school entry, or no later than 15 days following child care entry.
	2nd	If one month or more has passed since the date of the first dose, a child who is 13 years of age or older shall receive a second dose.
8. Meningococcal	1st	(See Note 1 below) A child who is 11 years old shall receive one dose of MV before school entry.

1. A child shall receive MV according to R9-6-702(C) no later than 15 days following school entry.
2. A child shall receive a dose of Tdap before the 2 doses of tetanus-diphtheria containing vaccine.
3. Polio vaccine is not required for individuals 18 years of age or older.
4. A child who begins the Hib series at 7 months of age or older shall receive Hib according to the following schedule:

Current Age (months)	Prior Immunization History	Recommended Regimen
7-11	1 dose	1 dose at 7-11 months of age and a booster at least 2 months later at 12-15 months of age
7-11	2 doses	1 dose at 7-11 months of age and a booster at least 2 months later at 12-15 months of age
12-14	1 dose before 12 months	2 doses administered at least 2 months apart
12-14	2 doses before 12 months	1 dose
15-59	Any incomplete schedule	1 dose

5. A child shall receive VAR according to R9-6-702(B) no later than 15 days following child care entry.

Historical Note

Table 2 renumbered from placement after R9-6-706 and amended by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 2283, effective June 7, 2005 (Supp. 05-2). Amended by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4).

R9-6-708. Release of Immunization Information

In addition to the persons who have access to immunization information according to A.R.S. § 36-135(D) and consistent with the limitations in A.R.S. § 36-135(E) and (H), the Department may release immunization information to:

1. An authorized representative of a state or local health agency for the control, investigation, analysis, or follow-up of disease;
2. A child care administrator, to determine the immunization status of a child in the child care;
3. An authorized representative of WIC, to determine the immunization status of children enrolled in WIC;

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4. An individual or organization authorized by the Department, to conduct medical research to evaluate medical services and health related services, health quality, immunizations data quality, and efficacy; or
5. An authorized representative of an out-of-state agency, including a state health department, local health agency, school, child care, health care provider, or a state agency that has legal custody of a child.

Historical Note

Adopted effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-309 effective October 19, 1993 (Supp. 93-4). New Section R9-6-708 renumbered from R9-6-707 and amended by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3).

R9-6-709. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (6), renumbered and amended as R9-6-709 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-310 effective October 19, 1993 (Supp. 93-4).

R9-6-710. Renumbered**Historical Note**

Former Section R9-115, Paragraph (7), renumbered and amended as R9-6-710 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-311 effective October 19, 1993 (Supp. 93-4).

R9-6-711. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (8), renumbered and amended as R9-6-711 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-313 effective October 19, 1993 (Supp. 93-4).

R9-6-712. Renumbered**Historical Note**

Adopted effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-315 effective October 19, 1993 (Supp. 93-4).

R9-6-713. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (9), renumbered and amended as R9-6-713 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-316 effective October 19, 1993 (Supp. 93-4).

R9-6-714. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (10), renumbered and amended as R9-6-714 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-317 effective October 19, 1993 (Supp. 93-4).

R9-6-715. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (11), renumbered and amended as R9-6-715 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-319 effective October 19, 1993 (Supp. 93-4).

R9-6-716. Renumbered**Historical Note**

Adopted effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-320 effective October 19, 1993 (Supp. 93-4).

R9-6-717. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (12), renumbered and amended as R9-6-717 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-321 effective October 19, 1993 (Supp. 93-4).

R9-6-718. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (13), renumbered and amended as R9-6-718 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-322 effective October 19, 1993 (Supp. 93-4).

R9-6-719. Renumbered**Historical Note**

Adopted effective January 28, 1987 (Supp. 87-1) Renumbered to Section R9-6-323 effective October 19, 1993 (Supp. 93-4).

R9-6-720. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (14), renumbered and amended as R9-6-720 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-324 effective October 19, 1993 (Supp. 93-4).

R9-6-721. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (15), renumbered and amended as R9-6-721 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-325 effective October 19, 1993 (Supp. 93-4).

R9-6-722. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (18), renumbered and amended as R9-6-722 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-327 effective October 19, 1993 (Supp. 93-4).

R9-6-723. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (16), renumbered and amended as R9-6-723 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-330 effective October 19, 1993 (Supp. 93-4).

R9-6-724. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (17), renumbered and amended as R9-6-724 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-331 effective October 19, 1993 (Supp. 93-4).

R9-6-725. Renumbered

Historical Note

Adopted effective January 28, 1987 (Supp. 87-1).
Renumbered to Section R9-6-332 effective October 19, 1993 (Supp. 93-4).

R9-6-726. Renumbered**Historical Note**

Adopted effective January 28, 1987 (Supp. 87-1).
Renumbered to Section R9-6-333 effective October 19, 1993 (Supp. 93-4).

R9-6-727. Renumbered**Historical Note**

Adopted effective January 28, 1987 (Supp. 87-1).
Renumbered to Section R9-6-334 effective October 19, 1993 (Supp. 93-4).

R9-6-728. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (19), renumbered and amended as R9-6-728 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-335 effective October 19, 1993 (Supp. 93-4).

R9-6-729. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (20), renumbered and amended as R9-6-729 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-336 effective October 19, 1993 (Supp. 93-4).

R9-6-730. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (21), renumbered and amended as R9-6-730 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-337 effective October 19, 1993 (Supp. 93-4).

R9-6-731. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (22), renumbered and amended as R9-6-731 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-338 effective October 19, 1993 (Supp. 93-4).

R9-6-732. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (23), renumbered and amended as R9-6-732 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-339 effective October 19, 1993 (Supp. 93-4).

R9-6-733. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (45), renumbered and amended as R9-6-733 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-340 effective October 19, 1993 (Supp. 93-4).

R9-6-734. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (24), renumbered and amended as R9-6-734 effective January 28, 1987

(Supp. 87-1). Renumbered to Section R9-6-341 effective October 19, 1993 (Supp. 93-4).

R9-6-735. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (25), renumbered and amended as R9-6-735 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-342 effective October 19, 1993 (Supp. 93-4).

R9-6-736. Renumbered**Historical Note**

Former R9-6-115, Paragraph (26), renumbered and amended as R9-6-736 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-343 effective October 19, 1993 (Supp. 93-4).

R9-6-737. Renumbered**Historical Note**

Adopted effective January 28, 1987 (Supp. 87-1).
Renumbered to Section R9-6-344 effective October 19, 1993 (Supp. 93-4).

R9-6-738. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (27), renumbered and amended as R9-6-738 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-345 effective October 19, 1993 (Supp. 93-4).

R9-6-739. Renumbered**Historical Note**

Adopted effective January 28, 1987 (Supp. 87-1).
Renumbered to Section R9-6-346 effective October 19, 1993 (Supp. 93-4).

R9-6-740. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (28), renumbered and amended as R9-6-740 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-347 effective October 19, 1993 (Supp. 93-4).

R9-6-741. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (29), renumbered and amended as R9-6-741 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-348 effective October 19, 1993 (Supp. 93-4).

R9-6-742. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (30), renumbered and amended as R9-6-742 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-349 effective October 19, 1993 (Supp. 93-4).

R9-6-743. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (31), renumbered and amended as R9-6-743 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-350 effective October 19, 1993 (Supp. 93-4).

R9-6-744. Renumbered

Historical Note

Former Section R9-6-115, Paragraph (32), renumbered and amended as R9-6-744 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-351 effective October 19, 1993 (Supp. 93-4).

R9-6-745. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (33), renumbered and amended as R9-6-745 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-352 effective October 19, 1993 (Supp. 93-4).

R9-6-746. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (34.) renumbered and amended as R9-6-746 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-353 effective October 19, 1993 (Supp. 93-4).

R9-6-747. Repealed**Historical Note**

Former Section R9-6-115, Paragraph (35), renumbered and amended as R9-6-747 effective January 28, 1987 (Supp. 87-1). Repealed effective October 19, 1993 (Supp. 93-4).

R9-6-748. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (36), renumbered and amended as R9-6-748 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-354 effective October 19, 1993 (Supp. 93-4).

R9-6-749. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (37), renumbered and amended as R9-6-749 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-355 effective October 19, 1993 (Supp. 93-4).

R9-6-750. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (38), renumbered and amended as R9-6-750 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-356 effective October 19, 1993 (Supp. 93-4).

R9-6-751. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (39), renumbered and amended as R9-6-751 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-358 effective October 19, 1993 (Supp. 93-4).

R9-6-752. Renumbered**Historical Note**

Adopted effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-359 effective October 19, 1993 (Supp. 93-4).

R9-6-753. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (40), renumbered and amended as R9-6-753 effective January 28, 1987

(Supp. 87-1). Renumbered to Section R9-6-360 effective October 19, 1993 (Supp. 93-4).

R9-6-754. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (41), renumbered and amended as R9-6-754 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-361 effective October 19, 1993 (Supp. 93-4).

R9-6-755. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (42), renumbered and amended as R9-6-755 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-362 effective October 19, 1993 (Supp. 93-4).

R9-6-756. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (43), renumbered and amended as R9-6-756 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-363 effective October 19, 1993 (Supp. 93-4).

R9-6-757. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (44), renumbered and amended as R9-6-757 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-364 effective October 19, 1993 (Supp. 93-4).

R9-6-758. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (4), renumbered and amended as R9-6-758 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-365 effective October 19, 1993 (Supp. 93-4).

R9-6-759. Renumbered**Historical Note**

Former Section R9-6-115, Paragraph (46), renumbered and amended as R9-6-759 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-366 effective October 19, 1993 (Supp. 93-4).

ARTICLE 8. ASSAULTS ON PUBLIC SAFETY EMPLOYEES AND VOLUNTEERS

New Article 8, consisting of Sections R9-6-801 through R9-6-803, made by final rulemaking at 8 A.A.R. 5214, effective February 1, 2003 (Supp. 02-4).

R9-6-801. Definitions

In this Article, unless otherwise specified:

1. "Employer" means an individual in the senior leadership position with an agency or entity for which a named public safety employee or volunteer works or that individual's designee.
2. "Named public safety employee or volunteer" means the public safety employee or volunteer who is listed as the assaulted individual in a petition filed under A.R.S. § 13-1210 and granted by a court.
3. "Occupational health provider" means a physician, physician assistant, registered nurse practitioner, or registered nurse, as defined in A.R.S. § 32-1601, who provides medical services for work-related health conditions for an

agency or entity for which a named public safety employee or volunteer works.

4. "Public safety employee or volunteer" means the same as in A.R.S. § 13-1210.

Historical Note

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2).

Amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired.

Readopted without change as an emergency effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired.

Adopted without change as a permanent rule effective May 22, 1989. Amended as an emergency effective June 26, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Emergency amendment readopted without change effective October 17, 1989 (Supp. 89-4). Amended effective September 19, 1990 (Supp. 90-3). Renumbered to R9-6-401 effective October 19, 1993 (Supp. 93-4). New Section made by final rulemaking at 8 A.A.R. 5214, effective February 1, 2003 (Supp. 02-4). Amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-802. Notice of Test Results

- A.** Within 10 working days after the date of receipt of a laboratory report for a test ordered by a health care provider as a result of a court order issued under A.R.S. § 13-1210, the ordering health care provider shall:
1. If the test is conducted on the blood of a court-ordered subject who is incarcerated or detained:
 - a. Provide a written copy of the laboratory report to the chief medical officer of the correctional facility in which the court-ordered subject is incarcerated or detained; and
 - b. Notify the occupational health provider in writing of the results of the test; and
 2. If the test is conducted on the blood of a court-ordered subject who is not incarcerated or detained:
 - a. Unless the court-ordered subject is deceased, notify the court-ordered subject as specified in subsection (D);
 - b. If requested by the court-ordered subject, provide a written copy of the laboratory report to the court-ordered subject; and
 - c. Notify the occupational health provider in writing of the results of the test.
- B.** Within five working days after the date of receipt of a laboratory report for a court-ordered subject who is incarcerated or detained, the chief medical officer of the correctional facility in which the court-ordered subject is incarcerated or detained shall:
1. Notify the court-ordered subject as specified in subsection (D);
 2. If requested by the court-ordered subject, provide a written copy of the laboratory report to the court-ordered subject; and
 3. Notify the officer in charge of the correctional facility as specified in subsection (E).
- C.** Within five working days after an occupational health provider receives written notice of test results as required in subsection (A), the occupational health provider shall notify:
1. The named public safety employee or volunteer as specified in subsection (D); and
 2. The employer as specified in subsection (E).
- D.** An individual who provides notice to a court-ordered subject or named public safety employee or volunteer as required under subsection (A), (B), or (C) shall describe the test results and provide or arrange for the court-ordered subject or named public safety employee or volunteer to receive the following information about each agent for which the court-ordered subject was tested:
1. A description of the disease or syndrome caused by the agent, including its symptoms;
 2. A description of how the agent is transmitted to others;
 3. The average window period for the agent;
 4. An explanation that a negative test result does not rule out infection and that retesting for the agent after the average window period has passed is necessary to rule out infection;
 5. Measures to reduce the likelihood of transmitting the agent to others and that it is necessary to continue the measures until a negative test result is obtained after the average window period has passed or until an infection, if detected, is eliminated;
 6. That it is necessary to notify others that they may be or may have been exposed to the agent by the individual receiving notice;
 7. The availability of assistance from local health agencies or other resources; and
 8. The confidential nature of the court-ordered subject's test results.
- E.** An individual who provides notice to the officer in charge of a correctional facility, as required under subsection (B), or to an employer, as required under subsection (C), shall describe the test results and provide or arrange for the officer in charge of the facility or the employer to receive the following information about each agent for which a court-ordered subject's test results indicate the presence of infection:
1. A description of the disease or syndrome caused by the agent, including its symptoms;
 2. A description of how the agent is transmitted to others;
 3. Measures to reduce the likelihood of transmitting the agent to others;
 4. The availability of assistance from local health agencies or other resources; and
 5. The confidential nature of the court-ordered subject's test results.
- F.** An individual who provides notice under this Section shall not provide a copy of the laboratory report to anyone other than the court-ordered subject and, if the court-ordered subject is incarcerated or detained, the chief medical officer of the correctional facility in which the court-ordered subject is incarcerated or detained.
- G.** An individual who provides notice under this Section shall protect the confidentiality of the court-ordered subject's personal identifying information and test results.
- H.** A health care provider who orders a test on the blood of a court-ordered subject who is not incarcerated or detained may, at the time the court-ordered subject is seen by the ordering health care provider, present the court-ordered subject with a telephone number and instruct the court-ordered subject to contact the ordering health care provider after a stated period of time for notification of the test results.
- I.** A health care provider who orders a test has not satisfied the obligation of the health care provider to notify under subsection (A) if:

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1. The health care provider provides a telephone number and instructions, as allowed by subsection (H), for a court-ordered subject to contact the ordering health care provider and receive the information specified in subsection (D); and
 2. The court-ordered subject does not contact the ordering health care provider.
- J.** A health care provider who orders a test on a court-ordered subject's blood shall comply with all applicable reporting requirements contained in this Chapter.

Historical Note

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2). Amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted without change as an emergency effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Adopted without change as a permanent rule effective May 22, 1989 (Supp. 89-2). Amended effective September 19, 1990 (Supp. 90-3). Amended as an emergency effective August 8, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-3). Emergency expired. Emergency amendments re-adopted without change effective November 19, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-4). Emergency expired. Emergency amendments re-adopted without change effective February 28, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-1). Emergency expired. Renumbered to R9-6-402 effective October 19, 1993 (Supp. 93-4). New Section made by final rulemaking at 8 A.A.R. 5214, effective February 1, 2003 (Supp. 02-4). Amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-803. Repealed**Historical Note**

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2). Amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted without change as an emergency effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Amended subsection (B) and adopted as a permanent rule effective May 22, 1989 (Supp. 89-2). Amended as an emergency effective August 8, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-3). Emergency expired. Emergency amendments re-adopted without change effective November 19, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-4). Emergency expired. Emergency amendments re-adopted without change effective February 28, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-1). Emergency expired. Renumbered to R9-6-403 effective October 19, 1993 (Supp. 93-4). New Section made by final rulemaking at 8 A.A.R. 5214, effective February 1,

2003 (Supp. 02-4). Section repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-804. Renumbered**Historical Note**

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2). Amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted as an emergency and subsection (A) corrected effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Amended subsection (B) and adopted as a permanent rule effective May 22, 1989 (Supp. 89-2). Renumbered to R9-6-404 effective October 19, 1993 (Supp. 93-4).

R9-6-805. Renumbered**Historical Note**

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2). Amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted as an emergency and subsection (B), Paragraph (2) corrected effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Adopted without change as a permanent rule effective May 22, 1989 (Supp. 89-2). Renumbered to R9-6-405 effective October 19, 1993 (Supp. 93-4).

R9-6-806. Renumbered**Historical Note**

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2). Amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted without change as an emergency effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Adopted without change as a permanent rule effective May 22, 1989 (Supp. 89-2). Amended effective September 19, 1990 (Supp. 90-3). Renumbered to R9-6-406 effective October 19, 1993 (Supp. 93-4).

R9-6-807. Renumbered**Historical Note**

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2). Emergency not renewed. Former Section R9-6-808 renumbered as Section R9-6-807, amended, and

readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted as an emergency and subsection (C) corrected effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Adopted without change as a permanent rule effective May 22, 1989 (Supp. 89-2). Renumbered to R9-6-407 effective October 19, 1993 (Supp. 93-4).

R9-6-808. Renumbered

Historical Note

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2). Former Section R9-6-809 renumbered as Section R9-6-808, amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted without change as an emergency effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Adopted without change as a permanent rule effective May 22, 1989 (Supp. 89-2). Renumbered to R9-6-408 effective October 19, 1993 (Supp. 93-4).

ARTICLE 9. HEALTH PROFESSIONAL EXPOSURES

R9-6-901. Definitions

In this Article, unless otherwise specified:

1. "Employer" means an individual in the senior leadership position with the agency or entity for which a health professional works or that individual's designee.
2. "Health professional" means the same as in A.R.S. § 32-3201.
3. "Occupational health provider" means a physician, physician assistant, registered nurse practitioner, or registered nurse, as defined in A.R.S. § 32-1601, who provides medical services for work-related health conditions for an agency or entity for which a health professional works.
4. "Petitioner" means a health professional who petitions a court, under A.R.S. § 32-3207, to order testing of an individual.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Section R9-6-901 recodified to R9-6-1001 at 13 A.A.R. 1745, effective April 27, 2007 (Supp. 07-2). New Section made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-902. Notice of Test Results

- A. Within 10 working days after the date of receipt of a laboratory report for a test ordered by a health care provider as a result of a court order issued under A.R.S. § 32-3207, the ordering health care provider shall:
 1. If the test is conducted on the blood of a court-ordered subject who is incarcerated or detained:
 - a. Provide a written copy of the laboratory report to the chief medical officer of the correctional facility in which the court-ordered subject is incarcerated or detained; and
 - b. Notify the petitioner's occupational health provider in writing of the results of the test; and

2. If the test is conducted on the blood of a court-ordered subject who is not incarcerated or detained:
 - a. Unless the court-ordered subject is deceased, notify the court-ordered subject as specified in subsection (D);
 - b. If requested by the court-ordered subject, provide a written copy of the laboratory report to the court-ordered subject; and
 - c. Notify the petitioner's occupational health provider in writing of the results of the test.
- B. Within five working days after the date of receipt of a laboratory report for a court-ordered subject who is incarcerated or detained, the chief medical officer of the correctional facility in which the court-ordered subject is incarcerated or detained shall:
 1. Notify the court-ordered subject as specified in subsection (D);
 2. If requested by the court-ordered subject, provide a written copy of the laboratory report to the court-ordered subject; and
 3. Notify the officer in charge of the correctional facility as specified in subsection (E).
- C. Within five working days after the petitioner's occupational health provider receives written notice of test results as required in subsection (A), the petitioner's occupational health provider shall notify the petitioner, as specified in subsection (D), and the petitioner's employer, as specified in subsection (E).
- D. An individual who provides notice to a court-ordered subject or petitioner as required under subsection (A), (B) or (C) shall describe the test results and provide or arrange for the court-ordered subject or petitioner to receive the following information about each agent for which the court-ordered subject was tested:
 1. A description of the disease or syndrome caused by the agent, including its symptoms;
 2. A description of how the agent is transmitted to others;
 3. The average window period for the agent;
 4. An explanation that a negative test result does not rule out infection and that retesting for the agent after the average window period has passed is necessary to rule out infection;
 5. Measures to reduce the likelihood of transmitting the agent to others and that it is necessary to continue the measures until a negative test result is obtained after the average window period has passed or until an infection, if detected, is eliminated;
 6. That it is necessary to notify others that they may be or may have been exposed to the agent by the individual receiving notice;
 7. The availability of assistance from local health agencies or other resources; and
 8. The confidential nature of the court-ordered subject's test results.
- E. An individual who provides notice to the officer in charge of a correctional facility, as required under subsection (B), or to the petitioner's employer, as required under subsection (C), shall describe the test results and provide or arrange for the officer in charge of the facility or the employer to receive the following information about each agent for which a court-ordered subject's test results indicate the presence of infection:
 1. A description of the disease or syndrome caused by the agent, including its symptoms;
 2. A description of how the agent is transmitted to others;
 3. Measures to reduce the likelihood of transmitting the agent to others;

4. The availability of assistance from local health agencies or other resources; and
 5. The confidential nature of the court-ordered subject's test results.
- F.** An individual who provides notice under this Section shall not provide a copy of the laboratory report to anyone other than the court-ordered subject and, if the court-ordered subject is incarcerated or detained, the chief medical officer of the correctional facility in which the court-ordered subject is incarcerated or detained.
- G.** An individual who provides notice under this Section shall protect the confidentiality of the court-ordered subject's personal identifying information and test results.
- H.** A health care provider who orders a test on the blood of a court-ordered subject who is not incarcerated or detained may, at the time the court-ordered subject is seen by the ordering health care provider, present the court-ordered subject with a telephone number and instruct the court-ordered subject to contact the ordering health care provider after a stated period of time for notification of the test results.
- I.** A health care provider who orders a test has not satisfied the obligation of the health care provider to notify under subsection (A) if:
1. The health care provider provides a telephone number and instructions, as allowed by subsection (H), for a court-ordered subject to contact the ordering health care provider and receive the information specified in subsection (D); and
 2. The court-ordered subject does not contact the ordering health care provider.
- J.** A health care provider who orders a test on a court-ordered subject's blood shall comply with all applicable reporting requirements contained in this Chapter.

Historical Note

Section renumbered from R9-6-409 and amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Section R9-6-902 recodified to R9-6-1002 at 13 A.A.R. 1745, effective April 27, 2007 (Supp. 07-2).

New Section made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

Exhibit A. Recodified**Historical Note**

Exhibit A renumbered from Article 4, Exhibit A and amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Exhibit A recodified to Article 10, Exhibit A at 13 A.A.R. 1745, effective April 27, 2007 (Supp. 07-2).

Exhibit B. Recodified**Historical Note**

Exhibit A renumbered from Article 4, Exhibit A and amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Exhibit B recodified to Article 10, Exhibit B at 13 A.A.R. 1745, effective April 27, 2007 (Supp. 07-2).

R9-6-903. Recodified**Historical Note**

Section renumbered from R9-6-410 and amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Section R9-6-903 recodified to R9-6-1003 at 13 A.A.R. 1745, effective April 27, 2007 (Supp. 07-2).

ARTICLE 10. HIV-RELATED TESTING AND NOTIFICATION**R9-6-1001. Definitions**

In this Article, unless otherwise specified:

1. "Governing board" means a group of individuals, elected as specified in A.R.S. Title 15, Chapter 4, Article 2, to carry out the duties and functions specified in A.R.S. Title 15, Chapter 3, Article 3.
2. "Informed consent" means permission to conduct an HIV-related test obtained from a subject who has capacity to consent or an individual authorized by law to consent for a subject without capacity to consent after an explanation that complies with A.R.S. § 36-663(B).
3. "Physician" means an individual licensed as a doctor of:
 - a. Allopathic medicine under A.R.S. Title 32, Chapter 13;
 - b. Osteopathic medicine under A.R.S. Title 32, Chapter 17; or
 - c. Homeopathic medicine under A.R.S. Title 32, Chapter 29.
4. "School district" means the same as in A.R.S. § 15-101.
5. "Superintendent of a school district" means an individual appointed by the governing board of a school district to oversee the operation of schools within the school district.
6. "Works" means materials, such as cotton balls or a spoon, required when preparing or using a drug that requires injection.

Historical Note

New Section recodified from R9-6-901 at 13 A.A.R. 1745, effective April 27, 2007 (Supp. 07-2). Amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-1002. Local Health Agency Requirements

For each HIV-infected individual or suspect case, a local health agency shall comply with the requirements in R9-6-347.

Historical Note

New Section recodified from R9-6-902 at 13 A.A.R. 1745, effective April 27, 2007 (Supp. 07-2). Former R9-6-1002 renumbered to R9-6-1003; new R9-6-1002 made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-1003. Expired**Historical Note**

New Section recodified from R9-6-903 at 13 A.A.R. 1745, effective April 27, 2007 (Supp. 07-2). Former R9-6-1003 renumbered to R9-6-1004; new R9-6-1003 renumbered from R9-6-1002 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 1928, effective April 30, 2013 (Supp. 13-3).

EXHIBIT A. Expired**Historical Note**

Exhibit A recodified from Article 9, Exhibit A at 13 A.A.R. 1745, effective April 27, 2007 (Supp. 07-2). Exhibit A repealed; new Exhibit A made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Exhibit A expired under A.R.S. § 41-

1056(J) at 19 A.A.R. 1928, effective April 30, 2013 (Supp. 13-3).

EXHIBIT B. Repealed

Historical Note

Exhibit B recodified from Article 9, Exhibit B at 13 A.A.R. 1745, effective April 27, 2007 (Supp. 07-2).
Exhibit B repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-1004. Court-ordered HIV-related Testing

- A. A health care provider who receives the results of a test, ordered by the health care provider to detect HIV infection and performed as a result of a court order issued under A.R.S. § 13-1210, shall comply with the requirements in 9 A.A.C. 6, Article 8.
- B. A health care provider who receives the results of a test, ordered by the health care provider to detect HIV infection and performed as a result of a court order issued under A.R.S. § 32-3207, shall comply with the requirements in 9 A.A.C. 6, Article 9.
- C. When a court orders a test under A.R.S. §§ 8-341 or 13-1415 to detect HIV infection, the prosecuting attorney who petitioned the court for the order shall provide to the Department:
 1. A copy of the court order, including an identifying number associated with the court order;
 2. The name and address of the victim; and
 3. The name and telephone number of the prosecuting attorney or the prosecuting attorney's designee.
- D. A person who tests a specimen of blood or another body fluid from a subject to detect HIV infection as authorized by a court order issued under A.R.S. §§ 8-341 or 13-1415 shall:
 1. Use a screening test; and
 2. If the test results from a screening test on the specimen indicate a positive result, retest the specimen using a confirmatory test.
- E. A person who performs a test described in subsection (D) shall report the test results for each subject to the submitting entity within five working days after obtaining the test results.
- F. A submitting entity that receives the results of a test to detect HIV infection that was performed for a subject as a result of a court order issued under A.R.S. §§ 8-341 or 13-1415 shall:
 1. Notify the Department within five working days after receiving the results of the test to detect HIV infection;
 2. Provide to the Department:
 - a. A written copy of the court order,
 - b. A written copy of the results of the test to detect HIV infection, and
 - c. The name and telephone number of the submitting entity or submitting entity's designee; and
 3. Either:
 - a. Comply with the requirements in:
 - i. R9-6-802(A)(2)(a) and (b), R9-6-802(D), and R9-6-802(F) through (J) for a subject who is not incarcerated or detained; and
 - ii. R9-6-802(B), R9-6-802(D) through (G), and R9-6-802(J) for a subject who is incarcerated or detained; or
 - b. Provide to the Department or the local health agency in whose designated service area the subject is living:
 - i. The name and address of the subject;
 - ii. A written copy of the results of the test to detect HIV infection, if not provided as specified in subsection (F)(2)(b); and

- iii. Notice that the submitting entity did not provide notification as specified in subsection (F)(3)(a).

- G. If the Department or a local health agency is notified by a submitting entity as specified in subsection (F)(3)(b), the Department or local health agency shall comply with the requirements in:
 1. R9-6-802(A)(2)(a) and (b), R9-6-802(D), and R9-6-802(F) through (J) for a subject who is not incarcerated or detained; and
 2. R9-6-802(B), R9-6-802(D) through (G), and R9-6-802(J) for a subject who is incarcerated or detained.
- H. When the Department receives a written copy of the results of a test to detect HIV infection that was performed for a subject as a result of a court order issued under A.R.S. §§ 8-341 or 13-1415, the Department shall either:
 1. Provide to the victim:
 - a. A description of the results of the test to detect HIV infection;
 - b. The information specified in R9-6-802(D); and
 - c. A written copy of the test results; or
 2. Provide to the local health agency in whose designated service area the victim is living:
 - a. The name and address of the victim,
 - b. A written copy of the results of the test to detect HIV infection, and
 - c. Notice that the Department did not provide notification as specified in subsection (H)(1).
- I. If a local health agency is notified by the Department as specified in subsection (H)(2), the local health agency shall:
 1. Provide to the victim:
 - a. A description of the results of the test to detect HIV infection;
 - b. The information specified in R9-6-802(D); and
 - c. A written copy of the test results; or
 2. If the local health agency is unable to locate the victim, notify the Department that the local health agency did not inform the victim of the results of the test to detect HIV infection.

Historical Note

Section R9-6-1004 renumbered from R9-6-1003 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-1005. Anonymous HIV Testing

- A. A local health agency and the Department shall offer anonymous HIV testing to individuals.
- B. If an individual requests anonymous HIV testing, the Department or a local health agency shall:
 1. Provide to the individual requesting anonymous HIV testing health education about HIV, the meaning of HIV test results, and the risk factors for becoming infected with HIV or transmitting HIV to other individuals;
 2. Record in a format specified by the Department information about the individual's risk factors for becoming infected with or transmitting HIV and submit the information to the Department;
 3. Collect a specimen of blood from the individual;
 4. Record the following information on a form provided by the Department:
 - a. The individual's date of birth,
 - b. The individual's race and ethnicity,
 - c. The individual's gender,
 - d. The date and time the blood specimen was collected, and

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- e. The name, address, and telephone number of the person collecting the blood specimen; and
5. Before the individual leaves the building occupied by the Department or local health agency:
 - a. Test the individual's specimen of blood using a screening test for HIV;
 - b. Provide the results of the screening test to the individual;
 - c. Record the test results on the form specified in subsection (B)(4); and
 - d. If the test results from the screening test on the specimen of blood indicate that the individual may be HIV-infected, submit the specimen of blood to the Arizona State Laboratory for confirmatory testing by:
 - i. Assigning to the blood specimen an identification number corresponding to the pre-printed number on the form specified in subsection (B)(4);
 - ii. Giving the individual requesting anonymous HIV testing the identification number assigned to the blood specimen and information about how to obtain the results of the confirmatory test; and
 - iii. Sending the blood specimen and the form specified in subsection (B)(4) to the Arizona State Laboratory for confirmatory testing.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-1006. Notification

- A. The Department or the Department's designee shall confidentially notify an individual reported to be at risk for HIV infection, as required under A.R.S. § 36-664(J), if all of the following conditions are met:
 1. The Department receives the report of risk for HIV infection in a document that includes the following:
 - a. The name and address of the individual reported to be at risk for HIV infection or enough other identifying information about the individual to enable the individual to be recognized and located,
 - b. The name and address of the HIV-infected individual placing the individual named under subsection (A)(1)(a) at risk for HIV infection,
 - c. The name and address of the individual making the report, and
 - d. The type of exposure placing the individual named under subsection (A)(1)(a) at risk for HIV infection;
 2. The individual making the report is in possession of confidential HIV-related information; and
 3. The Department determines that the information provided in the report is accurate and contains sufficient detail to:
 - a. Indicate that the exposure described as required in subsection (A)(1)(d) constitutes a significant exposure for the individual reported to be at risk for HIV infection, and
 - b. Enable the individual reported to be at risk for HIV infection to be recognized and located.
- B. As authorized under A.R.S. § 36-136(L), the Department shall notify the superintendent of a school district in a confidential document that a pupil of the school district tested positive for HIV if the Department determines that:
 1. The pupil places others in the school setting at risk for HIV infection; and

2. The school district has an HIV policy that includes the following provisions:
 - a. That a school shall not exclude a pupil who tested positive for HIV from attending school or school functions or from participating in school activities solely due to HIV infection;
 - b. That school district personnel who are informed that a pupil tested positive for HIV shall keep the information confidential; and
 - c. That the school district shall provide HIV-education programs to pupils, parents or guardians of pupils, and school district personnel through age-appropriate curricula, workshops, or in-service training sessions.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

ARTICLE 11. STD-RELATED TESTING AND NOTIFICATION**R9-6-1101. Definitions**

In this Article, unless otherwise specified:

1. "Primary syphilis" means the initial stage of syphilis infection characterized by the appearance of one or more open sores in the genital area, anus, or mouth of an infected individual.
2. "Secondary syphilis" means the stage of syphilis infection occurring after primary syphilis and characterized by a rash that does not itch, fever, swollen lymph glands, and fatigue in an infected individual.
3. "Sexually transmitted diseases" means the same as in A.R.S. § 13-1415.
4. "STD" means a sexually transmitted disease or other disease that may be transmitted through sexual contact.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-1102. Health Care Provider Requirements

When a laboratory report for a test ordered by a health care provider for a subject indicates that the subject is infected with an STD, the ordering health care provider or the ordering health care provider's designee shall:

1. Describe the test results to the subject;
2. Provide or arrange for the subject to receive the following information about the STD for which the subject was tested:
 - a. A description of the disease or syndrome caused by the STD, including its symptoms;
 - b. Treatment options for the STD and where treatment may be obtained;
 - c. A description of how the STD is transmitted to others;
 - d. A description of measures to reduce the likelihood of transmitting the STD to others and that it is necessary to continue the measures until the infection is eliminated;
 - e. That it is necessary for the subject to notify individuals who may have been infected by the subject that the individuals need to be tested for the STD;
 - f. The availability of assistance from local health agencies or other resources; and
 - g. The confidential nature of the subject's test results;
3. Report the information required in R9-6-202 to a local health agency; and

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4. If the subject is pregnant and is a syphilis case, inform the subject of the requirement that the subject obtain serologic testing for syphilis according to R9-6-381.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-1103. Local Health Agency Requirements

- A. For each STD case, a local health agency shall:
 1. Comply with the requirements in:
 - a. R9-6-317(A)(1) and (2) for each chancroid case reported to the local health agency, and
 - b. R9-6-381(A)(3)(a) through (c) for each syphilis case reported to the local health agency;
 2. Offer or arrange for treatment for each STD case that seeks treatment from the local health agency for symptoms of:
 - a. Chancroid,
 - b. Chlamydia infection,
 - c. Gonorrhea, or
 - d. Syphilis;
 3. Provide information about the following to each STD case that seeks treatment from the local health agency:
 - a. A description of the disease or syndrome caused by the applicable STD, including its symptoms;
 - b. Treatment options for the applicable STD;
 - c. A description of measures to reduce the likelihood of transmitting the STD to others and that it is necessary to continue the measures until the infection is eliminated; and
 - d. The confidential nature of the STD case's test results; and
 4. Inform the STD case that:
 - a. A chlamydia or gonorrhea case must notify each individual, with whom the chlamydia or gonorrhea case has had sexual contact within 60 days preceding the onset of chlamydia or gonorrhea symptoms up to the date the chlamydia or gonorrhea case began treatment for chlamydia or gonorrhea infection, of the need for the individual to be tested for chlamydia or gonorrhea; and
 - b. The Department or local health agency will notify, as specified in subsection (B), each contact named by a chancroid or syphilis case.
- B. For each contact named by a chancroid or syphilis case, the Department or a local health agency shall:
 1. Notify the contact named by a chancroid or syphilis case of the contact's exposure to chancroid or syphilis and of the need for the contact to be tested for:
 - a. Chancroid, if the chancroid case has had sexual contact with the contact within 10 days preceding the onset of chancroid symptoms up to the date the chancroid case began treatment for chancroid infection; or
 - b. Syphilis, if the syphilis case has had sexual contact with the contact within:
 - i. 90 days preceding the onset of symptoms of primary syphilis up to the date the syphilis case began treatment for primary syphilis infection;
 - ii. Six months preceding the onset of symptoms of secondary syphilis up to the date the syphilis case began treatment for secondary syphilis infection; or

- iii. 12 months preceding the date the syphilis case was diagnosed with syphilis if the syphilis case cannot identify when symptoms of primary or secondary syphilis began;

2. Offer or arrange for each contact named by a chancroid or syphilis case to receive testing and, if appropriate, treatment for chancroid or syphilis; and
3. Provide information to each contact named by a chancroid or syphilis case about:
 - a. The characteristics of the applicable STD,
 - b. The syndrome caused by the applicable STD,
 - c. Measures to reduce the likelihood of transmitting the applicable STD, and
 - d. The confidential nature of the contact's test results.
- C. For each contact of a chlamydia or gonorrhea case who seeks treatment from a local health agency for symptoms of chlamydia or gonorrhea, the local health agency shall:
 1. Offer or arrange for treatment for chlamydia or gonorrhea;
 2. Provide information to each contact of a chlamydia or gonorrhea case about:
 - a. The characteristics of the applicable STD,
 - b. The syndrome caused by the applicable STD,
 - c. Measures to reduce the likelihood of transmitting the applicable STD, and
 - d. The confidential nature of the contact's test results.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-1104. Court-ordered STD-related Testing

- A. A health care provider who receives the results of a test, ordered by the health care provider to detect an STD and performed as a result of a court order issued under A.R.S. § 13-1210, shall comply with the requirements in 9 A.A.C. 6, Article 8.
- B. A health care provider who receives the results of a test, ordered by the health care provider to detect an STD and performed as a result of a court order issued under A.R.S. § 32-3207, shall comply with the requirements in 9 A.A.C. 6, Article 9.
- C. When a court orders a test under A.R.S. § 13-1415 to detect a sexually-transmitted disease, the prosecuting attorney who petitioned the court for the order shall provide to the Department:
 1. A copy of the court order, including an identifying number associated with the court order;
 2. The name and address of the victim; and
 3. The name and telephone number of the prosecuting attorney or the prosecuting attorney's designee.
- D. A person who tests a specimen of blood or another body fluid from a subject to detect a sexually-transmitted disease as authorized by a court order issued under A.R.S. § 13-1415 shall:
 1. Be a certified laboratory, as defined in A.R.S. § 36-451;
 2. Use a test approved by the U.S. Food and Drug Administration for use in STD-related testing; and
 3. Report the test results for each subject to the submitting entity within five working days after obtaining the test results.
- E. A submitting entity that receives the results of a test to detect a sexually-transmitted disease that was performed as a result of a court order issued under A.R.S. § 13-1415 shall:

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1. Notify the Department within five working days after receiving the results of the test to detect a sexually-transmitted disease;
 2. Provide to the Department:
 - a. A written copy of the court order,
 - b. A written copy of the results of the test to detect a sexually-transmitted disease, and
 - c. The name and telephone number of the submitting entity or submitting entity's designee; and
 3. Either:
 - a. Comply with the requirements in:
 - i. R9-6-802(A)(2)(a) and (b), R9-6-802(D), and R9-6-802(F) through (J) for a subject who is not incarcerated or detained; and
 - ii. R9-6-802(B), R9-6-802(D) through (G), and R9-6-802(J) for a subject who is incarcerated or detained; or
 - b. Provide to the Department or the local health agency in whose designated service area the subject is living:
 - i. The name and address of the subject;
 - ii. A written copy of the results of the test to detect a sexually-transmitted disease, if not provided as specified in subsection (E)(2)(b); and
 - iii. Notice that the submitting entity did not provide notification as specified in subsection (E)(3)(a).
- F.** If the Department or a local health agency is notified by a submitting entity as specified in subsection (E)(3)(b), the Department or local health agency shall comply with the requirements in:
1. R9-6-802(A)(2)(a) and (b), R9-6-802(D), and R9-6-802(F) through (J) for a subject who is not incarcerated or detained; and
 2. R9-6-802(B), R9-6-802(D) through (G), and R9-6-802(J) for a subject who is incarcerated or detained.
- G.** When the Department receives the results of a test to detect a sexually-transmitted disease that was performed for a subject as a result of a court order issued under A.R.S. § 13-1415, the Department shall:
1. Provide to the victim:
 - a. A description of the results of the test to detect the sexually-transmitted disease,
 - b. The information specified in R9-6-802(D), and
 - c. A written copy of the test results for the sexually-transmitted disease; or
 2. Provide to the local health agency in whose designated service area the victim is living:
 - a. The name and address of the victim,
 - b. A written copy of the results of the test to detect the sexually-transmitted disease, and
 - c. Notice that the Department did not provide notification as specified in subsection (G)(1).
- H.** If a local health agency is notified by the Department as specified in subsection (G)(2), the local health agency shall:
1. Provide to the victim:
 - a. A description of the results of the test to detect the sexually-transmitted disease;
 - b. The information specified in R9-6-802(D); and
 - c. A written copy of the test results for the sexually-transmitted disease; or
 2. If the local health agency is unable to locate the victim, notify the Department that the local health agency did not inform the victim of the results of the test to detect the sexually-transmitted disease.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

ARTICLE 12. TUBERCULOSIS CONTROL**R9-6-1201. Definitions**

In addition to the definitions in A.R.S. § 36-711, the following definitions apply in this Article, unless otherwise specified:

1. "Inmate" means an individual who is incarcerated in a correctional facility.
2. "Latent tuberculosis infection" means the presence of *Mycobacterium tuberculosis*, as evidenced by a positive result from an approved test for tuberculosis, in an individual who:
 - a. Has no symptoms of active tuberculosis,
 - b. Has no clinical signs of tuberculosis other than the positive result from the approved test for tuberculosis, and
 - c. Is not infectious to others.
3. "Symptoms suggestive of tuberculosis" means any of the following that cannot be attributed to a disease or condition other than tuberculosis:
 - a. A productive cough that has lasted for at least three weeks;
 - b. Coughing up blood; or
 - c. A combination of at least three of the following:
 - i. Fever,
 - ii. Chills,
 - iii. Night sweats,
 - iv. Fatigue,
 - v. Chest pain, and
 - vi. Weight loss.

Historical Note

Section R9-6-1201 renumbered from R9-6-601 by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4).

R9-6-1202. Local Health Agency Reporting Requirements

- A.** Within 30 days after receiving information, a local health agency shall report to the Department regarding:
1. Each individual in its jurisdiction who has been diagnosed with active tuberculosis,
 2. Each individual in its jurisdiction who is suspected of having active tuberculosis, and
 3. Each individual in its jurisdiction who is believed to have been exposed to an individual with infectious active tuberculosis.
- B.** Each report made under subsection (A) shall consist of completed Centers for Disease Control and Prevention, U.S. Department of Health and Human Services, Form CDC 72.9A and B, "Report of Verified Case of Tuberculosis" (January 2003), which is incorporated by reference, or a completed electronic equivalent to Form CDC 72.9A and B provided by the Department.

Historical Note

Section R9-6-1202 renumbered from R9-6-602 by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

R9-6-1203. Tuberculosis Control in Correctional Facilities

- A.** An administrator of a correctional facility shall ensure that:
1. Each new inmate in the correctional facility undergoes a symptom screening for tuberculosis while processing into the correctional facility;

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2. An inmate in whom symptoms suggestive of tuberculosis are detected during screening:
 - a. Is immediately:
 - i. Placed in airborne infection isolation, or
 - ii. Required to wear a surgical mask and retained in an environment where exposure to the general inmate population is minimal and the inmate can be observed at all times to be wearing the mask;
 - b. If not immediately placed in airborne infection isolation, is within 24 hours after screening:
 - i. Given a medical evaluation for active tuberculosis, or
 - ii. Transported to a health care institution to be placed in airborne infection isolation; and
 - c. Is given a medical evaluation for active tuberculosis before being released from airborne infection isolation or permitted to stop wearing a surgical mask and released from the environment described in subsection (A)(2)(a)(ii).
 3. Except as provided in subsection (A)(6), each new inmate who does not have a documented history of a positive result from an approved test for tuberculosis or who has not received an approved test for tuberculosis within the previous 12 months is given an approved test for tuberculosis within seven days after processing into the correctional facility;
 4. Except as provided in subsection (A)(5), each new inmate who has a positive result from an approved test for tuberculosis or who has a documented history of a positive result from an approved test for tuberculosis is given a chest x-ray and a medical evaluation, within 14 days after processing into the correctional facility, to determine whether the inmate has active tuberculosis;
 5. If an inmate has had a documented negative chest x-ray after a positive result from an approved test for tuberculosis, the inmate is not required to have another chest x-ray unless the inmate has signs or symptoms of active tuberculosis;
 6. Each new inmate who is HIV-positive, in addition to receiving an approved test for tuberculosis, is given a chest x-ray and a medical evaluation within seven days after processing into the correctional facility, to determine whether the inmate has active tuberculosis;
 7. Each inmate who has a negative result from an approved test for tuberculosis when tested during processing has a repeat approved test for tuberculosis after 12 months of incarceration and every 12 months thereafter during the inmate's term of incarceration;
 8. Each inmate with active tuberculosis is:
 - a. Provided medical treatment that meets accepted standards of medical practice, and
 - b. Placed in airborne infection isolation until no longer infectious; and
 9. All applicable requirements in 9 A.A.C. 6, Articles 2 and 3 are complied with.
- B.** The requirements of subsection (A) apply to each correctional facility that houses inmates for 14 days or longer and to each inmate who will be incarcerated for 14 days or longer.
- C.** An administrator of a correctional facility, either personally or through a representative, shall:
1. Unless unable to provide prior notification because of security concerns, notify the local health agency at least one working day before releasing a tuberculosis case or suspect case;

2. If unable to provide prior notification because of security concerns, notify the local health agency within 24 hours after releasing a tuberculosis case or suspect case; and
3. Provide a tuberculosis case or suspect case or an inmate being treated for latent tuberculosis infection the name and address of the local health agency before the case, suspect case, or inmate is released.

Historical Note

Section R9-6-1203 renumbered from R9-6-603 by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4).

R9-6-1204. Standards of Medical Care

A health care provider caring for an afflicted person shall comply with the recommendations for treatment of tuberculosis in *American Thoracic Society/Centers for Disease Control and Prevention/Infectious Diseases Society of America: Treatment of Tuberculosis* (October 2002), published in 167 *American Journal of Respiratory and Critical Care Medicine* 603-662 (February 15, 2003), which is incorporated by reference, on file with the Department, and available from the American Thoracic Society, 61 Broadway, New York, NY 10006-2747 or at www.atsjournals.org, unless the health care provider believes, based on the health care provider's professional judgment, that deviation from the recommendations is medically necessary. If a health care provider caring for an afflicted person deviates from the recommendations for treatment of tuberculosis in *American Thoracic Society/Centers for Disease Control and Prevention/Infectious Diseases Society of America: Treatment of Tuberculosis* (October 2002), the health care provider shall, upon request, explain to the Department or a local health agency the rationale for the deviation. If the tuberculosis control officer determines that deviation from the recommendations for treatment of tuberculosis in *American Thoracic Society/Centers for Disease Control and Prevention/Infectious Diseases Society of America: Treatment of Tuberculosis* (October 2002), is inappropriate and that the public health and welfare require intervention, the tuberculosis control officer may take charge of the afflicted person's treatment as authorized under A.R.S. § 36-723(C).

Historical Note

Section R9-6-1204 renumbered from R9-6-604 by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4).

**ARTICLE 13. IMMUNIZATIONS OR VACCINES
REQUIRING PRESCRIPTIONS FOR PHARMACIST
ADMINISTRATION**

R9-6-1301. Immunizations or Vaccines Requiring a Prescription Order for Pharmacist Administration

- A.** In this Section, unless otherwise specified, the following definitions apply:
1. "Certified pharmacist" means an individual licensed under A.R.S. Title 32, Chapter 18, who is authorized under A.A.C. R4-23-411 to administer immunizations or vaccines to adults.
 2. "Immunization" has the same meaning as in A.R.S. § 36-671.
 3. "Prescription order" has the same meaning as in A.R.S. § 32-1901.
 4. "Vaccine" has the same meaning as "biological product" defined in 21 CFR 600.3 (April 1, 2008).
- B.** The following immunizations or vaccines require a prescription order before the immunization or vaccine may be administered under A.A.C. R4-23-411 by a certified pharmacist:
1. Japanese Encephalitis vaccine,
 2. Rabies vaccine,
 3. Typhoid vaccines, and

4. Yellow fever vaccine.

Historical Note

New Section made by exempt rulemaking at 15 A.A.R.
1793, effective October 5, 2009 (Supp. 09-4).

Supplement Separator Page



Supplement to the
Arizona Administrative Code
 The official compilation of Arizona Rules
Replacement Check List

For rules filed in the third quarter between
 July 1 - September 30
 2017

Within the stated calendar quarter, this Title contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information. Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

TITLE 09. Health Services

Chapter 10. Department of Health Services - Health Care Institutions: Licensing

Sections, Parts, Exhibits, Tables or Appendices modified
 R9-10-120

☐ REMOVE Supp. 16-3
 Pages: 1 - 259

☐ REPLACE with Supp. 17-3
 Pages: 1 - 261

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PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the Administrative Code. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION
September 30, 2017

RULES

A.R.S. § 41-1001(17) states: “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions. Virtually everything in your life is affected in some way by rules published in the Arizona Administrative Code, from the quality of air you breathe to the licensing of your dentist. This chapter is one of more than 230 in the Code compiled in 21 Titles.

ADMINISTRATIVE CODE SUPPLEMENTS

Rules filed by an agency to be published in the Administrative Code are updated quarterly. Supplement release dates are printed on the footers of each chapter:

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2017 is cited as Supp. 17-1.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the Arizona Administrative Register for recent updates to rule Sections.

ARTICLES AND SECTIONS

Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering system separated into subsections.

HISTORICAL NOTES AND EFFECTIVE DATES

Historical notes inform the user when the last time a Section was updated in the Administrative Code. Be aware, since the Office publishes each quarter by entire chapters, not all Sections are updated by an agency in a supplement release. Many times just one Section or a few Sections may be updated in the entire chapter.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in the introduction of a chapter can be found at the Secretary of State’s website, www.azsos.gov/services/legislative-filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the Arizona Administrative Register online at www.azsos.gov/rules, click on the Administrative Register link.

In the Administrative Code the Office includes editor’s notes at the beginning of a chapter indicating that certain rulemaking Sections were made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR

If you are researching rules and come across rescinded chapters on a different paper color, this is because the agency filed a Notice of Exempt Rulemaking. At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

PERSONAL USE/COMMERCIAL USE

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Public Services managing rules editor, Rhonda Paschal, assisted with the editing of this chapter.

TITLE 9. HEALTH SERVICES**CHAPTER 10. DEPARTMENT OF HEALTH SERVICES - HEALTH CARE INSTITUTIONS: LICENSING**

Editor's Note: The heading for 9 A.A.C. 10 changed from "Licensure" to "Licensing" per a request from the Department of Health Services (Supp. 03-4).

Editor's Note: The Office of the Secretary of State publishes all Chapters on white paper (Supp. 01-2).

Editor's Note: This Chapter contains rules which were adopted, amended, and repealed under exemptions from the provisions of the Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1993, Ch. 163, § 3(B); Laws 1996, Ch. 329, § 5; Laws 1998, Ch. 178 § 17, and Laws 1999, Ch. 311. Exemption from A.R.S. Title 41, Chapter 6 means that the Department of Health Services did not submit these rules to the Governor's Regulatory Review Council for review; the Department may not have submitted notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department was not required to hold public hearings on these rules; and the Attorney General did not certify these rules. Because this Chapter contains rules which are exempt from the regular rulemaking process, the Chapter is printed on blue paper.

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Article 2, consisting of Sections R9-10-201 through R9-10-233, adopted effective February 23, 1979.

Former Article 2, consisting of Sections R9-10-201 through R9-10-250, renumbered as Sections R9-10-301 through R9-10-335 as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days.

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Article 3, consisting of Sections R9-10-301 through R9-10-333, adopted effective February 4, 1981.

Former Article 3, consisting of Sections R9-10-301 through R9-10-335, repealed effective February 4, 1981.

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ARTICLE 5. RECOVERY CARE CENTERS

Article 5, consisting of Sections R9-10-501 through R9-10-514, adopted effective April 4, 1994 (Supp. 94-2).

Article 5, consisting of Sections R9-10-501 through R9-10-518, repealed effective April 4, 1994 (Supp. 94-2).

Article 5, consisting of Sections R9-10-501 through R9-10-518, adopted as permanent rules effective October 30, 1989.

Article 5, consisting of Sections R9-10-501 through R9-10-518, readopted as an emergency effective July 31, 1989 pursuant to A.R.S. § 41-1026, valid for only 90 days.

Article 5, consisting of Sections R9-10-501 through R9-10-518, readopted as an emergency effective April 27, 1989 pursuant to A.R.S. § 41-1026, valid for only 90 days.

Article 5, consisting of Sections R9-10-501 through R9-10-518, readopted as an emergency effective January 27, 1989 pursuant to A.R.S. § 41-1026, valid for only 90 days.

New Article 5, consisting of Sections R9-10-501 through R9-10-518, adopted as an emergency effective October 26, 1988 pursuant to A.R.S. § 41-1026, valid for only 90 days. Emergency expired.

Former Article 5, consisting of Sections R9-10-501 through R9-10-574, repealed effective October 20, 1982.

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Article 6, consisting of Sections R9-10-611 through R9-10-624, repealed effective November 1, 1998, under an exemption from the Administrative Procedure Act; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4).

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ARTICLE 7. BEHAVIORAL HEALTH RESIDENTIAL FACILITIES

Article 7, consisting of Sections R9-10-701 through R9-7-710, repealed; New Article 7, consisting of Sections R9-10-701 through R9-7-724 adopted; both actions effective November 1, 1998 under an exemption from the Administrative Procedure Act; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4).

Article 7, consisting of Sections R9-10-701 through R9-10-710, adopted as permanent rules effective October 30, 1989.

Article 7, consisting of Sections R9-10-701 through R9-10-710, readopted as an emergency effective July 31, 1989 pursuant to A.R.S. § 41-1026, valid for only 90 days.

Article 7, consisting of Sections R9-10-701 through R9-10-710, readopted as an emergency effective April 27, 1989 pursuant to A.R.S. § 41-1026, valid for only 90 days.

Article 7, consisting of Sections R9-10-701 through R9-10-710, readopted as an emergency effective January 27, 1989 pursuant to A.R.S. § 41-1026, valid for only 90 days.

New Article 7, consisting of Sections R9-10-701 through R9-10-710, adopted as an emergency effective October 26, 1988 pursuant to A.R.S. § 41-1026, valid for only 90 days. Emergency expired.

Former Article 7, consisting of Sections R9-10-701 through R9-10-737, repealed effective October 20, 1982.

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ARTICLE 8. ASSISTED LIVING FACILITIES

Article 8 (Sections R9-10-801 through R9-10-812) adopted as permanent rules effective October 30, 1989.

Article 8, consisting of Sections R9-10-801 through R9-10-812, readopted as an emergency effective July 31, 1989 pursuant to A.R.S. § 41-1026, valid for only 90 days.

Article 8, consisting of Sections R9-10-801 through R9-10-812, readopted as an emergency effective April 27, 1989 pursuant to A.R.S. § 41-1026, valid for only 90 days.

Article 8, consisting of Sections R9-10-801 through R9-10-812, readopted as an emergency effective January 27, 1989 pursuant to A.R.S. § 41-1026, valid for only 90 days.

New Article 8, consisting of Sections R9-10-801 through R9-10-812, adopted as an emergency effective October 26, 1988 pursuant to A.R.S. § 41-1026, valid for only 90 days. Emergency expired.

Former Article 8, consisting of Sections R9-10-801 through R9-10-867, repealed effective October 20, 1982.

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ARTICLE 9. OUTPATIENT SURGICAL CENTERS

Article 9, consisting of Sections R9-10-901 through R9-10-917 adopted effective February 17, 1995 (Supp. 95-1).

Article 9, consisting of Sections R9-10-911 through R9-10-925, repealed effective February 17, 1995 (Supp. 95-1).

Article 9, consisting of Sections R9-10-911 through R9-10-925, adopted effective October 20, 1982 (Supp. 82-5).

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Article 10, consisting of Sections R9-10-1001 through R9-10-1017, made new by final rulemaking at 14 A.A.R. 294, effective March 8, 2008 (Supp. 08-1).

Article 10, consisting of Sections R9-10-1011 through R9-10-1030, repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2).

The proposed summary action repealing R9-10-1011 through R9-10-1030 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rules. Sections in effect before the proposed summary action have been restored (Supp. 97-1).

Article 10, consisting of R9-10-1011 through R9-10-1030, repealed by summary action, interim effective date of July 21, 1995.

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ARTICLE 11. ADULT DAY HEALTH CARE FACILITIES

Article 11, consisting of Sections R9-10-1101 through R9-10-1109 adopted effective July 22, 1994 (Supp. 94-3).

Article 11, consisting of Sections R9-10-1111 through R9-10-1127 repealed effective July 22, 1994 (Supp. 94-3).

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ARTICLE 12. HOME HEALTH AGENCIES

Article 12, consisting of Sections R9-10-1201 through R9-10-1230, repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3).

Article 12, consisting of Sections R9-10-1201 through R9-10-1230, adopted effective February 4, 1981.

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ARTICLE 13. BEHAVIORAL HEALTH SPECIALIZED TRANSITIONAL FACILITY

New Article 13, consisting of Sections R9-10-1301 through R9-10-1317, made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

Article 13, consisting of Sections R9-10-1301 through R9-10-1314, repealed effective November 1, 1998, under an exemption from the Administrative Procedure Act; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4).

Article 13, consisting of Sections R9-10-1301 through R9-10-1314, adopted as permanent rules effective November 25, 1992 (Supp. 92-4).

Article 13, consisting of Sections R9-10-1301 through R9-10-1314, adopted again as an emergency effective August 27, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3).

Article 13, consisting of Sections R9-10-1301 through R9-10-1314, adopted again as an emergency effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2).

Article 13, consisting of Sections R9-10-1301 through R9-10-1314, adopted again as an emergency effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1).

Article 13, consisting of Sections R9-10-1301 through R9-10-1314, adopted as an emergency effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4).

Article 13, consisting of Sections R9-10-1301 through R9-10-1306, adopted as an emergency effective March 29, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-1). Emergency expired.

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ARTICLE 14. SUBSTANCE ABUSE TRANSITIONAL FACILITIES

Article 14, consisting of Sections R9-10-1401 through R9-10-

1412, adopted effective February 1, 1994 (Supp. 94-1).

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ARTICLE 15. ABORTION CLINICS

Article 15, consisting of Sections R9-10-1501 through R9-10-1514, adopted under an exemption from the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311, filed in the Office of the Secretary of State December 23, 1999 (Supp. 99-4).

Article 15, consisting of Sections R9-10-1501 through R9-10-1514, repealed effective November 1, 1998, under an exemption from the Administrative Procedure Act; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4).

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ARTICLE 16. BEHAVIORAL HEALTH RESPITE HOMES

Article 16, consisting of Sections R9-10-1601 through R9-10-1611, made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

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ARTICLE 17. UNCLASSIFIED HEALTH CARE INSTITUTIONS

Article 17, consisting of Sections R9-10-1701 through R9-10-1713, adopted effective July 6, 1994 (Supp. 94-3).

Article 17, consisting of Sections R9-10-1711 through R9-10-1713, R9-10-1715 through R9-10-1723, and R9-10-1731 through R9-10-1734, repealed effective July 6, 1994 (Supp. 94-3).

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ARTICLE 18. ADULT BEHAVIORAL HEALTH THERAPEUTIC HOMES

Article 18, consisting of Sections R9-10-1801 through R9-10-1810, made by exempt rulemaking, pursuant to Laws 2013, Ch. 10, § 13 effective July 1, 2014 (Supp. 14-2).

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Article 19, consisting of Sections R9-10-1901 through R9-10-1911, made by exempt rulemaking at 20 A.A.R. 3535, pursuant to Laws 2014, Ch. 233, § 5; effective January 1, 2015 (Supp. 14-4).

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ARTICLE 1. GENERAL**R9-10-101. Definitions**

In addition to the definitions in A.R.S. § 36-401(A), the following definitions apply in this Chapter unless otherwise specified:

1. "Abortion clinic" has the same meaning as in A.R.S. § 36-449.01.
2. "Abuse" means:
 - a. The same:
 - i. For an individual 18 years of age or older, as in A.R.S. § 46-451; and
 - ii. For an individual less than 18 years of age, as in A.R.S. § 8-201;
 - b. A pattern of ridiculing or demeaning a patient;
 - c. Making derogatory remarks or verbally harassing a patient; or
 - d. Threatening to inflict physical harm on a patient.
3. "Accredited" has the same meaning as in A.R.S. § 36-422.
4. "Activities of daily living" means ambulating, bathing, toileting, grooming, eating, and getting in or out of a bed or a chair.
5. "Adjacent" means not intersected by:
 - a. Property owned, operated, or controlled by a person other than the applicant or licensee; or
 - b. A public thoroughfare.
6. "Administrative completeness review time-frame" has the same meaning as in A.R.S. § 41-1072.
7. "Administrative office" means a location used by personnel for recordkeeping and record retention but not for providing medical services, nursing services, or health-related services.
8. "Admission" means, after completion of an individual's screening or registration by a health care institution, the individual begins receiving physical health services or behavioral health services and is accepted as a patient of the health care institution.
9. "Adult" has the same meaning as in A.R.S. § 1-215.
10. "Adult behavioral health therapeutic home" means a residence that provides room and board, assists in acquiring daily living skills, coordinates transportation to scheduled appointments, monitors behaviors, assists in the self-administration of medication, and provides feedback to a case manager related to behavior for an individual 18 years of age or older based on the individual's behavioral health issue and need for behavioral health services and may provide behavioral health services under the clinical oversight of a behavioral health professional.
11. "Adverse reaction" means an unexpected outcome that threatens the health or safety of a patient as a result of a medical service, nursing service, or health-related service provided to the patient.
12. "Ancillary services" means services other than medical services, nursing services, or health-related services provided to a patient.
13. "Anesthesiologist" means a physician granted clinical privileges to administer anesthesia.
14. "Applicant" means a governing authority requesting:
 - a. Approval of a health care institution's architectural plans and specifications, or
 - b. A health care institution license.
15. "Application packet" means the information, documents, and fees required by the Department for the:
 - a. Approval of a health care institution's modification or construction, or
 - b. Licensing of a health care institution.
16. "Assessment" means an analysis of a patient's need for physical health services or behavioral health services to determine which services a health care institution will provide to the patient.
17. "Assistance in the self-administration of medication" means restricting a patient's access to the patient's medication and providing support to the patient while the patient takes the medication to ensure that the medication is taken as ordered.
18. "Attending physician" means a physician designated by a patient to participate in or coordinate the medical services provided to the patient.
19. "Authenticate" means to establish authorship of a document or an entry in a medical record by:
 - a. A written signature;
 - b. An individual's initials, if the individual's written signature appears on the document or in the medical record;
 - c. A rubber-stamp signature; or
 - d. An electronic signature code.
20. "Authorized service" means specific medical services, nursing services, or health-related services provided by a specific health care institution class or subclass for which the health care institution is required to obtain approval from the Department before providing the medical services, nursing services, or health-related services.
21. "Available" means:
 - a. For an individual, the ability to be contacted and to provide an immediate response by any means possible;
 - b. For equipment and supplies, physically retrievable at a health care institution; and
 - c. For a document, retrievable by a health care institution or accessible according to the applicable time-frames in this Chapter.
22. "Behavioral care":
 - a. Means limited behavioral health services, provided to a patient whose primary admitting diagnosis is related to the patient's need for physical health services, that include:
 - i. Assistance with the patient's psychosocial interactions to manage the patient's behavior that can be performed by an individual without a professional license or certificate including:
 - (1) Direction provided by a behavioral health professional, and
 - (2) Medication ordered by a medical practitioner or behavioral health professional; or
 - ii. Behavioral health services provided by a behavioral health professional on an intermittent basis to address the patient's significant psychological or behavioral response to an identifiable stressor or stressors; and
 - b. Does not include court-ordered behavioral health services.
23. "Behavioral health facility" means a behavioral health inpatient facility, a behavioral health residential facility, a substance abuse transitional facility, a behavioral health specialized transitional facility, an outpatient treatment center that only provides behavioral health services, an adult behavioral health therapeutic home, a behavioral health respite home, or a counseling facility.
24. "Behavioral health inpatient facility" means a health care institution that provides continuous treatment to an individual experiencing a behavioral health issue that causes the individual to:

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- a. Have a limited or reduced ability to meet the individual's basic physical needs;
 - b. Suffer harm that significantly impairs the individual's judgment, reason, behavior, or capacity to recognize reality;
 - c. Be a danger to self;
 - d. Be a danger to others;
 - e. Be persistently or acutely disabled as defined in A.R.S. § 36-501; or
 - f. Be gravely disabled.
25. "Behavioral health issue" means an individual's condition related to a mental disorder, a personality disorder, substance abuse, or a significant psychological or behavioral response to an identifiable stressor or stressors.
26. "Behavioral health observation/stabilization services" means crisis services provided, in an outpatient setting, to an individual whose behavior or condition indicates that the individual:
- a. Requires nursing services,
 - b. May require medical services, and
 - c. May be a danger to others or a danger to self.
27. "Behavioral health paraprofessional" means an individual who is not a behavioral health professional who provides, under supervision by a behavioral health professional, the following services to a patient to address the patient's behavioral health issue:
- a. Services that, if provided in a setting other than a health care institution would be required to be provided by an individual licensed under A.R.S., Title 32, Chapter 33; or
 - b. Health-related services.
28. "Behavioral health professional" means:
- a. An individual licensed under A.R.S. Title 32, Chapter 33, whose scope of practice allows the individual to:
 - i. Independently engage in the practice of behavioral health as defined in A.R.S. § 32-3251; or
 - ii. Except for a licensed substance abuse technician, engage in the practice of behavioral health as defined in A.R.S. § 32-3251 under direct supervision as defined in A.A.C. R4-6-101;
 - b. A psychiatrist as defined in A.R.S. § 36-501;
 - c. A psychologist as defined in A.R.S. § 32-2061;
 - d. A physician;
 - e. A behavior analyst as defined in A.R.S. § 32-2091;
 - f. A registered nurse practitioner licensed as an adult psychiatric and mental health nurse; or
 - g. A registered nurse.
29. "Behavioral health residential facility" means a health care institution that provides treatment to an individual experiencing a behavioral health issue that:
- a. Limits the individual's ability to be independent, or
 - b. Causes the individual to require treatment to maintain or enhance independence.
30. "Behavioral health respite home" means a residence where respite care services, which may include assistance in the self-administration of medication, are provided to an individual based on the individual's behavioral health issue and need for behavioral health services.
31. "Behavioral health specialized transitional facility" means a health care institution that provides inpatient behavioral health services and physical health services to an individual determined to be a sexually violent person according to A.R.S. Title 36, Chapter 37.
32. "Behavioral health staff" means a:
- a. Behavioral health paraprofessional,
 - b. Behavioral health technician, or
 - c. Personnel member in a nursing care institution or assisted living facility who provides behavioral care.
33. "Behavioral health technician" means an individual who is not a behavioral health professional who provides, with clinical oversight by a behavioral health professional, the following services to a patient to address the patient's behavioral health issue:
- a. Services that, if provided in a setting other than a health care institution would be required to be provided by an individual licensed under A.R.S., Title 32, Chapter 33; or
 - b. Health-related services.
34. "Biohazardous medical waste" has the same meaning as in A.A.C. R18-13-1401.
35. "Calendar day" means each day, not including the day of the act, event, or default from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
36. "Case manager" means an individual assigned by an entity other than a health care institution to coordinate the physical health services or behavioral health services provided to a patient at the health care institution.
37. "Certification" means, in this Article, a written statement that an item or a system complies with the applicable requirements incorporated by reference in A.A.C. R9-1-412.
38. "Certified health physicist" means an individual recognized by the American Board of Health Physics as complying with the health physics criteria and examination requirements established by the American Board of Health Physics.
39. "Change in ownership" means conveyance of the ability to appoint, elect, or otherwise designate a health care institution's governing authority from an owner of the health care institution to another person.
40. "Chief administrative officer" or "administrator" means an individual designated by a governing authority to implement the governing authority's direction in a health care institution.
41. "Clinical laboratory services" means the biological, microbiological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of a disease or impairment of a human being, or for the assessment of the health of a human being, including procedures to determine, measure, or otherwise describe the presence or absence of various substances or organisms in the body.
42. "Clinical oversight" means:
- a. Monitoring the behavioral health services provided by a behavioral health technician to ensure that the behavioral health technician is providing the behavioral health services according to the health care institution's policies and procedures,
 - b. Providing on-going review of a behavioral health technician's skills and knowledge related to the provision of behavioral health services,
 - c. Providing guidance to improve a behavioral health technician's skills and knowledge related to the provision of behavioral health services, and

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- d. Recommending training for a behavior health technician to improve the behavioral health technician's skills and knowledge related to the provision of behavioral health services.
43. "Clinical privileges" means authorization to a medical staff member to provide medical services granted by a governing authority or according to medical staff bylaws.
44. "Collaborating health care institution" means a health care institution licensed to provide outpatient behavioral health services that has a written agreement with an adult behavioral health therapeutic home or a behavioral health respite home to:
 - a. Coordinate behavioral health services provided to a resident at the adult behavioral health therapeutic home or a recipient at a behavioral health respite home, and
 - b. Work with the provider to ensure a resident at the adult behavioral health therapeutic home or a recipient at a behavioral health respite home receives behavioral health services according to the resident's treatment plan.
45. "Communicable disease" has the same meaning as in A.R.S. § 36-661.
46. "Conspicuously posted" means placed:
 - a. At a location that is visible and accessible; and
 - b. Unless otherwise specified in the rules, within the area where the public enters the premises of a health care institution.
47. "Consultation" means an evaluation of a patient requested by a medical staff member or personnel member.
48. "Contracted services" means medical services, nursing services, health-related services, ancillary services, or environmental services provided according to a documented agreement between a health care institution and the person providing the medical services, nursing services, health-related services, ancillary services, or environmental services.
49. "Contractor" has the same meaning as in A.R.S. § 32-1101.
50. "Controlled substance" has the same meaning as in A.R.S. § 36-2501.
51. "Counseling" has the same meaning as "practice of professional counseling" in A.R.S. § 32-3251.
52. "Counseling facility" means a health care institution that only provides counseling, which may include:
 - a. DUI screening, education, or treatment according to the requirements in 9 A.A.C. 20, Article 1; or
 - b. Misdemeanor domestic violence offender treatment according to the requirements in 9 A.A.C. 20, Article 2.
53. "Court-ordered evaluation" has the same meaning as "evaluation" in A.R.S. § 36-501.
54. "Court-ordered pre-petition screening" has the same meaning as in A.R.S. § 36-501.
55. "Court-ordered treatment" means treatment provided according to A.R.S. Title 36, Chapter 5.
56. "Crisis services" means immediate and unscheduled behavioral health services provided to a patient to address an acute behavioral health issue affecting the patient.
57. "Current" means up-to-date, extending to the present time.
58. "Daily living skills" means activities necessary for an individual to live independently and include meal preparation, laundry, housecleaning, home maintenance, money management, and appropriate social interactions.
59. "Danger to others" has the same meaning as in A.R.S. § 36-501.
60. "Danger to self" has the same meaning as in A.R.S. § 36-501.
61. "Detoxification services" means behavioral health services and medical services provided to an individual to:
 - a. Reduce or eliminate the individual's dependence on alcohol or other drugs, or
 - b. Provide treatment for the individual's signs or symptoms of withdrawal from alcohol or other drugs.
62. "Diagnostic procedure" means a method or process performed to determine whether an individual has a medical condition or behavioral health issue.
63. "Dialysis" means the process of removing dissolved substances from a patient's body by diffusion from one fluid compartment to another across a semi-permeable membrane.
64. "Dialysis services" means medical services, nursing services, and health-related services provided to a patient receiving dialysis.
65. "Dialysis station" means a designated treatment area approved by the Department for use by a patient receiving dialysis or dialysis services.
66. "Dialyzer" means an apparatus containing semi-permeable membranes used as a filter to remove wastes and excess fluid from a patient's blood.
67. "Disaster" means an unexpected occurrence that adversely affects a health care institution's ability to provide services.
68. "Discharge" means a documented termination of services to a patient by a health care institution.
69. "Discharge instructions" means documented information relevant to a patient's medical condition or behavioral health issue provided by a health care institution to the patient or the patient's representative at the time of the patient's discharge.
70. "Discharge planning" means a process of establishing goals and objectives for a patient in preparation for the patient's discharge.
71. "Discharge summary" means a documented brief review of services provided to a patient, current patient status, and reasons for the patient's discharge.
72. "Disinfect" means to clean in order to prevent the growth of or to destroy disease-causing microorganisms.
73. "Documentation" or "documented" means information in written, photographic, electronic, or other permanent form.
74. "Drill" means a response to a planned, simulated event.
75. "Drug" has the same meaning as in A.R.S. § 32-1901.
76. "Electronic" has the same meaning as in A.R.S. § 44-7002.
77. "Electronic signature" has the same meaning as in A.R.S. § 44-7002.
78. "Emergency" means an immediate threat to the life or health of a patient.
79. "Emergency medical services provider" has the same meaning as in A.R.S. § 36-2201.
80. "Environmental services" means activities such as housekeeping, laundry, facility maintenance, or equipment maintenance.
81. "Equipment" means, in this Article, an apparatus, a device, a machine, or a unit that is required to comply with the specifications incorporated by reference in A.A.C. R9-1-412.
82. "Exploitation" has the same meaning as in A.R.S. § 46-451.

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83. "Factory-built building" has the same meaning as in A.R.S. § 41-2142.
84. "Family" or "family member" means an individual's spouse, sibling, child, parent, grandparent, or another individual designated by the individual.
85. "Food services" means the storage, preparation, serving, and cleaning up of food intended for consumption in a health care institution.
86. "Garbage" has the same meaning as in A.A.C. R18-13-302.
87. "General consent" means documentation of an agreement from an individual or the individual's representative to receive physical health services to address the individual's medical condition or behavioral health services to address the individual's behavioral health issues.
88. "General hospital" means a subclass of hospital that provides surgical services and emergency services.
89. "Gravely disabled" has the same meaning as in A.R.S. § 36-501.
90. "Hazard" or "hazardous" means a condition or situation where a patient or other individual may suffer physical injury.
91. "Health care directive" has the same meaning as in A.R.S. § 36-3201.
92. "Hemodialysis" means the process for removing wastes and excess fluids from a patient's blood by passing the blood through a dialyzer.
93. "Home health agency" has the same meaning as in A.R.S. § 36-151.
94. "Home health aide" means an individual employed by a home health agency to provide home health services under the direction of a registered nurse or therapist.
95. "Home health aide services" means those tasks that are provided to a patient by a home health aide under the direction of a registered nurse or therapist.
96. "Home health services" has the same meaning as in A.R.S. § 36-151.
97. "Hospice inpatient facility" means a subclass of hospice that provides hospice services to a patient on a continuous basis with the expectation that the patient will remain on the hospice's premises for 24 hours or more.
98. "Hospital" means a class of health care institution that provides, through an organized medical staff, inpatient beds, medical services, continuous nursing services, and diagnosis or treatment to a patient.
99. "Immediate" means without delay.
100. "Incident" means an unexpected occurrence that harms or has the potential to harm a patient, while the patient is:
 - a. On the premises of a health care institution, or
 - b. Not on the premises of a health care institution but directly receiving physical health services or behavioral health services from a personnel member who is providing the physical health services or behavioral health services on behalf of the health care institution.
101. "Infection control" means to identify, prevent, monitor, and minimize infections.
102. "Informed consent" means:
 - a. Advising a patient of a proposed treatment, surgical procedure, psychotropic drug, or diagnostic procedure; alternatives to the treatment, surgical procedure, psychotropic drug, or diagnostic procedure; and associated risks and possible complications; and
 - b. Obtaining documented authorization for the proposed treatment, surgical procedure, psychotropic drug, or diagnostic procedure from the patient or the patient's representative.
103. "In-service education" means organized instruction or information that is related to physical health services or behavioral health services and that is provided to a medical staff member, personnel member, employee, or volunteer.
104. "Interval note" means documentation updating a patient's:
 - a. Medical condition after a medical history and physical examination is performed, or
 - b. Behavioral health issue after an assessment is performed.
105. "Isolation" means the separation, during the communicable period, of infected individuals from others, to limit the transmission of infectious agents.
106. "Leased facility" means a facility occupied or used during a set time period in exchange for compensation.
107. "License" means:
 - a. Written approval issued by the Department to a person to operate a class or subclass of health care institution at a specific location; or
 - b. Written approval issued to an individual to practice a profession in this state.
108. "Licensed occupancy" means the total number of individuals for whom a health care institution is authorized by the Department to provide crisis services in a unit providing behavioral health observation/stabilization services.
109. "Licensee" means an owner approved by the Department to operate a health care institution.
110. "Manage" means to implement policies and procedures established by a governing authority, an administrator, or an individual providing direction to a personnel member.
111. "Medical condition" means the state of a patient's physical or mental health, including the patient's illness, injury, or disease.
112. "Medical director" means a physician who is responsible for the coordination of medical services provided to patients in a health care institution.
113. "Medical history" means an account of a patient's health, including past and present illnesses, diseases, or medical conditions.
114. "Medical practitioner" means a physician, physician assistant, or registered nurse practitioner.
115. "Medical record" has the same meaning as "medical records" in A.R.S. § 12-2291.
116. "Medical staff" means physicians and other individuals licensed pursuant to A.R.S. Title 32 who have clinical privileges at a health care institution.
117. "Medical staff by-laws" means standards, approved by the medical staff and the governing authority, that provide the framework for the organization, responsibilities, and self-governance of the medical staff.
118. "Medical staff member" means an individual who is part of the medical staff of a health care institution.
119. "Medication" means one of the following used to maintain health or to prevent or treat a medical condition or behavioral health issue:
 - a. Biologicals as defined in A.A.C. R18-13-1401,
 - b. Prescription medication as defined in A.R.S. § 32-1901, or
 - c. Nonprescription medication as defined in A.R.S. § 32-1901.
120. "Medication administration" means restricting a patient's access to the patient's medication and providing the med-

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- ication to the patient or applying the medication to the patient's body, as ordered by a medical practitioner.
121. "Medication error" means:
- The failure to administer an ordered medication;
 - The administration of a medication not ordered; or
 - The administration of a medication:
 - In an incorrect dosage,
 - More than 60 minutes before or after the ordered time of administration unless ordered to do so, or
 - By an incorrect route of administration.
122. "Mental disorder" means the same as in A.R.S. § 36-501.
123. "Mobile clinic" means a movable structure that:
- Is not physically attached to a health care institution's facility;
 - Provides medical services, nursing services, or health related service to an outpatient under the direction of the health care institution's personnel; and
 - Is not intended to remain in one location indefinitely.
124. "Monitor" or "monitoring" means to check systematically on a specific condition or situation.
125. "Neglect" has the same meaning:
- For an individual less than 18 years of age, as in A.R.S. § 8-201; and
 - For an individual 18 years of age or older, as in A.R.S. § 46-451.
126. "Nephrologist" means a physician who is board eligible or board certified in nephrology by a professional credentialing board.
127. "Nurse" has the same meaning as "registered nurse" or "practical nurse" as defined in A.R.S. § 32-1601.
128. "Nursing personnel" means individuals authorized according to A.R.S. § Title 32, Chapter 15 to provide nursing services.
129. "Observation chair" means a physical piece of equipment that:
- Is located in a designated area where behavioral health observation/stabilization services are provided,
 - Allows an individual to fully recline, and
 - Is used by the individual while receiving crisis services.
130. "Occupational therapist" has the same meaning as in A.R.S. § 32-3401.
131. "Occupational therapist assistant" has the same meaning as in A.R.S. § 32-3401.
132. "Ombudsman" means a resident advocate who performs the duties described in A.R.S. § 46-452.02.
133. "On-call" means a time during which an individual is available and required to come to a health care institution when requested by the health care institution.
134. "Opioid treatment" means providing medical services, nursing services, health-related services, and ancillary services to a patient receiving an opioid agonist treatment medication for opiate addiction.
135. "Opioid agonist treatment medication" means a prescription medication that is approved by the U.S. Food and Drug Administration under 21 U.S.C. § 355 for use in the treatment of opiate addiction.
136. "Order" means instructions to provide
- Physical health services to a patient from a medical practitioner or as otherwise provided by law; or
 - Behavioral health services to a patient from a behavioral health professional.
137. "Orientation" means the initial instruction and information provided to an individual before the individual starts work or volunteer services in a health care institution.
138. "Outing" means a social or recreational activity that:
- Occurs away from the premises,
 - Is not part of a behavioral health inpatient facility's or behavioral health residential facility's daily routine, and
 - Lasts longer than four hours.
139. "Outpatient surgical center" means a class of health care institution that has the facility, staffing, and equipment to provide surgery and anesthesia services to a patient whose recovery, in the opinions of the patient's surgeon and, if an anesthesiologist would be providing anesthesia services to the patient, the anesthesiologist, does not require inpatient care in a hospital.
140. "Outpatient treatment center" means a class of health care institution without inpatient beds that provides physical health services or behavioral health services for the diagnosis and treatment of patients.
141. "Overall time-frame" means the same as in A.R.S. § 41-1072.
142. "Owner" means a person who appoints, elects, or designates a health care institution's governing authority.
143. "Participant" means a patient receiving physical health services or behavioral health services from an adult day health care facility or a substance abuse transitional facility.
144. "Participant's representative" means the same as "patient's representative" for a participant.
145. "Patient" means an individual receiving physical health services or behavioral health services from a health care institution.
146. "Patient follow-up instructions" means information relevant to a patient's medical condition or behavioral health issue that is provided to the patient, the patient's representative, or a health care institution.
147. "Patient's representative" means:
- A patient's legal guardian;
 - If a patient is less than 18 years of age and not an emancipated minor, the patient's parent;
 - If a patient is 18 years of age or older or an emancipated minor, an individual acting on behalf of the patient with the written consent of the patient or patient's legal guardian; or
 - A surrogate as defined in A.R.S. § 36-3201.
148. "Person" means the same as in A.R.S. § 1-215 and includes a governmental agency.
149. "Personnel member" means, except as defined in specific Articles in this Chapter and excluding a medical staff member, a student, or an intern, an individual providing physical health services or behavioral health services to a patient.
150. "Pest control program" means activities that minimize the presence of insects and vermin in a health care institution to ensure that a patient's health and safety is not at risk.
151. "Pharmacist" has the same meaning as in A.R.S. § 32-1901.
152. "Physical examination" means to observe, test, or inspect an individual's body to evaluate health or determine cause of illness, injury, or disease.
153. "Physical health services" means medical services, nursing services, health-related services, or ancillary services provided to an individual to address the individual's medical condition.

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154. "Physical therapist" has the same meaning as in A.R.S. § 32-2001.
155. "Physical therapist assistant" has the same meaning as in A.R.S. § 32-2001.
156. "Physician assistant" has the same meaning as in A.R.S. § 32-2501.
157. "Premises" means property that is designated by an applicant or licensee and licensed by the Department as part of a health care institution where physical health services or behavioral health services are provided to a patient.
158. "Professional credentialing board" means a non-governmental organization that designates individuals who have met or exceeded established standards for experience and competency in a specific field.
159. "Progress note" means documentation by a medical staff member, nurse, or personnel member of:
 - a. An observed patient response to a physical health service or behavioral health service provided to the patient,
 - b. A patient's significant change in condition, or
 - c. Observed behavior of a patient related to the patient's medical condition or behavioral health issue.
160. "PRN" means *pro re nata* or given as needed.
161. "Project" means specific construction or modification of a facility stated on an architectural plans and specifications approval application.
162. "Provider" means an individual to whom the Department issues a license to operate an adult behavioral health therapeutic home or a behavioral health respite home in the individual's place of residence.
163. "Provisional license" means the Department's written approval to operate a health care institution issued to an applicant or licensee that is not in substantial compliance with the applicable laws and rules for the health care institution.
164. "Psychotropic medication" means a chemical substance that:
 - a. Crosses the blood-brain barrier and acts primarily on the central nervous system where it affects brain function, resulting in alterations in perception, mood, consciousness, cognition, and behavior; and
 - b. Is provided to a patient to address the patient's behavioral health issue.
165. "Quality management program" means ongoing activities designed and implemented by a health care institution to improve the delivery of medical services, nursing services, health-related services, and ancillary services provided by the health care institution.
166. "Recovery care center" has the same meaning as in A.R.S. § 36-448.51.
167. "Referral" means providing an individual with a list of the class or subclass of health care institution or type of health care professional that may be able to provide the behavioral health services or physical health services that the individual may need and may include the name or names of specific health care institutions or health care professionals.
168. "Registered dietitian" means an individual approved to work as a dietitian by the American Dietetic Association's Commission on Dietetic Registration.
169. "Registered nurse" has the same meaning as in A.R.S. § 32-1601.
170. "Registered nurse practitioner" has the same meaning as A.R.S. § 32-1601.
171. "Regular basis" means at recurring, fixed, or uniform intervals.
172. "Research" means the use of a human subject in the systematic study, observation, or evaluation of factors related to the prevention, assessment, treatment, or understanding of a medical condition or behavioral health issue.
173. "Resident" means an individual living in and receiving physical health services or behavioral health services from a nursing care institution, a behavioral health residential facility, an assisted living facility, or an adult behavioral health therapeutic home.
174. "Resident's representative" means the same as "patient's representative" for a resident.
175. "Respiratory care services" has the same meaning as "practice of respiratory care" as defined in A.R.S. § 32-3501.
176. "Respiratory therapist" has the same meaning as in A.R.S. § 32-3501.
177. "Respite services" means respite care services provided to an individual who is receiving behavioral health services.
178. "Restraint" means any physical or chemical method of restricting a patient's freedom of movement, physical activity, or access to the patient's own body.
179. "Risk" means potential for an adverse outcome.
180. "Room" means space contained by a floor, a ceiling, and walls extending from the floor to the ceiling that has at least one door.
181. "Rural general hospital" means a subclass of hospital having 50 or fewer inpatient beds and located more than 20 surface miles from a general hospital or another rural general hospital that requests to be and is licensed as a rural general hospital rather than a general hospital.
182. "Satellite facility" has the same meaning as in A.R.S. § 36-422.
183. "Scope of services" means a list of the behavioral health services or physical health services the governing authority of a health care institution has designated as being available to a patient at the health care institution.
184. "Seclusion" means the involuntary solitary confinement of a patient in a room or an area where the patient is prevented from leaving.
185. "Self-administration of medication" means a patient having access to and control of the patient's medication and may include the patient receiving limited support while taking the medication.
186. "Sexual abuse" means the same as in A.R.S. § 13-1404(A).
187. "Sexual assault" means the same as in A.R.S. § 13-1406(A).
188. "Shift" means the beginning and ending time of a continuous work period established by a health care institution's policies and procedures.
189. "Signature" means:
 - a. A handwritten or stamped representation of an individual's name or a symbol intended to represent an individual's name, or
 - b. An electronic signature.
190. "Significant change" means an observable deterioration or improvement in a patient's physical, cognitive, behavioral, or functional condition that may require an alteration to the physical health services or behavioral health services provided to the patient.
191. "Speech-language pathologist" means an individual licensed according A.R.S. Title 35, Chapter 17, Article 4

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- to engage in the practice of speech-language pathology, as defined in A.R.S. § 36-1901.
192. "Special hospital" means a subclass of hospital that:
- Is licensed to provide hospital services within a specific branch of medicine; or
 - Limits admission according to age, gender, type of disease, or medical condition.
193. "Student" means an individual attending an educational institution and working under supervision in a health care institution through an arrangement between the health care institution and the educational institution.
194. "Substantial" when used in connection with a modification means:
- A change in a health care institution's licensed capacity, licensed occupancy, or the number of dialysis stations;
 - An addition or deletion of an authorized service;
 - A change in the physical plant, including facilities or equipment, that costs more than \$300,000; or
 - A change in the building where a health care institution is located that affects compliance with applicable physical plant codes and standards incorporated by reference in A.A.C. R9-1-412.
195. "Substance abuse" means an individual's misuse of alcohol or other drug or chemical that:
- Alters the individual's behavior or mental functioning;
 - Has the potential to cause the individual to be psychologically or physiologically dependent on alcohol or other drug or chemical; and
 - Impairs, reduces, or destroys the individual's social or economic functioning.
196. "Substance abuse transitional facility" means a class of health care institution that provides behavioral health services to an individual over 18 years of age who is intoxicated or may have a substance abuse problem.
197. "Supportive services" has the same meaning as in A.R.S. § 36-151.
198. "Substantive review time-frame" means the same as in A.R.S. § 41-1072.
199. "Surgical procedure" means the excision or incision of a patient's body for the:
- Correction of a deformity or defect,
 - Repair of an injury, or
 - Diagnosis, amelioration, or cure of disease.
200. "Swimming pool" has the same meaning as "semipublic swimming pool" in A.A.C. R18-5-201.
201. "System" means interrelated, interacting, or interdependent elements that form a whole.
202. "Tax ID number" means a numeric identifier that a person uses to report financial information to the United States Internal Revenue Service.
203. "Telemedicine" has the same meaning as in A.R.S. § 36-3601.
204. "Therapeutic diet" means foods or the manner in which food is to be prepared that are ordered for a patient.
205. "Therapist" means an occupational therapist, a physical therapist, a respiratory therapist, or a speech-language pathologist.
206. "Time out" means providing a patient a voluntary opportunity to regain self-control in a designated area from which the patient is not physically prevented from leaving.
207. "Transfer" means a health care institution discharging a patient and sending the patient to another licensed health care institution as an inpatient or resident without intending that the patient be returned to the sending health care institution.
208. "Transport" means a licensed health care institution:
- Sending a patient to a receiving licensed health care institution for outpatient services with the intent of the patient returning to the sending licensed health care institution, or
 - Discharging a patient to return to a sending licensed health care institution after the patient received outpatient services from the receiving licensed health care institution.
209. "Treatment" means a procedure or method to cure, improve, or palliate an individual's medical condition or behavioral health issue.
210. "Treatment plan" means a description of the specific physical health services or behavioral health services that a health care institution anticipates providing to a patient.
211. "Unclassified health care institution" means a health care institution not classified or subclassified in statute or in rule.
212. "Vascular access" means the point on a patient's body where blood lines are connected for hemodialysis.
213. "Volunteer" means an individual authorized by a health care institution to work for the health care institution on a regular basis without compensation from the health care institution and does not include a medical staff member who has clinical privileges at the health care institution.
214. "Working day" means a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state and federal holiday or a statewide furlough day.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by exempt rulemaking at 20 A.A.R. 3535, pursuant to Laws 2014, Ch. 233, § 5; effective January 1, 2015 (Supp. 14-4). Amended by exempt rulemaking at 22 A.A.R. 1035, pursuant to Laws 2015, Ch. 158, § 3; effective May 1, 2016 (Supp. 16-2).

R9-10-102. Health Care Institution Classes and Subclasses; Requirements

- A. A person may apply for a license as a health care institution class or subclass in A.R.S. Title 36, Chapter 4 or this Chapter, or one of the following classes or subclasses:
- General hospital,
 - Rural general hospital,
 - Special hospital,
 - Behavioral health inpatient facility,
 - Nursing care institution,
 - Recovery care center,
 - Hospice inpatient facility,
 - Hospice service agency,
 - Behavioral health residential facility,
 - Assisted living center,
 - Assisted living home,
 - Adult foster care home,
 - Outpatient surgical center,
 - Outpatient treatment center,
 - Abortion clinic,
 - Adult day health care facility,
 - Home health agency,
 - Substance abuse transitional facility,

- 19. Behavioral health specialized transitional facility,
 - 20. Counseling facility,
 - 21. Adult behavioral health therapeutic home,
 - 22. Behavioral health respite home, or
 - 23. Unclassified health care institution.
- B.** A person shall apply for a license for the class or subclass that authorizes the provision of the highest level of physical care services or behavioral health services the proposed health care institution plans to provide. The Department shall review the proposed health care institution's scope of services to determine whether the requested health care institution class or subclass is appropriate.
- C.** A health care institution shall comply with the requirements in Article 17 of this Chapter if:
- 1. There are no specific rules in another Article of this Chapter for the health care institution's class or subclass, or
 - 2. The Department determines that the health care institution is an unclassified health care institution.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-103. Licensing Exceptions

- A.** A health care institution license is required for each health care institution facility except:
- 1. A facility exempt from licensing under A.R.S. § 36-402, or
 - 2. A health care institution's administrative office.
- B.** The Department does not require a separate health care institution license for:
- 1. A satellite facility of a hospital under A.R.S. § 36-422(F);
 - 2. An accredited facility of an accredited hospital under A.R.S. § 36-422(G);
 - 3. A facility operated by a licensed health care institution that is:
 - a. Adjacent to and contiguous with the licensed health care institution premises; or
 - b. Not adjacent to or contiguous with the licensed health care institution but connected to the licensed health care institution facility by an all-weather enclosure and:
 - i. Owned by the health care institution, or
 - ii. Leased by the health care institution with exclusive rights of possession;
 - 4. A mobile clinic operated by a licensed health care institution; or
 - 5. A facility located on grounds that are not adjacent to or contiguous with the health care institution premises where only ancillary services are provided to a patient of the health care institution.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-104. Approval of Architectural Plans and Specifications

- A.** For approval of architectural plans and specifications for the construction or modification of a health care institution that is required by this Chapter to comply with any of the physical plant codes and standards incorporated by reference in A.A.C. R9-1-412, an applicant shall submit to the Department an application packet including:
- 1. An application in a format provided by the Department that contains:
 - a. For construction of a new health care institution:
 - i. The health care institution's name, street address, city, state, zip code, telephone number, and e-mail address;
 - ii. The name and address of the health care institution's governing authority;
 - iii. The requested health care institution class or subclass; and
 - iv. If applicable, the requested licensed capacity, licensed occupancy, and dialysis stations for the health care institution;
 - b. For modification of a licensed health care institution:
 - i. The health care institution's license number,
 - ii. The name and address of the licensee,
 - iii. The health care institution's class or subclass, and
 - iv. The health care institution's existing licensed capacity, licensed occupancy, or dialysis stations; and the requested licensed capacity, licensed occupancy, or dialysis stations for the health care institution;
 - c. The health care institution's contact person's name, street address, city, state, zip code, telephone number, and e-mail address;
 - d. The name, street address, city, state, zip code, telephone number, and e-mail address of:
 - i. The project architect; or
 - ii. If the construction or modification of the health care institution does not require a project architect, the project engineer or other individual responsible for the completion of the construction or modification;
 - e. A narrative description of the project;
 - f. If providing or planning to provide medical services, nursing services, or health-related services that require compliance with specific physical plant codes and standards incorporated by reference in A.A.C. R9-1-412, the number of rooms or inpatient beds designated for providing the medical services, nursing services, or health-related services;
 - g. If providing or planning to provide behavioral health observation/stabilization services, the number of behavioral health observation/stabilization chairs designated for providing the behavioral health observation/stabilization services;
 - h. For construction of a new health care institution and if modification of a health care institution requires a project architect, a statement signed and sealed by the project architect, according to the requirements in 4 A.A.C. 30, Article 3, that the:
 - i. Project architect has complied with A.A.C. R4-30-301; and
 - ii. Architectural plans and specifications comply with applicable licensing requirements in A.R.S. Title 36, Chapter 4 and this Chapter;

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- i. If construction or modification of a health care institution requires a project engineer, a statement signed and sealed by the project engineer, according to the requirements in 4 A.A.C. 30, Article 3, that the project engineer has complied with A.A.C. R4-30-301; and
- j. A statement signed by the governing authority or the licensee that the architectural plans and specifications comply with applicable licensing requirements in A.R.S. Title 36, Chapter 4 and this Chapter;
2. If the health care institution is located on land under the jurisdiction of a local governmental agency, one of the following:
 - a. A building permit for the construction or modification issued by the local governmental agency; or
 - b. If a building permit issued by the local governmental agency is not required, zoning clearance issued by the local governmental agency that includes:
 - i. The health care institution's name, street address, city, state, zip code, and county;
 - ii. The health care institution's class or subclass and each type of medical services, nursing services, or health-related services to be provided; and
 - iii. A statement signed by a representative of the local governmental agency stating that the address listed is zoned for the health care institution's class or subclass;
3. The following information that is necessary to demonstrate that the project described on the application complies with applicable codes and standards incorporated by reference in A.A.C. R9-1-412:
 - a. A table of contents containing:
 - i. The architectural plans and specifications submitted;
 - ii. The physical plant codes and standards incorporated by reference in A.A.C. R9-1-412 that apply to the project;
 - iii. The physical plant codes and standards that are required by a local governmental agency, if applicable;
 - iv. An index of the abbreviations and symbols used in the architectural plans and specifications; and
 - v. The facility's specific International Building Code construction type and International Building Code occupancy type;
 - b. If the facility is larger than 3,000 square feet and is or will be occupied by more than 20 individuals, the seal of an architect on the architectural plans and specifications according to the requirements in A.R.S. Title 32, Chapter 1 and 4 A.A.C. 30, Article 3;
 - c. A site plan, drawn to scale, of the entire premises showing streets, property lines, facilities, parking areas, outdoor areas, fences, swimming pools, fire access roads, fire hydrants, and access to water mains;
 - d. For each facility, on architectural plans and specifications:
 - i. A floor plan, drawn to scale, for each level of the facility, showing the layout and dimensions of each room, the name and function of each room, means of egress, and natural and artificial lighting sources;
 - ii. A diagram of a section of the facility, drawn to scale, showing the vertical cross-section view from foundation to roof and specifying construction materials;
 - iii. Building elevations, drawn to scale, showing the outside appearance of each facility;
 - iv. The materials used for ceilings, walls, and floors;
 - v. The location, size, and fire rating of each door and each window and the materials and hardware used, including safety features such as fire exit door hardware and fireproofing materials;
 - vi. A ceiling plan, drawn to scale, showing the layout of each light fixture, each fire protection device, and each element of the mechanical ventilation system;
 - vii. An electrical floor plan, drawn to scale, showing the wiring diagram and the layout of each lighting fixture, each outlet, each switch, each electrical panel, and electrical equipment;
 - viii. A mechanical floor plan, drawn to scale, showing the layout of heating, ventilation, and air conditioning systems;
 - ix. A plumbing floor plan, drawn to scale, showing the layout and materials used for water, sewer, and medical gas systems, including the water supply and plumbing fixtures;
 - x. A floor plan, drawn to scale, showing the communication system within the health care institution including the nurse call system, if applicable;
 - xi. A floor plan, drawn to scale, showing the automatic fire extinguishing, fire detection, and fire alarm systems; and
 - xii. Technical specifications or drawings describing installation of equipment or medical gas and the materials used for installation in the health care institution;
4. The estimated total project cost including the costs of:
 - a. Site acquisition,
 - b. General construction,
 - c. Architect fees,
 - d. Fixed equipment, and
 - e. Movable equipment;
5. The following, as applicable:
 - a. If the health care institution is located on land under the jurisdiction of a local governmental agency, one of the following provided by the local governmental agency:
 - i. A copy of the certificate of occupancy for the facility,
 - ii. Documentation that the facility was approved for occupancy, or
 - iii. Documentation that a certificate of occupancy for the facility is not available;
 - b. A certification and a statement that the construction or modification of the facility is in substantial compliance with applicable licensing requirements in A.R.S. Title 36, Article 4 and this Chapter signed by the project architect, the contractor, and the owner;
 - c. A written description of any work necessary to complete the construction or modification submitted by the project architect;
 - d. If the construction or modification affects the health care institution's fire alarm system, a contractor cer-

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- tification and description of the fire alarm system in a format provided by the Department;
- e. If the construction or modification affects the health care institution's automatic fire extinguishing system, a contractor certification of the automatic fire extinguishing system in a format provided by the Department;
 - f. If the construction or modification affects the health care institution's heating, ventilation, or air conditioning system, a copy of the heating, ventilation, air conditioning, and air balance tests and a contractor certification of the heating, ventilation, or air conditioning system;
 - g. If draperies, cubicle curtains, or floor coverings are installed or replaced, a copy of the manufacturer's certification of flame spread for the draperies, cubicle curtains, or floor coverings;
 - h. For a health care institution using inhalation anesthetics or nonflammable medical gas, a copy of the Compliance Certification for Inhalation Anesthetics or Nonflammable Medical Gas System required in the National Fire Codes incorporated by reference in A.A.C. R9-1-412;
 - i. If a generator is installed, a copy of the installation acceptance required in the National Fire Codes incorporated by reference in A.A.C. R9-1-412;
 - j. If equipment is installed, a certification from an engineer or from a technical representative of the equipment's manufacturer that the equipment has been installed according to the manufacturer's recommendations and, if applicable, calibrated;
 - k. For a health care institution providing radiology, a written report from a certified health physicist of the location, type, and amount of radiation protection; and
 - l. If a factory-built building is used by a health care institution:
 - i. A copy of the installation permit and the copy of a certificate of occupancy for the factory-built building from the Office of Manufactured Housing; or
 - ii. A written report from an individual registered as an architect or a professional structural engineer under 4 A.A.C. 30, Article 2, stating that the factory-built building complies with applicable design standards;
6. For construction of a new health care institution and for a modification of a health care institution that requires a project architect, a statement signed by the project architect that final architectural plans and specifications have been submitted to the person applying for a health care institution license or the licensee of the health care institution;
 7. For modification of a health care institution that does not require a project architect, a statement signed by the project engineer or other individual responsible for the completion of the modification that final architectural plans and specifications have been submitted to the person applying for a health care institution license or the licensee of the health care institution; and
 8. The applicable fee required by R9-10-106.
- B.** Before an applicant submits an application for approval of architectural plans and specifications for the construction or modification of a health care institution, an applicant may request an architectural evaluation by submitting the documents in subsection (A)(3) to the Department.
- C.** The Department may conduct on-site facility reviews during the construction or modification of a health care institution.
 - D.** The Department shall approve or deny an application for approval of architectural plans and specifications of a health care institution in this Section according to R9-10-108.
 - E.** In addition to obtaining an approval of a health care institution's architectural plans and specifications, a person shall obtain a health care institution license before operating the health care institution.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-105. Initial License Application

- A.** A person applying for an initial health care institution license shall submit to the Department an application packet that contains:
1. An application in a format provided by the Department including:
 - a. The health care institution's:
 - i. Name, street address, mailing address, telephone number, and e-mail address;
 - ii. Tax ID number; and
 - iii. Class or subclass listed in R9-10-102 for which licensing is requested;
 - b. Except for a home health agency, hospice service agency, or behavioral health facility, whether the health care institution is located within 1/4 mile of agricultural land;
 - c. Whether the health care institution is located in a leased facility;
 - d. Whether the health care institution is ready for a licensing inspection by the Department;
 - e. If the health care institution is not ready for a licensing inspection by the Department, the date the health care institution will be ready for a licensing inspection;
 - f. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-10-108;
 - g. Owner information including:
 - i. The owner's name, address, telephone number, and e-mail address;
 - ii. Whether the owner is a sole proprietorship, a corporation, a partnership, a limited liability partnership, a limited liability company, or a governmental agency;
 - iii. If the owner is a partnership or a limited liability partnership, the name of each partner;
 - iv. If the owner is a limited liability company, the name of the designated manager or, if no manager is designated, the names of any two members of the limited liability company;
 - v. If the owner is a corporation, the name and title of each corporate officer;
 - vi. If the owner is a governmental agency, the name and title of the individual in charge of the governmental agency or the name of an individual in charge of the health care institution designated in writing by the individual in charge of the governmental agency;

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- vii. Whether the owner or any person with 10% or more business interest in the health care institution has had a license to operate a health care institution denied, revoked, or suspended; the reason for the denial, suspension, or revocation; the date of the denial, suspension, or revocation; and the name and address of the licensing agency that denied, suspended, or revoked the license;
 - viii. Whether the owner or any person with 10% or more business interest in the health care institution has had a health care professional license or certificate denied, revoked, or suspended; the reason for the denial, suspension, or revocation; the date of the denial, suspension, or revocation; and the name and address of the licensing agency that denied, suspended, or revoked the license or certificate; and
 - ix. The name, title, address, and telephone number of the owner's statutory agent or the individual designated by the owner to accept service of process and subpoenas;
 - h. The name and address of the governing authority;
 - i. The chief administrative officer's:
 - i. Name,
 - ii. Title,
 - iii. Highest educational degree, and
 - iv. Work experience related to the health care institution class or subclass for which licensing is requested; and
 - j. Signature required in A.R.S. § 36-422(B);
2. If the health care institution is located in a leased facility, a copy of the lease showing the rights and responsibilities of the parties and exclusive rights of possession of the leased facility;
 3. If applicable, a copy of the owner's articles of incorporation, partnership or joint venture documents, or limited liability documents;
 4. If applicable, the name and address of each owner or lessee of any agricultural land regulated under A.R.S. § 3-365 and a copy of the written agreement between the applicant and the owner or lessee of agricultural land as prescribed in A.R.S. § 36-421(D);
 5. Except for a home health agency or a hospice service agency, one of the following:
 - a. If the health care institution or a part of the health care institution is required by this Chapter to comply with any of the physical plant codes and standards incorporated by reference in A.A.C. R9-1-412, documentation of the health care institution's architectural plans and specifications approval in R9-10-104; or
 - b. If a health care institution or a part of the health care institution is not required by this Chapter to comply with any of the physical plant codes and standards incorporated by reference in A.A.C. R9-1-412:
 - i. One of the following:
 - (1) Documentation from the local jurisdiction of compliance with applicable local building codes and zoning ordinances; or
 - (2) If documentation from the local jurisdiction is not available, documentation of the unavailability of the local jurisdiction compliance and documentation of a general contractor's inspection of the facility that states the facility is safe for occupancy as the applicable health care institution class or subclass;
- ii. The licensed capacity requested by the applicant for the health care institution;
 - iii. If applicable, the licensed occupancy requested by the applicant for the health care institution;
 - iv. A site plan showing each facility, the property lines of the health care institution, each street and walkway adjacent to the health care institution, parking for the health care institution, fencing and each gate on the health care institution premises, and, if applicable, each swimming pool on the health care institution premises; and
 - v. A floor plan showing, for each story of a facility, the room layout, room usage, each door and each window, plumbing fixtures, each exit, and the location of each fire protection device;
6. The health care institution's proposed scope of services; and
 7. The applicable application fee required by R9-10-106.
- B.** In addition to the initial application requirements in this Section, an applicant shall comply with the supplemental application requirements in specific rules in this Chapter for the health care institution class or subclass for which licensing is requested.
- C.** The Department shall approve or deny an application in this Section according to R9-10-108.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-106. Fees

- A.** An applicant who submits to the Department architectural plans and specifications for the construction or modification of a health care institution shall also submit an architectural drawing review fee as follows:
1. Fifty dollars for a project with a cost of \$100,000 or less;
 2. One hundred dollars for a project with a cost of more than \$100,000 but less than \$500,000; or
 3. One hundred fifty dollars for a project with a cost of \$500,000 or more.
- B.** An applicant submitting an initial application or a renewal application for a health care institution license shall submit to the Department an application fee of \$50.
- C.** Except as provided in subsection (D) or (E), an applicant submitting an initial application or a renewal application for a health care institution license shall submit to the Department a licensing fee as follows:
1. For an adult day health care facility, assisted living home, or assisted living center:
 - a. For a facility with no licensed capacity, \$280;
 - b. For a facility with a licensed capacity of one to 59 beds, \$280, plus the licensed capacity times \$70;
 - c. For a facility with a licensed capacity of 60 to 99 beds, \$560, plus the licensed capacity times \$70;
 - d. For a facility with a licensed capacity of 100 to 149 beds, \$840, plus the licensed capacity times \$70; or
 - e. For a facility with a licensed capacity of 150 beds or more, \$1,400, plus the licensed capacity times \$70;
 2. For a behavioral health facility:
 - a. For a facility with no licensed capacity, \$375;

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- b. For a facility with a licensed capacity of one to 59 beds, \$375, plus the licensed capacity times \$94;
 - c. For a facility with a licensed capacity of 60 to 99 beds, \$750, plus the licensed capacity times \$94;
 - d. For a facility with a licensed capacity of 100 to 149 beds, \$1,125, plus the licensed capacity times \$94; or
 - e. For a facility with a licensed capacity of 150 beds or more, \$1,875, plus the licensed capacity times \$94;
- 3. For a behavioral health facility providing behavioral health observation/stabilization services, in addition to the applicable fee in subsection (C)(2), the licensed occupancy times \$94;
- 4. For a nursing care institution:
 - a. For a facility with a licensed capacity of one to 59 beds, \$290, plus the licensed capacity times \$73;
 - b. For a facility with a licensed capacity of 60 to 99 beds, \$580, plus the licensed capacity times \$73;
 - c. For a facility with a licensed capacity of 100 to 149 beds, \$870, plus the licensed capacity times \$73; or
 - d. For a facility with a licensed capacity of 150 beds or more, \$1,450, plus the licensed capacity times \$73;
- 5. For a hospital, a home health agency, a hospice service agency, a hospice inpatient facility, an abortion clinic, a recovery care center, an outpatient surgical center, an outpatient treatment center that is not a behavioral health facility, or an unclassified health care institution:
 - a. For a facility with no licensed capacity, \$365;
 - b. For a facility with a licensed capacity of one to 59 beds, \$365, plus the licensed capacity times \$91;
 - c. For a facility with a licensed capacity of 60 to 99 beds, \$730, plus the licensed capacity times \$91;
 - d. For a facility with a licensed capacity of 100 to 149 beds, \$1,095, plus the licensed capacity times \$91; or
 - e. For a facility with a licensed capacity of 150 beds or more, \$1,825, plus the licensed capacity times \$91;
- 6. For a hospital providing behavioral health observation/stabilization services, in addition to the applicable fee in subsection (C)(5), the licensed occupancy times \$91; and
- 7. For an outpatient treatment center that is not a behavioral health facility and provides:
 - a. Dialysis services, in addition to the applicable fee in subsection (C)(5), the number of dialysis stations times \$91; and
 - b. Behavioral health observation/stabilization services, in addition to the applicable fee in subsection (C)(5), the licensed occupancy times \$91.
- D. In addition to the applicable fees in subsections (C)(5) and (C)(6), an applicant submitting an initial application or a renewal application for a single group hospital license shall submit to the Department an additional fee of \$365 for each of the hospital's satellite facilities and, if applicable, the fees required in subsection (C)(7).
- E. Subsections (C) and (D) do not apply to a health care institution operated by a state agency according to state or federal law or to an adult foster care home.
- F. All fees are nonrefundable except as provided in A.R.S. § 41-1077.

Historical Note

New Section R9-10-106 renumbered from R9-10-122 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-107. Renewal License Application

- A. A licensee applying to renew a health care institution license shall submit an application packet to the Department at least 60 calendar days but not more than 120 calendar days before the expiration date of the current license that contains:
 - 1. A renewal application in a format provided by the Department including:
 - a. The health care institution's:
 - i. Name, license number, mailing address, telephone number, and e-mail address; and
 - ii. Class or subclass;
 - b. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-10-108;
 - c. Owner information including:
 - i. The owner's name, address, telephone number, and e-mail address;
 - ii. Whether the owner is a sole proprietorship, a corporation, a partnership, a limited liability partnership, a limited liability company, or a governmental agency;
 - iii. If the owner is a partnership or a limited liability partnership, the name of each partner;
 - iv. If the owner is a limited liability company, the name of the designated manager or, if no manager is designated, the names of any two members of the limited liability company;
 - v. If the owner is a corporation, the name and title of each corporate officer;
 - vi. If the owner is a governmental agency, the name and title of the individual in charge of the governmental agency or the individual designated in writing by the individual in charge of the governmental agency;
 - vii. Whether the owner or any person with 10% or more business interest in the health care institution has had a license to operate a health care institution denied, revoked, or suspended since the previous license application was submitted; the reason for the denial, suspension, or revocation; the date of the denial, suspension, or revocation; and the name and address of the licensing agency that denied, suspended, or revoked the license;
 - viii. Whether the owner or any person with 10% or more business interest in the health care institution has had a health care professional license or certificate denied, revoked, or suspended since the previous license application was submitted; the reason for the denial, suspension, or revocation; the date of the denial, suspension, or revocation; and the name and address of the licensing agency that denied, suspended, or revoked the license or certificate; and
 - ix. The name, title, address, and telephone number of the owner's statutory agent or the individual designated by the owner to accept service of process and subpoenas;
 - d. The name and address of the governing authority;
 - e. The chief administrative officer's:
 - i. Name,
 - ii. Title,
 - iii. Highest educational degree, and
 - iv. Work experience related to the health care institution class or subclass for which licensing is requested; and

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- f. Signature required in A.R.S. § 36-422(B);
 - 2. The health care institution's scope of services;
 - 3. If the health care institution is located in a leased facility, a copy of the lease showing the rights and responsibilities of the parties and exclusive rights of possession of the leased facility; and
 - 4. The applicable application and licensing fees required by R9-10-106.
- B.** A licensee may submit a health care institution's current accreditation report from a nationally recognized accrediting organization as part of the application packet in subsection (A).
- C.** If a licensee submits a health care institution's current accreditation report from a nationally recognized accrediting organization, the Department shall not conduct an onsite compliance inspection of the health care institution during the time the accreditation report is valid.
- D.** The Department shall approve or deny a renewal license according to R9-10-108.
- E.** The Department shall issue a renewal license for:
- 1. One year; or
 - 2. Three years, if:
 - a. A licensee's health care institution is a hospital accredited by a nationally recognized accreditation organization, and
 - b. The licensee submits a copy of the hospital's current accreditation report.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-108. Time-frames

- A.** The overall time-frame for each type of approval granted by the Department is listed in Table 1.1. The applicant and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame. The substantive review time-frame and the overall time-frame may not be extended by more than 25% of the overall time-frame.
- B.** The administrative completeness review time-frame for each type of approval granted by the Department as prescribed in this Article is listed in Table 1.1. The administrative completeness review time-frame begins on the date the Department receives an application packet or a written request for a change in a health care institution license according to R9-10-109(F):
- 1. The application packet for an initial health care institution license is not complete until the applicant provides the Department with written notice that the health care institution is ready for a licensing inspection by the Department.
 - 2. If the application packet or written request is incomplete, the Department shall provide a written notice to the applicant specifying the missing document or incomplete information. The administrative completeness review time-frame and the overall time-frame are suspended from the date of the notice until the date the Department receives the missing document or information from the applicant.
 - 3. When an application packet or written request is complete, the Department shall provide a written notice of administrative completeness to the applicant.
 - 4. For an initial health care institution application, the Department shall consider the application withdrawn if

the applicant fails to supply the missing documents or information included in the notice described in subsection (B)(2) within 180 calendar days after the date of the notice described in subsection (B)(2).

- 5. If the Department issues a license or grants an approval during the time provided to assess administrative completeness, the Department shall not issue a separate written notice of administrative completeness.
- C.** The substantive review time-frame is listed in Table 1.1 and begins on the date of the notice of administrative completeness.
- 1. The Department may conduct an onsite inspection of the facility:
 - a. As part of the substantive review for approval of architectural plans and specifications;
 - b. As part of the substantive review for issuing a health care institution initial or renewal license; or
 - c. As part of the substantive review for approving a modification in a health care institution's license.
 - 2. During the substantive review time-frame, the Department may make one comprehensive written request for additional information or documentation. If the Department and the applicant agree in writing, the Department may make supplemental requests for additional information or documentation. The time-frame for the Department to complete the substantive review is suspended from the date of a written request for additional information or documentation until the Department receives the additional information or documentation.
 - 3. The Department shall send a written notice of approval or a license to an applicant who is in substantial compliance with applicable requirements in A.R.S. Title 36, Chapter 4 and this Chapter.
 - 4. After an applicant for an initial health care institution license receives the written notice of approval in subsection (C)(3), the applicant shall submit the applicable license fee in R9-10-106 to the Department within 60 calendar days after the date of the written notice of approval.
 - 5. The Department shall provide a written notice of denial that complies with A.R.S. § 41-1076 to an applicant who does not:
 - a. For an initial health care institution application, submit the information or documentation in subsection (C)(2) within 120 calendar days after the Department's written request to the applicant;
 - b. Comply with the applicable requirements in A.R.S. Title 36, Chapter 4 and this Chapter; or
 - c. Submit the fee required in R9-10-106.
 - 6. An applicant may file a written notice of appeal with the Department within 30 calendar days after receiving the notice described in subsection (C)(5). The appeal shall be conducted according to A.R.S. Title 41, Chapter 6, Article 10.
 - 7. If a time-frame's last day falls on a Saturday, a Sunday, or an official state holiday, the Department shall consider the next working day to be the time-frame's last day.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 859, effective April 2, 2005 (Supp. 05-1). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

Table 1.1.

Type of Approval	Statutory Authority	Overall Time-frame	Administrative Completeness Time-frame	Substantive Review Time-frame
Approval of architectural plans and specifications R9-10-104	A.R.S. §§ 36-405, 36-406(1)(b), and 36-421	105 calendar days	45 calendar days	60 calendar days
Health care institution initial license R9-10-105	A.R.S. §§ 36-405, 36-407, 36-421, 36-422, 36-424, and 36-425	120 calendar days	30 calendar days	90 calendar days
Health care institution renewal license R9-10-107	A.R.S. §§ 36-405, 36-407, 36-422, 36-424, and 36-425	90 calendar days	30 calendar days	60 calendar days
Approval of a modification of a health care institution R9-10-110	A.R.S. §§ 36-405, 36-407, and 36-422	75 calendar days	15 calendar days	60 calendar days

Historical Note

New Table 1 made by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 859, effective April 2, 2005 (Supp. 05-1). Table 1 title and contents amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Table 1.1 amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-109. Changes Affecting a License

- A.** A licensee shall ensure that the Department is notified in writing at least 30 calendar days before the effective date of:
1. A change in the name of:
 - a. A health care institution, or
 - b. The licensee; or
 2. A change in the address of a health care institution that does not provide medical services, nursing services, or health-related services on the premises.
- B.** If a licensee intends to terminate the operation of a health care institution either during or at the expiration of the health care institution's license, the licensee shall ensure that the Department is notified in writing of:
1. The termination of the health care institution's operations, as required in A.R.S. § 36-422(D), at least 30 calendar days before the termination, and
 2. The address and contact information for the location where the health care institution's medical records will be retained as required in A.R.S. § 12-2297.
- C.** If a licensee is an adult behavioral health therapeutic home or a behavioral health respite home, the licensee shall ensure that:
1. The Department is notified in writing if the licensee does not have a written agreement with a collaborating health care institution, as required in R9-10-1603(A)(4) or R9-10-1803(A)(5) as applicable; and
 2. The adult behavioral health therapeutic home or behavioral health respite home does not accept an individual as a resident or recipient, as applicable, or provide services to a resident or recipient, as applicable, until:
 - a. The adult behavioral health therapeutic home or behavioral health respite home has a written agreement with a collaborating health care institution;
 - b. The collaborating health care institution has approved the adult behavioral health therapeutic home's or behavioral health respite home's:
 - i. Scope of services, and
 - ii. Policies and procedures; and
- D.** If a licensee is an affiliated outpatient treatment center, the licensee shall ensure that if the affiliated outpatient treatment center:
1. Plans to begin providing administrative support to a counseling facility at a time other than during the affiliated outpatient treatment center's initial or renewal license application process, the following information for each counseling facility is submitted to the Department before the affiliated outpatient treatment center begins providing administrative support:
 - a. The counseling facility's name,
 - b. The license number assigned to the counseling facility by the Department, and
 - c. The date the affiliated outpatient treatment center will begin providing administrative support to the counseling facility; or
 2. No longer provides administrative support to a counseling facility previously identified by the affiliated outpatient treatment center as receiving administrative support from the affiliated outpatient treatment center, at a time other than during the initial or renewal license application process, the following information for each counseling facility is submitted to the Department within 30 calendar days after the affiliated outpatient treatment center no longer provides administrative support:
 - a. The counseling facility's name,
 - b. The license number assigned to the counseling facility by the Department, and
 - c. The date the affiliated outpatient treatment center stopped providing administrative support to the counseling facility.
- E.** If a licensee is a counseling facility, the licensee shall ensure that if the counseling facility:
1. Plans to begin receiving administrative support from an affiliated outpatient treatment center at a time other than during the counseling facility's initial or renewal license

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application process, the following information for the affiliated outpatient treatment center is submitted to the Department before the counseling facility begins receiving administrative support:

- a. The affiliated outpatient treatment center's name,
 - b. The license number assigned to the affiliated outpatient treatment center by the Department, and
 - c. The date the counseling facility will begin receiving administrative support; or
2. No longer receives administrative support from an affiliated outpatient treatment center previously identified by the counseling facility as providing administrative support to the counseling facility, at a time other than during the counseling facility's initial or renewal license application process, the following information for the affiliated outpatient treatment center is submitted to the Department within 30 calendar days after the counseling facility no longer receives administrative support from the affiliated outpatient treatment center:
 - a. The affiliated outpatient treatment center's name,
 - b. The license number assigned to the affiliated outpatient treatment center by the Department, and
 - c. The date the counseling facility stopped receiving administrative support from the affiliated outpatient treatment center.
 3. Plans to begin sharing administrative support with an affiliated counseling facility at a time other than during the counseling facility's initial or renewal license application process, the following information for each affiliated counseling facility sharing administrative support with the counseling facility is submitted to the Department before the counseling facility and affiliated counseling facility begin sharing administrative support:
 - a. The affiliated counseling facility's name,
 - b. The license number assigned to the affiliated counseling facility by the Department, and
 - c. The date the counseling facility and the affiliated counseling facility will begin sharing administrative support; or
 4. No longer shares administrative support with an affiliated counseling facility previously identified by the counseling facility as sharing administrative support with the counseling facility at a time other than during the counseling facility's initial or renewal license application process, the following information is submitted for each affiliated counseling facility within 30 calendar days after the counseling facility and affiliated counseling facility no longer share administrative support:
 - a. The affiliated counseling facility's name,
 - b. The license number assigned to the affiliated counseling facility by the Department, and
 - c. The date the counseling facility and affiliated counseling facility will no longer be sharing administrative support.
- F.** A governing authority shall submit an initial license application required in R9-10-105 for:
1. A change in ownership of a health care institution;
 2. A change in the address or location of a health care institution that provides medical services, nursing services, health-related services, or behavioral health services on the premises; or
 3. A change in a health care institution's class or subclass.
- G.** A governing authority is not required to submit documentation of a health care institution's architectural plans and specifications required in R9-10-105(A)(5) for an initial license application if:

1. The health care institution has not ceased operations for more than 30 calendar days,
 2. A modification has not been made to the health care institution,
 3. The services the health care institution is authorized by the Department to provide are not changed, and
 4. The location of the health care institution's premises is not changed.
- H.** The Department shall approve or deny a request for a change in services or another modification described in this Section according to R9-10-108.
- I.** A licensee shall not implement a change in services or another modification described in this Section until an approval or amended license is issued by the Department.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by exempt rulemaking at 20 A.A.R. 3535, pursuant to Laws 2014, Ch. 233, § 5; effective January 1, 2015 (Supp. 14-4).

R9-10-110. Modification of a Health Care Institution

- A.** A licensee of a health care institution that is required by this Chapter to comply with any of the physical plant codes and standards incorporated by reference in A.A.C. R9-1-412 shall submit an application for approval of architectural plans and specifications for a modification of the health care institution.
- B.** A licensee of a health care institution shall submit a written request for a modification of the health care in a Department-provided format that contains:
1. The health care institution's name, address, and license number;
 2. A narrative description of the modification;
 3. The name of the health care institution's administrator's or individual representing the health care institution as designated in A.R.S. § 36-422 and the dated signature of the administrator or individual; and
 4. One of the following:
 - a. For a health care institution that is required to comply with the physical plant codes and standards incorporated by reference in A.A.C. R9-10-412 for the building, documentation of the health care institution's architectural plans and specifications approval in R9-10-104; or
 - b. For a health care institution that is not required to comply with the physical plant codes and standards, documentation that demonstrates that the requested modification complies with applicable requirements in this Chapter.
- C.** The Department shall approve or deny a request for a modification described in subsection (B) according to R9-10-108.
- D.** A licensee shall not implement a modification described in subsection (B) until an approval or amended license is issued by the Department.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-110 renumbered to Section R9-10-111; new Section R9-10-110 made by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-111. Enforcement Actions

- A. If the Department determines that an applicant or licensee is violating applicable statutes and rules and the violation poses a direct risk to the life, health, or safety of a patient, the Department may:
1. Issue a provisional license to the applicant or licensee under A.R.S. § 36-425,
 2. Assess a civil penalty under A.R.S. § 36-431.01,
 3. Impose an intermediate sanction under A.R.S. § 36-427,
 4. Remove a licensee and appoint another person to continue operation of the health care institution pending further action under A.R.S. § 36-429,
 5. Suspend or revoke a license under A.R.S. § 36-427 and R9-10-111,
 6. Deny a license under A.R.S. § 36-425 and R9-10-111, or
 7. Issue an injunction under A.R.S. § 36-430.
- B. In determining which action in subsection (A) is appropriate, the Department shall consider the direct risk to the life, health, or safety of a patient in the health care institution based on:
1. Repeated violations of statutes or rules,
 2. Pattern of violations,
 3. Types of violation,
 4. Severity of violation, and
 5. Number of violations.

Historical Note

Amended effective February 4, 1981 (Supp. 81-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 97, effective January 1, 2014 (Supp. 13-4). Section R9-10-111 renumbered to Section R9-10-112; new Section R9-10-111 renumbered from R9-10-110 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-112. Denial, Revocation, or Suspension of License

- A. The Department may deny, revoke, or suspend a license to operate a health care institution if an applicant, a licensee, or a controlling person of the health care institution:
1. Provides false or misleading information to the Department;
 2. Has had in any state or jurisdiction any of the following:
 - a. An application or license to operate a health care institution denied, suspended, or revoked, unless the denial was based on failure to complete the licensing process within a required time-frame; or
 - b. A health care professional license or certificate denied, revoked, or suspended; or
 3. Has operated a health care institution, within the ten years preceding the date of the most recent license application, in violation of A.R.S. Title 36, Chapter 4 or this Chapter, that posed a direct risk to the life, health, or safety of a patient.
- B. The Department shall suspend or revoke a hospital's license if the Department receives, pursuant to A.R.S. § 36-2901.08(H), notice from the Arizona Health Care Cost Containment System that the hospital's provider agreement registration with the Arizona Health Care Cost Containment System has been suspended or revoked.

Historical Note

Amended effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). New Section made by exempt rulemaking at 9 A.A.R. 526, effective April 1,

2003 (Supp. 03-1). Section R9-10-112 renumbered to R9-10-113; new Section R9-10-112 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-112 renumbered to Section R9-10-113; new Section R9-10-112 renumbered from R9-10-111 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-113. Tuberculosis Screening

A health care institution's chief administrative officer shall ensure that the health care institution complies with the following if tuberculosis screening is required at the health care institution:

1. For each individual required to be screened for infectious tuberculosis, the health care institution obtains from the individual:
 - a. On or before the date specified in the applicable Section of this Chapter, one of the following as evidence of freedom from infectious tuberculosis:
 - i. Documentation of a negative Mantoux skin test or other tuberculosis screening test recommended by the U.S. Centers for Disease Control and Prevention (CDC) administered within 12 months before the date the individual begins providing services at or on behalf of the health care institution or is admitted to the health care institution that includes the date and the type of tuberculosis screening test; or
 - ii. If the individual had a positive Mantoux skin test or other tuberculosis screening test, a written statement that the individual is free from infectious tuberculosis signed by a medical practitioner dated within 12 months before the date the individual begins providing services at or on behalf of the health care institution or is admitted to the health care institution; and
 - b. Every 12 months after the date of the individual's most recent tuberculosis screening test or written statement, one of the following as evidence of freedom from infectious tuberculosis:
 - i. Documentation of a negative Mantoux skin test or other tuberculosis screening test recommended by the CDC administered to the individual within 30 calendar days before or after the anniversary date of the most recent tuberculosis screening test or written statement that includes the date and the type of tuberculosis screening test; or
 - ii. If the individual has had a positive Mantoux skin test or other tuberculosis screening test, a written statement that the individual is free from infectious tuberculosis signed by a medical practitioner dated within 30 calendar days before or after the anniversary date of the most recent tuberculosis screening test or written statement; or
2. Establish, document, and implement a tuberculosis infection control program that complies with the Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-care Settings, 2005, published by the U.S. Department of Health and Human Services, Atlanta, GA 30333 and available at <http://www.cdc.gov/mmwr/PDF/RR/rr5417.pdf>, incorporated by reference, on file with the Department, and including no future editions or amendments and includes:
 - a. Conducting tuberculosis risk assessments, conducting tuberculosis screening testing, screening for

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- signs or symptoms of tuberculosis, and providing training and education related to recognizing the signs and symptoms of tuberculosis; and
- b. Maintaining documentation of any:
 - i. Tuberculosis risk assessment;
 - ii. Tuberculosis screening test of an individual who is employed by the health care institution, provides volunteer services for the health care institution, or is admitted to the health care institution; and
 - iii. Screening for signs or symptoms of tuberculosis of an individual who is employed by the health care institution, provides volunteer services for the health care institution, or is admitted to the health care institution

Historical Note

Former Section R9-10-113 repealed, new Section R9-10-113 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). New Section R9-10-113 renumbered from R9-10-112 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-113 renumbered from R9-10-114; new Section R9-10-113 renumbered from R9-10-112 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-114. Clinical Practice Restrictions for Hemodialysis Technician Trainees

- A. The following definitions apply in this Section:
1. "Assess" means collecting data about a patient by:
 - a. Obtaining a history of the patient,
 - b. Listening to the patient's heart and lungs, and
 - c. Checking the patient for edema.
 2. "Blood-flow rate" means the quantity of blood pumped into a dialyzer per minute of hemodialysis.
 3. "Blood lines" means the tubing used during hemodialysis to carry blood between a vascular access and a dialyzer.
 4. "Central line catheter" means a type of vascular access created by surgically implanting a tube into a large vein.
 5. "Clinical practice restriction" means a limitation on the hemodialysis tasks that may be performed by a hemodialysis technician trainee.
 6. "Conductivity test" means a determination of the electrolytes in a dialysate.
 7. "Dialysate" means a mixture of water and chemicals used in hemodialysis to remove wastes and excess fluid from a patient's body.
 8. "Dialysate-flow rate" means the quantity of dialysate pumped per minute of hemodialysis.
 9. "Directly observing" or "direct observation" means a medical person stands next to an inexperienced hemodialysis technician trainee and watches the inexperienced hemodialysis technician trainee perform a hemodialysis task.
 10. "Direct supervision" has the same meaning as "supervision" in A.R.S. § 36-401.
 11. "Electrolytes" means chemical compounds that break apart into electrically charged particles, such as sodium, potassium, or calcium, when dissolved in water.
 12. "Experienced hemodialysis technician trainee" means an individual who has passed all didactic, skills, and competency examinations provided by a health care institution that measure the individual's knowledge and ability to perform hemodialysis.
 13. "Fistula" means a type of vascular access created by a surgical connection between an artery and vein.
 14. "Fluid-removal rate" means the quantity of wastes and excess fluid eliminated from a patient's blood per minute of hemodialysis to achieve the patient's prescribed weight, determined by:
 - a. Dialyzer size,
 - b. Blood-flow rate,
 - c. Dialysate-flow rate, and
 - d. Hemodialysis duration.
 15. "Germicide-negative test" means a determination that a chemical used to kill microorganisms is not present.
 16. "Germicide-positive test" means a determination that a chemical used to kill microorganisms is present.
 17. "Graft" means a vascular access created by a surgical connection between an artery and vein using a synthetic tube.
 18. "Hemodialysis machine" means a mechanical pump that controls:
 - a. The blood-flow rate,
 - b. The mixing and temperature of dialysate,
 - c. The dialysate-flow rate,
 - d. The addition of anticoagulant, and
 - e. The fluid-removal rate.
 19. "Hemodialysis technician" has the same meaning as in A.R.S. § 36-423(A).
 20. "Hemodialysis technician trainee" means an individual who is working in a health care institution to assist in providing hemodialysis and who is not certified as a hemodialysis technician according to A.R.S. § 36-423(A).
 21. "Inexperienced hemodialysis technician trainee" means an individual who has not passed all didactic, skills, and competency examinations provided by a health care institution that measure the individual's knowledge and ability to perform hemodialysis.
 22. "Medical person" means:
 - a. A physician who is experienced in dialysis;
 - b. A registered nurse practitioner who is experienced in dialysis;
 - c. A nurse who is experienced in dialysis;
 - d. A hemodialysis technician who meets the requirements in A.R.S. § 36-423(A) approved by the governing authority; and
 - e. An experienced hemodialysis technician trainee approved by the governing authority.
 23. "Not established" means not approved by a patient's nephrologist for use in hemodialysis.
 24. "Patient" means an individual who receives hemodialysis.
 25. "pH test" means a determination of the acidity of a dialysate.
 26. "Preceptor course" means a health care institution's instruction and evaluation provided to a nurse, hemodialysis technician, or hemodialysis technician trainee that enables the nurse, hemodialysis technician, or hemodialysis technician trainee to provide direct observation and education to hemodialysis technician trainees.
 27. "Respond" means to mute, shut off, reset, or troubleshoot an alarm.
 28. "Safety check" means successful completion of tests recommended by the manufacturer of a hemodialysis machine, a dialyzer, or a water system used for hemodialysis before initiating a patient's hemodialysis.
 29. "Water-contaminant test" means a determination of the presence of chlorine or chloramine in a water system used for hemodialysis.

- B.** An experienced hemodialysis technician trainee may:
1. Perform hemodialysis under direct supervision, and
 2. Provide direct observation to another hemodialysis technician trainee only after completing the health care institution's preceptor course approved by the governing authority.
- C.** An experienced hemodialysis technician trainee shall not access a patient's:
1. Fistula that is not established, or
 2. Graft that is not established.
- D.** An inexperienced hemodialysis technician trainee may perform the following hemodialysis tasks only under direct observation:
1. Access a patient's central line catheter;
 2. Respond to a hemodialysis-machine alarm;
 3. Draw blood for laboratory tests;
 4. Perform a water-contaminant test on a water system used for hemodialysis;
 5. Inspect a dialyzer and perform a germicide-positive test before priming a dialyzer;
 6. Set up a hemodialysis machine and blood lines before priming a dialyzer;
 7. Prime a dialyzer;
 8. Test a hemodialysis machine for germicide presence;
 9. Perform a hemodialysis machine safety check;
 10. Prepare a dialysate;
 11. Perform a conductivity test and a pH test on a dialysate;
 12. Assess a patient;
 13. Check and record a patient's vital signs, weight, and temperature;
 14. Determine the amount and rate of fluid removal from a patient;
 15. Administer local anesthetic at an established fistula or graft, administer anticoagulant, or administer replacement saline solution;
 16. Perform a germicide-negative test on a dialyzer before initiating hemodialysis;
 17. Initiate or discontinue a patient's hemodialysis;
 18. Adjust blood-flow rate, dialysate-flow rate, or fluid-removal rate during hemodialysis; or
 19. Prepare a blood, water, or dialysate culture to determine microorganism presence.
- E.** An inexperienced hemodialysis technician trainee shall not:
1. Access a patient's:
 - a. Fistula that is not established, or
 - b. Graft that is not established; or
 2. Provide direct observation.
- F.** When a hemodialysis technician trainee performs hemodialysis tasks for a patient, the patient's medical record shall include:
1. The name of the hemodialysis technician trainee;
 2. The date, time, and hemodialysis task performed;
 3. The name of the medical person directly observing or the nurse or physician directly supervising the hemodialysis technician trainee; and
 4. The initials or signature of the medical person directly observing or the nurse or physician directly supervising the hemodialysis technician trainee.
- G.** If the Department determines that a health care institution is not in substantial compliance with this Section, the Department may take enforcement action according to R9-10-110.

Historical Note

Former Section R9-10-114 repealed, new Section R9-10-114 adopted effective February 4, 1981 (Supp. 81-1).
Amended by adding paragraph (7) as an emergency effective November 17, 1983 pursuant to A.R.S. § 41-

1003, valid for only 90 days (Supp. 83-6). Amended by adding paragraph (7) as a permanent amendment effective August 2, 1984 (Supp. 84-4). Section repealed by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). New Section R9-10-114 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-114 renumbered to Section R9-10-115; new Section R9-10-114 renumbered from R9-10-113 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-115. Behavioral Health Paraprofessionals; Behavioral Health Technicians

If a health care institution is a behavioral health facility or is authorized by the Department to provide behavioral health services, an administrator shall ensure that:

1. Policies and procedures are established, documented, and implemented that:
 - a. Delineate the services a behavioral health paraprofessional is allowed to provide at or for the health care institution;
 - b. Cover supervision of a behavioral health paraprofessional including documentation of supervision;
 - c. Establish the qualifications for a behavioral health professional providing supervision to a behavioral health paraprofessional;
 - d. Delineate the services a behavioral health technician is allowed to provide at or for the health care institution;
 - e. Cover clinical oversight for a behavioral health technician, including documentation of clinical oversight;
 - f. Establish the qualifications for a behavioral health professional providing clinical oversight to a behavioral health technician;
 - g. Delineate the methods used to provide clinical oversight including when clinical oversight is provided on an individual basis or in a group setting;
 - h. Establish the process by which information pertaining to services provided by a behavioral health technician is provided to the behavioral health professional who is responsible for the clinical oversight of the behavioral health technician;
2. A behavioral health paraprofessional receives supervision according to policies and procedures;
3. Clinical oversight is provided to a behavioral health technician to ensure that patient needs are met based on, for each behavioral health technician:
 - a. The scope and extent of the services provided,
 - b. The acuity of the patients receiving services, and
 - c. The number of patients receiving services;
4. A behavioral health technician receives clinical oversight at least once during each two week period, if the behavioral health technician provides services related to patient care at the health care institution during the two week period;
5. When clinical oversight is provided electronically:
 - a. The clinical oversight is provided verbally with direct and immediate interaction between the behavioral health professional providing and the behavioral health technician receiving the clinical oversight,
 - b. A secure connection is used, and
 - c. The identities of the behavioral health professional providing and the behavioral health technician

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- receiving the clinical oversight are verified before clinical oversight is provided; and
6. A behavioral health professional provides supervision to a behavioral health paraprofessional or clinical oversight to behavioral health technician within the behavioral health professional's scope of practice established in the applicable licensing requirements under A.R.S. Title 32.

Historical Note

Adopted effective February 4, 1981 (Supp. 81-1).
Amended by final rulemaking 16 A.A.R. 688, effective November 1, 2010 (Supp. 10-2). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-115 renumbered to Section R9-10-116; new Section R9-10-115 renumbered from R9-10-114 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-116. Nutrition and Feeding Assistant Training Programs

- A. For the purposes of this Section, "agency" means an entity other than a nursing care institution that provides the nutrition and feeding assistant training required in A.R.S. § 36-413.
- B. An agency shall apply for approval to operate a nutrition and feeding assistant training program by submitting:
 1. An application in a format provided by the Department that contains:
 - a. The name of the agency;
 - b. The name, telephone number, and e-mail address of the individual in charge of the proposed nutrition and feeding assistant training program;
 - c. The address where the nutrition and feeding assistant training program records are maintained;
 - d. A description of the training course being offered by the nutrition and feeding assistant training program including for each topic in subsection (I):
 - i. The information presented for each topic,
 - ii. The amount of time allotted to each topic,
 - iii. The skills an individual is expected to acquire for each topic, and
 - iv. The testing method used to verify an individual has acquired the stated skills for each topic;
 - e. Whether the agency agrees to allow the Department to submit supplemental requests for information as specified in subsection (F)(2); and
 - f. The signature of the individual in charge of the proposed nutrition and feeding assistant training program and the date signed; and
 2. A copy of the materials used for providing the nutrition and feeding assistant training program.
- C. For an application for an approval of a nutrition and feeding assistant training program, the administrative review time-frame is 30 calendar days, the substantive review time-frame is 30 calendar days, and the overall time-frame is 60 calendar days.
- D. Within 30 calendar days after the receipt of an application in subsection (B), the Department shall:
 1. Issue an approval of the agency's nutrition and feeding assistant training program;
 2. Provide a notice of administrative completeness to the agency that submitted the application; or
 3. Provide a notice of deficiencies to the agency that submitted the application, including a list of the information or documents needed to complete the application.
- E. If the Department provides a notice of deficiencies to an agency:
 1. The administrative completeness review time-frame and the overall time-frame are suspended from the date of the notice of deficiencies until the date the Department receives the missing information or documents from the agency;
 2. If the agency does not submit the missing information or documents to the Department within 30 calendar days, the Department shall consider the application withdrawn; and
 3. If the agency submits the missing information or documents to the Department within 30 calendar days, the substantive review time-frame begins on the date the Department receives the missing information or documents.
- F. Within the substantive review time-frame, the Department:
 1. Shall issue or deny an approval of a nutrition and feeding assistant training program; and
 2. May make one written comprehensive request for more information, unless the Department and the agency agree in writing to allow the Department to submit supplemental requests for information.
- G. If the Department issues a written comprehensive request or a supplemental request for information:
 1. The substantive review time-frame and the overall time-frame are suspended from the date of the written comprehensive request or the supplemental request for information until the date the Department receives the information requested, and
 2. The agency shall submit to the Department the information and documents listed in the written comprehensive request or supplemental request for information within 10 working days after the date of the comprehensive written request or supplemental request for information.
- H. The Department shall issue:
 1. An approval for an agency to operate a nutrition and feeding assistant training program if the Department determines that the agency and the application complies with A.R.S. § 36-413 and this Section; or
 2. A denial for an agency that includes the reason for the denial and the process for appeal of the Department's decision if:
 - a. The Department determines that the agency does not comply with A.R.S. § 36-413 and this Section; or
 - b. The agency does not submit information and documents listed in the written comprehensive request or supplemental request for information within 10 working days after the date of the comprehensive written request or supplemental request for information.
- I. An individual in charge of a nutrition and feeding assistant training program shall ensure that:
 1. The materials and coursework for the nutrition and feeding assistant training program demonstrate includes the following topics:
 - a. Feeding techniques;
 - b. Assistance with feeding and hydration;
 - c. Communication and interpersonal skills;
 - d. Appropriate responses to resident behavior;
 - e. Safety and emergency procedures, including the Heimlich maneuver;
 - f. Infection control;
 - g. Resident rights;
 - h. Recognizing a change in a resident that is inconsistent with the resident's normal behavior; and
 - i. Reporting a change in subsection (I)(1)(h) to a nurse at a nursing care institution;

2. An individual providing the training course is:
 - a. A physician,
 - b. A physician assistant,
 - c. A registered nurse practitioner,
 - d. A registered nurse,
 - e. A registered dietitian,
 - f. A licensed practical nurse,
 - g. A speech-language pathologist, or
 - h. An occupational therapist; and
 3. An individual taking the training course completes:
 - a. At least eight hours of classroom time, and
 - b. Demonstrates that the individual has acquired the skills the individual was expected to acquire.
- J.** An individual in charge of a nutrition and feeding assistant training program shall issue a certificate of completion to an individual who completes the training course and demonstrates the skills the individual was expected to acquire as a result of completing the training course that contains:
1. The name of the agency approved to operate the nutrition and feeding assistant training program;
 2. The name of the individual completing the training course;
 3. The date of completion;
 4. The name, signature, and professional license of the individual providing the training course; and
 5. The name and signature of the individual in charge of the nutrition and feeding assistant training program.
- K.** The Department may deny, revoke, or suspend an approval to operate a nutrition and feeding assistant training program if an agency operating or applying to operate a nutrition and feeding assistance training program:
1. Provides false or misleading information to the Department;
 2. Does not comply with the applicable statutes and rules;
 3. Issues a training completion certificate to an individual who did not:
 - a. Complete the nutrition and feeding assistant training program, or
 - b. Demonstrate the skills the individual was expected to acquire; or
 4. Does not implement the nutrition and feeding assistant training program as described in or use the materials submitted with the agency's application.
- L.** In determining which action in subsection (K) is appropriate, the Department shall consider the following:
1. Repeated violations of statutes or rules,
 2. Pattern of non-compliance,
 3. Types of violations,
 4. Severity of violations, and
 5. Number of violations.

Historical Note

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-116 renumbered to Section R9-10-117; new Section R9-10-116 renumbered from R9-10-115 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-117. Repealed

Historical Note

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). New Section made by

exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-117 renumbered to Section R9-10-118; new Section R9-10-117 renumbered from R9-10-116 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Repealed by exempt rulemaking at 20 A.A.R. 3535, pursuant to Laws 2014, Ch. 233, § 5; effective January 1, 2015 (Supp. 14-4).

R9-10-118. Collaborating Health Care Institution

- A.** An administrator of a collaborating health care institution shall ensure that:
1. A list is maintained of adult behavioral health therapeutic homes and behavioral health respite homes for which the collaborating health care institution serves as a collaborating health care institution;
 2. For each adult behavioral health therapeutic home or behavioral health respite home in subsection (A)(1), the collaborating health care institution maintains the following information:
 - a. A copy of the documented agreement that establishes the responsibilities of the adult behavioral health therapeutic home or behavioral health respite home and the collaborating health care institution consistent with the requirements in this Chapter;
 - b. For the adult behavioral health therapeutic home or behavioral health respite home, the following information:
 - i. Provider's name;
 - ii. Street address;
 - iii. License number;
 - iv. Whether the residence is an adult behavioral health therapeutic home or a behavioral health respite home;
 - v. If the residence is a behavioral health respite home, whether the behavioral health respite home provides respite care services to:
 - (1) Individuals 18 years of age or older, or
 - (2) Individuals less than 18 years of age;
 - vi. The beginning and ending dates of the documented agreement in subsection (A)(2)(a); and
 - vii. The name and contact information for the individual assigned by the collaborating health care institution to monitor the adult behavioral health therapeutic home or behavioral health respite home;
 - c. For the adult behavioral health therapeutic home or behavioral health respite home, a copy of the following that have been approved by the collaborating health care institution:
 - i. Scope of services,
 - ii. Policies and procedures, and
 - iii. Documentation of the review and update of policies and procedures;
 - d. A description of the required skills and knowledge for a provider, based on the scope of services of the adult behavioral health therapeutic home or behavioral health respite home, as established by the collaborating health care institution; and
 - e. For a provider in the adult behavioral health therapeutic home or behavioral health respite home, documentation of:
 - i. The provider's skills and knowledge;
 - ii. If applicable, the provider's completion of training in assistance in the self-administration of medication;

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- iii. Verification of the provider's skills and knowledge; and
 - iv. If the provider is required to have clinical oversight according to R9-10-1805(C), the provider's receiving clinical oversight;
- 3. A provider's skills and knowledge are verified by a personnel member according to policies and procedures;
- 4. A provider who provides behavioral health services receives clinical oversight, required in R9-10-1805(C), from a behavioral health professional; and
- 5. A provider, other than a provider who is a medical practitioner or nurse, receives training in assistance in the self-administration of medication:
 - a. From a medical practitioner or registered nurse or from a personnel member of the collaborating health care institution trained by a medical practitioner or registered nurse;
 - b. That includes:
 - i. A demonstration of the provider's skills and knowledge necessary to provide assistance in the self-administration of medication,
 - ii. Identification of medication errors and medical emergencies related to medication that require emergency medical intervention, and
 - iii. The process for notifying the appropriate entities when an emergency medical intervention is needed; and
 - c. That is documented.
- B.** For a patient referred to an adult behavioral health therapeutic home or a behavioral health respite home, an administrator shall ensure that:
 - 1. A resident or recipient accepted by and receiving services from the adult behavioral health therapeutic home or behavioral health respite home does not present a threat to the referred patient, based on the resident's or recipient's developmental levels, social skills, verbal skills, and personal history;
 - 2. The referred patient does not present a threat to a resident or recipient accepted by and receiving services from the adult behavioral health therapeutic home or behavioral health respite home based the referred patient's developmental levels, social skills, verbal skills, and personal history;
 - 3. The referred patient requires services within the adult behavioral health therapeutic home's or behavioral health respite home's scope of services;
 - 4. A provider of the adult behavioral health therapeutic home or behavioral health respite home has the verified skills and knowledge to provide behavioral health services to the referred patient;
 - 5. A treatment plan for the referred patient that includes information necessary for a provider to meet the referred patient's needs for behavioral health services is completed and forwarded to the provider before the referred patient is accepted as a resident or recipient;
 - 6. A patient's treatment plan is reviewed and updated at least once every twelve months and a copy of the patient's updated treatment plan is forwarded to the patient's provider;
 - 7. If documentation of a significant change in a patient's behavioral, physical, cognitive, or functional condition and the action taken by a provider to address patient's changing needs is received by the health care institution, a behavioral health professional or behavioral health technician reviews the documentation and:
 - a. Documents the review; and
 - b. If applicable:
 - i. Updates the patient's treatment plan, and
 - ii. Forwards the updated treatment plan to the provider within 10 working days after receipt of the documentation of a significant change;
- 8. If the review and updated treatment plan required in subsection (7) is performed by a behavioral health technician, a behavioral health professional reviews and signs the review and updated treatment plan to ensure the patient is receiving the appropriate behavioral health services; and
- 9. In addition to the requirements for a medical record for a patient in this Chapter, a referred patient's medical record contains:
 - a. The provider's name and the street address and license number of the adult behavioral health therapeutic home or behavioral health respite home to which the patient is referred,
 - b. A copy of the treatment plan provided to the adult behavioral health therapeutic home or behavioral health respite home,
 - c. Documentation received according to and required by subsection (7),
 - d. Any information about the patient received from the adult behavioral health therapeutic home or behavioral health respite home, and
 - e. Any follow-up actions taken by the collaborating health care institution related to the patient.
- C.** For a patient referred to an adult behavioral health therapeutic home, an administrator shall ensure that the collaborating health care institution has documentation in the patient's medical record of evidence of freedom from infectious tuberculosis that meets the requirements in R9-10-113.

Historical Note

New Section R9-10-118 renumbered from R9-10-117 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-119. Abortion Reporting

- A.** A licensed health care institution where abortions are performed shall submit to the Department, in a Department-provided format and according to A.R.S. § 36-2161(B) and (C), a report that contains the information required in A.R.S. § 36-2161(A) and the following:
 - 1. The final disposition of the fetal tissue from the abortion; and
 - 2. Except as provided in subsection (B), if custody of the fetal tissue is transferred to another person or persons:
 - a. The name and address of the person or persons accepting custody of the fetal tissue,
 - b. The amount of any compensation received by the licensed health care institution for the transferred fetal tissue, and
 - c. Whether a patient provided informed consent for the transfer of custody of the fetal tissue.
- B.** A licensed health care institution where abortions are performed is not required to include the information specified in subsections (A)(2)(a) through (c) in the report required in subsection (A) if the licensed health care institution where abortions are performed:
 - 1. Transfers custody of the fetal tissue:
 - a. To a funeral establishment, as defined in A.R.S. § 32-1301;
 - b. To a crematory, as defined in A.R.S. § 32-1301; or

- c. According to requirements in A.A.C. R18-13-1406, A.A.C. R18-13-1407, and A.A.C. R18-13-1408; or
 - 2. Complies with requirements in A.A.C. R18-13-1405.
- C. For purposes of this Section, the following definition applies: “Fetal tissue” means cells, or groups of cells with a specific function, obtained from an aborted human embryo or fetus.

Historical Note

New Section made by emergency rulemaking at 21 A.A.R. 1787, effective August 14, 2015 for 180 days (Supp. 15-3). Emergency expired February 10, 2016. Section amended by emergency rulemaking at 22 A.A.R. 420, effective February 11, 2016, for an additional 180 days; filed in the Office February 8, 2016 (Supp. 16-1). New Section made by final rulemaking at 22 A.A.R. 1343, with an immediate effective date upon filing under A.R.S. § 41-1032(A)(1) and (4) of May 5, 2016 (Supp. 16-2).

EMERGENCY RULEMAKING

R9-10-120. Opioid Prescribing and Treatment

- A. For purposes of this Section, the following definitions apply:
1. “Benzodiazepine” means any one of a class of drugs that have sleep-inducing, anti-anxiety, anti-convulsant, and muscle-relaxing properties and are commonly used in the treatment of anxiety.
 2. “Opioid” means the same as “opiate” in A.R.S. § 36-2501.
 3. “Opioid antagonist” means a drug approved by the U.S. Department of Health and Human Services, Food and Drug Administration, that, when administered, negates or neutralizes, in whole or in part, the pharmacological effects of an opioid in the body.
 4. “Substance abuse risk assessment” means an evaluation of an individual’s unique likelihood for addiction, abuse, misuse, diversion, or another adverse consequence resulting from the individual being prescribed or receiving treatment with opioids.
 5. “Terminal condition” means the final stage of an incurable or irreversible ailment, caused by injury, disease, or illness and from which, to a reasonable degree of medical certainty, there is no recovery.
- B. Except as provided in subsection (E), a licensee of a health care institution where opioids are prescribed, ordered, or administered as part of treatment shall:
1. Establish, document, and implement policies and procedures for prescribing or ordering an opioid or administering an opioid as part of treatment, to protect the health and safety of a patient, that:
 - a. Cover which personnel members may prescribe or order an opioid or administer an opioid in treating a patient and the required knowledge and qualifications of these personnel members;
 - b. Except when contrary to medical judgment for a patient, are consistent with the Arizona Opioid Prescribing Guidelines or national opioid-prescribing guidelines, such as guidelines developed by the:
 - i. Centers for Disease Control and Prevention,
 - ii. Substance Abuse and Mental Health Services Administration, or
 - iii. American Society of Addiction Medicine;
 - c. Include how, when, and by whom:
 - i. A patient’s profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database is reviewed;
 - ii. A substance abuse risk assessment of a patient is conducted;
 2. Include in the plan for the health care institution’s quality management program a process for:
 - a. Review of incidents of opioid-related adverse reactions or other negative outcomes a patient experiences or opioid-related deaths; and
 - b. Surveillance and monitoring of adherence to the policies and procedures in subsection (B)(1); and
 3. Except as prohibited by Title 42 Code of Federal Regulations, Chapter I, Subchapter A, Part 2, ensure that, if a patient’s death may be related to an opioid prescribed, ordered, or administered as part of treatment, written notification, in a Department-provided format, is provided to the Department of the patient’s death within one working day after the health care institution learns of the patient’s death.
- C. Except as provided in subsection (E), an administrator shall ensure that, before prescribing an opioid or ordering the administration of an opioid as part of the treatment for a patient, an individual authorized by policies and procedures to prescribe or order an opioid in treating a patient:
1. Conducts a physical examination of the patient;
 2. Reviews the patient’s profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database;
 3. Conducts a substance abuse risk assessment of a patient;
 4. Develops a treatment plan for the patient based on the:
 - iii. The potential risks; adverse outcomes; and complications, including death, associated with the use of opioids are explained to a patient or the patient’s representative;
 - iv. Alternatives to a prescribed opioid are explained to a patient or the patient’s representative;
 - v. Informed consent is obtained from a patient or the patient’s representative;
 - vi. A patient receiving an opioid is monitored; and
 - vii. The actions taken according to subsections (B)(1)(c)(i) through (vi) are documented;
 - d. Cover conditions that may contraindicate prescribing an opioid or using an opioid in treatment, including:
 - i. Concurrent use of a benzodiazepine,
 - ii. History of opioid abuse,
 - iii. History of other substance abuse, or
 - iv. Pregnancy;
 - e. Cover the criteria for co-prescribing an opioid antagonist for a patient;
 - f. For a patient being prescribed an opioid, or for whom opioid administration is being ordered, for longer than a 30-calendar-day period, include the frequency of:
 - i. Face-to-face interactions with the patient,
 - ii. Conducting a substance abuse risk assessment of the patient,
 - iii. Renewal of a prescription for an opioid without a face-to-face interaction with the patient, and
 - iv. Monitoring the effectiveness of the treatment;
 - g. If applicable, include documenting a dispensed opioid in the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database;
 - h. Cover the criteria and procedures for tapering or discontinuing opioid prescription or administration as part of treatment; and
 - i. Cover the criteria and procedures for offering or referring a patient for treatment for substance abuse;

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- a. Patient's diagnosis;
 - b. Patient's medical history, including co-occurring disorders;
 - c. Opioid to be prescribed;
 - d. Other medications or herbal supplements being taken by the patient;
 - e. Effectiveness of the patient's current treatment;
 - f. Duration of the current treatment;
 - g. Alternative treatments tried by or planned for the patient;
 - h. Expected benefit of a new treatment compared with continuing the current treatment; and
 - i. Other factors relevant to the patient;
5. Explains to the patient the risks and benefits associated with the use of opioids;
6. Explains alternatives to a prescribed opioid; and
7. Obtains informed consent from the patient or the patient's representative that includes:
- a. The patient's:
 - i. Name;
 - ii. Date of birth;
 - iii. Address;
 - iv. Condition for which opioids are being prescribed or used;
 - v. Telephone number; and
 - vi. E-mail address, if applicable;
 - b. The potential risks, adverse reactions, complications, and medication interactions associated with the use of opioids;
 - c. If the patient is also prescribed a benzodiazepine, the potential risks, adverse outcomes, and complications associated with the concurrent use of an opioid and benzodiazepine;
 - d. Alternatives to a prescribed opioid;
 - e. Name and signature of the personnel member explaining the use of an opioid to the patient; and
 - f. The signature of the patient or patient's representative and the date signed.
- D. Except as provided in subsection (E), an administrator shall ensure that an individual authorized by policies and procedures to administer an opioid in treating a patient:
- 1. Before administering an opioid in compliance with an order as part of the treatment for a patient, identifies the patient's pain before the opioid is administered;
 - 2. Monitors the patient's response to the opioid; and
 - 3. Documents in the patient's medical record:
 - a. An identification of the patient's pain before the opioid was administered, and
 - b. The effect of the opioid administered.
- E. The requirements in subsections (B), (C), and (D) do not apply to a health care institution's prescription, ordering, or administration of opioids as part of treatment for a patient with a terminal condition.

Historical Note

New Section made by emergency rulemaking at 23 A.A.R. 2203, effective July 28, 2017, for 180 days (Supp. 17-3).

R9-10-121. Repealed**Historical Note**

Amended effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3).

R9-10-122. Repealed**Historical Note**

New Section made by final rulemaking at 7 A.A.R. 2145, effective May 1, 2001 (Supp. 01-2). Amended by final rulemaking at 8 A.A.R. 3578, effective July 26, 2002 (Supp. 02-3). Amended by exempt rulemaking at 14 A.A.R. 3958, effective September 26, 2008 (Supp. 08-3). Amended by exempt rulemaking at 15 A.A.R. 2100, effective January 1, 2010 (Supp. 09-4). Section repealed by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

R9-10-123. Repealed**Historical Note**

Amended effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3).

R9-10-124. Repealed**Historical Note**

Former Section R9-10-124 repealed, new Section R9-10-124 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3).

ARTICLE 2. HOSPITALS**R9-10-201. Definitions**

In addition to the definitions in A.R.S. § 36-401 and R9-10-101, the following definitions apply in this Article unless otherwise specified:

- 1. "Acuity" means a patient's need for hospital services based on the patient's medical condition.
- 2. "Acuity plan" means a method for establishing nursing personnel requirements by unit based on a patient's acuity.
- 3. "Adult" means an individual the hospital designates as an adult based on the hospital's criteria.
- 4. "Care plan" means a documented guide for providing nursing services and rehabilitation services to a patient that includes measurable objectives and the methods for meeting the objectives.
- 5. "Continuing care nursery" means a nursery where medical services and nursing services are provided to a neonate who does not require intensive care services.
- 6. "Critically ill inpatient" means an inpatient whose severity of medical condition requires the nursing services of specially trained registered nurses for:
 - a. Continuous monitoring and multi-system assessment,
 - b. Complex and specialized rapid intervention, and
 - c. Education of the inpatient or inpatient's representative.
- 7. "Device" has the same meaning as in A.R.S. § 32-1901.
- 8. "Diet" means food and drink provided to a patient.
- 9. "Diet manual" means a written compilation of diets.
- 10. "Dietary services" means providing food and drink to a patient according to an order.
- 11. "Diversion" means notification to an emergency medical services provider, as defined in A.R.S. § 36-2201, that a hospital is unable to receive a patient from an emergency medical services provider.
- 12. "Drug formulary" means a written list of medications available and authorized for use developed according to R9-10-218.

13. "Emergency services" means unscheduled medical services provided in a designated area to an outpatient in an emergency.
14. "Gynecological services" means medical services for the diagnosis, treatment, and management of conditions or diseases of the female reproductive organs or breasts.
15. "Hospital services" means medical services, nursing services, and health-related services provided in a hospital.
16. "Infection control risk assessment" means determining the probability for transmission of communicable diseases.
17. "Inpatient" means an individual who:
 - a. Is admitted to a hospital as an inpatient according to policies and procedures,
 - b. Is admitted to a hospital with the expectation that the individual will remain and receive hospital services for 24 consecutive hours or more, or
 - c. Receives hospital services for 24 consecutive hours or more.
18. "Intensive care services" means hospital services provided to a critically ill inpatient who requires the services of specially trained nursing and other personnel members as specified in policies and procedures.
19. "Medical staff regulations" means standards, approved by the medical staff, that govern the day-to-day conduct of the medical staff members.
20. "Multi-organized service unit" means an inpatient unit in a hospital where more than one organized service may be provided to a patient in the inpatient unit.
21. "Neonate" means an individual:
 - a. From birth until discharge following birth, or
 - b. Who is designated as a neonate by hospital criteria.
22. "Nurse anesthetist" means a registered nurse who meets the requirements of A.R.S. § 32-1661 and who has clinical privileges to administer anesthesia.
23. "Nurse executive" means a registered nurse accountable for the direction of nursing services provided in a hospital.
24. "Nursery" means an area in a hospital designated only for neonates.
25. "Nurse supervisor" means a registered nurse accountable for managing nursing services provided in an organized service in a hospital.
26. "Nutrition assessment" means a process for determining a patient's dietary needs using information contained in the patient's medical record.
27. "On duty" means that an individual is at work and performing assigned responsibilities.
28. "Organized service" means specific medical services, such as surgical services or emergency services, provided in an area of a hospital designated for the provision of those medical services.
29. "Outpatient" means an individual who:
 - a. Is admitted to a hospital with the expectation that the individual will receive hospital services for less than 24 consecutive hours; or
 - b. Except as provided in subsection (17) receives, hospital services for less than 24 consecutive hours.
30. "Pathology" means an examination of human tissue for the purpose of diagnosis or treatment of an illness or disease.
31. "Patient care" means hospital services provided to a patient by a personnel member or a medical staff member.
32. "Pediatric" means pertaining to an individual designated by a hospital as a child based on the hospital's criteria.
33. "Perinatal services" means medical services for the treatment and management of obstetrical patients and neonates.
34. "Post-anesthesia care unit" means a designated area for monitoring a patient following a medical procedure for which anesthesia was administered to the patient.
35. "Private duty staff" means an individual, excluding a personnel member, compensated by a patient or the patient's representative.
36. "Psychiatric services" means the diagnosis, treatment, and management of a mental disorder.
37. "Rehabilitation services" means medical services provided to a patient to restore or to optimize functional capability.
38. "Single group license" means a license that includes authorization to operate health care institutions according to A.R.S. § 36-422(F) or (G).
39. "Social services" means assistance, other than medical services or nursing services, provided by a personnel member to a patient to assist the patient to cope with concerns about the patient's illness or injury while in the hospital or the anticipated needs of the patient after discharge.
40. "Specialty" means a specific branch of medicine practiced by a licensed individual who has obtained education or qualifications in the specific branch in addition to the education or qualifications required for the individual's license.
41. "Surgical services" means medical services involving a surgical procedure.
42. "Transfusion" means the introduction of blood or blood products from one individual into the body of another individual.
43. "Unit" means a designated area of an organized service.
44. "Vital record" has the same meaning as in A.R.S. § 36-301.
45. "Well-baby bassinet" means a receptacle used for holding a neonate who does not require treatment and whose anticipated discharge is within 96 hours after birth.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Amended by final rulemaking at 11 A.A.R. 536, effective March 5, 2005 (Supp. 05-1). Amended by final rulemaking at 14 A.A.R. 4646, effective December 2, 2008 (Supp. 08-4). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-202. Supplemental Application Requirements

- A. In addition to the license application requirements in A.R.S. § 36-422 and 9 A.A.C. 10, Article 1, an applicant for an initial license shall include:
 1. On the application the requested licensed capacity for the hospital, including:
 - a. The number of inpatient beds for each organized service, not including well-baby bassinets; and
 - b. If applicable, the number of inpatient beds for each multi-organized service unit;
 2. On the application, if applicable, the requested licensed occupancy for providing behavioral health observation/stabilization services to:
 - a. Individuals who are under 18 years of age, and
 - b. Individuals 18 years of age and older; and

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3. A list, in a format provided by the Department, of medical staff specialties and subspecialties.
 - B.** For a single group license authorized in A.R.S. § 36-422(F), in addition to the requirements in subsection (A), a governing authority applying for an initial or renewal license shall submit the following to the Department, in a format provided by the Department, for each satellite facility under the single group license:
 1. The name, address, and telephone number of the satellite facility;
 2. The name of the administrator; and
 3. The hours of operation during which the satellite facility provides medical services, nursing services, or health-related services.
 - C.** For a single group license authorized in A.R.S. § 36-422(G), in addition to the requirements in subsection (A), a governing authority applying for an initial or renewal license shall submit the following to the Department in a format provided by the Department for each accredited satellite facility under the single group license:
 1. The name, address, and telephone number of the accredited satellite facility;
 2. The name of the administrator;
 3. The hours of operation during which the accredited satellite facility provides medical services, nursing services, or health-related services; and
 4. A copy of the accredited satellite facility's current accreditation report.
 - D.** A governing authority shall:
 1. Notify the Department at least 30 calendar days before a satellite facility or an accredited satellite facility on a single group license terminates operations; and
 2. Submit an application, according to the requirements in 9 A.A.C. 10, Article 1, at least 60 calendar days but not more than 120 calendar days before a satellite facility or an accredited satellite facility licensed under a single group license anticipates providing medical services, nursing services, or health-related services under a license separate from the single group license.
- Historical Note**
- New Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Amended by final rulemaking at 14 A.A.R. 4646, effective December 2, 2008 (Supp. 08-4). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).
- R9-10-203. Administration**
- A.** A governing authority shall:
 1. Consist of one or more individuals responsible for the organization, operation, and administration of a hospital;
 2. Establish, in writing:
 - a. A hospital's scope of services,
 - b. Qualifications for an administrator,
 - c. Which organized services are to be provided in the hospital, and
 - d. The organized services that are to be provided in a multi-organized service unit according to R9-10-228(A);
 3. Designate, in writing, an administrator who has the qualifications established in subsection (A)(2)(b);
 4. Grant, deny, suspend, or revoke a clinical privilege of a medical staff member or delegate authority to an individual to grant or suspend a clinical privilege for a limited time, according to medical staff by-laws;
 5. Adopt a quality management program according to R9-10-204;
 6. Review and evaluate the effectiveness of the quality management program at least once every 12 months;
 7. Designate, in writing, an acting administrator who has the qualifications established in subsection (A)(2)(b) if the administrator is:
 - a. Expected not to be present on a hospital's premises for more than 30 calendar days, or
 - b. Not present on a hospital's premises for more than 30 calendar days;
 8. Except as provided in (A)(7), notify the Department according to A.R.S. § 36-425(I) if there is a change of administrator and identify the name and qualifications of the new administrator; and
 9. For a health care institution under a single group license, ensure that the health care institution complies with the applicable requirements in this Chapter for the class or subclass of the health care institution.
- B.** An administrator:
 1. Is directly accountable to the governing authority of a hospital for the daily operation of the hospital and hospital services and environmental services provided by or at the hospital;
 2. Has the authority and responsibility to manage the hospital; and
 3. Except as provided in subsection (A)(7), shall designate, in writing, an individual who is present on a hospital's premises and available and accountable for hospital services and environmental services when the administrator is not present on the hospital's premises.
 - C.** An administrator shall ensure that:
 1. Policies and procedures are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Cover job descriptions, duties, and qualifications including required skills and knowledge for personnel members, employees, volunteers, and students;
 - b. Cover orientation and in-service education for personnel members, employees, volunteers, and students;
 - c. Include how a personnel member may submit a complaint relating to patient care;
 - d. Cover the requirements in Title 36, Chapter 4, Article 11;
 - e. Cover cardiopulmonary resuscitation training required in R9-10-206(5) including:
 - i. The method and content of cardiopulmonary resuscitation training,
 - ii. The qualifications for an individual to provide cardiopulmonary resuscitation training,
 - iii. The time-frame for renewal of cardiopulmonary resuscitation training, and
 - iv. The documentation that verifies an individual has received cardiopulmonary resuscitation training;
 - f. Cover use of private duty staff, if applicable;
 - g. Cover diversion, including:
 - i. The criteria for initiating diversion;
 - ii. The categories or levels of personnel or medical staff that may authorize or terminate diversion;
 - iii. The method for notifying emergency medical services providers of initiation of diversion, the

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- type of diversion, and termination of diversion; and
 - iv. When the need for diversion will be reevaluated;
 - h. Include a method to identify a patient to ensure the patient receives hospital services as ordered;
 - i. Cover patient rights, including assisting a patient who does not speak English or who has a disability to become aware of patient rights;
 - j. Cover health care directives;
 - k. Cover medical records, including electronic medical records;
 - l. Cover quality management, including incident report and supporting documentation;
 - m. Cover contracted services;
 - n. Cover tissue and organ procurement and transplant; and
 - o. Cover when an individual may visit a patient in a hospital, including visiting a neonate in a nursery, if applicable;
2. Policies and procedures for hospital services are established, documented, and implemented to protect the health and safety of a patient that:
- a. Cover patient screening, admission, transport, transfer, discharge planning, and discharge;
 - b. Cover the provision of hospital services;
 - c. Cover acuity, including a process for obtaining sufficient nursing personnel to meet the needs of patients;
 - d. Include when general consent and informed consent are required;
 - e. Include the age criteria for providing hospital services to pediatric patients;
 - f. Cover dispensing, administering, and disposing of medication;
 - g. Cover prescribing a controlled substance to minimize substance abuse by a patient;
 - h. Cover infection control;
 - i. Cover restraints that:
 - i. Require an order, including the frequency of monitoring and assessing the restraint; or
 - ii. Are necessary to prevent imminent harm to self or others, including how personnel members will respond to a patient's sudden, intense, or out-of-control behavior;
 - j. Cover seclusion of a patient including:
 - i. The requirements for an order, and
 - ii. The frequency of monitoring and assessing a patient in seclusion;
 - k. Cover communicating with a midwife when the midwife's client begins labor and ends labor;
 - l. Cover telemedicine, if applicable; and
 - m. Cover environmental services that affect patient care;
3. Policies and procedures are reviewed at least once every three years and updated as needed;
4. Policies and procedures are available to personnel members;
5. The licensed capacity in an organized service is not exceeded except for an emergency admission of a patient;
6. A patient is only admitted to an organized service that has exceeded the organized service's licensed capacity after a medical staff member reviews the medical history of the patient and determines that the patient's admission is an emergency; and
7. Unless otherwise stated:
- a. Documentation required by this Article is provided to the Department within two hours after a Department request; and
 - b. When documentation or information is required by this Chapter to be submitted on behalf of a hospital, the documentation or information is provided to the unit in the Department that is responsible for licensing and monitoring the hospital.
- D.** An administrator of a special hospital shall ensure that:
- 1. Medical services are available to an inpatient in an emergency based on the inpatient's medical conditions and the scope of services provided by the special hospital; and
 - 2. A physician or nurse, qualified in cardiopulmonary resuscitation, is on the hospital premises.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Amended by final rulemaking at 11 A.A.R. 536, effective March 5, 2005 (Supp. 05-1). Amended by final rulemaking at 12 A.A.R. 4004, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 14 A.A.R. 4646, effective December 2, 2008 (Supp. 08-4). Amended by final rulemaking at 16 A.A.R. 688, effective November 1, 2010 (Supp. 10-2). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-204. Quality Management

- A.** A governing authority shall ensure that an ongoing quality management program is established that:
- 1. Complies with the requirements in A.R.S. § 36-445; and
 - 2. Evaluates the quality of hospital services and environmental services related to patient care.
- B.** An administrator shall ensure that:
- 1. A plan is established, documented, and implemented for an ongoing quality management program that, at a minimum, includes:
 - a. A method to identify, document, and evaluate incidents;
 - b. A method to collect data to evaluate hospital services and environmental services related to patient care;
 - c. A method to evaluate the data collected to identify a concern about the delivery of hospital services or environmental services related to patient care;
 - d. A method to make changes or take action as a result of the identification of a concern about the delivery of hospital services or environmental services related to patient care;
 - e. A method to identify and document each occurrence of exceeding licensed capacity, as described in R9-10-203(C)(5), and to evaluate the occurrences of exceeding licensed capacity, including the actions taken for resolving occurrences of exceeding licensed capacity; and
 - f. The frequency of submitting a documented report required in subsection (B)(2) to the governing authority;
 - 2. A documented report is submitted to the governing authority that includes:
 - a. An identification of each concern about the delivery of hospital services or environmental services related to patient care, and

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- b. Any changes made or actions taken as a result of the identification of a concern about the delivery of hospital services or environmental services related to patient care;
3. The acuity plan required in R9-10-214(C)(2) is reviewed and evaluated at least once every 12 months and the results are documented and reported to the governing authority;
4. The reports required in subsections (B)(2) and (3) and the supporting documentation for the reports are maintained for at least 12 months after the date the report is submitted to the governing authority; and
5. Except for information or documentation that is confidential under federal or state law, a report or documentation required in this Section is provided to the Department for review within two hours after the Department's request.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Amended by final rulemaking at 11 A.A.R. 536, effective March 5, 2005 (Supp. 05-1). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-205. Contracted Services

An administrator shall ensure that:

1. Contracted services are provided according to the requirements in this Article, and
2. A documented list of current contracted services is maintained that includes a description of the contracted services provided.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

R9-10-206. Personnel

An administrator shall ensure that:

1. The qualifications, skills, and knowledge required for each type of personnel member:
 - a. Are based on:
 - i. The type of physical health services or behavioral health services expected to be provided by the personnel member according to the established job description, and
 - ii. The acuity of the patients receiving physical health services or behavioral health services from the personnel member according to the established job description; and
 - b. Include:
 - i. The specific skills and knowledge necessary for the personnel member to provide the expected physical health services and behavioral health services listed in the established job description,
 - ii. The type and duration of education that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services or behavioral health services listed in the established job description, and
 - iii. The type and duration of experience that may allow the personnel member to have acquired

the specific skills and knowledge for the personnel member to provide the expected physical health services or behavioral health services listed in the established job description;

2. A personnel member's skills and knowledge are verified and documented:
 - a. Before the personnel member provides physical health services or behavioral health services, and
 - b. According to policies and procedures;
3. Sufficient personnel members are present on a hospital's premises with the qualifications, skills, and knowledge necessary to:
 - a. Provide the services in the hospital's scope of services,
 - b. Meet the needs of a patient, and
 - c. Ensure the health and safety of a patient;
4. Orientation occurs within the first 30 calendar days after a personnel member begins providing hospital services and includes:
 - a. Informing a personnel member about Department rules for licensing and regulating hospitals and where the rules may be obtained,
 - b. Reviewing the process by which a personnel member may submit a complaint about patient care to a hospital, and
 - c. Providing the information required by policies and procedures;
5. Policies and procedures designate the categories of personnel providing medical services or nursing services who are:
 - a. Required to be qualified in cardiopulmonary resuscitation within 30 calendar days after the individual's starting date, and
 - b. Required to maintain current qualifications in cardiopulmonary resuscitation;
6. A personnel record for each personnel member is established and maintained and includes:
 - a. The personnel member's name, date of birth, and contact telephone number;
 - b. The personnel member's starting date and, if applicable, ending date;
 - c. Verification of a personnel member's certification, license, or education, if necessary for the position held;
 - d. Documentation of evidence of freedom from infectious tuberculosis required in R9-10-230(A)(5);
 - e. Verification of current cardiopulmonary resuscitation qualifications, if necessary for the position held; and
 - f. Orientation documentation;
7. Personnel receive in-service education according to criteria established in policies and procedures;
8. In-service education documentation for a personnel member includes:
 - a. The subject matter,
 - b. The date of the in-service education, and
 - c. The signature of the personnel member;
9. Personnel records and in-service education documentation are maintained by the hospital for at least 24 months after the last date the personnel member worked; and
10. Personnel records and in-service education documentation, for a personnel member who has not worked in the hospital during the previous 12 months, are provided to the Department within 72 hours after the Department's request.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Amended by final rulemaking at 11 A.A.R. 536, effective March 5, 2005 (Supp. 05-1). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-207. Medical Staff**A.** A governing authority shall ensure that:

1. The organized medical staff is directly accountable to the governing authority for the quality of care provided by a medical staff member to a patient in a hospital;
2. The medical staff bylaws and medical staff regulations are approved according to the medical staff bylaws and governing authority requirements;
3. A medical staff member complies with medical staff bylaws and medical staff regulations;
4. The medical staff of a general hospital or a special hospital includes at least two physicians who have clinical privileges to admit inpatients to the general hospital or special hospital;
5. The medical staff of a rural general hospital includes at least one physician who has clinical privileges to admit inpatients to the rural general hospital and one additional physician who serves on a committee according to subsection (A)(7)(c);
6. A medical staff member is available to direct patient care;
7. Medical staff bylaws or medical staff regulations are established, documented, and implemented for the process of:
 - a. Conducting peer review according to A.R.S. Title 36, Chapter 4, Article 5;
 - b. Appointing members to the medical staff, subject to approval by the governing authority;
 - c. Establishing committees including identifying the purpose and organization of each committee;
 - d. Appointing one or more medical staff members to a committee;
 - e. Obtaining and documenting permission for an autopsy of a patient, performing an autopsy, and notifying, if applicable, the medical practitioner coordinating the patient's medical services when an autopsy is performed;
 - f. Requiring that each inpatient has a medical practitioner who coordinates the inpatient's care;
 - g. Defining the responsibilities of a medical staff member to provide medical services to the medical staff member's patient;
 - h. Defining a medical staff member's responsibilities for the transport or transfer of a patient;
 - i. Specifying requirements for oral, telephone, and electronic orders including which orders require identification of the time of the order;
 - j. Establishing a time-frame for a medical staff member to complete a patient's medical record;
 - k. Establishing criteria for granting, denying, revoking, and suspending clinical privileges;
 - l. Specifying pre-anesthesia and post-anesthesia responsibilities for medical staff members; and
 - m. Approving the use of medication and devices under investigation by the U.S. Department of Health and Human Services, Food and Drug Administration including:
 - i. Establishing criteria for patient selection;

- ii. Obtaining informed consent before administering the investigational medication or device; and
- iii. Documenting the administration of and, if applicable, the adverse reaction to an investigational medication or device; and

8. The organized medical staff reviews the medical staff bylaws and the medical staff regulations at least once every three years and updates the bylaws and regulations as needed.

B. An administrator shall ensure that:

1. A medical staff member provides evidence of freedom from infectious tuberculosis according to the requirements in R9-10-230(A)(5);
2. A record for each medical staff member is established and maintained that includes:
 - a. A completed application for clinical privileges;
 - b. The dates and lengths of appointment and reappointment of clinical privileges;
 - c. The specific clinical privileges granted to the medical staff member, including revision or revocation dates for each clinical privilege; and
 - d. A verification of current Arizona health care professional active license according to A.R.S. Title 32; and
3. Except for documentation of peer review conducted according to A.R.S. § 36-445, a record under subsection (B)(2) is provided to the Department for review:
 - a. As soon as possible, but not more than two hours after the time of the Department's request, if the individual is a current medical staff member; and
 - b. Within 72 hours after the time of the Department's request if the individual is no longer a current medical staff member.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-208. Admission

An administrator shall ensure that:

1. A patient is admitted as an inpatient on the order of a medical staff member;
2. An individual, authorized by policies and procedures, is available to accept a patient for admission;
3. Except in an emergency, informed consent is obtained from a patient or the patient's representative before or at the time of admission;
4. The informed consent obtained in subsection (3) or the lack of consent in an emergency is documented in the patient's medical record;
5. A physician or other medical staff member performs a medical history and physical examination on a patient within 30 calendar days before admission or within 48 hours after admission and documents the medical history and physical examination in the patient's medical record within 48 hours after admission; and
6. If a physician or other medical staff member performs a medical history and physical examination on a patient before admission, the physician or the medical staff member enters an interval note into the patient's medical record at the time of admission.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Amended by final rulemaking at 11 A.A.R. 536, effective March 5, 2005 (Supp. 05-1). Section R9-10-208 renumbered to R9-10-214; new Section R9-10-208 renumbered from R9-10-210 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-209. Discharge Planning; Discharge

- A.** For an inpatient, an administrator shall ensure that discharge planning:
1. Identifies the specific needs of the patient after discharge, if applicable;
 2. Includes the participation of the patient or the patient's representative;
 3. Is completed before discharge occurs;
 4. Provides the patient or the patient's representative with written information identifying classes or subclasses of health care institutions and the level of care that the health care institutions provide that may meet the patient's assessed and anticipated needs after discharge, if applicable; and
 5. Is documented in the patient's medical record.
- B.** For an inpatient discharge or a transfer of an inpatient, an administrator shall ensure that:
1. There is a discharge summary that includes:
 - a. A description of the patient's medical condition and the medical services provided to the patient; and
 - b. The signature of the medical practitioner coordinating the patient's medical services;
 2. There is a documented discharge order for the patient by a medical practitioner coordinating the patient's medical services before discharge unless the patient leaves the hospital against a medical staff member's advice; and
 3. If the patient is not being transferred:
 - a. There are documented discharge instructions; and
 - b. The patient or the patient's representative is provided with a copy of the discharge instructions.
- C.** Except as provided in subsection (D), an administrator shall ensure that an outpatient is discharged according to policies and procedures.
- D.** For a discharge of an outpatient receiving emergency services, an administrator shall ensure that:
1. A discharge order is documented by a medical practitioner who provided medical services to the patient before the patient is discharged unless the patient leaves against a medical staff member's advice; and
 2. Discharge instructions are documented and provided to the patient or the patient's representative before the patient is discharged unless the patient leaves the hospital against a medical staff member's advice.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Amended by final rulemaking at 11 A.A.R. 536, effective March 5, 2005 (Supp. 05-1). Section R9-10-209 renumbered to R9-10-212; new Section R9-10-209 renumbered from R9-10-211 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

R9-10-210. Transport

- A.** For a transport of a patient, the administrator of a sending hospital shall ensure that:

1. Policies and procedures are established, documented, and implemented that:
 - a. Specify the process by which the sending hospital personnel members coordinate the transport and the medical services provided to a patient to protect the health and safety of the patient;
 - b. Require an assessment of the patient by a registered nurse or a medical staff member before transporting the patient and after the patient's return;
 - c. Specify the information in the sending hospital's patient medical record that is required to accompany the patient, which shall include the information related to the medical services to be provided to the patient at the receiving health care institution;
 - d. Specify how the sending hospital personnel members communicate patient medical record information that the sending hospital does not provide at the time of transport but is requested by the receiving health care institution; and
 - e. Specify how a medical staff member explains the risks and benefits of a transport to the patient or the patient's representative based on the:
 - i. Patient's medical condition, and
 - ii. Mode of transport; and
 2. Documentation in the patient's medical record includes:
 - a. Consent for transport by the patient or the patient's representative or why consent could not be obtained;
 - b. The acceptance of the patient by and communication with an individual at the receiving health care institution;
 - c. The date and the time of the transport to the receiving health care institution;
 - d. The date and time of the patient's return to the sending hospital, if applicable;
 - e. The mode of transportation; and
 - f. The type of personnel member or medical staff member assisting in the transport if an order requires that a patient be assisted during transport.
- B.** For a transport of a patient to a receiving hospital, the administrator of the receiving hospital shall ensure that:
1. Policies and procedures are established, documented, and implemented that:
 - a. Specify the process by which the receiving hospital personnel members coordinate the transport and the medical services provided to a patient to protect the health and safety of the patient;
 - b. Require an assessment of the patient by a registered nurse or a medical staff member upon arrival of the patient and before the patient is returned to the sending hospital unless the receiving facility is a satellite facility, as established in A.R.S. § 36-422, and does not have a registered nurse or a medical staff member at the satellite facility;
 - c. Specify the information in the receiving hospital's patient medical record required to accompany the patient when the patient is returned to the sending hospital, if applicable; and
 - d. Specify how the receiving hospital personnel members communicate patient medical record information to the sending hospital that is not provided at the time of the patient's return; and
 2. Documentation in the patient's medical record includes:
 - a. The date and time the patient arrives at the receiving hospital;
 - b. The medical services provided to the patient at the receiving hospital;

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- c. Any adverse reaction or negative outcome the patient experiences at the receiving hospital, if applicable;
- d. The date and time the receiving hospital returns the patient to the sending hospital, if applicable;
- e. The mode of transportation to return the patient to the sending hospital, if applicable; and
- f. The type of personnel member or medical staff member assisting in the transport if an order requires that a patient be assisted during transport.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Section R9-10-210 renumbered to R9-10-208; new Section R9-10-210 renumbered from R9-10-212 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-211. Transfer

For a transfer of a patient, the administrator of a sending hospital shall ensure that:

1. Policies and procedures are established, documented, and implemented that:
 - a. Specify the process by which the sending hospital personnel members coordinate the transfer and the medical services provided to a patient to protect the health and safety of the patient during the transfer;
 - b. Require an assessment of the patient by a registered nurse or a medical staff member of the sending hospital before the patient is transferred;
 - c. Specify how the sending hospital personnel members communicate medical record information that is not provided at the time of the transfer; and
 - d. Specify how a medical staff member explains the risks and benefits of a transfer to the patient or the patient's representative based on the:
 - i. Patient's medical condition, and
 - ii. Mode of transfer;
2. One of the following accompanies the patient during transfer:
 - a. A copy of the patient's medical record for the current inpatient admission; or
 - b. All of the following for the current inpatient admission:
 - i. A medical staff member's summary of medical services provided to the patient,
 - ii. A care plan containing up-to-date information,
 - iii. Consultation reports,
 - iv. Laboratory and radiology reports,
 - v. A record of medications administered to the patient for the seven calendar days before the date of transfer,
 - vi. Medical staff member's orders in effect at the time of transfer, and
 - vii. Any known allergy; and
3. Documentation in the patient's medical record includes:
 - a. Consent for transfer by the patient or the patient's representative, except in an emergency;
 - b. The acceptance of the patient by and communication with an individual at the receiving health care institution;
 - c. The date and the time of the transfer to the receiving health care institution;
 - d. The mode of transportation; and

- e. The type of personnel member or medical staff member assisting in the transfer if an order requires that a patient be assisted during transfer.

Historical Note

Former Section R9-10-211 renumbered as R9-10-311 as an emergency effective February 22, 1979, new Section R9-10-211 adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Section R9-10-211 renumbered to R9-10-209; new Section R9-10-211 renumbered from R9-10-213 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

R9-10-212. Patient Rights

A. An administrator shall ensure that:

1. The requirements in subsection (B) and the patient rights in subsection (C) are conspicuously posted on the hospital's premises;
2. At the time of admission, a patient or the patient's representative receives a written copy of the requirements in subsection (B) and the patient rights in subsection (C); and
3. Policies and procedures include:
 - a. How and when a patient or the patient's representative is informed of patient rights in subsection (C), and
 - b. Where patient rights are posted as required in subsection (A)(1).

B. An administrator shall ensure that:

1. A patient is treated with dignity, respect, and consideration;
2. A patient is not subjected to:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Coercion;
 - e. Manipulation;
 - f. Sexual abuse;
 - g. Sexual assault;
 - h. Seclusion, except as allowed under R9-10-217 or R9-10-225;
 - i. Restraint, if not necessary to prevent imminent harm to self or others or as allowed under R9-10-225;
 - j. Retaliation for submitting a complaint to the Department or another entity; or
 - k. Misappropriation of personal and private property by a hospital's medical staff, personnel members, employees, volunteers, or students; and
3. A patient or the patient's representative:
 - a. Except in an emergency, either consents to or refuses treatment;
 - b. May refuse examination or withdraw consent for treatment before treatment is initiated;
 - c. Is informed of:
 - i. Except in an emergency, alternatives to a proposed psychotropic medication or surgical procedure and associated risks and possible complications of the proposed psychotropic medication or surgical procedure;
 - ii. How to obtain a schedule of hospital rates and charges required in A.R.S. § 36-436.01(B);
 - iii. The patient complaint policies and procedures, including the telephone number of hospital personnel to contact about complaints, and the

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- Department's telephone number if the hospital is unable to resolve the patient's complaint; and
- iv. Except as authorized by the Health Insurance Portability and Accountability Act of 1996, proposed involvement of the patient in research, experimentation, or education, if applicable;
 - d. Except in an emergency, is provided a description of the health care directives policies and procedures:
 - i. If an inpatient, at the time of admission; or
 - ii. If an outpatient:
 - (1) Before any invasive procedure, except phlebotomy for obtaining blood for diagnostic purposes; or
 - (2) If the hospital services include a planned series of treatments, at the start of each series;
 - e. Consents to photographs of the patient before the patient is photographed, except that a patient may be photographed when admitted to a hospital for identification and administrative purposes; and
 - f. Except as otherwise permitted by law, provides written consent to the release of information in the patient's:
 - i. Medical record, or
 - ii. Financial records.

C. A patient has the following rights:

1. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, or diagnosis;
2. To receive treatment that supports and respects the patient's individuality, choices, strengths, and abilities;
3. To receive privacy in treatment and care for personal needs;
4. To have access to a telephone;
5. To review, upon written request, the patient's own medical record according to A.R.S. §§ 12-2293, 12-2294, and 12-2294.01;
6. To receive a referral to another health care institution if the hospital is not authorized or not able to provide physical health services or behavioral health services needed by the patient;
7. To participate or have the patient's representative participate in the development of, or decisions concerning, treatment;
8. To participate or refuse to participate in research or experimental treatment; and
9. To receive assistance from a family member, representative, or other individual in understanding, protecting, or exercising the patient's rights.

Historical Note

Former Section R9-10-212 renumbered as R9-10-312 as an emergency effective February 22, 1979, new Section R9-10-212 adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Amended by final rulemaking at 11 A.A.R. 536, effective March 5, 2005 (Supp. 05-1). Section R9-10-212 renumbered to R9-10-210; new Section R9-10-212 renumbered from R9-10-209 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-213. Medical Records**A.** An administrator shall ensure that:

1. A medical record is established and maintained for each patient according to A.R.S. § Title 12, Chapter 13, Article 7.1;
2. An entry in a patient's medical record is:
 - a. Recorded only by a personnel member authorized by policies and procedures to make the entry;
 - b. Dated, legible, and authenticated; and
 - c. Not changed to make the initial entry illegible;
3. An order is:
 - a. Dated when the order is entered in the patient's medical record and includes the time of the order;
 - b. Authenticated by a medical staff member according to policies and procedures; and
 - c. If the order is a verbal order, authenticated by a medical staff member or medical practitioner;
4. If a rubber-stamp signature or an electronic signature is used to authenticate an order, the individual whose signature the rubber-stamp signature or electronic signature represents is accountable for the use of the rubber-stamp signature or electronic signature;
5. A patient's medical record is available to personnel members and medical staff members authorized by policies and procedures to access the medical record;
6. Policies and procedures include the maximum time-frame to retrieve an onsite or off-site patient's medical record at the request of a medical staff member or authorized personnel member; and
7. A patient's medical record is protected from loss, damage, or unauthorized use.

B. If a hospital maintains patients' medical records electronically, an administrator shall ensure that:

1. Safeguards exist to prevent unauthorized access, and
2. The date and time of an entry in a patient's medical record is recorded by the computer's internal clock.

C. An administrator shall ensure that a medical record for an inpatient contains:

1. Patient information that includes:
 - a. The patient's name;
 - b. The patient's address;
 - c. The patient's date of birth; and
 - d. Any known allergy, including medication allergies or sensitivities;
2. Medication information that includes:
 - a. A medication ordered for the patient; and
 - b. A medication administered to the patient including:
 - i. The date and time of administration;
 - ii. The name, strength, dosage, amount, and route of administration;
 - iii. The identification and authentication of the individual administering the medication; and
 - iv. Any adverse reaction the patient has to the medication;
3. Documentation of general consent and, if applicable, informed consent for treatment by the patient or the patient's representative, except in an emergency;
4. A medical history and results of a physical examination or an interval note;
5. If the patient provides a health care directive, the health care directive signed by the patient;
6. An admitting diagnosis;
7. The date of admission and, if applicable, the date of discharge;
8. Names of the admitting medical staff member and medical practitioners coordinating the patient's care;

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9. If applicable, the name and contact information of the patient's representative and:
 - a. If the patient is 18 years of age or older or an emancipated minor, the document signed by the patient consenting for the patient's representative to act on the patient's behalf; or
 - b. If the patient's representative:
 - i. Has a health care power of attorney established under A.R.S. § 36-3221 or a mental health care power of attorney executed under A.R.S. § 36-3282, a copy of the health care power of attorney or mental health care power of attorney; or
 - ii. Is a legal guardian, a copy of the court order establishing guardianship;
 10. Orders;
 11. Care plans;
 12. Documentation of hospital services provided to the patient;
 13. Progress notes;
 14. The disposition of the patient after discharge;
 15. Discharge planning, including discharge instructions required in R9-10-209(B)(3);
 16. A discharge summary; and
 17. If applicable:
 - a. A laboratory report,
 - b. A pathology report,
 - c. An autopsy report,
 - d. A radiologic report,
 - e. A diagnostic imaging report,
 - f. Documentation of restraint or seclusion, and
 - g. A consultation report.
- D.** An administrator shall ensure that a hospital's medical record for an outpatient contains:
1. Patient information that includes:
 - a. The patient's name;
 - b. The patient's address;
 - c. The patient's date of birth;
 - d. The name and contact information of the patient's representative, if applicable; and
 - e. Any known allergy including medication allergies or sensitivities;
 2. If necessary for treatment, medication information that includes:
 - a. A medication ordered for the patient; and
 - b. A medication administered to the patient including:
 - i. The date and time of administration;
 - ii. The name, strength, dosage, amount, and route of administration;
 - iii. The identification and authentication of the individual administering the medication; and
 - iv. Any adverse reaction the patient has to the medication;
 3. Documentation of general and, if applicable, informed consent for treatment by the patient or the patient's representative, except in an emergency;
 4. An admitting diagnosis or reason for outpatient medical services;
 5. Orders;
 6. Documentation of hospital services provided to the patient; and
 7. If applicable:
 - a. A laboratory report,
 - b. A pathology report,
 - c. An autopsy report,
 - d. A radiologic report,
 - e. A diagnostic imaging report,
 - f. Documentation of restraint or seclusion, and
 - g. A consultation report.
- E.** In addition to the requirements in subsection (D), an administrator shall ensure that the hospital's record of emergency services provided to a patient contains:
1. Documentation of treatment the patient received before arrival at the hospital, if available;
 2. The patient's medical history;
 3. An assessment, including the name of the individual performing the assessment;
 4. The patient's chief complaint;
 5. The name of the individual who treated the patient in the emergency room, if applicable; and
 6. The disposition of the patient after discharge.

Historical Note

Former Section R9-10-213 renumbered as R9-10-313 as an emergency effective February 23, 1979, new Section R9-10-213 adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Amended by final rulemaking at 11 A.A.R. 536, effective March 5, 2005 (Supp. 05-1). Section R9-10-213 renumbered to R9-10-211; new Section R9-10-213 renumbered from R9-10-228 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-214. Nursing Services

- A.** An administrator shall ensure that:
1. Nursing services are provided 24 hours a day, and
 2. A nurse executive is appointed who is qualified according to policies and procedures.
- B.** A nurse executive shall designate a registered nurse who is present on the hospital's premises to be accountable for managing the nursing services when the nurse executive is not present in the hospital.
- C.** A nurse executive shall ensure that:
1. Policies and procedures for nursing services are established, documented, and implemented;
 2. An acuity plan is established, documented, and implemented that includes:
 - a. A method that establishes the types and numbers of nursing personnel that are required for each unit in the hospital;
 - b. An assessment of a patient's need for nursing services made by a registered nurse providing nursing services directly to the patient; and
 - c. A policy and procedure stating the steps a hospital will take to:
 - i. Obtain the necessary nursing personnel to meet patient acuity, and
 - ii. Make assignments for patient care according to the acuity plan;
 3. Registered nurses, including registered nurses providing nursing services directly to a patient, are knowledgeable about the acuity plan and implement the acuity plan established under subsection (C)(2);
 4. If licensed capacity in an organized service is exceeded or patients are kept in areas without licensed beds, nursing personnel are assigned according to the specific rules for the organized service in this Chapter;
 5. There is at least one registered nurse on the hospital's premises whether or not there is a patient;

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6. A general hospital has at least two registered nurses on the general hospital's premises when there is more than one patient;
 7. A special hospital offering emergency services or obstetrical services has at least two registered nurses on the special hospital's premises when there is more than one patient;
 8. A special hospital not offering emergency services or obstetrical services has at least one registered nurse and one other nurse on the special hospital's premises when there is more than one patient;
 9. A rural general hospital with more than one patient has at least one registered nurse and at least one other nursing personnel member on the rural general hospital's premises. If there is only one registered nurse on the rural general hospital's premises, an additional registered nurse is on-call who is able to be present on the rural general hospital's premises within 15 minutes after being called;
 10. If a hospital has a patient in a unit, there is at least one registered nurse present in the unit;
 11. If a hospital has more than one patient in a unit, there is at least one registered nurse and one additional nursing personnel member present in the unit;
 12. At least one registered nurse is present and accountable for the nursing services provided to a patient:
 - a. During the delivery of a neonate,
 - b. In an operating room, and
 - c. In a post-anesthesia care unit;
 13. Nursing personnel work schedules are planned, reviewed, adjusted, and documented to meet patient needs and emergencies;
 14. A registered nurse assesses, plans, directs, and evaluates nursing services provided to a patient;
 15. There is a care plan for each inpatient based on the inpatient's need for nursing services; and
 16. Nursing personnel document nursing services in a patient's medical record.
6. There is a chronological log of surgical procedures performed in the surgical services area that contains:
 - a. The date of the surgical procedure,
 - b. The patient's name,
 - c. The type of surgical procedure,
 - d. The time in and time out of the operating room,
 - e. The name and title of each individual performing or assisting in the surgical procedure,
 - f. The type of anesthesia used,
 - g. An identification of the operating room used, and
 - h. The disposition of the patient after the surgical procedure;
 7. The chronological log required in subsection (A)(6) is maintained in the surgical services area for at least 12 months after the date of the surgical procedure and then maintained by the hospital for an additional 12 months;
 8. The medical staff designate in writing the surgical procedures that may be performed in areas other than the surgical services area;
 9. The hospital has the medical staff members, personnel members, and equipment to provide the surgical procedures offered in the surgical services area;
 10. A patient and the surgical procedure to be performed on the patient are identified before initiating the surgical procedure;
 11. Except in an emergency, a medical staff member or a surgeon performs a medical history and physical examination within 30 calendar days before performing a surgical procedure on a patient;
 12. Except in an emergency, a medical staff member or a surgeon enters an interval note in the patient's medical record before performing a surgical procedure;
 13. Except in an emergency, the following are documented in a patient's medical record before a surgical procedure:
 - a. A preoperative diagnosis;
 - b. Each diagnostic test performed in the hospital;
 - c. A medical history and physical examination as required in subsection (A)(11) and an interval note as required in subsection (A)(12);
 - d. A consent or refusal for blood or blood products signed by the patient or the patient's representative, if applicable; and
 - e. Informed consent according to policies and procedures; and
 14. Within 24 hours after a surgical procedure on a patient is completed.

Historical Note

Former Section R9-10-214 renumbered as R9-10-314 as an emergency effective February 22, 1979, new Section R9-10-214 adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Section R9-10-214 renumbered to R9-10-215; new Section R9-10-214 renumbered from R9-10-208 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-215. Surgical Services

An administrator of a general hospital shall ensure that:

1. There is an organized service that provides surgical services under the direction of a medical staff member;
2. There is a designated area for providing surgical services as an organized service;
3. The area of the hospital designated for surgical services is managed by a registered nurse or a physician;
4. Documentation is available in the surgical services area that specifies each medical staff member's clinical privileges to perform surgical procedures in the surgical services area;
5. Postoperative orders are documented in the patient's medical record;

Historical Note

Former Section R9-10-215 renumbered as R9-10-315 as an emergency effective February 22, 1979, new Section R9-10-215 adopted effective February 23, 1979 (Supp. 79-1). Amended subsection (D) effective August 31, 1988 (Supp. 88-3). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Section R9-10-215 renumbered to R9-10-216; new Section R9-10-215 renumbered from R9-10-214 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-216. Anesthesia Services

An administrator shall ensure that:

1. Anesthesia services provided in conjunction with surgical services performed in the operating room are provided as

- an organized service under the direction of a medical staff member;
2. Documentation is available in the surgical services area that specifies the medical staff member's clinical privileges to administer anesthesia;
 3. Except in an emergency, an anesthesiologist or a nurse anesthetist performs a pre-anesthesia evaluation within 48 hours before anesthesia is administered in conjunction with surgical services;
 4. Anesthesia administration is documented in a patient's medical record and includes:
 - a. A pre-anesthesia evaluation, if applicable;
 - b. An intra-operative anesthesia record;
 - c. The postoperative status of the patient upon leaving the operating room; and
 - d. Post-anesthesia documentation by the individual performing the post-anesthesia evaluation that includes the information required by the medical staff bylaws and medical staff regulations; and
 5. A registered nurse or a physician documents resuscitative measures in the patient's medical record.

Historical Note

Adopted as an emergency effective April 2, 1976 (Supp. 76-2). Adopted effective August 25, 1977 (Supp. 77-4). Former Section R9-10-216 renumbered as R9-10-316 as an emergency effective February 22, 1979, new Section R9-10-216 adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Section R9-10-216 renumbered to R9-10-217; new Section R9-10-216 renumbered from R9-10-215 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

R9-10-217. Emergency Services

- A. An administrator of a general hospital or a rural general hospital shall ensure that:
 1. Emergency services are provided 24 hours a day in a designated area of the hospital;
 2. Emergency services are provided as an organized service under the direction of a medical staff member;
 3. The scope and extent of emergency services offered are documented in the hospital's scope of services;
 4. Emergency services are provided to an individual, including a woman in active labor, requesting emergency services;
 5. If emergency services cannot be provided at the hospital to meet the needs of a patient in an emergency, measures and procedures are implemented to minimize risk to the patient until the patient is transported or transferred to another hospital;
 6. A roster of on-call medical staff members is available in the emergency services area;
 7. There is a chronological log of emergency services provided to patients that includes:
 - a. The patient's name;
 - b. The date, time, and mode of arrival; and
 - c. The disposition of the patient including discharge, transfer, or admission; and
 8. The chronological log required in subsection (A)(7) is maintained:
 - a. In the emergency services area for at least 12 months after the date of the emergency services; and
 - b. By the hospital for at least an additional four years.
- B. An administrator of a special hospital that provides emergency services shall comply with subsection (A).

- C. An administrator of a hospital that provides emergency services, but does not provide perinatal organized services, shall ensure that emergency perinatal services are provided within the hospital's capabilities to meet the needs of a patient and a neonate, including the capability to deliver a neonate and to keep the neonate warm until transfer to a hospital providing perinatal organized services.
- D. An administrator of a hospital that provides emergency services shall ensure that a room used for seclusion in a designated area of the hospital used for providing emergency services, complies with applicable physical plant health and safety codes and standards for seclusion rooms, incorporated by reference in A.A.C. R9-1-412.

Historical Note

Adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Section R9-10-217 renumbered to R9-10-218; new Section R9-10-217 renumbered from R9-10-216 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-218. Pharmaceutical Services

An administrator shall ensure that:

1. Pharmaceutical services are provided under the direction of a pharmacist according to A.R.S. Title 36, Chapter 27; A.R.S. Title 32, Chapter 18; and 4 A.A.C. 23;
2. A copy of the pharmacy license is provided to the Department for review upon the Department's request;
3. A committee, composed of at least one physician, one pharmacist, and other personnel members as determined by policies and procedures, is established to:
 - a. Develop a drug formulary,
 - b. Update the drug formulary at least once every 12 months,
 - c. Develop medication usage and medication substitution policies and procedures, and
 - d. Specify which medications and medication classifications are required to be automatically stopped after a specified time period unless the ordering medical staff member specifically orders otherwise;
4. An expired, mislabeled, or unusable medication is disposed of according to policies and procedures;
5. A medication administration error or an adverse reaction is reported to the ordering medical staff member or the medical staff member's designee;
6. A pharmacy medication dispensing error is reported to the pharmacist;
7. In a pharmacist's absence, personnel members designated by policies and procedures have access to a locked area containing a medication;
8. A medication is maintained at temperatures recommended by the manufacturer;
9. A cart used for an emergency:
 - a. Contains medication, supplies, and equipment as specified in policies and procedures;
 - b. Is available to a unit; and
 - c. Is sealed until opened in an emergency;
10. Emergency cart contents and sealing of the emergency cart are verified and documented according to policies and procedures;
11. Policies and procedures specify individuals who may:
 - a. Order medication, and
 - b. Administer medication;

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12. A medication is administered in compliance with an order;
13. A medication administered to a patient is documented as required in R9-10-213;
14. If pain medication is administered to a patient, documentation in the patient's medical record includes:
 - a. An assessment of the patient's pain before administering the medication, and
 - b. The effect of the pain medication administered; and
15. Policies and procedures specify a process for review through the quality management program of:
 - a. A medication administration error,
 - b. An adverse reaction to a medication, and
 - c. A pharmacy medication dispensing error.

Historical Note

Adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Amended by final rulemaking at 11 A.A.R. 536, effective March 5, 2005 (Supp. 05-1). Section R9-10-218 renumbered to R9-10-219; new Section R9-10-218 renumbered from R9-10-217 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-219. Clinical Laboratory Services and Pathology Services

An administrator shall ensure that:

1. Clinical laboratory services and pathology services are provided by a hospital through a laboratory that holds a certificate of accreditation or certificate of compliance issued by the United States Department of Health and Human Services under the 1988 amendments to the Clinical Laboratories Improvement Act of 1967;
2. A copy of the certificate of accreditation or compliance in subsection (1) is provided to the Department for review upon the Department's request;
3. A general hospital or a rural general hospital provides clinical laboratory services 24 hours a day on the hospital's premises to meet the needs of a patient in an emergency;
4. A special hospital whose patients require clinical laboratory services:
 - a. Is able to provide clinical laboratory services when needed by the patients,
 - b. Obtains specimens for clinical laboratory services without transporting the patients from the special hospital's premises, and
 - c. Has the examination of the specimens performed by a clinical laboratory on the special hospital's premises or by arrangement with a clinical laboratory not on the special hospital's premises;
5. A hospital that provides clinical laboratory services 24 hours a day has on duty or on-call laboratory personnel authorized by policies and procedures to perform testing;
6. A hospital that offers surgical services provides pathology services on the hospital's premises or by contracted service to meet the needs of a patient;
7. Clinical laboratory and pathology test results are:
 - a. Available to the medical staff:
 - i. Within 24 hours after the test is completed if the test is performed at a laboratory on the hospital's premises, or

- ii. Within 24 hours after the test result is received if the test is performed at a laboratory not on the hospital's premises; and
- b. Documented in a patient's medical record;
8. If a test result is obtained that indicates a patient may have an emergency medical condition, as established by medical staff, laboratory personnel notify the ordering medical staff member or a registered nurse in the patient's assigned unit;
9. If a clinical laboratory report, a pathology report, or an autopsy report is completed on a patient, a copy of the report is included in the patient's medical record;
10. Policies and procedures are established, documented, and implemented for:
 - a. Procuring, storing, transfusing, and disposing of blood and blood products;
 - b. Blood typing, antibody detection, and blood compatibility testing; and
 - c. Investigating transfusion adverse reactions that specify a process for review through the quality management program;
11. If blood and blood products are provided by contract, the contract includes:
 - a. The availability of blood and blood products from the contractor, and
 - b. The process for delivery of blood and blood products from the contractor; and
12. Expired laboratory supplies are discarded according to policies and procedures.

Historical Note

Adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Amended by final rulemaking at 11 A.A.R. 536, effective March 5, 2005 (Supp. 05-1). Section R9-10-219 renumbered to R9-10-220; new Section R9-10-219 renumbered from R9-10-218 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-220. Radiology Services and Diagnostic Imaging Services

A. An administrator shall ensure that:

1. Radiology services and diagnostic imaging services are provided in compliance with A.R.S. Title 30, Chapter 4 and 12 A.A.C. 1;
2. A copy of a certificate documenting compliance with subsection (1) is provided to the Department for review upon the Department's request;
3. A general hospital or a rural general hospital provides radiology services 24 hours a day on the hospital's premises to meet the emergency needs of a patient;
4. A hospital that provides surgical services has radiology services and diagnostic imaging services on the hospital's premises to meet the needs of patients;
5. A general hospital or a rural general hospital has a radiologic technologist on duty or on-call; and
6. Except as provided in subsection (A)(4), a special hospital whose patients require radiology services and diagnostic imaging services is able to provide the radiology services and diagnostic imaging services when needed by the patients:
 - a. On the special hospital's premises, or

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- b. By arrangement with a radiology and diagnostic imaging facility that is not on the special hospital's premises.
- B.** An administrator of a hospital that provides radiology services or diagnostic imaging services on the hospital's premises shall ensure that:
 1. Radiology services and diagnostic imaging services are provided:
 - a. Under the direction of a medical staff member; and
 - b. According to an order that includes:
 - i. The patient's name,
 - ii. The name of the ordering individual,
 - iii. The radiological or diagnostic imaging procedure ordered, and
 - iv. The reason for the procedure;
 2. A medical staff member or radiologist interprets the radiologic or diagnostic image;
 3. A radiologic or diagnostic imaging patient report is prepared that includes:
 - a. The patient's name;
 - b. The date of the procedure;
 - c. A medical staff member's or radiologist's interpretation of the image;
 - d. The type and amount of radiopharmaceutical used, if applicable; and
 - e. The adverse reaction to the radiopharmaceutical, if any; and
 4. A radiologic or diagnostic imaging report is included in the patient's medical record.

Historical Note

Adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Amended by final rulemaking at 11 A.A.R. 536, effective March 5, 2005 (Supp. 05-1). Section R9-10-220 renumbered to R9-10-221; new Section R9-10-220 renumbered from R9-10-219 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-221. Intensive Care Services

Except for a special hospital that provides only psychiatric services, an administrator of a hospital that provides intensive care services shall ensure that:

1. Intensive care services are provided as an organized service in a designated area under the direction of a medical staff member;
2. An inpatient admitted for intensive care services is personally visited by a physician at least once every 24 hours;
3. Admission and discharge criteria for intensive care services are established;
4. A personnel member's responsibilities for initiation of medical services in an emergency to a patient in an intensive care unit pending the arrival of a medical staff member are established and documented in policies and procedures;
5. In addition to the requirements in R9-10-214(C), an intensive care unit is staffed:
 - a. With at least one registered nurse assigned for every two patients, and
 - b. According to an acuity plan as required in R9-10-214;

6. Each intensive care unit has a policy and procedure that provides for meeting the needs of the patients;
7. If the medical services of an intensive care patient are reduced to a lesser level of care in the hospital, but the patient is not physically relocated, the nurse to patient ratio is based on the needs of the patient;
8. Private duty staff do not provide hospital services in an intensive care unit;
9. At least one registered nurse assigned to a patient in an intensive care unit is certified in advanced cardiac life support specific to the age of the patient;
10. Resuscitation, emergency, and other equipment are available to meet the needs of a patient including:
 - a. Ventilatory assistance equipment,
 - b. Respiratory and cardiac monitoring equipment,
 - c. Suction equipment,
 - d. Portable radiologic equipment, and
 - e. A patient weighing device for patients restricted to a bed; and
11. An intensive care unit has at least one emergency cart that is maintained according to R9-10-218.

Historical Note

Former Section R9-10-221 renumbered as R9-10-317 as an emergency effective February 22, 1979, new Section R9-10-221 adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Section R9-10-221 renumbered to R9-10-222; new Section R9-10-221 renumbered from R9-10-220 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-222. Respiratory Care Services

An administrator of a hospital that provides respiratory care services shall ensure that:

1. Respiratory care services are provided under the direction of a medical staff member;
2. Respiratory care services are provided according to an order that includes:
 - a. The patient's name;
 - b. The name and signature of the ordering individual;
 - c. The type, frequency, and, if applicable, duration of treatment;
 - d. The type and dosage of medication and diluent; and
 - e. The oxygen concentration or oxygen liter flow and method of administration;
3. Respiratory care services provided to a patient are documented in the patient's medical record and include:
 - a. The date and time of administration;
 - b. The type of respiratory care services;
 - c. The effect of respiratory care services;
 - d. If applicable, any adverse reaction to respiratory care services; and
 - e. The authentication of the individual providing the respiratory care services; and
4. Any area or unit that performs blood gases or clinical laboratory tests complies with the requirements in R9-10-219.

Historical Note

Former Section R9-10-222 renumbered as R9-10-318 as an emergency effective February 22, 1979, new Section R9-10-222 adopted effective February 23, 1979 (Supp. 79-1). Correction, subsection (D)(3) reference to para-

graph (E)(2) should read subsection (D)(2). (Supp. 79-6). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Amended by final rulemaking at 11 A.A.R. 536, effective March 5, 2005 (Supp. 05-1). Section R9-10-222 renumbered to R9-10-223; new Section R9-10-222 renumbered from R9-10-221 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-223. Perinatal Services

- A.** An administrator of a hospital that provides perinatal organized services shall ensure that:
1. Perinatal services are provided in a designated area under the direction of a medical staff member;
 2. Only medical and surgical procedures approved by the medical staff are performed in the perinatal services unit;
 3. The perinatal services unit has the capability to initiate an emergency cesarean delivery within the time-frame established by the medical staff and documented in policies and procedures;
 4. Only a patient in need of perinatal services or gynecological services receives perinatal services or gynecological services in the perinatal services unit;
 5. A patient receiving gynecological services does not share a room with a patient receiving perinatal services;
 6. A chronological log of perinatal services provided to patients is maintained that includes:
 - a. The patient's name;
 - b. The date, time, and mode of the patient's arrival;
 - c. The disposition of the patient including discharge, transfer, or admission time; and
 - d. The following information for a delivery of a neonate:
 - i. The neonate's name or other identifier;
 - ii. The name of the medical staff member who delivered the neonate;
 - iii. The delivery time and date; and
 - iv. Complications of delivery, if any;
 7. The chronological log required in subsection (A)(6) is maintained by the hospital in the perinatal services unit for at least 12 months after the date the perinatal services are provided and then maintained by the hospital for at least an additional 12 months;
 8. The perinatal services unit provides fetal monitoring;
 9. The perinatal services unit has ultrasound capability;
 10. Except in an emergency, a neonate is identified as required by policies and procedures before moving the neonate from a delivery area;
 11. Policies and procedures specify:
 - a. Security measures to prevent neonatal abduction, and
 - b. How the hospital determines to whom a neonate may be discharged;
 12. A neonate is discharged only to an individual who:
 - a. Is authorized according to subsection (A)(11), and
 - b. Provides identification;
 13. A neonate's medical record identifies the individual to whom the neonate is discharged;
 14. A patient or the individual to whom the neonate is discharged receives perinatal education, discharge instructions, and a referral for follow-up care for a neonate in addition to the discharge planning requirements in R9-10-209;

15. Intensive care services for neonates comply with the requirements in R9-10-221;
 16. At least one registered nurse is on duty in a nursery when there is a neonate in the nursery except as provided in subsection (A)(17);
 17. A nursery occupied only by a neonate, who is placed in the nursery for the convenience of the neonate's mother and does not require treatment as established in this Article, is staffed by a nurse;
 18. Equipment and supplies are available to a nursery, labor-delivery-recovery room, or labor-delivery-recovery-postpartum room to meet the needs of each neonate; and
 19. In a nursery, only a neonate's bed or bassinet is used for changing diapers, bathing, or dressing the neonate.
- B.** An administrator of a hospital that does not provide perinatal organized services shall comply with the requirements in R9-10-217(C).

Historical Note

Former Section R9-10-223 renumbered as R9-10-319 as an emergency effective February 22, 1979, new Section R9-10-223 adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Section R9-10-223 renumbered to R9-10-224; new Section R9-10-223 renumbered from R9-10-222 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-224. Pediatric Services

- A.** An administrator of a hospital that provides pediatric services or organized pediatric services according to the requirements in this Section shall ensure that:
1. Consistent with the health and safety of a pediatric patient, arrangements are made for a parent or a guardian of the pediatric patient to stay overnight;
 2. Policies and procedures are established, documented, and implemented for:
 - a. Infection control for shared toys, books, stuffed animals, and other items in a community playroom; and
 - b. Visitation of a pediatric patient, including age limits if applicable;
 3. A pediatric inpatient is only admitted if the hospital has the staff, equipment, and supplies available to meet the needs of the pediatric patient based on the pediatric patient's medical condition and the hospital's scope of services; and
 4. If the hospital provides pediatric intensive care services, the pediatric intensive care services comply with intensive care services requirements in R9-10-221.
- B.** An administrator of a hospital that provides pediatric organized services shall ensure that pediatric services are provided in a designated area under the direction of a medical staff member.
- C.** An administrator shall ensure that in a multi-organized service unit or a patient care unit that is providing medical and nursing services to an adult patient and a pediatric patient according to this Section:
1. A pediatric patient is not placed in a patient room with an adult patient, and
 2. A medication for a pediatric patient that is stored in the patient care unit is stored separately from a medication for an adult patient.

- D. Except as provided in subsections (F) and (G), an administrator of a hospital that does not provide pediatric organized services may admit a pediatric inpatient only in an emergency.
- E. A hospital may use a bed in a pediatric organized services patient care unit for an adult patient if an administrator establishes, documents, and implements policies and procedures that:
 - 1. Delineate the specific conditions under which an adult patient is placed in a bed in the pediatric organized services unit, and
 - 2. Except as provided in subsection (H) and (I), ensure that an adult patient is:
 - a. Not placed in a pediatric organized services patient care unit if a pediatric patient is admitted to and present in the pediatric organized services patient care unit, and
 - b. Transferred out of the pediatric organized services patient care unit to an appropriate level of care when a pediatric patient is admitted to the pediatric organized services patient care unit.
- F. Subsection (G) only applies to a general hospital or rural general hospital that:
 - 1. Does not provide pediatric organized services;
 - 2. Has designated in the general hospital's or rural general hospital's scope of services, inpatient services that are available to a pediatric patient;
 - 3. Has a licensed capacity of less than 100; and
 - 4. Is located in a county with a population of less than 500,000.
- G. An administrator of a general hospital or rural general hospital that meets the criteria in subsection (F) shall ensure that:
 - 1. There are pediatric-appropriate equipment and supplies available based on the hospital services designated for pediatric patients in the general hospital or rural general hospital's scope of services; and
 - 2. Personnel members that are or may be assigned to provide hospital services to a pediatric patient have the appropriate skills and knowledge for providing hospital services to a pediatric patient based on the general hospital's or rural general hospital's scope of services.
- H. Subsection (I) only applies to a general hospital or a rural general hospital that:
 - 1. Provides organized pediatric services in a patient care unit;
 - 2. Has designated in the general hospital's or rural general hospital's scope of services, inpatient services that are available to an adult patient in an organized pediatric services patient care unit;
 - 3. Has a licensed capacity of less than 100; and
 - 4. Is located in a county with a population of less than 500,000.
- I. An administrator of a general hospital or rural general hospital that meets the criteria in subsection (H) shall comply with the requirements in subsection (E)(1).

Historical Note

Adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Amended by exempt rulemaking at 18 A.A.R. 1719, effective June 30, 2012 (Supp. 12-2). Section R9-10-224 renumbered to R9-10-225; new Section R9-10-224 renumbered from R9-10-223 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-225. Psychiatric Services

- A. An administrator of a hospital that contains an organized psychiatric services unit or a special hospital licensed to provide psychiatric services shall ensure that in the organized psychiatric unit or special hospital:
 - 1. Psychiatric services are provided under the direction of a medical staff member;
 - 2. An inpatient admitted to the organized psychiatric services unit or special hospital has a principal diagnosis of a mental disorder, a personality disorder, substance abuse, or a significant psychological or behavioral response to an identifiable stressor;
 - 3. Except in an emergency, a patient receives a nursing assessment before treatment for the patient is initiated;
 - 4. An individual whose medical needs cannot be met while the individual is an inpatient in an organized psychiatric services unit or a special hospital is not admitted to or is transferred out of the organized psychiatric services unit or special hospital;
 - 5. Policies and procedures for the organized psychiatric services unit or special hospital are established, documented, and implemented that:
 - a. Establish qualifications for medical staff members and personnel members who provide clinical oversight to behavioral health technicians;
 - b. Establish the process for patient assessment, including identification of a patient's medical conditions and criteria for the on-going monitoring of any identified medical condition;
 - c. Establish the process for developing and implementing a patient's care plan including:
 - i. Obtaining the patient's or the patient's representative's participation in the development of the patient's care plan;
 - ii. Ensuring that the patient is informed of the modality, frequency, and duration of any treatments that are included in the patient's care plan;
 - iii. Informing the patient that the patient has the right to refuse any treatment;
 - iv. Updating the patient's care plan and informing the patient of any changes to the patient's care plan; and
 - v. Documenting the actions in subsection (A)(5)(c)(i) through (iv) in the patient's medical record;
 - d. Establish the process for warning an identified or identifiable individual, as described in A.R.S. § 36-517.02 (B) through (C), if a patient communicates to a medical staff member or personnel member a threat of imminent serious physical harm or death to the individual and the patient has the apparent intent and ability to carry out the threat;
 - e. Establish the criteria for determining when an inpatient's absence is unauthorized, including whether the inpatient:
 - i. Was admitted under A.R.S. Title 36, Chapter 5, Articles 1, 2, or 3;
 - ii. Is absent against medical advice; or
 - iii. Is under 18 years of age;
 - f. Identify each type of restraint and seclusion used in the organized psychiatric services unit or special hospital and include for each type of restraint and seclusion used:
 - i. The qualifications of a medical staff member or personnel member who can:

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- (1) Order the restraint or seclusion,
 - (2) Place a patient in the restraint or seclusion,
 - (3) Monitor a patient in the restraint or seclusion,
 - (4) Evaluate a patient's physical and psychological well-being after being placed in the restraint or seclusion and when released from the restraint or seclusion, or
 - (5) Renew the order for restraint or seclusion;
 - ii. On-going training requirements for a medical staff member or personnel member who has direct patient contact while the patient is in a restraint or in seclusion; and
 - iii. Criteria for monitoring and assessing a patient including:
 - (1) Frequencies of monitoring and assessment based on a patient's condition, cognitive status, situational factors, and risks associated with the specific restraint or seclusion;
 - (2) For the renewal of an order for restraint or seclusion, whether an assessment is required before the order is renewed and, if an assessment is required, who may conduct the assessment;
 - (3) Assessment content, which may include, depending on a patient's condition, the patient's vital signs, respiration, circulation, hydration needs, elimination needs, level of distress and agitation, mental status, cognitive functioning, neurological functioning, and skin integrity;
 - (4) If a mechanical restraint is used, how often the mechanical restraint is monitored or loosened; and
 - (5) A process for meeting a patient's nutritional needs and elimination needs;
 - g. Establish the criteria and procedures for renewing an order for restraint or seclusion;
 - h. Establish procedures for internal review of the use of restraint or seclusion;
 - i. Establish requirements for notifying the parent or guardian of a patient who is under 18 years of age and who is restrained or secluded; and
 - j. Establish medical record and personnel record documentation requirements for restraint and seclusion, if applicable;
6. If time out is used in the organized psychiatric services unit or special hospital, a time out:
 - a. Takes place in an area that is unlocked, lighted, quiet, and private;
 - b. Does not take place in the room approved for seclusion by the Department under R9-10-104;
 - c. Is time-limited and does not exceed two hours per incident or four hours per day;
 - d. Does not result in a patient's missing a meal if the patient is in time out at mealtime;
 - e. Includes monitoring of the patient by a medical staff member or personnel member at least once every 15 minutes to ensure the patient's health, safety, and welfare and to determine if the patient is ready to leave time out; and
 - f. Is documented in the patient's medical record, to include:
 - i. The date of the time out,
 - ii. The reason for the time out,
 - iii. The duration of the time out, and
 - iv. The action planned and taken to address the reason for the time out;
 7. Restraint or seclusion is:
 - a. Not used as a means of coercion, discipline, convenience, or retaliation;
 - b. Only used when all of the following conditions are met:
 - i. Except as provided in subsection (A)(8), after obtaining an order for the restraint or seclusion;
 - ii. For the management of a patient's aggressive, violent, or self-destructive behavior;
 - iii. When less restrictive interventions have been determined to be ineffective; and
 - iv. To ensure the immediate physical safety of the patient, to prevent imminent harm to the patient or another individual, or to stop physical harm to another individual; and
 - c. Discontinued at the earliest possible time;
 8. If as a result of a patient's aggressive, violent, or self-destructive behavior, harm to the patient or another individual is imminent or the patient or another individual is being physically harmed, a personnel member:
 - a. May initiate an emergency application of restraint or seclusion for the patient before obtaining an order for the restraint or seclusion, and
 - b. Obtains an order for the restraint or seclusion of the patient during the emergency application of the restraint or seclusion;
 9. Restraint or seclusion is:
 - a. Only ordered by a physician or a registered nurse practitioner, and
 - b. Not written as a standing order or on an as-needed basis;
 10. An order for restraint or seclusion includes:
 - a. The name of the individual ordering the restraint or seclusion;
 - b. The date and time that the restraint or seclusion was ordered;
 - c. The specific restraint or seclusion ordered;
 - d. If a drug is ordered as a chemical restraint, the drug's name, strength, dosage, and route of administration;
 - e. The specific criteria for release from restraint or seclusion without an additional order; and
 - f. The maximum duration authorized for the restraint or seclusion;
 11. An order for restraint or seclusion is limited to the duration of the emergency situation and does not exceed:
 - a. Four continuous hours for a patient who is 18 years of age or older,
 - b. Two continuous hours for a patient who is between the ages of nine and 17 years of age, or
 - c. One continuous hour for a patient who is younger than nine years of age;
 12. If restraint and seclusion are used on a patient simultaneously, the patient receives continuous:
 - a. Face-to-face monitoring by a medical staff member or personnel member, or
 - b. Video and audio monitoring by a medical staff member or personnel member who is in close proximity to the patient;
 13. If an order for restraint or seclusion of a patient is not provided by a medical practitioner coordinating the patient's medical services, the medical practitioner is notified as soon as possible;

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14. A medical staff member or personnel member does not participate in restraint or seclusion, monitor a patient during restraint or seclusion, or evaluate a patient after restraint or seclusion until the medical staff member or personnel member completes education and training that:
 - a. Includes:
 - i. Techniques to identify medical staff member, personnel member, and patient behaviors; events; and environmental factors that may trigger circumstances that require restraint or seclusion;
 - ii. The use of nonphysical intervention skills, such as de-escalation, mediation, conflict resolution, active listening, and verbal and observational methods;
 - iii. Techniques for identifying the least restrictive intervention based on an assessment of the patient's medical or behavioral health condition;
 - iv. The safe use of restraint and the safe use of seclusion, including training in how to recognize and respond to signs of physical and psychological distress in a patient who is restrained or secluded;
 - v. Clinical identification of specific behavioral changes that indicate that the restraint or seclusion is no longer necessary;
 - vi. Monitoring and assessing a patient while the patient is in restraint or seclusion according to policies and procedures; and
 - vii. Training exercises in which medical staff members and personnel members successfully demonstrate the techniques that the medical staff members and personnel members have learned for managing emergency situations; and
 - b. Is provided by individuals qualified according to policies and procedures;
15. When a patient is placed in restraint or seclusion:
 - a. The restraint or seclusion is conducted according to policies and procedures;
 - b. The restraint or seclusion is proportionate and appropriate to the severity of the patient's behavior and the patient's:
 - i. Chronological and developmental age;
 - ii. Size;
 - iii. Gender;
 - iv. Physical condition;
 - v. Medical condition;
 - vi. Psychiatric condition; and
 - vii. Personal history, including any history of physical or sexual abuse;
 - c. The physician or registered nurse practitioner who ordered the restraint or seclusion is available for consultation throughout the duration of the restraint or seclusion;
 - d. A patient is monitored and assessed according to policies and procedures;
 - e. A physician or other health professional authorized by policies and procedures assesses the patient within one hour after the patient is placed in the restraint or seclusion and determines:
 - i. The patient's current behavior,
 - ii. The patient's reaction to the restraint or seclusion used,
 - iii. The patient's medical and behavioral condition, and
 - iv. Whether to continue or terminate the restraint or seclusion;
 - f. The patient is given the opportunity:
 - i. To eat during mealtime, and
 - ii. To use the toilet; and
 - g. The restraint or seclusion is discontinued at the earliest possible time, regardless of the length of time identified in the order;
16. If a patient is placed in seclusion, the room used for seclusion:
 - a. Is approved for use as a seclusion room by the Department under R9-10-104;
 - b. Is not used as a patient's bedroom or a sleeping area;
 - c. Allows full view of the patient in all areas of the room;
 - d. Is free of hazards, such as unprotected light fixtures or electrical outlets;
 - e. Contains at least 60 square feet of floor space; and
 - f. Except as provided in subsection (A)(17), contains a non-adjustable bed that:
 - i. Consists of a mattress on a solid platform that is:
 - (1) Constructed of a durable, non-hazardous material; and
 - (2) Raised off of the floor;
 - ii. Does not have wire springs or a storage drawer; and
 - iii. Is securely anchored in place;
17. If a room used for seclusion does not contain a non-adjustable bed required in subsection (A)(16)(f):
 - a. A piece of equipment is available for use in the room used for seclusion that:
 - i. Is commercially manufactured to safely and humanely restrain a patient's body;
 - ii. Provides support to the trunk and head of a patient's body;
 - iii. Provides restraint to the trunk of a patient's body;
 - iv. Is able to restrict movement of a patient's arms, legs, trunk, and head;
 - v. Allows a patient's body to recline; and
 - vi. Does not inflict harm on a patient's body; and
 - b. Documentation of the manufacturer's specifications for the piece of equipment in subsection (A)(17)(a) is maintained;
18. A seclusion room may be used for services or activities other than seclusion if:
 - a. A sign stating the service or activity scheduled or being provided in the room is conspicuously posted outside the room;
 - b. No permanent equipment other than the bed required in subsection (A)(16)(f) is in the room;
 - c. Policies and procedures are established, documented, and implemented that:
 - i. Delineate which services or activities other than seclusion may be provided in the room,
 - ii. List what types of equipment or supplies may be placed in the room for the delineated services, and
 - iii. Provide for the prompt removal of equipment and supplies from the room before the room is used for seclusion; and
 - d. The sign required in subsection (A)(18)(a) and equipment and supplies in the room, other than the

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- bed required in subsection (A)(16)(f), are removed before a patient is placed in seclusion in the room;
19. A medical staff member or personnel member documents the following information in a patient's medical record before the end of the shift in which the patient is placed in restraint or seclusion or, if the patient's restraint or seclusion does not end during the shift in which it began, during the shift in which the patient's restraint or seclusion ends:
 - a. The emergency situation that required the patient to be restrained or put in seclusion;
 - b. The times the patient's restraint or seclusion actually began and ended;
 - c. The time of the face-to-face assessment required in subsection (A)(12)(a);
 - d. The monitoring required in subsection (A)(12)(b) or (15)(d), as applicable;
 - e. The times the patient was given the opportunity to eat or use the toilet according to subsection (A)(15)(f); and
 - f. The names of the medical staff members and personnel members with direct patient contact while the patient was in the restraint or seclusion; and
 20. If an emergency situation continues beyond the time limit of an order for restraint or seclusion, the order is renewed according to policies and procedures.
- B.** An administrator of a hospital that provides opioid treatment services to an outpatient shall comply with the requirements in R9-10-1020.

Historical Note

Adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Section R9-10-225 renumbered to R9-10-227; new Section R9-10-225 renumbered from R9-10-224 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-226. Behavioral Health Observation/Stabilization Services

An administrator of a hospital that is authorized to provide behavioral health observation/stabilizations services shall ensure that:

1. Behavioral health observation/stabilization services are provided according to the requirements in R9-10-1012, and
2. Restraint and seclusion are provided according to the requirements for restraint and seclusion in R9-10-225.

Historical Note

Adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Section R9-10-226 renumbered to R9-10-229; new Section R9-10-226 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-227. Rehabilitation Services

An administrator shall ensure that:

1. If rehabilitation services are provided as an organized service, the rehabilitation services are provided under the direction of an individual qualified according to policies and procedures;

2. Rehabilitation services are provided according to an order; and
3. The medical record of a patient receiving rehabilitation services includes:
 - a. An order for rehabilitation services that includes the name of the ordering individual and a referring diagnosis,
 - b. A documented care plan that is developed in coordination with the ordering individual and the individual providing the rehabilitation services,
 - c. The rehabilitation services provided,
 - d. The patient's response to the rehabilitation services, and
 - e. The authentication of the individual providing the rehabilitation services.

Historical Note

Adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Section R9-10-227 renumbered to R9-10-231; new Section R9-10-227 renumbered from R9-10-225 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

R9-10-228. Multi-organized Service Unit

- A.** A governing authority may designate the following as a multi-organized service unit:
1. An adult unit that provides both intensive care services and medical and nursing services other than intensive care services,
 2. A pediatric unit that provides both intensive care services and medical and nursing services other than intensive care services,
 3. A unit that provides both perinatal services and intensive care services for obstetrical patients,
 4. A unit that provides both intensive care services for neonates and a continuing care nursery, or
 5. A unit that provides medical and nursing services to adult and pediatric patients.
- B.** An administrator shall ensure that:
1. For a patient in a multi-organized service unit, a medical staff member designates in the patient's medical record which organized service is to be provided to the patient;
 2. A multi-organized service unit is in compliance with the requirements in this Article that would apply if each organized service were offered as a single organized service unit; and
 3. A multi-organized service unit and each bed in the unit are in compliance with physical plant health and safety codes and standards incorporated by reference in A.A.C. R9-1-412 for all organized services provided in the multi-organized service unit.

Historical Note

Adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Amended by final rulemaking at 11 A.A.R. 536, effective March 5, 2005 (Supp. 05-1). Section R9-10-228 renumbered to R9-10-213; new Section R9-10-228 renumbered from R9-10-234 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

R9-10-229. Social Services

An administrator of a hospital that provides social services shall ensure that:

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1. A registered nurse or another personnel member designated according to policies and procedures coordinates social services;
 2. If a personnel member provides social services that require a license under A.R.S. Title 32, Chapter 33, Article 5, the personnel member is licensed under A.R.S. Title 32, Chapter 33, Article 5;
 3. A medical staff member, nurse, patient, patient's representative, or member of the patient's family may request social services;
 4. A personnel member providing social services participates in discharge planning as necessary to meet the needs of a patient;
 5. The patient has privacy when communicating with a personnel member providing social services; and
 6. Social services provided to a patient are documented in the patient's medical record and the entries are authenticated by the individual providing the social services.
- i. The level of risk in the area of the hospital premises where the medical staff member practices, and
 - ii. The work that the medical staff member performs; and
 - d. That establish the frequency of tuberculosis screening for an individual determined to be at an increased risk of exposure;
5. Tuberculosis screening is performed:
 - a. As part of a tuberculosis infection control program that complies with the Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-care Settings according to R9-10-113(2); or
 - b. Using a screening method described in R9-10-113(1), as follows:
 - i. For a personnel member, on or before the date the personnel member begins providing services at or on behalf of the hospital and at least once every 12 months thereafter or more frequently if the personnel member is determined to be at an increased risk of exposure based on the criteria in subsection (4)(c);
 - ii. Except as required in subsection (4)(d), for a medical staff member, at least once every 24 months; and
 - iii. For a medical staff member at an increased risk of exposure based on the criteria in subsection (4)(c), at the frequency required by policies and procedures, but no less frequently than once every 24 months;

Historical Note

Adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Section R9-10-229 renumbered to R9-10-230; new Section R9-10-229 renumbered from R9-10-226 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-230. Infection Control

An administrator shall ensure that:

1. An infection control program that meets the requirements of this Section is established under the direction of an individual qualified according to policies and procedures;
2. An infection control program has a procedure for documenting:
 - a. The collection and analysis of infection control data,
 - b. The actions taken relating to infections and communicable diseases, and
 - c. Reports of communicable diseases to the governing authority and state and county health departments;
3. Infection control documents are maintained for at least 12 months after the date of the document;
4. Policies and procedures are established, documented, and implemented:
 - a. To prevent or minimize, identify, report, and investigate infections and communicable diseases that include:
 - i. Isolating a patient;
 - ii. Sterilizing equipment and supplies;
 - iii. Maintaining and storing sterile equipment and supplies;
 - iv. Using personal protective equipment such as gowns, masks, or face protection;
 - v. Disposing of biohazardous medical waste; and
 - vi. Moving and processing soiled linens and clothing;
 - b. That specify communicable diseases, medical conditions, or criteria that prevent an individual, a personnel member, or a medical staff member from:
 - i. Working in the hospital,
 - ii. Providing patient care, or
 - iii. Providing environmental services;
 - c. That establish criteria for determining whether a medical staff member is at an increased risk of exposure to infectious tuberculosis based on:
 - i. The level of risk in the area of the hospital premises where the medical staff member practices, and
 - ii. The work that the medical staff member performs; and
 - d. That establish the frequency of tuberculosis screening for an individual determined to be at an increased risk of exposure;
5. Tuberculosis screening is performed:
 - a. As part of a tuberculosis infection control program that complies with the Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-care Settings according to R9-10-113(2); or
 - b. Using a screening method described in R9-10-113(1), as follows:
 - i. For a personnel member, on or before the date the personnel member begins providing services at or on behalf of the hospital and at least once every 12 months thereafter or more frequently if the personnel member is determined to be at an increased risk of exposure based on the criteria in subsection (4)(c);
 - ii. Except as required in subsection (4)(d), for a medical staff member, at least once every 24 months; and
 - iii. For a medical staff member at an increased risk of exposure based on the criteria in subsection (4)(c), at the frequency required by policies and procedures, but no less frequently than once every 24 months;
6. Soiled linen and clothing are:
 - a. Collected in a manner to minimize or prevent contamination,
 - b. Bagged at the site of use, and
 - c. Maintained separate from clean linen and clothing and away from food storage, kitchen, or dining areas;
7. A personnel member washes hands or uses a hand disinfection product after each patient contact and after handling soiled linen, soiled clothing, or potentially infectious material;
8. An infection control committee is established according to policies and procedures and consists of:
 - a. At least one medical staff member,
 - b. The individual directing the infection control program, and
 - c. Other personnel identified in policies and procedures; and
9. The infection control committee:
 - a. Develops a plan for preventing, tracking, and controlling infections;
 - b. Reviews the type and frequency of infections and develops recommendations for improvement;
 - c. Meets and provides a quarterly written report for inclusion by the quality management program; and
 - d. Maintains a record of actions taken and minutes of meetings.

Historical Note

Adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Section R9-10-230 renumbered to R9-10-233; new Section R9-10-230 renumbered from R9-10-229 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws

2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-231. Dietary Services

An administrator shall ensure that:

1. Dietary services are provided according to 9 A.A.C. 8, Article 1;
2. A copy of the hospital's food establishment license or permit under 9 A.A.C. 8, Article 1, is maintained;
3. For a hospital that contracts with a food establishment, as established in 9 A.A.C. 8, Article 1, to prepare and deliver food to the hospital, a copy of the contracted food establishment's license or permit under 9 A.A.C. 8, Article 1, is maintained;
4. If a hospital contracts with a food establishment to prepare and deliver food to the hospital, the hospital is able to store, refrigerate, and reheat food to meet the dietary needs of a patient;
5. Dietary services are provided under the direction of an individual qualified to direct the provision of dietary services according to policies and procedures;
6. There are personnel members on duty to meet the dietary needs of patients;
7. Personnel members providing dietary services are qualified to provide dietary services according to policies and procedures;
8. A nutrition assessment of a patient is:
 - a. Performed according to policies and procedures, and
 - b. Communicated to the medical practitioner coordinating the patient's medical services if the nutrition assessment reveals a specific dietary need;
9. A medical staff member documents an order for a diet for each patient in the patient's medical record;
10. A current diet manual approved by a registered dietitian is available to personnel members and medical staff members; and
11. A patient's dietary needs are met 24 hours a day.

Historical Note

Former Section R9-10-231 renumbered as R9-10-320 as an emergency effective February 22, 1979, new Section R9-10-231 adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Section R9-10-231 renumbered to R9-10-232; new Section R9-10-231 renumbered from R9-10-227 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-232. Disaster Management

An administrator shall ensure that:

1. A disaster plan is developed and documented that includes:
 - a. Procedures for protecting the health and safety of patients and other individuals;
 - b. Assigned personnel responsibilities; and
 - c. Instructions for the evacuation, transport, or transfer of patients, maintenance of medical records, and arrangements to provide any other hospital services to meet the patients' needs;
2. A plan exists for back-up power and water supply;
3. A fire drill is performed on each shift at least once every three months;
4. A disaster drill is performed on each shift at least once every 12 months;

5. Documentation of a fire drill required in subsection (3) and a disaster drill required in subsection (4) includes:
 - a. The date and time of the drill;
 - b. A critique of the drill; and
 - c. Recommendations for improvement, if applicable; and
6. Documentation of a fire drill or a disaster drill is maintained by the hospital for at least 12 months after the date of the drill.

Historical Note

Former Section R9-10-232 renumbered as R9-10-321 as an emergency effective February 22, 1979, new Section R9-10-232 adopted effective February 23, 1979 (Supp. 79-1). Section amended by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Section R9-10-232 renumbered to R9-10-234; new Section R9-10-232 renumbered from R9-10-231 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-233. Environmental Standards

An administrator shall ensure that:

1. An individual providing environmental services who has the potential to transmit infectious tuberculosis to patients, as determined by the infection control risk assessment criteria in R9-10-230(4)(c), provides evidence of freedom from infectious tuberculosis:
 - a. Using a screening method described in R9-10-113(1), on or before the date the individual begins providing environmental services at or on behalf of the hospital and at least once every 12 months thereafter; or
 - b. According to R9-10-113(2);
2. The hospital premises and equipment are:
 - a. Cleaned and disinfected according to policies and procedures or manufacturer's instructions to prevent, minimize, and control infection or illness; and
 - b. Free from a condition or situation that may cause a patient or other individual to suffer physical injury;
3. A pest control program is implemented and documented;
4. The hospital maintains a tobacco smoke-free environment;
5. Biohazardous medical waste is identified, stored, and disposed of according to 18 A.A.C. 13, Article 14 and policies and procedures;
6. Equipment used to provide hospital services is:
 - a. Maintained in working order;
 - b. Tested and calibrated according to the manufacturer's recommendations or, if there are no manufacturer's recommendations, as specified in policies and procedures; and
 - c. Used according to the manufacturer's recommendations; and
7. Documentation of equipment testing, calibration, and repair is maintained for at least 12 months after the date of the testing, calibration, or repair.

Historical Note

Former Section R9-10-233 renumbered as R9-10-322 as an emergency effective February 22, 1979, new Section R9-10-233 adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Section expired under A.R.S. § 41-1056(E) at 14 A.A.R. 2374, effective February 29, 2008 (Supp. 08-2).

08-2). New Section R9-10-233 renumbered from R9-10-230 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-234. Physical Plant Standards

- A.** An administrator shall ensure that:
1. A hospital complies with the applicable physical plant health and safety codes and standards incorporated by reference in A.A.C. R9-1-412 in effect on the date the hospital submitted, according to R9-10-104, an application for an approval of architectural plans and specifications to the Department;
 2. A hospital's premises or any part of the hospital premises is not leased to or used by another person;
 3. A unit with inpatient beds is not used as a passageway to another health care institution; and
 4. A hospital's premises are not licensed as more than one health care institution.
- B.** An administrator shall:
1. Obtain a fire inspection conducted according to the time-frame established by the local fire department or the State Fire Marshal,
 2. Make any repairs or corrections stated on the inspection report, and
 3. Maintain documentation of a current fire inspection report.

Historical Note

New Section made by final rulemaking 14 A.A.R. 4646, effective December 2, 2008 (Supp. 08-4). Section R9-10-234 renumbered to R9-10-228; new Section R9-10-234 renumbered from R9-10-232 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-235. Administrative Separation

- A.** In addition to the definitions in A.R.S. § 36-401, R9-10-101, and R9-10-201, the following definition applies in this Section: "Administrative separation" means the temporary isolation of a patient for the purpose of preserving the integrity of evidence during the course of a criminal investigation or for a situation where not isolating the patient presents a risk of serious harm to other individuals or a serious risk to the safety or security of a hospital.
- B.** Only a hospital established according to A.R.S. § 36-202 may use administrative separation.
- C.** An administrator appointed according to A.R.S. § 36-205 shall ensure that:
1. Administrative separation:
 - a. Is only used for a patient admitted to the hospital pursuant to a criminal court order; and
 - b. Is not used:
 - i. In conjunction with a restraint,
 - ii. As a method to manage behaviors, or
 - iii. If prohibited by law; and
 2. Policies and procedures are established, documented, and implemented for administrative separation that:
 - a. Include the process and criteria for requesting an administrative separation;
 - b. Include the process and deadlines for approving a request for an administrative separation;
 - c. Cover patient notification of the right to appeal the administrative separation and to file a complaint;

- d. Include the process for providing a patient access to:
 - i. Incoming mail, and
 - ii. An advocate or legal representative;
- e. Include the process for providing treatment to a patient while in administrative separation;
- f. Include the process for establishing investigative goals; and
- g. Include the process for determining when administrative separation will no longer be used for a patient.

Historical Note

New Section R9-10-235 made by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

ARTICLE 3. BEHAVIORAL HEALTH INPATIENT FACILITIES

Article 3, consisting of Sections R9-10-311 through R9-10-333, repealed at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-301. Definitions

In addition to the definitions in A.R.S. § 36-401 and R9-10-101, the following applies in this Article unless otherwise specified:

"Child and adolescent residential treatment services" means behavioral health services and physical health services provided in or by a behavioral health inpatient facility to a patient who is:

- Under 18 years of age, or
- Under 21 years of age and meets the criteria in R9-10-318(B).

Historical Note

New Section R9-10-301 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-302. Supplemental Application Requirements

In addition to the license application requirements in A.R.S. § 36-422 and R9-10-105, an applicant for an initial license as a behavioral health inpatient facility shall include in a Department-provided format whether the applicant is requesting authorization to provide:

1. Inpatient services to individuals 18 years of age and older, including the licensed capacity requested;
2. Court-ordered pre-petition screening;
3. Court-ordered evaluation;
4. Court-ordered treatment;
5. Behavioral health observation/stabilization services, including the licensed occupancy requested for providing behavioral health observation/stabilization services to individuals:
 - a. Under 18 years of age, and
 - b. 18 years of age and older;
6. Child and adolescent residential treatment services, including the licensed capacity requested;
7. Detoxification services;
8. Seclusion;
9. Clinical laboratory services;
10. Radiology services; or
11. Diagnostic imaging services.

Historical Note

New Section R9-10-302 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pur-

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suant to Laws 2013, Ch. 10, § 13; effective July 1, 2014
(Supp. 14-2).

R9-10-303. Administration**A.** A governing authority shall:

1. Consist of one or more individuals responsible for the organization, operation, and administration of a behavioral health inpatient facility;
2. Establish, in writing:
 - a. A behavioral health inpatient facility's scope of services, and
 - b. Qualifications for an administrator;
3. Designate, in writing, an administrator who has the qualifications established in subsection (A)(2)(b);
4. Adopt a quality management program according to R9-10-304;
5. Review and evaluate the effectiveness of the quality management program at least once every 12 months;
6. Designate, in writing, an acting administrator who has the qualifications established in subsection (A)(2)(b), if the administrator is:
 - a. Expected not to be present on the behavioral health inpatient facility's premises for more than 30 calendar days, or
 - b. Not present on the behavioral health inpatient facility's premises for more than 30 calendar days; and
7. Except as provided in subsection (A)(6), notify the Department according to A.R.S. § 36-425(I) when there is a change in the administrator and identify the name and qualifications of the new administrator.

B. An administrator:

1. Is directly accountable to the governing authority of a behavioral health inpatient facility for the daily operation of the behavioral health inpatient facility and for all services provided by or at the behavioral health inpatient facility;
2. Has the authority and responsibility to manage the behavioral health inpatient facility; and
3. Except as provided in subsection (A)(6), designates, in writing, an individual who is present on the behavioral health inpatient facility's premises and accountable for the behavioral health inpatient facility when the administrator is not present on the behavioral health inpatient facility's premises.

C. An administrator shall ensure that:

1. Policies and procedures are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Cover job descriptions, duties, and qualifications, including required skills, knowledge, education, and experience for personnel members, employees, volunteers, and students;
 - b. Cover orientation and in-service education for personnel members, employees, volunteers, and students;
 - c. Include how a personnel member may submit a complaint relating to services provided to a patient;
 - d. Cover the requirements in A.R.S. Title 36, Chapter 4, Article 11;
 - e. Cover cardiopulmonary resuscitation training including:
 - i. The method and content of cardiopulmonary resuscitation training,
 - ii. The qualifications for an individual to provide cardiopulmonary resuscitation training,
 - iii. The time-frame for renewal of cardiopulmonary resuscitation training, and

iv. The documentation that verifies that the individual has received cardiopulmonary resuscitation training;

- f. Cover first aid training;
 - g. Include a method to identify a patient to ensure the patient receives physical health and behavioral health services as ordered;
 - h. Cover patient rights, including assisting a patient who does not speak English or who has a physical or other disability to become aware of patient rights;
 - i. Cover specific steps for:
 - i. A patient to file a complaint, and
 - ii. The behavioral health inpatient facility to respond to a patient's complaint;
 - j. Cover health care directives;
 - k. Cover medical records, including electronic medical records;
 - l. Cover quality management, including incident reports and supporting documentation;
 - m. Cover contracted services; and
 - n. Cover when an individual may visit a patient in the behavioral health inpatient facility;
2. Policies and procedures for behavioral health services and physical health services are established, documented, and implemented to protect the health and safety of a patient that:
- a. Cover patient screening, admission, assessment, treatment plan, transport, transfer, discharge planning, and discharge;
 - b. Cover the provision of behavioral health services and physical health services;
 - c. Include when general consent and informed consent are required;
 - d. Cover restraint and, if applicable, seclusion;
 - e. Cover dispensing, administering, and disposing of medication, including provisions for inventory control and preventing diversion of controlled substances;
 - f. Cover prescribing a controlled substance to minimize substance abuse by a patient;
 - g. Cover infection control;
 - h. Cover telemedicine, if applicable;
 - i. Cover environmental services that affect patient care;
 - j. Cover patient outings;
 - k. Cover whether pets and animals are allowed on the premises, including procedures to ensure that any pets or animals allowed on the premises do not endanger the health or safety of patients or the public;
 - l. If the behavioral health inpatient facility is involved in research, cover the establishment or use of a Human Subject Review Committee;
 - m. Cover the process for receiving a fee from a patient and refunding a fee to a patient;
 - n. Cover the process for obtaining patient preferences for social, recreational, or rehabilitative activities and meals and snacks;
 - o. Cover the security of a patient's possessions that are allowed on the premises; and
 - p. Cover smoking and the use of tobacco products on the premises;
3. Policies and procedures are reviewed at least once every three years and updated as needed;
 4. Policies and procedures are available to personnel members, employees, volunteers and students; and

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5. Unless otherwise stated:
 - a. Documentation required by this Article is provided to the Department within two hours after a Department request; and
 - b. When documentation or information is required by this Chapter to be submitted on behalf of a behavioral health inpatient facility, the documentation or information is provided to the unit in the Department that is responsible for licensing and monitoring the behavioral health inpatient facility.
- D. An administrator shall designate a:
 1. Medical director who:
 - a. Provides direction for physical health services provided by or at the behavioral health inpatient facility;
 - b. Is a physician or registered nurse practitioner; and
 - c. May be the same individual as the administrator, if the individual meets the qualifications in subsections (A)(2)(b) and (D)(1)(a) and (b);
 2. Clinical director who:
 - a. Provides direction for the behavioral health services provided by or at the behavioral health inpatient facility;
 - b. Is a behavioral health professional; and
 - c. May be the same individual as the administrator, if the individual meets the qualifications in subsections (A)(2)(b) and (D)(2)(a) and (b); and
 3. Registered nurse to provide direction for nursing services provided by or at the behavioral health inpatient facility.
- E. An administrator shall provide written notification to the Department of a patient's:
 1. Death, if the patient's death is required to be reported according to A.R.S. § 11-593, within one working day after the patient's death; and
 2. Self-injury, within two working days after the patient inflicts a self-injury that requires immediate intervention by an emergency medical services provider.
- F. Except as specified in R9-10-318(A)(1), if abuse, neglect, or exploitation of a patient is alleged or suspected to have occurred before the patient was admitted or while the patient is not on the premises and not receiving services from a behavioral health inpatient facility's employee or personnel member, an administrator shall report the alleged or suspected abuse, neglect, or exploitation of the patient according to A.R.S. § 46-454.
- G. If an administrator has a reasonable basis, according to A.R.S. § 46-454, to believe abuse, neglect, or exploitation has occurred on the premises or while a patient is receiving services from a behavioral health inpatient facility's employee or personnel member, the administrator shall:
 1. If applicable, take immediate action to stop the suspected abuse, neglect, or exploitation;
 2. Report the suspected abuse, neglect, or exploitation of the patient according to A.R.S. § 46-454;
 3. Document:
 - a. The suspected abuse, neglect, or exploitation;
 - b. Any action taken according to subsection (G)(1); and
 - c. The report in subsection (G)(2);
 4. Maintain the documentation in subsection (G)(3) for at least 12 months after the date of the report in subsection (G)(2);
 5. Initiate an investigation of the suspected abuse, neglect, or exploitation and document the following information within five working days after the report required in subsection (G)(2):
 - a. The dates, times, and description of the suspected abuse, neglect, or exploitation;
 - b. A description of any injury to the patient related to the suspected abuse or neglect and any change to the patient's physical, cognitive, functional, or emotional condition;
 - c. The names of witnesses to the suspected abuse, neglect, or exploitation; and
 - d. The actions taken by the administrator to prevent the suspected abuse, neglect, or exploitation from occurring in the future; and
6. Maintain a copy of the documented information required in subsection (G)(5) and any other information obtained during the investigation for at least 12 months after the date the investigation was initiated.
- H. An administrator shall establish and document the criteria for determining when a patient's absence is unauthorized, including the criteria for a patient who:
 1. Was admitted under A.R.S. Title 36, Chapter 5, Articles 1, 2, or 3;
 2. Is absent against medical advice; or
 3. Is under the age of 18.
- I. An administrator shall:
 1. For a patient who is under a court's jurisdiction, within an hour after determining that the patient's absence is unauthorized according to the criteria in subsection (H), notify the appropriate court or a person designated by the appropriate court;
 2. Document the notification in subsection (I)(1) and the written log required in subsection (I)(3);
 3. Maintain a written log of unauthorized absences for at least 12 months after the date of a patient's absence that includes the:
 - a. Name of a patient absent without authorization;
 - b. If applicable, name of the person notified as required in subsection (I)(1); and
 - c. Date of the notification; and
 4. Evaluate and take action related to unauthorized absences under the quality management program in R9-10-304.

Historical Note

New Section R9-10-303 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-304. Quality Management

An administrator shall ensure that:

1. A plan is established, documented, and implemented for an ongoing quality management program that, at a minimum, includes:
 - a. A method to identify, document, and evaluate incidents;
 - b. A method to collect data to evaluate services provided to patients;
 - c. A method to evaluate the data collected to identify a concern about the delivery of services related to patient care;
 - d. A method to make changes or take action as a result of the identification of a concern about the delivery of services related to patient care; and
 - e. The frequency of submitting a documented report required in subsection (2) to the governing authority;
2. A documented report is submitted to the governing authority that includes:

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- a. An identification of each concern about the delivery of services related to patient care, and
- b. Any changes made or actions taken as a result of the identification of a concern about the delivery of services related to patient care; and
3. The report required in subsection (2) and the supporting documentation for the report are maintained for at least 12 months after the date the report is submitted to the governing authority.

Historical Note

New Section R9-10-304 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-305. Contracted Services

An administrator shall ensure that:

1. Contracted services are provided according to the requirements in this Article, and
2. Documentation of current contracted services is maintained that includes a description of the contracted services provided.

Historical Note

New Section R9-10-305 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-306. Personnel

A. An administrator shall ensure that:

1. A personnel member is:
 - a. At least 21 years old, or
 - b. At least 18 years old and is licensed or certified under A.R.S. Title 32 and providing services within the personnel member's scope of practice;
2. An employee is at least 18 years old;
3. A student is at least 18 years old; and
4. A volunteer is at least 21 years old.

B. An administrator shall ensure that:

1. The qualifications, skills, and knowledge required for each type of personnel member:
 - a. Are based on:
 - i. The type of physical health services or behavioral health services expected to be provided by the personnel member according to the established job description, and
 - ii. The acuity of the patients receiving physical health services or behavioral health services from the personnel member according to the established job description; and
 - b. Include:
 - i. The specific skills and knowledge necessary for the personnel member to provide the expected physical health services and behavioral health services listed in the established job description,
 - ii. The type and duration of education that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services or behavioral health services listed in the established job description, and
 - iii. The type and duration of experience that may allow the personnel member to have acquired

the specific skills and knowledge for the personnel member to provide the expected physical health services or behavioral health services listed in the established job description;

2. A personnel member's skills and knowledge are verified and documented:
 - a. Before the personnel member provides physical health services or behavioral health services, and
 - b. According to policies and procedures; and
3. Sufficient personnel members are present on a behavioral health inpatient facility's premises with the qualifications, skills, and knowledge necessary to:
 - a. Provide the services in the behavioral health inpatient facility's scope of services,
 - b. Meet the needs of a patient, and
 - c. Ensure the health and safety of a patient.
- C. An administrator shall comply with the requirements for behavioral health technicians and behavioral health paraprofessionals in R9-10-115.
- D. An administrator shall ensure that an individual who is licensed under A.R.S. Title 32, Chapter 33 as a baccalaureate social worker, master social worker, associate marriage and family therapist, associate counselor, or associate substance abuse counselor is under direct supervision, as defined in A.A.C. R4-6-101.
- E. An administrator shall ensure that a personnel member or an employee, volunteer, or student who has or is expected to have direct interaction with a patient, provides evidence of freedom from infectious tuberculosis:
 1. On or before the date the individual begins providing services at or on behalf of the behavioral health inpatient facility, and
 2. As specified in R9-10-113.
- F. An administrator shall ensure that a personnel record is maintained for each personnel member, employee, volunteer, or student that includes:
 1. The individual's name, date of birth, and contact telephone number;
 2. The individual's starting date of employment or volunteer service and, if applicable, the ending date; and
 3. Documentation of:
 - a. The individual's qualifications, including skills and knowledge applicable to the employee's job duties;
 - b. The individual's education and experience applicable to the employee's job duties;
 - c. The individual's completed orientation and in-service education as required by policies and procedures;
 - d. The individual's license or certification, if the individual is required to be licensed or certified in this Article or policies and procedures;
 - e. The individual's qualifications and on-going training for each type of restraint or seclusion used, as required in R9-10-316;
 - f. If the individual is a behavioral health technician, clinical oversight required in R9-10-115;
 - g. Cardiopulmonary resuscitation training, if required for the individual according to R9-10-303(C)(1)(e);
 - h. First aid training, if required for the individual according to this Article or policies and procedures; and
 - i. Evidence of freedom from infectious tuberculosis, if required for the individual according to subsection (E).
- G. An administrator shall ensure that personnel records are:
 1. Maintained:

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- a. Throughout an individual's period of providing services in or for the behavioral health inpatient facility, and
 - b. For at least 24 months after the last date the individual provided services in or for the behavioral health inpatient facility; and
 - 2. For a personnel member who has not provided physical health services or behavioral health services at or for the behavioral health inpatient facility during the previous 12 months, provided to the Department within 72 hours after the Department's request.
 - H.** An administrator shall ensure that:
 - 1. A plan to provide orientation specific to the duties of a personnel member, an employee, a volunteer, and a student is developed, documented, and implemented;
 - 2. A personnel member completes orientation before providing behavioral health services or physical health services;
 - 3. An individual's orientation is documented, to include:
 - a. The individual's name,
 - b. The date of the orientation, and
 - c. The subject or topics covered in the orientation;
 - 4. A clinical director develops, documents, and implements a plan to provide in-service education specific to the duties of a personnel member; and
 - 5. A personnel member's in-service education is documented, to include:
 - a. The personnel member's name,
 - b. The date of the training, and
 - c. The subject or topics covered in the training.
 - I.** An administrator shall ensure that a behavioral health inpatient facility has a daily staffing schedule that:
 - 1. Indicates the date, scheduled work hours, and name of each employee assigned to work, including on-call personnel members;
 - 2. Includes documentation of the employees who work each calendar day and the hours worked by each employee; and
 - 3. Is maintained for at least 12 months after the last date on the daily staffing schedule.
 - J.** An administrator shall ensure that:
 - 1. A physician or registered nurse practitioner is present on the behavioral health inpatient facility's premises or on-call,
 - 2. A registered nurse is present on the behavioral health inpatient facility's premises, and
 - 3. A registered nurse who provides direction for the nursing services provided at the behavioral health inpatient facility is present at the behavioral health inpatient facility at least 40 hours every week.
- Historical Note**
- New Section R9-10-306 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).
- R9-10-307. Admission; Assessment**
- Except as provided in R9-10-315(E) or (F), an administrator shall ensure that:
- 1. A patient is admitted based upon the patient's presenting behavioral health issue and treatment needs and the behavioral health inpatient facility's ability and authority to provide physical health services, behavioral health services, and ancillary services consistent with the patient's treatment needs;
 - 2. A patient is admitted on the order of a medical practitioner or clinical director;
 - 3. A medical practitioner or clinical director, authorized by policies and procedures to accept a patient for admission, is available;
 - 4. Except in an emergency or as provided in subsections (6) and (7), general consent is obtained from a patient or, if applicable, the patient's representative before or at the time of admission;
 - 5. The general consent obtained in subsection (4) or the lack of consent in an emergency is documented in the patient's medical record;
 - 6. General consent is not required from a patient receiving a court-ordered evaluation or court-ordered treatment;
 - 7. General consent is not required from a patient receiving treatment according to A.R.S. § 36-512;
 - 8. A medical practitioner performs a medical history and physical examination on a patient within 30 calendar days before admission or within 72 hours after admission and documents the medical history and physical examination in the patient's medical record within 72 hours after admission;
 - 9. If a medical practitioner performs a medical history and physical examination on a patient before admission, the medical practitioner enters an interval note into the patient's medical record within seven calendar days after admission;
 - 10. Except when a patient needs crisis services, a behavioral health assessment of a patient is completed before treatment for the patient is initiated;
 - 11. If a behavioral health assessment is conducted by a:
 - a. Behavioral health technician or registered nurse, within 24 hours a behavioral health professional, certified or licensed under A.R.S. Title 32 to provide the behavioral health services needed by the patient, reviews and signs the behavioral health assessment to ensure that the behavioral health assessment identifies the behavioral health services needed by the patient; or
 - b. Behavioral health paraprofessional, a behavioral health professional, certified or licensed under A.R.S. Title 32 to provide the behavioral health services needed by the patient, supervises the behavioral health paraprofessional during the completion of the behavioral health assessment and signs the behavioral health assessment to ensure that the behavioral health assessment identifies the behavioral health services needed by the patient;
 - 12. When a patient is admitted, a registered nurse:
 - a. Conducts a nursing assessment of a patient's medical condition and history;
 - b. Determines whether the:
 - i. Patient requires immediate physical health services, and
 - ii. Patient's behavioral health issue may be related to the patient's medical condition and history;
 - c. Documents the patient's nursing assessment and the determinations required in subsection (12)(b) in the patient's medical record; and
 - d. Signs the patient's medical record;
 - 13. A behavioral health assessment:
 - a. Documents the patient's:
 - i. Presenting issue;
 - ii. Substance abuse history;
 - iii. Co-occurring disorder;
 - iv. Legal history, including:

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- (1) Custody,
 - (2) Guardianship, and
 - (3) Pending litigation;
 - v. Court-ordered evaluation;
 - vi. Court-ordered treatment;
 - vii. Criminal justice record;
 - viii. Family history;
 - ix. Behavioral health treatment history;
 - x. Symptoms reported by the patient; and
 - xi. Referrals needed by the patient, if any; and
- b. Includes:
 - i. Recommendations for further assessment or examination of the patient's needs;
 - ii. For a patient who:
 - (1) Is admitted to receive crisis services, the behavioral health services and physical health services that will be provided to the patient; or
 - (2) Does not need crisis services, the behavioral health services or physical health services that will be provided to the patient until the patient's treatment plan is completed; and
 - iii. The signature and date signed of the personnel member conducting the behavioral health assessment;
- 14. A patient is referred to a medical practitioner if a determination is made that the patient requires immediate physical health services or the patient's behavioral health issue may be related to the patient's medical condition;
- 15. A request for participation in a patient's behavioral health assessment is made to the patient or the patient's representative;
- 16. An opportunity for participation in the patient's behavioral health assessment is provided to the patient or the patient's representative;
- 17. The request in subsection (15) and the opportunity in subsection (16) are documented in the patient's medical record;
- 18. For a patient who is admitted to receive crisis services, the patient's behavioral health assessment is documented in the patient's medical record within 24 hours after admission;
- 19. Except as provided in subsection (18), a patient's behavioral health assessment is documented in the patient's medical record within 48 hours after completing the assessment; and
- 20. If the information listed in subsection (13) is obtained about a patient after the patient's behavioral health assessment is completed, an interval note, including the information, is documented in the patient's medical record within 48 hours after the information is obtained.

Historical Note

New Section R9-10-307 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-308. Treatment Plan

- A. Except for a patient admitted to receive crisis services or as provided in R9-10-315(E) or (F), an administrator shall ensure that a treatment plan is developed and implemented for a patient that is:

- 1. Based on the behavioral health assessment and on-going changes to the behavioral health assessment of the patient;
- 2. Completed:
 - a. By a behavioral health professional or by a behavioral health technician under the clinical oversight of a behavioral health professional, and
 - b. Before the patient receives treatment;
- 3. Documented in the patient's medical record within 48 hours after the patient first receives treatment;
- 4. Includes:
 - a. The patient's presenting issue;
 - b. The behavioral health services and physical health services to be provided to the patient;
 - c. The signature of the patient or the patient's representative and date signed, or documentation of the refusal to sign;
 - d. The date when the patient's treatment plan will be reviewed;
 - e. If a discharge date has been determined, the treatment needed after discharge; and
 - f. The signature of the personnel member who developed the treatment plan and the date signed;
- 5. If the treatment plan was completed by a behavioral health technician, reviewed and signed by a behavioral health professional within 24 hours after the completion of the treatment plan to ensure that the treatment plan meets the patient's treatment needs; and
- 6. Reviewed and updated on an on-going basis:
 - a. According to the review date specified in the treatment plan,
 - b. When a treatment goal is accomplished or changes,
 - c. When additional information that affects the patient's behavioral health assessment is identified, and
 - d. When a patient has a significant change in condition or experiences an event that affects treatment.
- B. An administrator shall ensure that:
 - 1. A request for participation in developing a patient's treatment plan is made to the patient or the patient's representative;
 - 2. An opportunity for participation in developing the patient's treatment plan is provided to the patient or the patient's representative; and
 - 3. The request in subsection (B)(1) and the opportunity in subsection (B)(2) are documented in the patient's medical record.
- C. If a patient who is admitted to receive crisis services remains admitted as a patient after the patient no longer needs crisis services, an administrator shall ensure that a treatment plan for the patient is:
 - 1. Except for subsection (A)(3), completed according to the requirements in subsection (A); and
 - 2. Documented in the patient's medical record within 24 hours after the patient no longer needs crisis services.

Historical Note

New Section R9-10-308 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-309. Discharge

- A. Except as provided in R9-10-315(E) or (F), an administrator shall ensure that a discharge plan for a patient is:
 - 1. Developed that:

- a. Identifies any specific needs of the patient after discharge;
 - b. If the discharge date has been determined, includes the discharge date;
 - c. Is completed before discharge occurs; and
 - d. Includes a description of the level of care that may meet the patient's assessed and anticipated needs after discharge;
 2. Documented in the patient's medical record within 48 hours after the discharge plan is completed; and
 3. Provided to the patient or the patient's representative before the discharge occurs.
- B.** An administrator shall ensure that:
1. A request for participation in developing a patient's discharge plan is made to the patient or the patient's representative,
 2. An opportunity for participation in developing the patient's discharge plan is provided to the patient or the patient's representative, and
 3. The request in subsection (B)(1) and the opportunity in subsection (B)(2) are documented in the patient's medical record.
- C.** An administrator shall ensure that a patient is discharged from a behavioral health inpatient facility when the patient's treatment needs are not consistent with the services that the behavioral health inpatient facility is authorized and able to provide.
- D.** An administrator shall ensure that there is a documented discharge order by a medical practitioner or behavioral health professional before a patient is discharged unless the patient leaves the behavioral health inpatient facility against a medical practitioner's or behavioral health professional's advice.
- E.** An administrator shall ensure that, at the time of discharge, a patient receives a referral for treatment or ancillary services that the patient may need after discharge, if applicable.
- F.** If a patient is discharged to any location other than a health care institution, an administrator shall ensure that:
1. Discharge instructions are documented, and
 2. The patient or the patient's representative is provided with a copy of the discharge instructions.
- G.** An administrator shall ensure that a discharge summary:
1. Is entered into the patient's medical record within 10 working days after a patient's discharge; and
 2. Includes:
 - a. The following information authenticated by a medical practitioner or behavioral health professional:
 - i. The patient's presenting issue and other physical health and behavioral health issues identified in the patient's nursing assessment, behavioral health assessment, or treatment plan;
 - ii. A summary of the treatment provided to the patient;
 - iii. The patient's progress in meeting treatment goals, including treatment goals that were and were not achieved; and
 - iv. The name, dosage, and frequency of each medication ordered for the patient by a medical practitioner at the behavioral health inpatient facility at the time of the patient's discharge; and
 - b. A description of the disposition of the patient's possessions, funds, or medications brought to the behavioral health inpatient facility by the patient.
- H.** An administrator shall ensure that a patient who is dependent upon a prescribed medication is offered detoxification services, opioid treatment, or a written referral to detoxification

services or opioid treatment before the patient is discharged from the behavioral health inpatient facility if a medical practitioner for the behavioral health inpatient facility will not be prescribing the medication for the patient at or after discharge.

Historical Note

New Section R9-10-309 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-310. Transport; Transfer

- A.** Except as provided in subsection (B), an administrator shall ensure that:
1. A personnel member coordinates the transport and the services provided to the patient;
 2. According to policies and procedures:
 - a. An evaluation of the patient is conducted before and after the transport,
 - b. Information from the patient's medical record is provided to a receiving health care institution,
 - c. A personnel member explains risks and benefits of the transport to the patient or the patient's representative, and
 - d. A personnel member communicates or documents why the personnel member did not communicate with an individual at a receiving health care institution; and
 3. The patient's medical record includes documentation of:
 - a. Communication or lack of communication with an individual at a receiving health care institution;
 - b. The date and time of the transport;
 - c. The mode of transportation; and
 - d. If applicable, the name of the personnel member accompanying the patient during a transport.
- B.** Subsection (A) does not apply to:
1. Transportation to a location other than a licensed health care institution,
 2. Transportation provided for a patient by the patient or the patient's representative,
 3. Transportation provided by an outside entity that was arranged for a patient by the patient or the patient's representative, or
 4. A transport to another licensed health care institution in an emergency.
- C.** Except for a transfer of a patient due to an emergency, an administrator shall ensure that:
1. A personnel member coordinates the transfer and the services provided to the patient;
 2. According to policies and procedures:
 - a. An evaluation of the patient is conducted before the transfer;
 - b. Information from the patient's medical record, including orders that are in effect at the time of the transfer, is provided to a receiving health care institution; and
 - c. A personnel member explains risks and benefits of the transfer to the patient or the patient's representative; and
 3. Documentation in the patient's medical record includes:
 - a. Communication with an individual at a receiving health care institution;
 - b. The date and time of the transfer;
 - c. The mode of transportation; and
 - d. If applicable, the name of the personnel member accompanying the patient during a transfer.

Historical Note

Adopted as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 4, 1979 (Supp. 79-3). Amended effective January 28, 1980 (Supp. 80-1). Repealed effective February 4, 1981 (Supp. 81-1). New Section R9-10-310 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-311. Patient Rights

- A.** An administrator shall ensure that:
1. The requirements in subsection (B) and the patient rights in subsection (D) are conspicuously posted on the premises;
 2. At the time of admission, a patient or the patient's representative receives a written copy of the requirements in subsection (B) and the patient rights in subsection (D); and
 3. Policies and procedures include:
 - a. How and when a patient or the patient's representative is informed of patient rights in subsection (D), and
 - b. Where patient rights are posted as required in subsection (A)(1).
- B.** An administrator shall ensure that:
1. A patient is treated with dignity, respect, and consideration;
 2. A patient is not subjected to:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Coercion;
 - e. Manipulation;
 - f. Sexual abuse;
 - g. Sexual assault;
 - h. Except as allowed under R9-10-316, restraint or seclusion;
 - i. Retaliation for submitting a complaint to the Department or another entity;
 - j. Misappropriation of personal and private property by the behavioral health inpatient facility's personnel members, employees, volunteers, or students;
 - k. Discharge or transfer, or threat of discharge or transfer, for reasons unrelated to the patient's treatment needs, except as established in a fee agreement signed by the patient or the patient's representative; or
 - l. Treatment that involves the denial of:
 - i. Food,
 - ii. The opportunity to sleep, or
 - iii. The opportunity to use the toilet;
 3. Except as provided in subsection (C), a patient is allowed to:
 - a. Associate with individuals of the patient's choice, receive visitors, and make telephone calls during the hours established by the behavioral health inpatient facility;
 - b. Have privacy in correspondence, communication, visitation, financial affairs, and personal hygiene; and
 - c. Unless restricted by a court order, send and receive uncensored and unopened mail; and
 4. Except as provided in R9-10-318, a patient or, if applicable, the patient's representative:
 - a. Except in an emergency, either consents to or refuses treatment;
 - b. May refuse or withdraw consent for treatment before treatment is initiated, unless the treatment is ordered by a court according to A.R.S. Title 36, Chapter 5; is necessary to save the patient's life or physical health; or is provided according to A.R.S. § 36-512;
 - c. Except in an emergency, is informed of alternatives to a proposed psychotropic medication and the associated risks and possible complications of the proposed psychotropic medication;
 - d. Is informed of the following:
 - i. The policy on health care directives, and
 - ii. The patient complaint process; and
 - e. Except as otherwise permitted by law, provides written consent to the release of information in the patient's:
 - i. Medical record, or
 - ii. Financial records.
- C.** If a medical director or clinical director determines that a patient's treatment requires the behavioral health inpatient facility to restrict the patient's ability to participate in an activity in subsection (B)(3), the medical director or clinical director shall:
1. Document a specific treatment purpose in the patient's medical record that justifies restricting the patient from the activity,
 2. Inform the patient of the reason why the activity is being restricted, and
 3. Inform the patient of the patient's right to file a complaint and the procedure for filing a complaint.
- D.** A patient has the following rights:
1. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, or diagnosis;
 2. To receive treatment that:
 - a. Supports and respects the patient's individuality, choices, strengths, and abilities;
 - b. Supports the patient's personal liberty and only restricts the patient's personal liberty according to a court order, by the patient's or the patient's representative's general consent, or as permitted in this Chapter; and
 - c. Is provided in the least restrictive environment that meets the patient's treatment needs;
 3. To receive privacy in treatment and care for personal needs, including the right not to be fingerprinted, photographed, or recorded without consent, except:
 - a. A patient may be photographed when admitted to a behavioral health inpatient facility for identification and administrative purposes;
 - b. For a patient receiving treatment according to A.R.S. Title 36, Chapter 37; or
 - c. For video recordings used for security purposes that are maintained only on a temporary basis;
 4. Not to be prevented or impeded from exercising the patient's civil rights unless the patient has been adjudicated incompetent or a court of competent jurisdiction has found that the patient is not able to exercise a specific right or category of rights;
 5. To review, upon written request, the patient's own medical record according to A.R.S. §§12-2293, 12-2294, and 12-2294.01;
 6. To receive a referral to another health care institution if the behavioral health inpatient facility is not authorized or

- not able to provide physical health services or behavioral health services needed by the patient;
7. To participate or have the patient's representative participate in the development of a treatment plan or decisions concerning treatment;
 8. To participate or refuse to participate in research or experimental treatment; and
 9. To receive assistance from a family member, the patient's representative, or other individual in understanding, protecting, or exercising the patient's rights.

Historical Note

Section R9-10-311, formerly numbered as R9-10-211, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-311 repealed, new Section R9-10-311 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-311 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-312. Medical Records

A. An administrator shall ensure that:

1. A medical record is established and maintained for each patient according to A.R.S. Title 12, Chapter 13, Article 7.1;
2. An entry in a patient's medical record is:
 - a. Recorded only by a personnel member authorized by policies and procedures to make the entry;
 - b. Dated, legible, and authenticated; and
 - c. Not changed to make the initial entry illegible;
3. An order is:
 - a. Dated when the order is entered in the patient's medical record and includes the time of the order;
 - b. Authenticated by a medical practitioner or behavioral health professional according to policies and procedures; and
 - c. If the order is a verbal order, authenticated by the medical practitioner or behavioral health professional issuing the order;
4. If a rubber-stamp signature or an electronic signature is used to authenticate an order, the individual whose signature the rubber-stamp signature or electronic signature represents is accountable for the use of the rubber-stamp signature or electronic signature;
5. A patient's medical record is available to an individual:
 - a. Authorized according to policies and procedures to access the patient's medical record;
 - b. If the individual is not authorized according to policies and procedures, with the written consent of the patient or the patient's representative, or
 - c. As permitted by law; and
6. A patient's medical record is protected from loss, damage, or unauthorized use.

B. If a behavioral health inpatient facility maintains patients' medical records electronically, an administrator shall ensure that:

1. Safeguards exist to prevent unauthorized access, and
2. The date and time of an entry in a medical record is recorded by the computer's internal clock.

C. An administrator shall ensure that a patient's medical record contains:

1. Patient information that includes:
 - a. The patient's name;
 - b. The patient's address;
 - c. The patient's date of birth; and
 - d. Any known allergy, including medication allergies;
2. Medication information that includes:
 - a. Documentation of medication ordered for the patient; and
 - b. Documentation of medication administered to the patient that includes:
 - i. The date and time of administration;
 - ii. The name, strength, dosage, amount, and route of administration;
 - iii. For a medication administered for pain on a PRN basis:
 - (1) An assessment of the patient's pain before administering the medication, and
 - (2) The effect of the medication administered;
 - iv. For a psychotropic medication administered on a PRN basis:
 - (1) An assessment of the patient's behavior before administering the psychotropic medication, and
 - (2) The effect of the psychotropic medication administered;
 - v. The identification and authentication of the individual administering the medication or providing assistance in the self-administration of the medication; and
 - vi. Any adverse reaction the patient has to the medication;
3. If applicable, documented general consent and informed consent by the patient or the patient's representative;
4. If applicable, the name and contact information of the patient's representative and:
 - a. If the patient is 18 years of age or older or an emancipated minor, the document signed by the patient consenting for the patient's representative to act on the patient's behalf; or
 - b. If the patient's representative:
 - i. Has a health care power of attorney established under A.R.S. § 36-3221 or a mental health care power of attorney executed under A.R.S. § 36-3282, a copy of the health care power of attorney or mental health care power of attorney; or
 - ii. Is a legal guardian, a copy of the court order establishing guardianship;
5. The patient's medical history and results of a physical examination or an interval note;
6. If the patient provides a health care directive, the health care directive signed by the patient or the patient's representative;
7. An admitting diagnosis or presenting symptoms;
8. The date of admission and, if applicable, the date of discharge;
9. The name of the admitting medical practitioner or behavioral health professional;
10. Orders;
11. The patient's nursing assessment and behavioral health assessment and any interval notes;
12. Treatment plans;
13. Documentation of behavioral health services and physical health services provided to the patient;
14. Progress notes;
15. If applicable, documentation of restraint or seclusion;

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16. If applicable, documentation that evacuation from the behavioral health inpatient facility would cause harm to the patient;
17. The disposition of the patient after discharge;
18. The discharge plan;
19. The discharge summary; and
20. If applicable:
 - a. A laboratory report,
 - b. A radiologic report,
 - c. A diagnostic report, and
 - d. A consultation report.

Historical Note

Section R9-10-312, formerly numbered as R9-10-212, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-312 repealed, new Section R9-10-312 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-312 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-313. Transportation; Patient Outings

- A. An administrator of a behavioral health inpatient facility that uses a vehicle owned or leased by the behavioral health inpatient facility to provide transportation to a patient shall ensure that:
 1. The vehicle:
 - a. Is safe and in good repair,
 - b. Contains a first aid kit,
 - c. Contains drinking water sufficient to meet the needs of each patient present in the vehicle, and
 - d. Contains a working heating and air conditioning system;
 2. Documentation of current vehicle insurance and a record of maintenance performed or a repair of the vehicle is maintained;
 3. A driver of the vehicle:
 - a. Is 21 years of age or older;
 - b. Has a valid driver license;
 - c. Operates the vehicle in a manner that does not endanger a patient in the vehicle;
 - d. Does not leave in the vehicle an unattended:
 - i. Child;
 - ii. Patient who may be a threat to the health, safety, or welfare of the patient or another individual; or
 - iii. Patient who is incapable of independent exit from the vehicle; and
 - e. Ensures the safe and hazard-free loading and unloading of patients; and
 4. Transportation safety is maintained as follows:
 - a. An individual in the vehicle is sitting in a seat and wearing a working seat belt while the vehicle is in motion, and
 - b. Each seat in the vehicle is securely fastened to the vehicle and provides sufficient space for a patient's body.
- B. An administrator shall ensure that an outing is consistent with the age, developmental level, physical ability, medical condition, and treatment needs of each patient participating in the outing.

- C. An administrator shall ensure that:

1. At least two personnel members are present on an outing;
2. In addition to the personnel members required in subsection (C)(1), a sufficient number of personnel members are present on an outing to ensure the health and safety of a patient on the outing;
3. Each personnel member on the outing has documentation of current training in cardiopulmonary resuscitation according to R9-10-303(C)(1)(e) and first aid training;
4. Documentation is developed before an outing that includes:
 - a. The name of each patient participating in the outing;
 - b. A description of the outing;
 - c. The date of the outing;
 - d. The anticipated departure and return times;
 - e. The name, address, and, if available, telephone number of the outing destination; and
 - f. If applicable, the license plate number of a vehicle used to provide transportation for the outing;
5. The documentation described in subsection (C)(4) is updated to include the actual departure and return times and is maintained for at least 12 months after the date of the outing; and
6. Emergency information for a patient participating in the outing is maintained by a personnel member participating in the outing or in the vehicle used to provide transportation for the outing and includes:
 - a. The patient's name;
 - b. Medication information, including the name, dosage, route of administration, and directions for each medication needed by the patient during the anticipated duration of the outing;
 - c. The patient's allergies; and
 - d. The name and telephone number of a designated individual, to notify in case of an emergency, who is present on the behavioral health inpatient facility's premises.

Historical Note

Section R9-10-313, formerly numbered as R9-10-213, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-313 repealed, new Section R9-10-313 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-313 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-314. Physical Health Services

- A. An administrator shall ensure that:
 1. Medical services are provided under the direction of a physician;
 2. Nursing services are provided under the direction of a registered nurse; and
 3. If a behavioral health inpatient facility is authorized to provide:
 - a. Clinical laboratory services, as defined in R9-10-101, the behavioral health inpatient facility complies with the requirements for clinical laboratory services in R9-10-219; or

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- b. Radiology services or diagnostic imaging services, the behavioral health inpatient facility complies with the requirements in R9-10-220.
- B. An administrator shall ensure that, if a patient requires immediate medical services to ensure the patient's health and safety that the behavioral health inpatient facility is not authorized or not able to provide, a personnel member arranges for the patient to be transported to a hospital, another health care institution, or a health care provider where the medical services can be provided.

Historical Note

Section R9-10-314, formerly numbered as R9-10-214, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-314 repealed, new Section R9-10-314 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-314 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-315. Behavioral Health Services

- A. An administrator shall ensure that:
 - 1. Behavioral health services listed in the behavioral health inpatient facility's scope of services are provided to meet the needs of a patient;
 - 2. When behavioral health services are:
 - a. Listed in the behavioral health inpatient facility's scope of services, the behavioral health services are provided on the behavioral health inpatient facility's premises; and
 - b. Provided in a setting or activity with more than one patient participating, before a patient participates, the diagnoses, treatment needs, developmental levels, social skills, verbal skills, and personal histories, including any history of physical abuse or sexual abuse, of the patients participating are reviewed to ensure that the:
 - i. Health and safety of each patient is protected, and
 - ii. Treatment needs of each patient participating in the setting or activity are being met; and
 - 3. A patient does not share any space, participate in any activity or treatment, or verbally or physically interact with any other patient that, based on the other patient's documented diagnosis, treatment needs, developmental levels, social skills, verbal skills, and personal history, may present a threat to the patient's health and safety.
- B. An administrator shall ensure that counseling is:
 - 1. Offered as described in the behavioral health inpatient facility's scope of services,
 - 2. Provided according to the frequency and number of hours identified in the patient's treatment plan, and
 - 3. Provided by a behavioral health professional or a behavioral health technician.
- C. An administrator shall ensure that each counseling session is documented in a patient's medical record to include:
 - 1. The date of the counseling session;
 - 2. The amount of time spent in the counseling session;
 - 3. Whether the counseling was individual counseling, family counseling, or group counseling;

- 4. The treatment goals addressed in the counseling session; and
- 5. The signature of the personnel member who provided the counseling and the date signed.
- D. An administrator of a behavioral health inpatient facility authorized to provide pre-petition screening shall ensure pre-petition screening is provided according to the pre-petition screening requirements in A.R.S. Title 36, Chapter 5.
- E. An administrator of a behavioral health inpatient facility authorized to provide court-ordered evaluation shall ensure that court-ordered evaluation is provided according to the court-evaluation requirements in A.R.S. Title 36, Chapter 5.
- F. An administrator is not required to comply with the following provisions in this Chapter for a patient receiving court-ordered evaluation:
 - 1. Admission requirements in R9-10-307,
 - 2. Patient assessment requirements in R9-10-307,
 - 3. Treatment plan requirements in R9-10-308, and
 - 4. Discharge requirements in R9-10-309.
- G. An administrator of a behavioral health inpatient facility authorized to provide court-ordered treatment shall ensure that court-ordered treatment is provided according to the court-ordered treatment requirements in A.R.S. Title 36, Chapter 5.

Historical Note

Section R9-10-315, formerly numbered as R9-10-215, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-315 repealed, new Section R9-10-315 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-315 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-316. Seclusion; Restraint

- A. An administrator shall ensure that restraint is provided according to the requirements in subsection (C).
- B. An administrator of a behavioral health inpatient facility authorized to provide seclusion shall ensure that:
 - 1. Seclusion is provided according to the requirements in subsection (C);
 - 2. If a patient is placed in seclusion, the room used for seclusion:
 - a. Is approved for use as a seclusion room by the Department;
 - b. Is not used as a patient's bedroom or a sleeping area;
 - c. Allows full view of the patient in all areas of the room;
 - d. Is free of hazards, such as unprotected light fixtures or electrical outlets;
 - e. Contains at least 60 square feet of floor space; and
 - f. Except as provided in subsection (B)(3), contains a non-adjustable bed that:
 - i. Consists of a mattress on a solid platform that is:
 - (1) Constructed of a durable, non-hazardous material; and
 - (2) Raised off of the floor;
 - ii. Does not have wire springs or a storage drawer; and
 - iii. Is securely anchored in place;

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3. If a room used for seclusion does not contain a non-adjustable bed required in subsection (B)(2)(f):
 - a. A piece of equipment is available that:
 - i. Is commercially manufactured to safely and humanely restrain a patient's body;
 - ii. Provides support to the trunk and head of a patient's body;
 - iii. Provides restraint to the trunk of a patient's body;
 - iv. Is able to restrict movement of a patient's arms, legs, body, and head;
 - v. Allows a patient's body to recline; and
 - vi. Does not inflict harm on a patient's body; and
 - b. Documentation of the manufacturer's specifications for the piece of equipment in subsection (B)(3)(a) is maintained; and
 4. A seclusion room may be used for services or activities other than seclusion if:
 - a. A sign stating the service or activity scheduled or being provided in the room is conspicuously posted outside the room;
 - b. No permanent equipment other than the bed required in subsection (B)(2)(f) is in the room;
 - c. Policies and procedures:
 - i. Delineate which services or activities other than seclusion may be provided in the room,
 - ii. List what types of equipment or supplies may be placed in the room for the delineated services, and
 - iii. Provide for the prompt removal of equipment and supplies from the room before the room is used for seclusion; and
 - d. The sign required in subsection (B)(4)(a) and equipment and supplies in the room, other than the bed required in subsection (B)(2)(f), are removed before use.
- C. An administrator shall ensure that:
1. Policies and procedures for providing restraint or seclusion are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Establish the process for patient assessment, including identification of a patient's medical conditions and criteria for the on-going monitoring of any identified medical condition;
 - b. Identify each type of restraint or seclusion used and include for each type of restraint or seclusion used:
 - i. The qualifications of a personnel member who can:
 - (1) Order the restraint or seclusion,
 - (2) Place a patient in the restraint or seclusion,
 - (3) Monitor a patient in the restraint or seclusion,
 - (4) Evaluate a patient's physical and psychological well-being after being placed in the restraint or seclusion and when released from the restraint or seclusion, or
 - (5) Renew the order for restraint or seclusion;
 - ii. On-going training requirements for a personnel member who has direct patient contact while the patient is in a restraint or seclusion; and
 - iii. Criteria for monitoring and assessing a patient including:
 - (1) Frequencies of monitoring and assessment based on a patient's medical condition and risks associated with the specific restraint or seclusion;
 - (2) For the renewal of an order for restraint or seclusion, whether an assessment is required before the order is renewed and, if an assessment is required, who may conduct the assessment;
 - (3) Assessment content, which may include, depending on a patient's condition, the patient's vital signs, respiration, circulation, hydration needs, elimination needs, level of distress and agitation, mental status, cognitive functioning, neurological functioning, and skin integrity;
 - (4) If a mechanical restraint is used, how often the mechanical restraint is loosened; and
 - (5) A process for meeting a patient's nutritional needs and elimination needs;
 2. Establish the criteria and procedures for renewing an order for restraint or seclusion;
 3. Establish procedures for internal review of the use of restraint or seclusion; and
 4. Establish medical record and personnel record documentation requirements for restraint and seclusion, if applicable;
2. An order for restraint or seclusion is:
- a. Obtained from a physician or registered nurse practitioner, and
 - b. Not written as a standing order or on an as-needed basis;
3. Restraint or seclusion is:
- a. Not used as a means of coercion, discipline, convenience, or retaliation;
 - b. Only used when all of the following conditions are met:
 - i. Except as provided in subsection (C)(4), after obtaining an order for the restraint or seclusion;
 - ii. For the management of a patient's aggressive, violent, or self-destructive behavior;
 - iii. When less restrictive interventions have been determined to be ineffective; and
 - iv. To ensure the immediate physical safety of the patient, to prevent imminent harm to the patient or another individual, or to stop physical harm to another individual; and
 - c. Discontinued at the earliest possible time;
4. If as a result of a patient's aggressive, violent, or self-destructive behavior, harm to the patient or another individual is imminent or the patient or another individual is being physically harmed, a personnel member:
- a. May initiate an emergency application of restraint or seclusion for the patient before obtaining an order for the restraint or seclusion, and
 - b. Obtains an order for the restraint or seclusion of the patient during the emergency application of the restraint or seclusion;
5. An order for restraint or seclusion includes:
- a. The name of the physician or registered nurse practitioner ordering the restraint or seclusion;
 - b. The date and time that the restraint or seclusion was ordered;
 - c. The specific restraint or seclusion ordered;
 - d. If a drug is ordered as a chemical restraint, the drug's name, strength, dosage, and route of administration;
 - e. The specific criteria for release from restraint or seclusion without an additional order; and

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- f. The maximum duration authorized for the restraint or seclusion;
- 6. An order for restraint or seclusion is limited to the duration of the emergency situation and does not exceed three continuous hours;
- 7. If an order for restraint or seclusion of a patient is not provided by the patient's attending physician, the patient's attending physician is notified as soon as possible;
- 8. A medical practitioner or personnel member does not participate in restraint or seclusion, assess or monitor a patient during restraint or seclusion, or evaluate a patient after restraint or seclusion, and a physician or registered nurse practitioner does not order restraint or seclusion, until the medical practitioner or personnel member, completes education and training that:
 - a. Includes:
 - i. Techniques to identify medical practitioner, personnel member, and patient behaviors, events, and environmental factors that may trigger circumstances that require restraint or seclusion;
 - ii. The use of nonphysical intervention skills, such as de-escalation, mediation, conflict resolution, active listening, and verbal and observational methods;
 - iii. Techniques for identifying the least restrictive intervention based on an assessment of the patient's medical or behavioral health condition;
 - iv. The safe use of restraint and the safe use of seclusion, including training in how to recognize and respond to signs of physical and psychological distress in a patient who is restrained or secluded;
 - v. Clinical identification of specific behavioral changes that indicate that the restraint or seclusion is no longer necessary;
 - vi. Monitoring and assessing a patient while the patient is in restraint or seclusion according to policies and procedures; and
 - vii. Except for the medical practitioner, training exercises in which the personnel member successfully demonstrates the techniques that the medical practitioner or personnel member has learned for managing emergency situations; and
 - b. Is provided by individuals qualified according to policies and procedures;
- 9. When a patient is placed in restraint or seclusion:
 - a. The restraint or seclusion is conducted according to policies and procedures;
 - b. The restraint or seclusion is proportionate and appropriate to the severity of the patient's behavior and the patient's:
 - i. Chronological and developmental age;
 - ii. Size;
 - iii. Gender;
 - iv. Physical condition;
 - v. Medical condition;
 - vi. Psychiatric condition; and
 - vii. Personal history, including any history of physical or sexual abuse;
 - c. The physician or registered nurse practitioner who ordered the restraint or seclusion is available for consultation throughout the duration of the restraint or seclusion;
 - d. The patient is monitored and assessed according to policies and procedures;
 - e. A physician or registered nurse assesses the patient within one hour after the patient is placed in the restraint or seclusion and determines:
 - i. The patient's current behavior,
 - ii. The patient's reaction to the restraint or seclusion used,
 - iii. The patient's medical and behavioral condition, and
 - iv. Whether to continue or terminate the restraint or seclusion;
 - f. The patient is given the opportunity:
 - i. To eat during mealtime, and
 - ii. To use the toilet; and
 - g. The restraint or seclusion is discontinued at the earliest possible time, regardless of the length of time identified in the order;
- 10. A medical practitioner or personnel member documents the following information in a patient's medical record before the end of the shift in which the patient is placed in restraint or seclusion or, if the patient's restraint or seclusion does not end during the shift in which it began, during the shift in which the patient's restraint or seclusion ends:
 - a. The emergency situation that required the patient to be restrained or put in seclusion;
 - b. The times the patient's restraint or seclusion actually began and ended;
 - c. The time of the assessment required in subsection (C)(9)(e);
 - d. The monitoring required in subsection (C)(9)(d);
 - e. The names of the medical practitioners and personnel members with direct patient contact while the patient was in the restraint or seclusion;
 - f. The times the patient was given the opportunity to eat or use the toilet according to subsection (C)(9)(f); and
 - g. The patient evaluation required in subsection (C)(12);
- 11. If an emergency situation continues beyond the time limit of an order for restraint or seclusion, the order is renewed according to policies and procedures that include:
 - a. The specific criteria for release from restraint or seclusion without an additional order, and
 - b. The maximum duration authorized for the restraint or seclusion; and
- 12. A patient is evaluated after restraint or seclusion is no longer being used for the patient.

Historical Note

Section R9-10-316, formerly numbered as R9-10-216, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-316 repealed, new Section R9-10-316 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-316 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-317. Behavioral Health Observation/Stabilization Services

- A. An administrator of a behavioral health inpatient facility authorized to provide behavioral health observation/stabilization services shall comply with the requirements for behavioral health observation/stabilization services in R9-10-1012.
- B. If a behavioral health inpatient facility is authorized to provide behavioral health observation/stabilization services to individuals under 18 years of age, an administrator shall ensure that, in addition to complying with the requirements in R9-10-1012, the behavioral health inpatient facility complies with the requirements for a patient under 18 years of age, personnel records, and physical plant in R9-10-318.

Historical Note

Section R9-10-317, formerly numbered as R9-10-221, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-317 repealed, new Section R9-10-317 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-317 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-318. Child and Adolescent Residential Treatment Services

- A. An administrator of a behavioral health inpatient facility authorized to provide child and adolescent residential treatment services shall:
1. If abuse, neglect, or exploitation of a patient under 18 years of age is alleged or suspected to have occurred before the patient was accepted or while the patient is not on the premises and not receiving services from an employee or personnel member of the behavioral health inpatient facility, report the alleged or suspected abuse, neglect, or exploitation of the patient according to A.R.S. § 13-3620;
 2. If the administrator has a reasonable basis, according to A.R.S. § 13-3620, to believe that abuse, neglect, or exploitation of a patient under 18 years of age has occurred on the premises or while the patient is receiving services from an employee or a personnel member:
 - a. If applicable, take immediate action to stop the suspected abuse, neglect, or exploitation;
 - b. Report the suspected abuse, neglect, or exploitation of the patient according to A.R.S. § 13-3620;
 - c. Document:
 - i. The suspected abuse, neglect, or exploitation;
 - ii. Any action taken according to subsection (A)(2)(a); and
 - iii. The report in subsection (A)(2)(b);
 - d. Maintain the documentation in subsection (A)(2)(c) for at least 12 months after the date of the report in subsection (A)(2)(b);
 - e. Initiate an investigation of the suspected abuse, neglect, or exploitation and document the following information within five working days after the report required in subsection (A)(2)(b):
 - i. The dates, times, and description of the suspected abuse, neglect, or exploitation;
 - ii. A description of any injury to the patient related to the suspected abuse or neglect and

- any change to the patient's physical, cognitive, functional, or emotional condition;
 - iii. The names of witnesses to the suspected abuse, neglect, or exploitation; and
 - iv. The actions taken by the administrator to prevent the suspected abuse, neglect, or exploitation from occurring in the future; and
 - f. Maintain a copy of the documented information required in subsection (A)(2)(e) and any other information obtained during the investigation for at least 12 months after the date the investigation was initiated;
3. If a patient who is under 18 years of age is absent and the absence is unauthorized as determined according to the criteria in R9-10-303(H), within an hour after determining that the patient's absence is unauthorized, notify:
 - a. Except as provided in subsection (A)(3)(b), the patient's parent or legal guardian; and
 - b. For a patient who is under a court's jurisdiction, the appropriate court or a person designated by the appropriate court;
 4. Document the notification in subsection (A)(3) in the patient's medical record and the written log required in R9-10-303(I)(3);
 5. In addition to the personnel records requirements in R9-10-306(F), ensure that a personnel record for each employee, volunteer, and student contains documentation of the individual's compliance with the fingerprinting requirements in A.R.S. § 36-425.03;
 6. Ensure that the patient's representative for a patient who is under 18 years of age:
 - a. Except in an emergency, either consents to or refuses treatment;
 - b. May refuse or withdraw consent to treatment before treatment is initiated, unless the treatment is ordered by a court according to A.R.S. Title 36, Chapter 5 or A.R.S. § 8-341.01; is necessary to save the patient's life or physical health; or is provided according to A.R.S. § 36-512;
 - c. Except in an emergency, is informed of alternatives to a proposed psychotropic medication and the associated risks and possible complications of the proposed psychotropic medication;
 - d. Is informed of the following:
 - i. The policy on health care directives, and
 - ii. The patient complaint process; and
 - e. Except as otherwise permitted by law, provides written consent to the release of information in the patient's:
 - i. Medical record, or
 - ii. Financial records;
 7. In addition to the restrictions provided in R9-10-311(C), ensure that a parent of a patient under 18 years of age is allowed to restrict the patient from:
 - a. Associating with individuals of the patient's choice, receiving visitors, and making telephone calls during the hours established by the behavioral health inpatient facility;
 - b. Having privacy in correspondence, communication, visitation, financial affairs, and personal hygiene; and
 - c. Sending and receiving uncensored and unopened mail;
 8. Establish, document, and implement policies and procedures to ensure that a patient is protected from the following from other patients at the behavioral health inpatient facility:

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- a. Threats,
 - b. Ridicule,
 - c. Verbal harassment,
 - d. Punishment, or
 - e. Abuse;
9. Ensure that:
 - a. The interior of the behavioral health inpatient facility has furnishings and decorations appropriate to the ages of the patients receiving services at the behavioral health inpatient facility;
 - b. A patient older than three years of age does not sleep in a crib;
 - c. Clean and non-hazardous toys, educational materials, and physical activity equipment are available and accessible to patients in a quantity sufficient to meet each patient's needs and are appropriate to each patient's age, developmental level, and treatment needs; and
 - d. A patient's educational needs are met by establishing and providing an educational component, approved in writing by the Arizona Department of Education;
10. In addition to the requirements for seclusion or restraint in R9-10-316, ensure that:
 - a. An order for restraint or seclusion is limited to the duration of the emergency situation and does not exceed:
 - i. Two continuous hours for a patient who is between the ages of nine and 17, or
 - ii. One continuous hour for a patient who is younger than nine; and
 - b. Requirements are established for notifying the parent or guardian of a patient who is under 18 years of age and who is restrained or secluded; and
11. Prohibit a patient under 18 years of age from possessing or using tobacco products on the premises.
- B.** An administrator of a behavioral health inpatient facility authorized to provide child and adolescent residential treatment services may continue to provide behavioral health services to a patient who is 18 years of age or older:
 1. If the patient:
 - a. Was admitted to the behavioral health inpatient facility before the patient's 18th birthday,
 - b. Is not 21 years of age or older, and
 - c. Is completing high school or a high school equivalency diploma or participating in a job training program; or
 2. Through the last calendar day of the month of the patient's 18th birthday.

Historical Note

Section R9-10-318, formerly numbered as R9-10-222, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-318 repealed, new Section R9-10-318 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-318 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). R9-10-318 renumbered to R9-10-319; new Section made by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-319. Detoxification Services

An administrator of a behavioral health inpatient facility authorized to provide detoxification services shall ensure that:

1. Detoxification services are available;
2. Policies and procedures state:
 - a. Whether the behavioral health inpatient facility is authorized to provide involuntary, court-ordered alcohol treatment;
 - b. Whether the behavioral health inpatient facility includes a local alcoholism reception center, as defined in A.R.S. § 36-2021;
 - c. The types of substances for which the behavioral health inpatient facility provides detoxification services;
 - d. The detoxification process or processes used by the behavioral health inpatient facility; and
 - e. When an adjustable bed can be used by a patient and what actions are necessary, including supervision, to protect the patient's health and safety when the patient is in an adjustable bed; and
3. A physician or registered nurse practitioner with skills and knowledge in providing detoxification services is present at the behavioral health inpatient facility or on-call.

Historical Note

Section R9-10-319, formerly numbered as R9-10-223, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-319 repealed, new Section R9-10-319 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-319 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). R9-10-319 renumbered to R9-10-320; new Section R9-10-319 renumbered from R9-10-318 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-320. Medication Services

- A.** An administrator shall ensure that policies and procedures for medication services:
 1. Include:
 - a. A process for providing information to a patient about medication prescribed for the patient including:
 - i. The prescribed medication's anticipated results,
 - ii. The prescribed medication's potential adverse reactions,
 - iii. The prescribed medication's potential side effects, and
 - iv. Potential adverse reactions that could result from not taking the medication as prescribed;
 - b. Procedures for preventing, responding to, and reporting:
 - i. A medication error,
 - ii. An adverse reaction to a medication, or
 - iii. A medication overdose;
 - c. Procedures to ensure that a patient's medication regimen is reviewed by a medical practitioner to ensure the medication regimen meets the patient's needs;
 - d. Procedures for documenting medication administration and assistance in the self-administration of medication;
 - e. Procedures for assisting a patient in obtaining medication; and

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- f. If applicable, procedures for providing medication administration or assistance in the self-administration of medication off the premises; and
- 2. Specify a process for review through the quality management program of:
 - a. A medication administration error, and
 - b. An adverse reaction to a medication.
- B.** If a behavioral health inpatient facility provides medication administration, an administrator shall ensure that:
 - 1. Policies and procedures for medication administration:
 - a. Are reviewed and approved by a medical practitioner;
 - b. Specify the individuals who may:
 - i. Order medication, and
 - ii. Administer medication;
 - c. Ensure that medication is administered to a patient only as prescribed; and
 - d. Cover the documentation of a patient's refusal to take prescribed medication in the patient's medical record;
 - 2. Verbal orders for medication services are taken by a nurse, unless otherwise provided by law; and
 - 3. A medication administered to a patient is:
 - a. Administered in compliance with an order, and
 - b. Documented in the patient's medical record.
- C.** If a behavioral health inpatient facility provides assistance in the self-administration of medication, an administrator shall ensure that:
 - 1. A patient's medication is stored by the behavioral health inpatient facility;
 - 2. The following assistance is provided to a patient:
 - a. A reminder when it is time to take the medication;
 - b. Opening the medication container for the patient;
 - c. Observing the patient while the patient removes the medication from the container;
 - d. Verifying that the medication is taken as ordered by the patient's medical practitioner by confirming that:
 - i. The patient taking the medication is the individual stated on the medication container label,
 - ii. The patient is taking the dosage of the medication stated on the medication container label or according to an order from a medical practitioner dated later than the date on the medication container label, and
 - iii. The patient is taking the medication at the time stated on the medication container label or according to an order from a medical practitioner dated later than the date on the medication container label; or
 - e. Observing the patient while the patient takes the medication;
 - 3. Policies and procedures for assistance in the self-administration of medication are reviewed and approved by a medical practitioner or registered nurse;
 - 4. Training for a personnel member, other than a medical practitioner or registered nurse, in assistance in the self-administration of medication:
 - a. Is provided by a medical practitioner or registered nurse or an individual trained by a medical practitioner or registered nurse; and
 - b. Includes:
 - i. A demonstration of the personnel member's skills and knowledge necessary to provide assistance in the self-administration of medication,
 - ii. Identification of medication errors and medical emergencies related to medication that require emergency medical intervention, and
 - iii. The process for notifying the appropriate entities when an emergency medical intervention is needed;
 - 5. A personnel member, other than a medical practitioner or registered nurse, completes the training in subsection (C)(4) before the personnel member provides assistance in the self-administration of medication; and
 - 6. Assistance in the self-administration of medication provided to a patient:
 - a. Is in compliance with an order, and
 - b. Is documented in the patient's medical record.
- D.** An administrator shall ensure that:
 - 1. A current drug reference guide is available for use by personnel members;
 - 2. A current toxicology reference guide is available for use by personnel members; and
 - 3. If pharmaceutical services are provided on the premises:
 - a. A committee, composed of at least one physician, one pharmacist, and other personnel members as determined by policies and procedures, is established to:
 - i. Develop a drug formulary,
 - ii. Update the drug formulary at least once every 12 months,
 - iii. Develop medication usage and medication substitution policies and procedures, and
 - iv. Specify which medications and medication classifications are required to be stopped automatically after a specific time period unless the ordering medical practitioner specifically orders otherwise;
 - b. The pharmaceutical services are provided under the direction of a pharmacist;
 - c. The pharmaceutical services comply with A.R.S. Title 36, Chapter 27; A.R.S. Title 32, Chapter 18; and 4 A.A.C. 23; and
 - d. A copy of the pharmacy license is provided to the Department upon request.
- E.** When medication is stored at a behavioral health inpatient facility, an administrator shall ensure that:
 - 1. Medication is stored in a separate locked room, closet, or self-contained unit used only for medication storage;
 - 2. Medication is stored according to the instructions on the medication container; and
 - 3. Policies and procedures are established, documented, and implemented for:
 - a. Receiving, storing, inventorying, tracking, dispensing, and discarding medication, including expired medication;
 - b. Discarding or returning prepackaged and sample medication to the manufacturer if the manufacturer requests the discard or return of the medication;
 - c. A medication recall and notification of patients who received recalled medication; and
 - d. Storing, inventorying, and dispensing controlled substances.
- F.** An administrator shall ensure that a personnel member immediately reports a medication error or a patient's adverse reaction to a medication to the medical practitioner who ordered the medication and, if applicable, the behavioral health inpatient facility's clinical director.

Historical Note

Section R9-10-320, formerly numbered as R9-10-231,

renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-320 repealed, new Section R9-10-320 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-320 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). R9-10-320 renumbered to R9-10-321; new Section R9-10-320 renumbered from R9-10-319 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-321. Food Services

A. An administrator shall ensure that:

1. The behavioral health inpatient facility obtains a license or permit as a food establishment under 9 A.A.C. 8, Article 1;
2. A copy of the behavioral health inpatient facility's food establishment license or permit is maintained;
3. If a behavioral health inpatient facility contracts with a food establishment, as established in 9 A.A.C. 8, Article 1, to prepare and deliver food to the behavioral health inpatient facility:
 - a. A copy of the contracted food establishment's license or permit under 9 A.A.C. 8, Article 1 is maintained by the behavioral health inpatient facility; and
 - b. The behavioral health inpatient facility is able to store, refrigerate, and reheat food to meet the dietary needs of a patient;
4. A registered dietitian is employed full-time, part-time, or as a consultant; and
5. If a registered dietitian is not employed full-time, an individual is designated as a director of food services who consults with a registered dietitian as often as necessary to meet the nutritional needs of the patients.

B. A registered dietitian or director of food services shall ensure that:

1. A food menu:
 - a. Is prepared at least one week in advance,
 - b. Includes the foods to be served each day,
 - c. Is conspicuously posted at least one calendar day before the first meal on the food menu will be served,
 - d. Includes any food substitution no later than the morning of the day of meal service with a food substitution, and
 - e. Is maintained for at least 60 calendar days after the last day included in the food menu;
2. Meals and snacks provided by the behavioral health inpatient facility are served according to posted menus;
3. Meals and snacks for each day are planned using:
 - a. The applicable guidelines in <http://www.health.gov/dietaryguidelines/2010.asp>, and
 - b. Preferences for meals and snacks obtained from patients;
4. A patient is provided:
 - a. A diet that meets the patient's nutritional needs as specified in the patient's assessment or treatment plan;
 - b. Three meals a day with not more than 14 hours between the evening meal and breakfast except as provided in subsection (B)(4)(d);
 - c. The option to have a daily evening snack identified in subsection (B)(4)(d)(ii) or other snack; and

- d. The option to extend the time span between the evening meal and breakfast from 14 hours to 16 hours if:
 - i. A patient group agrees; and
 - ii. The patient is offered an evening snack that includes meat, fish, eggs, cheese, or other protein, and a serving from either the fruit and vegetable food group or the bread and cereal food group;

5. A patient requiring assistance to eat is provided with assistance that recognizes the patient's nutritional, physical, and social needs, including the use of adaptive eating equipment or utensils; and
6. Water is available and accessible to patients.

C. An administrator shall ensure that food is obtained, prepared, served, and stored as follows:

1. Food is free from spoilage, filth, or other contamination and is safe for human consumption;
2. Food is protected from potential contamination;
3. Food is prepared:
 - a. Using methods that conserve nutritional value, flavor, and appearance; and
 - b. In a form to meet the needs of a patient such as cut, chopped, ground, pureed, or thickened;
4. Potentially hazardous food is maintained as follows:
 - a. Foods requiring refrigeration are maintained at 41° F or below; and
 - b. Foods requiring cooking are cooked to heat all parts of the food to a temperature of at least 145° F for 15 seconds, except that:
 - i. Ground beef and ground meats are cooked to heat all parts of the food to at least 155° F;
 - ii. Poultry, poultry stuffing, stuffed meats, and stuffing that contains meat are cooked to heat all parts of the food to at least 165° F;
 - iii. Pork and any food containing pork are cooked to heat all parts of the food to at least 155° F;
 - iv. Raw shell eggs for immediate consumption are cooked to at least 145° F for 15 seconds and any food containing raw shell eggs is cooked to heat all parts of the food to at least 155° F;
 - v. Roast beef and beef steak are cooked to an internal temperature of at least 155° F; and
 - vi. Leftovers are reheated to a temperature of at least 165° F;
5. A refrigerator contains a thermometer, accurate to plus or minus 3° F, placed at the warmest part of the refrigerator;
6. Frozen foods are stored at a temperature of 0° F or below; and
7. Tableware, utensils, equipment, and food-contact surfaces are clean and in good repair.

Historical Note

Section R9-10-321, formerly numbered as R9-10-232, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-321 repealed, new Section R9-10-321 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-321 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). R9-10-321 renumbered to R9-10-322; new Section R9-10-321 renumbered from R9-10-320 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-322. Emergency and Safety Standards

A. An administrator shall ensure that a behavioral health inpatient facility has:

1. A fire alarm system installed according to the National Fire Protection Association 72: National Fire Alarm and Signaling Code, incorporated by reference in A.A.C. R9-1-412, and a sprinkler system installed according to the National Fire Protection Association 13 Standard for the Installation of Sprinkler Systems, incorporated by reference in A.A.C. R9-1-412, that are in working order; or
2. An alternative method to ensure a patient's safety, documented and approved by the local jurisdiction.

B. An administrator shall ensure that:

1. A disaster plan is developed, documented, maintained in a location accessible to personnel members and other employees, and, if necessary, implemented that includes:
 - a. When, how, and where patients will be relocated;
 - b. How a patient's medical record will be available to individuals providing services to the patient during a disaster;
 - c. A plan to ensure each patient's medication will be available to administer to the patient during a disaster; and
 - d. A plan for obtaining food and water for individuals present in the behavioral health inpatient facility or the behavioral health inpatient facility's relocation site during a disaster;
2. The disaster plan required in subsection (B)(1) is reviewed at least once every 12 months;
3. Documentation of a disaster plan review required in subsection (B)(2) is created, is maintained for at least 12 months after the date of the disaster plan review, and includes:
 - a. The date and time of the disaster plan review;
 - b. The name of each personnel member, employee, volunteer, or student participating in the disaster plan review;
 - c. A critique of the disaster plan review; and
 - d. If applicable, recommendations for improvement;
4. A disaster drill for employees is conducted on each shift at least once every three months and documented;
5. An evacuation drill for employees and patients:
 - a. Is conducted at least once every six months; and
 - b. Includes all individuals on the premises except for:
 - i. A patient whose medical record contains documentation that evacuation from the behavioral health inpatient facility would cause harm to the patient, and
 - ii. Sufficient personnel members to ensure the health and safety of patients not evacuated according to subsection (B)(5)(b)(i);
6. Documentation of each evacuation drill is created, is maintained for at least 12 months after the date of the evacuation drill, and includes:
 - a. The date and time of the evacuation drill;
 - b. The amount of time taken for employees and patients to evacuate to a designated area;
 - c. If applicable:
 - i. An identification of patients needing assistance for evacuation, and
 - ii. An identification of patients who were not evacuated;
 - d. Any problems encountered in conducting the evacuation drill; and
 - e. Recommendations for improvement, if applicable; and

7. An evacuation path is conspicuously posted on each hallway of each floor of the behavioral health inpatient facility.

C. An administrator shall:

1. Obtain a fire inspection conducted according to the time-frame established by the local fire department or the State Fire Marshal,
2. Make any repairs or corrections stated on the fire inspection report, and
3. Maintain documentation of a current fire inspection.

Historical Note

Section R9-10-322, formerly numbered as R9-10-233, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-322 repealed, new Section R9-10-322 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-322 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). R9-10-322 renumbered to R9-10-323; new Section R9-10-322 renumbered from R9-10-321 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-323. Environmental Standards

A. An administrator shall ensure that:

1. The premises and equipment are:
 - a. Cleaned and, if applicable, disinfected according to policies and procedures designed to prevent, minimize, and control illness or infection; and
 - b. Free from a condition or situation that may cause a patient or other individual to suffer physical injury;
2. A pest control program is implemented and documented;
3. Biohazardous medical waste is identified, stored, and disposed of according to 18 A.A.C. 13, Article 14 and policies and procedures;
4. Equipment used at the behavioral health inpatient facility is:
 - a. Maintained in working order;
 - b. Tested and calibrated according to the manufacturer's recommendations or, if there are no manufacturer's recommendations, as specified in policies and procedures; and
 - c. Used according to the manufacturer's recommendations;
5. Documentation of equipment testing, calibration, and repair is maintained for at least 12 months after the date of the testing, calibration, or repair;
6. Garbage and refuse are:
 - a. In areas used for food storage, food preparation, or food service, stored in covered containers lined with plastic bags;
 - b. In areas not used for food storage, food preparation, or food service, stored:
 - i. According to the requirements in subsection (6)(a), or
 - ii. In a paper-lined container that is cleaned and sanitized as often as necessary to ensure that the container is clean; and
 - c. Removed from the premises at least once a week;
7. Heating and cooling systems maintain the behavioral health inpatient facility at a temperature between 70° F and 84° F;
8. Common areas:

- a. Are lighted to assure the safety of patients, and
 - b. Have lighting sufficient to allow personnel members to monitor patient activity;
- 9. Hot water temperatures are maintained between 95° F and 120° F in the areas of a behavioral health inpatient facility used by patients;
- 10. The supply of hot and cold water is sufficient to meet the personal hygiene needs of patients and the cleaning and sanitation requirements in this Article;
- 11. Soiled linen and soiled clothing stored by the behavioral health inpatient facility are maintained separate from clean linen and clothing and stored in closed containers away from food storage, kitchen, and dining areas;
- 12. Oxygen containers are secured in an upright position;
- 13. Poisonous or toxic materials stored by the behavioral health inpatient facility are maintained in labeled containers in a locked area separate from food preparation and storage, dining areas, and medications and are inaccessible to patients;
- 14. Combustible or flammable liquids and hazardous materials stored by a behavioral health inpatient facility are stored in the original labeled containers or safety containers in a locked area inaccessible to patients;
- 15. If pets or animals are allowed in the behavioral health inpatient facility, pets or animals are:
 - a. Controlled to prevent endangering the patients and to maintain sanitation;
 - b. Licensed consistent with local ordinances; and
 - c. For a dog or cat, vaccinated against rabies;
- 16. If a water source that is not regulated under 18 A.A.C. 4 by the Arizona Department of Environmental Quality is used:
 - a. The water source is tested at least once every 12 months for total coliform bacteria and fecal coliform or *E. coli* bacteria;
 - b. If necessary, corrective action is taken to ensure the water is safe to drink; and
 - c. Documentation of testing is maintained for at least 12 months after the date of the test; and
- 17. If a non-municipal sewage system is used, the sewage system is in working order and is maintained according to applicable state laws and rules.
- B.** An administrator shall ensure that:
 - 1. Smoking tobacco products is not permitted within a behavioral health inpatient facility; and
 - 2. Except as provided in R9-10-318(A)(11), smoking tobacco products may be permitted on the premises outside a behavioral health inpatient facility if:
 - a. Signs designating smoking areas are conspicuously posted, and
 - b. Smoking is prohibited in areas where combustible materials are stored or in use.
- C.** If a swimming pool is located on the premises, an administrator shall ensure that:
 - 1. At least one personnel member with cardiopulmonary resuscitation training that meets the requirements in R9-10-303(C)(1)(e) is present in the pool area when a patient is in the pool area, and
 - 2. At least two personnel members are present in the pool area when two or more patients are in the pool area.

Historical Note

Section R9-10-323, formerly numbered as R9-10-234, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-323 repealed, new

Section R9-10-323 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-323 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). R9-10-323 renumbered to R9-10-324; new Section R9-10-323 renumbered from R9-10-322 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-324. Physical Plant Standards

- A.** An administrator shall ensure that the premises and equipment are sufficient to accommodate:
 - 1. The services stated in the behavioral health inpatient facility's scope of services, and
 - 2. An individual accepted as a patient by the behavioral health inpatient facility.
- B.** An administrator shall ensure that:
 - 1. A behavioral health inpatient facility has a:
 - a. Waiting area with seating for patients and visitors;
 - b. Room that provides privacy for a patient to receive treatment or visitors; and
 - c. Common area and a dining area that:
 - i. Are not converted, partitioned, or otherwise used as a sleeping area; and
 - ii. Contain furniture and materials to accommodate the recreational and socialization needs of the patients and other individuals in the behavioral health inpatient facility;
 - 2. A bathroom is available for use by visitors during the behavioral health inpatient facility's hours of operation and:
 - a. Provides privacy; and
 - b. Contains:
 - i. A working sink with running water,
 - ii. A working toilet that flushes and has a seat,
 - iii. Toilet tissue,
 - iv. Soap for hand washing,
 - v. Paper towels or a mechanical air hand dryer,
 - vi. Lighting, and
 - vii. A window that opens or another means of ventilation;
 - 3. For every six patients, there is at least one working toilet that flushes and has a seat and one sink with running water;
 - 4. For every eight patients, there is at least one working bathtub or shower with a slip-resistant surface;
 - 5. A patient bathroom complies with the following:
 - a. Provides privacy when in use;
 - b. Contains:
 - i. A shatterproof mirror, unless the patient's treatment plan requires otherwise;
 - ii. A window that opens or another means of ventilation; and
 - iii. Nonporous surfaces for shower enclosures and slip-resistant surfaces in tubs and showers;
 - c. Has plumbing, piping, ductwork, or other potentially hazardous elements concealed above a ceiling;
 - d. If the bathroom or shower area has a door, the door swings outward to allow for staff emergency access;
 - e. If grab bars for the toilet and tub or shower or other assistive devices are identified in the patient's treatment plan, has grab bars or other assistive devices to provide for patient safety;
 - f. If a grab bar is provided, has the space between the grab bar and the wall filled to prevent a cord being tied around the grab bar;

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- g. Does not contain a towel bar, a shower curtain rod, or a lever handle that is not a specifically designed anti-ligature lever handle;
 - h. Has tamper-resistant lighting fixtures, sprinkler heads, and electrical outlets; and
 - i. For a bathroom with a sprinkler head where a patient is not supervised while the patient is in the bathroom, has a sprinkler head that is recessed or designed to minimize patient access;
6. If a patient bathroom door locks from the inside, an employee has a key and access to the bathroom;
 7. Each patient is provided a bedroom for sleeping;
 8. A patient bedroom complies with the following:
 - a. Is not used as a common area;
 - b. Is not used as a passageway to another bedroom or bathroom unless the bathroom is for the exclusive use of the patient occupying the bedroom;
 - c. Contains a door that opens into a hallway, common area, or outdoors and, except as provided in subsection (E), another means of egress;
 - d. Is constructed and furnished to provide unimpeded access to the door;
 - e. Has window or door covers that provide patient privacy;
 - f. Has floor to ceiling walls;
 - g. Is a:
 - i. Private bedroom that contains at least 60 square feet of floor space, not including the closet; or
 - ii. Shared bedroom that:
 - (1) Is shared by no more than four patients;
 - (2) Contains, except as provided in subsection (B)(9), at least 60 square feet of floor space, not including a closet, for each patient occupying the bedroom; and
 - (3) Provides sufficient space between beds to ensure that a patient has unobstructed access to the bedroom door;
 - h. Contains for each patient occupying the bedroom:
 - i. A bed that is: at least 36 inches wide and at least 72 inches long, and consists of at least a frame and mattress and linens that is not a threat to health and safety; and
 - ii. Individual storage space for personal effects and clothing such as shelves, a dresser, or chest of drawers;
 - i. Has clean linen for each bed including mattress pad, sheets large enough to tuck under the mattress, pillows, pillow cases, bedspread, waterproof mattress covers as needed, and blankets to ensure warmth and comfort for each patient;
 - j. Has sufficient lighting for a patient occupying the bedroom to read; and
 - k. If applicable, has a drawer pull that is recessed to eliminate the possibility of use as a tie-off point;
 9. If a behavioral health inpatient facility licensed before November 1, 2003 was approved for 50 square feet of floor space for each patient in a bedroom, ensure that the bedroom contains at least 50 square feet for each patient not including the closet;
 10. In a patient bathroom or a patient bedroom:
 - a. The ceiling is secured from access or at least 9 feet in height; and
 - b. A ventilation grille is:
 - i. Secured and has perforations that are too small to use as a tie-off point, or
 - ii. Of sufficient height to prevent patient access;
 11. For a door located in an area of the behavioral health inpatient facility that is accessible to patients:
 - a. A door closing device, if used on a patient bedroom door, is mounted on the public side of the door;
 - b. A door's hinges are designed to minimize points for hanging;
 - c. Except for a door lever handle that contains specifically designed anti-ligature hardware, a door lever handle points downward when in the latched or unlatched position; and
 - d. Hardware has tamper-resistant fasteners; and
 12. A window located in an area of the behavioral health inpatient facility that is accessible to patients is fabricated with laminated safety glass or protected by polycarbonate, laminate, or safety screens.
- C. An administrator of a licensed behavioral health inpatient facility may submit a request, in a Department-provided format, for additional time to comply with a physical plant requirement in subsection (B)(5)(c) through (B)(5)(i), (B)(10), (B)(11), or (B)(12) that includes:
 1. The rule citation for the specific plant requirement,
 2. The current physical plant condition that does not comply with the physical plant requirement,
 3. How the current physical plant condition will be changed to comply with the physical plant requirement,
 4. Estimated completion date of the identified physical plant change, and
 5. Specific actions taken to ensure the health and safety of a patient until the physical plant requirement is met.
 - D. When the Department receives a request for additional time to comply with a physical plant requirement in subsection (B)(5)(c) through (B)(5)(i), (B)(10), (B)(11), or (B)(12) submitted according to subsection (C), the Department may approve the request for up to 24 months after the effective date of these rules based on:
 1. The behavioral health inpatient facility's scope of services,
 2. The expected patient acuity based on the behavioral health inpatient facility's scope of services,
 3. The specific physical plant requirement in the request, and
 4. The threat to patients' health and safety.
 - E. A bedroom in a behavioral health inpatient facility is not required to have a second means of egress if:
 1. An administrator ensures that policies and procedures are established, documented, and implemented that provide for the safe evacuation of a patient in the bedroom based on the patient's physical and mental limitations and the location of the bedroom; or
 2. The building where the bedroom is located has a fire alarm system and a sprinkler system required in R9-10-322(A)(1).
 - F. If a swimming pool is located on the premises, an administrator shall ensure that:
 1. The swimming pool is enclosed by a wall or fence that:
 - a. Is at least five feet in height as measured on the exterior of the wall or fence;
 - b. Has no vertical openings greater than four inches across;
 - c. Has no horizontal openings, except as described in subsection (F)(1)(e);
 - d. Is not chain-link;
 - e. Does not have a space between the ground and the bottom fence rail that exceeds four inches in height; and
 - f. Has a self-closing, self-latching gate that:

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- i. Opens away from the swimming pool,
 - ii. Has a latch located at least 54 inches from the ground, and
 - iii. Is locked when the swimming pool is not in use; and
2. A life preserver or shepherd's crook is available and accessible in the pool area.

- G.** An administrator shall ensure that a spa that is not enclosed by a wall or fence as described in subsection (F)(1) is covered and locked when not in use

Historical Note

Section R9-10-324, formerly numbered as R9-10-235, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-324 repealed, new Section R9-10-324 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-324 renumbered from R9-10-323 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-325. Repealed**Historical Note**

Section R9-10-325, formerly numbered as R9-10-236, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-325 repealed, new Section R9-10-325 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-326. Repealed**Historical Note**

Section R9-10-326, formerly numbered as R9-10-237, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-326 repealed, new Section R9-10-326 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-327. Repealed**Historical Note**

Section R9-10-327, formerly numbered as R9-10-241, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-327 repealed, new Section R9-10-327 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-328. Repealed**Historical Note**

Section R9-10-328, formerly numbered as R9-10-242, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-328 repealed, new Section R9-10-328 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8

A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-329. Repealed**Historical Note**

Section R9-10-329, formerly numbered as R9-10-243, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-329 repealed, new Section R9-10-329 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-330. Repealed**Historical Note**

Section R9-10-330, formerly numbered as R9-10-244, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-330 repealed, new Section R9-10-330 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-331. Repealed**Historical Note**

Section R9-10-331, formerly numbered as R9-10-245, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-331 repealed, new Section R9-10-331 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-332. Repealed**Historical Note**

Section R9-10-332, formerly numbered as R9-10-246, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-332 repealed, new Section R9-10-332 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-333. Repealed**Historical Note**

Section R9-10-333, formerly numbered as R9-10-247, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-333 repealed, new Section R9-10-333 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-334. Repealed**Historical Note**

Section R9-10-334, formerly numbered as R9-10-249, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Repealed effective February 4, 1981 (Supp. 81-1).

R9-10-335. Repealed**Historical Note**

Section R9-10-335, formerly numbered as R9-10-250, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Repealed effective February 4, 1981 (Supp. 81-1).

ARTICLE 4. NURSING CARE INSTITUTIONS

Article 4, consisting of Sections R9-10-411 through R9-10-438, repealed at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-401. Definitions

In addition to the definitions in A.R.S. § 36-401 and R9-10-101, the following definitions apply in this Article unless otherwise specified:

1. "Administrator" has the meaning in A.R.S. § 36-446.
2. "Care plan" means a documented description of physical health services and behavioral health services expected to be provided to a resident, based on the resident's comprehensive assessment, that includes measurable objectives and the methods for meeting the objectives.
3. "Direct care" means medical services, nursing services, or social services provided to a resident.
4. "Director of nursing" means an individual who is responsible for the nursing services provided in a nursing care institution.
5. "Full-time" means 40 hours or more every consecutive seven calendar days.
6. "Highest practicable" means a resident's optimal level of functioning and well-being based on the resident's current functional status and potential for improvement as determined by the resident's comprehensive assessment.
7. "Interdisciplinary team" means a group of individuals consisting of a resident's attending physician, a registered nurse responsible for the resident, and other individuals as determined in the resident's comprehensive assessment.
8. "Intermittent" means not on a regular basis.
9. "Nursing care institution services" means medical services, nursing services, health-related services, ancillary services, social services, and environmental services provided to a resident.
10. "Resident group" means residents or residents' family members who:
 - a. Plan and participate in resident activities, or
 - b. Meet to discuss nursing care institution issues and policies.
11. "Secured" means the use of a method, device, or structure that:
 - a. Prevents a resident from leaving an area of the nursing care institution's premises, or
 - b. Alerts a personnel member of a resident's departure from the nursing care institution.
12. "Social services" means assistance provided to or activities provided for a resident to maintain or improve the resident's physical, mental, and psychosocial capabilities.
13. "Total health condition" means a resident's overall physical and psychosocial well-being as determined by the resident's comprehensive assessment.
14. "Unnecessary drug" means a medication that is not required because:
 - a. There is no documented indication for a resident's use of the medication;

- b. The medication is duplicative;
 - c. The medication is administered before determining whether the resident requires the medication; or
 - d. The resident has experienced an adverse reaction from the medication, indicating that the medication should be reduced or discontinued.
15. "Ventilator" means a device designed to provide, to a resident who is physically unable to breathe or who is breathing insufficiently, the mechanism of breathing by mechanically moving breathable air into and out of the resident's lungs.

Historical Note

New Section R9-10-401 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

Amended by exempt rulemaking at 19 A.A.R. 3334, effective October 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-402. Supplemental Application Requirements

In addition to the license application requirements in A.R.S. § 36-422 and R9-10-105, an applicant for an initial license as a nursing care institution shall include:

1. In a Department-provided format whether the applicant:
 - a. Has:
 - i. A secured area for a resident with Alzheimer's disease or other dementia, or
 - ii. An area for a resident on a ventilator;
 - b. Is requesting authorization to provide to a resident:
 - i. Behavioral health services,
 - ii. Clinical laboratory services,
 - iii. Dialysis services, or
 - iv. Radiology services and diagnostic imaging services; and
 - c. Is requesting authorization to operate a nutrition and feeding assistant training program; and
2. If the governing authority is requesting authorization to operate a nutrition and feeding assistant training program, the information in R9-10-116(B)(1)(a), (B)(1)(c), and (B)(2).

Historical Note

New Section R9-10-402 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

Amended by exempt rulemaking at 19 A.A.R. 3334, effective October 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-403. Administration**A. A governing authority shall:**

1. Consist of one or more individuals responsible for the organization, operation, and administration of a nursing care institution;
2. Establish, in writing, the nursing care institution's scope of services;
3. Designate, in writing, a nursing care institution administrator licensed according to A.R.S. Title 36, Chapter 4, Article 6;
4. Adopt a quality management program according to R9-10-404;
5. Review and evaluate the effectiveness of the quality management program at least once every 12 months;
6. Designate, in writing, an acting administrator licensed according to A.R.S. § Title 36, Chapter 4, Article 6, if the administrator is:

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- a. Expected not to be present on the nursing care institution's premises for more than 30 calendar days, or
 - b. Not present on the nursing care institution's premises for more than 30 calendar days; and
 7. Except as permitted in subsection (A)(6), when there is a change of administrator, notify the Department according to A.R.S. § 36-425(I) and submit a copy of the new administrator's license under A.R.S. Title 36, Chapter 4, Article 6 to the Department.
- B. An administrator:**
1. Is directly accountable to the governing authority of a nursing care institution for the daily operation of the nursing care institution and all services provided by or at the nursing care institution;
 2. Has the authority and responsibility to manage the nursing care institution;
 3. Except as provided in subsection (A)(6), designates, in writing, an individual who is present on the nursing care institution's premises and accountable for the nursing care institution when the administrator is not present on the nursing care institution's premises;
 4. Ensures the nursing care institution's compliance with A.R.S. § 36-411; and
 5. If the nursing care institution provides feeding and nutrition assistant training, ensures the nursing care institution complies with the requirements for the operation of a feeding and nutrition assistant training program in R9-10-116.
- C. An administrator shall ensure that:**
1. Policies and procedures are established, documented, and implemented to protect the health and safety of a resident that:
 - a. Cover job descriptions, duties, and qualifications, including required skills, knowledge, education, and experience for personnel members, employees, volunteers, and students;
 - b. Cover orientation and in-service education for personnel members, employees, volunteers, and students;
 - c. Include how a personnel member may submit a complaint relating to resident care;
 - d. Cover the requirements in A.R.S. Title 36, Chapter 4, Article 11;
 - e. Cover cardiopulmonary resuscitation training including:
 - i. Which personnel members are required to obtain cardiopulmonary resuscitation training,
 - ii. The method and content of cardiopulmonary resuscitation training,
 - iii. The qualifications for an individual to provide cardiopulmonary resuscitation training,
 - iv. The time-frame for renewal of cardiopulmonary resuscitation training, and
 - v. The documentation that verifies an individual has received cardiopulmonary resuscitation training;
 - f. Cover first aid training;
 - g. Include a method to identify a resident to ensure the resident receives physical health services and behavioral health services as ordered;
 - h. Cover resident rights, including assisting a resident who does not speak English or who has a disability to become aware of resident rights;
 - i. Cover specific steps for:
 - ii. The nursing care institution to respond to a resident's complaint;
 2. Policies and procedures for physical health services and behavioral health services are established, documented, and implemented to protect the health and safety of a resident that:
 - a. Cover resident screening, admission, transport, transfer, discharge planning, and discharge;
 - b. Cover the provision of physical health services and behavioral health services;
 - c. Include when general consent and informed consent are required;
 - d. Cover storing, dispensing, administering, and disposing of medication;
 - e. Cover infection control;
 - f. Cover how personnel members will respond to a resident's sudden, intense, or out-of-control behavior to prevent harm to the resident or another individual;
 - g. Cover telemedicine, if applicable; and
 - h. Cover environmental services that affect resident care;
 3. Policies and procedures are reviewed at least once every three years and updated as needed;
 4. Policies and procedures are available to personnel members, employees, volunteers, and students; and
 5. Unless otherwise stated:
 - a. Documentation required by this Article is provided to the Department within two hours after a Department request; and
 - b. When documentation or information is required by this Chapter to be submitted on behalf of a nursing care institution, the documentation or information is provided to the unit in the Department that is responsible for licensing and monitoring the nursing care institution.
- D.** Except for health screening services, an administrator shall ensure that medical services, nursing services, health-related services, behavioral health services, or ancillary services provided by a nursing care institution are only provided to a resident.
- E.** If abuse, neglect, or exploitation of a resident is alleged or suspected to have occurred before the resident was admitted or while the resident is not on the premises and not receiving services from a nursing care institution's employee or personnel member, an administrator shall report the alleged or suspected abuse, neglect, or exploitation of the resident as follows:
1. For a resident 18 years of age or older, according to A.R.S. § 46-454; or
 2. For a resident under 18 years of age, according to A.R.S. § 13-3620;
- F.** If an administrator has a reasonable basis, according to A.R.S. § 13-3620 or 46-454, to believe that abuse, neglect, or exploitation has occurred on the premises or while a resident is

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receiving services from a nursing care institution's employee or personnel member, an administrator shall:

1. If applicable, take immediate action to stop the suspected abuse, neglect, or exploitation;
2. Report the suspected abuse, neglect, or exploitation of the resident as follows:
 - a. For a resident 18 years of age or older, according to A.R.S. § 46-454; or
 - b. For a resident under 18 years of age, according to A.R.S. § 13-3620;
3. Document:
 - a. The suspected abuse, neglect, or exploitation;
 - b. Any action taken according to subsection (F)(1); and
 - c. The report in subsection (F)(2);
4. Maintain the documentation in subsection (F)(3) for at least 12 months after the date of the report in subsection (F)(2);
5. Initiate an investigation of the suspected abuse, neglect, or exploitation and document the following information within five working days after the report required in subsection (F)(2):
 - a. The dates, times, and description of the suspected abuse, neglect, or exploitation;
 - b. A description of any injury to the resident related to the suspected abuse or neglect and any change to the resident's physical, cognitive, functional, or emotional condition;
 - c. The names of witnesses to the suspected abuse, neglect, or exploitation; and
 - d. The actions taken by the administrator to prevent the suspected abuse, neglect, or exploitation from occurring in the future; and
6. Maintain a copy of the documented information required in subsection (F)(5) and any other information obtained during the investigation for at least 12 months after the date the investigation was initiated.

G. An administrator shall:

1. Allow a resident advocate to assist a resident, the resident's representative, or a resident group with a request or recommendation, and document in writing any complaint submitted to the nursing care institution;
2. Ensure that a monthly schedule of recreational activities for residents is developed, documented and implemented; and
3. Ensure that the following are conspicuously posted on the premises:
 - a. The current nursing care institution license and quality rating issued by the Department;
 - b. The name, address, and telephone number of:
 - i. The Department's Office of Long Term Care,
 - ii. The State Long-Term Care Ombudsman Program, and
 - iii. Adult Protective Services of the Department of Economic Security;
 - c. A notice that a resident may file a complaint with the Department concerning the nursing care institution;
 - d. The monthly schedule of recreational activities; and
 - e. One of the following:
 - i. A copy of the current license survey report with information identifying residents redacted, any subsequent reports issued by the Department, and any plan of correction that is in effect; or
 - ii. A notice that the current license survey report with information identifying residents redacted, any subsequent reports issued by the Department,

and any plan of correction that is in effect are available for review upon request.

H. An administrator shall provide written notification to the Department of a resident's:

1. Death, if the resident's death is required to be reported according to A.R.S. § 11-593, within one working day after the resident's death; and
2. Self-injury, within two working days after the resident inflicts a self-injury that requires immediate intervention by an emergency medical services provider.

I. If an administrator administers a resident's personal account at the request of the resident or the resident's representative, the administrator shall:

1. Comply with policies and procedures established according to subsection (C)(1)(n);
2. Designate a personnel member who is responsible for the personal accounts;
3. Maintain a complete and separate accounting of each personal account;
4. Obtain written authorization from the resident or the resident's representative for a personal account transaction;
5. Document an account transaction and provide a copy of the documentation to the resident or the resident's representative upon request and at least every three months;
6. Transfer all money from the resident's personal account in excess of \$50.00 to an interest-bearing account and credit the interest to the resident's personal account; and
7. Within 30 calendar days after the resident's death, transfer, or discharge, return all money in the resident's personal account and a final accounting to the resident, the resident's representative, or the probate jurisdiction administering the resident's estate.

J. If a petty cash fund is established for use by residents, the administrator shall ensure that:

1. The policies and procedures established according to subsection (C)(1)(o) include:
 - a. A prescribed cash limit of the petty cash fund, and
 - b. The hours of the day a resident may access the petty cash fund; and
2. A resident's written acknowledgment is obtained for a petty cash transaction.

Historical Note

New Section R9-10-403 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

Amended by exempt rulemaking at 19 A.A.R. 3334, effective October 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-404. Quality Management

An administrator shall ensure that:

1. A plan is established, documented, and implemented for an ongoing quality management program that, at a minimum, includes:
 - a. A method to identify, document, and evaluate incidents;
 - b. A method to collect data to evaluate services provided to residents;
 - c. A method to evaluate the data collected to identify a concern about the delivery of services related to resident care;
 - d. A method to make changes or take action as a result of the identification of a concern about the delivery of services related to resident care; and
 - e. The frequency of submitting a documented report required in subsection (2) to the governing authority;

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2. A documented report is submitted to the governing authority that includes:
 - a. An identification of each concern about the delivery of services related to resident care; and
 - b. Any change made or action taken as a result of the identification of a concern about the delivery of services related to resident care; and
3. The report required in subsection (2) and the supporting documentation for the report are maintained for at least 12 months after the date the report is submitted to the governing authority.

Historical Note

New Section R9-10-404 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

R9-10-405. Contracted Services

An administrator shall ensure that:

1. Contracted services are provided according to the requirements in this Article, and
2. Documentation of current contracted services is maintained that includes a description of the contracted services provided.

Historical Note

New Section R9-10-405 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-406. Personnel

A. An administrator shall ensure that:

1. A behavioral health technician is at least 21 years old, and
2. A behavioral health paraprofessional is at least 21 years old.

B. An administrator shall ensure that:

1. The qualifications, skills, and knowledge required for each type of personnel member:
 - a. Are based on:
 - i. The type of physical health services or behavioral health services expected to be provided by the personnel member according to the established job description, and
 - ii. The acuity of the residents receiving physical health services or behavioral health services from the personnel member according to the established job description; and
 - b. Include:
 - i. The specific skills and knowledge necessary for the personnel member to provide the expected physical health services and behavioral health services listed in the established job description,
 - ii. The type and duration of education that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services or behavioral health services listed in the established job description, and
 - iii. The type and duration of experience that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services or behavioral health services listed in the established job description;

2. A personnel member's skills and knowledge are verified and documented:
 - a. Before the personnel member provides physical health services or behavioral health services, and
 - b. According to policies and procedures; and
3. Sufficient personnel members are present on a nursing care institution's premises with the qualifications, skills, and knowledge necessary to:
 - a. Provide the services in the nursing care institution's scope of services,
 - b. Meet the needs of a resident, and
 - c. Ensure the health and safety of a resident.

C. Except as provided in R9-10-415, an administrator shall ensure that, if a personnel member provides social services that require a license under A.R.S. Title 32, Chapter 33, Article 5, the personnel member is licensed under A.R.S. Title 32, Chapter 33, Article 5.

D. An administrator shall ensure that an individual who is a licensed baccalaureate social worker, master social worker, associate marriage and family therapist, associate counselor, or associate substance abuse counselor is under direct supervision as defined in 4 A.A.C. 6, Article 1.

E. An administrator shall ensure that a personnel member or an employee or volunteer who has or is expected to have direct interaction with a resident for more than eight hours a week provides evidence of freedom from infectious tuberculosis:

1. On or before the date the individual begins providing services at or on behalf of the nursing care institution, and
2. As specified in R9-10-113.

F. An administrator shall ensure that a personnel record is maintained for each personnel member, employee, volunteer, or student that includes:

1. The individual's name, date of birth, and contact telephone number;
2. The individual's starting date of employment or volunteer service and, if applicable, the ending date; and
3. Documentation of:
 - a. The individual's qualifications, including skills and knowledge applicable to the individual's job duties;
 - b. The individual's education and experience applicable to the individual's job duties;
 - c. The individual's compliance with the requirements in A.R.S. § 36-411;
 - d. Orientation and in-service education as required by policies and procedures;
 - e. The individual's license or certification, if the individual is required to be licensed or certified in this Article or policies and procedures;
 - f. If the individual is a behavioral health technician, clinical oversight required in R9-10-115;
 - g. Cardiopulmonary resuscitation training, if required for the individual according to R9-10-403(C)(1)(e);
 - h. First aid training, if required for the individual according to this Article or policies and procedures;
 - i. Evidence of freedom from infectious tuberculosis, if required for the individual according to subsection (E); and
 - j. If the individual is a nutrition and feeding assistant:
 - i. Completion of the nutrition and feeding assistant training course required in R9-10-116, and
 - ii. A nurse's observations required in R9-10-423(C)(6).

G. An administrator shall ensure that personnel records are:

1. Maintained:
 - a. Throughout the individual's period of providing services in or for the nursing care institution, and

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- b. For at least 24 months after the last date the individual provided services in or for the nursing care institution; and
 - 2. For a personnel member who has not provided physical health services or behavioral health services at or for the nursing care institution during the previous 12 months, provided to the Department within 72 hours after the Department's request.
- H.** An administrator shall ensure that:
- 1. A plan to provide orientation specific to the duties of a personnel member, an employee, a volunteer, and a student is developed, documented, and implemented;
 - 2. A personnel member completes orientation before providing physical health services or behavioral health services;
 - 3. An individual's orientation is documented, to include:
 - a. The individual's name,
 - b. The date of the orientation, and
 - c. The subject or topics covered in the orientation;
 - 4. A plan to provide in-service education specific to the duties of a personnel member is developed, documented, and implemented;
 - 5. A personnel member's in-service education is documented, to include:
 - a. The personnel member's name,
 - b. The date of the training, and
 - c. The subject or topics covered in the training; and
 - 6. A work schedule of each personnel member is developed and maintained at the nursing care institution for at least 12 months after the date of the work schedule.
- I.** An administrator shall designate a qualified individual to provide:
- 1. Social services, and
 - 2. Recreational activities.
- d. Receives written information concerning the nursing care institution's policies and procedures related to a resident's health care directives;
6. Within 30 calendar days before admission or 10 working days after admission, a medical history and physical examination is completed on a resident by:
 - a. A physician, or
 - b. A physician assistant or a registered nurse practitioner designated by the attending physician;
7. Except as specified in subsection (8), a resident provides evidence of freedom from infectious tuberculosis:
 - a. Before or within seven calendar days after the resident's admission, and
 - b. As specified in R9-10-113;
8. A resident who transfers from a nursing care institution to another nursing care institution is not required to be rescreened for tuberculosis or provide another written statement by a physician, physician assistant, or registered nurse practitioner as specified in R9-10-113(1) if:
 - a. Fewer than 12 months have passed since the resident was screened for tuberculosis or since the date of the written statement, and
 - b. The documentation of freedom from infectious tuberculosis required in subsection (7) accompanies the resident at the time of transfer; and
9. Compliance with the requirements in subsection (6) is documented in the resident's medical record.

Historical Note

New Section R9-10-407 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3334, effective October 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

Historical Note

New Section R9-10-406 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3334, effective October 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-407. Admission

An administrator shall ensure that:

- 1. A resident is admitted only on a physician's order;
 - 2. The physician's admitting order includes the nursing care institution services required to meet the immediate needs of a resident, such as medication and food services;
 - 3. At the time of a resident's admission, a registered nurse conducts or coordinates an initial assessment on a resident to ensure the resident's immediate needs for nursing care institution services are met;
 - 4. A resident's needs do not exceed the medical services and nursing services available at the nursing care institution as established in the nursing care institution's scope of services;
 - 5. Before or at the time of admission, a resident or the resident's representative:
 - a. Receives a documented agreement with the nursing care institution that includes rates and charges,
 - b. Is informed of third-party coverage for rates and charges,
 - c. Is informed of the nursing care institution's refund policy, and
- A.** An administrator shall ensure that:
- 1. A resident is transferred or discharged if:
 - a. The nursing care institution is not authorized or not able to meet the needs of the resident, or
 - b. The resident's behavior is a threat to the health or safety of the resident or other individuals at the nursing care institution; and
 - 2. Documentation of a resident's transfer or discharge includes:
 - a. The date of the transfer or discharge;
 - b. The reason for the transfer or discharge;
 - c. A 30-day written notice except:
 - i. In an emergency, or
 - ii. If the resident no longer requires nursing care institution services as determined by a physician or the physician's designee;
 - d. A notation by a physician or the physician's designee if the transfer or discharge is due to any of the reasons listed in subsection (A)(1); and
 - e. If applicable, actions taken by a personnel member to protect the resident or other individuals if the resident's behavior is a threat to the health and safety of the resident or other individuals in the nursing care institution.
- B.** An administrator may transfer or discharge a resident for failure to pay for residency if:
- 1. The resident or resident's representative receives a 30-day written notice of transfer or discharge, and
 - 2. The 30-day written notice includes an explanation of the resident's right to appeal the transfer or discharge.

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- C. Except in an emergency, a director of nursing shall ensure that before a resident is discharged:
1. Written follow-up instructions are developed with the resident or the resident's representative that includes:
 - a. Information necessary to meet the resident's need for medical services and nursing services; and
 - b. The state long-term care ombudsman's name, address, and telephone number;
 2. A copy of the written follow-up instructions is provided to the resident or the resident's representative; and
 3. A discharge summary is developed by a personnel member and authenticated by the resident's attending physician or designee and includes:
 - a. The resident's medical condition at the time of transfer or discharge,
 - b. The resident's medical and psychosocial history,
 - c. The date of the transfer or discharge, and
 - d. The location of the resident after discharge.

Historical Note

New Section R9-10-408 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-409. Transport; Transfer

- A. Except as provided in subsection (B), an administrator shall ensure that:
1. A personnel member coordinates the transport and the services provided to the resident;
 2. According to policies and procedures:
 - a. An evaluation of the resident is conducted before and after the transport,
 - b. Information from the resident's medical record is provided to a receiving health care institution, and
 - c. A personnel member explains risks and benefits of the transport to the resident or the resident's representative; and
 3. Documentation in the resident's medical record includes:
 - a. Communication with an individual at a receiving health care institution;
 - b. The date and time of the transport;
 - c. The mode of transportation; and
 - d. If applicable, the name of the personnel member accompanying the resident during a transport.
- B. Subsection (A) does not apply to:
1. Transportation to a location other than a licensed health care institution,
 2. Transportation provided for a resident by the resident or the resident's representative,
 3. Transportation provided by an outside entity that was arranged for a resident by the resident or the resident's representative, or
 4. A transport to another licensed health care institution in an emergency.
- C. Except for a transfer of a resident due to an emergency, an administrator shall ensure that:
1. A personnel member coordinates the transfer and the services provided to the resident;
 2. According to policies and procedures:
 - a. An evaluation of the resident is conducted before the transfer;
 - b. Information from the resident's medical record, including orders that are in effect at the time of the transfer, is provided to a receiving health care institution; and

- c. A personnel member explains risks and benefits of the transfer to the resident or the resident's representative; and
3. Documentation in the resident's medical record includes:
 - a. Communication with an individual at a receiving health care institution;
 - b. The date and time of the transfer;
 - c. The mode of transportation; and
 - d. If applicable, the name of the personnel member accompanying the resident during a transfer.

Historical Note

New Section R9-10-409 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-410. Resident Rights

- A. An administrator shall ensure that:
1. The requirements in subsection (B) and the resident rights in subsection (C) are conspicuously posted on the premises;
 2. At the time of admission, a resident or the resident's representative receives a written copy of the requirements in subsection (B) and the resident rights in subsection (C); and
 3. Policies and procedures include:
 - a. How and when a resident or the resident's representative is informed of resident rights in subsection (C), and
 - b. Where resident rights are posted as required in subsection (A)(1).
- B. An administrator shall ensure that:
1. A resident has privacy in:
 - a. Treatment,
 - b. Bathing and toileting,
 - c. Room accommodations, and
 - d. A visit or meeting with another resident or an individual;
 2. A resident is treated with dignity, respect, and consideration;
 3. A resident is not subjected to:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Coercion;
 - e. Manipulation;
 - f. Sexual abuse;
 - g. Sexual assault;
 - h. Seclusion;
 - i. Restraint;
 - j. Retaliation for submitting a complaint to the Department or another entity; or
 - k. Misappropriation of personal and private property by a nursing care institution's personnel members, employees, volunteers, or students; and
 4. A resident or the resident's representative:
 - a. Except in an emergency, either consents to or refuses treatment;
 - b. May refuse or withdraw consent for treatment before treatment is initiated;
 - c. Except in an emergency, is informed of proposed alternatives to psychotropic medication or a surgical procedure and the associated risks and possible complications of the psychotropic medication or surgical procedure;

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- d. Is informed of the following:
 - i. The health care institution's policy on health care directives, and
 - ii. The resident complaint process;
 - e. Consents to photographs of the resident before the resident is photographed, except that the resident may be photographed when admitted to a nursing care institution for identification and administrative purposes;
 - f. May manage the resident's financial affairs;
 - g. May review the nursing care institution's current license survey report and, if applicable, plan of correction in effect;
 - h. Has access to and may communicate with any individual, organization, or agency;
 - i. May participate in a resident group;
 - j. May review the resident's financial records within two working days and medical record within one working day after the resident's or the resident's representative's request;
 - k. May obtain a copy of the resident's financial records and medical record within two working days after the resident's request and in compliance with A.R.S. § 12-2295;
 - l. Except as otherwise permitted by law, consents, in writing, to the release of information in the resident's:
 - i. Medical record, and
 - ii. Financial records;
 - m. May select a pharmacy of choice if the pharmacy complies with policies and procedures and does not pose a risk to the resident;
 - n. Is informed of the method for contacting the resident's attending physician;
 - o. Is informed of the resident's total health condition;
 - p. Is provided with a copy of those sections of the resident's medical record that are required for continuity of care free of charge, according to A.R.S. § 12-2295, if the resident is transferred or discharged;
 - q. Is informed in writing of a change in rates and charges at least 60 calendar days before the effective date of the change; and
 - r. Except in the event of an emergency, is informed orally or in writing before the nursing care institution makes a change in a resident's room or roommate assignment and notification is documented in the resident's medical record.
- C.** A resident has the following rights:
- 1. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, or diagnosis;
 - 2. To receive treatment that supports and respects the resident's individuality, choices, strengths, and abilities;
 - 3. To choose activities and schedules consistent with the resident's interests that do not interfere with other residents;
 - 4. To participate in social, religious, political, and community activities that do not interfere with other residents;
 - 5. To retain personal possessions including furnishings and clothing as space permits unless use of the personal possession infringes on the rights or health and safety of other residents;
 - 6. To share a room with the resident's spouse if space is available and the spouse consents;
 - 7. To receive a referral to another health care institution if the nursing care institution is not authorized or not able to provide physical health services or behavioral health services needed by the resident;
 - 8. To participate or have the resident's representative participate in the development of, or decisions concerning, treatment;
 - 9. To participate or refuse to participate in research or experimental treatment; and
 - 10. To receive assistance from a family member, the resident's representative, or other individual in understanding, protecting, or exercising the resident's rights.

Historical Note

New Section R9-10-410 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

Amended by exempt rulemaking at 19 A.A.R. 3334, effective October 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-411. Medical Records

- A.** An administrator shall ensure that:
- 1. A medical record is established and maintained for each resident according to A.R.S. Title 12, Chapter 13, Article 7.1;
 - 2. An entry in a resident's medical record is:
 - a. Recorded only by an individual authorized by policies and procedures to make the entry;
 - b. Dated, legible, and authenticated; and
 - c. Not changed to make the initial entry illegible;
 - 3. An order is:
 - a. Dated when the order is entered in the resident's medical record and includes the time of the order;
 - b. Authenticated by a medical practitioner or behavioral health professional according to policies and procedures; and
 - c. If the order is a verbal order, authenticated by the medical practitioner or behavioral health professional issuing the order;
 - 4. If a rubber-stamp signature or an electronic signature is used to authenticate an order, the individual whose signature the rubber-stamp signature or electronic signature represents is accountable for the use of the rubber-stamp signature or electronic signature;
 - 5. A resident's medical record is available to an individual:
 - a. Authorized to access the resident's medical record according to policies and procedures;
 - b. If the individual is not authorized to access the resident's medical record according to policies and procedures, with the written consent of the resident or the resident's representative; or
 - c. As permitted by law; and
 - 6. A resident's medical record is protected from loss, damage, or unauthorized use.
- B.** If a nursing care institution maintains residents' medical records electronically, an administrator shall ensure that:
- 1. Safeguards exist to prevent unauthorized access, and
 - 2. The date and time of an entry in a resident's medical record is recorded by the computer's internal clock.
- C.** An administrator shall ensure that a resident's medical record contains:
- 1. Resident information that includes:
 - a. The resident's name;
 - b. The resident's date of birth; and
 - c. Any known allergies, including medication allergies;
 - 2. The admission date and, if applicable, the date of discharge;

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3. The admitting diagnosis or presenting symptoms;
4. Documentation of general consent and, if applicable, informed consent;
5. If applicable, the name and contact information of the resident's representative and:
 - a. The document signed by the resident consenting for the resident's representative to act on the resident's behalf; or
 - b. If the resident's representative:
 - i. Has a health care power of attorney established under A.R.S. § 36-3221 or a mental health care power of attorney executed under A.R.S. § 36-3282, a copy of the health care power of attorney or mental health care power of attorney; or
 - ii. Is a legal guardian, a copy of the court order establishing guardianship;
6. The medical history and physical examination required in R9-10-407(6);
7. A copy of the resident's living will or other health care directive, if applicable;
8. The name and telephone number of the resident's attending physician;
9. Orders;
10. Care plans;
11. Behavioral care plans, if the resident is receiving behavioral care;
12. Documentation of nursing care institution services provided to the resident;
13. Progress notes;
14. If applicable, documentation of any actions taken to control the resident's sudden, intense, or out-of-control behavior to prevent harm to the resident or another individual;
15. If applicable, documentation that evacuation from the nursing care institution would cause harm to the resident;
16. The disposition of the resident after discharge;
17. The discharge plan;
18. The discharge summary;
19. Transfer documentation;
20. If applicable:
 - a. A laboratory report,
 - b. A radiologic report,
 - c. A diagnostic report, and
 - d. A consultation report;
21. Documentation of freedom from infectious tuberculosis required in R9-10-407(7);
22. Documentation of a medication administered to the resident that includes:
 - a. The date and time of administration;
 - b. The name, strength, dosage, and route of administration;
 - c. The type of vaccine, if applicable;
 - d. For a medication administered for pain on a PRN basis:
 - i. An evaluation of the resident's pain before administering the medication, and
 - ii. The effect of the medication administered;
 - e. For a psychotropic medication administered on a PRN basis:
 - i. An evaluation of the resident's symptoms before administering the psychotropic medication, and
 - ii. The effect of the psychotropic medication administered;
- f. The identification, signature, and professional designation of the individual administering the medication; and
- g. Any adverse reaction a resident has to the medication;
23. If the resident has been assessed for receiving nutrition and feeding assistance from a nutrition and feeding assistant, documentation of the assessment and the determination of eligibility; and
24. If applicable, a copy of written notices, including follow-up instructions, provided to the resident or the resident's representative.

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-411 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3334, effective October 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-412. Nursing Services

- A. An administrator shall ensure that:
 1. Nursing services are provided 24 hours a day in a nursing care institution;
 2. A director of nursing is appointed who:
 - a. Is a registered nurse,
 - b. Works full-time at the nursing care institution, and
 - c. Is responsible for the direction of nursing services;
 3. The director of nursing or an individual designated by the administrator participates in the quality management program; and
 4. If the daily census of the nursing care institution is less than 60, the director of nursing may provide direct care to residents on a regular basis.
- B. A director of nursing shall ensure that:
 1. A method is established and documented that identifies the types and numbers of nursing personnel that are necessary to provide nursing services to residents based on the residents' comprehensive assessments, orders for physical health services and behavioral health services, and care plans and the nursing care institution's scope of services;
 2. Sufficient nursing personnel, as determined by the method in subsection (B)(1), are on the nursing care institution premises to meet the needs of a resident for nursing services;
 3. At least one nurse is present on the nursing care institution's premises and responsible for providing direct care to not more than 64 residents;
 4. Documentation of nursing personnel present on the nursing care institution's premises each day is maintained and includes:
 - a. The date,
 - b. The number of residents,
 - c. The name and license or certification title of each nursing personnel member who worked that day, and
 - d. The actual number of hours each nursing personnel member worked that day;
 5. The documentation of nursing personnel required in subsection (B)(4) is maintained for at least 12 months after the date of the documentation;

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6. As soon as possible but not more than 24 hours after one of the following events occur, a nurse notifies a resident's attending physician and, if applicable, the resident's representative, if the resident:
 - a. Is injured,
 - b. Is involved in an incident that may require medical services, or
 - c. Has a significant change in condition; and
7. An unnecessary drug is not administered to a resident.

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-412 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3334, effective October 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-413. Medical Services

- A. An administrator shall appoint a medical director.
- B. A medical director shall ensure that:
 1. A resident has an attending physician;
 2. An attending physician is available 24 hours a day;
 3. An attending physician designates a physician who is available when the attending physician is not available;
 4. A physical examination is performed on a resident at least once every 12 months after the date of admission by an individual listed in R9-10-407(6);
 5. As required in A.R.S. § 36-406, vaccinations for influenza and pneumonia are available to each resident at least once every 12 months unless:
 - a. The attending physician provides documentation that the vaccination is medically contraindicated;
 - b. The resident or the resident's representative refuses the vaccination or vaccinations and documentation is maintained in the resident's medical record that the resident or the resident's representative has been informed of the risks and benefits of a vaccination refused; or
 - c. The resident or the resident's representative provides documentation that the resident received a pneumonia vaccination within the last five years or the current recommendation from the U.S. Department of Health and Human Services, Center for Disease Control and Prevention; and
 6. If the any of the following services are not provided by the nursing care institution and needed by a resident, the resident is assisted in obtaining, at the resident's expense:
 - a. Vision services;
 - b. Hearing services;
 - c. Dental services;
 - d. Clinical laboratory services from a laboratory that holds a certificate of accreditation or certificate of compliance issued by the United States Department of Health and Human Services under the 1988 amendments to the Clinical Laboratories Improvement Act of 1967;
 - e. Psychosocial services;
 - f. Physical therapy;
 - g. Speech therapy;
 - h. Occupational therapy;
 - i. Behavioral health services; and

- j. Services for an individual who has a developmental disability, as defined in A.R.S. Title 36, Chapter 5.1, Article 1.

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-413 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-414. Comprehensive Assessment; Care Plan

- A. A director of nursing shall ensure that:
 1. A comprehensive assessment of a resident:
 - a. Is conducted or coordinated by a registered nurse in collaboration with an interdisciplinary team;
 - b. Is completed for the resident within 14 calendar days after the resident's admission to a nursing care institution;
 - c. Is updated:
 - i. No later than 12 months after the date of the resident's last comprehensive assessment, and
 - ii. When the resident experiences a significant change;
 - d. Includes the following information for the resident:
 - i. Identifying information;
 - ii. An evaluation of the resident's hearing, speech, and vision;
 - iii. An evaluation of the resident's ability to understand and recall information;
 - iv. An evaluation of the resident's mental status;
 - v. Whether the resident's mental status or behaviors:
 - (1) Put the resident at risk for physical illness or injury,
 - (2) Significantly interfere with the resident's care,
 - (3) Significantly interfere with the resident's ability to participate in activities or social interactions,
 - (4) Put other residents or personnel members at significant risk for physical injury,
 - (5) Significantly intrude on another resident's privacy, or
 - (6) Significantly disrupt care for another resident;
 - vi. Preferences for customary routine and activities;
 - vii. An evaluation of the resident's ability to perform activities of daily living;
 - viii. Need for a mobility device;
 - ix. An evaluation of the resident's ability to control the resident's bladder and bowels;
 - x. Any diagnosis that impacts nursing care institution services that the resident may require;
 - xi. Any medical conditions that impact the resident's functional status, quality of life, or need for nursing care institution services;
 - xii. An evaluation of the resident's ability to maintain adequate nutrition and hydration;
 - xiii. An evaluation of the resident's oral and dental status;
 - xiv. An evaluation of the condition of the resident's skin;

- xv. Identification of any medication or treatment administered to the resident during a seven-day calendar period that includes the time the comprehensive assessment was conducted;
 - xvi. Identification of any treatment or medication ordered for the resident;
 - xvii. Whether any restraints have been used for the resident during a seven-day calendar period that includes the time the comprehensive assessment was conducted;
 - xviii. A description of the resident or resident's representative's participation in the comprehensive assessment;
 - xix. The name and title of the interdisciplinary team members who participated in the resident's comprehensive assessment;
 - xx. Potential for rehabilitation; and
 - xxi. Potential for discharge; and
 - e. Is signed and dated by:
 - i. The registered nurse who conducts or coordinates the comprehensive assessment or review; and
 - ii. If a behavioral health professional is required to review according to subsection (A)(2), the behavioral health professional who reviewed the comprehensive assessment or review;
 - 2. If any of the conditions in (A)(1)(d)(v) are answered in the affirmative during the comprehensive assessment or review, a behavioral health professional reviews a resident's comprehensive assessment or review and care plan to ensure that the resident's needs for behavioral health services are being met;
 - 3. A new comprehensive assessment is not required for a resident who is hospitalized and readmitted to a nursing care institution unless a physician, an individual designated by the physician, or a registered nurse determines the resident has a significant change in condition; and
 - 4. A resident's comprehensive assessment is reviewed by a registered nurse at least once every three months after the date of the current comprehensive assessment and if there is a significant change in the resident's condition.
- B.** An administrator shall ensure that a care plan for a resident:
- 1. Is developed, documented, and implemented for the resident within seven calendar days after completing the resident's comprehensive assessment required in subsection (A)(1);
 - 2. Is reviewed and revised based on any change to the resident's comprehensive assessment; and
 - 3. Ensures that a resident is provided nursing care institution services that:
 - a. Address any medical condition or behavioral health issue identified in the resident's comprehensive assessment, and
 - b. Assist the resident in maintaining the resident's highest practicable well-being according to the resident's comprehensive assessment.

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-414 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 3334, effective October 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-415. Behavioral Health Services

Except for behavioral care, if a nursing care institution is authorized to provide behavioral health services, an administrator shall ensure that:

- 1. The behavioral health services are provided:
 - a. Under the direction of a behavioral health professional licensed or certified to provide the type of behavioral health services in the nursing care institution's scope of services, and
 - b. In compliance with the requirements:
 - i. For behavioral health paraprofessionals and behavioral health technicians, in R9-10-115; and
 - ii. For an assessment, in R9-10-1011(B); and
- 2. Except for a psychotropic drug used as a chemical restraint or administered according to an order from a court of competent jurisdiction, informed consent is obtained from a resident or the resident's representative for a psychotropic drug and documented in the resident's medical record before the psychotropic drug is administered to the resident.

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-415 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3334, effective October 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-416. Clinical Laboratory Services

If clinical laboratory services are authorized to be provided on a nursing care institution's premises, an administrator shall ensure that:

- 1. Clinical laboratory services and pathology services are provided through a laboratory that holds a certificate of accreditation, certificate of compliance, or certificate of waiver issued by the United States Department of Health and Human Services under the 1988 amendments to the Clinical Laboratories Improvement Act of 1967;
- 2. A copy of the certificate of accreditation, certificate of compliance, or certificate of waiver in subsection (1) is provided to the Department for review upon the Department's request;
- 3. The nursing care institution:
 - a. Is able to provide the clinical laboratory services delineated in the nursing care institution's scope of services when needed by the residents,
 - b. Obtains specimens for the clinical laboratory services delineated in the nursing care institution's scope of services without transporting the residents from the nursing care institution's premises, and
 - c. Has the examination of the specimens performed by a clinical laboratory;
- 4. Clinical laboratory and pathology test results are:
 - a. Available to the ordering physician:
 - i. Within 24 hours after the test is complete with results if the test is performed at a laboratory on the nursing care institution's premises, or
 - ii. Within 24 hours after the test result is received if the test is performed at a laboratory outside of the nursing care institution's premises; and
 - b. Documented in a resident's medical record;

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5. If a test result is obtained that indicates a resident may have an emergency medical condition, as established in policies and procedures, personnel notify:
 - a. The ordering physician,
 - b. A registered nurse in the resident's assigned unit,
 - c. The nursing care institution's administrator, or
 - d. The director of nursing;
6. If a clinical laboratory report is completed on a resident, a copy of the report is included in the resident's medical record;
7. If the nursing care institution provides blood or blood products, policies and procedures are established, documented, and implemented for:
 - a. Procuring, storing, transfusing, and disposing of blood or blood products;
 - b. Blood typing, antibody detection, and blood compatibility testing; and
 - c. Investigating transfusion adverse reactions that specify a process for review through the quality management program; and
8. Expired laboratory supplies are discarded according to policies and procedures
 - i. The resident's name,
 - ii. The name of the ordering individual,
 - iii. The radiological or diagnostic imaging procedure ordered, and
 - iv. The reason for the procedure;
5. A medical director, attending physician, or radiologist interprets the radiologic or diagnostic image;
6. A radiologic or diagnostic imaging report is prepared that includes:
 - a. The resident's name;
 - b. The date of the procedure;
 - c. A medical director, attending physician, or radiologist's interpretation of the image;
 - d. The type and amount of radiopharmaceutical used, if applicable; and
 - e. The resident's adverse reaction to the radiopharmaceutical, if any; and
7. A radiologic or diagnostic imaging report is included in the resident's medical record.

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-418 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3334, effective October 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-416 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3334, effective October 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-417. Dialysis Services

If dialysis services are authorized to be provided on a nursing care institution's premises, an administrator shall ensure that the dialysis services are provided in compliance with the requirements in R9-10-1018.

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-417 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-418. Radiology Services and Diagnostic Imaging Services

If radiology services or diagnostic imaging services are authorized to be provided on a nursing care institution's premises, an administrator shall ensure that:

1. Radiology services and diagnostic imaging services are provided in compliance with A.R.S. Title 30, Chapter 4 and 12 A.A.C. 1;
2. A copy of a certificate documenting compliance with subsection (1) is maintained by the nursing care institution;
3. When needed by a resident, radiology services and diagnostic imaging services delineated in the nursing care institution's scope of services are provided on the nursing care institution's premises;
4. Radiology services and diagnostic imaging services are provided:
 - a. Under the direction of a physician; and
 - b. According to an order that includes:

R9-10-419. Respiratory Care Services

If respiratory care services are provided on a nursing care institution's premises, an administrator shall ensure that:

1. Respiratory care services are provided under the direction of a medical director or attending physician;
2. Respiratory care services are provided according to an order that includes:
 - a. The resident's name;
 - b. The name and signature of the ordering individual;
 - c. The type, frequency, and, if applicable, duration of treatment;
 - d. The type and dosage of medication and diluent; and
 - e. The oxygen concentration or oxygen liter flow and method of administration;
3. Respiratory care services provided to a resident are documented in the resident's medical record and include:
 - a. The date and time of administration;
 - b. The type of respiratory care services provided;
 - c. The effect of the respiratory care services;
 - d. The resident's adverse reaction to the respiratory care services, if any; and
 - e. The authentication of the individual providing the respiratory care services; and
4. Any area or unit that performs blood gases or clinical laboratory tests complies with the requirements in R9-10-416

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-419 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3334, effective October 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-420. Rehabilitation Services

If rehabilitation services are provided on a nursing care institution's premises, an administrator shall ensure that:

1. Rehabilitation services are provided:
 - a. Under the direction of an individual qualified according to policies and procedures,
 - b. By an individual licensed to provide the rehabilitation services, and
 - c. According to an order; and
2. The medical record of a resident receiving rehabilitation services includes:
 - a. An order for rehabilitation services that includes the name of the ordering individual and a referring diagnosis,
 - b. A documented care plan that is developed in coordination with the ordering individual and the individual providing the rehabilitation services,
 - c. The rehabilitation services provided,
 - d. The resident's response to the rehabilitation services, and
 - e. The authentication of the individual providing the rehabilitation services.

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-420 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-421. Medication Services

A. An administrator shall ensure that policies and procedures for medication services:

1. Include:
 - a. A process for providing information to a resident about medication prescribed for the resident including:
 - i. The prescribed medication's anticipated results,
 - ii. The prescribed medication's potential adverse reactions,
 - iii. The prescribed medication's potential side effects, and
 - iv. Potential adverse reactions that could result from not taking the medication as prescribed;
 - b. Procedures for preventing, responding to, and reporting:
 - i. A medication error,
 - ii. An adverse response to a medication, or
 - iii. A medication overdose;
 - c. Procedures to ensure that a pharmacist reviews a resident's medications at least once every three months and provides documentation to the resident's attending physician and the director of nursing indicating potential medication problems such as incompatible or duplicative medications;
 - d. Procedures for documenting medication services; and
 - e. Procedures for assisting a resident in obtaining medication; and
2. Specify a process for review through the quality management program of:
 - a. A medication administration error, and
 - b. An adverse reaction to a medication.

B. An administrator shall ensure that:

1. Policies and procedures for medication administration:

- a. Are reviewed and approved by the director of nursing;
 - b. Specify the individuals who may:
 - i. Order medication, and
 - ii. Administer medication;
 - c. Ensure that medication is administered to a resident only as prescribed; and
 - d. Cover the documentation of a resident's refusal to take prescribed medication in the resident's medical record;
2. Verbal orders for medication services are taken by a nurse, unless otherwise provided by law;
 3. A medication administered to a resident:
 - a. Is administered in compliance with an order, and
 - b. Is documented in the resident's medical record; and
 4. If a psychotropic medication is administered to a resident, the psychotropic medication:
 - a. Is only administered to a resident for a diagnosed medical condition; and
 - b. Unless clinically contraindicated or otherwise ordered by an attending physician or the attending physician's designee, is gradually reduced in dosage while the resident is simultaneously provided with interventions such as behavior and environment modification in an effort to discontinue the psychotropic medication, unless a dose reduction is attempted and the resident displays behavior justifying the need for the psychotropic medication, and the attending physician documents the necessity for the continued use and dosage.

C. An administrator shall ensure that:

1. A current drug reference guide is available for use by personnel members; and
2. If pharmaceutical services are provided:
 - a. The pharmaceutical services are provided under the direction of a pharmacist;
 - b. The pharmaceutical services comply with ARS Title 36, Chapter 27; A.R.S. Title 32, Chapter 18; and 4 A.A.C. 23; and
 - c. A copy of the pharmacy license is provided to the Department upon request.

D. When medication is stored at a nursing care institution, an administrator shall ensure that:

1. Medication is stored in a separate locked room, closet, or self-contained unit used only for medication storage;
2. Medication is stored according to the instructions on the medication container; and
3. Policies and procedures are established, documented, and implemented to protect the health and safety of a resident for:
 - a. Receiving, storing, inventorying, tracking, dispensing, and discarding medication including expired medication;
 - b. Discarding or returning prepackaged and sample medication to the manufacturer if the manufacturer requests the discard or return of the medication;
 - c. A medication recall and notification of residents who received recalled medication; and
 - d. Storing, inventorying, and dispensing controlled substances.

E. An administrator shall ensure that a personnel member immediately reports a medication error or a resident's adverse reaction to a medication to the medical practitioner who ordered the medication and the nursing care institution's director of nursing.

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-421 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3334, effective October 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-422. Infection Control

An administrator shall ensure that:

1. An infection control program is established, under the direction of an individual qualified according to policies and procedures, to prevent the development and transmission of infections and communicable diseases including:
 - a. A method to identify and document infections occurring at the nursing care institution;
 - b. Analysis of the types, causes, and spread of infections and communicable diseases at the nursing care institution;
 - c. The development of corrective measures to minimize or prevent the spread of infections and communicable diseases at the nursing care institution; and
 - d. Documentation of infection control activities including:
 - i. The collection and analysis of infection control data,
 - ii. The actions taken related to infections and communicable diseases, and
 - iii. Reports of communicable diseases to the governing authority and state and county health departments;
2. Infection control documentation is maintained for at least 12 months after the date of the documentation;
3. Policies and procedures are established, documented, and implemented that cover:
 - a. Handling and disposal of biohazardous medical waste;
 - b. Sterilization, disinfection, and storage of medical equipment and supplies;
 - c. Using personal protective equipment such as aprons, gloves, gowns, masks, or face protection when applicable;
 - d. Cleaning of an individual's hands when the individual's hands are visibly soiled and before and after providing a service to a resident;
 - e. Training of personnel members, employees, and volunteers in infection control practices; and
 - f. Work restrictions for a personnel member with a communicable disease or infected skin lesion;
4. Biohazardous medical waste is identified, stored, and disposed of according to 18 A.A.C. 13, Article 14 and policies and procedures;
5. Soiled linen and clothing are:
 - a. Collected in a manner to minimize or prevent contamination;
 - b. Bagged at the site of use; and
 - c. Maintained separate from clean linen and clothing and away from food storage, kitchen, or dining areas; and
6. A personnel member, an employee, or a volunteer washes hands or uses a hand disinfection product after a resident contact and after handling soiled linen, soiled clothing, or potentially infectious material.

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-422 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-423. Food Services

A. An administrator shall ensure that:

1. The nursing care institution has a license or permit as a food establishment under 9 A.A.C. 8, Article 1;
2. A copy of the nursing care institution's food establishment license or permit is maintained;
3. If a nursing care institution contracts with a food establishment, as established in 9 A.A.C. 8, Article 1, to prepare and deliver food to the nursing care institution:
 - a. A copy of the contracted food establishment's license or permit under 9 A.A.C. 8, Article 1 is maintained by the nursing care institution; and
 - b. The nursing care institution is able to store, refrigerate, and reheat food to meet the dietary needs of a resident;
4. A registered dietitian:
 - a. Reviews a food menu before the food menu is used to ensure that a resident's nutritional needs are being met,
 - b. Documents the review of a food menu, and
 - c. Is available for consultation regarding a resident's nutritional needs; and
5. If a registered dietitian is not employed full-time, an individual is designated as a director of food services who consults with a registered dietitian as often as necessary to ensure that the nutritional needs of a resident are met.

B. A registered dietitian or director of food services shall ensure that:

1. Food is prepared:
 - a. Using methods that conserve nutritional value, flavor, and appearance; and
 - b. In a form to meet the needs of a resident such as cut, chopped, ground, pureed, or thickened;
2. A food menu:
 - a. Is prepared at least one week in advance,
 - b. Includes the foods to be served on each day,
 - c. Is conspicuously posted at least one day before the first meal on the food menu will be served,
 - d. Includes any food substitution no later than the morning of the day of meal service with a food substitution, and
 - e. Is maintained for at least 60 calendar days after the last day included in the food menu;
3. Meals and snacks for each day are planned and served using the applicable guidelines in <http://www.health.gov/dietaryguidelines/2010.asp>;
4. A resident is provided:
 - a. A diet that meets the resident's nutritional needs as specified in the resident's comprehensive assessment and care plan;
 - b. Three meals a day with not more than 14 hours between the evening meal and breakfast except as provided in subsection (B)(4)(d);
 - c. The option to have a daily evening snack identified in subsection (B)(4)(d)(ii) or other snack; and
 - d. The option to extend the time span between the evening meal and breakfast from 14 hours to 16 hours if:

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- i. A resident group agrees; and
 - ii. The resident is offered an evening snack that includes meat, fish, eggs, cheese, or other protein, and a serving from either the fruit and vegetable food group or the bread and cereal food group;
 - 5. A resident is provided with food substitutions of similar nutritional value if:
 - a. The resident refuses to eat the food served, or
 - b. The resident requests a substitution;
 - 6. Recommendations and preferences are requested from a resident or the resident's representative for meal planning;
 - 7. A resident requiring assistance to eat is provided with assistance that recognizes the resident's nutritional, physical, and social needs, including the use of adaptive eating equipment or utensils;
 - 8. Tableware, utensils, equipment, and food-contact surfaces are clean and in good repair;
 - 9. A resident eats meals in a dining area unless the resident chooses to eat in the resident's room or is confined to the resident's room for medical reasons documented in the resident's medical record; and
 - 10. Water is available and accessible to residents.
- C. If a nursing care institution has nutrition and feeding assistants, an administrator shall ensure that:
- 1. A nutrition and feeding assistant:
 - a. Is at least 16 years of age;
 - b. If applicable, complies with the fingerprint clearance card requirements in A.R.S. § 36-411;
 - c. Completes a nutrition and feeding assistant training course within 12 months before initially providing nutrition and feeding assistance;
 - d. Provides nutrition and feeding assistance where nursing personnel are present;
 - e. Immediately reports an emergency to a nurse or, if a nurse is not present in the common area, to nursing personnel; and
 - f. If the nutrition and feeding assistant observes a change in a resident's physical condition or behavior, reports the change to a nurse or, if a nurse is not present in the common area, to nursing personnel;
 - 2. A resident is not eligible to receive nutrition and feeding assistance from a nutrition and feeding assistant if the resident:
 - a. Has difficulty swallowing,
 - b. Has had recurrent lung aspirations,
 - c. Requires enteral feedings,
 - d. Requires parenteral feedings, or
 - e. Has any other eating or drinking difficulty that may cause the resident's health or safety to be compromised if the resident receives nutrition and feeding assistance from a nutrition and feeding assistant;
 - 3. Only an eligible resident receives nutrition and feeding assistance from a nutrition and feeding assistant;
 - 4. A nurse determines if a resident is eligible to receive nutrition and feeding assistance from a nutrition and feeding assistant, based on:
 - a. The resident's comprehensive assessment,
 - b. The resident's care plan, and
 - c. An assessment conducted by the nurse when making the determination;
 - 5. A method is implemented that identifies eligible residents that ensures only eligible residents receive nutrition and feeding assistance from a nutrition and feeding assistant;
 - 6. When a nutrition and feeding assistant initially provides nutrition and feeding assistance and at least once every

three months, a nurse observes the nutrition and feeding assistant while the nutrition and feeding assistant is providing nutrition and feeding assistance to ensure that the nutrition and feeding assistant is providing nutrition and feeding assistance appropriately;

- 7. A nurse documents the nurse's observations required in subsection (C)(6); and
- 8. A nutrition and feeding assistant is provided additional training:
 - a. According to policies and procedures, and
 - b. If a nurse identifies a need for additional training based on the nurse's observation in subsection (C)(6).

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-423 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3334, effective October 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-424. Emergency and Safety Standards

- A. An administrator shall ensure that:
- 1. A disaster plan is developed, documented, maintained in a location accessible to personnel members and other employees, and, if necessary, implemented that includes:
 - a. When, how, and where residents will be relocated, including:
 - i. Instructions for the evacuation or transfer of residents,
 - ii. Assigned responsibilities for each employee and personnel member, and
 - iii. A plan for continuing to provide services to meet a resident's needs;
 - b. How a resident's medical record will be available to individuals providing services to the resident during a disaster;
 - c. A plan for back-up power and water supply;
 - d. A plan to ensure a resident's medications will be available to administer to the resident during a disaster;
 - e. A plan to ensure a resident is provided nursing services and other services required by the resident during a disaster; and
 - f. A plan for obtaining food and water for individuals present in the nursing care institution or the nursing care institution's relocation site during a disaster;
 - 2. The disaster plan required in subsection (A)(1) is reviewed at least once every 12 months;
 - 3. Documentation of a disaster plan review required in subsection (A)(2) is created, is maintained for at least 12 months after the date of the disaster plan review, and includes:
 - a. The date and time of the disaster plan review;
 - b. The name of each personnel member, employee, or volunteer participating in the disaster plan review;
 - c. A critique of the disaster plan review; and
 - d. If applicable, recommendations for improvement;
 - 4. A disaster drill for employees is conducted on each shift at least once every three months and documented;
 - 5. An evacuation drill for employees and residents:
 - a. Is conducted at least once every six months; and
 - b. Includes all individuals on the premises except for:

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- i. A resident whose medical record contains documentation that evacuation from the nursing care institution would cause harm to the resident, and
 - ii. Sufficient personnel members to ensure the health and safety of residents not evacuated according to subsection (A)(5)(b)(i);
 - 6. Documentation of each evacuation drill is created, is maintained for at least 12 months after the date of the drill, and includes:
 - a. The date and time of the evacuation drill;
 - b. The amount of time taken for employees and residents to evacuate to a designated area;
 - c. If applicable:
 - i. An identification of residents needing assistance for evacuation, and
 - ii. An identification of residents who were not evacuated;
 - d. Any problems encountered in conducting the evacuation drill; and
 - e. Recommendations for improvement, if applicable; and
 - 7. An evacuation path is conspicuously posted on each hallway of each floor of the nursing care institution.
 - B.** An administrator shall ensure that, if applicable, a sign is placed at the entrance to a room or area indicating that oxygen is in use.
 - C.** An administrator shall:
 - 1. Obtain a fire inspection conducted according to the time-frame established by the local fire department or the State Fire Marshal,
 - 2. Make any repairs or corrections stated on the fire inspection report, and
 - 3. Maintain documentation of a current fire inspection.
- Historical Note**
- Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-424 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3334, effective October 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).
- R9-10-425. Environmental Standards**
- A.** An administrator shall ensure that:
 - 1. A nursing care institution's premises and equipment are:
 - a. Cleaned and disinfected according to policies and procedures or manufacturer's instructions to prevent, minimize, and control illness and infection; and
 - b. Free from a condition or situation that may cause a resident or an individual to suffer physical injury;
 - 2. A pest control program is implemented and documented;
 - 3. Equipment used to provide direct care is:
 - a. Maintained in working order;
 - b. Tested and calibrated according to the manufacturer's recommendations or, if there are no manufacturer's recommendations, as specified in policies and procedures; and
 - c. Used according to the manufacturer's recommendations;
 - 4. Documentation of equipment testing, calibration, and repair is maintained for at least 12 months after the date of the testing, calibration, or repair;
 - 5. Garbage and refuse are:
 - a. In areas used for food storage, food preparation, or food service, stored in a covered container lined with a plastic bag;
 - b. In areas not used for food storage, food preparation, or food service, stored:
 - i. According to the requirements in subsection (5)(a), or
 - ii. In a paper-lined or plastic-lined container that is cleaned and sanitized as often as necessary to ensure that the container is clean; and
 - c. Removed from the premises at least once a week;
 - 6. Heating and cooling systems maintain the nursing care institution at a temperature between 70° F and 84° F;
 - 7. Common areas:
 - a. Are lighted to assure the safety of residents, and
 - b. Have lighting sufficient to allow personnel members to monitor resident activity;
 - 8. The supply of hot and cold water is sufficient to meet the personal hygiene needs of residents and the cleaning and sanitation requirements in this Article;
 - 9. Linens are clean before use, without holes and stains, and not in need of repair;
 - 10. Oxygen containers are secured in an upright position;
 - 11. Poisonous or toxic materials stored by the nursing care institution are maintained in labeled containers in a locked area separate from food preparation and storage, dining areas, and medications and are inaccessible to residents;
 - 12. Combustible or flammable liquids stored by the nursing care institution are stored in the original labeled containers or safety containers in a locked area inaccessible to residents;
 - 13. If pets or animals are allowed in the nursing care institution, pets or animals are:
 - a. Controlled to prevent endangering the residents and to maintain sanitation;
 - b. Licensed consistent with local ordinances; and
 - c. For a dog or cat, vaccinated against rabies;
 - 14. If a water source that is not regulated under 18 A.A.C. 4 by the Arizona Department of Environmental Quality is used:
 - a. The water source is tested at least once every 12 months for total coliform bacteria and fecal coliform or *E. coli* bacteria;
 - b. If necessary, corrective action is taken to ensure the water is safe to drink; and
 - c. Documentation of testing is retained for at least 12 months after the date of the test; and
 - 15. If a non-municipal sewage system is used, the sewage system is in working order and is maintained according to all applicable state laws and rules.
 - B.** An administrator shall ensure that:
 - 1. Smoking tobacco products is not permitted within a nursing care institution, and
 - 2. Smoking tobacco products may be permitted outside a nursing care institution if:
 - a. Signs designating smoking areas are conspicuously posted, and
 - b. Smoking is prohibited in areas where combustible materials are stored or in use.
 - C.** If a swimming pool is located on the premises, an administrator shall ensure that:
 - 1. At least one personnel member with cardiopulmonary resuscitation training that meets the requirements in R9-10-403(C)(1)(e) is present in the pool area when a resident is in the pool area, and

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2. At least two personnel members are present in the pool area when two or more residents are in the pool area.

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-425 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3334, effective October 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-426. Physical Plant Standards**A.** An administrator shall ensure that:

1. A nursing care institution complies with:
 - a. The applicable physical plant health and safety codes and standards, incorporated by reference in A.A.C. R9-1-412, that were in effect on the date the nursing care institution submitted architectural plans and specifications to the Department for approval according to R9-10-104; and
 - b. The requirements for Existing Health Care Occupancies in National Fire Protection Association 101, Life Safety Code, incorporated by reference in A.A.C. R9-1-412;
2. The premises and equipment are sufficient to accommodate:
 - a. The services stated in the nursing care institution's scope of services, and
 - b. An individual accepted as a resident by the nursing care institution;
3. A nursing care institution is ventilated by windows or mechanical ventilation, or a combination of both;
4. The corridors are equipped with handrails on each side that are firmly attached to the walls and are not in need of repair;
5. No more than two individuals reside in a resident room unless:
 - a. The nursing care institution was operating before October 31, 1982; and
 - b. The resident room has not undergone a modification as defined in A.R.S. § 36-401;
6. A resident has a separate bed, a nurse call system, and furniture to meet the resident's needs in a resident room or suite of rooms;
7. A resident room has:
 - a. A window to the outside with window coverings for controlling light and visual privacy, and the location of the window permits a resident to see outside from a sitting position;
 - b. A closet with clothing racks and shelves accessible to the resident; and
 - c. If the resident room contains more than one bed, a curtain or similar type of separation between the beds for privacy; and
8. A resident room or a suite of rooms:
 - a. Is accessible without passing through another resident's room; and
 - b. Does not open into any area where food is prepared, served, or stored.

B. If a swimming pool is located on the premises, an administrator shall ensure that:

1. The swimming pool is enclosed by a wall or fence that:
 - a. Is at least five feet in height as measured on the exterior of the wall or fence;

- b. Has no vertical openings greater than four inches across;
- c. Has no horizontal openings, except as described in subsection (B)(1)(e);
- d. Is not chain-link;
- e. Does not have a space between the ground and the bottom fence rail that exceeds four inches in height; and
- f. Has a self-closing, self-latching gate that:
 - i. Opens away from the swimming pool,
 - ii. Has a latch located at least 54 inches from the ground, and
 - iii. Is locked when the swimming pool is not in use; and

2. A life preserver or shepherd's crook is available and accessible in the pool area.

C. An administrator shall ensure that a spa that is not enclosed by a wall or fence as described in subsection (B)(1) is covered and locked when not in use.**Historical Note**

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-426 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-427. Quality Rating**A.** As required in A.R.S. § 36-425.02(A), the Department shall issue a quality rating to each licensed nursing care institution based on the results of a compliance survey.**B.** The following quality ratings are established:

1. A quality rating of "A" for excellent is issued if the nursing care institution achieves a score of 90 to 100 points,
2. A quality rating of "B" is issued if the nursing care institution achieves a score of 80 to 89 points,
3. A quality rating of "C" is issued if the nursing care institution achieves a score of 70 to 79 points, and
4. A quality rating of "D" is issued if the nursing care institution achieves a score of 69 or fewer points.

C. The quality rating is determined by the total number of points awarded based on the following criteria:

1. Nursing Services:
 - a. 15 points: The nursing care institution is implementing a system that ensures residents are provided nursing services to maintain the resident's highest practicable physical, mental, and psychosocial well-being according to the resident's comprehensive assessment and care plan.
 - b. 5 points: The nursing care institution ensures that each resident is free from medication errors that resulted in actual harm.
 - c. 5 points: The nursing care institution ensures the resident's representative is notified and the resident's attending physician is consulted if a resident has a significant change in condition or if the resident is in an incident that requires medical services.
2. Resident Rights:
 - a. 10 points: The nursing care institution is implementing a system that ensures a resident's privacy needs are met.
 - b. 10 points: The nursing care institution ensures that a resident is free from physical and chemical restraints for purposes other than to treat the resident's medical condition.

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- c. 5 points: The nursing care institution ensures that a resident or the resident's representative is allowed to participate in the planning of, or decisions concerning treatment including the right to refuse treatment and to formulate a health care directive.
- 3. Administration:
 - a. 10 points: The nursing care institution has no repeat deficiencies that resulted in actual harm or immediate jeopardy to residents that were cited during the last survey or other survey or complaint investigation conducted between the last survey and the current survey.
 - b. 5 points: The nursing care institution is implementing a system to prevent abuse of a resident and misappropriation of resident property, investigate each allegation of abuse of a resident and misappropriation of resident's property, and report each allegation of abuse of a resident and misappropriation of resident's property to the Department and as required by A.R.S. § 46-454.
 - c. 5 points: The nursing care institution is implementing a quality management program that addresses nursing care institution services provided to residents, resident complaints, and resident concerns, and documents actions taken for response, resolution, or correction of issues about nursing care institution services provided to residents, resident complaints, and resident concerns.
 - d. 1 point: The nursing care institution is implementing a system to provide social services and a program of ongoing recreational activities to meet the resident's needs based on the resident's comprehensive assessment.
 - e. 1 point: The nursing care institution is implementing a system to ensure that records documenting freedom from infectious pulmonary tuberculosis are maintained for each personnel member, volunteer, and resident.
 - f. 2 points: The nursing care institution is implementing a system to ensure that a resident is free from unnecessary drugs.
 - g. 1 point: The nursing care institution is implementing a system to ensure a personnel member attends in-service education according to policies and procedures.
- 4. Environment and Infection Control:
 - a. 5 points: The nursing care institution environment is free from a condition or situation within the nursing care institution's control that may cause a resident injury.
 - b. 1 point: The nursing care institution establishes and maintains a pest control program.
 - c. 1 point: The nursing care institution develops a written disaster plan that includes procedures for protecting the health and safety of residents.
 - d. 1 point: The nursing care institution ensures orientation to the disaster plan for each personnel member is completed within the first scheduled week of employment.
 - e. 1 point: The nursing care institution maintains a clean and sanitary environment.
 - f. 5 points: The nursing care institution is implementing a system to prevent and control infection.
 - g. 1 point: An employee cleans the employee's hands after each direct resident contact or when hand cleaning is indicated to prevent the spread of infection.
- 5. Food Services:
 - a. 1 point: The nursing care institution complies with 9 A.A.C. 8, Article 1, for food preparation, storage and handling as evidenced by a current food establishment license.
 - b. 3 points: The nursing care institution provides each resident with food that meets the resident's needs as specified in the resident's comprehensive assessment and care plan.
 - c. 2 points: The nursing care institution obtains input from each resident or the resident's representative and implements recommendations for meal planning and food choices consistent with the resident's dietary needs.
 - d. 2 points: The nursing care institution provides assistance to a resident who needs help in eating so that the resident's nutritional, physical, and social needs are met.
 - e. 1 point: The nursing care institution prepares menus at least one week in advance, conspicuously posts each menu, and adheres to each planned menu unless an uncontrollable situation such as food spoilage or non-delivery of a specified food requires substitution.
 - f. 1 point: The nursing care institution provides food substitution of similar nutritive value for residents who refuse the food served or who request a substitution.
- D. A nursing care institution's quality rating remains in effect until a survey is conducted by the Department for the next renewal period except as provided in subsection (E).
- E. If the Department issues a provisional license, the current quality rating is terminated. A provisional licensee may submit an application for a substantial compliance survey. If the Department determines that, as a result of a substantial compliance survey, the nursing care institution is in substantial compliance, the Department shall issue a new quality rating according to subsection (C).
- F. The issuance of a quality rating does not preclude the Department from seeking a civil penalty as provided in A.R.S. § 36-431.01, or suspension or revocation of a license as provided in A.R.S. § 36-427.

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-427 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3334, effective October 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-428. Repealed**Historical Note**

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-429. Repealed**Historical Note**

Adopted effective January 28, 1980 (Supp. 80-1). Section

repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-430. Repealed

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-431. Repealed

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-432. Repealed

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-433. Repealed

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-434. Repealed

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-435. Repealed

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-436. Repealed

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-437. Repealed

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-438. Repealed

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-439. Repealed

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1).
Repealed effective October 30, 1989 (Supp. 89-4).

ARTICLE 5. RECOVERY CARE CENTERS

R9-10-501. Definitions

In addition to the definitions in A.R.S. § 36-401 and R9-10-101, the following applies in this Article unless otherwise specified:

“Recovery care services” has the same meaning as in A.R.S. § 36-448.51.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Emergency expired. Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section repealed, new Section adopted effective April 4, 1994 (Supp. 94-2). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-502. Administration

A. A governing authority shall:

1. Consist of one or more individuals responsible for the organization, operation, and administration of a recovery care center;
2. Establish in writing:
 - a. A recovery care center’s scope of services, and
 - b. Qualifications for an administrator;
3. Designate an administrator, in writing, who has the qualifications established in subsection (A)(2)(b);
4. Grant, deny, suspend, or revoke the clinical privileges of a medical staff member according to medical staff bylaws;
5. Adopt a quality management program according to R9-10-503;
6. Review and evaluate the effectiveness of the quality management program at least once every 12 months;
7. Designate, in writing, an acting administrator who has the qualifications established in subsection (A)(2)(b) if the administrator is:
 - a. Expected not to be present on a recovery care center’s premises for more than 30 calendar days, or
 - b. Not present on a recovery care center’s premises for more than 30 calendar days; and
8. Except as provided in subsection (A)(7), notify the Department according to A.R.S. § 36-425(I) when there is a change in the administrator and identify the name and qualifications of the new administrator.

B. An administrator:

1. Is directly accountable to the governing authority of a recovery care center for the daily operation of the recovery care center and all services provided by or at the recovery care center;
2. Has the authority and responsibility to manage a recovery care center; and
3. Except as provided in subsection (A)(7), designates, in writing, an individual who is present on the recovery care center’s premises and accountable for the recovery care center when the administrator is not present on the recovery care center premises.

C. An administrator shall ensure that:

1. Policies and procedures are established, documented, and implemented to protect the health and safety of a patient that:

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- a. Cover job descriptions, duties, and qualifications including required skills, knowledge, education, and experience for personnel members, employees, volunteers, and students;
 - b. Cover orientation and in-service education for personnel members, employees, volunteers, and students;
 - c. Include how a personnel member may submit a complaint relating to patient care;
 - d. Cover the requirements in A.R.S. Title 36, Chapter 4, Article 11;
 - e. Cover cardiopulmonary resuscitation training required in R9-10-505(G) including:
 - i. The method and content of cardiopulmonary resuscitation training;
 - ii. The qualifications for an individual to provide cardiopulmonary resuscitation training;
 - iii. The time-frame for renewal of cardiopulmonary resuscitation training; and
 - iv. The documentation that verifies an individual has received cardiopulmonary resuscitation training;
 - f. Cover first aid training;
 - g. Include a method to identify a patient to ensure the patient receives services as ordered;
 - h. Cover patient rights including assisting a patient who does not speak English or who has a disability to become aware of patient rights;
 - i. Cover specific steps for:
 - i. A patient to file a complaint, and
 - ii. The recovery care center to respond to a patient's complaint;
 - j. Cover health care directives;
 - k. Cover medical records, including electronic medical records;
 - l. Cover a quality management program, including incident reports and supporting documentation;
 - m. Cover contracted services;
 - n. Cover tissue and organ procurement and transplant; and
 - o. Cover when an individual may visit a patient in a recovery care center;
2. Policies and procedures for recovery care services are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Cover patient screening, admission, transfer, discharge planning, and discharge;
 - b. Cover the provision of recovery care services;
 - c. Include when general consent and informed consent are required;
 - d. Cover prescribing a controlled substance to minimize substance abuse by a patient;
 - e. Cover dispensing, administering, and disposing of medications;
 - f. Cover how personnel members will respond to a patient's sudden, intense, or out-of-control behavior to prevent harm to the patient or another individual;
 - g. Cover infection control; and
 - h. Cover environmental services that affect patient care;
 3. Policies and procedures are reviewed at least once every three years and updated as needed;
 4. Policies and procedures are available to personnel members, employees, volunteers, and students; and
 5. Unless otherwise stated:

- a. Documentation required by this Article is provided to the Department within two hours after a Department request; and
- b. When documentation or information is required by this Chapter to be submitted on behalf of a recovery care center, the documentation or information is provided to the unit in the Department that is responsible for licensing and monitoring the recovery care center.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section repealed, new Section adopted effective April 4, 1994 (Supp. 94-2). Section repealed; Section amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-503. Quality Management

1. A plan is established, documented, and implemented for an ongoing quality management program that, at a minimum, includes:
 - a. A method to identify, document, and evaluate incidents;
 - b. A method to collect data to evaluate services provided to patients;
 - c. A method to evaluate the data collected to identify a concern about the delivery of services related to patient care;
 - d. A method to make changes or take action as a result of the identification of a concern about the delivery of services related to patient care; and
 - e. The frequency of submitting a documented report required in subsection (2) to the governing authority;
2. A documented report is submitted to the governing authority that includes:
 - a. An identification of each concern about the delivery of services related to patient care, and
 - b. Any change made or action taken as a result of the identification of a concern about the delivery of services related to patient care; and
3. The report required in subsection (2) and the supporting documentation for the report are maintained for at least 12 months after the date the report is submitted to the governing authority.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2).

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R9-10-504. Contracted Services

An administrator shall ensure that:

1. Contracted services are provided according to the requirements in this Article, and
2. Documentation of current contracted services is maintained that includes a description of the contracted services provided.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section repealed, new Section adopted effective April 4, 1994 (Supp. 94-2). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-505. Personnel

A. An administrator shall ensure that:

1. The qualifications, skills, and knowledge required for each type of personnel member:
 - a. Are based on:
 - i. The type of physical health services or behavioral health services expected to be provided by the personnel member according to the established job description, and
 - ii. The acuity of the patients receiving physical health services or behavioral health services from the personnel member according to the established job description; and
 - b. Include:
 - i. The specific skills and knowledge necessary for the personnel member to provide the expected physical health services and behavioral health services listed in the established job description,
 - ii. The type and duration of education that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services or behavioral health services listed in the established job description, and
 - iii. The type and duration of experience that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to

provide the expected physical health services or behavioral health services listed in the established job description;

2. A personnel member's skills and knowledge are verified and documented:
 - a. Before the personnel member provides physical health services or behavioral health services, and
 - b. According to policies and procedures; and
3. Sufficient personnel members are present on a recovery care center's premises with the qualifications, skills, and knowledge necessary to:
 - a. Provide the services in the recovery care center's scope of services,
 - b. Meet the needs of a patient, and
 - c. Ensure the health and safety of a patient.
- B. An administrator shall ensure that an individual who is a baccalaureate social worker, master social worker, associate marriage and family therapist, associate counselor, or associate substance abuse counselor is under direct supervision as defined in 4 A.A.C. 6, Article 1.
- C. An administrator shall ensure that a personnel member, or an employee or a volunteer who has or is expected to have direct interaction with a patient, provides evidence of freedom from infectious tuberculosis:
 1. On or before the date the individual begins providing services at or on behalf of the recovery care center, and
 2. As specified in R9-10-113.
- D. An administrator shall ensure that a personnel record is maintained for each personnel member, employee, volunteer, or student that includes:
 1. The individual's name, date of birth, and contact telephone number;
 2. The individual's starting date of employment or volunteer service and, if applicable, the ending date; and
 3. Documentation of:
 - a. The individual's qualifications, including skills and knowledge applicable to the employee's job duties;
 - b. The individual's education and experience applicable to the employee's job duties;
 - c. The individual's completed orientation and in-service education as required by policies and procedures;
 - d. The individual's license or certification, if the individual is required to be licensed or certified in this Article or policies and procedures;
 - e. The individual's compliance with the requirements in A.R.S. § 36-411;
 - f. Cardiopulmonary resuscitation training, if required for the individual, according to R9-10-502(C)(1)(e);
 - g. First aid training, if the individual is required to have according to this Article and policies and procedures; and
 - h. Evidence of freedom from infectious tuberculosis, if required for the individual according to subsection (C).
- E. An administrator shall ensure that personnel records are:
 1. Maintained:
 - a. Throughout the individual's period of providing services in or for the recovery care center, and
 - b. For at least 24 months after the last date the individual provided services in or for the recovery care center; and
 2. For a personnel member who has not provided physical health services or behavioral health services at or for the recovery care center during the previous 12 months, pro-

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vided to the Department within 72 hours after the Department's request.

F. An administrator shall ensure that:

1. A plan to provide orientation specific to the duties of a personnel member, an employee, a volunteer, and a student is developed, documented, and implemented;
2. A personnel member completes orientation before providing behavioral health services or physical health services;
3. An individual's orientation is documented, to include:
 - a. The individual's name,
 - b. The date of the orientation, and
 - c. The subject or topics covered in the orientation;
4. A director of nursing develops, documents, and implements a plan to provide in-service education specific to the duties of a personnel member;
5. A personnel member's in-service education is documented, to include:
 - a. The personnel member's name,
 - b. The date of the training, and
 - c. The subject or topics covered in the training; and
6. A work schedule of each personnel member is developed and maintained at the recovery care center for at least 12 months from the date of the work schedule.

G. An administrator shall ensure that a nursing personnel member:

1. Is 18 years of age or older,
2. Is certified in cardiopulmonary resuscitation within the first month of employment,
3. Maintains current certification in cardiopulmonary resuscitation, and
4. Attends additional orientation that includes patient care and infection control policies and procedures.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section repealed, new Section adopted effective April 4, 1994 (Supp. 94-2). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-506. Medical Staff

A. A governing authority shall require that:

1. The organized medical staff is directly accountable to the governing authority for the quality of care provided by a medical staff member to a patient in a recovery care center;
2. The medical staff bylaws and medical staff regulations are approved according to the medical staff bylaws and governing authority requirements;
3. A medical staff member complies with medical staff bylaws and medical staff regulations;

4. The medical staff includes at least two physicians who have clinical privileges to admit patients to the recovery care center;
5. A medical staff member is available to direct patient care;
6. Medical staff bylaws or medical staff regulations are established, documented, and implemented for the process of:
 - a. Conducting peer review according to A.R.S. Title 36, Chapter 4, Article 5;
 - b. Appointing members to the medical staff, subject to approval by the governing authority;
 - c. Establishing committees, including identifying the purpose and organization of each committee;
 - d. Appointing one or more medical staff members to a committee;
 - e. Requiring that each patient has a medical staff member who coordinates the patient's care;
 - f. Defining the responsibilities of a medical staff member to provide medical services to the medical staff member's patient;
 - g. Defining a medical staff member's responsibilities for the transfer of a patient;
 - h. Specifying requirements for oral, telephone, and electronic orders, including which orders require identification of the time of the order;
 - i. Establishing a time-frame for a medical staff member to complete a patient's medical record; and
 - j. Establishing criteria for granting, denying, revoking, and suspending clinical privileges; and
7. The organized medical staff reviews the medical staff bylaws and the medical staff regulations at least once every three years and updates the bylaws and regulations as needed.

B. An administrator shall ensure that:

1. A medical staff member provides evidence of freedom from infectious tuberculosis as specified in R9-10-113 before providing services at the recovery care center and at least once every 12 months thereafter;
2. A record for each medical staff member is established and maintained that includes:
 - a. A completed application for clinical privileges,
 - b. The dates and lengths of appointment and reappointment of clinical privileges,
 - c. The specific clinical privileges granted to the medical staff member including revision or revocation dates for each clinical privilege, and
 - d. A verification of current Arizona health care professional active license according to A.R.S. Title 32; and
3. Except for documentation of peer review conducted according to A.R.S. § 36-445, a record under subsection (B)(2) is provided to the Department for review:
 - a. For a current medical staff member, within 2 hours after the Department's request, or
 - b. Within 72 hours after the time of the Department's request if the individual is no longer a current medical staff member.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2).

Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted effective October 30, 1989 (Supp. 89-4). Section repealed, new Section adopted effective April 4, 1994 (Supp. 94-2). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-507. Admission

- A. An administrator shall ensure that a physician only admits patients to the recovery care center who require recovery care services, as defined in A.R.S. § 36-448.51.
- B. An administrator shall ensure that the following documents are in a patient's medical record at the time the patient is admitted to the recovery care center:
 1. A medical history and physical examination performed or approved by a member of the recovery care center's medical staff within 30 calendar days before the patient's admission to the recovery care center;
 2. A discharge summary from the referring health care institution or physician;
 3. Physician orders; and
 4. Documentation concerning health care directives.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section repealed, new Section adopted effective April 4, 1994 (Supp. 94-2). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-508. Discharge

- A. For a patient, an administrator shall ensure that discharge planning:
 1. Identifies the specific needs of the patient after discharge, if applicable;
 2. If a discharge date has been determined, identifies the anticipated discharge date;
 3. Includes the participation of the patient or the patient's representative;
 4. Is completed before discharge occurs;
 5. Provides the patient or the patient's representative with written information identifying classes or subclasses of health care institutions and the level of care that the health care institutions provide that may meet the patient's assessed and anticipated needs after discharge, if applicable; and
 6. Is documented in the patient's medical record.
- B. For a patient discharge or a transfer of the patient, an administrator shall ensure that:
 1. A discharge summary is developed that includes:

- a. A description of the patient's medical condition and the medical services provided to the patient; and
 - b. The signature of the medical practitioner coordinating the patient's medical services;
2. A discharge order for the patient is received from a medical practitioner coordinating the patient's medical services before discharge, unless the patient leaves the recovery care center against a medical staff member's advice;
 3. Discharge instructions are developed and documented; and
 4. The patient or the patient's representative is provided with a copy of the discharge instructions.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section repealed, new Section adopted effective April 4, 1994 (Supp. 94-2). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-509. Transfer

Except for a transfer of a patient due to an emergency, an administrator shall ensure that:

1. A personnel member coordinates the transfer and the services provided to the patient;
2. According to policies and procedures:
 - a. An evaluation of the patient is conducted before the transfer;
 - b. Information from the patient's medical record, including orders that are in effect at the time of the transfer, is provided to a receiving health care institution; and
 - c. A personnel member explains risks and benefits of the transfer to the patient or the patient's representative; and
3. Documentation in the patient's medical record includes:
 - a. Communication with an individual at a receiving health care institution;
 - b. The date and time of the transfer;
 - c. The mode of transportation; and
 - d. If applicable, the name of the personnel member accompanying the patient during a transfer.

Historical Note

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41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section repealed, new Section adopted effective April 4, 1994 (Supp. 94-2). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-510. Patient Rights

A. An administrator shall ensure:

1. The requirements in subsection (B) and the patient rights in subsection (C) are conspicuously posted on the premises;
2. At the time of admission, a patient or the patient's representative receives a written copy of the requirements in subsection (B) and the patient rights in subsection (C); and
3. Policies and procedures include:
 - a. How and when a patient or the patient's representative is informed of the patient rights in subsection (C), and
 - b. Where patient rights are posted as required in subsection (A)(1).

B. An administrator shall ensure that:

1. A patient is treated with dignity, respect, and consideration;
2. A patient is not subjected to:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Coercion;
 - e. Manipulation;
 - f. Sexual abuse;
 - g. Sexual assault;
 - h. Seclusion;
 - i. Restraint;
 - j. Retaliation for submitting a complaint to the Department or another entity; or
 - k. Misappropriation of personal and private property by a recovery care center's medical staff, personnel members, employees, volunteers, or students; and
3. A patient or the patient's representative:
 - a. Except in an emergency, either consents to or refuses treatment;
 - b. May refuse or withdraw consent for treatment before treatment is initiated;
 - c. Except in an emergency, is informed of proposed treatment alternatives, associated risks, and possible complications;
 - d. Is informed of the following:
 - i. The recovery care center's policy on health care directives, and
 - ii. The patient complaint process;
 - e. Consents to photographs of the patient before the patient is photographed, except that a patient may be photographed when admitted to a recovery care center for identification and administrative purposes; and
 - f. Except as otherwise permitted by law, provides written consent to the release of information in the patient's:
 - i. Medical record, or
 - ii. Financial records.

C. A patient has the following rights:

1. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, or diagnosis;
2. To receive treatment that supports and respects the patient's individuality, choices, strengths, and abilities;
3. To receive privacy in treatment and care for personal needs;
4. To have access to a telephone;
5. To be advised of the recovery care center's policy regarding health care directives;
6. To associate and communicate privately with individuals of the patient's choice;
7. To review, upon written request, the patient's own medical record according to A.R.S. §§ 12-2293, 12-2294, and 12-2294.01;
8. To receive a referral to another health care institution if the health care institution is not authorized or not able to provide physical health services or behavioral health services needed by the patient;
9. To participate or have the patient's representative participate in the development of, or decisions concerning treatment;
10. To participate or refuse to participate in research or experimental treatment; and
11. To receive assistance from a family member, the patient's representative, or other individual in understanding, protecting, or exercising the patient's rights.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section repealed, new Section adopted effective April 4, 1994 (Supp. 94-2). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-511. Medical Records

A. An administrator shall ensure that:

1. A patient's medical record is established and maintained for each patient according to A.R.S. Title 12, Chapter 13, Article 7.1;
2. An entry in a patient's medical record is:
 - a. Recorded only by an individual authorized by policies and procedures to make the entry;
 - b. Dated, legible, and authenticated; and
 - c. Not changed to make the initial entry illegible;
3. An order is:
 - a. Dated when the order is entered in the patient's medical record and includes the time of the order;
 - b. Authenticated by a medical staff according to policies and procedures; and
 - c. If the order is a verbal order, authenticated by the medical staff issuing the order;

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4. If a rubber-stamp signature or an electronic signature is used to authenticate an order, the individual whose signature the rubber-stamp signature or electronic signature represents is accountable for the use of the rubber-stamp signature or electronic signature;
 5. A patient's medical record is available to an individual:
 - a. Authorized according by policies and procedures to access the patient's medical record;
 - b. If the individual is not authorized according to policies and procedures, with the written consent of the patient or the patient's representative; or
 - c. As permitted by law;
 6. Policies and procedures that include the maximum time-frame to retrieve an onsite or off-site patient's medical record at the request of a medical staff or authorized personnel member; and
 7. A patient's medical record is protected from loss, damage, or unauthorized use.
- B.** If a recovery care center maintains patients' medical records electronically, an administrator shall ensure that:
1. Safeguards exist to prevent unauthorized access, and
 2. The date and time of an entry in a patient's medical record is recorded by the computer's internal clock.
- C.** An administrator shall ensure that a patient's medical record contains:
1. Patient information that includes:
 - a. The patient's name,
 - b. The patient's address,
 - c. The patient's date of birth, and
 - d. Any known allergies;
 2. The date of admission and, if applicable, the date of discharge;
 3. The admitting diagnosis;
 4. A discharge summary from the referring health care institution or physician;
 5. If applicable, documented general consent and informed consent by the patient or the patient's representative;
 6. The medical history and physical examination required in R9-10-507(B)(1);
 7. A copy of the patient's health care directive, if applicable;
 8. The name and telephone number of the patient's medical practitioner;
 9. If applicable, the name and contact information of the patient's representative and:
 - a. If the patient is 18 years of age or older or an emancipated minor, the document signed by the patient consenting for the patient's representative to act on the patient's behalf; or
 - b. If the patient's representative:
 - i. Is a legal guardian, a copy of the court order establishing guardianship; or
 - ii. Has a health care power of attorney established under A.R.S. § 36-3221 or a mental health care power of attorney executed under A.R.S. § 36-3282, a copy of the health care power of attorney or mental health care power of attorney;
 10. Orders;
 11. Nursing assessment;
 12. Treatment plans;
 13. Progress notes;
 14. Documentation of recovery care center services provided to a patient;
 15. The disposition of the patient after discharge;
 16. The discharge plan;
 17. A discharge summary, if applicable;
 18. Transfer documentation from the referring health care institution or physician;
 19. If applicable:
 - a. A laboratory report,
 - b. A radiologic report,
 - c. A diagnostic report, and
 - d. A consultation report;
 20. If applicable, documentation of any actions taken to control the patient's sudden, intense, or out-of-control behavior to prevent harm to the patient or another individual;
 21. If applicable, documentation that evacuation from the recovery care center would cause harm to the patient; and
 22. Documentation of a medication administered to the patient that includes:
 - a. The date and time of administration;
 - b. The name, strength, dosage, and route of administration;
 - c. For a medication administered for pain on a PRN basis:
 - i. An assessment of the patient's pain before administering the medication, and
 - ii. The effect of the medication administered;
 - d. For a psychotropic medication administered on a PRN basis:
 - i. An assessment of the patient's behavior before administering the psychotropic medication, and
 - ii. The effect of the psychotropic medication administered;
 - e. The signature of the individual administering or observing the patient self-administer the medication; and
 - f. Any adverse reaction a patient has to the medication.
- D.** An administrator shall ensure that a patient's medical record is completed within 30 calendar days after the patient's discharge.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section repealed, new Section adopted effective April 4, 1994 (Supp. 94-2). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-512. Nursing Services

- A.** An administrator shall appoint a registered nurse as the director of nursing who has the authority and responsibility to manage nursing services at a recovery care center.
- B.** A director of nursing shall:
1. Ensure that policies and procedures are developed, documented, and implemented to protect the health and safety of a patient that cover nursing assessments;
 2. Designate, in writing, a registered nurse to manage nursing services when the director of nursing is not present on a recovery care center's premises;

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3. Ensure that a recovery care center is staffed with nursing personnel according to the number of patients and their health care needs;
 4. Ensure that a patient receives medical services, nursing services, and health-related services based on the patient's nursing assessment and the physician's orders; and
 5. Ensure that medications are administered by a nurse licensed according to A.R.S. Title 32, Chapter 15 or as otherwise provided by law.
- C.** An administrator shall ensure that a registered nurse completes a nursing assessment of each patient, which addresses patient care needs, when the patient is admitted to the recovery care center.
- D.** An administrator shall ensure that a licensed nurse provides a patient with written discharge instructions, based on the patient's health care needs and physician's instructions, before the patient is discharged from the recovery care center.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section repealed, new Section adopted effective April 4, 1994 (Supp. 94-2). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-513. Medication Services

- A.** An administrator shall ensure that policies and procedures for medication services:
1. Include:
 - a. A process for providing information to a patient about medication prescribed for the patient including:
 - i. The prescribed medication's anticipated results,
 - ii. The prescribed medication's potential adverse reactions,
 - iii. The prescribed medication's potential side effects, and
 - iv. Potential adverse reactions that could result from not taking the medication as prescribed;
 - b. Procedures for preventing, responding to, and reporting:
 - i. A medication error,
 - ii. An adverse reaction to a medication, or
 - iii. A medication overdose;
 - c. Procedures for documenting medication administration; and
 - d. Procedures to ensure that a patient's medication regimen and method of administration is reviewed by a medical practitioner to ensure the medication regimen meets the patient's needs; and
 2. Specify a process for review through the quality management program of:
 - a. A medication administration error, and
 - b. An adverse reaction to a medication.
- B.** An administrator shall ensure that:
1. Policies and procedures for medication administration:
 - a. Are reviewed and approved by a medical practitioner;
 - b. Specify the individuals who may:
 - i. Order medication, and
 - ii. Administer medication;
 - c. Ensure that medication is administered to a patient only as prescribed; and
 - d. Cover the documentation of a patient's refusal to take prescribed medication is documented in the patient's medical record;
 2. Verbal orders for medication services are taken by a nurse, unless otherwise provided by law;
 3. A medication administered to a patient:
 - a. Is administered in compliance with an order, and
 - b. Is documented in the patient's medical record.
- C.** An administrator shall ensure that:
1. A current drug reference guide is available for use by personnel members;
 2. A current toxicology reference guide is available for use by personnel members; and
 3. If pharmaceutical services are provided on the premises:
 - a. A committee, composed of at least one physician, one pharmacist, and other personnel members as determined by policies and procedures, is established to:
 - i. Develop a drug formulary,
 - ii. Update the drug formulary at least every 12 months,
 - iii. Develop medication usage and medication substitution policies and procedures, and
 - iv. Specify which medications and medication classifications are required to be stopped automatically after a specific time period unless the ordering medical staff member specifically orders otherwise;
 - b. The pharmaceutical services are provided under the direction of a pharmacist;
 - c. The pharmaceutical services comply with ARS Title 36, Chapter 27; A.R.S. Title 32, Chapter 18; and 4 A.A.C. 23; and
 - d. A copy of the pharmacy license is provided to the Department upon request.
- D.** When medication is stored at a recovery care center, an administrator shall ensure that:
1. Medication is stored in a separate locked room, closet, or self-contained unit used only for medication storage;
 2. Medication is stored according to the instructions on the medication container; and
 3. Policies and procedures are established, documented, and implemented to protect the health and safety of a patient for:
 - a. Receiving, storing, inventorying, tracking, dispensing, and discarding medication, including expired medication;
 - b. Discarding or returning prepackaged and sample medication to the manufacturer if the manufacturer requests the discard or return of the medication;
 - c. A medication recall and notification of patients who received recalled medication; and
 - d. Storing, inventorying, and dispensing controlled substances.

- E. An administrator shall ensure that a personnel member immediately reports a medication error or a patient's adverse reaction to a medication to the medical practitioner who ordered the medication and, if applicable, the recovery care center's director of nursing.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted effective October 30, 1989 (Supp. 89-4). Section repealed, new Section adopted effective April 4, 1994 (Supp. 94-2). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-514. Ancillary Services

An administrator shall ensure that:

1. Laboratory services are provided on the premises, or are available through contract, with a laboratory that holds a certificate of accreditation or certificate of compliance issued by the U.S. Department of Health and Human Services under the 1988 amendments to the Clinical Laboratories Improvement Act of 1967; and
2. Pharmaceutical services are provided on the premises, or are available through contract, by a pharmacy licensed according to A.R.S. Title 32, Chapter 18.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section repealed, new Section adopted effective April 4, 1994 (Supp. 94-2). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

R9-10-515. Food Services

A. An administrator shall ensure that:

1. The recovery care center has a license or permit as a food establishment under 9 A.A.C. 8, Article 1;
2. A copy of the recovery care center's food establishment license or permit is maintained; and
3. If a recovery care center contracts with a food establishment, as established in 9 A.A.C. 8, Article 1, to prepare and deliver food to the recovery care center:
 - a. A copy of the contracted food establishment's license or permit under 9 A.A.C. 8, Article 1 is maintained by the recovery care center; and

- b. The recovery care center is able to store, refrigerate, and reheat food to meet the dietary needs of a patient.

B. An administrator shall:

1. Designate a food service manager who is responsible for food service in the recovery care center; and
2. Ensure that a current therapeutic diet reference manual is available to the food service manager.

C. A food service manager shall ensure that:

1. Food is prepared:
 - a. Using methods that conserve nutritional value, flavor, and appearance; and
 - b. In a form to meet the needs of a patient such as cut, chopped, ground, pureed, or thickened;
2. A food menu:
 - a. Is prepared at least one week in advance,
 - b. Includes the foods to be served each day,
 - c. Is conspicuously posted at least one day before the first meal on the food menu will be served,
 - d. Includes any food substitution no later than the morning of the day of meal service with a food substitution, and
 - e. Is maintained for at least 60 calendar days after the last day included in the food menu;
3. Meals and snacks provided by the recovery care center are served according to posted menus;
4. Meals and snacks for each day are planned using the applicable guidelines in <http://www.health.gov/dietaryguidelines/2010.asp>;
5. A patient is provided:
 - a. A diet that meets the patient's nutritional needs and, if applicable, the orders of the patient's physician;
 - b. Three meals a day with not more than 14 hours between the evening meal and breakfast except as provided in subsection (C)(5)(d);
 - c. The option to have a daily evening snack identified in subsection (C)(5)(d)(ii) or other snack; and
 - d. The option to extend the time span between the evening meal and breakfast from 14 hours to 16 hours if:
 - i. A patient agrees; and
 - ii. The patient is offered an evening snack that includes meat, fish, eggs, cheese, or other protein, and a serving from either the fruit and vegetable food group or the bread and cereal food group;
6. A patient requiring assistance to eat is provided with assistance that recognizes the patient's nutritional, physical, and social needs, including the use of adaptive eating equipment or utensils; and
7. Water is available and accessible to a patient.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section repealed effective April 4, 1994 (Supp. 94-2). New Section made by exempt rulemaking

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at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-516. Emergency and Safety Standards

- A.** An administrator shall ensure that policies and procedures for providing emergency treatment are established, documented, and implemented that protect the health and safety of patients and include:
 - 1. Basic life support procedures, including the administration of oxygen and cardiopulmonary resuscitation; and
 - 2. Transfer arrangements for patients who require care not provided by the recovery care center.
- B.** An administrator shall ensure that emergency treatment is provided to a patient admitted to the recovery care center according to policies and procedures.
- C.** An administrator shall ensure that:
 - 1. A disaster plan is developed, documented, maintained in a location accessible to personnel members and other employees, and, if necessary, implemented that includes:
 - a. When, how, and where patients will be relocated, including:
 - i. Instructions for the evacuation or transfer of patients,
 - ii. Assigned responsibilities for each employee and personnel member, and
 - iii. A plan for providing continuing services to meet patient's needs;
 - b. How each patient's medical record will be available to individuals providing services to the patient during a disaster;
 - c. A plan to ensure each patient's medication will be available to administer to the patient during a disaster; and
 - d. A plan for obtaining food and water for individuals present in the recovery care center or the recovery care center's relocation site during a disaster;
 - 2. The disaster plan required in subsection (C)(1) is reviewed at least once every 12 months;
 - 3. Documentation of a disaster plan review required in subsection (C)(2) is created, is maintained for at least 12 months after the date of the disaster plan review, and includes:
 - a. The date and time of the disaster plan review;
 - b. The name of each personnel member, employee, or volunteer participating in the disaster plan review;
 - c. A critique of the disaster plan review; and
 - d. If applicable, recommendations for improvement;
 - 4. A disaster drill for employees is conducted on each shift at least once every three months and documented;
 - 5. An evacuation drill for employees and patients:
 - a. Is conducted at least once every six months;
 - b. Includes all individuals on the premises except for:
 - i. A patient whose medical record contains documentation that evacuation from the recovery care center would cause harm to the patient, and
 - ii. Sufficient personnel members to ensure the health and safety of patients not evacuated according to subsection (C)(5)(b)(i);
 - 6. Documentation of each evacuation drill is created, is maintained for at least 12 months after the date of the evacuation drill, and includes:
 - a. The date and time of the evacuation drill;
 - b. The amount of time taken for employees and patients to evacuate to a designated area;

- c. If applicable:
 - i. An identification of patients needing assistance for evacuation, and
 - ii. An identification of patients who were not evacuated;
 - d. Any problems encountered in conducting the evacuation drill; and
 - e. Recommendations for improvement, if applicable; and
- 7. An evacuation path is conspicuously posted on each hallway of each floor of the recovery care center.

D. An administrator shall:

- 1. Obtain a fire inspection conducted according to the time-frame established by the local fire department or the State Fire Marshal,
- 2. Make any repairs or corrections stated on the inspection report, and
- 3. Maintain documentation of a current fire inspection.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section repealed effective April 4, 1994 (Supp. 94-2). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-517. Environmental Standards

- A.** An administrator shall ensure the recovery care center's infection control policies and procedures include:
 - 1. Development and implementation of a written plan for preventing, detecting, reporting, and controlling communicable diseases and infection;
 - 2. Handling and disposal of biohazardous medical waste; and
 - 3. Sterilization, disinfection, and storage of medical equipment and supplies.
- B.** An administrator shall ensure that:
 - 1. A recovery care center's premises and equipment are:
 - a. Cleaned and disinfected according to policies and procedures or manufacturer's instructions to prevent, minimize, and control illness or infection; and
 - b. Free from a condition or situation that may cause a patient or an individual to suffer physical injury;
 - 2. A pest control program is implemented and documented;
 - 3. Equipment used to provide recovery care services is:
 - a. Maintained in working order;
 - b. Tested and calibrated according to the manufacturer's recommendations or, if there are no manufacturer's recommendations, as specified in policies and procedures; and
 - c. Used according to the manufacturer's recommendations;

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4. Documentation of equipment testing, calibration, and repair is maintained for at least 12 months after the date of the testing, calibration, or repair;
 5. Biohazardous medical waste is identified, stored, and disposed of according to 18 A.A.C. 13, Article 14 and policies and procedures;
 6. Soiled linen and clothing are:
 - a. Collected in a manner to minimize or prevent contamination;
 - b. Bagged at the site of use; and
 - c. Maintained separate from clean linen and clothing and away from food storage, kitchen, or dining areas;
 7. Garbage and refuse are:
 - a. Stored in covered containers lined with plastic bags, and
 - b. Removed from the premises at least once a week;
 8. Heating and cooling systems maintain the recovery care center at a temperature between 70° F and 84° F;
 9. Common areas:
 - a. Are lighted to assure the safety of patients, and
 - b. Have lighting sufficient to allow personnel members to monitor patient activity;
 10. The supply of hot and cold water is sufficient to meet the personal hygiene needs of patients and the cleaning and sanitation requirements in this Article;
 11. Oxygen containers are secured in an upright position;
 12. Poisonous or toxic materials stored by the recovery care center are maintained in labeled containers in a locked area separate from food preparation and storage, dining areas, and medications and are inaccessible to patients;
 13. Combustible or flammable liquids and hazardous materials stored by the recovery care center are stored in the original labeled containers or safety containers in a locked area inaccessible to patients;
 14. If pets or animals are allowed in the recovery care center, pets or animals are:
 - a. Controlled to prevent endangering the patients and to maintain sanitation; and
 - b. Licensed consistent with local ordinances;
 15. If a water source that is not regulated under 18 A.A.C. 4 by the Arizona Department of Environmental Quality is used:
 - a. The water source is tested at least once every 12 months for total coliform bacteria and fecal coliform or *E. coli* bacteria;
 - b. If necessary, corrective action is taken to ensure the water is safe to drink; and
 - c. Documentation of testing is retained for at least 12 months after the date of the test; and
 16. If a non-municipal sewage system is used, the sewage system is in working order and is maintained according to applicable state laws and rules.
- C. An administrator shall ensure that:
1. Smoking tobacco products is not permitted within a recovery care center; and
 2. Smoking tobacco products may be permitted outside a recovery care center if:
 - a. Signs designating smoking areas are conspicuously posted, and
 - b. Smoking is prohibited in areas where combustible materials are stored or in use.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without

change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted effective October 30, 1989 (Supp. 89-4). Section repealed effective April 4, 1994 (Supp. 94-2). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-518. Physical Plant Standards

- A. An administrator shall ensure that recovery care center's patient rooms and service areas comply with the applicable physical plant health and safety codes and standards, incorporated by reference in A.A.C. R9-1-412(A)(2)(b), in effect on the date the recovery care center submitted architectural plans and specifications to the Department for approval, according to R9-10-104.
- B. An administrator shall ensure that the premises and equipment are sufficient to accommodate:
 1. The services stated in the recovery care center's scope of services; and
 2. An individual accepted as a patient by the recovery care center.
- C. An administrator shall ensure that the recovery care center does not allow more than two beds per room.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted effective October 30, 1989 (Supp. 89-4). Section repealed effective April 4, 1994 (Supp. 94-2). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

ARTICLE 6. HOSPICES**R9-10-601. Definitions**

In addition to the definitions in A.R.S. § 36-401 and R9-10-101, the following apply in this Article unless otherwise specified:

1. "Medical social services" means assistance, other than medical services or nursing services, provided by a personnel member to a patient to assist the patient to cope with concerns about the patient's illness, finances, or personal issues and may include problem-solving, interventions, and identification of resources to address the patient's or the patient's family's concerns.
2. "Palliative care" means medical services or nursing services provided to a patient that is not curative and is designed for pain control or symptom management.

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Historical Note

New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-602. Supplemental Application Requirements

In addition to the license application requirements in A.R.S. § 36-422 and R9-10-105, an applicant for an initial license as a hospice service agency or hospice inpatient facility shall include on the application:

1. For an application as a hospice service agency:
 - a. The hours of operation for the hospice's administrative office, and
 - b. The geographic region to be served by the hospice service agency; and
2. For an application as a hospice inpatient facility, the requested licensed capacity.

Historical Note

New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-603. Administration**A.** A governing authority shall:

1. Consist of one or more individuals responsible for the organization, operation, and administration of the hospice;
2. Establish, in writing:
 - a. A hospice's scope of services, and
 - b. Qualifications for an administrator;
3. Designate, in writing, an administrator who has the qualifications established in subsection (A)(2)(b);
4. Adopt a quality management plan according to R9-10-604;
5. Review and evaluate the effectiveness of the quality management program at least once every 12 months;
6. Designate, in writing, an acting administrator who has the qualifications established in subsection (A)(2)(b), if the administrator is:
 - a. Expected not to be present:
 - i. At a hospice service agency's administrative office for more than 30 calendar days, or
 - ii. On a hospice inpatient facility's premises for more than 30 calendar days; or
 - b. Not present:
 - i. At a hospice service agency's administrative office for more than 30 calendar days, or
 - ii. On a hospice inpatient facility's premises for more than 30 calendar days; and
7. Except as provided in subsection (A)(6), notify the Department according to A.R.S. § 36-425(I) when there is a change in the administrator and identify the name and qualifications of the new administrator.

B. An administrator:

1. Is directly accountable to the governing authority of a hospice for the daily operation of the hospice and all services provided by or through the hospice;
2. Has the authority and responsibility to manage the hospice;
3. Except as provided in subsection (A)(6), designates, in writing, an individual who is present on the hospice's premises and accountable for the:

- a. Hospice service agency when the administrator is not present at the hospice service agency's administrative office, or
- b. Inpatient hospice facility when the administrator is not on hospice inpatient facility's premises; and
4. Designates a personnel member to provide direction for volunteers.

C. An administrator shall ensure that:

1. Policies and procedures are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Cover job descriptions, duties, and qualifications, including required skills, knowledge, education, and experience for personnel members, employees, volunteers, and students;
 - b. Cover orientation and in-service education for personnel members, employees, volunteers, and students;
 - c. Include how a personnel member may submit a complaint relating to patient care;
 - d. Cover the requirements in A.R.S. Title 36, Chapter 4, Article 11;
 - e. Include a method to identify a patient to ensure the patient receives hospice services as ordered;
 - f. Cover patient rights, including assisting a patient who does not speak English or who has a disability to become aware of patient rights;
 - g. Cover specific steps for:
 - i. A patient to file a complaint, and
 - ii. The hospice service agency or hospice inpatient facility to respond to a patient's complaint;
 - h. Cover health care directives;
 - i. Cover medical records, including electronic medical records;
 - j. Cover a quality management program, including incident reports and supporting documentation; and
 - k. Cover contracted services;
2. Policies and procedures for hospice services are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Cover patient screening, admission, transfer, discharge planning, and discharge;
 - b. Cover the provision of hospice services;
 - c. Include when general consent and informed consent are required;
 - d. Cover how personnel members will respond to a patient's sudden, intense, or out-of-control behavior to prevent harm to the patient or another individual;
 - e. Cover dispensing, administering, and disposing of medication;
 - f. Cover infection control; and
 - g. Cover telemedicine, if applicable;
3. For a hospice inpatient facility, policies and procedures are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Cover visitation of a patient, including:
 - i. Allowing visitation by individuals 24 hours a day, and
 - ii. Allowing a visitor to bring a pet to visit the patient;
 - b. Cover the use and display of a patient's personal belongings; and
 - c. Cover environmental services that affect patient care;
4. Policies and procedures are reviewed at least once every three years and updated as needed;

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5. Policies and procedures are available to personnel members, employees, volunteers, and students; and
6. Unless otherwise stated:
 - a. Documentation required by this Article is provided to the Department within two hours after a Department request; and
 - b. When documentation or information is required by this Chapter to be submitted on behalf of a hospice, the documentation or information is provided to the unit in the Department that is responsible for licensing and monitoring the hospice.

D. An administrator shall designate, in writing, a:

1. Physician as the medical director who has the authority and responsibility for providing direction for the medical services provided by the hospice, and
2. Registered nurse as the director of nursing who has the authority and responsibility for managing nursing services provided by the hospice.

E. An administrator shall ensure that the following are conspicuously posted:

1. The current Department-issued license;
2. The current telephone number of the Department; and
3. The location at which the following are available for review:
 - a. A copy of the most recent Department inspection report;
 - b. A list of the services provided by the hospice; and
 - c. A written copy of rates and charges, as required in A.R.S. § 36-436.03.

Historical Note

New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-604. Quality Management

An administrator shall ensure that:

1. A plan is established, documented, and implemented for an ongoing quality management program that, at a minimum, includes:
 - a. A method to identify, document, and evaluate incidents;
 - b. A method to collect data to evaluate services provided to patients;
 - c. A method to evaluate the data collected to identify a concern about the delivery of services related to patient care;
 - d. A method to make changes or take action as a result of the identification of a concern about the delivery of services related to patient care; and
 - e. The frequency of submitting a documented report required in subsection (2) to the governing authority;
2. A documented report is submitted to the governing authority that includes:
 - a. An identification of each concern about the delivery of services related to patient care, and
 - b. Any change made or action taken as a result of the identification of a concern about the delivery of services related to patient care; and
3. The report required in subsection (2) and the supporting documentation for the report are maintained for at least 12 months after the date the report is submitted to the governing authority.

Historical Note

New Section made by exempt rulemaking at 19 A.A.R.

2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-605. Contracted Services

An administrator shall ensure that:

1. Contracted services are provided according to the requirements in this Article, and
2. Documentation of current contracted services is maintained that includes a description of the contracted services provided.

Historical Note

New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-606. Personnel

A. An administrator shall ensure that:

1. The qualifications, skills, and knowledge required for each type of personnel member:
 - a. Are based on:
 - i. The type of physical health services expected to be provided by the personnel member according to the established job description, and
 - ii. The acuity of the patients receiving physical health services from the personnel member according to the established job description; and
 - b. Include:
 - i. The specific skills and knowledge necessary for the personnel member to provide the expected physical health services listed in the established job description,
 - ii. The type and duration of education that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services listed in the established job description, and
 - iii. The type and duration of experience that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services listed in the established job description;
2. A personnel member's skills and knowledge are verified and documented:
 - a. Before the personnel member provides physical health services, and
 - b. According to policies and procedures;
3. Sufficient personnel members are available and, for a hospice inpatient facility, present on the hospice inpatient facility's premises, with the qualifications, skills, and knowledge necessary to:
 - a. Provide the services in the hospice's scope of services,
 - b. Meet the needs of a patient, and
 - c. Ensure the health and safety of a patient;
4. Orientation occurs within the first week of providing hospice services and includes:
 - a. Informing personnel about Department rules for licensing and regulating hospices and where the rules may be obtained,

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- b. Reviewing the process by which a personnel member may submit a complaint about patient care to a hospice, and
 - c. Providing the information required by hospice policies and procedures;
- 5. Personnel receive in-service education according to criteria established in hospice policies and procedures;
- 6. In-service education documentation for a personnel member includes:
 - a. The subject matter,
 - b. The date of the in-service education, and
 - c. The signature of each individual who participated in the in-service education; and
- 7. A personnel member, or an employee or a volunteer who has or is expected to have direct interaction with a patient, provides evidence of freedom from infectious tuberculosis:
 - a. On or before the date the individual begins providing services at or on behalf of the hospice service facility or hospice inpatient facility, and
 - b. As specified in R9-10-113.
- B.** An administrator shall ensure that record is maintained for each personnel member, employee, volunteer, or student that includes:
 - 1. The individual's name, date of birth, and contact telephone number;
 - 2. The individual's starting date of employment or volunteer service and, if applicable, the ending date; and
 - 3. Documentation of:
 - a. The individual's qualifications, including skills and knowledge applicable to the individual's job duties;
 - b. The individual's education and experience applicable to the individual's job duties;
 - c. The individual's completed orientation and in-service education as required by policies and procedures;
 - d. The individual's license or certification, if the individual is required to be licensed or certified in this Article or policies and procedures; and
 - e. Evidence of freedom from infectious tuberculosis, if required for the individual according to subsection (A)(7).
- C.** An administrator shall ensure that personnel records are:
 - 1. Maintained:
 - a. Throughout the individual's period of providing services in or for the hospice, and
 - b. For at least 24 months after the last date the individual provided services in or for the hospice; and
 - 2. For a personnel member who has not provided physical health services at or for the hospice during the previous 12 months, provided to the Department within 72 hours after the Department's request.

Historical Note

New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-607. Admission

- A.** Before admitting an individual as a patient, an administrator shall obtain:
 - 1. The name of the individual's physician;
 - 2. Documentation that the individual has a diagnosis by a physician that indicates that the individual has a specific,

- progressive, normally irreversible disease that is likely to cause the individual's death in six months or less; and
- 3. Documentation from the individual or the individual's representative acknowledging that:
 - a. Hospice services include palliative care and supportive care and are not curative, and
 - b. The individual or individual's representative has received a list of services to be provided by the hospice.
- B.** At the time of admission, a physician or registered nurse shall:
 - 1. Assess a patient's medical, social, nutritional, and psychological needs; and
 - 2. As applicable, obtain informed consent or general consent.
- C.** Before or at the time of admission, a personnel member qualified according to policies and procedures shall assess the social and psychological needs of a patient's family, if applicable.

Historical Note

New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-608. Care Plan

- A.** An administrator shall ensure that a care plan is developed for each patient:
 - 1. Based on the:
 - a. Assessment of the:
 - i. Patient; and
 - ii. Patient's family, if applicable;
 - b. Hospice service agency's or inpatient hospice facility's scope of service;
 - 2. With participation from a:
 - a. Physician,
 - b. Registered nurse, and
 - c. Another personnel member as designated in R9-10-612(A)(4); and
 - 3. That includes:
 - a. The patient's diagnosis;
 - b. The patient's health care directives;
 - c. The patient's cognitive awareness of self, location, and time;
 - d. The patient's functional abilities and limitations;
 - e. Goals for pain control and symptom management;
 - f. The type, duration, and frequency of services to be provided to the patient and, if applicable, the patient's family;
 - g. Treatments the patient is receiving from a health care institution or health care professional other than the hospice, if applicable;
 - h. Medications ordered for the patient;
 - i. Any known allergies;
 - j. Nutritional requirements and preferences; and
 - k. Specific measures to improve the patient's safety and protect the patient against injury.
- B.** An administrator shall ensure that:
 - 1. A request for participation in a patient's care plan is made to the patient or patient's representative;
 - 2. An opportunity for participation in the patient's care plan is provided to the patient, patient's representative, or patient's family; and
 - 3. The request in subsection (B)(1) and the opportunity in subsection (B)(2) are documented in the patient's medical record.

C. An administrator shall ensure that:

1. Hospice services are provided to a patient and, if applicable, the patient's family according to the patient's care plan;
2. A patient's care plan is reviewed and updated:
 - a. Whenever there is a change in the patient's condition that indicates a need for a change in the type, duration, or frequency of the services being provided;
 - b. If the patient's physician orders a change in the care plan; and
 - c. At least every 30 calendar days; and
3. A patient's physician authenticates the care plan with a signature within 14 calendar days after the care plan is initially developed and whenever the care plan is reviewed or updated.

Historical Note

New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). R9-10-608 renumbered to R9-10-609; new Section R9-10-608 renumbered from R9-10-611 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-609. Transfer

Except for a transfer of a patient due to an emergency, an administrator shall ensure that:

1. A personnel member coordinates the transfer and the services provided to the patient;
2. According to policies and procedures:
 - a. An evaluation of the patient is conducted before the transfer;
 - b. Information from the patient's medical record, including orders that are in effect at the time of the transfer, is provided to a receiving health care institution; and
 - c. A personnel member explains risks and benefits of the transfer to the patient or the patient's representative; and
3. Documentation in the patient's medical record includes:
 - a. Communication with an individual at a receiving health care institution;
 - b. The date and time of the transfer;
 - c. The mode of transportation; and
 - d. If applicable, the name of the personnel member accompanying the patient during a transfer.

Historical Note

New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). R9-10-609 renumbered to R9-10-610; new Section R9-10-609 renumbered from R9-10-608 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-610. Patient Rights**A.** An administrator shall ensure that:

1. The requirements in subsection (B) and the patient rights in subsection (C) are conspicuously posted on the premises;
2. At the time of admission, a patient or the patient's representative receives a written copy of the requirements in subsection (B) and the patient rights in subsection (C); and
3. Policies and procedures include:
 - a. How and when a patient or the patient's representative is informed of patient rights in subsection (C), and

- b. Where patient rights are posted as required in subsection (A)(1).

B. An administrator shall ensure that:

1. A patient is treated with dignity, respect, and consideration;
2. A patient is not subjected to:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Coercion;
 - e. Manipulation;
 - f. Sexual abuse;
 - g. Sexual assault;
 - h. Seclusion;
 - i. Restraint;
 - j. Retaliation for submitting a complaint to the Department or another entity; or
 - k. Misappropriation of personal and private property by the hospice's personnel members, employees, volunteers, or students; and
3. A patient or the patient's representative:
 - a. Except in an emergency, either consents to or refuses treatment;
 - b. May refuse or withdraw consent for treatment before treatment is initiated;
 - c. Except in an emergency, is informed of proposed treatment alternatives, associated risks, and possible complications;
 - d. Consents to photographs of the patient before the patient is photographed, except that a patient may be photographed when admitted to a hospice for identification and administrative purposes;
 - e. Except as otherwise permitted by law, provides written consent to the release of information in the patient's:
 - i. Medical record; or
 - ii. Financial records;
 - f. Is informed of:
 - i. The components of hospice services provided by the hospice;
 - ii. The rates and charges for the components of hospice services before the components are initiated and before a change in rates, charges, or services;
 - iii. The hospice's policy on health care directives; and
 - iv. The patient complaint process; and
 - g. Is informed that a written copy of rates and charges, as required in A.R.S. § 36-436.03, may be requested.

C. A patient has the following rights:

1. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, or diagnosis;
2. To receive treatment that supports and respects the patient's individuality, choices, strengths, and abilities;
3. To receive privacy in treatment and care for personal needs;
4. To review, upon written request, the patient's own medical record according to A.R.S. §§ 12-2293, 12-2294, and 12-2294.01;
5. To receive a referral to another health care institution if the hospice inpatient facility is not authorized or not able to provide physical health services needed by the patient;
6. To participate or have the patient's representative participate in the development of, or decisions concerning, treatment;

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7. To participate or refuse to participate in research or experimental treatment; and
8. To receive assistance from a family member, the patient's representative, or other individual in understanding, protecting, or exercising the patient's rights.

Historical Note

New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). R9-10-610 renumbered to R9-10-611; new Section R9-10-610 renumbered from R9-10-609 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-611. Medical Records**A.** An administrator shall ensure that:

1. A patient's medical record is established and maintained for each patient according to A.R.S. Title 12, Chapter 13, Article 7.1;
2. An entry in a patient's medical record is:
 - a. Recorded only by a personnel member authorized by policies and procedures to make the entry;
 - b. Dated, legible, and authenticated; and
 - c. Not changed to make the initial entry illegible;
3. An order is:
 - a. Dated when the order is entered in the patient's medical record and includes the time of the order;
 - b. Authenticated by a medical practitioner according to policies and procedures; and
 - c. If the order is a verbal order, authenticated by the medical practitioner issuing the order;
4. If a rubber-stamp signature or an electronic signature is used to authenticate an order, the individual whose signature the rubber-stamp signature or electronic signature represents is accountable for the use of the rubber-stamp signature or electronic signature;
5. A patient's medical record is available to an individual:
 - a. Authorized according to policies and procedures to access the patient's medical record;
 - b. If the individual is not authorized according to policies and procedures, with the written consent of a patient or the patient's representative; or
 - c. As permitted by law; and
6. A patient's medical record is protected from loss, damage, or unauthorized use.

B. If a hospice maintains patients' medical records electronically, an administrator shall ensure that:

1. Safeguards exist to prevent unauthorized access, and
2. The date and time of an entry in a patient's medical record is recorded by the computer's internal clock.

C. An administrator shall ensure that a patient's medical record contains:

1. Patient information that includes:
 - a. The patient's name,
 - b. The patient's address,
 - c. The patient's telephone number,
 - d. The patient's date of birth, and
 - e. Any known allergy;
2. The admission date and, if applicable, the date that the patient stopped receiving services from the hospice;
3. The name and telephone number of the patient's physician;
4. If applicable, the name and contact information of the patient's representative and:
 - a. If the patient is 18 years of age or older or an emancipated minor, the document signed by the patient

consenting for the patient's representative to act on the patient's behalf; or

- b. If the patient's representative:
 - i. Is a legal guardian, a copy of the court order establishing guardianship; or
 - ii. Has a health care power of attorney established under A.R.S. § 36-3221 or a mental health care power of attorney executed under A.R.S. § 36-3282, a copy of the health care power of attorney or mental health care power of attorney;
5. The admitting diagnosis;
6. If applicable, documented general consent and informed consent, by the patient or the patient's representative;
7. Documentation of medical history;
8. A copy of the patient's living will, health care power of attorney, or other health care directive, if applicable;
9. Orders;
10. The assessment required in R9-10-607(B)(1);
11. Care plans;
12. Progress notes for each patient contact, including:
 - a. The date of the patient contact,
 - b. The services provided,
 - c. A description of the patient's condition, and
 - d. Instructions given to the patient or patient's representative;
13. Documentation of hospice services provided to the patient;
14. If applicable, documentation of any actions taken to control the patient's sudden, intense, or out-of-control behavior to prevent harm to the patient or another individual;
15. Documentation of coordination of patient care;
16. Documentation of contacts with the patient's physician by a personnel member;
17. The discharge summary, if applicable;
18. If applicable, transfer documentation from a sending health care institution; and
19. Documentation of a medication administered to the patient that includes:
 - a. The date and time of administration;
 - b. The name, strength, dosage, and route of administration;
 - c. For a medication administered for pain, when initially administered or when administered on a PRN basis:
 - i. An assessment of the patient's pain before administering the medication, and
 - ii. The effect of the medication administered;
 - d. For a psychotropic medication, when initially administered or when administered on a PRN basis:
 - i. An assessment of the patient's behavior before administering the psychotropic medication, and
 - ii. The effect of the psychotropic medication administered;
 - e. The identification, signature, and professional designation of the individual administering the medication; and
 - f. Any adverse reaction a patient has to the medication.

Historical Note

Adopted effective November 6, 1978 (Supp. 78-6). Section R9-10-611 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). R9-10-611 renumbered to R9-10-608; new

Section R9-10-611 renumbered from R9-10-610 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-612. Hospice Services

- A.** An administrator shall ensure that the following are included in the hospice services provided by the hospice:
 1. Medical services;
 2. Nursing services;
 3. Nutritional services, including menu planning and the designation of the kind and amount of food appropriate for a patient;
 4. Medical social services, provided as follows:
 - a. By a personnel member qualified according to policies and procedures to coordinate medical social services; and
 - b. If a personnel member provides medical social services that require a license under A.R.S. Title 32, Chapter 33, Article 5, by a personnel member who is licensed under A.R.S. Title 32, Chapter 33, Article 5;
 5. Bereavement counseling for a patient's family for at least one year after the death of the patient; and
 6. Spiritual counseling services, consistent with a patient's customs, religious preferences, cultural background, and ethnicity.
- B.** In addition to the services specified in subsection (A), an administrator of a hospice service agency shall ensure that the following are included in the hospice services provided by the hospice:
 1. Home health aide services;
 2. Respite care services; and
 3. Supportive services, as defined in A.R.S. § 36-151.
- C.** An administrator shall ensure that the medical director provides direction for medical services provided by or through the hospice.
- D.** A medical director shall ensure that:
 1. A patient's need for medical services is met, according to the patient's care plan and the hospice's scope of services; and
 2. If a patient is receiving medical services not provided by or through the hospice, hospice services are coordinated with the physician providing medical services to the patient.
- E.** A director of nursing shall ensure that:
 1. A registered nurse or practical nurse provides nursing services according to the hospice's policies and procedures;
 2. A sufficient number of nurses are available to provide the nursing services identified in each patient's care plan;
 3. The care plan for a patient is implemented;
 4. A personnel member is only assigned to provide services the personnel member can competently perform;
 5. A registered nurse:
 - a. Assigns tasks in writing to a home health aide who is providing home health aide service to a patient,
 - b. Provides direction for the home health aide services provided to a patient, and
 - c. Verifies the competency of the home health aide in performing assigned tasks;
 6. A registered dietitian or a personnel member under the direction of a registered dietitian plans menus for a patient;
 7. A patient's condition and the services provided to the patient are documented in the patient's medical record after each patient contact;

8. A patient's physician is immediately informed of a change in the patient's condition that requires medical services; and
9. The implementation of a patient's care plan is coordinated among the personnel members providing hospice services to the patient.

Historical Note

Adopted effective November 6, 1978 (Supp. 78-6). Section R9-10-612 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-613. Medication Services

- A.** An administrator shall ensure that policies and procedures for medication services:
 1. Include:
 - a. A process for providing information to a patient about medication prescribed for the patient including:
 - i. The prescribed medication's anticipated results,
 - ii. The prescribed medication's potential adverse reactions,
 - iii. The prescribed medication's potential side effects, and
 - iv. Potential adverse reactions that could result from not taking the medication as prescribed;
 - b. Procedures for preventing, responding to, and reporting:
 - i. A medication error,
 - ii. An adverse reaction to a medication, or
 - iii. A medication overdose;
 - c. Procedures to ensure that a patient's medication regimen and method of administration is reviewed by a medical practitioner to ensure the medication regimen meets the patient's needs;
 - d. Procedures for:
 - i. Documenting medication administration; and
 - ii. Monitoring a patient who self-administers medication;
 - e. Procedures for assisting a patient in obtaining medication; and
 - f. If applicable, procedures for providing medication administration off the premises; and
 2. Specify a process for review through the quality management program of:
 - a. A medication administration error, and
 - b. An adverse reaction to a medication.
- B.** If a hospice provides medication administration, an administrator shall ensure that:
 1. Policies and procedures for medication administration:
 - a. Are reviewed and approved by a medical practitioner;
 - b. Specify the individuals who may:
 - i. Order medication, and
 - ii. Administer medication;
 - c. Ensure that medication is administered to a patient only as prescribed; and
 - d. Cover the documentation of a patient's refusal to take prescribed medication in the patient's medical record;

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2. Verbal orders for medication services are taken by a nurse, unless otherwise provided by law; and
 3. A medication administered to a patient:
 - a. Is administered in compliance with an order, and
 - b. Is documented in the patient's medical record.
- C. An administrator shall ensure that:
1. A current drug reference guide is available for use by personnel members;
 2. A current toxicology reference guide is available for use by personnel members;
 3. If pharmaceutical services are provided on the premises:
 - a. A committee, composed of at least one physician, one pharmacist, and other personnel members as determined by the hospice's policies and procedures is established to:
 - i. Develop a drug formulary,
 - ii. Update the drug formulary at least every 12 months,
 - iii. Develop medication usage and medication substitution policies and procedures, and
 - iv. Specify which medications and medication classifications are required to be stopped automatically after a specific time period unless the ordering medical practitioner specifically orders otherwise;
 - b. The pharmaceutical services are provided under the direction of a pharmacist;
 - c. The pharmaceutical services comply with ARS Title 36, Chapter 27; A.R.S. Title 32, Chapter 18; and 4 A.A.C. 23; and
 - d. A copy of the pharmacy license is provided to the Department upon request.
- D. When medication is stored at a hospice inpatient facility, an administrator shall ensure that:
1. Medication is stored in a separate locked room, closet, or self-contained unit used only for medication storage;
 2. Medication is stored according to the instructions on the medication container; and
 3. Policies and procedures are established, documented, and implemented to protect the health and safety of a patient for:
 - a. Receiving, storing, inventorying, tracking, dispensing, and discarding medication including expired medication;
 - b. Discarding or returning prepackaged and sample medication to the manufacturer if the manufacturer requests the discard or return of the medication;
 - c. A medication recall and notification of patients who received recalled medication; and
 - d. Storing, inventorying, and dispensing controlled substances.
- E. An administrator shall ensure that a personnel member immediately reports a medication error or a patient's adverse reaction to a medication to the medical practitioner who ordered the medication and, if applicable, the hospice's director of nursing.

Historical Note

Adopted effective November 6, 1978 (Supp. 78-6). Section R9-10-613 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

effective July 1, 2014 (Supp. 14-2).

R9-10-614. Infection Control

An administrator shall ensure that:

1. An infection control program is established, under the direction of an individual qualified according to policies and procedures, to prevent the development and transmission of infections and communicable diseases including:
 - a. A method to identify and document infections;
 - b. Analysis of the types, causes, and spread of infections and communicable diseases;
 - c. The development of corrective measures to minimize or prevent the spread of infections and communicable diseases; and
 - d. Documenting infection control activities including:
 - i. The collection and analysis of infection control data,
 - ii. The actions taken relating to infections and communicable diseases, and
 - iii. Reports of communicable diseases to the governing authority and state and county health departments;
2. Infection control documents are maintained for at least 12 months after the date of the documents;
3. Policies and procedures are established, documented, and implemented to protect the health and safety of a patient that cover:
 - a. Handling and disposal of biohazardous medical waste;
 - b. Sterilization and disinfection of medical equipment and supplies;
 - c. Use of personal protective equipment such as aprons, gloves, gowns, masks, or face protection when applicable;
 - d. Cleaning of an individual's hands when the individual's hands are visibly soiled and before and after providing a service to a patient;
 - e. Training of personnel members in infection control practices; and
 - f. Work restrictions for a personnel member with a communicable disease or infected skin lesion;
4. Biohazardous medical waste is identified, stored, and disposed of according to 18 A.A.C. 13, Article 14 and policies and procedures; and
5. A personnel member washes hands or use a hand disinfection product after each patient contact and after handling soiled linen, soiled clothing, or potentially infectious material.

Historical Note

Adopted effective November 6, 1978 (Supp. 78-6). Section R9-10-614 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-615. Food Services for a Hospice Inpatient Facility

- A. An administrator of a hospice inpatient facility shall ensure that:
1. Meals and snacks provided by the hospice inpatient facility are served according to a patient's dietary needs and preferences;
 2. Meals and snacks for each day are planned using:

- a. The applicable guidelines in <http://www.health.gov/dietaryguidelines/2010.asp>, and
 - b. Preferences for meals and snacks obtained from patients;
 - 3. A patient requiring assistance to eat is provided with assistance that recognizes the patient's nutritional, physical, and social needs, including the use of adaptive eating equipment or utensils; and
 - 4. Water is available and accessible to patients at all times, unless otherwise stated in a patient's care plan.
- B.** An administrator of a hospice inpatient facility shall ensure that food is obtained, prepared, served, and stored as follows:
- 1. Food is free from spoilage, filth, or other contamination and is safe for human consumption;
 - 2. Food is protected from potential contamination;
 - 3. Food is prepared:
 - a. Using methods that conserve nutritional value, flavor, and appearance; and
 - b. In a form to meet the needs of a patient, such as cut, chopped, ground, pureed, or thickened;
 - 4. Potentially hazardous food is maintained as follows:
 - a. Foods requiring refrigeration are maintained at 41° F or below;
 - b. Foods requiring cooking are cooked to heat all parts of the food to a temperature of at least 145° F for 15 seconds, except that:
 - i. Ground beef and ground meats are cooked to heat all parts of the food to at least 155° F;
 - ii. Poultry, poultry stuffing, stuffed meats, and stuffing that contains meat are cooked to heat all parts of the food to at least 165° F;
 - iii. Pork and any food containing pork are cooked to heat all parts of the food to at least 155° F;
 - iv. Raw shell eggs for immediate consumption are cooked to at least 145° F for 15 seconds and any food containing raw shell eggs is cooked to heat all parts of the food to at least 155° F;
 - v. Roast beef and beef steak are cooked to an internal temperature of at least 155° F; and
 - vi. Leftovers are reheated to a temperature of at least 165° F;
 - 5. A refrigerator contains a thermometer, accurate to plus or minus 3° F, at the warmest part of the refrigerator;
 - 6. Frozen foods are stored at a temperature of 0° F or below; and
 - 7. Tableware, utensils, equipment, and food-contact surfaces are clean and in good repair.
- C.** An administrator shall ensure that:
- 1. For a hospice inpatient facility with a licensed capacity of more than 20 beds, the hospice inpatient facility:
 - a. Has a license or permit as a food establishment under 9 A.A.C. 8, Article 1, and
 - b. Maintains a copy of the hospice inpatient facility's food establishment license or permit;
 - 2. If the hospice inpatient facility contracts with food establishment, as defined in 9 A.A.C. 8, Article 1, to prepare and deliver food to the hospice inpatient facility a copy of the contracted food establishment's license or permit under 9 A.A.C. 8, Article 1 is maintained by the hospice inpatient facility; and
 - 3. Food is stored, refrigerated, and reheated to meet the dietary needs of a patient.

Historical Note

Adopted effective November 6, 1978 (Supp. 78-6). Section R9-10-615 repealed effective November 1, 1998, under an exemption from the provisions of the Adminis-

trative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-616. Emergency and Safety Standards for a Hospice Inpatient Facility

- A.** An administrator of a hospice inpatient facility shall ensure that:
- 1. A disaster plan is developed, documented, maintained in a location accessible to personnel members and other employees, and, if necessary, implemented that includes:
 - a. When, how, and where patients will be relocated, including:
 - i. Instructions for the evacuation or transfer of patients,
 - ii. Assigned responsibilities for each employee and personnel member, and
 - iii. A plan for providing continuing services to meet patient's needs;
 - b. How each patient's medical record will be available to individuals providing services to the patient during a disaster;
 - c. A plan to ensure each patient's medication will be available to administer to the patient during a disaster; and
 - d. A plan for obtaining food and water for individuals present in the hospice inpatient facility or the hospice inpatient facility's relocation site during a disaster;
 - 2. The disaster plan required in subsection (A)(1) is reviewed at least once every 12 months;
 - 3. Documentation of a disaster plan review required in subsection (A)(2) is created, is maintained for at least 12 months after the date of the disaster plan review, and includes:
 - a. The date and time of the disaster plan review;
 - b. The name of each personnel member, employee, or volunteer participating in the disaster plan review;
 - c. A critique of the disaster plan review; and
 - d. If applicable, recommendations for improvement;
 - 4. A disaster drill for employees is conducted on each shift at least once every three months and documented; and
 - 5. An evacuation path is conspicuously posted on each hallway of each floor of the hospice inpatient facility.
- B.** An administrator shall:
- 1. Obtain a fire inspection conducted according to the time-frame established by the local fire department or the State Fire Marshal,
 - 2. Make any repairs or corrections stated on the fire inspection report, and
 - 3. Maintain documentation of a current fire inspection.

Historical Note

Adopted effective November 6, 1978 (Supp. 78-6). Section R9-10-616 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-617. Environmental Standards for a Hospice Inpatient Facility

A. An administrator of a hospice inpatient facility shall ensure that:

1. Policies and procedures are established, documented, and implemented to protect the health and safety of a patient that cover:
 - a. Cleaning and storing of soiled linens and clothing,
 - b. Housekeeping procedures that ensure a clean environment, and
 - c. Isolation of a patient who may spread an infection;
2. The premises and equipment are:
 - a. Cleaned and disinfected according to policies and procedures or manufacturer's instructions to prevent, minimize, and control illness or infection; and
 - b. Free from a condition or situation that may cause a patient or other individual to suffer physical injury or illness;
3. A pest control program is implemented and documented;
4. Equipment used at the hospice inpatient facility is:
 - a. Maintained in working order;
 - b. Tested and calibrated according to the manufacturer's recommendations or, if there are no manufacturer's recommendations, as specified in the hospice inpatient facility's policies and procedures; and
 - c. Used according to the manufacturer's recommendations;
4. Documentation of equipment testing, calibration, and repair is maintained for at least 12 months after the date of the testing, calibration, or repair;
5. Garbage and refuse are:
 - a. Stored in covered containers lined with plastic bags, and
 - b. Removed from the premises at least once a week;
6. Soiled linen and clothing are:
 - a. Collected in a manner to minimize or prevent contamination;
 - b. Bagged at the site of use; and
 - c. Maintained separate from clean linen and clothing and away from food storage, kitchen, or dining areas;
7. Heating and cooling systems maintain the hospice inpatient facility at a temperature between 70° F and 84° F at all times;
8. Common areas:
 - a. Are lighted to assure the safety of patients, and
 - b. Have lighting sufficient to allow personnel members to monitor patient activity;
9. The supply of hot and cold water is sufficient to meet the personal hygiene needs of patients and the cleaning and sanitation requirements in this Article;
10. Oxygen containers are secured in an upright position;
11. Poisonous or toxic materials stored by the hospice inpatient facility are maintained in labeled containers in a locked area separate from food preparation and storage, dining areas, and medications and are inaccessible to patients;
12. Except for medical supplies needed by a patient, combustible or flammable liquids and hazardous materials are stored by the hospice inpatient facility in the original labeled containers or safety containers in a locked area inaccessible to patients;
13. If pets or animals are allowed in the hospice inpatient facility, pets or animals are:
 - a. Controlled to prevent endangering the patients and to maintain sanitation, and

- b. Licensed consistent with local ordinances;
14. If a water source that is not regulated under 18 A.A.C. 4 by the Arizona Department of Environmental Quality is used:
 - a. The water source is tested at least once every 12 months for total coliform bacteria and fecal coliform or *E. coli* bacteria;
 - b. If necessary, corrective action is taken to ensure the water is safe to drink, and
 - c. Documentation of testing is retained for at least 12 months after the date of the test; and
15. If a non-municipal sewage system is used, the sewage system is in working order and is maintained according to all applicable state laws and rules.

B. An administrator of a hospice inpatient facility shall ensure that a patient is allowed to use and display personal belongings.

Historical Note

Adopted effective November 6, 1978 (Supp. 78-6). Section R9-10-617 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-618. Physical Plant Standards for a Hospice Inpatient Facility

- A.** An administrator shall ensure that a hospice inpatient facility complies with applicable requirements for Health Care Occupancies in National Fire Protection Association 101, Life Safety Code, incorporated by reference in A.A.C. R9-1-412.
- B.** An administrator of a hospice inpatient facility shall ensure that the premises and equipment are sufficient to accommodate:
1. The services stated in the hospice inpatient facility's scope of services, and
 2. An individual accepted as a patient by the hospice inpatient facility.
- C.** An administrator of a hospice inpatient facility shall ensure that a patient's sleeping area:
1. Is shared by no more than four patients;
 2. Measures at least 80 square feet of floor space per patient, not including a closet;
 3. Has walls from floor to ceiling;
 4. Contains a door that opens into a hallway, common area, or outdoors;
 5. Is at or above ground level;
 6. Is vented to the outside of the hospice inpatient facility;
 7. Has a working thermometer for measuring the temperature in the sleeping area;
 8. For each patient, has a:
 - a. Bed,
 - b. Bedside table,
 - c. Bedside chair,
 - d. Reading light,
 - e. Privacy screen or curtain, and
 - f. Closet or drawer space;
 9. Is equipped with a bell, intercom, or other mechanical means for a patient to alert a personnel member;
 10. Is no farther than 20 feet from a room containing a toilet and a sink;

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11. Is not used as a passageway to another sleeping area, a toilet room, or a bathing room;
 12. Contains one of the following to provide sunlight:
 - a. A window to the outside of the hospice inpatient facility, or
 - b. A transparent or translucent door to the outside of the hospice inpatient facility; and
 13. Has coverings for windows and for transparent or translucent doors that provide patient privacy.
- D.** An administrator of a hospice inpatient facility shall ensure that there is:
1. For every six patients, a toilet room that contains:
 - a. At least one working toilet that flushes and has a seat;
 - b. At least one working sink with running water;
 - c. Soap for hand washing;
 - d. Paper towels or a mechanical air hand dryer;
 - e. Grab bars attached to a wall that an individual may hold onto to assist the individual in becoming or remaining erect;
 - f. A mirror;
 - g. Lighting;
 - h. Space for a personnel member to assist a patient;
 - i. A bell, intercom, or other mechanical means for a patient to alert a personnel member; and
 - j. An operable window to the outside of the hospice inpatient facility or other means of ventilation;
 2. For every 12 patients, at least one working bathtub or shower accessible to a wheeled shower chair, with a slip-resistant surface, located in a toilet room or in a separate bathing room;
 3. For a patient occupying a sleeping area with one or more other patients, a separate room in which the patient can meet privately with family members;
 4. Space in a lockable closet, drawer, or cabinet for a patient to store the patient's private or valuable items;
 5. A room other than a sleeping area that can be used for social activities;
 6. Sleeping accommodations for family members;
 7. A designated toilet room, other than a patient toilet room, for personnel and visitors that:
 - a. Provides privacy; and
 - b. Contains:
 - i. A working sink with running water,
 - ii. A working toilet that flushes and has a seat,
 - iii. Toilet tissue,
 - iv. Soap for hand washing,
 - v. Paper towels or a mechanical air hand dryer,
 - vi. Lighting, and
 - vii. A window that opens or another means of ventilation;
 8. If the hospice inpatient facility has a kitchen with a stove or oven, a mechanism to vent the stove or oven to the outside of the hospice inpatient facility; and
 9. Space designated for administrative responsibilities that is separate from sleeping areas, toilet rooms, bathing rooms, and drug storage areas.

Historical Note

Adopted effective November 6, 1978 (Supp. 78-6). Section R9-10-618 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20

A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-619. Repealed**Historical Note**

Adopted effective November 6, 1978 (Supp. 78-6). Section R9-10-619 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4).

R9-10-620. Repealed**Historical Note**

Adopted effective November 6, 1978 (Supp. 78-6). Section R9-10-620 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4).

R9-10-621. Repealed**Historical Note**

Adopted effective November 6, 1978 (Supp. 78-6). Correction, subsection (H), after "... 105° F" added "nor more than 110° F" as certified effective November 6, 1978 (Supp. 87-2). Section R9-10-621 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4).

R9-10-622. Repealed**Historical Note**

Adopted effective November 6, 1978 (Supp. 78-6). Section R9-10-622 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4).

R9-10-623. Repealed**Historical Note**

Adopted effective November 6, 1978 (Supp. 78-6). Section R9-10-623 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4).

R9-10-624. Repealed**Historical Note**

Adopted effective November 6, 1978 (Supp. 78-6). Section R9-10-624 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4).

ARTICLE 7. BEHAVIORAL HEALTH RESIDENTIAL FACILITIES**R9-10-701. Definitions**

In addition to the definitions in A.R.S. § 36-401 and R9-10-101, the following applies in this Article unless otherwise specified:

"Emergency safety response" means physically holding a resident to manage the resident's sudden, intense, or out-of-con-

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trol behavior to prevent harm to the resident or another individual.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted without changes effective October 30, 1989 (Supp. 89-4). Section R9-10-701 repealed, new Section R9-10-701 adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-702. Supplemental Application Requirements

- A. In addition to the license application requirements in A.R.S. § 36-422 and R9-10-105, an applicant for an initial license as a behavioral health residential facility shall include on the application:
- Whether the applicant is requesting authorization to provide:
 - Behavioral health services to individuals under 18 years of age, including the licensed capacity requested;
 - Behavioral health services to individuals 18 years of age and older, including the licensed capacity requested; or
 - Respite services;
 - Whether the applicant is requesting authorization to provide an outdoor behavioral health care program, including:
 - The requested licensed capacity for providing the outdoor behavioral health care program to individuals 12 to 17 years of age, and
 - The requested licensed capacity for providing the outdoor behavioral health care program to individuals 18 to 24 years of age;
 - Whether the applicant is requesting authorization to provide:
 - Residential services to individuals 18 years of age or older whose behavioral health issue limits the individuals' ability to function independently, or
 - Personal care services;
 - For a behavioral health residential facility requesting authorization to provide respite services, the requested number of individuals the behavioral health residential facility plans to admit for respite services who do not stay overnight in the behavioral health residential facility; and
 - For an outdoor behavioral health care program, a copy of the outdoor behavioral health care program's current accreditation report.
- B. In addition to the renewal license application requirements in A.R.S. § 36-422 and R9-10-107, an administrator of an outdoor behavioral health care program shall submit with a

renewal application, a copy of the outdoor behavioral health care program's current accreditation report.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section R9-10-702 repealed, new Section R9-10-702 adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-703. Administration

- A. A governing authority shall:
- Consist of one or more individuals responsible for the organization, operation, and administration of a behavioral health residential facility;
 - Establish, in writing:
 - A behavioral health residential facility's scope of services, and
 - Qualifications for an administrator;
 - Designate, in writing, an administrator who has the qualifications established in subsection (A)(2)(b);
 - Adopt a quality management program according to R9-10-704;
 - Review and evaluate the effectiveness of the quality management program at least once every 12 months;
 - Designate, in writing, an acting administrator who has the qualifications established in subsection (A)(2)(b), if the administrator is:
 - Expected not to be present on the behavioral health residential facility's premises for more than 30 calendar days, or
 - Not present on the behavioral health residential facility's premises for more than 30 calendar days; and
 - Except as provided in subsection (A)(6), notify the Department according to A.R.S. § 36-425(I) when there is a change in the administrator and identify the name and qualifications of the new administrator.
- B. An administrator:
- Is directly accountable to the governing authority of a behavioral health residential facility for the daily operation of the behavioral health residential facility and all services provided by or at the behavioral health residential facility;
 - Has the authority and responsibility to manage the behavioral health residential facility; and
 - Except as provided in subsection (A)(6), designates, in writing, an individual who is present on the behavioral health residential facility's premises and accountable for the behavioral health residential facility when the admin-

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istrator is not present on the behavioral health residential facility's premises.

C. An administrator shall ensure that:

1. Policies and procedures are established, documented, and implemented to protect the health and safety of a resident that:
 - a. Cover job descriptions, duties, and qualifications, including required skills, knowledge, education, and experience for personnel members, employees, volunteers, and students;
 - b. Cover orientation and in-service education for personnel members, employees, volunteers, and students;
 - c. Include how a personnel member may submit a complaint relating to services provided to a resident;
 - d. Cover the requirements in A.R.S. Title 36, Chapter 4, Article 11;
 - e. Cover cardiopulmonary resuscitation training including:
 - i. The method and content of cardiopulmonary resuscitation training, which includes a demonstration of the individual's ability to perform cardiopulmonary resuscitation;
 - ii. The qualifications for an individual to provide cardiopulmonary resuscitation training;
 - iii. The time-frame for renewal of cardiopulmonary resuscitation training; and
 - iv. The documentation that verifies that the individual has received cardiopulmonary resuscitation training;
 - f. Cover first aid training;
 - g. Include a method to identify a resident to ensure the resident receives physical health services and behavioral health services as ordered;
 - h. Cover resident rights, including assisting a resident who does not speak English or who has a physical or other disability to become aware of resident rights;
 - i. Cover specific steps for:
 - i. A resident to file a complaint, and
 - ii. The behavioral health residential facility to respond to a resident complaint;
 - j. Cover health care directives;
 - k. Cover medical records, including electronic medical records;
 - l. Cover a quality management program, including incident reports and supporting documentation;
 - m. Cover contracted services; and
 - n. Cover when an individual may visit a resident in a behavioral health residential facility;
2. Policies and procedures for behavioral health services and physical health services are established, documented, and implemented to protect the health and safety of a resident that:
 - a. Cover resident screening, admission, assessment, treatment plan, transport, transfer, discharge planning, and discharge;
 - b. Cover the provision of behavioral health services and physical health services;
 - c. Include when general consent and informed consent are required;
 - d. Cover emergency safety responses;
 - e. Cover a resident's personal funds account;
 - f. Cover dispensing medication, administering medication, assistance in the self-administration of medication, and disposing of medication, including

provisions for inventory control and preventing diversion of controlled substances;

- g. Cover prescribing a controlled substance to minimize substance abuse by a resident;
 - h. Cover respite services;
 - i. Cover services provided by an outdoor behavioral health care program, if applicable;
 - j. Cover infection control;
 - k. Cover resident time out;
 - l. Cover resident outings;
 - m. Cover environmental services that affect resident care;
 - n. Cover whether pets and other animals are allowed on the premises, including procedures to ensure that any pets or other animals allowed on the premises do not endanger the health or safety of residents or the public;
 - o. If animals are used as part of a therapeutic program, cover:
 - i. Inoculation/vaccination requirements, and
 - ii. Methods to minimize risks to resident's health and safety;
 - p. Cover the process for receiving a fee from a resident and refunding a fee to a resident;
 - q. Cover the process for obtaining resident preferences for social, recreational, or rehabilitative activities and meals and snacks;
 - r. Cover the security of a resident's possessions that are allowed on the premises;
 - s. Cover smoking and the use of tobacco products on the premises; and
 - t. Cover how the behavioral health residential facility will respond to a resident's sudden, intense, or out-of-control behavior to prevent harm to the resident or another individual;
3. Policies and procedures are reviewed at least once every three years and updated as needed;
 4. Policies and procedures are available to personnel members, employees, volunteers, and students; and
 5. Unless otherwise stated:
 - a. Documentation required by this Article is provided to the Department within two hours after a Department request; and
 - b. When documentation or information is required by this Chapter to be submitted on behalf of a behavioral health residential facility, the documentation or information is provided to the unit in the Department that is responsible for licensing and monitoring the behavioral health residential facility.
- D.** If an applicant requests or a behavioral health residential facility has a licensed capacity of 10 or more residents, an administrator shall designate a clinical director who:
1. Provides direction for the behavioral health services provided by or at the behavioral health residential facility;
 2. Is a behavioral health professional; and
 3. May be the same individual as the administrator, if the individual meets the qualifications in subsections (A)(2)(b) and (D)(1) and (2).
- E.** Except for respite services, an administrator shall ensure that medical services, nursing services, health-related services, or ancillary services provided by a behavioral health residential facility are only provided to a resident who is expected to be present in the behavioral health residential facility for more than 24 hours.
- F.** An administrator shall provide written notification to the Department of a resident's:

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1. Death, if the resident's death is required to be reported according to A.R.S. § 11-593, within one working day after the resident's death; and
 2. Self-injury, within two working days after the resident inflicts a self-injury or has an accident that requires immediate intervention by an emergency medical services provider.
- G.** If abuse, neglect, or exploitation of a resident is alleged or suspected to have occurred before the resident was admitted or while the resident is not on the premises and not receiving services from a behavioral health residential facility's employee or personnel member, an administrator shall report the alleged or suspected abuse, neglect, or exploitation of the resident as follows:
1. For a resident 18 years of age or older, according to A.R.S. § 46-454; or
 2. For a resident under 18 years of age, according to A.R.S. § 13-3620.
- H.** If an administrator has a reasonable basis, according to A.R.S. §§ 13-3620 or 46-454, to believe abuse, neglect, or exploitation has occurred on the premises or while a resident is receiving services from a behavioral health residential facility's employee or personnel member, the administrator shall:
1. If applicable, take immediate action to stop the suspected abuse, neglect, or exploitation;
 2. Report the suspected abuse, neglect, or exploitation of the resident:
 - a. For a resident 18 years of age or older, according to A.R.S. § 46-454; or
 - b. For a resident under 18 years of age, according to A.R.S. § 13-3620;
 3. Document:
 - a. The suspected abuse, neglect, or exploitation;
 - b. Any action taken according to subsection (H)(1); and
 - c. The report in subsection (H)(2);
 4. Maintain the documentation in subsection (H)(3) for at least 12 months after the date of the report in subsection (H)(2);
 5. Initiate an investigation of the suspected abuse, neglect, or exploitation and document the following information within five working days after the report required in (H)(2):
 - a. The dates, times, and description of the suspected abuse, neglect, or exploitation;
 - b. A description of any injury to the resident related to the suspected abuse or neglect and any change to the resident's physical, cognitive, functional, or emotional condition;
 - c. The names of witnesses to the suspected abuse, neglect, or exploitation; and
 - d. The actions taken by the administrator to prevent the suspected abuse, neglect, or exploitation from occurring in the future; and
 6. Maintain a copy of the documented information required in subsection (H)(5) and any other information obtained during the investigation for at least 12 months after the date the investigation was initiated.
- I.** An administrator shall:
1. Establish and document requirements regarding residents, personnel members, employees, and other individuals entering and exiting the premises;
 2. Establish and document guidelines for meeting the needs of an individual residing at a behavioral health residential facility with a resident, such as a child accompanying a parent in treatment, if applicable;
 3. If children under the age of 12, who are not admitted to a behavioral health residential facility, are residing at the behavioral health residential facility and being cared for by employees or personnel members, ensure that:
 - a. An employee or personnel member caring for children has current cardiopulmonary resuscitation and first aid training specific to the ages of children being cared for; and
 - b. The staff-to-children ratios in A.A.C. R9-5-404(A) are maintained, based on the age of the youngest child in the group;
 4. Establish and document the process for responding to a resident's need for immediate and unscheduled behavioral health services or physical health services;
 5. Establish and document the criteria for determining when a resident's absence is unauthorized, including criteria for a resident who:
 - a. Was admitted under A.R.S. Title 36, Chapter 5, Articles 1, 2, or 3;
 - b. Is absent against medical advice; or
 - c. Is under the age of 18;
 6. If a resident's absence is unauthorized as determined according to the criteria in subsection (I)(5), within an hour after determining that the resident's absence is unauthorized, notify:
 - a. For a resident who is under 18 years of age, the resident's parent or legal guardian; and
 - b. For a resident who is under a court's jurisdiction, the appropriate court;
 7. Maintain a written log of unauthorized absences for at least 12 months after the date of a resident's absence that includes the:
 - a. Name of a resident absent without authorization,
 - b. Name of the individual to whom the report required in subsection (I)(6) was submitted, and
 - c. Date of the report;
 8. Document the notification in subsection (I)(6) and the written log required in subsection (I)(7); and
 9. Evaluate and take action related to unauthorized absences under the quality management program in R9-10-704.
- J.** An administrator shall ensure that the following information or documents are conspicuously posted on the premises and are available upon request to a personnel member, employee, resident, or a resident's representative:
1. The behavioral health residential facility's current license,
 2. The location at which inspection reports required in R9-10-720(C) are available for review or can be made available for review, and
 3. The calendar days and times when a resident may accept visitors or make telephone calls.
- K.** An administrator shall ensure that:
1. Labor performed by a resident for the behavioral health residential facility is consistent with A.R.S. § 36-510;
 2. A resident who is a child is only released to the child's custodial parent, guardian, or custodian or as authorized in writing by the child's custodial parent, guardian, or custodian;
 3. The administrator obtains documentation of the identity of the parent, guardian, custodian, or family member authorized to act on behalf of a resident who is a child; and
 4. A resident, who is an incapacitated person according to A.R.S. § 14-5101 or who is gravely disabled, is assisted in obtaining a resident's representative to act on the resident's behalf.

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- L.** If an administrator determines that a resident is incapable of handling the resident's financial affairs, the administrator shall:
1. Notify the resident's representative or contact a public fiduciary or a trust officer to take responsibility of the resident's financial affairs, and
 2. Maintain documentation of the notification required in subsection (L)(1)(a) in the resident's medical record for at least 12 months after the date of the notification.
- M.** If an administrator manages a resident's money through a personal funds account, the administrator shall ensure that:
1. Policies and procedure are established, developed, and implemented for:
 - a. Using resident's funds in a personal funds account,
 - b. Protecting resident's funds in a personal funds account,
 - c. Investigating a complaint about the use of resident's funds in a personal funds account and ensuring that the complaint is investigated by an individual who does not manage the personal funds account,
 - d. Processing each deposit into and withdrawal from a personal funds account, and
 - e. Maintaining a record for each deposit into and withdrawal from a personal funds account; and
 2. The personal funds account is only initiated after receiving a written request that:
 - a. Is provided:
 - i. Voluntarily by the resident,
 - ii. By the resident's representative, or
 - iii. By a court of competent jurisdiction;
 - b. May be withdrawn at any time; and
 - c. Is maintained in the resident's record.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section R9-10-703 repealed, new Section R9-10-703 adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-704. Quality Management

An administrator shall ensure that:

1. A plan is established, documented, and implemented for an ongoing quality management program that, at a minimum, includes:
 - a. A method to identify, document, and evaluate incidents;
 - b. A method to collect data to evaluate services provided to residents;

- c. A method to evaluate the data collected to identify a concern about the delivery of services related to resident care;
 - d. A method to make changes or take action as a result of the identification of a concern about the delivery of services related to resident care; and
 - e. The frequency of submitting a documented report required in subsection (2) to the governing authority;
2. A documented report is submitted to the governing authority that includes:
 - a. An identification of each concern about the delivery of services related to resident care, and
 - b. Any change made or action taken as a result of the identification of a concern about the delivery of services related to resident care; and
 3. The report required in subsection (2) and the supporting documentation for the report are maintained for at least 12 months after the date the report is submitted to the governing authority.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section R9-10-704 repealed, new Section R9-10-704 adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

R9-10-705. Contracted Services

An administrator shall ensure that:

1. Contracted services are provided according to the requirements in this Article, and
2. Documentation of current contracted services is maintained that includes a description of the contracted services provided.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section R9-10-705 repealed, new Section R9-10-705 adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998

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(Supp. 98-4). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-706. Personnel**A.** An administrator shall ensure that:

1. A personnel member is:
 - a. At least 21 years old, or
 - b. Licensed or certified under A.R.S. Title 32 and providing services within the personnel member's scope of practice;
2. An employee is at least 18 years old;
3. A student is at least 18 years old; and
4. A volunteer is at least 21 years old.

B. An administrator shall ensure that:

1. The qualifications, skills, and knowledge required for each type of personnel member:
 - a. Are based on:
 - i. The type of behavioral health services or physical health services expected to be provided by the personnel member according to the established job description, and
 - ii. The acuity of the residents receiving behavioral health services or physical health services from the personnel member according to the established job description; and
 - b. Include:
 - i. The specific skills and knowledge necessary for the personnel member to provide the expected behavioral health services or physical health services listed in the established job description,
 - ii. The type and duration of education that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected behavioral health services or physical health services listed in the established job description, and
 - iii. The type and duration of experience that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected behavioral health services or physical health services listed in the established job description;
2. A personnel member's skills and knowledge are verified and documented:
 - a. Before the personnel member provides physical health services or behavioral health services, and
 - b. According to policies and procedures; and
3. Sufficient personnel members are present on a behavioral health residential facility's premises with the qualifications, experience, skills, and knowledge necessary to:
 - a. Provide the services in the behavioral health residential facility's scope of services,
 - b. Meet the needs of a resident, and
 - c. Ensure the health and safety of a resident.

C. An administrator shall comply with the requirements for behavioral health technicians and behavioral health paraprofessionals in R9-10-115.**D.** An administrator shall ensure that an individual who is licensed under A.R.S. Title 32, Chapter 33 as a baccalaureate social worker, master social worker, associate marriage and family therapist, associate counselor, or associate substance abuse counselor is under direct supervision, as defined in A.A.C. R4-6-101.**E.** An administrator shall ensure that:

1. A plan to provide orientation, specific to the duties of a personnel member, an employee, a volunteer, or a student, is developed, documented, and implemented;
2. A personnel member completes orientation before providing behavioral health services or physical health services;
3. An individual's orientation is documented, to include:
 - a. The individual's name,
 - b. The date of the orientation, and
 - c. The subject or topics covered in the orientation;
4. A written plan is developed and implemented to provide in-service education specific to the duties of a personnel member; and
5. A personnel member's in-service education is documented, to include:
 - a. The personnel member's name,
 - b. The date of the training, and
 - c. The subject or topics covered in the training.

F. An administrator shall ensure that a personnel member, or an employee, a volunteer, or a student who has or is expected to have more than eight hours of direct interaction per week with residents, provides evidence of freedom from infectious tuberculosis:

1. On or before the date the individual begins providing services at or on behalf of the behavioral health residential facility, and
2. As specified in R9-10-113.

G. An administrator shall ensure that a personnel record is maintained for each personnel member, employee, volunteer, or student that includes:

1. The individual's name, date of birth, and contact telephone number;
2. The individual's starting date of employment or volunteer service and, if applicable, the ending date; and
3. Documentation of:
 - a. The individual's qualifications, including skills and knowledge applicable to the individual's job duties;
 - b. The individual's education and experience applicable to the individual's job duties;
 - c. The individual's completed orientation and in-service education as required by policies and procedures;
 - d. The individual's license or certification, if the individual is required to be licensed or certified in this Article or policies and procedures;
 - e. If the behavioral health residential facility is authorized to provide services to children, the individual's compliance with the fingerprinting requirements in A.R.S. § 36-425.03;
 - f. If the individual is a behavioral health technician, clinical oversight required in R9-10-115;
 - g. Cardiopulmonary resuscitation training, if required for the individual according to R9-10-703(C)(1)(e);
 - h. First aid training, if required for the individual according to this Article or policies and procedures; and
 - i. Evidence of freedom from infectious tuberculosis, if required for the individual according to subsection (F).

H. An administrator shall ensure that personnel records are:

1. Maintained:
 - a. Throughout an individual's period of providing services in or for the behavioral health residential facility, and

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- b. For at least 24 months after the last date the individual provided services in or for the behavioral health residential facility; and
 - 2. For a personnel member who has not provided physical health services or behavioral health services at or for the behavioral health residential facility during the previous 12 months, provided to the Department within 72 hours after the Department's request.
- I. An administrator shall ensure that the following personnel members have first-aid and cardiopulmonary resuscitation training specific to the populations served by the behavioral health residential facility:
 - 1. At least one personnel member who is present at the behavioral health residential facility during hours of operation of the behavioral health residential facility; and
 - 2. Each personnel member participating in an outing.
- J. An administrator shall ensure that:
 - 1. At least one personnel member is present and awake at the behavioral health residential facility when a resident is on the premises;
 - 2. In addition to the personnel member in subsection (J)(1), at least one personnel member is on-call and available to come to the behavioral health residential facility if needed;
 - 3. There is a daily staffing schedule that:
 - a. Indicates the date, scheduled work hours, and name of each employee assigned to work, including on-call personnel members;
 - b. Includes documentation of the employees who work each calendar day and the hours worked by each employee; and
 - c. Is maintained for at least 12 months after the last date on the documentation;
 - 4. A behavioral health professional is present at the behavioral health residential facility or on-call;
 - 5. A registered nurse is present at the behavioral health residential facility or on-call; and
 - 6. If a resident requires services that the behavioral health residential facility is not authorized or not able to provide, a personnel member arranges for the resident to be transported to a hospital or another health care institution where the services can be provided.

Historical Note

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R9-10-707. Admission; Assessment

- A. An administrator shall ensure that:
 - 1. A resident is admitted based upon the resident's presenting behavioral health issue and treatment needs and the behavioral health residential facility's scope of services;
 - 2. A behavioral health professional, authorized by policies and procedures to accept a resident for admission, is available;
 - 3. General consent is obtained from:
 - a. An adult resident or the resident's representative before or at the time of admission, or
 - b. A resident's representative, if the resident is not an adult;
 - 4. The general consent obtained in subsection (A)(3) is documented in the resident's medical record;
 - 5. Except as provided in subsection (E)(1)(a), a medical practitioner performs a medical history and physical examination or a registered nurse performs a nursing assessment on a resident within 30 calendar days before admission or within seven calendar days after admission and documents the medical history and physical examination or nursing assessment in the resident's medical record within seven calendar days after admission;
 - 6. If a medical practitioner performs a medical history and physical examination or a nurse performs a nursing assessment on a resident before admission, the medical practitioner enters an interval note or the nurse enters a progress note in the resident's medical record within seven calendar days after admission;
 - 7. If a behavioral health assessment is conducted by a:
 - a. Behavioral health technician or registered nurse, within 24 hours a behavioral health professional, certified or licensed to provide the behavioral health services needed by the resident, reviews and signs the behavioral health assessment to ensure that the behavioral health assessment identifies the behavioral health services needed by the resident; or
 - b. Behavioral health paraprofessional, a behavioral health professional, certified or licensed to provide the behavioral health services needed by the resident, supervises the behavioral health paraprofessional during the completion of the assessment and signs the assessment to ensure that the assessment identifies the behavioral health services needed by the resident;
 - 8. Except as provided in subsection (A)(9), a behavioral health assessment for a resident is completed before treatment for the resident is initiated;
 - 9. If a behavioral health assessment that complies with the requirements in this Section is received from a behavioral health provider other than the behavioral health residential facility or if the behavioral health residential facility has a medical record for the resident that contains a behavioral health assessment that was completed within 12 months before the date of the resident's current admission:
 - a. The resident's assessment information is reviewed and updated if additional information that affects the resident's assessment is identified, and
 - b. The review and update of the resident's assessment information is documented in the resident's medical record within 48 hours after the review is completed;
 - 10. A behavioral health assessment:
 - a. Documents a resident's:
 - i. Presenting issue;
 - ii. Substance abuse history;

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- iii. Co-occurring disorder;
- iv. Legal history, including:
 - (1) Custody,
 - (2) Guardianship, and
 - (3) Pending litigation;
- v. Criminal justice record;
- vi. Family history;
- vii. Behavioral health treatment history;
- viii. Symptoms reported by the resident; and
- ix. Referrals needed by the resident, if any;
- b. Includes:
 - i. Recommendations for further assessment or examination of the resident's needs,
 - ii. The physical health services or ancillary services that will be provided to the resident until the resident's treatment plan is completed, and
 - iii. The signature and date signed of the personnel member conducting the behavioral health assessment; and
- c. Is documented in resident's medical record;
- 11. A resident is referred to a medical practitioner if a determination is made that the resident requires immediate physical health services or the resident's behavioral health issue may be related to the resident's medical condition; and
- 12. Except as provided in subsection (E)(1)(d), a resident provides evidence of freedom from infectious tuberculosis:
 - a. Before or within seven calendar days after the resident's admission, and
 - b. As specified in R9-10-113.
- B.** An administrator shall ensure that:
 - 1. A request for participation in a resident's behavioral health assessment is made to the resident or the resident's representative,
 - 2. An opportunity for participation in the resident's behavioral health assessment is provided to the resident or the resident's representative, and
 - 3. The request in subsection (B)(1) and the opportunity in subsection (B)(2) are documented in the resident's medical record.
- C.** An administrator shall ensure that a resident's behavioral health assessment information is documented in the medical record within 48 hours after completing the behavioral health assessment.
- D.** If information in subsection (A)(10) is obtained about a resident after the resident's behavioral health assessment is completed, an interval note, including the information, is documented in the resident's medical record within 48 hours after the information is obtained.
- E.** If a behavioral health residential facility is authorized to provide respite services, an administrator shall ensure that:
 - 1. Upon admission of a resident for respite services:
 - a. Except as provided in subsection (F), a medical history and physical examination of the resident:
 - i. Is performed; or
 - ii. Dated within the previous 12 months, is available in the resident's medical record from a previous admission to the behavioral health residential facility;
 - b. A treatment plan that meets the requirements in R9-10-708:
 - i. Is developed; or
 - ii. Dated within the previous 12 months, is available in the resident's medical record from a previous admission to the behavioral health residential facility;
 - 2. The common area required in R9-10-722(B)(1)(b) provides at least 25 square feet for each resident, including residents who do not stay overnight; and
 - 3. In addition to the requirements in R9-10-722(B)(3), toilets and hand-washing sinks are available to residents, including residents who do not stay overnight, as follows:
 - a. There is at least one working toilet that flushes and has a seat and one sink with running water for every 10 residents,
 - b. There are at least two working toilets that flush and have seats and two sinks with running water if there are 11 to 25 residents, and
 - c. There is at least one additional working toilet that flushes and has a seat and one additional sink with running water for each additional 20 residents.
- F.** A medical history and physical examination is not required for a child who is admitted or expected to be admitted to a residential behavioral health facility for less than 10 days in a 90-consecutive-day period.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section R9-10-707 repealed, new Section R9-10-707 adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by exempt rulemaking at 22 A.A.R. 1035, pursuant to Laws 2015, Ch. 158, § 3; effective May 1, 2016 (Supp. 16-2).

R9-10-708. Treatment Plan

- A.** An administrator shall ensure that a treatment plan is developed and implemented for each resident that:
 - 1. Is based on the medical history and physical examination or nursing assessment required in R9-10-707(A)(5) or (E)(1) and the behavioral health assessment required in R9-10-707(A)(8) or (9) and on-going changes to the behavioral health assessment of the resident;
 - 2. Is completed:

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- a. By a behavioral health professional or a behavioral health technician under the clinical oversight of a behavioral health professional, and
- b. Before the resident receives physical health services or behavioral health services or within 48 hours after the assessment is completed;
3. Is documented in the resident's medical record within 48 hours after the resident first receives physical health services or behavioral health services;
4. Includes:
 - a. The resident's presenting issue;
 - b. The physical health services or behavioral health services to be provided to the resident;
 - c. The signature of the resident or the resident's representative, and date signed, or documentation of the refusal to sign;
 - d. The date when the resident's treatment plan will be reviewed;
 - e. If a discharge date has been determined, the treatment needed after discharge; and
 - f. The signature of the personnel member who developed the treatment plan and the date signed;
5. If the treatment plan was completed by a behavioral health technician, is reviewed and signed by a behavioral health professional within 24 hours after the completion of the treatment plan to ensure that the treatment plan is complete and accurate and meets the resident's treatment needs; and
6. Is reviewed and updated on an on-going basis:
 - a. According to the review date specified in the treatment plan,
 - b. When a treatment goal is accomplished or changed,
 - c. When additional information that affects the resident's behavioral health assessment is identified, and
 - d. When a resident has a significant change in condition or experiences an event that affects treatment.
- B.** An administrator shall ensure that:
 1. A request for participation in developing a resident's treatment plan is made to the resident or the resident's representative,
 2. An opportunity for participation in developing the resident's treatment plan is provided to the resident or the resident's representative, and
 3. The request in subsection (B)(1) and the opportunity in subsection (B)(2) are documented in the resident's medical record.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section R9-10-708 repealed, new Section R9-10-708 adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Section repealed; new Section made by

exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-709. Discharge

- A.** An administrator shall ensure that a discharge plan for a resident is:
 1. Developed that:
 - a. Identifies any specific needs of the resident after discharge,
 - b. Is completed before discharge occurs, and
 - c. Includes a description of the level of care that may meet the resident's assessed and anticipated needs after discharge;
 2. Documented in the resident's medical record within 48 hours after the discharge plan is completed; and
 3. Provided to the resident or the resident's representative before the discharge occurs.
- B.** An administrator shall ensure that:
 1. A request for participation in developing a resident's discharge plan is made to the resident or the resident's representative,
 2. An opportunity for participation in developing the resident's discharge plan is provided to the resident or the resident's representative, and
 3. The request in subsection (B)(1) and the opportunity in subsection (B)(2) are documented in the resident's medical record.
- C.** An administrator shall ensure that a resident is discharged from a behavioral health residential facility when the resident's treatment needs are not consistent with the services that the behavioral health residential facility is authorized and able to provide.
- D.** An administrator shall ensure that there is a documented discharge order by a medical practitioner or behavioral health professional before a resident is discharged unless the resident leaves the behavioral health residential facility against a medical practitioner's or behavioral health professional's advice.
- E.** An administrator shall ensure that, at the time of discharge, a resident receives a referral for treatment or ancillary services that the resident may need after discharge, if applicable.
- F.** If a resident is discharged to any location other than a health care institution, an administrator shall ensure that:
 1. Discharge instructions are documented, and
 2. The resident or the resident's representative is provided with a copy of the discharge instructions.
- G.** An administrator shall ensure that a discharge summary for a resident:
 1. Is entered into the resident's medical record within 10 working days after a resident's discharge; and
 2. Includes:
 - a. The following information authenticated by a medical practitioner or behavioral health professional:
 - i. The resident's presenting issue and other physical health and behavioral health issues identified in the resident's treatment plan;
 - ii. A summary of the treatment provided to the resident;
 - iii. The resident's progress in meeting treatment goals, including treatment goals that were and were not achieved; and
 - iv. The name, dosage, and frequency of each medication ordered for the resident by a medical practitioner at the behavioral health residential facility at the time of the resident's discharge; and

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- b. A description of the disposition of the resident's possessions, funds, or medications brought to the behavioral health residential facility by the resident.
- H. An administrator shall ensure that a resident who is dependent upon a prescribed medication is offered a written referral to detoxification services or opioid treatment before the resident is discharged from the behavioral health residential facility if a medical practitioner for the behavioral health residential facility will not be prescribing the medication for the resident at or after discharge.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section R9-10-709 repealed, new Section R9-10-709 adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-710. Transport; Transfer

- A. Except as provided in subsection (B), an administrator shall ensure that:
 - 1. A personnel member coordinates the transport and the services provided to the resident;
 - 2. According to policies and procedures:
 - a. An evaluation of the resident is conducted before and after the transport,
 - b. Information from the resident's medical record is provided to a receiving health care institution, and
 - c. A personnel member explains risks and benefits of the transport to the resident or the resident's representative; and
 - 3. Documentation in the resident's medical record includes:
 - a. Communication with an individual at a receiving health care institution;
 - b. The date and time of the transport;
 - c. The mode of transportation; and
 - d. If applicable, the name of the personnel member accompanying the resident during a transport.
- B. Subsection (A) does not apply to:
 - 1. Transportation to a location other than a licensed health care institution,
 - 2. Transportation provided for a resident by the resident or the resident's representative,
 - 3. Transportation provided by an outside entity that was arranged for a resident by the resident or the resident's representative, or
 - 4. A transport to another licensed health care institution in an emergency.
- C. Except for a transfer of a resident due to an emergency, an administrator shall ensure that:

- 1. A personnel member coordinates the transfer and the services provided to the resident;
- 2. According to policies and procedures:
 - a. An evaluation of the resident is conducted before the transfer;
 - b. Information from the resident's medical record, including orders that are in effect at the time of the transfer, is provided to a receiving health care institution; and
 - c. A personnel member explains risks and benefits of the transfer to the resident or the resident's representative; and
- 3. Documentation in the resident's medical record includes:
 - a. Communication with an individual at a receiving health care institution;
 - b. The date and time of the transfer;
 - c. The mode of transportation; and
 - d. If applicable, the name of the personnel member accompanying the resident during a transfer.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted effective October 30, 1989 (Supp. 89-4). Section R9-10-710 repealed, new Section R9-10-710 adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-711. Resident Rights

- A. An administrator shall ensure that:
 - 1. The requirements in subsection (B) and the resident rights in subsection (E) are conspicuously posted on the premises;
 - 2. At the time of admission, a resident or the resident's representative receives a written copy of the requirements in subsection (B) and the resident rights in subsection (E); and
 - 3. Policies and procedures include:
 - a. How and when a resident or the resident's representative is informed of the resident rights in subsection (E), and
 - b. Where resident rights are posted as required in subsection (A)(1).
- B. An administrator shall ensure that:
 - 1. A resident is treated with dignity, respect, and consideration;
 - 2. A resident is not subjected to:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Coercion;

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- e. Manipulation;
 - f. Sexual abuse;
 - g. Sexual assault;
 - h. Seclusion;
 - i. Restraint;
 - j. Retaliation for submitting a complaint to the Department or another entity;
 - k. Misappropriation of personal and private property by the behavioral health residential facility's personnel members, employees, volunteers, or students;
 - l. Discharge or transfer, or threat of discharge or transfer, for reasons unrelated to the resident's treatment needs, except as established in a fee agreement signed by the resident or the resident's representative; or
 - m. Treatment that involves the denial of:
 - i. Food,
 - ii. The opportunity to sleep, or
 - iii. The opportunity to use the toilet;
3. Except as provided in subsection (C) or (D), and unless restricted by the resident's representative, is allowed to:
- a. Associate with individuals of the resident's choice, receive visitors, and make telephone calls during the hours established by the behavioral health residential facility;
 - b. Have privacy in correspondence, communication, visitation, financial affairs, and personal hygiene; and
 - c. Unless restricted by a court order, send and receive uncensored and unopened mail; and
4. A resident or the resident's representative:
- a. Except in an emergency, either consents to or refuses treatment;
 - b. May refuse or withdraw consent for treatment before treatment is initiated, unless the treatment is ordered by a court according to A.R.S. Title 36, Chapter 5 or A.R.S. 8-341.01; is necessary to save the resident's life or physical health; or is provided according to A.R.S. § 36-512;
 - c. Except in an emergency, is informed of proposed treatment alternatives, associated risks, and possible complications;
 - d. Is informed of the following:
 - i. The behavioral health residential facility's policy on health care directives, and
 - ii. The resident complaint process; and
 - e. Except as otherwise permitted by law, provides written consent to the release of information in the resident's:
 - i. Medical record, or
 - ii. Financial records.
- C.** For a behavioral health residential facility with licensed capacity of less than 10 residents, if a behavioral health professional determines that a resident's treatment requires the behavioral health residential facility to restrict the resident's ability to participate in the activities in subsection (B)(3), the behavioral health professional shall:
- 1. Document a specific treatment purpose in the resident's medical record that justifies restricting the resident from the activity,
 - 2. Inform the resident or resident's representative of the reason why the activity is being restricted, and
 - 3. Inform the resident or resident's representative of the resident's right to file a complaint and the procedure for filing a complaint.
- D.** For a behavioral health residential facility with a licensed capacity of 10 or more residents, if a clinical director determines that a resident's treatment requires the behavioral health residential facility to restrict the resident's ability to participate in the activities in subsection (B)(3), the clinical director shall comply with the requirements in subsections (C)(1) through (3).
- E.** A resident has the following rights:
- 1. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, or diagnosis;
 - 2. To receive treatment that:
 - a. Supports and respects the resident's individuality, choices, strengths, and abilities;
 - b. Supports the resident's personal liberty and only restricts the resident's personal liberty according to a court order, by the resident's or the resident's representative's general consent, or as permitted in this Chapter; and
 - c. Is provided in the least restrictive environment that meets the resident's treatment needs;
 - 3. To receive privacy in treatment and care for personal needs, including the right not to be fingerprinted, photographed, or recorded without consent, except:
 - a. A resident may be photographed when admitted to a behavioral health residential facility for identification and administrative purposes;
 - b. For a resident receiving treatment according to A.R.S. Title 36, Chapter 37; or
 - c. For video recordings used for security purposes that are maintained only on a temporary basis;
 - 4. Not to be prevented or impeded from exercising the resident's civil rights unless the resident has been adjudicated incompetent or a court of competent jurisdiction has found that the resident is not able to exercise a specific right or category of rights;
 - 5. To review, upon written request, the resident's own medical record according to A.R.S. §§ 12-2293, 12-2294, and 12-2294.01;
 - 6. To be provided locked storage space for the resident's belongings while the resident receives treatment;
 - 7. To have opportunities for social contact and daily social, recreational, or rehabilitative activities;
 - 8. To be informed of the requirements necessary for the resident's discharge or transfer to a less restrictive physical environment;
 - 9. To receive a referral to another health care institution if the behavioral health residential facility is not authorized or not able to provide physical health services or behavioral health services needed by the resident;
 - 10. To participate or have the resident's representative participate in the development of a treatment plan or decisions concerning treatment;
 - 11. To participate or refuse to participate in research or experimental treatment; and
 - 12. To receive assistance from a family member, the resident's representative, or other individual in understanding, protecting, or exercising the resident's rights.

Historical Note

Adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20

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A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-712. Medical Records**A.** An administrator shall ensure that:

1. A medical record is established and maintained for each resident according to A.R.S. Title 12, Chapter 13, Article 7.1;
2. An entry in a resident's medical record is:
 - a. Recorded only by a personnel member authorized by policies and procedures to make the entry;
 - b. Dated, legible, and authenticated; and
 - c. Not changed to make the initial entry illegible;
3. An order is:
 - a. Dated when the order is entered in the resident's medical record and includes the time of the order;
 - b. Authenticated by a medical practitioner or behavioral health professional according to policies and procedures; and
 - c. If the order is a verbal order, authenticated by the medical practitioner or behavioral health professional issuing the order;
4. If a rubber-stamp signature or an electronic signature is used to authenticate an order, the individual whose signature the rubber-stamp signature or electronic signature represents is accountable for the use of the rubber-stamp signature or electronic signature;
5. A resident's medical record is available to an individual:
 - a. Authorized according to policies and procedures to access the resident's medical record;
 - b. If the individual is not authorized according to policies and procedures, with the written consent of the resident or the resident's representative; or
 - c. As permitted by law;
6. Policies and procedures include the maximum time-frame to retrieve a resident's medical record at the request of a medical practitioner, behavioral health professional, or authorized personnel member; and
7. A resident's medical record is protected from loss, damage, or unauthorized use.

B. If a behavioral health residential facility maintains residents' medical records electronically, an administrator shall ensure that:

1. Safeguards exist to prevent unauthorized access, and
2. The date and time of an entry in a resident's medical record is recorded by the computer's internal clock.

C. An administrator shall ensure that a resident's medical record contains:

1. Resident information that includes:
 - a. The resident's name;
 - b. The resident's address;
 - c. The resident's date of birth; and
 - d. Any known allergies, including medication allergies;
2. The name of the admitting medical practitioner or behavioral health professional;
3. An admitting diagnosis or presenting behavioral health issues;
4. The date of admission and, if applicable, date of discharge;
5. If applicable, the name and contact information of the resident's representative and:
 - a. If the resident is 18 years of age or older or an emancipated minor, the document signed by the resident consenting for the resident's representative to act on the resident's behalf; or
 - b. If the resident's representative:

- i. Has a health care power of attorney established under A.R.S. § 36-3221 or a mental health care power of attorney executed under A.R.S. § 36-3282, a copy of the health care power of attorney or mental health care power of attorney; or
 - ii. Is a legal guardian, a copy of the court order establishing guardianship;
6. If applicable, documented general consent and informed consent for treatment by the resident or the resident's representative;
7. Documentation of medical history and results of a physical examination;
8. A copy of resident's health care directive, if applicable;
9. Orders;
10. Assessment;
11. Treatment plans;
12. Interval notes;
13. Progress notes;
14. Documentation of behavioral health services and physical health services provided to the resident;
15. If applicable, documentation of the use of an emergency safety response;
16. If applicable, documentation of time out required in R9-10-714(6);
17. Except as allowed in R9-10-707(E)(1)(d), documentation of freedom from infectious tuberculosis required in R9-10-707(A)(12);
18. The disposition of the resident after discharge;
19. The discharge plan;
20. The discharge summary, if applicable;
21. If applicable:
 - a. Laboratory reports,
 - b. Radiologic reports,
 - c. Diagnostic reports, and
 - d. Consultation reports; and
22. Documentation of medication administered to the resident that includes:
 - a. The date and time of administration;
 - b. The name, strength, dosage, and route of administration;
 - c. For a medication administered for pain, when administered initially or on a PRN basis:
 - i. An assessment of the resident's pain before administering the medication, and
 - ii. The effect of the medication administered;
 - d. For a psychotropic medication, when administered initially or on a PRN basis:
 - i. An assessment of the resident's behavior before administering the psychotropic medication, and
 - ii. The effect of the psychotropic medication administered;
 - e. The identification, signature, and professional designation of the individual administering or providing assistance in the self-administration of the medication; and
 - f. Any adverse reaction a resident has to the medication.

Historical Note

Adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective

tive July 1, 2014 (Supp. 14-2).

R9-10-713. Transportation; Resident Outings

A. An administrator of a behavioral health residential facility that uses a vehicle owned or leased by the behavioral health residential facility to provide transportation to a resident shall ensure that:

1. The vehicle:
 - a. Is safe and in good repair,
 - b. Contains a first aid kit,
 - c. Contains drinking water sufficient to meet the needs of each resident present in the vehicle, and
 - d. Contains a working heating and air conditioning system;
2. Documentation of current vehicle insurance and a record of maintenance performed or a repair of the vehicle is maintained;
3. A driver of the vehicle:
 - a. Is 21 years of age or older;
 - b. Has a valid driver license;
 - c. Operates the vehicle in a manner that does not endanger a resident in the vehicle;
 - d. Does not leave in the vehicle an unattended:
 - i. Child,
 - ii. Resident who may be a threat to the health or safety of the resident or another individual, or
 - iii. Resident who is incapable of independent exit from the vehicle; and
 - e. Ensures the safe and hazard-free loading and unloading of residents; and
4. Transportation safety is maintained as follows:
 - a. Each individual in the vehicle is sitting in a seat and wearing a working seat belt while the vehicle is in motion, and
 - b. Each seat in the vehicle is securely fastened to the vehicle and provides sufficient space for a resident's body.

B. An administrator shall ensure that:

1. An outing is consistent with the age, developmental level, physical ability, medical condition, and treatment needs of each resident participating in the outing;
2. At least two personnel members are present on an outing;
3. In addition to the personnel members required in subsection (B)(2), a sufficient number of personnel members are present to ensure each resident's health and safety on the outing;
4. Documentation is developed before an outing that includes:
 - a. The name of each resident participating in the outing;
 - b. A description of the outing;
 - c. The date of the outing;
 - d. The anticipated departure and return times;
 - e. The name, address, and, if available, telephone number of the outing destination; and
 - f. If applicable, the license plate number of each vehicle used to transport a resident;
5. The documentation described in subsection (B)(4) is updated to include the actual departure and return times and is maintained for at least 12 months after the date of the outing; and
6. Emergency information for each resident participating in the outing is maintained by a personnel member participating in the outing or in the vehicle used to provide transportation for the outing and includes:
 - a. The resident's name;

- b. Medication information, including the name, dosage, route of administration, and directions for each medication needed by the resident during the anticipated duration of the outing;
- c. The resident's allergies; and
- d. The name and telephone number of a designated individual, to notify in case of an emergency, who is present on the behavioral health residential facility's premises.

Historical Note

Adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-714. Resident Time Out

An administrator shall ensure that a time out:

1. Is provided to a resident who voluntarily decides to go in a time out;
2. Takes place in an area that is unlocked, lighted, quiet, and private;
3. Is time-limited and does not exceed the amount of time as determined by the resident;
4. Does not result in a resident missing a meal if the resident is in time out at mealtime;
5. Includes monitoring of the resident by a personnel member at least once every 15 minutes to ensure the resident's health and safety and to discuss with the resident if the resident is ready to leave time out; and
6. Is documented in the resident's medical record, to include:
 - a. The date of the time out,
 - b. The reason for the time out,
 - c. The duration of the time out, and
 - d. The action planned and taken by the administrator to prevent the use of time out in the future.

Historical Note

Adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-715. Physical Health Services

An administrator of a behavioral health residential facility that provides personal care services shall ensure that:

1. Personnel members who provide personal care services have documentation of completion of a caregiver training program that complies with A.A.C. R4-33-702(A)(5);
2. Residents receive personal care services according to the requirements in R9-10-814(A), (C), (D), and (E); and
3. A resident who has a stage 3 or stage 4 pressure sore is not admitted to the behavioral health residential facility.

Historical Note

Adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the

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Office of the Secretary of State October 2, 1998 (Supp. 98-4). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-716. Behavioral Health Services**A.** An administrator shall ensure that:

1. If a behavioral health residential facility is licensed to provide behavioral health services to individuals whose behavioral health issue limits the individuals' ability to function independently, a resident admitted to the behavioral health residential facility with limited ability to function independently, in addition to behavioral health services and personnel care services as indicated in the resident's treatment plan, receives continuous protective oversight;
2. A resident admitted to the behavioral health residential facility who needs behavioral health services to maintain or enhance the resident's ability to function independently, in addition to receiving behavioral health services, and, if indicated in the resident's treatment plan, personal care services, is provided an opportunity to participate in activities designed to maintain or enhance the resident's ability to function independently while caring for the resident's health, safety, or personal hygiene or performing homemaking functions;
3. Behavioral health services are provided to meet the needs of a resident and are consistent with a behavioral health residential facility's scope of services;
4. Behavioral health services:
 - a. Listed in the behavioral health residential facility's scope of services are provided on the premises; and
 - b. When provided in a setting or activity with more than one resident participating, before a resident participates, the diagnoses, treatment needs, developmental levels, social skills, verbal skills, and personal histories, including any history of physical or sexual abuse, of the residents participating are reviewed to ensure that the:
 - i. Health and safety of each resident is protected, and
 - ii. Treatment needs of each resident participating are being met; and
5. A resident does not:
 - a. Use or have access to any materials, furnishings, or equipment or participate in any activity or treatment that may present a threat to the resident's health or safety based on the resident's documented diagnosis, treatment needs, developmental levels, social skills, verbal skills, or personal history; or
 - b. Share any space, participate in any activity or treatment, or verbally or physically interact with any other resident that may present a threat to the resident's health or safety based on the other resident's documented diagnosis, treatment needs, developmental levels, social skills, verbal skills, and personal history.

B. An administrator shall ensure that counseling is:

1. Offered as described in the behavioral health residential facility's scope of services,
2. Provided according to the frequency and number of hours identified in the resident's treatment plan, and
3. Provided by a behavioral health professional or a behavioral health technician.

C. An administrator shall ensure that:

1. A personnel member providing counseling that addresses a specific type of behavioral health issue has the skills and knowledge necessary to provide the counseling that addresses the specific type of behavioral health issue; and
 2. Each counseling session is documented in a resident's medical record to include:
 - a. The date of the counseling session;
 - b. The amount of time spent in the counseling session;
 - c. Whether the counseling was individual counseling, family counseling, or group counseling;
 - d. The treatment goals addressed in the counseling session; and
 - e. The signature of the personnel member who provided the counseling and the date signed.
- D.** An administrator of a behavioral health residential facility authorized to provide behavioral health residential services to individuals under 18 years of age:
1. May continue to provide behavioral health services to a resident who is 18 years of age or older:
 - a. If the resident:
 - i. Was admitted to the behavioral health residential facility before the resident's 18th birthday;
 - ii. Is not 21 years of age or older; and
 - iii. Is:
 - (1) Attending classes or completing coursework to obtain a high school or a high school equivalency diploma, or
 - (2) Participating in a job training program; or
 - b. Through the last calendar day of the month of the resident's 18th birthday; and
 2. Shall ensure that:
 - a. A resident does not receive the following from other residents at the behavioral health residential facility:
 - i. Threats,
 - ii. Ridicule,
 - iii. Verbal harassment,
 - iv. Punishment, or
 - v. Abuse;
 - b. The interior of the behavioral health residential facility has furnishings and decorations appropriate to the ages of the residents receiving services at the behavioral health residential facility;
 - c. A resident older than three years of age does not sleep in a crib;
 - d. Clean and non-hazardous toys, educational materials, and physical activity equipment are available and accessible to residents on the premises in a quantity sufficient to meet each resident's needs and are appropriate to each resident's age, developmental level, and treatment needs; and
 - e. A resident's educational needs are met, including providing or arranging for transportation:
 - i. By establishing and providing an educational component, approved in writing by the Arizona Department of Education; or
 - ii. As arranged and documented by the administrator through the local school district.
- E.** An administrator shall ensure that:
1. An emergency safety response is:
 - a. Only used:
 - i. By a personnel member trained to use an emergency safety response,
 - ii. For the management of a resident's violent or self-destructive behavior, and
 - iii. When less restrictive interventions have been determined to be ineffective; and

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- b. Discontinued at the earliest possible time, but no longer than five minutes after the emergency safety response is initiated;
 - 2. Within 24 hours after an emergency safety response is used for a resident, the following information is entered into the resident medical record:
 - a. The date and time the emergency safety response was used;
 - b. The name of each personnel member who used an emergency safety response;
 - c. The specific emergency safety response used;
 - d. The personnel member or resident behavior, event, or environmental factor that caused the need for the emergency safety response; and
 - e. Any injury that resulted from the emergency safety response;
 - 3. Within 10 working days after an emergency safety response is used for a resident, the administrator or clinical director reviews the information in subsection (E)(2); and
 - 4. After the review required in subsection (E)(3), the following information is entered into the resident's medical record:
 - a. Actions taken or planned actions to prevent the need for the use of an emergency safety response for the resident,
 - b. A determination of whether the resident is appropriately placed at the behavioral health residential facility, and
 - c. Whether the resident's treatment plan was reviewed or needs to be reviewed and amended to ensure that the resident's treatment plan is meeting the resident's treatment needs.
- F. An administrator shall ensure that:
 - 1. A personnel member whose job description includes the ability to use an emergency safety response:
 - a. Completes training in crisis intervention that includes:
 - i. Techniques to identify personnel member and resident behaviors, events, and environmental factors that may trigger the need for the use of an emergency safety response;
 - ii. The use of nonphysical intervention skills, such as de-escalation, mediation, conflict resolution, active listening, and verbal and observational methods; and
 - iii. The safe use of an emergency safety response including the ability to recognize and respond to signs of physical distress in a client who is receiving an emergency safety response; and
 - b. Completes training required in subsection (F)(1)(a):
 - i. Before providing behavioral health services, and
 - ii. At least once every 12 months after the date the personnel member completed the initial training;
 - 2. Documentation of the completed training in subsection (F)(1)(a) includes:
 - a. The name and credentials of the individual providing the training,
 - b. Date of the training, and
 - c. Verification of a personnel member's ability to use the training; and
 - 3. The materials used to provide the completed training in crisis intervention, including handbooks, electronic presentations, and skills verification worksheets, are maintained for at least

12 months after each personnel member who received training using the materials no longer provides services at the behavioral health residential facility.

Historical Note

Adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-717. Outdoor Behavioral Health Care Programs

- A. An administrator of a behavioral health residential facility providing an outdoor behavioral health care program shall ensure that:
 - 1. Behavioral health services are provided to a resident participating in the outdoor behavioral health care program consistent with the age, developmental level, physical ability, medical condition, and treatment needs of the resident;
 - 2. Continuous protective oversight is provided to a resident;
 - 3. Transportation is provided to a resident from the behavioral health residential facility's administrative office for the outdoor behavioral health care program to the location where the outdoor behavioral health care program is provided and from the location where the outdoor behavioral health care program is provided to the behavioral health residential facility's administrative office for the outdoor behavioral health care program; and
 - 4. Communication is available between the outdoor behavioral health care program personnel and:
 - a. A behavioral health professional,
 - b. A registered nurse,
 - c. An emergency medical response team, and
 - d. The behavioral health residential facility's administrative office for the outdoor behavioral health care program.
- B. An administrator of a behavioral health residential facility providing an outdoor behavioral health care program shall ensure that:
 - 1. Food is prepared:
 - a. Using methods that conserve nutritional value, flavor, and appearance; and
 - b. In a form to meet the needs of a resident such as cut, chopped, ground, pureed, or thickened;
 - 2. A food menu is prepared based on the number of calendar days scheduled for the behavioral health care program;
 - 3. Meals and snacks provided by the behavioral health care program are served according to menus;
 - 4. Meals and snacks for each day are planned using the applicable guidelines in <http://www.health.gov/dietaryguidelines/2010.asp>;
 - 5. A resident is provided:
 - a. A diet that meets the resident's nutritional needs as specified in the resident's assessment or treatment plan;
 - b. Three meals a day with not more than 14 hours between the evening meal and breakfast, except as provided in subsection (B)(5)(d);
 - c. The option to have a daily evening snack or other snack; and

- d. The option to extend the time span between the evening meal and breakfast from 14 hours to 16 hours if the resident agrees;
 - 6. Water is available and accessible to residents unless otherwise stated in a resident's treatment plan;
 - 7. Food is free from spoilage, filth, or other contamination and is safe for human consumption;
 - 8. Food is protected from potential contamination; and
 - 9. Food being maintained in coolers containing ice is not in direct contact with ice or water if water may enter the food because of the nature of the food's packaging, wrapping, or container or the positioning of the food in the ice or water.
- C. An administrator of a behavioral health residential facility providing an outdoor behavioral health care program shall ensure that:
- 1. The location and, if applicable, equipment used by the outdoor behavioral health care program are sufficient to accommodate the activities, treatment, and ancillary services required by the residents participating in the behavioral health care program;
 - 2. The location and equipment are maintained in a condition that allows the location and equipment to be used for the original purpose of the location and equipment;
 - 3. Garbage and refuse are:
 - a. Stored in plastic bags in covered containers, and
 - b. Removed from the location used by the outdoor behavioral health care program at least once a week;
 - 4. Common areas:
 - a. Are lighted when in use to assure the safety of residents, and
 - b. Have sufficient lighting to allow personnel members to monitor resident activity;
 - 5. The supply of hot and cold water is sufficient to meet the personal hygiene needs of residents and the cleaning and sanitation requirements in this Article;
 - 6. Soiled clothing is stored in closed containers away from food storage, medications, and eating areas;
 - 7. Poisonous or toxic materials are maintained in labeled containers, secured, and separate from food preparation and storage, eating areas, and medications and inaccessible to residents;
 - 8. Combustible or flammable liquids and hazardous materials are stored in the original labeled containers or safety containers, secured, and inaccessible to residents;
 - 9. If a water source that is not regulated under 18 A.A.C. 4 by the Arizona Department of Environmental Quality is used:
 - a. The water source is tested at least once every 12 months for total coliform bacteria and fecal coliform or *E. coli* bacteria;
 - b. If necessary, corrective action is taken to ensure the water is safe to drink; and
 - c. Documentation of testing is retained for at least 12 months after the date of the test; and
 - 10. Smoking or the use of tobacco products may be permitted away from the residents.

Historical Note

Adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-718. Medication Services

- A. An administrator shall ensure that policies and procedures for medication services:
- 1. Include:
 - a. A process for providing information to a resident about medication prescribed for the resident including:
 - i. The prescribed medication's anticipated results,
 - ii. The prescribed medication's potential adverse reactions,
 - iii. The prescribed medication's potential side effects, and
 - iv. Potential adverse reactions that could result from not taking the medication as prescribed;
 - b. Procedures for preventing, responding to, and reporting:
 - i. A medication error,
 - ii. An adverse reaction to a medication, or
 - iii. A medication overdose;
 - c. Procedures to ensure that a resident's medication regimen is reviewed by a medical practitioner to ensure the medication regimen meets the resident's needs;
 - d. Procedures for documenting, as applicable, medication administration and assistance in the self-administration of medication;
 - e. A process for monitoring a resident who self-administers medication;
 - f. Procedures for assisting a resident in obtaining medication; and
 - g. If applicable, procedures for providing medication administration or assistance in the self-administration of medication off the premises; and
 - 2. Specify a process for review through the quality management program of:
 - a. A medication administration error, and
 - b. An adverse reaction to a medication.
- B. If a behavioral health residential facility provides medication administration, an administrator shall ensure that:
- 1. Policies and procedures for medication administration:
 - a. Are reviewed and approved by a medical practitioner;
 - b. Specify the individuals who may:
 - i. Order medication, and
 - ii. Administer medication;
 - c. Ensure that medication is administered to a resident only as prescribed; and
 - d. Cover the documentation of a resident's refusal to take prescribed medication in the resident's medical record;
 - 2. Verbal orders for medication services are taken by a nurse, unless otherwise provided by law; and
 - 3. A medication administered to a resident:
 - a. Is administered in compliance with an order, and
 - b. Is documented in the resident's medical record.
- C. If behavioral health residential facility provides assistance in the self-administration of medication, an administrator shall ensure that:
- 1. A resident's medication is stored by the behavioral health residential facility;
 - 2. The following assistance is provided to a resident:
 - a. A reminder when it is time to take the medication;
 - b. Opening the medication container for the resident;
 - c. Observing the resident while the resident removes the medication from the container;

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- d. Verifying that the medication is taken as ordered by the resident's medical practitioner by confirming that:
 - i. The resident taking the medication is the individual stated on the medication container label,
 - ii. The resident is taking the dosage of the medication stated on the medication container label or according to an order from a medical practitioner dated later than the date on the medication container label, and
 - iii. The resident is taking the medication at the time stated on the medication container label or according to an order from a medical practitioner dated later than the date on the medication container label; or
 - e. Observing the resident while the resident takes the medication;
 - 3. Policies and procedures for assistance in the self-administration of medication are reviewed and approved by a medical practitioner or registered nurse;
 - 4. Training for a personnel member, other than a medical practitioner or registered nurse, in assistance in the self-administration of medication:
 - a. Is provided by a medical practitioner or registered nurse or an individual trained by a medical practitioner or registered nurse; and
 - b. Includes:
 - i. A demonstration of the personnel member's skills and knowledge necessary to provide assistance in the self-administration of medication,
 - ii. Identification of medication errors and medical emergencies related to medication that require emergency medical intervention, and
 - iii. The process for notifying the appropriate entities when an emergency medical intervention is needed;
 - 5. A personnel member, other than a medical practitioner or registered nurse, completes the training in subsection (C)(4) before the personnel member provides assistance in the self-administration of medication; and
 - 6. Assistance in the self-administration of medication provided to a resident:
 - a. Is in compliance with an order, and
 - b. Is documented in the resident's medical record.
- D.** An administrator shall ensure that:
- 1. A current drug reference guide is available for use by personnel members;
 - 2. A current toxicology reference guide is available for use by personnel members; and
 - 3. If pharmaceutical services are provided on the premises:
 - a. A committee, composed of at least one physician, one pharmacist, and other personnel members as determined by policies and procedures, is established to:
 - i. Develop a drug formulary,
 - ii. Update the drug formulary at least once every 12 months,
 - iii. Develop medication usage and medication substitution policies and procedures, and
 - iv. Specify which medications and medication classifications are required to be stopped automatically after a specific time period unless the ordering medical practitioner specifically orders otherwise;
 - b. The pharmaceutical services are provided under the direction of a pharmacist;
 - c. The pharmaceutical services comply with A.R.S. Title 36, Chapter 27; A.R.S. Title 32, Chapter 18; and 4 A.A.C. 23; and
 - d. A copy of the pharmacy license is provided to the Department upon request.
- E.** When medication is stored at a behavioral health residential facility, an administrator shall ensure that:
- 1. Medication is stored in a separate locked room, closet, cabinet, or self-contained unit used only for medication storage;
 - 2. Medication is stored according to the instructions on the medication container; and
 - 3. Policies and procedures are established, documented, and implemented for:
 - a. Receiving, storing, inventorying, tracking, dispensing, and discarding medication, including expired medication;
 - b. Discarding or returning prepackaged and sample medication to the manufacturer if the manufacturer requests the discard or return of the medication;
 - c. A medication recall and notification of residents who received recalled medication; and
 - d. Storing, inventorying, and dispensing controlled substances.
- F.** An administrator shall ensure that a personnel member immediately reports a medication error or a resident's adverse reaction to a medication to the medical practitioner who ordered the medication and, if applicable, the behavioral health residential facility's clinical director.

Historical Note

Adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-719. Food Services

- A.** Except for an outdoor behavioral health care program provided by a behavioral health residential facility, an administrator shall ensure that:
- 1. For a behavioral health residential facility that has a licensed capacity of more than 10 residents:
 - a. The behavioral health residential facility obtains a license or permit as a food establishment under 9 A.A.C. 8, Article 1; and
 - b. A copy of the behavioral health residential facility's food establishment license or permit is maintained;
 - 2. If a behavioral health residential facility contracts with food establishment, as established in 9 A.A.C. 8, Article 1, to prepare and deliver food to the behavioral health residential facility, a copy of the food establishment's license or permit under 9 A.A.C. 8, Article 1 is maintained by the behavioral health residential facility;
 - 3. Food is stored, refrigerated, and reheated to meet the dietary needs of a resident;
 - 4. A registered dietitian is employed full-time, part-time, or as a consultant; and
 - 5. If a registered dietitian is not employed full-time, an individual is designated as a director of food services who

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- consults with a registered dietitian as often as necessary to meet the nutritional needs of the residents.
- B.** Except for an outdoor behavioral health care program provided by a behavioral health residential facility, a registered dietitian or director of food services shall ensure that:
1. Food is prepared:
 - a. Using methods that conserve nutritional value, flavor, and appearance; and
 - b. In a form to meet the needs of a resident, such as cut, chopped, ground, pureed, or thickened;
 2. A food menu:
 - a. Is prepared at least one week in advance,
 - b. Includes the foods to be served each day,
 - c. Is conspicuously posted at least one calendar day before the first meal on the food menu will be served,
 - d. Includes any food substitution no later than the morning of the day of meal service with a food substitution, and
 - e. Is maintained for at least 60 calendar days after the last day included in the food menu;
 3. Meals and snacks provided by the behavioral health residential facility are served according to posted menus;
 4. Meals and snacks for each day are planned using the applicable guidelines in <http://www.health.gov/dietaryguidelines/2010.asp>;
 5. A resident is provided:
 - a. A diet that meets the resident's nutritional needs as specified in the resident's assessment or treatment plan;
 - b. Three meals a day with not more than 14 hours between the evening meal and breakfast, except as provided in subsection (B)(5)(d);
 - c. The option to have a daily evening snack identified in subsection (B)(5)(d)(ii) or other snack; and
 - d. The option to extend the time span between the evening meal and breakfast from 14 hours to 16 hours if:
 - i. The resident agrees; and
 - ii. The resident is offered an evening snack that includes meat, fish, eggs, cheese, or other protein, and a serving from either the fruit and vegetable food group or the bread and cereal food group;
 6. A resident requiring assistance to eat is provided with assistance that recognizes the resident's nutritional, physical, and social needs, including the use of adaptive eating equipment or utensils; and
 7. Water is available and accessible to residents unless otherwise stated in a resident's treatment plan.
- C.** Except for an outdoor behavioral health care program provided by a behavioral health residential facility, an administrator shall ensure that food is obtained, prepared, served, and stored as follows:
1. Food is free from spoilage, filth, or other contamination and is safe for human consumption;
 2. Food is protected from potential contamination;
 3. Potentially hazardous food is maintained as follows:
 - a. Foods requiring refrigeration are maintained at 41° F or below; and
 - b. Foods requiring cooking are cooked to heat all parts of the food to a temperature of at least 145° F for 15 seconds, except that:
 - i. Ground beef and ground meats are cooked to heat all parts of the food to at least 155° F;
 - ii. Poultry, poultry stuffing, stuffed meats, and stuffing that contains meat are cooked to heat all parts of the food to at least 165° F;
 - iii. Pork and any food containing pork are cooked to heat all parts of the food to at least 155° F;
 - iv. Raw shell eggs for immediate consumption are cooked to at least 145° F for 15 seconds and any food containing raw shell eggs is cooked to heat all parts of the food to at least 155° F;
 - v. Roast beef and beef steak are cooked to an internal temperature of at least 155° F; and
 - vi. Leftovers are reheated to a temperature of at least 165° F;
 4. A refrigerator contains a thermometer, accurate to plus or minus 3° F, placed at the warmest part of the refrigerator;
 5. Frozen foods are stored at a temperature of 0° F or below; and
 6. Tableware, utensils, equipment, and food-contact surfaces are clean and in good repair.

Historical Note

Adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-720. Emergency and Safety Standards

- A.** Except for an outdoor behavioral health care program provided by a behavioral health residential facility, an administrator shall ensure that a behavioral health residential facility has:
1. A fire alarm system installed according to the National Fire Protection Association 72: National Fire Alarm and Signaling Code, incorporated by reference in A.A.C. R9-1-412, and a sprinkler system installed according to the National Fire Protection Association 13 Standard for the Installation of Sprinkler Systems, incorporated by reference in A.A.C. R9-1-412, that are in working order; or
 2. An alternative method to ensure resident's safety that is documented and approved by the local jurisdiction.
- B.** Except for an outdoor behavioral health care program provided by a behavioral health residential facility, an administrator shall ensure that:
1. A disaster plan is developed, documented, maintained in a location accessible to personnel members and other employees, and, if necessary, implemented that includes:
 - a. When, how, and where residents will be relocated;
 - b. How each resident's medical record will be available to individuals providing services to the resident during a disaster;
 - c. A plan to ensure each resident's medication will be available to administer to the resident during a disaster; and
 - d. A plan for obtaining food and water for individuals present in the behavioral health residential facility, under the care and supervision of personnel members, or in the behavioral health residential facility's relocation site during a disaster;
 2. The disaster plan required in subsection (B)(1) is reviewed at least once every 12 months;
 3. Documentation of a disaster plan review required in subsection (B)(2) is created, is maintained for at least 12

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months after the date of the disaster plan review, and includes:

- a. The date and time of the disaster plan review;
 - b. The name of each personnel member, employee, or volunteer participating in the disaster plan review;
 - c. A critique of the disaster plan review; and
 - d. If applicable, recommendations for improvement;
4. A disaster drill for employees is conducted on each shift at least once every three months and documented;
 5. An evacuation drill for employees and residents on the premises is conducted at least once every six months on each shift;
 6. Documentation of each evacuation drill is created, is maintained for 12 months after the date of the evacuation drill, and includes:
 - a. The date and time of the evacuation drill;
 - b. The amount of time taken for all employees and residents to evacuate the behavioral health residential facility;
 - c. Names of employees participating in the evacuation drill;
 - d. An identification of residents needing assistance for evacuation;
 - e. Any problems encountered in conducting the evacuation drill; and
 - f. Recommendations for improvement, if applicable; and
 7. An evacuation path is conspicuously posted on each hallway of each floor of the behavioral health residential facility.

C. An administrator shall:

1. Obtain a fire inspection conducted according to the timeframe established by the local fire department or the State Fire Marshal,
2. Make any repairs or corrections stated on the fire inspection report, and
3. Maintain documentation of a current fire inspection.

Historical Note

Adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-721. Environmental Standards

A. Except for an outdoor behavioral health care program provided by a behavioral health residential facility, an administrator shall ensure that:

1. The premises and equipment are:
 - a. Maintained in a condition that allows the premises and equipment to be used for the original purpose of the premises and equipment;
 - b. Cleaned and, if applicable, disinfected according to policies and procedures designed to prevent, minimize, and control illness or infection; and
 - c. Free from a condition or situation that may cause a resident or other individual to suffer physical injury;
2. A pest control program is implemented and documented;
3. Biohazardous medical waste is identified, stored, and disposed of according to 18 A.A.C. 13, Article 14 and policies and procedures;

4. Equipment used at the behavioral health residential facility is:

- a. Maintained in working order;
 - b. Tested and calibrated according to the manufacturer's recommendations or, if there are no manufacturer's recommendations, as specified in policies and procedures; and
 - c. Used according to the manufacturer's recommendations;
5. Documentation of equipment testing, calibration, and repair is maintained for at least 12 months after the date of the testing, calibration, or repair;
 6. Garbage and refuse are:
 - a. Stored in covered containers lined with plastic bags, and
 - b. Removed from the premises at least once a week;
 7. Heating and cooling systems maintain the behavioral health residential facility at a temperature between 70° F and 84° F;
 8. A space heater is not used;
 9. Common areas:
 - a. Are lighted to assure the safety of residents, and
 - b. Have lighting sufficient to allow personnel members to monitor resident activity;
 10. Hot water temperatures are maintained between 95° F and 120° F in the areas of the behavioral health residential facility used by residents;
 11. The supply of hot and cold water is sufficient to meet the personal hygiene needs of residents and the cleaning and sanitation requirements in this Article;
 12. Soiled linen and soiled clothing stored by the behavioral health residential facility are maintained separate from clean linen and clothing and stored in closed containers away from food storage, kitchen, and dining areas;
 13. Oxygen containers are secured in an upright position;
 14. Poisonous or toxic materials stored by the behavioral health residential facility are maintained in labeled containers in a locked area separate from food preparation and storage, dining areas, and medications and are inaccessible to residents;
 15. Combustible or flammable liquids and hazardous materials stored by a behavioral health residential facility are stored in the original labeled containers or safety containers in a locked area inaccessible to residents;
 16. If pets or animals are allowed in the behavioral health residential facility, pets or animals are:
 - a. Controlled to prevent endangering the residents and to maintain sanitation;
 - b. Licensed consistent with local ordinances; and
 - c. For a dog or cat, vaccinated against rabies;
 17. If a water source that is not regulated under 18 A.A.C. 4 by the Arizona Department of Environmental Quality is used:
 - a. The water source is tested at least once every 12 months for total coliform bacteria and fecal coliform or *E. coli* bacteria;
 - b. If necessary, corrective action is taken to ensure the water is safe to drink; and
 - c. Documentation of testing is retained for at least 12 months after the date of the test; and
 18. If a non-municipal sewage system is used, the sewage system is in working order and is maintained according to all applicable state laws and rules.
- B.** An administrator shall ensure that:
1. Smoking tobacco products is not permitted within a behavioral health residential facility; and

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2. Smoking tobacco products may be permitted on the premises outside a behavioral health residential facility if:
 - a. Signs designating smoking areas are conspicuously posted, and
 - b. Smoking is prohibited in areas where combustible materials are stored or in use.
 - C. If a swimming pool is located on the premises, an administrator shall ensure that:
 1. On each day that a resident uses the swimming pool, an employee:
 - a. Tests the swimming pool's water quality at least once for compliance with one of the following chemical disinfection standards:
 - i. A free chlorine residual between 1.0 and 3.0 ppm as measured by the N, N-Diethyl-p-phenylenediamine test;
 - ii. A free bromine residual between 2.0 and 4.0 ppm as measured by the N, N-Diethyl-p-phenylenediamine test; or
 - iii. An oxidation-reduction potential equal to or greater than 650 millivolts; and
 - b. Records the results of the water quality tests in a log that includes each testing date and test result;
 2. Documentation of the water quality test is maintained for at least 12 months after the date of the test;
 3. A swimming pool is not used by a resident if a water quality test shows that the swimming pool water does not comply with subsection (C)(1)(a);
 4. At least one personnel member, with cardiopulmonary resuscitation training that meets the requirements in R9-10-703(C)(1)(e), is present in the pool area when a resident is in the pool area; and
 5. At least two personnel members are present in the pool area if two or more residents are in the pool area.
- Historical Note**
- Adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).
- R9-10-722. Physical Plant Standards**
- A. Except for a behavioral health outdoor program, an administrator shall ensure that the premises and equipment are sufficient to accommodate:
 1. The services in the behavioral health residential facility's scope of services, and
 2. An individual accepted as a resident by the behavioral health residential facility.
 - B. An administrator shall ensure that:
 1. A behavioral health residential facility has a:
 - a. Room that provides privacy for a resident to receive treatment or visitors; and
 - b. Common area and a dining area that contain furniture and materials to accommodate the recreational and socialization needs of the residents and other individuals in the behavioral health residential facility;
 2. At least one bathroom is accessible from a common area that:
 - a. May be used by residents and visitors;
 - b. Provides privacy when in use; and
 - c. Contains the following:
 - i. At least one working sink with running water,
 - ii. At least one working toilet that flushes and has a seat,
 - iii. Toilet tissue for each toilet,
 - iv. Soap in a dispenser accessible from each sink,
 - v. Paper towels in a dispenser or a mechanical air hand dryer,
 - vi. Lighting, and
 - vii. A window that opens or another means of ventilation;
 3. For every six residents who stay overnight at the behavioral health residential facility, there is at least one working toilet that flushes and has a seat, and one sink with running water;
 4. For every eight residents who stay overnight at the behavioral health residential facility, there is at least one working bathtub or shower;
 5. A resident bathroom provides privacy when in use and contains:
 - a. A shatter-proof mirror, unless the resident's treatment plan allows for otherwise;
 - b. A window that opens or another means of ventilation; and
 - c. Nonporous surfaces for shower enclosures and slip-resistant surfaces in tubs and showers;
 6. If a resident bathroom door locks from the inside, an employee has a key and access to the bathroom;
 7. Each resident is provided a sleeping area that is in a bedroom; and
 8. A resident bedroom complies with the following:
 - a. Is not used as a common area;
 - b. Is not used as a passageway to another bedroom or bathroom unless the bathroom is for the exclusive use of an individual occupying the bedroom;
 - c. Contains a door that opens into a hallway, common area, or outdoors;
 - d. Is constructed and furnished to provide unimpeded access to the door;
 - e. Has window or door covers that provide resident privacy;
 - f. Has floor to ceiling walls;
 - g. Is a:
 - i. Private bedroom that contains at least 60 square feet of floor space, not including the closet; or
 - ii. Shared bedroom that:
 - (1) Is shared by no more than eight residents;
 - (2) Except as provided in subsection (C), contains at least 60 square feet of floor space, not including a closet, for each individual occupying the shared bedroom; and
 - (3) Provides at least three feet of floor space between beds or bunk beds;
 - h. Contains for each resident occupying the bedroom:
 - i. A bed that is at least 36 inches wide and at least 72 inches long, and consists of at least a frame and mattress and linens; and
 - ii. Individual storage space for personal effects and clothing such as shelves, a dresser, or chest of drawers;
 - i. Has clean linen for each bed including mattress pad, sheets large enough to tuck under the mattress, pillows, pillow cases, bedspread, waterproof mattress covers as needed, and blankets to ensure warmth and comfort for each resident;

- j. Has sufficient lighting for a resident occupying the bedroom to read; and
 - k. Has a clothing rod or hook in the bedroom designed to minimize the opportunity for a resident to cause self-injury.
- C. A behavioral health residential facility that was licensed as a Level 4 transitional agency before October 1, 2013 may continue to use a shared bedroom that provides at least 40 square feet of floor space, not including a closet, for each individual occupying the shared bedroom. If there is a modification to the shared bedroom, the behavioral health residential facility shall comply with the requirement in subsection (B)(8)(g).
- D. If a swimming pool is located on the premises, an administrator shall ensure that:
- 1. The swimming pool is equipped with the following:
 - a. An operational water circulation system that clarifies and disinfects the swimming pool water continuously and that includes at least:
 - i. A removable strainer,
 - ii. Two swimming pool inlets located on opposite sides of the swimming pool, and
 - iii. A drain located at the swimming pool's lowest point and covered by a grating that cannot be removed without using tools; and
 - b. An operational vacuum cleaning system;
 - 2. The swimming pool is enclosed by a wall or fence that:
 - a. Is at least five feet in height as measured on the exterior of the wall or fence;
 - b. Has no vertical openings greater than four inches across;
 - c. Has no horizontal openings, except as described in subsection (D)(2)(e);
 - d. Is not chain-link;
 - e. Does not have a space between the ground and the bottom fence rail that exceeds four inches in height; and
 - f. Has a self-closing, self-latching gate that:
 - i. Opens away from the swimming pool,
 - ii. Has a latch located at least 54 inches from the ground, and
 - iii. Is locked when the swimming pool is not in use; and
 - 3. A life preserver or shepherd's crook is available and accessible in the pool area.
- E. An administrator shall ensure that a spa that is not enclosed by a wall or fence as described in subsection (D)(2) is covered and locked when not in use.

Historical Note

Adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-723. Repealed**Historical Note**

Adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Repealed by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

R9-10-724. Repealed**Historical Note**

Adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Repealed by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

ARTICLE 8. ASSISTED LIVING FACILITIES**R9-10-801. Definitions**

In addition to the definitions in A.R.S. § 36-401 and R9-10-101, the following definitions apply in this Article, unless the context otherwise requires:

- 1. "Accept" or "acceptance" means:
 - a. An individual begins living in and receiving assisted living services from an assisted living facility; or
 - b. An individual begins receiving adult day health care services or respite care services from an assisted living facility.
- 2. "Assistant caregiver" means an employee or volunteer who helps a manager or caregiver provide supervisory care services, personal care services, or directed care services to a resident, and does not include a family member of the resident.
- 3. "Assisted living services" means supervisory care services, personal care services, directed care services, behavioral health services, or ancillary services provided to a resident by or on behalf of an assisted living facility.
- 4. "Caregiver" means an individual who provides supervisory care services, personal care services, or directed care services to a resident, and does not include a family member of the resident.
- 5. "Manager" means an individual designated by a governing authority to act on behalf of the governing authority in the onsite management of the assisted living facility.
- 6. "Medication organizer" means a container that is designed to hold doses of medication and is divided according to date or time increments.
- 7. "Primary care provider" means a physician, a physician's assistant, or registered nurse practitioner who directs a resident's medical services.
- 8. "Residency agreement" means a document signed by a resident or the resident's representative and a manager, detailing the terms of residency.
- 9. "Service plan" means a written description of a resident's need for supervisory care services, personal care services, directed care services, ancillary services, or behavioral health services and the specific assisted living services to be provided to the resident.
- 10. "Termination of residency" or "terminate residency" means a resident is no longer living in and receiving assisted living services from an assisted living facility.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent

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rules adopted with changes effective October 30, 1989 (Supp. 89-4). Amended by final rulemaking at 9 A.A.R. 319, effective March 14, 2003 (Supp. 03-1). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-802. Supplemental Application Requirements

In addition to the license application requirements in A.R.S. § 36-422 and R9-10-105, an applicant for an initial license as an assisted living facility shall include in a Department-provided format:

1. Which of the following levels of assisted living services the applicant is requesting authorization to provide:
 - a. Supervisory care services,
 - b. Personal care services, or
 - c. Directed care services; and
2. Whether the applicant is requesting authorization to provide:
 - a. Adult day health care services, or
 - b. Behavioral health services other than behavioral care.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Amended by final rulemaking at 9 A.A.R. 319, effective March 14, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-803. Administration**A. A governing authority shall:**

1. Consist of one or more individuals responsible for the organization, operation, and administration of an assisted living facility;
2. Establish, in writing, an assisted living facility's scope of services;
3. Designate, in writing, a manager who:
 - a. Is 21 years of age or older; and
 - b. Except for the manager of an adult foster care home, has either a:
 - i. Certificate as an assisted living facility manager issued under A.R.S. § 36-446.04(C), or
 - ii. A temporary certificate as an assisted living facility manager issued under A.R.S. § 36-446.06;
4. Adopt a quality management program that complies with R9-10-804;
5. Review and evaluate the effectiveness of the quality management program at least once every 12 months;
6. Designate, in writing, an acting manager who has the qualifications established in subsection (A)(3), if the manager is:

- a. Expected not to be present on the assisted living facility's premises for more than 30 calendar days, or
 - b. Not present on the assisted living facility's premises for more than 30 calendar days;
7. Except as provided in subsection (A)(6), notify the Department according to A.R.S. § 36-425(I) when there is a change in the manager and identify the name and qualifications of the new manager;
 8. Ensure that a manager or caregiver who is able to read, write, understand, and communicate in English is on an assisted living facility's premises; and
 9. Ensure compliance with A.R.S. § 36-411.

B. A manager:

1. Is directly accountable to the governing authority of an assisted living facility for the daily operation of the assisted living facility and all services provided by or at the assisted living facility;
2. Has the authority and responsibility to manage the assisted living facility; and
3. Except as provided in subsection (A)(6), designates, in writing, a caregiver who is:
 - a. At least 21 years of age, and
 - b. Present on the assisted living facility's premises and accountable for the assisted living facility when the manager is not present on the assisted living facility premises.

C. A manager shall ensure that policies and procedures are:

1. Established, documented, and implemented to protect the health and safety of a resident that:
 - a. Cover job descriptions, duties, and qualifications, including required skills and knowledge, education, and experience for employees and volunteers;
 - b. Cover orientation and in-service education for employees and volunteers;
 - c. Include how an employee may submit a complaint related to resident care;
 - d. Cover the requirements in A.R.S. Title 36, Chapter 4, Article 11;
 - e. Except as provided in subsection (M), cover cardiopulmonary resuscitation training for applicable employees and volunteers, including:
 - i. The method and content of cardiopulmonary resuscitation training, which includes a demonstration of the employee's or volunteer's ability to perform cardiopulmonary resuscitation;
 - ii. The qualifications for an individual to provide cardiopulmonary resuscitation training;
 - iii. The time-frame for renewal of cardiopulmonary resuscitation training; and
 - iv. The documentation that verifies that the employee or volunteer has received cardiopulmonary resuscitation training;
 - f. Cover first aid training;
 - g. Cover how a caregiver will respond to a resident's sudden, intense, or out-of-control behavior to prevent harm to the resident or another individual;
 - h. Cover staffing and recordkeeping;
 - i. Cover resident acceptance, resident rights, and termination of residency;
 - j. Cover the provision of assisted living services, including:
 - i. Coordinating the provision of assisted living services,

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- ii. Making vaccination for influenza available to residents according to A.R.S. § 36-406(1)(d), and
 - iii. Obtaining resident preferences for food and the provision of assisted living services;
 - k. Cover the provision of respite services or adult day health services, if applicable;
 - l. Cover resident medical records, including electronic medical records;
 - m. Cover personal funds accounts, if applicable;
 - n. Cover specific steps for:
 - i. A resident to file a complaint, and
 - ii. The assisted living facility to respond to a resident's complaint;
 - o. Cover health care directives;
 - p. Cover assistance in the self-administration of medication, and medication administration;
 - q. Cover food services;
 - r. Cover contracted services;
 - s. Cover equipment inspection and maintenance, if applicable;
 - t. Cover infection control; and
 - u. Cover a quality management program, including incident report and supporting documentation;
2. Available to employees and volunteers of the assisted living facility; and
 3. Reviewed at least once every three years and updated as needed.
- D.** A manager shall ensure that the following are conspicuously posted:
1. A list of resident rights;
 2. The assisted living facility's license;
 3. Current phone numbers of:
 - a. The unit in the Department responsible for licensing and monitoring the assisted living facility,
 - b. Adult Protective Services in the Department of Economic Security,
 - c. The State Long-Term Care Ombudsman, and
 - d. The Arizona Center for Disability Law; and
 4. The location at which a copy of the most recent Department inspection report and any plan of correction resulting from the Department inspection may be viewed.
- E.** A manager shall ensure that, unless otherwise stated:
1. Documentation required by this Article is provided to the Department within two hours after a Department request; and
 2. When documentation or information is required by this Chapter to be submitted on behalf of an assisted living facility, the documentation or information is provided to the unit in the Department that is responsible for licensing and monitoring the assisted living facility.
- F.** If a requirement in this Article states that a manager shall ensure an action or condition or sign a document:
1. A governing authority or licensee may ensure the action or condition or sign the document and retain the responsibility to ensure compliance with the requirement in this Article;
 2. The manager may delegate ensuring the action or condition or signing the document to another individual, but the manager retains the responsibility to ensure compliance with the requirement in the Article; and
 3. If the manager delegates ensuring an action or condition or signing a document, the delegation is documented and the documentation includes the name of the individual to whom the action, condition, or signing is delegated and the effective date of the delegation.
- G.** A manager shall:
1. Not act as a resident's representative and not allow an employee or a family member of an employee to act as a resident's representative for a resident who is not a family member of the employee;
 2. If the assisted living facility administers personal funds accounts for residents and is authorized in writing by a resident or the resident's representative to administer a personal funds account for the resident:
 - a. Ensure that the resident's personal funds account does not exceed \$2,000;
 - b. Maintain a separate record for each resident's personal funds account, including receipts and expenditures;
 - c. Maintain the resident's personal funds account separate from any account of the assisted living facility; and
 - d. Provide a copy of the record of the resident's personal funds account to the resident or the resident's representative at least once every three months;
 3. Notify the resident's representative, family member, public fiduciary, or trust officer if the manager determines that a resident is incapable of handling financial affairs; and
 4. Except when a resident's need for assisted living services changes, as documented in the resident's service plan, ensure that a resident receives at least 30 calendar days written notice before any increase in a fee or charge.
- H.** A manager shall permit the Department to interview an employee, a volunteer, or a resident as part of a compliance survey or a complaint investigation.
- I.** If abuse, neglect, or exploitation of a resident is alleged or suspected to have occurred before the resident was accepted or while the resident is not on the premises and not receiving services from an assisted living facility's manager, caregiver, or assistant caregiver, the manager shall report the alleged or suspected abuse, neglect, or exploitation of the resident according to A.R.S. § 46-454.
- J.** If a manager has a reasonable basis, according to A.R.S. § 46-454, to believe abuse, neglect or exploitation has occurred on the premises or while a resident is receiving services from an assisted living facility's manager, caregiver, or assistant caregiver, the manager shall:
1. If applicable, take immediate action to stop the suspected abuse, neglect, or exploitation;
 2. Report the suspected abuse, neglect, or exploitation of the resident according to A.R.S. § 46-454;
 3. Document:
 - a. The suspected abuse, neglect, or exploitation;
 - b. Any action taken according to subsection (J)(1); and
 - c. The report in subsection (J)(2);
 4. Maintain the documentation in subsection (J)(3) for at least 12 months after the date of the report in subsection (J)(2);
 5. Initiate an investigation of the suspected abuse, neglect, or exploitation and document the following information within five working days after the report required in subsection (J)(2):
 - a. The dates, times, and description of the suspected abuse, neglect, or exploitation;
 - b. A description of any injury to the resident related to the suspected abuse or neglect and any change to the resident's physical, cognitive, functional, or emotional condition;
 - c. The names of witnesses to the suspected abuse, neglect, or exploitation; and

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- d. The actions taken by the manager to prevent the suspected abuse, neglect, or exploitation from occurring in the future; and
- 6. Maintain a copy of the documented information required in subsection (J)(5) for at least 12 months after the date the investigation was initiated.
- K.** A manager shall provide written notification to the Department of a resident's:
 - 1. Death, if the resident's death is required to be reported according to A.R.S. § 11-593, within one working day after the resident's death; and
 - 2. Self-injury, within two working days after the resident inflicts a self-injury that requires immediate intervention by an emergency services provider.
- L.** If a resident is receiving services from a home health agency or hospice service agency, a manager shall ensure that:
 - 1. The resident's medical record contains:
 - a. The name, address, and contact individual, including contact information, of the home health agency or hospice service agency;
 - b. Any information provided by the home health agency or hospice service agency; and
 - c. A copy of resident follow-up instructions provided to the resident by the home health agency or hospice service agency; and
 - 2. Any care instructions for a resident provided to the assisted living facility by the home health agency or hospice service agency are:
 - a. Within the assisted living facility's scope of services,
 - b. Communicated to a caregiver, and
 - c. Documented in the resident's service plan.
- M.** A manager of an assisted living home may establish, in policies and procedures, requirements that a caregiver obtains and provides documentation of cardiopulmonary resuscitation training specific to adults, which includes a demonstration of the caregiver's ability to perform cardiopulmonary resuscitation, from one of the following organizations:
 - 1. American Red Cross,
 - 2. American Heart Association, or
 - 3. National Safety Council.
- 1. A plan is established, documented, and implemented for an ongoing quality management program that, at a minimum, includes:
 - a. A method to identify, document, and evaluate incidents;
 - b. A method to collect data to evaluate services provided to residents;
 - c. A method to evaluate the data collected to identify a concern about the delivery of services related to resident care;
 - d. A method to make changes or take action as a result of the identification of a concern about the delivery of services related to resident care; and
 - e. The frequency of submitting a documented report required in subsection (2) to the governing authority;
- 2. A documented report is submitted to the governing authority that includes:
 - a. An identification of each concern about the delivery of services related to resident care, and
 - b. Any change made or action taken as a result of the identification of a concern about the delivery of services related to resident care; and
- 3. The report required in subsection (2) and the supporting documentation for the report are maintained for at least 12 months after the date the report is submitted to the governing authority.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted effective October 30, 1989 (Supp. 89-4). Section repealed; new Section R9-10-804 renumbered from R9-10-803 and amended by final rulemaking at 9 A.A.R. 319, effective March 14, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-805. Contracted Services

A manager shall ensure that:

- 1. Contracted services are provided according to the requirements in this Article, and
- 2. Documentation of current contracted services is maintained that includes a description of the contracted services provided.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted as an emergency and (A)(1)(a)(i)(1) amended effective January 27, 1989 pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. §

Historical Note

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R9-10-804. Quality Management

A manager shall ensure that:

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41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted effective October 30, 1989 (Supp. 89-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 319, effective March 14, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-806. Personnel**A.** A manager shall ensure that:

1. A caregiver:
 - a. Is 18 years of age or older; and
 - b. Provides documentation of:
 - i. Completion of a caregiver training program approved by the Department or the Board of Examiners for Nursing Care Institution Administrators and Assisted Living Facility Managers;
 - ii. For supervisory care services, employment as a manager or caregiver of a supervisory care home before November 1, 1998;
 - iii. For supervisory care services or personal care services, employment as a manager or caregiver of a supportive residential living center before November 1, 1998; or
 - iv. For supervisory care services, personal care services, or directed services, one of the following:
 - (1) A nursing care institution administrator's license issued by the Board of Examiners;
 - (2) A nurse's license issued to the individual under A.R.S. Title 32, Chapter 15;
 - (3) Documentation of employment as a manager or caregiver of an unclassified residential care institution before November 1, 1998; or
 - (4) Documentation of sponsorship of or employment as a caregiver in an adult foster care home before November 1, 1998;
2. An assistant caregiver:
 - a. Is 16 years of age or older, and
 - b. Interacts with residents under the supervision of a manager or caregiver;
3. The qualifications, skills, and knowledge required for a caregiver or assistant caregiver:
 - a. Are based on:
 - i. The type of assisted living services, behavioral health services, or behavioral care expected to be provided by the caregiver or assistant caregiver according to the established job description; and
 - ii. The acuity of the residents receiving assisted living services, behavioral health services, or behavioral care from the caregiver or assistant caregiver according to the established job description; and
 - b. Include:
 - i. The specific skills and knowledge necessary for the caregiver or assistant caregiver to provide the expected assisted living services, behavioral health services, or behavioral care listed in the established job description;
 - ii. The type and duration of education that may allow the caregiver or assistant caregiver to have acquired the specific skills and knowledge

for the caregiver or assistant caregiver to provide the expected assisted living services, behavioral health services, or behavioral care listed in the established job description; and

- iii. The type and duration of experience that may allow the caregiver or assistant caregiver to have acquired the specific skills and knowledge for the caregiver or assistant caregiver to provide the expected assisted living services, behavioral health services or behavioral care listed in the established job description;

4. A caregiver's or assistant caregiver's skills and knowledge are verified and documented:
 - a. Before the caregiver or assistant caregiver provides physical health services or behavioral health services, and
 - b. According to policies and procedures;
 5. An assisted living facility has a manager, caregivers, and assistant caregivers with the qualifications, experience, skills, and knowledge necessary to:
 - a. Provide the assisted living services, behavioral health services, behavioral care, and ancillary services in the assisted living facility's scope of services;
 - b. Meet the needs of a resident; and
 - c. Ensure the health and safety of a resident;
 6. At least one manager or caregiver is present and awake at an assisted living center when a resident is on the premises;
 7. A manager, a caregiver, and an assistant caregiver, or an employee or a volunteer who has or is expected to have more than eight hours per week of direct interaction with residents, provides evidence of freedom from infectious tuberculosis:
 - a. On or before the date the individual begins providing services at or on behalf of the assisted living facility, and
 - b. As specified in R9-10-113;
 8. Before providing assisted living services to a resident, a caregiver or an assistant caregiver receives orientation that is specific to the duties to be performed by the caregiver or assistant caregiver; and
 9. Before providing assisted living services to a resident, a manager or caregiver provides current documentation of first aid training and cardiopulmonary resuscitation training certification specific to adults.
- B.** A manager of an assisted living home shall ensure that:
1. An individual residing in an assisted living home, who is not a resident, a manager, a caregiver, or an assistant caregiver:
 - a. Either:
 - i. Complies with the fingerprinting requirements in A.R.S. § 36-411, or
 - ii. Interacts with residents only under the supervision of an individual who has a valid fingerprint clearance card; and
 - b. If the individual is 12 years of age or older, provides evidence of freedom from infectious tuberculosis as specified in R9-10-113;
 2. Documentation of compliance with the requirements in subsection (B)(1)(a) and evidence of freedom from infectious tuberculosis, if required under subsection (B)(1)(b), is maintained for an individual residing in the assisted living home who is not a resident, a manager, a caregiver, or an assistant caregiver; and

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3. At least the manager or a caregiver is present at an assisted living home when a resident is present in the assisted living home and:
 - a. Except for nighttime hours, the manager or caregiver is awake; and
 - b. If the manager or caregiver is not awake during nighttime hours:
 - i. The manager or caregiver can hear and respond to a resident needing assistance; and
 - ii. If the assisted living home is authorized to provide directed care services, policies and procedures are developed, documented, and implemented to establish a process for checking on a resident receiving directed care services during nighttime hours to ensure the resident's health and safety.
- C. A manager shall ensure that a personnel record for each employee or volunteer:
 1. Includes:
 - a. The individual's name, date of birth, and contact telephone number;
 - b. The individual's starting date of employment or volunteer service and, if applicable, the ending date; and
 - c. Documentation of:
 - i. The individual's qualifications, including skills and knowledge applicable to the individual's job duties;
 - ii. The individual's education and experience applicable to the individual's job duties;
 - iii. The individual's completed orientation and in-service education required by policies and procedures;
 - iv. The individual's license or certification, if the individual is required to be licensed or certified in this Article or in policies and procedures;
 - v. If the individual is a behavioral health technician, clinical oversight required in R9-10-115;
 - vi. Evidence of freedom from infectious tuberculosis, if required for the individual according to subsection (A)(7);
 - vii. Cardiopulmonary resuscitation training, if required for the individual in this Article or policies and procedures;
 - viii. First aid training, if required for the individual in this Article or policies and procedures; and
 - ix. Documentation of compliance with the requirements in A.R.S. § 36-411(A) and (C);
 2. Is maintained:
 - a. Throughout the individual's period of providing services in or for the assisted living facility; and
 - b. For at least 24 months after the last date the individual provided services in or for the assisted living facility; and
3. For a manager, a caregiver, or an assistant caregiver who has not provided physical health services or behavioral health services at or for the assisted living facility during the previous 12 months, is provided to the Department within 72 hours after the Department's request.

Historical Note

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an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2).

Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Amended by final rulemaking at 9 A.A.R. 319, effective March 14, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-807. Residency and Residency Agreements

- A. Except as provided in R9-10-808(B)(2), a manager shall ensure that a resident provides evidence of freedom from infectious tuberculosis:
 1. Before or within seven calendar days after the resident's date of occupancy; and
 2. As specified in R9-10-113.
- B. A manager shall ensure that before or at the time of acceptance of an individual, the individual submits documentation that is dated within 90 calendar days before the individual is accepted by an assisted living facility and:
 1. If an individual is requesting or is expected to receive supervisory care services, personal care services, or directed care services:
 - a. Includes whether the individual requires:
 - i. Continuous medical services,
 - ii. Continuous or intermittent nursing services, or
 - iii. Restraints; and
 - b. Is dated and signed by a:
 - i. Physician,
 - ii. Registered nurse practitioner,
 - iii. Registered nurse, or
 - iv. Physician assistant; and
 2. If an individual is requesting or is expected to receive behavioral health services, other than behavioral care, in addition to supervisory care services, personal care services, or directed care services from an assisted living facility:
 - a. Includes whether the individual requires continuous behavioral health services; and
 - b. Is signed and dated by a behavioral health professional.
- C. A manager shall not accept or retain an individual if:
 1. The individual requires continuous:
 - a. Medical services;
 - b. Nursing services, unless the assisted living facility complies with A.R.S. § 36-401(C); or
 - c. Behavioral health services;
 2. The assisted living services needed by the individual are not within the assisted living facility's scope of services;
 3. The assisted living facility does not have the ability to provide the assisted living services needed by the individual; or
 4. The individual requires restraints, including the use of bedrails.
- D. Before or at the time of an individual's acceptance by an assisted living facility, a manager shall ensure that there is a documented residency agreement with the assisted living facility that includes:
 1. The individual's name;
 2. Terms of occupancy, including:
 - a. Date of occupancy or expected date of occupancy,
 - b. Resident responsibilities, and

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- c. Responsibilities of the assisted living facility;
 - 3. A list of the services to be provided by the assisted living facility to the resident;
 - 4. A list of the services available from the assisted living facility at an additional fee or charge;
 - 5. For an assisted living home, whether the manager or a caregiver is awake during nighttime hours;
 - 6. The policy for refunding fees, charges, or deposits;
 - 7. The policy and procedure for a resident to terminate residency, including terminating residency because services were not provided to the resident according to the resident's service plan;
 - 8. The policy and procedure for an assisted living facility to terminate residency;
 - 9. The complaint process; and
 - 10. The manager's signature and date signed.
- E.** Before or within five working days after a resident's acceptance by an assisted living facility, a manager shall obtain on the documented agreement, required in subsection (D), the signature of one of the following individuals:
- 1. The resident,
 - 2. The resident's representative,
 - 3. The resident's legal guardian, or
 - 4. Another individual who has been designated by the individual under A.R.S. § 36-3221 to make health care decisions on the individual's behalf.
- F.** A manager shall:
- 1. Before or at the time of an individual's acceptance by an assisted living facility, provide to the resident or resident's representative a copy of:
 - a. The residency agreement in subsection (D),
 - b. Resident's rights, and
 - c. The policy and procedure on health care directives; and
 - 2. Maintain the original of the residency agreement in subsection (D) in the resident's medical record.
- G.** A manager may terminate residency of a resident as follows:
- 1. Without notice, if the resident exhibits behavior that is an immediate threat to the health and safety of the resident or other individuals in an assisted living facility;
 - 2. With a 14 calendar day written notice of termination of residency:
 - a. For nonpayment of fees, charges, or deposit; or
 - b. Under any of the conditions in subsection (C); or
 - 3. With a 30 calendar day written notice of termination of residency, for any other reason.
- H.** A manager shall ensure that a written notice of termination of residency includes:
- 1. The date of notice;
 - 2. The reason for termination;
 - 3. The policy for refunding fees, charges, or deposits;
 - 4. The deposition of a resident's fees, charges, and deposits; and
 - 5. Contact information for the State Long-Term Care Ombudsman.
- I.** A manager shall provide the following to a resident when the manager provides a written notice of termination of residency:
- 1. A copy of the resident's current service plan, and
 - 2. Documentation of the resident's freedom from infectious tuberculosis.
- J.** If an assisted living facility issues a written notice of termination of residency to a resident or the resident's representative because the resident needs services the assisted living facility is either not licensed to provide or is licensed to provide but not able to provide, a manager shall ensure that the written notice of termination of residency includes a description of the

specific services that the resident needs that the assisted living facility is either not licensed to provide or is licensed to provide but not able to provide.

Historical Note

Adopted as an emergency effective October 26, 1988 pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989 pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted effective October 30, 1989 (Supp. 89-4). Amended by final rulemaking at 9 A.A.R. 319, effective March 14, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-808. Service Plans

- A.** Except as required in subsection (B), a manager shall ensure that a resident has a written service plan that:
- 1. Is completed no later than 14 calendar days after the resident's date of acceptance;
 - 2. Is developed with assistance and review from:
 - a. The resident or resident's representative,
 - b. The manager, and
 - c. Any individual requested by the resident or the resident's representative;
 - 3. Includes the following:
 - a. A description of the resident's medical or health problems, including physical, behavioral, cognitive, or functional conditions or impairments;
 - b. The level of service the resident is expected to receive;
 - c. The amount, type, and frequency of assisted living services being provided to the resident, including medication administration or assistance in the self-administration of medication;
 - d. For a resident who requires intermittent nursing services or medication administration, review by a nurse or medical practitioner;
 - e. For a resident who requires behavioral care:
 - i. Any of the following that is necessary to provide assistance with the resident's psychosocial interactions to manage the resident's behavior:
 - (1) The psychosocial interactions or behaviors for which the resident requires assistance,
 - (2) Psychotropic medications ordered for the resident,
 - (3) Planned strategies and actions for changing the resident's psychosocial interactions or behaviors, and
 - (4) Goals for changes in the resident's psychosocial interactions or behaviors; and
 - ii. Review by a medical practitioner or behavioral health professional; and
 - f. For a resident who will be storing medication in the resident's bedroom or residential unit, how the medication will be stored and controlled;
 - 4. Is reviewed and updated based on changes in the requirements in subsections (A)(3)(a) through (f):

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- a. No later than 14 calendar days after a significant change in the resident's physical, cognitive, or functional condition; and
- b. As follows:
 - i. At least once every 12 months for a resident receiving supervisory care services,
 - ii. At least once every six months for a resident receiving personal care services, and
 - iii. At least once every three months for a resident receiving directed care services; and
5. When initially developed and when updated, is signed and dated by:
 - a. The resident or resident's representative;
 - b. The manager;
 - c. If a review is required in subsection (A)(3)(d), the nurse or medical practitioner who reviewed the service plan; and
 - d. If a review is required in subsection (A)(3)(e)(ii), the medical practitioner or behavioral health professional who reviewed the service plan.
- B.** For a resident receiving respite care services, a manager shall ensure that:
 1. A written service plan is:
 - a. Based on a determination of the resident's current needs and:
 - i. Is completed no later than three working days after the resident's date of acceptance; or
 - ii. If the resident has a service plan in the resident's medical record that was developed within the previous 12 months, is reviewed and updated based on changes in the requirements in subsections (A)(3)(a) through (f) within three working days after the resident's date of acceptance; and
 - b. If a significant change in the resident's physical, cognitive, or functional condition occurs while the resident is receiving respite care services, updated based on changes in the requirements in subsections (A)(3)(a) through (f) within three working days after the significant change occurs; and
 2. If the resident is not expected to be present in the assisted living facility for more than seven calendar days, the resident is not required to comply with the requirements in R9-10-807(A).
- C.** A manager shall ensure that:
 1. A caregiver or an assistant caregiver:
 - a. Provides a resident with the assisted living services in the resident's service plan;
 - b. Is only assigned to provide the assisted living services the caregiver or assistant caregiver has the documented skills and knowledge to perform;
 - c. Provides assistance with activities of daily living according to the resident's service plan;
 - d. If applicable, suggests techniques a resident may use to maintain or improve the resident's independence in performing activities of daily living;
 - e. Provides assistance with, supervises, or directs a resident's personal hygiene according to the resident's service plan;
 - f. Encourages a resident to participate in activities planned according to subsection (E); and
 - g. Documents the services provided in the resident's medical record; and
 2. A volunteer or an assistant caregiver who is 16 or 17 years of age does not provide:
 - a. Assistance to a resident for:
 - i. Bathing,
 - ii. Toileting, or
 - iii. Moving the resident's body from one surface to another surface;
 - b. Assistance in the self-administration of medication;
 - c. Medication administration; or
 - d. Nursing services.
- D.** A manager of an assisted living facility that is authorized to provide adult day health services shall ensure that the adult day health care services are provided as specified in R9-10-1113.
- E.** A manager shall ensure that:
 1. Daily social, recreational, or rehabilitative activities are planned according to residents' preferences, needs, and abilities;
 2. A calendar of planned activities is:
 - a. Prepared at least one week in advance of the date the activity is provided,
 - b. Posted in a location that is easily seen by residents,
 - c. Updated as necessary to reflect substitutions in the activities provided, and
 - d. Maintained for at least 12 months after the last scheduled activity;
 3. Equipment and supplies are available and accessible to accommodate a resident who chooses to participate in a planned activity; and
 4. Daily newspapers, current magazines, and a variety of reading materials are available and accessible to a resident.
- F.** If a resident is not receiving assistance with the resident's psychosocial interactions under the direction of a behavioral health professional or any other behavioral health services at an assisted living facility, the resident is not considered to be receiving behavioral care or behavioral health services from the assisted living facility if the resident:
 1. Is prescribed a psychotropic medication, or
 2. Is receiving directed care services and has a primary diagnosis of:
 - a. Dementia,
 - b. Alzheimer's disease-related dementia, or
 - c. Traumatic brain injury.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Amended by final rulemaking at 9 A.A.R. 319, effective March 14, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-809. Transport; Transfer

- A.** Except as provided in subsection (B), a manager shall ensure that:

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1. A caregiver or employee coordinates the transport and the services provided to the resident;
2. According to policies and procedures:
 - a. An evaluation of the resident is conducted before and after the transport, and
 - b. Information from the resident's medical record is provided to a receiving health care institution; and
3. Documentation includes:
 - a. If applicable, any communication with an individual at a receiving health care institution;
 - b. The date and time of the transport; and
 - c. If applicable, the name of the caregiver accompanying the resident during a transport.
- B.** Subsection (A) does not apply to:
 1. Transportation to a location other than a licensed health care institution,
 2. Transportation provided for a resident by the resident or the resident's representative,
 3. Transportation provided by an outside entity that was arranged for a resident by the resident or the resident's representative, or
 4. A transport to another licensed health care institution in an emergency.
- C.** Except for a transfer of a resident due to an emergency, a manager shall ensure that:
 1. A caregiver coordinates the transfer and the services provided to the resident;
 2. According to policies and procedures:
 - a. An evaluation of the resident is conducted before the transfer;
 - b. Information from the resident's medical record, including orders that are in effect at the time of the transfer, is provided to a receiving health care institution; and
 - c. A caregiver explains risks and benefits of the transfer to the resident or the resident's representative; and
 3. Documentation in the resident's medical record includes:
 - a. Communication with an individual at a receiving health care institution;
 - b. The date and time of the transfer;
 - c. The mode of transportation; and
 - d. If applicable, the name of the caregiver accompanying the resident during a transfer.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted effective October 30, 1989 (Supp. 89-4). Former Section R9-10-809 renumbered to R9-10-812; new Section R9-10-809 made by final rulemaking at 9 A.A.R. 319, effective March 31, 2003 (Supp. 03-1). R9-10-809(E) reflects a corrected reference to Article 14 from Article 4 (05-2). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-810. Resident Rights

- A.** A manager shall ensure that, at the time of admission, a resident or the resident's representative receives a written copy of the requirements in subsection (B) and the resident rights in subsection (C).
- B.** A manager shall ensure that:
 1. A resident is treated with dignity, respect, and consideration;
 2. A resident is not subjected to:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Coercion;
 - e. Manipulation;
 - f. Sexual abuse;
 - g. Sexual assault;
 - h. Seclusion;
 - i. Restraint;
 - j. Retaliation for submitting a complaint to the Department or another entity; or
 - k. Misappropriation of personal and private property by the assisted living facility's manager, caregivers, assistant caregivers, employees, or volunteers; and
 3. A resident or the resident's representative:
 - a. Is informed of the following:
 - i. The policy on health care directives, and
 - ii. The resident complaint process;
 - b. Consents to photographs of the resident before the resident is photographed, except that a resident may be photographed when admitted to an assisted living facility for identification and administrative purposes;
 - c. Except as otherwise permitted by law, provides written consent before the release of information in the resident's:
 - i. Medical record, or
 - ii. Financial records;
 - d. May:
 - i. Request or consent to relocation within the assisted living facility; and
 - ii. Except when relocation is necessary based on a change in the resident's condition as documented in the resident's service plan, refuse relocation within the assisted living facility;
 - e. Has access to the resident's records during normal business hours or at a time agreed upon by the resident or resident's representative and the manager; and
 - f. Is informed of:
 - i. The rates and charges for services before the services are initiated;
 - ii. A change in rates or charges at least 30 calendar days before the change is implemented, unless the change in rates or charges results from a change in services; and
 - iii. A change in services at least 30 calendar days before the change is implemented, unless the resident's service plan changes.
- C.** A resident has the following rights:
 1. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, or diagnosis;
 2. To receive assisted living services that support and respect the resident's individuality, choices, strengths, and abilities;
 3. To receive privacy in:

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- a. Care for personal needs;
- b. Correspondence, communications, and visitation; and
- c. Financial and personal affairs;
- 4. To maintain, use, and display personal items unless the personal items constitute a hazard;
- 5. To choose to participate or refuse to participate in social, recreational, rehabilitative, religious, political, or community activities;
- 6. To review, upon written request, the resident's own medical record;
- 7. To receive a referral to another health care institution if the assisted living facility is not authorized or not able to provide physical health services or behavioral health services needed by the patient;
- 8. To choose to access services from a health care provider, health care institution, or pharmacy other than the assisted living facility where the resident is residing and receiving services or a health care provider, health care institution, or pharmacy recommended by the assisted living facility;
- 9. To participate or have the resident's representative participate in the development of, or decisions concerning, the resident's service plan; and
- 10. To receive assistance from a family member, the resident's representative, or other individual in understanding, protecting, or exercising the resident's rights.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted effective October 30, 1989 (Supp. 89-4). Former Section R9-10-810 renumbered to R9-10-813; new Section R9-10-810 made by final rulemaking at 9 A.A.R. 319, effective March 31, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-811. Medical Records**A. A manager shall ensure that:**

- 1. A medical record is established and maintained for each resident according to A.R.S. Title 12, Chapter 13, Article 7.1;
- 2. An entry in a resident's medical record is:
 - a. Only recorded by an individual authorized by policies and procedures to make the entry;
 - b. Dated, legible, and authenticated; and
 - c. Not changed to make the initial entry illegible;
- 3. If a rubber-stamp signature or an electronic signature is used to authenticate an order, the individual whose signature the rubber-stamp signature or electronic signature represents is accountable for the use of the rubber-stamp signature or electronic signature;
- 4. A resident's medical record is available to an individual:

- a. Authorized according to policies and procedures to access the resident's medical record;
- b. If the individual is not authorized according to policies and procedures, with the written consent of the resident or the resident's representative; or
- c. As permitted by law; and
- 5. A resident's medical record is protected from loss, damage, or unauthorized use.
- B.** If an assisted living facility maintains residents' medical records electronically, a manager shall ensure that:
 - 1. Safeguards exist to prevent unauthorized access, and
 - 2. The date and time of an entry in a resident's medical record is recorded by the computer's internal clock.
- C.** A manager shall ensure that a resident's medical record contains:
 - 1. Resident information that includes:
 - a. The resident's name, and
 - b. The resident's date of birth;
 - 2. The names, addresses, and telephone numbers of:
 - a. The resident's primary care provider;
 - b. Other persons, such as a home health agency or hospice service agency, involved in the care of the resident; and
 - c. An individual to be contacted in the event of emergency, significant change in the resident's condition, or termination of residency;
 - 3. If applicable, the name and contact information of the resident's representative and:
 - a. The document signed by the resident consenting for the resident's representative to act on the resident's behalf; or
 - b. If the resident's representative:
 - i. Has a health care power of attorney established under A.R.S. § 36-3221 or a mental health care power of attorney executed under A.R.S. § 36-3282, a copy of the health care power of attorney or mental health care power of attorney; or
 - ii. Is a legal guardian, a copy of the court order establishing guardianship;
 - 4. The date of acceptance and, if applicable, date of termination of residency;
 - 5. Documentation of the resident's needs required in R9-10-807(B);
 - 6. Documentation of general consent and informed consent, if applicable;
 - 7. Except as allowed in R9-10-808(B)(2), documentation of freedom from infectious tuberculosis as required in R9-10-807(A);
 - 8. A copy of resident's health care directive, if applicable;
 - 9. The resident's signed residency agreement and any amendments;
 - 10. Resident's service plan and updates;
 - 11. Documentation of assisted living services provided to the resident;
 - 12. A medication order from a medical practitioner for each medication that is administered to the resident or for which the resident receives assistance in the self-administration of the medication;
 - 13. Documentation of medication administered to the resident or for which the resident received assistance in the self-administration of medication that includes:
 - a. The date and time of administration or assistance;
 - b. The name, strength, dosage, and route of administration;

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- c. The name and signature of the individual administering or providing assistance in the self-administration of medication; and
 - d. An unexpected reaction the resident has to the medication;
14. Documentation of the resident's refusal of a medication, if applicable;
 15. If applicable, documentation of any actions taken to control the resident's sudden, intense, or out-of-control behavior to prevent harm to the resident or another individual;
 16. If applicable, documentation of a determination by a medical practitioner that evacuation from the assisted living facility during an evacuation drill would cause harm to the resident;
 17. Documentation of notification of the resident of the availability of vaccination for influenza and pneumonia, according to A.R.S. § 36-406(1)(d);
 18. Documentation of the resident's orientation to exits from the assisted living facility required in R9-10-818(B);
 19. If a resident is receiving behavioral health services other than behavioral care, documentation of the determination in R9-10-813(3);
 20. If a resident is receiving behavioral care, documentation of the determination in R9-10-812(3);
 21. If applicable, for a resident who is unable to direct self-care, the information required in R9-10-815(F);
 22. Documentation of any significant change in a resident's behavior, physical, cognitive, or functional condition and the action taken by a manager or caregiver to address the resident's changing needs;
 23. Documentation of the notification required in R9-10-803(G) if the resident is incapable of handling financial affairs; and
 24. If the resident no longer resides and receives assisted living services from the assisted living facility:
 - a. A written notice of termination of residency; or
 - b. If the resident terminated residency, the date the resident terminated residency.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Former Section R9-10-811 renumbered to R9-10-814; new Section R9-10-811 made by final rulemaking at 9 A.A.R. 319, effective March 31, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-812. Behavioral Care

A manager shall ensure that for a resident who requests or receives behavioral care from the assisted living facility, a behavioral health professional or medical practitioner:

1. Evaluates the resident:

- a. Within 30 calendar days before acceptance of the resident or before the resident begins receiving behavioral care, and
 - b. At least once every six months throughout the duration of the resident's need for behavioral care;
2. Reviews the assisted living facility's scope of services; and
 3. Signs and dates a determination stating that the resident's need for behavioral care can be met by the assisted living facility within the assisted living facility's scope of services and, for retention of a resident, are being met by the assisted living facility.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989 (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989 (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section repealed; new Section R9-10-812 renumbered from R9-10-809 and amended by final rulemaking at 9 A.A.R. 319, effective March 14, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-813. Behavioral Health Services

If an assisted living facility is authorized to provide behavioral health services other than behavioral care, a manager shall ensure that:

1. Policies and procedures are established, documented, and implemented that cover when general consent and informed consent are required and by whom general consent and informed consent may be given;
2. The behavioral health services:
 - a. Are provided under the direction of a behavioral health professional; and
 - b. Comply with the requirements:
 - i. For behavioral health paraprofessionals and behavioral health technicians, in R9-10-115; and
 - ii. For an assessment, in R9-10-1011(B); and
3. For a resident who requests or receives behavioral health services from the assisted living facility, a behavioral health professional:
 - a. Evaluates the resident within 30 calendar days before acceptance of the resident and at least once every six months throughout the duration of the resident's need for behavioral health services;
 - b. Reviews the assisted living facility's scope of services; and
 - c. Signs and dates a determination stating that the resident's needs can be met by the assisted living facility within the assisted living facility's scope of services and, for retention of a resident, are being met by the assisted living facility.

Historical Note

New Section renumbered from R9-10-810 and amended by final rulemaking at 9 A.A.R. 319, effective March 14, 2003 (Supp. 03-1). Section repealed; new Section made

by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-814. Personal Care Services

- A.** A manager of an assisted living facility authorized to provide personal care services shall not accept or retain a resident who:
 - 1. Is unable to direct self-care;
 - 2. Except as specified in subsection (B), is confined to a bed or chair because of an inability to ambulate even with assistance; or
 - 3. Except as specified in subsection (C), has a stage 3 or stage 4 pressure sore, as determined by a registered nurse or medical practitioner.
- B.** A manager of an assisted living facility authorized to provide personal care services may accept or retain a resident who is confined to a bed or chair because of an inability to ambulate even with assistance if:
 - 1. The condition is a result of a short-term illness or injury; or
 - 2. The following requirements are met at the onset of the condition or when the resident is accepted by the assisted living facility:
 - a. The resident or resident's representative requests that the resident be accepted by or remain in the assisted living facility;
 - b. The resident's primary care provider or other medical practitioner:
 - i. Examines the resident at the onset of the condition, or within 30 calendar days before acceptance, and at least once every six months throughout the duration of the resident's condition;
 - ii. Reviews the assisted living facility's scope of services; and
 - iii. Signs and dates a determination stating that the resident's needs can be met by the assisted living facility within the assisted living facility's scope of services and, for retention of a resident, are being met by the assisted living facility; and
 - c. The resident's service plan includes the resident's increased need for personal care services.
- C.** A manager of an assisted living facility authorized to provide personal care services may accept or retain a resident who has a stage 3 or stage 4 pressure sore, as determined by a registered nurse or medical practitioner, if the requirements in subsection (B)(2) are met.
- D.** A manager of an assisted living facility authorized to provide personal care services may accept or retain a resident who:
 - 1. Is receiving nursing services from a home health agency or a hospice service agency; or
 - 2. Requires intermittent nursing services if:
 - a. The resident's condition for which nursing services are required is a result of a short-term illness or injury, and
 - b. The requirements of subsection (B)(2) are met.
- E.** A manager shall ensure that a bell, intercom, or other mechanical means to alert employees to a resident's needs or emergencies is available and accessible in a bedroom or residential unit being used by a resident receiving personal care services.
- F.** In addition to the requirements in R9-10-808(A)(3), a manager shall ensure that the service plan for a resident receiving personal care services includes:
 - 1. Skin maintenance to prevent and treat bruises, injuries, pressure sores, and infections;

- 2. Offering sufficient fluids to maintain hydration;
 - 3. Incontinence care that ensures that a resident maintains the highest practicable level of independence when toileting; and
 - 4. If applicable, the determination in subsection (B)(2)(b).
- G.** A manager shall ensure that an employee does not provide non-prescription medication to a resident receiving personal care services unless the resident has an order from the resident's primary care provider or another medical practitioner for the non-prescription medication.

Historical Note

New Section renumbered from R9-10-811 and amended by final rulemaking at 9 A.A.R. 319, effective March 14, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-815. Directed Care Services

- A.** A manager shall ensure that a resident's representative is designated for a resident who is unable to direct self-care.
- B.** A manager of an assisted living facility authorized to provide directed care services shall not accept or retain a resident who, except as provided in R9-10-814(B)(2):
 - 1. Is confined to a bed or chair because of an inability to ambulate even with assistance; or
 - 2. Has a stage 3 or stage 4 pressure sore, as determined by a registered nurse or medical practitioner.
- C.** In addition to the requirements in R9-10-808(A)(3), a manager shall ensure that the service plan for a resident receiving directed care services includes:
 - 1. The requirements in R9-10-814(F)(1) through (3);
 - 2. If applicable, the determination in R9-10-814(B)(2)(b);
 - 3. Cognitive stimulation and activities to maximize functioning;
 - 4. Strategies to ensure a resident's personal safety;
 - 5. Encouragement to eat meals and snacks;
 - 6. Documentation:
 - a. Of the resident's weight, or
 - b. From a medical practitioner stating that weighing the resident is contraindicated; and
 - 7. Coordination of communications with the resident's representative, family members, and, if applicable, other individuals identified in the resident's service plan.
- D.** A manager shall ensure that an employee does not provide non-prescription medication to a resident receiving directed care services unless the resident has an order from a medical practitioner for the non-prescription medication.
- E.** A manager shall ensure that:
 - 1. A bell, intercom, or other mechanical means to alert employees to a resident's needs or emergencies is available in a bedroom being used by a resident receiving directed care services; or
 - 2. An assisted living facility has implemented another means to alert a caregiver or assistant caregiver to a resident's needs or emergencies.
- F.** A manager of an assisted living facility authorized to provide directed care services shall ensure that:
 - 1. Policies and procedures are established, documented, and implemented that ensure the safety of a resident who may wander;
 - 2. There is a means of exiting the facility for a resident who does not have a key, special knowledge for egress, or the ability to expend increased physical effort that meets one of the following:

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- a. Provides access to an outside area that:
 - i. Allows the resident to be at least 30 feet away from the facility, and
 - ii. Controls or alerts employees of the egress of a resident from the facility;
 - b. Provides access to an outside area:
 - i. From which a resident may exit to a location at least 30 feet away from the facility, and
 - ii. Controls or alerts employees of the egress of a resident from the facility; or
 - c. Uses a mechanism that meets the Special Egress-Control Devices provisions in the Uniform Building Code incorporated by reference in A.A.C. R9-1-412; and
3. A caregiver or an assistant caregiver complies with the requirements for incidents in R9-10-804 when a resident who is unable to direct self-care wanders into an area not designated by the governing authority for use by the resident.

Historical Note

New Section made by final rulemaking at 9 A.A.R. 319, effective March 14, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-816. Medication Services

- A.** A manager shall ensure that:
- 1. Policies and procedures for medication services include:
 - a. Procedures for preventing, responding to, and reporting a medication error;
 - b. Procedures for responding to and reporting an unexpected reaction to a medication;
 - c. Procedures to ensure that a resident's medication regimen and method of administration is reviewed by a medical practitioner to ensure the medication regimen meets the resident's needs;
 - d. Procedures for:
 - i. Documenting, as applicable, medication administration and assistance in the self-administration of medication; and
 - ii. Monitoring a resident who self-administers medication;
 - e. Procedures for assisting a resident in procuring medication; and
 - f. If applicable, procedures for providing medication administration or assistance in the self-administration of medication off the premises; and
 - 2. If a verbal order for a resident's medication is received from a medical practitioner by the assisted living facility:
 - a. The manager or a caregiver takes the verbal order from the medical practitioner,
 - b. The verbal order is documented in the resident's medical record, and
 - c. A written order verifying the verbal order is obtained from the medical practitioner within 14 calendar days after receiving the verbal order.
- B.** If an assisted living facility provides medication administration, a manager shall ensure that:
- 1. Medication is stored by the assisted living facility;
 - 2. Policies and procedures for medication administration:
 - a. Are reviewed and approved by a medical practitioner, registered nurse, or pharmacist;
- b. Include a process for documenting an individual, authorized, according to the definition of "administer" in A.R.S. § 32-1901, by a medical practitioner to administer medication under the direction of the medical practitioner;
 - c. Ensure that medication is administered to a resident only as prescribed; and
 - d. Cover the documentation of a resident's refusal to take prescribed medication in the resident's medical record; and
3. A medication administered to a resident:
- a. Is administered by an individual under direction of a medical practitioner,
 - b. Is administered in compliance with a medication order, and
 - c. Is documented in the resident's medical record.
- C.** If an assisted living facility provides assistance in the self-administration of medication, a manager shall ensure that:
- 1. A resident's medication is stored by the assisted living facility;
 - 2. The following assistance is provided to a resident:
 - a. A reminder when it is time to take the medication;
 - b. Opening the medication container or medication organizer for the resident;
 - c. Observing the resident while the resident removes the medication from the container or medication organizer;
 - d. Except when a resident uses a medication organizer, verifying that the medication is taken as ordered by the resident's medical practitioner by confirming that:
 - i. The resident taking the medication is the individual stated on the medication container label,
 - ii. The resident is taking the dosage of the medication stated on the medication container label or according to an order from a medical practitioner dated later than the date on the medication container label, and
 - iii. The resident is taking the medication at the time stated on the medication container label or according to an order from a medical practitioner dated later than the date on the medication container label;
 - e. For a resident using a medication organizer, verifying that the resident is taking the medication in the medication organizer according to the schedule specified on the medical practitioner's order; or
 - f. Observing the resident while the resident takes the medication;
 - 3. Policies and procedures for assistance in the self-administration of medication are reviewed and approved by a medical practitioner or nurse; and
 - 4. Assistance in the self-administration of medication provided to a resident:
 - a. Is in compliance with an order, and
 - b. Is documented in the resident's medical record.
- D.** A manager shall ensure that:
- 1. A current drug reference guide is available for use by personnel members, and
 - 2. A current toxicology reference guide is available for use by personnel members.
- E.** A manager shall ensure that a resident's medication organizer is only filled by:
- 1. The resident;
 - 2. The resident's representative;
 - 3. A family member of the resident;

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4. A personnel member of a home health agency or hospice service agency; or
 5. The manager or a caregiver who has been designated and is under the direction of a medical practitioner, according to subsection (B)(2)(b).
- F.** When medication is stored by an assisted living facility, a manager shall ensure that:
1. Medication is stored in a separate locked room, closet, cabinet, or self-contained unit used only for medication storage;
 2. Medication is stored according to the instructions on the medication container; and
 3. Policies and procedures are established, documented, and implemented for:
 - a. Receiving, storing, inventorying, tracking, dispensing, and discarding medication including expired medication;
 - b. Discarding or returning prepackaged and sample medication to the manufacturer if the manufacturer requests the discard or return of the medication;
 - c. A medication recall and notification of residents who received recalled medication; and
 - d. Storing, inventorying, and dispensing controlled substances.
- G.** A manager shall ensure that a caregiver immediately reports a medication error or a resident's unexpected reaction to a medication to the medical practitioner who ordered the medication or, if the medical practitioner who ordered the medication is not available, another medical practitioner.
- H.** If medication is stored by a resident in the resident's bedroom or residential unit, a manager shall ensure that:
1. The medication is stored according to the resident's service plan; or
 2. If the medication is not being stored according to the resident's service plan, the resident's service plan is updated to include how the medication is being stored by the resident.
- Historical Note**
- New Section made by final rulemaking at 9 A.A.R. 319, effective March 14, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).
- R9-10-817. Food Services**
- A.** A manager shall ensure that:
1. A food menu:
 - a. Is prepared at least one week in advance,
 - b. Includes the foods to be served each day,
 - c. Is conspicuously posted at least one calendar day before the first meal on the food menu is served,
 - d. Includes any food substitution no later than the morning of the day of meal service with a food substitution, and
 - e. Is maintained for at least 60 calendar days after the last day included in the food menu;
 2. Meals and snacks provided by the assisted living facility are served according to posted menus;
 3. If the assisted living facility contracts with a food establishment, as established in 9 A.A.C. 8, Article 1, to prepare and deliver food to the assisted living facility, a copy of the food establishment's license or permit under 9 A.A.C. 8, Article 1 is maintained by the assisted living facility;
 4. The assisted living facility is able to store, refrigerate, and reheat food to meet the dietary needs of a resident;
 5. Meals and snacks for each day are planned using the applicable guidelines in <http://www.health.gov/dietaryguidelines/2010.asp>;
 6. A resident is provided a diet that meets the resident's nutritional needs as specified in the resident's service plan;
 7. Water is available and accessible to residents at all times, unless otherwise stated in a medical practitioner's order; and
 8. A resident requiring assistance to eat is provided with assistance that recognizes the resident's nutritional, physical, and social needs, including the provision of adaptive eating equipment or utensils, such as a plate guard, rocking fork, or assistive hand device, if not provided by the resident.
- B.** If the assisted living facility offers therapeutic diets, a manager shall ensure that:
1. A current therapeutic diet manual is available for use by employees, and
 2. The therapeutic diet is provided to a resident according to a written order from the resident's primary care provider or another medical practitioner.
- C.** A manager shall ensure that food is obtained, prepared, served, and stored as follows:
1. Food is free from spoilage, filth, or other contamination and is safe for human consumption;
 2. Food is protected from potential contamination;
 3. Food is prepared:
 - a. Using methods that conserve nutritional value, flavor, and appearance; and
 - b. In a form to meet the needs of a resident, such as cut, chopped, ground, pureed, or thickened;
 4. Potentially hazardous food is maintained as follows:
 - a. Foods requiring refrigeration are maintained at 41° F or below; and
 - b. Foods requiring cooking are cooked to heat all parts of the food to a temperature of at least 145° F for 15 seconds, except that:
 - i. Ground beef and ground meats are cooked to heat all parts of the food to at least 155° F;
 - ii. Poultry, poultry stuffing, stuffed meats, and stuffing that contains meat are cooked to heat all parts of the food to at least 165° F;
 - iii. Pork and any food containing pork are cooked to heat all parts of the food to at least 155° F;
 - iv. Raw shell eggs for immediate consumption are cooked to at least 145° F for 15 seconds and any food containing raw shell eggs is cooked to heat all parts of the food to at least 155° F;
 - v. Roast beef and beef steak are cooked to an internal temperature of at least 155° F; and
 - vi. Leftovers are reheated to a temperature of at least 165° F;
 5. A refrigerator used by an assisted living facility to store food or medication contains a thermometer, accurate to plus or minus 3° F, placed at the warmest part of the refrigerator;
 6. Frozen foods are stored at a temperature of 0° F or below; and
 7. Tableware, utensils, equipment, and food-contact surfaces are clean and in good repair.
- D.** A manager of an assisted living center shall ensure that:

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1. The assisted living center has a license or permit as a food establishment under 9 A.A.C. 8, Article 1; and
2. A copy of the assisted living center's food establishment license or permit is maintained.

Historical Note

New Section made by final rulemaking at 9 A.A.R. 319, effective March 14, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-818. Emergency and Safety Standards

- A.** A manager shall ensure that:
 1. A disaster plan is developed, documented, maintained in a location accessible to caregivers and assistant caregivers, and, if necessary, implemented that includes:
 - a. When, how, and where residents will be relocated;
 - b. How a resident's medical record will be available to individuals providing services to the resident during a disaster;
 - c. A plan to ensure each resident's medication will be available to administer to the resident during a disaster; and
 - d. A plan for obtaining food and water for individuals present in the assisted living facility or the assisted living facility's relocation site during a disaster;
 2. The disaster plan required in subsection (A)(1) is reviewed at least once every 12 months;
 3. Documentation of the disaster plan review required in subsection (A)(2) includes:
 - a. The date and time of the disaster plan review;
 - b. The name of each employee or volunteer participating in the disaster plan review;
 - c. A critique of the disaster plan review; and
 - d. If applicable, recommendations for improvement;
 4. A disaster drill for employees is conducted on each shift at least once every three months and documented;
 5. An evacuation drill for employees and residents:
 - a. Is conducted at least once every six months; and
 - b. Includes all individuals on the premises except for:
 - i. A resident whose medical record contains documentation that evacuation from the assisted living facility would cause harm to the resident, and
 - ii. Sufficient caregivers to ensure the health and safety of residents not evacuated according to subsection (A)(5)(b)(i);
 6. Documentation of each evacuation drill is created, is maintained for at least 12 months after the date of the evacuation drill, and includes:
 - a. The date and time of the evacuation drill;
 - b. The amount of time taken for employees and residents to evacuate the assisted living facility;
 - c. If applicable:
 - i. An identification of residents needing assistance for evacuation, and
 - ii. An identification of residents who were not evacuated;
 - d. Any problems encountered in conducting the evacuation drill; and
 - e. Recommendations for improvement, if applicable; and
 7. An evacuation path is conspicuously posted in each hallway of each floor of the assisted living facility.
- B.** A manager shall ensure that:
 1. A resident receives orientation to the exits from the assisted living facility and the route to be used when evacuating the assisted living facility within 24 hours after the resident's acceptance by the assisted living facility, and
 2. The resident's orientation is documented.
- C.** A manager shall ensure that a first-aid kit is maintained in the assisted living facility in a location accessible to caregivers and assistant caregivers.
- D.** When a resident has an accident, emergency, or injury that results in the resident needing medical services, a manager shall ensure that a caregiver or an assistant caregiver:
 1. Immediately notifies the resident's emergency contact and primary care provider; and
 2. Documents the following:
 - a. The date and time of the accident, emergency, or injury;
 - b. A description of the accident, emergency, or injury;
 - c. The names of individuals who observed the accident, emergency, or injury;
 - d. The actions taken by the caregiver or assistant caregiver;
 - e. The individuals notified by the caregiver or assistant caregiver; and
 - f. Any action taken to prevent the accident, emergency, or injury from occurring in the future.
- E.** A manager of an assisted living center shall ensure that:
 1. Unless the assisted living center has documentation of having received an exception from the Department before October 1, 2013, in the areas of the assisted living center providing personal care services or directed care services:
 - a. A fire alarm system is installed according to the National Fire Protection Association 72: National Fire Alarm and Signaling Code, incorporated by reference in A.A.C. R9-1-412, and is in working order; and
 - b. A sprinkler system is installed according to the National Fire Protection Association 13 Standard for the Installation of Sprinkler Systems, incorporated by reference in A.A.C. R9-1-412, and is in working order;
 2. For the areas of the assisted living center providing only supervisory care services:
 - a. A fire alarm system and a sprinkler system meeting the requirements in subsection (E)(1) are installed and in working order, or
 - b. The assisted living center complies with the requirements in subsection (F);
 3. A fire inspection is conducted by a local fire department or the State Fire Marshal before initial licensing and according to the time-frame established by the local fire department or the State Fire Marshal;
 4. Any repairs or corrections stated on the fire inspection report are made; and
 5. Documentation of a current fire inspection is maintained.
- F.** A manager of an assisted living home shall ensure that:
 1. A fire extinguisher that is labeled as rated at least 2A-10-BC by the Underwriters Laboratories is mounted and maintained in the assisted living home;
 2. A disposable fire extinguisher is replaced when its indicator reaches the red zone;
 3. A rechargeable fire extinguisher:
 - a. Is serviced at least once every 12 months, and

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- b. Has a tag attached to the fire extinguisher that specifies the date of the last servicing and the identification of the person who serviced the fire extinguisher;
 - 4. Except as provided in subsection (G):
 - a. A smoke detector is:
 - i. Installed in each bedroom, hallway that adjoins a bedroom, storage room, laundry room, attached garage, and room or hallway adjacent to the kitchen, and other places recommended by the manufacturer;
 - ii. Either battery operated or, if hard-wired into the electrical system of the assisted living home, has a back-up battery;
 - iii. In working order; and
 - iv. Tested at least once a month; and
 - b. Documentation of the test required in subsection (F)(4)(a)(iv) is maintained for at least 12 months after the date of the test;
 - 5. An appliance, light, or other device with a frayed or spliced electrical cord is not used at the assisted living home; and
 - 6. An electrical cord, including an extension cord, is not run under a rug or carpeting, over a nail, or from one room to another at the assisted living home.
- G. A manager of an assisted living home may use a fire alarm system and a sprinkler system to ensure the safety of residents if the fire alarm system and sprinkler system:
 - 1. Are installed and in working order, and
 - 2. Meet the requirements in subsection (E)(1).

Historical Note

New Section made by final rulemaking at 9 A.A.R. 319, effective March 14, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-819. Environmental Standards

- A. A manager shall ensure that:
 - 1. The premises and equipment used at the assisted living facility are:
 - a. Cleaned and, if applicable, disinfected according to policies and procedures designed to prevent, minimize, and control illness or infection; and
 - b. Free from a condition or situation that may cause a resident or other individual to suffer physical injury;
 - 2. A pest control program is implemented and documented;
 - 3. Garbage and refuse are:
 - a. Stored in covered containers lined with plastic bags, and
 - b. Removed from the premises at least once a week;
 - 4. Heating and cooling systems maintain the assisted living facility at a temperature between 70° F and 84° F at all times, unless individually controlled by a resident;
 - 5. Common areas:
 - a. Are lighted to ensure the safety of residents, and
 - b. Have lighting sufficient to allow caregivers and assistant caregivers to monitor resident activity;
 - 6. Hot water temperatures are maintained between 95° F and 120° F in areas of an assisted living facility used by residents;
 - 7. The supply of hot and cold water is sufficient to meet the personal hygiene needs of residents and the cleaning and sanitation requirements in this Article;
 - 8. A resident has access to a laundry service or a washing machine and dryer in the assisted living facility;
 - 9. Soiled linen and soiled clothing stored by the assisted living facility are maintained separate from clean linen and clothing and stored in closed containers away from food storage, kitchen, and dining areas;
 - 10. Oxygen containers are secured in an upright position;
 - 11. Poisonous or toxic materials stored by the assisted living facility are maintained in labeled containers in a locked area separate from food preparation and storage, dining areas, and medications and are inaccessible to residents;
 - 12. Combustible or flammable liquids and hazardous materials stored by the assisted living facility are stored in the original labeled containers or safety containers in a locked area inaccessible to residents;
 - 13. Equipment used at the assisted living facility is:
 - a. Maintained in working order;
 - b. Tested and calibrated according to the manufacturer's recommendations or, if there are no manufacturer's recommendations, as specified in policies and procedures; and
 - c. Used according to the manufacturer's recommendations;
 - 14. If pets or animals are allowed in the assisted living facility, pets or animals are:
 - a. Controlled to prevent endangering the residents and to maintain sanitation;
 - b. Licensed consistent with local ordinances; and
 - c. For a dog or cat, vaccinated against rabies;
 - 15. If a water source that is not regulated under 18 A.A.C. 4 by the Arizona Department of Environmental Quality is used:
 - a. The water source is tested at least once every 12 months for total coliform bacteria and fecal coliform or *E. coli* bacteria;
 - b. If necessary, corrective action is taken to ensure the water is safe to drink; and
 - c. Documentation of testing is retained for at least 12 months after the date of the test; and
 - 16. If a non-municipal sewage system is used, the sewage system is in working order and is maintained according to applicable state laws and rules.
- B. If a swimming pool is located on the premises, a manager shall ensure that:
 - 1. On a day that a resident uses the swimming pool, an employee:
 - a. Tests the swimming pool's water quality at least once for compliance with one of the following chemical disinfection standards:
 - i. A free chlorine residual between 1.0 and 3.0 ppm as measured by the N, N-Diethyl-p-phenylenediamine test;
 - ii. A free bromine residual between 2.0 and 4.0 ppm as measured by the N, N-Diethyl-p-phenylenediamine test; or
 - iii. An oxidation-reduction potential equal to or greater than 650 millivolts; and
 - b. Records the results of the water quality tests in a log that includes the date tested and test result;
 - 2. Documentation of the water quality test is maintained for at least 12 months after the date of the test; and
 - 3. A swimming pool is not used by a resident if a water quality test shows that the swimming pool water does not comply with subsection (B)(1)(a).

Historical Note

New Section made by final rulemaking at 9 A.A.R. 319,

effective March 14, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-820. Physical Plant Standards

- A.** A manager shall ensure that an assisted living center complies with the applicable physical plant health and safety codes and standards, incorporated by reference in A.A.C. R9-1-412, in effect on the date the assisted living facility submitted architectural plans and specifications to the Department for approval, according to R9-10-104.
- B.** A manager shall ensure that:
- The premises and equipment are sufficient to accommodate:
 - The services stated in the assisted living facility's scope of services, and
 - An individual accepted as a resident by the assisted living facility;
 - A common area for use by residents is provided that has sufficient space and furniture to accommodate the recreational and socialization needs of residents;
 - A dining area has sufficient space and tables and chairs to accommodate the needs of the residents;
 - At least one bathroom is accessible from a common area and:
 - May be used by residents and visitors;
 - Provides privacy when in use; and
 - Contains the following:
 - At least one working sink with running water,
 - At least one working toilet that flushes and has a seat,
 - Toilet tissue for each toilet,
 - Soap in a dispenser accessible from each sink,
 - Paper towels in a dispenser or a mechanical air hand dryer,
 - Lighting, and
 - A window that opens or another means of ventilation;
 - An outside activity space is provided and available that:
 - Is on the premises,
 - Has a hard-surfaced section for wheelchairs, and
 - Has an available shaded area;
 - Exterior doors are equipped with ramps or other devices to allow use by a resident using a wheelchair or other assistive device; and
 - The key to the door of a lockable bathroom, bedroom, or residential unit is available to a manager, caregiver, and assistant caregiver.
- C.** A manager shall ensure that:
- For every eight residents there is at least one working toilet that flushes and has a seat and one sink with running water;
 - For every eight residents there is at least one working bathtub or shower; and
 - A resident bathroom provides privacy when in use and contains:
 - A mirror;
 - Toilet tissue for each toilet;
 - Soap accessible from each sink;
 - Paper towels in a dispenser or a mechanical air hand dryer for a bathroom that is not in a residential unit and used by more than one resident;
 - A window that opens or another means of ventilation;
 - Grab bars for the toilet and, if applicable, the bathtub or shower and other assistive devices, if required to provide for resident safety; and
 - Nonporous surfaces for shower enclosures and slip-resistant surfaces in tubs and showers.
- D.** A manager shall ensure that:
- Each resident is provided with a sleeping area in a residential unit or a bedroom;
 - For an assisted living home, a resident's sleeping area is on the ground floor of the assisted living home unless:
 - The resident is able to direct self-care;
 - The resident is ambulatory without assistance; and
 - There are at least two unobstructed, usable exits to the outside from the sleeping area that the resident is capable of using;
 - Except as provided in subsection (E), no more than two individuals reside in a residential unit or bedroom;
 - A resident's sleeping area:
 - Is not used as a common area;
 - Is not used as a passageway to a common area, another sleeping area, or common bathroom unless the resident's sleeping area:
 - Was used as a passageway to a common area, another sleeping area, or common bathroom before October 1, 2013; and
 - Written consent is obtained from the resident or the resident's representative;
 - Is constructed and furnished to provide unimpeded access to the door;
 - Has floor-to-ceiling walls with at least one door;
 - Has access to natural light through a window or a glass door to the outside; and
 - Has a window or door that can be used for direct egress to outside the building;
 - If a resident's sleeping area is in a bedroom, the bedroom has:
 - For a private bedroom, at least 80 square feet of floor space, not including a closet or bathroom;
 - For a shared bedroom, at least 60 square feet of floor space for each individual occupying the shared bedroom, not including a closet or bathroom; and
 - A door that opens into a hallway, common area, or outdoors;
 - If a resident's sleeping area is in a residential unit, the residential unit has:
 - Except as provided in subsection (E)(2), at least 220 square feet of floor space, not including a closet or bathroom, for one individual residing in the residential unit and an additional 100 square feet of floor space, not including a closet or bathroom, for each additional individual residing in the residential unit;
 - An individually keyed entry door;
 - A bathroom that provides privacy when in use and contains:
 - A working toilet that flushes and has a seat;
 - A working sink with running water;
 - A working bathtub or shower;
 - Lighting;
 - A mirror;
 - A window that opens or another means of ventilation;
 - Grab bars for the toilet and, if applicable, the bathtub or shower and other assistive devices, if required to provide for resident safety; and
 - Nonporous surfaces for shower enclosures and slip-resistant surfaces in bathtubs and showers;

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- d. A resident-controlled thermostat for heating and cooling;
- e. A kitchen area equipped with:
 - i. A working sink and refrigerator,
 - ii. A cooking appliance that can be removed or disconnected,
 - iii. Space for food preparation, and
 - iv. Storage for utensils and supplies; and
- f. If not furnished by a resident:
 - i. An armchair, and
 - ii. A table where a resident may eat a meal; and
- 7. If not furnished by a resident, each sleeping area has:
 - a. A bed, at least 36 inches in width and 72 inches in length, consisting of at least a frame and mattress that is clean and in good repair;
 - b. Clean linen, including a mattress pad, sheets large enough to tuck under the mattress, pillows, pillow cases, a bedspread, waterproof mattress covers as needed, and blankets to ensure warmth and comfort for the resident;
 - c. Sufficient light for reading;
 - d. Storage space for clothing;
 - e. Individual storage space for personal effects; and
 - f. Adjustable window covers that provide resident privacy.
- E. A manager may allow more than two individuals to reside in a residential unit or bedroom if:
 - 1. There is at least 60 square feet for each individual living in the bedroom;
 - 2. There is at least 100 square feet for each individual living in the residential unit; and
 - 3. The manager has documentation that the assisted living facility has been operating since before November 1, 1998, with more than two individuals living in the residential unit or bedroom.
- F. If there is a swimming pool on the premises of the assisted living facility, a manager shall ensure that:
 - 1. Unless the assisted living facility has documentation of having received an exception from the Department before October 1, 2013, the swimming pool is enclosed by a wall or fence that:
 - a. Is at least five feet in height as measured on the exterior of the wall or fence;
 - b. Has no vertical openings greater than four inches across;
 - c. Has no horizontal openings, except as described in subsection (F)(1)(e);
 - d. Is not chain-link;
 - e. Does not have a space between the ground and the bottom fence rail that exceeds four inches in height; and
 - f. Has a self-closing, self-latching gate that:
 - i. Opens away from the swimming pool,
 - ii. Has a latch located at least 54 inches from the ground, and
 - iii. Is locked when the swimming pool is not in use;
 - 2. A life preserver or shepherd's crook is available and accessible in the swimming pool area; and
 - 3. Pool safety requirements are conspicuously posted in the swimming pool area.
- G. A manager shall ensure that a spa that is not enclosed by a wall or fence as described in subsection (F)(1) is covered and locked when not in use.

Historical Note

New Section made by exempt rulemaking at 19 A.A.R.

2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

ARTICLE 9. OUTPATIENT SURGICAL CENTERS**R9-10-901. Definitions**

In addition to the definitions in A.R.S. § 36-401 and R9-10-101, the following apply in this Article, unless otherwise specified:

1. "Inpatient care" means postsurgical services provided in a hospital.
2. "Outpatient surgical services" means anesthesia and surgical services provided to a patient in an outpatient surgical center.
3. "Surgical suite" means an area of an outpatient surgical center that includes one or more operating rooms and one or more recovery rooms.

Historical Note

Adopted effective February 17, 1995 (Supp. 95-1). Amended by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Amended by final rulemaking at 9 A.A.R. 3792, effective October 4, 2003 (Supp. 03-3). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-902. Administration

- A. A governing authority shall:
 1. Consist of one or more individuals responsible for the organization, operation, and administration of an outpatient surgical center;
 2. Establish, in writing:
 - a. An outpatient surgical center's scope of services, and
 - b. Qualifications for an administrator;
 3. Designate, in writing, an administrator who has the qualifications established in subsection (A)(2)(b);
 4. Grant, deny, suspend, or revoke clinical privileges of a physician and other members of the medical staff and delineate, in writing, the clinical privileges of each medical staff member, according to the medical staff by-laws;
 5. Adopt a quality management plan according to R9-10-903;
 6. Review and evaluate the effectiveness of the quality management plan at least once every 12 months;
 7. Designate in writing, an acting administrator who has the qualifications established in subsection (A)(2)(b) if the administrator is:
 - a. Expected not to be present on an outpatient surgical center's premises for more than 30 calendar days, or
 - b. Not present on an outpatient surgical center's premises for more than 30 calendar days; and
 8. Except as provided in subsection (A)(7), notify the Department according to A.R.S. § 36-425(I) when there is a change in the administrator and identify the name and qualifications of the new administrator.
- B. An administrator:
 1. Is directly accountable to the governing authority of an outpatient surgical center for the daily operation of the outpatient surgical center and for all services provided by or at the outpatient surgical center;
 2. Has the authority and responsibility to manage the outpatient surgical center; and

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3. Except as provided in subsection (A)(7), designates, in writing, an individual who is present on an outpatient surgical center's premises and accountable for the outpatient surgical center when the administrator is not present on the outpatient surgical center's premises.
- C. An administrator shall ensure that:
1. Policies and procedures are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Cover job descriptions, duties, and qualifications, including required skills, knowledge, education, and experience for personnel members, employees, volunteers, and students;
 - b. Cover orientation and in-service education for personnel members, employees, volunteers, and students;
 - c. Include how a personnel member may submit a complaint relating to patient care;
 - d. Cover the requirements in A.R.S. Title 36, Chapter 4, Article 11;
 - e. Include a method to identify a patient to ensure that the patient receives services as ordered;
 - f. Cover patient rights, including assisting a patient who does not speak English or who has a disability to become aware of patient rights;
 - g. Cover specific steps for:
 - i. A patient to file a complaint, and
 - ii. The outpatient surgical center to respond to a patient complaint;
 - h. Cover health care directives;
 - i. Cover medical records, including electronic medical records;
 - j. Cover a quality management program, including incident reports and supporting documentation; and
 - k. Cover contracted services;
 2. Policies and procedures for medical services and nursing services provided by an outpatient surgical center are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Cover patient screening, admission, transfer, and discharge;
 - b. Cover the provision of medical services, nursing services, and health-related services in the outpatient surgical center's scope of services;
 - c. Include when general consent and informed consent are required;
 - d. Cover dispensing, administering, and disposing of medications;
 - e. Cover prescribing a controlled substance to minimize substance abuse by a patient;
 - f. Cover how personnel members will respond to a patient's sudden, intense, or out-of-control behavior to prevent harm to the patient or another individual;
 - g. Cover infection control; and
 - h. Cover environmental services that affect patient care;
 3. Policies and procedures are:
 - a. Available to personnel members, employees, volunteers, and students of the outpatient surgical center; and
 - b. Reviewed at least once every three years and updated as needed;
 4. A pharmacy maintained by the outpatient surgical center is licensed according to A.R.S. Title 32, Chapter 18;
 5. Pathology services are provided by a laboratory that holds a certificate of accreditation, certificate of compliance, or certificate of waiver issued by the U.S. Department of Health and Human Services under the 1988 amendments to the Clinical Laboratories Act of 1967;
 6. If the outpatient surgical center meets the definition of "abortion clinic" in A.R.S. § 36-449.01, abortions and related services are provided in compliance with the requirements in Article 15 of this Chapter; and
 7. Unless otherwise stated:
 - a. Documentation required by this Article is provided to the Department within two hours after a Department request; and
 - b. When documentation or information is required by this Chapter to be submitted on behalf of an outpatient surgical center, the documentation or information is provided to the unit in the Department that is responsible for licensing and monitoring the outpatient surgical center.

Historical Note

Adopted effective February 17, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-903. Quality Management

An administrator shall ensure that:

1. A plan is established, documented, and implemented for an ongoing quality management program that, at a minimum, includes:
 - a. A method to identify, document, and evaluate incidents;
 - b. A method to collect data to evaluate services provided to patients;
 - c. A method to evaluate the data collected to identify a concern about the delivery of services related to patient care;
 - d. A method to make changes or take action as a result of the identification of a concern about the delivery of services related to patient care; and
 - e. The frequency of submitting a documented report required in subsection (2) to the governing authority;
2. A documented report is submitted to the governing authority that includes:
 - a. An identification of each concern about the delivery of services related to patient care, and
 - b. Any change made or action taken as a result of the identification of a concern about the delivery of services related to patient care; and
3. The report required in subsection (2) and the supporting documentation for the report are maintained for at least 12 months after the date the report is submitted to the governing authority.

Historical Note

Adopted effective February 17, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-904. Contracted Services

An administrator shall ensure that:

1. Contracted services are provided according to the requirements in this Article, and
2. Documentation of current contracted services is maintained that includes a description of the contracted services provided.

Historical Note

Adopted effective February 17, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-905. Personnel

A. An administrator shall ensure that:

1. The qualifications, skills, and knowledge required for each type of personnel member:
 - a. Are based on:
 - i. The type of physical health services or behavioral health services expected to be provided by the personnel member according to the established job description, and
 - ii. The acuity of the patients receiving physical health services or behavioral health services from the personnel member according to the established job description; and
 - b. Include:
 - i. The specific skills and knowledge necessary for the personnel member to provide the expected physical health services and behavioral health services listed in the established job description,
 - ii. The type and duration of education that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services or behavioral health services listed in the established job description, and
 - iii. The type and duration of experience that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services or behavioral health services listed in the established job description;
2. A personnel member's skills and knowledge are verified and documented:
 - a. Before the personnel member provides physical health services or behavioral health services, and
 - b. According to policies and procedures;
3. Sufficient personnel members are present on an outpatient surgical center's premises with the qualifications, skills, and knowledge necessary to:
 - a. Provide the services in the outpatient surgical center's scope of services,
 - b. Meet the needs of a patient, and
 - c. Ensure the health and safety of a patient;
4. A personnel member, or an employee, a volunteer, or a student who has or is expected to have more than eight hours of direct interaction per week with patients, provides evidence of freedom from infectious tuberculosis:

- a. On or before the date the individual begins providing services at or on behalf of the outpatient surgical center, and
 - b. As specified in R9-10-113;
5. A plan to provide orientation, specific to the duties of a personnel member, an employee, a volunteer, and a student is developed, documented, and implemented;
 6. A personnel member completes orientation before providing physical health services or behavioral health services;
 7. An individual's orientation is documented, to include:
 - a. The individual's name,
 - b. The date of the orientation, and
 - c. The subject or topics covered in the orientation;
 8. A plan to provide in-service education specific to the job duties of a personnel member is developed, documented, and implemented; and
 9. A personnel member's in-service education is documented, to include:
 - a. The personnel member's name,
 - b. The date of the training, and
 - c. The subject or topics covered in the in-service education.

B. An administrator shall ensure that a personnel member:

1. Is 18 years of age or older; and
2. Is certified in cardiopulmonary resuscitation within the first month of employment or volunteer service, and maintains current certification in cardiopulmonary resuscitation.

C. An administrator shall ensure that a personnel record for each personnel member, employee, volunteer, or student includes:

1. The individual's name, date of birth, and contact telephone number;
2. The individual's starting date of employment or volunteer service and, if applicable, the ending date; and
3. Documentation of:
 - a. The individual's qualifications, including skills and knowledge applicable to the individual's job duties;
 - b. The individual's education and experience applicable to the individual's job duties;
 - c. The individual's completed orientation and in-service education as required by policies and procedures;
 - d. The individual's license or certification, if the individual is required to be licensed or certified in this Article or policies and procedures;
 - e. If the individual is a behavioral health technician, clinical oversight required in R9-10-115;
 - f. Cardiopulmonary resuscitation training, if required for the individual according to subsection (B); and
 - g. Evidence of freedom from infectious tuberculosis, if required for the individual according to subsection (A)(4).

D. An administrator shall ensure that personnel records are:

1. Maintained:
 - a. Throughout the individual's period of providing services in or for the outpatient surgical center, and
 - b. For at least 24 months after the last date the individual provided services in or for the outpatient surgical center; and
2. For a personnel member who has not provided physical health services or behavioral health services at or for the outpatient surgical center during the previous 12 months, provided to the Department within 72 hours after the Department's request.

Historical Note

Adopted effective February 17, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Amended by final rulemaking at 9 A.A.R. 3792, effective October 4, 2003 (Supp. 03-3). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-906. Medical Staff

A governing authority shall ensure that:

1. The medical staff approve bylaws for the conduct of medical staff activities according to medical staff bylaws and governing authority requirements;
2. The medical staff physicians conduct medical peer review according to A.R.S. Title 36, Chapter 4, Article 5 and submit recommendations to the governing authority for approval; and
3. The medical staff establish written policies and procedures that define the extent of emergency treatment to be performed in the outpatient surgical center.

Historical Note

Adopted effective February 17, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-907. Admission

- A. A medical staff member shall only admit patients to the outpatient surgical center who:
 1. Do not require planned inpatient care, and
 2. Are discharged from the outpatient surgical center within 24 hours.
- B. Within 30 calendar days before a patient is admitted to an outpatient surgical center, a medical staff member shall complete a medical history and physical examination of the patient.
- C. The individual who is responsible for performing a patient's surgical procedure shall document the preoperative diagnosis and the surgical procedure to be performed in the patient's medical record.
- D. An administrator shall ensure that the following documents are in a patient's medical record before the patient's surgery:
 1. A medical history and the physical examination required in subsection (B),
 2. A preoperative diagnosis and the results of any laboratory tests or diagnostic procedures relative to the surgery and the condition of the patient,
 3. Evidence of informed consent by the patient or patient's representative for the surgical procedure and care of the patient,
 4. Health care directives, and
 5. Physician orders.

Historical Note

Adopted effective February 17, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

R9-10-908. Transfer

Except for a transfer of a patient due to an emergency, an administrator shall ensure that:

1. A personnel member coordinates the transfer and the services provided to the patient;
2. According to policies and procedures:
 - a. An evaluation of the patient is conducted before the transfer;
 - b. Information in the patient's medical record, including orders that are in effect at the time of the transfer, is provided to a receiving health care institution; and
 - c. A personnel member explains risks and benefits of the transfer to the patient or the patient's representative; and
3. Documentation in the patient's medical record includes:
 - a. Communication with an individual at a receiving health care institution;
 - b. The date and time of the transfer;
 - c. The mode of transportation; and
 - d. If applicable, the name of the personnel member accompanying the patient during a transfer.

Historical Note

Adopted effective February 17, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Amended by final rulemaking at 9 A.A.R. 3792, effective October 4, 2003 (Supp. 03-3). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-909. Patient Rights

- A. An administrator shall ensure that:
 1. The requirements in subsection (B) and the patient rights in subsection (C) are conspicuously posted on the premises;
 2. At the time of admission, a patient or the patient's representative receives a written copy of the requirements in subsection (B) and the patient rights in subsection (C); and
 3. Policies and procedures include:
 - a. How and when a patient or the patient's representative is informed of patient rights in subsection (C), and
 - b. Where patient rights are posted as required in subsection (A)(1).
- B. An administrator shall ensure that:
 1. A patient is treated with dignity, respect, and consideration;
 2. A patient is not subjected to:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Coercion;
 - e. Manipulation;
 - f. Sexual abuse;
 - g. Sexual assault;
 - h. Seclusion;
 - i. Restraint;
 - j. Retaliation for submitting a complaint to the Department or another entity; or
 - k. Misappropriation of personal and private property by the outpatient surgical center's medical staff, per-

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- sonnel members, employees, volunteers, or students; and
3. A patient or the patient's representative:
 - a. Except in an emergency, either consents to or refuses treatment;
 - b. May refuse or withdraw consent for treatment before treatment is initiated;
 - c. Except in an emergency, is informed of alternatives to a proposed psychotropic medication or surgical procedure and the associated risks and possible complications of the proposed psychotropic medication or surgical procedure;
 - d. Is informed of the following:
 - i. Policies and procedures on health care directives, and
 - ii. The patient complaint process;
 - e. Consents to photographs of the patient before a patient is photographed, except that a patient may be photographed when admitted to an outpatient surgical center for identification and administrative purposes; and
 - f. Except as otherwise permitted by law, provides written consent to the release of information in the patient's:
 - i. Medical record, or
 - ii. Financial records.
- C.** A patient has the following rights:
1. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, or diagnosis;
 2. To receive treatment that supports and respects the patient's individuality, choices, strengths, and abilities;
 3. To receive privacy in treatment and care for personal needs;
 4. To review, upon written request, the patient's own medical record according to A.R.S. §§ 12-2293, 12-2294, and 12-2294.01;
 5. To receive a referral to another health care institution if the outpatient surgical center is not authorized or not able to provide physical health services needed by the patient;
 6. To participate, or have the patient's representative participate, in the development of or decisions concerning treatment;
 7. To participate or refuse to participate in research or experimental treatment; and
 8. To receive assistance from a family member, a patient's representative, or other individual in understanding, protecting, or exercising the patient's rights.
- Historical Note**
- Adopted effective February 17, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).
- R9-10-910. Medical Records**
- A.** An administrator shall ensure that:
1. A medical record is established and maintained for a patient according to A.R.S. Title 12, Chapter 13, Article 7.1;
 2. An entry in a patient's medical record is:
 - a. Recorded only by an individual authorized by policies and procedures to make the entry;
 - b. Dated, legible, and authenticated; and
 - c. Not changed to make the initial entry illegible;
 3. An order is:
 - a. Dated when the order is entered in the patient's medical record and includes the time of the order;
 - b. Authenticated by a medical staff member according to policies and procedures; and
 - c. If the order is a verbal order, authenticated by the medical staff member issuing the order;
 4. If a rubber-stamp signature or an electronic signature is used to authenticate an order, the individual whose signature the rubber-stamp signature or electronic signature represents is accountable for the use of the rubber-stamp signature or electronic signature;
 5. A patient's medical record is available to an individual:
 - a. Authorized according to policies and procedures to access the patient's medical record;
 - b. If the individual is not authorized according to policies and procedures, with the written consent of the patient or the patient's representative; or
 - c. As permitted by law; and
 6. A patient's medical record is protected from loss, damage, or unauthorized use.
- B.** If an outpatient surgical center maintains patients' medical records electronically, an administrator shall ensure that:
1. Safeguards exist to prevent unauthorized access, and
 2. The date and time of an entry in a patient's medical record is recorded by the computer's internal clock.
- C.** An administrator shall ensure that a patient's medical record contains:
1. Patient information that includes:
 - a. The patient's name;
 - b. The patient's address;
 - c. The patient's date of birth; and
 - d. Any known allergies, including medication allergies;
 2. The admitting medical practitioner;
 3. An admitting diagnosis;
 4. Documentation of general consent and informed consent for treatment by the patient or the patient's representative, except in an emergency;
 5. If applicable, the name and contact information of the patient's representative and:
 - a. If the patient is 18 years of age or older or an emancipated minor, the document signed by the patient consenting for the patient's representative to act on the patient's behalf; or
 - b. If the patient's representative:
 - i. Has a health care power of attorney established under A.R.S. § 36-3221 or a mental health care power of attorney executed under A.R.S. § 36-3282, a copy of the health care power of attorney or mental health care power of attorney; or
 - ii. Is a legal guardian, a copy of the court order establishing guardianship;
 6. The date of admission and, if applicable, date of discharge;
 7. Documentation of medical history and results of a physical examination;
 8. A copy of patient's health care directive, if applicable;
 9. Orders;
 10. Progress notes;
 11. If applicable, documentation of any actions taken to control the patient's sudden, intense, or out-of-control behavior to prevent harm to the patient or another individual;

12. Documentation of outpatient surgical center services provided to the patient;
13. A discharge summary, if applicable;
14. Documentation of receipt of written discharge instructions by the patient or patient's representative;
15. If applicable:
 - a. Laboratory reports,
 - b. Radiologic report, and
 - c. Diagnostic reports;
16. The anesthesia report, required in R9-10-911(C)(2);
17. The operative report of the surgical procedure, required in R9-10-911(C)(1); and
18. Documentation of a medication administered to the patient that includes:
 - a. The date and time of administration;
 - b. The name, strength, dosage, and route of administration;
 - c. For a medication administered for pain:
 - i. An assessment of the patient's pain before administering the medication, and
 - ii. The effect of the medication administered;
 - d. For a psychotropic medication:
 - i. An assessment of the patient's behavior before administering the psychotropic medication, and
 - ii. The effect of the psychotropic medication administered;
 - e. The identification, signature, and professional designation of the individual administering or observing the self-administration of the medication; and
 - f. Any adverse reaction a patient has to the medication.

Historical Note

Adopted effective February 17, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-911. Surgical Services

- A. An administrator shall ensure that:
 1. A current listing of surgical procedures offered by an outpatient surgical center is maintained on the outpatient surgical center's premises, and
 2. A chronological register of surgical procedures performed in the outpatient surgical center is maintained for at least 24 months after the date of the last entry.
- B. An administrator shall ensure that a roster of medical staff members who have clinical privileges at the outpatient surgical center is available to the medical staff, specifying the privileges and limitations of each medical staff member on the roster.
- C. An administrator shall ensure that the individual responsible for:
 1. Performing a surgical procedure completes an operative report of the surgical procedure and any necessary discharge instructions according to medical staff by-laws and policies and procedures, and
 2. Administering anesthesia during a surgical procedure completes an anesthesia report and any necessary discharge instructions according to medical staff by-laws and policies and procedures.
- D. An administrator shall ensure that a physician remains on the outpatient surgical center's premises until all patients are discharged from the recovery room.

Historical Note

Adopted effective October 20, 1982 (Supp. 82-5). Section repealed, new Section adopted effective February 17, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-912. Nursing Services

An administrator shall appoint a registered nurse as the director of nursing who:

1. Is responsible for the management of the outpatient surgical center's nursing services;
2. Ensures that policies and procedures are established, documented, and implemented for nursing services provided in the outpatient surgical center;
3. Ensures that the outpatient surgical center is staffed with sufficient nursing personnel, based on the number of patients, the health care needs of the patients, and the outpatient surgical center's scope of services;
4. Participates in quality management activities;
5. Designates a registered nurse, in writing, to manage an outpatient surgical center's nursing services when the director of nursing is not present on the outpatient surgical center's premises;
6. Ensures that a nurse who is not directly assisting the surgeon is responsible for the functioning of an operating room while a surgical procedure is being performed in the operating room;
7. Ensures that a registered nurse is present in the:
 - a. Recovery room when a patient is present in the recovery room, and
 - b. Outpatient surgical center until all patients are discharged; and
8. Ensures that a nurse documents in a patient's medical record that the patient or the patient's representative has received written discharge instructions.

Historical Note

Adopted effective October 20, 1982 (Supp. 82-5). Section repealed, new Section adopted effective February 17, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-913. Behavioral Health Services

If an outpatient surgical center is authorized to provide behavioral health services, an administrator shall ensure that:

1. Policies and procedures are established, documented, and implemented that cover when informed consent is required and by whom informed consent may be given; and
2. The behavioral health services:
 - a. Are provided under the direction of a behavioral health professional; and
 - b. Comply with the requirements:
 - i. For behavioral health paraprofessionals and behavioral health technicians, in R9-10-115; and
 - ii. For an assessment, in R9-10-1011(B).

Historical Note

Adopted effective October 20, 1982 (Supp. 82-5). Section repealed, new Section adopted effective February 17, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-914. Medication Services

A. An administrator shall ensure that policies and procedures for medication services:

1. Include:
 - a. A process for providing information to a patient about medication prescribed for the patient including:
 - i. The prescribed medication's anticipated results,
 - ii. The prescribed medication's potential adverse reactions,
 - iii. The prescribed medication's potential side effects, and
 - iv. Potential adverse reactions that could result from not taking the medication as prescribed;
 - b. Procedures for preventing, responding to, and reporting:
 - i. A medication error,
 - ii. An adverse reaction to a medication, or
 - iii. A medication overdose; and
 - c. Procedures to ensure that a patient's medication regimen is reviewed by a medical practitioner to ensure the medication regimen meets the patient's needs; and
2. Specify a process for review through the quality management program of:
 - a. A medication administration error, and
 - b. An adverse reaction to a medication.

B. An administrator shall ensure that:

1. Policies and procedures for medication administration:
 - a. Are reviewed and approved by a medical practitioner;
 - b. Specify the individuals who may:
 - i. Order medication, and
 - ii. Administer medication;
 - c. Ensure that medication is administered to a patient only as prescribed; and
 - d. Cover the documentation of a patient's refusal to take prescribed medication in the patient's medical record;
2. Verbal orders for medication services are taken by a nurse, unless otherwise provided by law; and
3. A medication administered to a patient:
 - a. Is administered in compliance with an order, and
 - b. Is documented in the patient's medical record.

C. An administrator shall ensure that:

1. A current drug reference guide is available for use by personnel members;
2. A current toxicology reference guide is available for use by personnel members; and
3. If pharmaceutical services are provided on the premises:
 - a. A committee, composed of at least one physician, one pharmacist, and other personnel members as determined by policies and procedures, is established to:
 - i. Develop a drug formulary,

- ii. Update the drug formulary at least once every 12 months,
- iii. Develop medication usage and medication substitution policies and procedures, and
- iv. Specify which medications and medication classifications are required to be stopped automatically after a specific time period unless the ordering medical staff member specifically orders otherwise;
- b. The pharmaceutical services are provided under the direction of a pharmacist;
- c. The pharmaceutical services comply with A.R.S. Title 36, Chapter 27; A.R.S. Title 32, Chapter 18; and 4 A.A.C. 23; and
- d. A copy of the pharmacy license is provided to the Department upon request.

D. When medication is stored at an outpatient surgical center, an administrator shall ensure that:

1. Medication is stored in a separate locked room, closet, or self-contained unit used only for medication storage;
2. Medication is stored according to the instructions on the medication container; and
3. Policies and procedures are established, documented, and implemented for:
 - a. Receiving, storing, inventorying, tracking, dispensing, and discarding medication, including expired medication;
 - b. Discarding or returning prepackaged and sample medication to the manufacturer if the manufacturer requests the discard or return of the medication;
 - c. A medication recall and notification of patients who received recalled medication; and
 - d. Storing, inventorying, and dispensing controlled substances.

E. An administrator shall ensure that a personnel member immediately reports a medication error or a patient's adverse reaction to a medication to the medical practitioner who ordered the medication and, if applicable, the outpatient surgical center's director of nursing.

Historical Note

Adopted effective October 20, 1982 (Supp. 82-5). Section repealed, new Section adopted effective February 17, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-915. Infection Control

An administrator shall ensure that:

1. An infection control program is established, under the direction of an individual qualified according to policies and procedures, to prevent the development and transmission of infections and communicable diseases including:
 - a. A method to identify and document infections occurring at the outpatient surgical center;
 - b. Analysis of the types, causes, and spread of infections and communicable diseases at the outpatient surgical center;
 - c. The development of corrective measures to minimize or prevent the spread of infections and communicable diseases at the outpatient surgical center; and
 - d. Documenting infection control activities including:

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- i. The collection and analysis of infection control data;
 - ii. The actions taken related to infections and communicable diseases; and
 - iii. Reports of communicable diseases to the governing authority and state and county health departments;
- 2. Infection control documentation is maintained for at least 12 months after the date of the documentation;
- 3. Policies and procedures are established, documented, and implemented that cover:
 - a. Compliance with the requirements in 9 A.A.C. 6 for reporting and control measures for communicable diseases and infestations;
 - b. Handling and disposal of biohazardous medical waste;
 - c. Sterilization, disinfection, distribution, and storage of medical equipment and supplies;
 - d. Using personal protective equipment such as aprons, gloves, gowns, masks, or face protection when applicable;
 - e. Training personnel members, employees, and volunteers in infection control practices; and
 - f. Work restrictions for a personnel member with a communicable disease or infected skin lesion;
- 4. Biohazardous medical waste is identified, stored, and disposed of according to 18 A.A.C. 13, Article 14 and policies and procedures;
- 5. Soiled linen and clothing are:
 - a. Collected in a manner to minimize or prevent contamination;
 - b. Bagged at the site of use; and
 - c. Maintained separate from clean linen and clothing; and
- 6. A personnel member, employee, or volunteer washes hands or uses a hand disinfection product after patient contact and after handling soiled linen, soiled clothing, or potentially infectious material.
- 5. A method for ensuring a patient may be transferred to a hospital or other health care institution to receive treatment for a medical emergency that the outpatient surgical center is not authorized or not able to provide.
- B.** An administrator shall ensure that medical emergency treatment is provided to a patient admitted to the outpatient surgical center according to policies and procedures.
- C.** An administrator shall ensure that:
 - 1. A disaster plan is developed, documented, maintained in a location accessible to medical staff and employees, and, if necessary, implemented that includes:
 - a. Procedures to be followed in the event of a fire or threat to patient safety;
 - b. Assigned personnel responsibilities;
 - c. Instructions for the evacuation or transfer of patients;
 - d. Maintenance of patient medical records; and
 - e. A plan to provide any other services related to patient care to meet the patients' needs;
 - 2. The disaster plan required in subsection (C)(1) is reviewed at least once every 12 months;
 - 3. Documentation of a disaster plan review required in subsection (C)(2) is created, is maintained for at least 12 months after the date of the disaster plan review, and includes:
 - a. The date and time of the disaster plan review;
 - b. The name of each personnel member, employee, medical staff member, or volunteer participating in the disaster plan review;
 - c. A critique of the disaster plan review; and
 - d. If applicable, recommendations for improvement;
 - 4. A disaster drill for employees is conducted on each shift at least once every three months and documented;
 - 5. An evacuation drill for employees is conducted at least once every six months for employees on the premises;
 - 6. Documentation of an evacuation drill is created, is maintained for at least 12 months after the date of the evacuation drill, and includes:
 - a. The date and time of the evacuation drill;
 - b. The amount of time taken for employees to evacuate the outpatient surgical center;
 - c. Any problems encountered in conducting the evacuation drill; and
 - d. Recommendations for improvement, if applicable; and
 - 7. An evacuation path is conspicuously posted on each hallway of each floor of the outpatient surgical center and every room where patients may be present.
- D.** An administrator shall ensure that, if applicable, a sign is placed at the entrance to a room or area indicating that oxygen is in use.
- E.** An administrator shall:
 - 1. Obtain a fire inspection conducted according to the time-frame established by the local fire department or the State Fire Marshal;
 - 2. Make any repairs or corrections stated on the fire inspection report; and
 - 3. Maintain documentation of a current fire inspection.

Historical Note

Adopted effective October 20, 1982 (Supp. 82-5). Section repealed, new Section adopted effective February 17, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-916. Emergency and Safety Standards

- A.** An administrator shall ensure that policies and procedures for providing medical emergency treatment to a patient are established, documented, and implemented and include:
 - 1. A list of the medications, supplies, and equipment required on the premises for the medical emergency treatment provided by the outpatient surgical center;
 - 2. A system to ensure medications, supplies, and equipment are available, have not been tampered with, and, if applicable, have not expired;
 - 3. A requirement that a cart or a container is available for medical emergency treatment that contains medications, supplies, and equipment specified in policies and procedures;
 - 4. A method to verify and document that the contents of the cart or container are available for medical emergency treatment; and

Historical Note

Adopted effective October 20, 1982 (Supp. 82-5). Section repealed, new Section adopted effective February 17, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Section amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R.

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1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-917. Environmental Standards**A.** An administrator shall ensure that:

1. An outpatient surgical center's premises and equipment are:
 - a. Cleaned and disinfected according to policies and procedures or manufacturer's instructions to prevent, minimize, and control illness or infection; and
 - b. Free from a condition or situation that may cause a patient or an individual to suffer physical injury;
2. A pest control program is implemented and documented;
3. Equipment used at the outpatient surgical center to provide care to a patient is:
 - a. Maintained in working order;
 - b. Tested and calibrated according to the manufacturer's recommendations or, if there are no manufacturer's recommendations, as specified in policies and procedures; and
 - c. Used according to the manufacturer's recommendations;
4. Documentation of equipment testing, calibration, and repair is maintained for at least 12 months after the date of the testing, calibration, or repair;
5. Garbage and refuse are:
 - a. Stored in covered containers lined with plastic bags, and
 - b. Removed from the premises at least once a week;
6. Heating and cooling systems maintain the outpatient surgical center at a temperature between 70° F and 84° F at all times;
7. Common areas:
 - a. Are lighted to assure the safety of patients, and
 - b. Have lighting sufficient to allow personnel members to monitor patient activity; and
8. The supply of hot and cold water is sufficient to meet the personal hygiene needs of patients and the cleaning and sanitation requirements in this Article.

B. An administrator shall ensure that an outpatient surgical center has a functional emergency power source.**Historical Note**

Adopted effective October 20, 1982 (Supp. 82-5). Repealed effective February 17, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-918. Physical Plant Standards

- A.** An administrator shall ensure that the outpatient surgical center complies with the applicable physical plant health and safety codes and standards, incorporated by reference in A.A.C. R9-1-412, that were in effect on the date the outpatient surgical center submitted architectural plans and specifications to the Department for approval according to R9-10-104.
- B.** An administrator shall ensure that the premises and equipment are sufficient to accommodate:
 1. The services stated in the outpatient surgical center's scope of services, and
 2. An individual accepted as a patient by the outpatient surgical center.
- C.** An administrator shall ensure that:

1. There are two recovery beds for each operating room, for up to four operating rooms, whenever general anesthesia is administered;
 2. One additional recovery bed is available for each additional operating room; and
 3. Recovery beds are located in a space that provides for a minimum of 70 square feet per bed, allowing three feet or more between beds and between the sides of a bed and the wall.
- D.** An administrator may provide chairs in the recovery room area that allow a patient to recline for patients who have not received general anesthesia.
- E.** An administrator shall ensure that the following are available in the surgical suite:
1. Oxygen and the means of administration;
 2. Mechanical ventilator assistance equipment including airways, manual breathing bag, and suction apparatus;
 3. Cardiac monitor;
 4. Defibrillator; and
 5. Cardiopulmonary resuscitation drugs as determined by the policies and procedures.

Historical Note

Adopted effective October 20, 1982 (Supp. 82-5). Repealed effective February 17, 1995 (Supp. 95-1). New Section made by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-919. Repealed**Historical Note**

Adopted effective October 20, 1982 (Supp. 82-5). Repealed effective February 17, 1995 (Supp. 95-1). New Section made by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Section repealed by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

R9-10-920. Repealed**Historical Note**

Adopted effective October 20, 1982 (Supp. 82-5). Repealed effective February 17, 1995 (Supp. 95-1).

R9-10-921. Repealed**Historical Note**

Adopted effective October 20, 1982 (Supp. 82-5). Repealed effective February 17, 1995 (Supp. 95-1).

R9-10-922. Repealed**Historical Note**

Adopted effective October 20, 1982 (Supp. 82-5). Repealed effective February 17, 1995 (Supp. 95-1).

R9-10-923. Repealed**Historical Note**

Adopted effective October 20, 1982 (Supp. 82-5). Repealed effective February 17, 1995 (Supp. 95-1).

R9-10-924. Repealed**Historical Note**

Adopted effective June 2, 1983 (Supp. 82-5). Former Section R9-10-924 repealed, new Section R9-10-924 adopted effective November 6, 1985 (Supp. 85-6). Repealed effective February 17, 1995 (Supp. 95-1).

R9-10-925. Repealed**Historical Note**

Adopted effective October 20, 1982 (Supp. 82-5).
Repealed effective February 17, 1995 (Supp. 95-1).

Attachment 1.**Historical Note**

Adopted effective October 20, 1982 (Supp. 82-5).
Repealed effective February 17, 1995 (Supp. 95-1).

Attachment 2.**Historical Note**

Adopted effective October 20, 1982 (Supp. 82-5).
Repealed effective November 6, 1985 (Supp. 85-6).

Editor's Note: The proposed summary action repealing R9-10-1011 through R9-10-1030 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rules. Sections in effect before the proposed summary action have been restored (Supp. 97-1). Subsequently, those Sections were repealed by final rulemaking (Supp. 99-2).

ARTICLE 10. OUTPATIENT TREATMENT CENTERS**R9-10-1001. Definitions**

In addition to the definitions in A.R.S. § 36-401 and R9-10-101, the following applies in this Article unless otherwise specified:

"Emergency room services" means medical services provided to a patient in an emergency.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 294, effective March 8, 2008 (Supp. 08-1). Section amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1002. Supplemental Application Requirements

A. In addition to the license application requirements in A.R.S. § 36-422 and 9 A.A.C. 10, Article 1, a governing authority applying for an initial license shall submit, in a format provided by the Department:

1. The days and hours of clinical operation and, if different from the days and hours of clinical operation, the days and hours of administrative operation; and
2. A request to provide one or more of the following services:
 - a. Behavioral health services and, if applicable;
 - i. Behavioral health observation/stabilization services,
 - ii. Children's behavioral health services,
 - iii. Court-ordered evaluation,
 - iv. Court-ordered treatment,
 - v. Counseling,
 - vi. Crisis services,
 - vii. Opioid treatment services,
 - viii. Pre-petition screening,
 - ix. Respite services,
 - x. Respite services for children on the premises,
 - xi. DUI education,
 - xii. DUI screening,
 - xiii. DUI treatment, or
 - xiv. Misdemeanor domestic violence offender treatment;
 - b. Diagnostic imaging services;
 - c. Clinical laboratory services;
 - d. Dialysis services;
 - e. Emergency room services;

- f. Pain management services;
- g. Physical health services;
- h. Rehabilitation services;
- i. Sleep disorder services; or
- j. Urgent care services provided in a freestanding urgent care center setting.

B. In addition to the license application requirements in A.R.S. § 36-422 and 9 A.A.C. 10, Article 1, a governing authority of an:

1. Affiliated outpatient treatment center, as defined in R9-10-1901, applying for an initial or renewal license for the affiliated outpatient treatment center shall submit, in a format provided by the Department, the following information for each counseling facility for which the affiliated outpatient treatment center is providing administrative support:
 - a. Name, and
 - b. Either:
 - i. The license number assigned to the counseling facility by the Department; or
 - ii. If the counseling facility is not currently licensed, the:
 - (1) Counseling facility's street address, and
 - (2) Date the counseling facility submitted to the Department an application for an initial health care institution license; and
2. Outpatient treatment center, applying for an initial or renewal license that includes a request for authorization to provide respite services for children on the premises, shall include the requested respite capacity, as defined in R9-10-1025(A).

Historical Note

New Section made by final rulemaking at 14 A.A.R. 294, effective March 8, 2008 (Supp. 08-1). Section amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by exempt rulemaking at 20 A.A.R. 3535, pursuant to Laws 2014, Ch. 233, § 5; effective January 1, 2015 (Supp. 14-4). Amended by exempt rulemaking at 22 A.A.R. 1035, pursuant to Laws 2015, Ch. 158, § 3; effective May 1, 2016 (Supp. 16-2).

R9-10-1003. Administration

A. If an outpatient treatment center is operating under a single group license issued to a hospital according to A.R.S. § 36-422(F) or (G), the hospital's governing authority is the governing authority for the outpatient treatment center.

B. A governing authority shall:

1. Consist of one or more individuals accountable for the organization, operation, and administration of an outpatient treatment center;
2. Establish, in writing:
 - a. An outpatient treatment center's scope of services, and
 - b. Qualifications for an administrator;
3. Designate, in writing, an administrator who has the qualifications established in subsection (B)(2)(b);
4. Adopt a quality management program according to R9-10-1004;
5. Review and evaluate the effectiveness of the quality management program in R9-10-1004 at least once every 12 months;

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6. Designate, in writing, an acting administrator who has the qualifications established in subsection (B)(2)(b) if the administrator is:
 - a. Expected not to be present on an outpatient treatment center's premises for more than 30 calendar days, or
 - b. Not present on an outpatient treatment center's premises for more than 30 calendar days; and
 7. Except as provided in subsection (B)(6), notify the Department according to A.R.S. § 36-425(I) when there is a change in an administrator and identify the name and qualifications of the new administrator.
- C. An administrator:**
1. Is directly accountable to the governing authority for the daily operation of the outpatient treatment center and all services provided by or at the outpatient treatment center;
 2. Has the authority and responsibility to manage the outpatient treatment center; and
 3. Except as provided in subsection (B)(6), designates, in writing, an individual who is present on the outpatient treatment center's premises and accountable for the outpatient treatment center when the administrator is not available.
- D. An administrator shall ensure that:**
1. Policies and procedures are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Cover job descriptions, duties, and qualifications, including required skills, knowledge, education, and experience for personnel members, employees, volunteers, and students;
 - b. Cover orientation and in-service education for personnel members, employees, volunteers, and students;
 - c. Include how a personnel member may submit a complaint relating to services provided to a patient;
 - d. Cover the requirements in Title 36, Chapter 4, Article 11;
 - e. Cover cardiopulmonary resuscitation training including:
 - i. The method and content of cardiopulmonary resuscitation training which includes a demonstration of the individual's ability to perform cardiopulmonary resuscitation,
 - ii. The qualifications for an individual to provide cardiopulmonary resuscitation training,
 - iii. The time-frame for renewal of cardiopulmonary resuscitation training, and
 - iv. The documentation that verifies that an individual has received cardiopulmonary resuscitation training;
 - f. Cover first aid training;
 - g. Include a method to identify a patient to ensure the patient receives the services ordered for the patient;
 - h. Cover patient rights, including assisting a patient who does not speak English or who has a physical or other disability to become aware of patient rights;
 - i. Cover health care directives;
 - j. Cover medical records, including electronic medical records;
 - k. Cover quality management, including incident report and supporting documentation; and
 - l. Cover contracted services;
 2. Policies and procedures for services provided at or by an outpatient treatment center are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Cover patient screening, admission, assessment, transport, transfer, discharge plan, and discharge;
 - b. Cover the provision of medical services, nursing services, health-related services, and ancillary services;
 - c. Include when general consent and informed consent are required;
 - d. Cover obtaining, administering, storing, and disposing of medications, including provisions for controlling inventory and preventing diversion of controlled substances;
 - e. Cover prescribing a controlled substance to minimize substance abuse by a patient;
 - f. Cover infection control;
 - g. Cover telemedicine, if applicable;
 - h. Cover environmental services that affect patient care;
 - i. Cover specific steps for:
 - i. A patient to file a complaint, and
 - ii. An outpatient treatment center to respond to a complaint;
 - j. Cover smoking tobacco products on an outpatient treatment center's premises; and
 - k. Cover how personnel members will respond to a patient's sudden, intense, or out-of-control behavior to prevent harm to the patient or another individual;
 3. Outpatient treatment center policies and procedures are:
 - a. Reviewed at least once every three years and updated as needed, and
 - b. Available to personnel members and employees;
 4. Unless otherwise stated:
 - a. Documentation required by this Article is provided to the Department within two hours after a Department request; and
 - b. When documentation or information is required by this Chapter to be submitted on behalf of an outpatient treatment center, the documentation or information is provided to the unit in the Department that is responsible for licensing and monitoring the outpatient treatment center;
 5. The following are conspicuously posted:
 - a. The current license for the outpatient treatment center issued by the Department;
 - b. The name, address, and telephone number of the Department;
 - c. A notice that a patient may file a complaint with the Department about the outpatient treatment center;
 - d. One of the following:
 - i. A schedule of rates according to A.R.S. § 36-436.01(C), or
 - ii. A notice that the schedule of rates required in A.R.S. § 36-436.01(C) is available for review upon request;
 - e. A list of patient rights;
 - f. A map for evacuating the facility; and
 - g. A notice identifying the location on the premises where current license inspection reports required in A.R.S. § 36-425(D), with patient information redacted, are available; and
 6. Patient follow-up instructions are:
 - a. Provided, orally or in written form, to a patient or the patient's representative before the patient leaves the outpatient treatment center unless the patient leaves against a personnel member's advice; and
 - b. Documented in the patient's medical record.

- E. If abuse, neglect, or exploitation of a patient is alleged or suspected to have occurred before the patient was admitted or while the patient is not on the premises and not receiving services from an outpatient treatment center's employee or personnel member, an administrator shall report the alleged or suspected abuse, neglect, or exploitation of the patient as follows:
- For a patient 18 years of age or older, according to A.R.S. § 46-454; or
 - For a patient under 18 years of age, according to A.R.S. § 13-3620.
- F. If an administrator has a reasonable basis, according to A.R.S. § 13-3620 or 46-454, to believe that abuse, neglect, or exploitation has occurred on the premises or while a patient is receiving services from an outpatient treatment center's employee or personnel member, an administrator shall:
- If applicable, take immediate action to stop the suspected abuse, neglect, or exploitation;
 - Report the suspected abuse, neglect, or exploitation of the patient as follows:
 - For a patient 18 years of age or older, according to A.R.S. § 46-454; or
 - For a patient under 18 years of age, according to A.R.S. § 13-3620;
 - Document:
 - The suspected abuse, neglect, or exploitation;
 - Any action taken according to subsection (F)(1); and
 - The report in subsection (F)(2);
 - Maintain the documentation in subsection (F)(3) for at least 12 months after the date of the report in subsection (F)(2);
 - Initiate an investigation of the suspected abuse, neglect, or exploitation and document the following information within five working days after the report required in subsection (F)(2):
 - The dates, times, and description of the suspected abuse, neglect, or exploitation;
 - A description of any injury to the patient related to the suspected abuse or neglect and any change to the patient's physical, cognitive, functional, or emotional condition;
 - The names of witnesses to the suspected abuse, neglect, or exploitation; and
 - The actions taken by the administrator to prevent the suspected abuse, neglect, or exploitation from occurring in the future; and
 - Maintain a copy of the documented information required in subsection (F)(5) and any other information obtained during the investigation for at least 12 months after the date the investigation was initiated.
- G. If an outpatient treatment center is an affiliated outpatient treatment center as defined in R9-10-1901, an administrator shall ensure that the outpatient treatment center complies with the requirements for an affiliated outpatient treatment center in 9 A.A.C. 10, Article 19.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 294, effective March 8, 2008 (Supp. 08-1). Section amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by exempt rulemaking at 20 A.A.R. 3535, pursuant to Laws 2014, Ch. 233, § 5; effective January 1, 2015 (Supp. 14-4).

R9-10-1004. Quality Management

An administrator shall ensure that:

- A plan is established, documented, and implemented for an ongoing quality management program that, at a minimum, includes:
 - A method to identify, document, and evaluate incidents;
 - A method to collect data to evaluate services provided to patients;
 - A method to evaluate the data collected to identify a concern about the delivery of services related to patient care;
 - A method to make changes or take action as a result of the identification of a concern about the delivery of services related to patient care; and
 - The frequency of submitting a documented report required in subsection (2) to the governing authority;
- A documented report is submitted to the governing authority that includes:
 - An identification of each concern about the delivery of services related to patient care, and
 - Any change made or action taken as a result of the identification of a concern about the delivery of services related to patient care; and
- The report required in subsection (2) and the supporting documentation for the report are maintained for at least 12 months after the date the report is submitted to the governing authority.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 294, effective March 8, 2008 (Supp. 08-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1005. Contracted Services

An administrator shall ensure that:

- Contracted services are provided according to the requirements in this Article, and
- Documentation of current contracted services is maintained that includes a description of the contracted services provided.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 294, effective March 8, 2008 (Supp. 08-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1006. Personnel

An administrator shall ensure that:

- The qualifications, skills, and knowledge required for each type of personnel member:
 - Are based on:
 - The type of physical health services or behavioral health services expected to be provided by the personnel member according to the established job description, and
 - The acuity of the patients receiving physical health services or behavioral health services from the personnel member according to the established job description; and

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- b. Include:
 - i. The specific skills and knowledge necessary for the personnel member to provide the expected physical health services and behavioral health services listed in the established job description,
 - ii. The type and duration of education that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services or behavioral health services listed in the established job description, and
 - iii. The type and duration of experience that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services or behavioral health services listed in the established job description;
2. A personnel member's skills and knowledge are verified and documented:
 - a. Before the personnel member provides physical health services or behavioral health services, and
 - b. According to policies and procedures;
3. Sufficient personnel members are present on an outpatient treatment center's premises with the qualifications, skills, and knowledge necessary to:
 - a. Provide the services in the outpatient treatment center's scope of services,
 - b. Meet the needs of a patient, and
 - c. Ensure the health and safety of a patient;
4. A personnel member only provides physical health services or behavioral health services the personnel member is qualified to provide;
5. A plan is developed, documented, and implemented to provide orientation specific to the duties of personnel members, employees, volunteers, and students;
6. A personnel member completes orientation before providing medical services, nursing services or health-related services to a patient;
7. An individual's orientation is documented, to include:
 - a. The individual's name,
 - b. The date of the orientation, and
 - c. The subject or topics covered in the orientation;
8. A plan is developed, documented, and implemented to provide in-service education specific to the duties of a personnel member;
9. A personnel member's in-service education is documented, to include:
 - a. The personnel member's name,
 - b. The date of the in-service education, and
 - c. The subject or topics covered in the in-service education;
10. A personnel member who is a behavioral health technician or behavioral health paraprofessional complies with the applicable requirements in R9-10-115;
11. A record for a personnel member, an employee, a volunteer, or a student is maintained that includes:
 - a. The individual's name, date of birth, and contact telephone number;
 - b. The individual's starting date of employment or volunteer service, and if applicable, the ending date;
 - c. Documentation of:
 - i. The individual's qualifications including skills and knowledge applicable to the individual's job duties;
 - ii. The individual's education and experience applicable to the individual's job duties;
 - iii. The individual's completed orientation and in-service education as required by policies and procedures;
 - iv. The individual's license or certification, if the individual is required to be licensed or certified in this Article or policies and procedures;
 - v. If the individual is a behavioral health technician, clinical oversight required in R9-10-115;
 - vi. The individual's compliance with the fingerprinting requirements in A.R.S. § 36-425.03, if applicable; and
 - vii. Cardiopulmonary resuscitation training, if the individual is required to have cardiopulmonary resuscitation training according to this Article or policies and procedures; and
12. The record in subsection (A)(11) is:
 - a. Maintained while an individual provides services for or at the outpatient treatment center and for at least 24 months after the last date the employee or volunteer provided services for or at the outpatient treatment center; and
 - b. If the ending date of employment or volunteer service was 12 or more months before the date of the Department's request, provided to the Department within 72 hours after the Department's request.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 294, effective March 8, 2008 (Supp. 08-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1007. Transport; Transfer

- A.** Except as provided in subsection (B), an administrator shall ensure that:
 1. A personnel member coordinates the transport and the services provided to the patient;
 2. According to policies and procedures:
 - a. An evaluation of the patient is conducted before and after the transport,
 - b. Information from the patient's medical record is provided to a receiving health care institution,
 - c. A personnel member explains risks and benefits of the transport to the patient or the patient's representative; and
 - d. A personnel member communicates or documents why the personnel member did not communicate with an individual at a receiving health care institution;
 3. The patient's medical record includes documentation of:
 - a. Communication or lack of communication with an individual at a receiving health care institution;
 - b. The date and time of the transport;
 - c. The mode of transportation; and
 - d. If applicable, the name of the personnel member accompanying the patient during a transport.
- B.** Subsection (A) does not apply to:
 1. Transportation to a location other than a licensed health care institution,
 2. Transportation provided for a patient by the patient or the patient's representative,

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3. Transportation provided by an outside entity that was arranged for a patient by the patient or the patient's representative, or
 4. A transport to another licensed health care institution in an emergency.
- C. Except for a transfer of a patient due to an emergency, an administrator shall ensure that:
1. A personnel member coordinates the transfer and the services provided to the patient;
 2. According to policies and procedures:
 - a. An evaluation of the patient is conducted before the transfer;
 - b. Information from the patient's medical record, including orders that are in effect at the time of the transfer, is provided to a receiving health care institution; and
 - c. A personnel member explains risks and benefits of the transfer to the patient or the patient's representative; and
 3. Documentation in the patient's medical record includes:
 - a. Communication with an individual at a receiving health care institution;
 - b. The date and time of the transfer;
 - c. The mode of transportation; and
 - d. If applicable, the name of the personnel member accompanying the patient during a transfer.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 294, effective March 8, 2008 (Supp. 08-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1008. Patient Rights

- A. An administrator shall ensure that:
1. The requirements in subsection (B) and the patient rights in subsection (C) are conspicuously posted on the premises;
 2. At the time of admission, a patient or the patient's representative receives a written copy of the requirements in subsection (B) and the patient rights in subsection (C); and
 3. Policies and procedures are established, documented, and implemented to protect the health and safety of a patient that include:
 - a. How and when a patient or the patient's representative is informed of patient rights in subsection (C); and
 - b. Where patient rights are posted as required in subsection (A)(1).
- B. An administrator shall ensure that:
1. A patient is treated with dignity, respect, and consideration;
 2. A patient as not subjected to:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Coercion;
 - e. Manipulation;
 - f. Sexual abuse;
 - g. Sexual assault;
 - h. Except as allowed in R9-10-1012(B), restraint or seclusion;
- i. Retaliation for submitting a complaint to the Department or another entity; or
 - j. Misappropriation of personal and private property by an outpatient treatment center's personnel member, employee, volunteer, or student; and
3. A patient or the patient's representative:
- a. Except in an emergency, either consents to or refuses treatment;
 - b. May refuse or withdraw consent for treatment before treatment is initiated;
 - c. Except in an emergency, is informed of alternatives to a proposed psychotropic medication or surgical procedure and associated risks and possible complications of a proposed psychotropic medication or surgical procedure;
 - d. Is informed of the following:
 - i. The outpatient treatment center's policy on health care directives, and
 - ii. The patient complaint process;
 - e. Consents to photographs of the patient before a patient is photographed, except that a patient may be photographed when admitted to an outpatient treatment center for identification and administrative purposes; and
 - f. Except as otherwise permitted by law, provides written consent to the release of information in the patient's:
 - i. Medical record, or
 - ii. Financial records.
- C. A patient has the following rights:
1. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, or diagnosis;
 2. To receive treatment that supports and respects the patient's individuality, choices, strengths, and abilities;
 3. To receive privacy in treatment and care for personal needs;
 4. To review, upon written request, the patient's own medical record according to A.R.S. §§ 12-2293, 12-2294, and 12-2294.01;
 5. To receive a referral to another health care institution if the outpatient treatment center is not authorized or not able to provide physical health services or behavioral health services needed by the patient;
 6. To participate or have the patient's representative participate in the development of, or decisions concerning, treatment;
 7. To participate or refuse to participate in research or experimental treatment; and
 8. To receive assistance from a family member, the patient's representative, or other individual in understanding, protecting, or exercising the patient's rights.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 294, effective March 8, 2008 (Supp. 08-1). Section amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1009. Medical Records

- A. An administrator shall ensure that:
1. A medical record is established and maintained for each patient according to A.R.S. Title 12, Chapter 13, Article 7.1;
 2. An entry in a patient's medical record is:

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- a. Recorded only by a personnel member authorized by policies and procedures to make the entry;
- b. Dated, legible, and authenticated; and
- c. Not changed to make the initial entry illegible;
3. An order is:
 - a. Dated when the order is entered in the patient's medical record and includes the time of the order;
 - b. Authenticated by a medical practitioner or behavioral health professional according to policies and procedures; and
 - c. If the order is a verbal order, authenticated by the medical practitioner or behavioral health professional issuing the order;
4. If a rubber-stamp signature or an electronic signature is used to authenticate an order, the individual whose signature the rubber-stamp signature or electronic signature represents is accountable for the use of the rubber-stamp signature or electronic signature;
5. A patient's medical record is available to an individual:
 - a. Authorized according to policies and procedures to access the patient's medical record;
 - b. If the individual is not authorized according to policies and procedures, with the written consent of the patient or the patient's representative; or
 - c. As permitted by law;
6. Policies and procedures include the maximum time-frame to retrieve a patient's medical record at the request of a medical practitioner, behavioral health professional, or authorized personnel member; and
7. A patient's medical record is protected from loss, damage, or unauthorized use.
- B.** If an outpatient treatment center maintains patients' medical records electronically, an administrator shall ensure that:
 1. Safeguards exist to prevent unauthorized access, and
 2. The date and time of an entry in a medical record is recorded by the computer's internal clock.
- C.** An administrator shall ensure that a patient's medical record contains:
 1. Patient information that includes:
 - a. Except as specified in A.A.C. R9-6-1005, the patient's name and address;
 - b. The patient's date of birth; and
 - c. Any known allergies, including medication allergies;
 2. A diagnosis or reason for outpatient treatment center services;
 3. Documentation of general consent and, if applicable, informed consent for treatment by the patient or the patient's representative, except in an emergency;
 4. If applicable, the name and contact information of the patient's representative and:
 - a. If the patient is 18 years of age or older or an emancipated minor, the document signed by the patient consenting for the patient's representative to act on the patient's behalf; or
 - b. If the patient's representative:
 - i. Has a health care power of attorney established under A.R.S. § 36-3221 or a mental health care power of attorney executed under A.R.S. § 36-3282, a copy of the health care power of attorney or mental health care power of attorney;
 - ii. Is a legal guardian, a copy of the court order establishing guardianship;
 5. Documentation of medical history and, if applicable, results of a physical examination;
 6. Orders;
 7. Assessment;
 8. Treatment plans;
 9. Interval notes;
 10. Progress notes;
 11. Documentation of outpatient treatment center services provided to the patient;
 12. The name of each individual providing treatment or a diagnostic procedure;
 13. Disposition of the patient upon discharge;
 14. Documentation of the patient's follow-up instructions provided to the patient;
 15. A discharge summary;
 16. If applicable:
 - a. Laboratory reports,
 - b. Radiologic reports,
 - c. Sleep disorder reports,
 - d. Diagnostic reports, and
 - e. Consultation reports;
 17. If applicable, documentation of any actions taken to control the patient's sudden, intense, or out-of-control behavior to prevent harm to the patient or another individual, other than actions taken while providing behavioral health observation/stabilization services; and
 18. Documentation of a medication administered to the patient that includes:
 - a. The date and time of administration;
 - b. The name, strength, dosage, and route of administration;
 - c. For a medication administered for pain:
 - i. An assessment of the patient's pain before administering the medication, and
 - ii. The effect of the medication administered;
 - d. For a psychotropic medication:
 - i. An assessment of the patient's behavior before administering the psychotropic medication, and
 - ii. The effect of the psychotropic medication administered;
 - e. The identification, signature, and professional designation of the individual administering or observing the self-administration of the medication;
 - f. Any adverse reaction a patient has to the medication; and
 - g. For prepacked or sample medication provided to the patient for self-administration, the name, strength, dosage, amount, route of administration, and expiration date.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 294, effective March 8, 2008 (Supp. 08-1). Section amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1010. Medication Services

- A.** If an outpatient treatment center provides medication administration or assistance in the self-administration of medication, an administrator shall ensure that policies and procedures for medication services:
 1. Include:
 - a. A process for providing information to a patient about medication prescribed for the patient including:
 - i. The prescribed medication's anticipated results,
 - ii. The prescribed medication's potential adverse reactions,

- iii. The prescribed medication's potential side effects, and
 - iv. Potential adverse reactions that could result from not taking the medication as prescribed;
 - b. Procedures for preventing, responding to, and reporting:
 - i. A medication error,
 - ii. An adverse reaction to a medication, or
 - iii. A medication overdose;
 - c. Procedures to ensure that a patient's medication regimen is reviewed by a medical practitioner and meets the patient's needs;
 - d. Procedures for documenting medication administration and assistance in the self-administration of medication;
 - e. Procedures for assisting a patient in obtaining medication; and
 - f. If applicable, procedures for providing medication administration or assistance in the self-administration of medication off the premises; and
 - 2. Specify a process for review through the quality management program of:
 - a. A medication administration error, and
 - b. An adverse reaction to a medication.
- B.** If an outpatient treatment center provides medication administration, an administrator shall ensure that:
- 1. Policies and procedures for medication administration:
 - a. Are reviewed and approved by a medical practitioner;
 - b. Specify the individuals who may:
 - i. Order medication, and
 - ii. Administer medication;
 - c. Ensure that medication is administered to a patient only as prescribed; and
 - d. Cover the documentation of a patient's refusal to take prescribed medication in the patient's medical record;
 - 2. Verbal orders for medication services are taken by a nurse, unless otherwise provided by law; and
 - 3. A medication administered to a patient is:
 - a. Administered in compliance with an order, and
 - b. Documented in the patient's medical record.
- C.** If an outpatient treatment center provides assistance in the self-administration of medication, an administrator shall ensure that:
- 1. A patient's medication is stored by the outpatient treatment center;
 - 2. The following assistance is provided to a patient:
 - a. A reminder when it is time to take the medication;
 - b. Opening the medication container for the patient;
 - c. Observing the patient while the patient removes the medication from the container;
 - d. Verifying that the medication is taken as ordered by the patient's medical practitioner by confirming that:
 - i. The patient taking the medication is the individual stated on the medication container label,
 - ii. The patient is taking the dosage of the medication stated on the medication container label, and
 - iii. The patient is taking the medication at the time stated on the medication container label; or
 - e. Observing the patient while the patient takes the medication;
 - 3. Policies and procedures for assistance in the self-administration of medication are reviewed and approved by a medical practitioner or registered nurse;
- 4. Training for a personnel member, other than a medical practitioner or registered nurse, in assistance in the self-administration of medication:
 - a. Is provided by a medical practitioner or registered nurse or an individual trained by a medical practitioner or registered nurse; and
 - b. Includes:
 - i. A demonstration of the personnel member's skills and knowledge necessary to provide assistance in the self-administration of medication,
 - ii. Identification of medication errors and medical emergencies related to medication that require emergency medical intervention, and
 - iii. The process for notifying the appropriate entities when an emergency medical intervention is needed;
 - 5. A personnel member, other than a medical practitioner or registered nurse, completes the training in subsection (C)(4) before the personnel member provides assistance in the self-administration of medication; and
 - 6. Assistance in the self-administration of medication provided to a patient is:
 - a. In compliance with an order, and
 - b. Documented in the patient's medical record.
- D.** An administrator shall ensure that:
- 1. A current drug reference guide is available for use by personnel members;
 - 2. A current toxicology reference guide is available for use by personnel members;
 - 3. If pharmaceutical services are provided:
 - a. The pharmaceutical services are provided under the direction of a pharmacist;
 - b. The pharmaceutical services comply with ARS Title 36, Chapter 27; A.R.S. Title 32, Chapter 18; and 4 A.A.C. 23; and
 - c. A copy of the pharmacy license is provided to the Department upon request.
- E.** When medication is stored at an outpatient treatment center, an administrator shall ensure that:
- 1. Medication is stored in a separate locked room, closet, or self-contained unit used only for medication storage;
 - 2. Medication is stored according to the instructions on the medication container; and
 - 3. Policies and procedures are established, documented, and implemented for:
 - a. Receiving, storing, inventorying, tracking, dispensing, and discarding medication including expired medication;
 - b. Discarding or returning prepackaged and sample medication to the manufacturer if the manufacturer requests the discard or return of the medication;
 - c. A medication recall and notification of patients who received recalled medication; and
 - d. Storing, inventorying, and dispensing controlled substances.
- F.** An administrator shall ensure that a personnel member immediately reports a medication error or a patient's adverse reaction to a medication to the medical practitioner who ordered the medication and, if applicable, the outpatient treatment center's clinical director.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 294, effective March 8, 2008 (Supp. 08-1). Section amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemak-

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ing at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1011. Behavioral Health Services

A. An administrator of an outpatient treatment center that is authorized to provide behavioral health services shall ensure that:

1. The outpatient treatment center does not provide a behavioral health service the outpatient treatment center is not authorized to provide;
2. The behavioral health services provided by or at the outpatient treatment center:
 - a. Are provided under the direction of a behavioral health professional; and
 - b. Comply with the requirements:
 - i. For behavioral health paraprofessionals and behavioral health technicians, in R9-10-115, and
 - ii. For an assessment, in subsection (B);
3. A personnel member who provides behavioral health services is:
 - a. At least 21 years of age; or
 - b. At least 18 years of age and is licensed or certified under A.R.S. Title 32 and providing services within the personnel member's scope of practice; and
4. If an outpatient treatment center provides behavioral health services to a patient who is less than 18 years of age, the owner and an employee or a volunteer comply with the fingerprint clearance card requirements in A.R.S. § 36-425.03.

B. An administrator of an outpatient treatment center that is authorized to provide behavioral health services shall ensure that:

1. Except as provided in subsection (B)(2), a behavioral health assessment for a patient is completed before treatment for the patient is initiated;
2. If a behavioral health assessment that complies with the requirements in this Section is received from a behavioral health provider other than the outpatient treatment center or the outpatient treatment center has a medical record for the patient that contains an assessment that was completed within 12 months before the date of the patient's current admission:
 - a. The patient's assessment information is reviewed and updated if additional information that affects the patient's assessment is identified, and
 - b. The review and update of the patient's assessment information is documented in the patient's medical record within 48 hours after the review is completed;
3. If a behavioral health assessment is conducted by a:
 - a. Behavioral health technician or a registered nurse, within 72 hours a behavioral health professional certified or licensed to provide the behavioral health services needed by the patient reviews and signs the behavioral health assessment to ensure that the behavioral health assessment identifies the behavioral health services needed by the patient; or
 - b. Behavioral health paraprofessional, a behavioral health professional certified or licensed to provide the behavioral health services needed by the patient supervises the behavioral health paraprofessional during the completion of the behavioral health assessment and signs the behavioral health assessment to ensure that the assessment identifies the behavioral health services needed by the patient;
4. A behavioral health assessment:
 - a. Documents a patient's:

- i. Presenting issue;
 - ii. Substance abuse history;
 - iii. Co-occurring disorder;
 - iv. Medical condition and history;
 - v. Legal history, including:
 - (1) Custody,
 - (2) Guardianship, and
 - (3) Pending litigation;
 - vi. Criminal justice record;
 - vii. Family history;
 - viii. Behavioral health treatment history; and
 - ix. Symptoms reported by the patient and referrals needed by the patient, if any;
- b. Includes:
- i. Recommendations for further assessment or examination of the patient's needs;
 - ii. The behavioral health services, physical health services, or ancillary services that will be provided to the patient; and
 - iii. The signature and date signed of the personnel member conducting the behavioral health assessment; and
- c. Is documented in patient's medical record;
5. A patient is referred to a medical practitioner if a determination is made that the patient requires immediate physical health services or the patient's behavioral health issue may be related to the patient's medical condition;
 6. A request for participation in a patient's behavioral health assessment is made to the patient or the patient's representative;
 7. An opportunity for participation in the patient's behavioral health assessment is provided to the patient or the patient's representative;
 8. Documentation of the request in subsection (B)(6) and the opportunity in subsection (B)(7) is in the patient's medical record;
 9. A patient's behavioral health assessment information is documented in the medical record within 48 hours after completing the assessment;
 10. If information in subsection (B)(4)(a) is obtained about a patient after the patient's behavioral health assessment is completed, an interval note, including the information, is documented in the patient's medical record within 48 hours after the information is obtained;
 11. Counseling is:
 - a. Offered as described in the outpatient treatment center's scope of services,
 - b. Provided according to the frequency and number of hours identified in the patient's assessment, and
 - c. Provided by a behavioral health professional or a behavioral health technician;
 12. A personnel member providing counseling that addresses a specific type of behavioral health issue has the skills and knowledge necessary to provide the counseling that addresses the specific type of behavioral health issue; and
 13. Each counseling session is documented in the patient's medical record to include:
 - a. The date of the counseling session;
 - b. The amount of time spent in the counseling session;
 - c. Whether the counseling was individual counseling, family counseling, or group counseling;
 - d. The treatment goals addressed in the counseling session; and
 - e. The signature of the personnel member who provided the counseling and the date signed.

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- C. An administrator of an outpatient treatment center authorized to provide behavioral health services may request to provide any of the following to individuals required to attend by a referring court:
1. DUI screening,
 2. DUI education,
 3. DUI treatment, or
 4. Misdemeanor domestic violence offender treatment.
- D. An administrator of an outpatient treatment center authorized to provide the services in subsection (C):
1. Shall comply with the requirements for the specific service in 9 A.A.C. 20, and
 2. May have a behavioral health technician who has the appropriate skills and knowledge established in policies and procedures provide the services.

Historical Note

Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Former Section R9-10-1011 adopted as an emergency now adopted and amended as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1011 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by final rulemaking at 14 A.A.R. 294, effective March 8, 2008 (Supp. 08-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1012. Behavioral Health Observation/Stabilization Services

- A. An administrator of an outpatient treatment center that is authorized to provide behavioral health observation/stabilization services shall ensure that:
1. Behavioral health observation/stabilization services are available 24 hours a day, every calendar day;
 2. Behavioral health observation/stabilization services are provided in a designated area that:
 - a. Is used exclusively for behavioral health observation/stabilization services;
 - b. Has the space for a patient to receive privacy in treatment and care for personal needs; and
 - c. For every 15 observation chairs or less, has at least one bathroom that contains:
 - i. A working sink with running water,
 - ii. A working toilet that flushes and has a seat,
 - iii. Toilet tissue,
 - iv. Soap for hand washing,
 - v. Paper towels or a mechanical air hand dryer,
 - vi. Lighting, and
 - vii. A means of ventilation;
 3. If the outpatient treatment center is authorized to provide behavioral health observation/stabilization services to individuals under 18 years of age:
 - a. There is a separate designated area for providing behavioral health observation/stabilization services to individuals under 18 years of age that:
 - i. Meets the requirements in subsection (B)(2), and
 - ii. Has floor to ceiling walls that separate the designated area from other areas of the outpatient treatment center;
 - b. A registered nurse is present in the separate designated area; and
 - c. A patient under 18 years of age does not share any space, participate in any activity or treatment, or have verbal or visual interaction with a patient 18 years of age or older;
4. A medical practitioner is available;
 5. If the medical practitioner present at the outpatient treatment center is a registered nurse practitioner or a physician assistant, a physician is on-call;
 6. A registered nurse is present and provides direction for behavioral health observation/stabilization services in the designated area;
 7. A nurse monitors each patient at the intervals determined according to subsection (A)(12) and documents the monitoring in the patient's medical record;
 8. An individual who arrives at the designated area for behavioral health observation/stabilization services in the outpatient treatment center is screened within 30 minutes after entering the designated area to determine whether the individual is in need of immediate physical health services;
 9. If a screening indicates that an individual needs immediate physical health services that the outpatient treatment center is:
 - a. Able to provide according to the outpatient treatment center's scope of services, the individual is examined by a medical practitioner within 30 minutes after being screened; or
 - b. Not able to provide, the individual is transferred to a health care institution capable of meeting the individual's immediate physical health needs;
 10. If a screening indicates that an individual needs behavioral health observation/stabilization services and the outpatient treatment center has the capabilities to provide the behavioral health observation/stabilization services, the individual is admitted to the designated area for behavioral health observation/stabilization services and may remain in the designated area and receive observation/stabilization services for up to 23 hours and 59 minutes;
 11. Before a patient is discharged from the designated area for behavioral health observation/stabilization services, a medical practitioner determines whether the patient will be:
 - a. If the behavioral health observation/stabilization services are provided in a health care institution that also provides inpatient services and is capable of meeting the patient's needs, admitted to the health care institution as an inpatient;
 - b. Transferred to another health care institution capable of meeting the patient's needs;
 - c. Provided a referral to another entity capable of meeting the patient's needs; or
 - d. Discharged and provided patient follow-up instructions;
 12. When a patient is admitted to a designated area for behavioral health observation/stabilization services, an assessment of the patient includes the interval for monitoring the patient based on the patient's medical condition, behavior, suspected drug or alcohol abuse, and medication status to ensure the health and safety of the patient;
 13. If a patient is not being admitted as an inpatient to a health care institution, before discharging the patient

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- from a designated area for behavioral health observation/stabilization services, a personnel member:
- a. Identifies the specific needs of the patient after discharge necessary to assist the patient to function independently;
 - b. Identifies any resources, including family members, community social services, peer support services, and Regional Behavioral Health Agency staff, that may be available to assist the patient; and
 - c. Documents the information in subsection (A)(13)(a) and the resources in subsection (A)(13)(b) in the patient's medical record;
14. When a patient is discharged from a designated area for behavioral health observation/stabilization services, a personnel member:
 - a. Provides the patient with discharge information that includes:
 - i. The identified specific needs of the patient after discharge, and
 - ii. Resources that may be available for the patient; and
 - b. Contacts any resources identified as required in subsection (A)(13)(b);
 15. Except as provided in subsection (A)(16), a patient is not re-admitted to the outpatient treatment center for behavioral health observation/stabilization services within two hours after the patient's discharge from a designated area for behavioral health observation/stabilization services;
 16. A patient may be re-admitted to the outpatient treatment center for behavioral health observation/stabilization services within two hours after the patient's discharge if:
 - a. It is at least one hour since the time of the patient's discharge;
 - b. A law enforcement officer or the patient's case manager accompanies the patient to the outpatient treatment center;
 - c. Based on a screening of the patient, it is determined that re-admission for behavioral health observation/stabilization is necessary for the patient; and
 - d. The name of the law enforcement officer or the patient's case manager and the reasons for the determination in subsection (A)(16)(c) are documented in the patient's medical record;
 17. A patient admitted for behavioral health observation/stabilization services is provided:
 - a. An observation chair; or
 - b. A separate piece of equipment for the patient to use to sit or recline that:
 - i. Is at least 12 inches from the floor; and
 - ii. Has sufficient space around the piece of equipment to allow a personnel member to provide behavioral health services and physical health services, including emergency services, to the patient;
 18. If an individual is not admitted for behavioral health observation/stabilization services because there is not an observation chair available for the individual's use, a personnel member provides support to the individual to access the services or resources necessary for the individual's health and safety, which may include:
 - a. Admitting the individual to the outpatient treatment center to provide behavioral health services other than behavioral health observation/stabilization services;
 - b. Establishing a method to notify the individual when there is an observation chair available;
 - c. Referring or providing transportation to the individual to another health care institution;
 - d. Assisting the individual to contact the individual's support system; and
 - e. If the individual is enrolled with a Regional Behavioral Health Authority, contacting the appropriate person to request assistance for the individual;
 19. Personnel members establish a log of individuals who were not admitted because there was not an observation chair available and document the individual's name, actions taken to provide support to the individual to access the services or resources necessary for the individual's health and safety, and date and time the actions were taken;
 20. The log required in subsection (A)(19) is maintained for at least 12 months after the date of documentation in the log;
 21. An observation chair or, as provided in subsection (A)(17)(b), a piece of equipment used by a patient to sit or recline is visible to a personnel member;
 22. Except as provided in subsection (A)(23), a patient admitted to receive behavioral health observation/stabilization services is visible to a personnel member;
 23. A patient admitted to receive behavioral health observation/stabilization services may use the bathroom and not be visible to a personnel member, if the personnel member:
 - a. Determines that the patient is capable of using the bathroom unsupervised,
 - b. Is aware of the patient's location, and
 - c. Is able to intervene in the patient's actions to ensure the patient's health and safety; and
 24. An observation chair:
 - a. Effective until July 1, 2015, has space around the observation chair that allows a personnel member to provide behavioral health services and physical health services, including emergency services, to a patient in the observation chair; and
 - b. Effective on July 1, 2015, has at least three feet of clear floor space:
 - i. On at least two sides of the observation chair, and
 - ii. Between the observation chair and any other observation chair.
- B.** An administrator of an outpatient treatment center that is authorized to provide behavioral health observation/stabilization services shall:
1. Have a room used for seclusion that complies with requirements for seclusion rooms in R9-10-316, and
 2. Comply with the requirements for restraint and seclusion in R9-10-316.
- C.** An administrator of an outpatient treatment center that is authorized to provide behavioral health observation/stabilization services shall ensure that:
1. Policies and procedures are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Cover the process for:
 - i. Evaluating a patient previously admitted to the designated area to determine whether the patient is ready for admission to an inpatient setting or discharge, including when to implement the process;
 - ii. Contacting other health care institutions that provide behavioral health observation/stabilization services to determine if the patient could

- be admitted for behavioral health observation/stabilization services in another health care institution, including when to implement the process; and
- iii. Ensuring that sufficient personnel members, space, and equipment are available to provide behavioral health observation/stabilization services to patients admitted to receive behavioral health observation/stabilization services; and
 - b. Establish a maximum capacity of the number of patients for whom the outpatient treatment center is capable of providing behavioral health observation/stabilization services;
2. The outpatient treatment center does not:
 - a. Exceed the maximum capacity established by the outpatient treatment center in subsection (C)(1)(b); or
 - b. Admit an individual if the outpatient treatment center does not have personnel members, space, and equipment available to provide behavioral health observation/stabilization services to the individual; and
 3. Effective on July 1, 2015:
 - a. If an admission of an individual causes the outpatient treatment center to exceed the outpatient treatment center's licensed occupancy, the individual is only admitted for behavioral health observation/stabilization services after:
 - (i.) A behavioral health professional reviews the individual's screening and determines the admission is an emergency; and
 - (ii.) Documents the determination in the individual's medical record; and
 - b. The outpatient treatment center's quality management program's plan, required in R9-10-1004(1), includes a method to identify and document each occurrence of exceeding licensed occupancy, to evaluate the occurrences of exceeding licensed occupancy, and to review the actions taken to reduce future occurrences of exceeding licensed occupancy.

Historical Note

Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Former Section R9-10-1012 adopted as an emergency now adopted and amended as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1012 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by final rulemaking at 14 A.A.R. 294, effective March 8, 2008 (Supp. 08-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1013. Court-ordered Evaluation

An administrator of an outpatient treatment center that is authorized to provide court-ordered evaluation shall comply with the requirements for court-ordered evaluation in A.R.S. § 36-425.03.

Historical Note

Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Former Section R9-10-1013 adopted as an emergency now adopted and amended as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1013 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by final rulemaking at 14 A.A.R. 294, effective March 8, 2008 (Supp. 08-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1014. Court-ordered Treatment

An administrator of an outpatient treatment center that is authorized to provide court-ordered treatment shall comply with the requirements for court-ordered treatment in A.R.S. Title 36, Chapter 5, Article 4.

Historical Note

Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Former Section R9-10-1014 adopted as an emergency now adopted and amended as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1014 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by final rulemaking at 14 A.A.R. 294, effective March 8, 2008 (Supp. 08-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1015. Clinical Laboratory Services

An administrator of an outpatient treatment center that is authorized to provide clinical laboratory services shall ensure that:

1. If clinical laboratory services are provided on the premises or at another location, the clinical laboratory services are provided by a laboratory that holds a certificate of accreditation, certificate of compliance, or certificate of waiver issued by the U.S. Department of Health and Human Services under the Clinical Laboratory Improvement Act of 1967, 42 U.S.C. 263a, as amended by Public Law 100-578, October 31, 1988; and
2. A clinical laboratory test result is documented in a patient's medical record including:
 - a. The name of the clinical laboratory test;
 - b. The patient's name;
 - c. The date of the clinical laboratory test;
 - d. The results of the clinical laboratory test; and
 - e. If applicable, any adverse reaction related to or as a result of the clinical laboratory test.

Historical Note

Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Former Section R9-10-1015 adopted as an emergency now adopted and amended as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1015 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by final rulemaking at 14 A.A.R. 294, effective March 8, 2008 (Supp. 08-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1016. Crisis Services

- A. An administrator of an outpatient treatment center that is authorized to provide crisis services shall comply with the requirements for behavioral health services in R9-10-1011.
- B. An administrator of an outpatient treatment center that is authorized to provide crisis services shall ensure that:
 1. Crisis services are available during clinical hours of operation;
 2. A behavioral health technician, qualified to provide crisis services according to the outpatient treatment center's policies and procedures, is present in the outpatient treatment center during clinical hours of operation; and
 3. The following individuals, qualified to provide crisis services according to policies and procedures, are available during clinical hours of operation:
 - a. A behavioral health professional,
 - b. A medical practitioner, and
 - c. A registered nurse.

Historical Note

Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Former Section R9-10-1016 adopted as an emergency now adopted and amended as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1016 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by final rulemaking at 14 A.A.R. 294, effective March 8, 2008 (Supp. 08-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1017. Diagnostic Imaging Services

An administrator of an outpatient treatment center that is authorized to provide diagnostic imaging services shall:

1. Designate an individual to provide direction for diagnostic imaging services who is a:
 - a. Radiologic technologist certified under A.R.S. Title 32, Chapter 28, Article 2 who has at least 12 months experience in an outpatient treatment center;
 - b. Physician; or
 - c. Radiologist; and

2. Ensure that:
 - a. Diagnostic imaging services are provided in compliance with A.R.S. Title 30, Chapter 4 and 12 A.A.C. 1;
 - b. A copy of a certificate documenting compliance with subsection (2)(a) is maintained;
 - c. Diagnostic imaging services are provided to a patient according to an order that includes:
 - i. The patient's name,
 - ii. The name of the ordering individual,
 - iii. The diagnostic imaging procedure ordered, and
 - iv. The reason for the diagnostic imaging procedure;
 - d. A physician or radiologist interprets the diagnostic image; and
 - e. A diagnostic imaging patient report is completed that includes:
 - i. The patient's name,
 - ii. The date of the procedure, and
 - iii. A physician's or radiologist's interpretation of the diagnostic image.

Historical Note

Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Former Section R9-10-1017 adopted as an emergency now adopted and amended as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1017 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by final rulemaking at 14 A.A.R. 294, effective March 8, 2008 (Supp. 08-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1018. Dialysis Services

- A. In addition to the definitions in A.R.S. § 36-401, R9-10-101, and R9-10-1001, the following definitions apply in this Section:
 1. "Caregiver" means an individual designated by a patient or a patient's representative to perform self-dialysis in the patient's stead.
 2. "Chief clinical officer" means a physician appointed to provide direction for dialysis services provided by an outpatient treatment center.
 3. "Long-term care plan" means a written plan of action for a patient with kidney failure that is developed to achieve long-term optimum patient outcome.
 4. "Modality" means a method of treatment for kidney failure, including transplant, hemodialysis, and peritoneal dialysis.
 5. "Nutritional assessment" means an analysis of a patient's weight, height, lifestyle, medication, mobility, food and fluid intake, and diagnostic procedures to identify condi-

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- tions and behaviors that indicate whether the patient's nutritional needs are being met.
6. "Patient care plan" means a written document for a patient receiving dialysis that identifies the patient's needs for medical services, nursing services, and health-related services and the process by which the medical services, nursing services, or health-related services will be provided to the patient.
 7. "Peritoneal dialysis" means the process of using the peritoneal cavity for removing waste products by fluid exchange.
 8. "Psychosocial evaluation" means an analysis of an individual's mental and social conditions to determine the individual's need for social work services.
 9. "Reprocessing" means cleaning and sterilizing a dialyzer previously used by a patient so that the dialyzer can be reused by the same patient.
 10. "Self-dialysis" means dialysis performed by a patient or a caregiver on the patient's body.
 11. "Social worker" means an individual licensed according to A.R.S. Title 32, Chapter 33 to engage in the "practice of social work" as defined in A.R.S. § 32-3251.
 12. "Stable means" that a patient's blood pressure, temperature, pulse, respirations, and diagnostic procedure results are within medically recognized acceptable ranges or consistent with the patient's usual medical condition so that medical intervention is not indicated.
 13. "Transplant surgeon" means a physician who:
 - a. Is board eligible or board certified in general surgery or urology by a professional credentialing board, and
 - b. Has at least 12 months of training or experience performing renal transplants and providing care for patients with renal transplants.
- B.** A governing authority of an outpatient treatment center that is authorized to provide dialysis services shall:
1. Ensure that the administrator appointed as required in R9-10-1003(B)(3) has at least 12 months of experience in an outpatient treatment center providing dialysis services; and
 2. Appoint a chief clinical officer to direct the dialysis services provided by or at the outpatient treatment center who is a physician who:
 - a. Is board eligible or board certified in internal medicine or pediatrics by a professional credentialing board, and
 - b. Has at least 12 months of experience or training in providing dialysis services.
- C.** An administrator of an outpatient treatment center that is authorized to provide dialysis services shall ensure that:
1. In addition to the policies and procedures required in R9-10-1003(D), policies and procedures are established, documented, and implemented to protect the health and safety of a patient that cover:
 - a. Long-term care plans and patient care plans,
 - b. Assigning a patient an identification number,
 - c. Personnel members' response to a patient's adverse reaction during dialysis, and
 - d. Personnel members' response to an equipment malfunction during dialysis;
 2. A personnel member complies with the requirements in A.R.S. § 36-423 and R9-10-114 for hemodialysis technicians and hemodialysis technician trainees, if applicable;
 3. A personnel member completes basic cardiopulmonary resuscitation training specific to the age of the patients receiving dialysis from the outpatient treatment center:
 - a. Before providing dialysis services, and
 - b. At least once every 12 months after the initial date of employment or volunteer service;
 4. A personnel member wears a name badge that displays the individual's first name, job title, and professional license or certification; and
 5. At least one registered nurse or medical practitioner is on the premises while a patient receiving dialysis services is on the premises.
- D.** An administrator of an outpatient treatment center that is authorized to provide dialysis services shall ensure that:
1. The premises of the outpatient treatment center where dialysis services are provided complies with the applicable physical plant health and safety codes and standards for outpatient treatment centers providing dialysis services, incorporated by reference in A.A.C. R9-1-412, that were in effect on the date listed on the building permit or zoning clearance submitted, as required by R9-10-104, as part of the application for approval of the architectural plans and specifications submitted before initial approval of the inclusion of dialysis services in the outpatient treatment center's scope of services;
 2. Before a modification of the premises of an outpatient treatment center where dialysis services are provided is made, an application for approval of the architectural plans and specifications of the outpatient treatment center required in R9-10-104(A):
 - a. Is submitted to the Department; and
 - b. Demonstrates compliance with the applicable physical plant health and safety codes and standards for outpatient treatment centers providing dialysis services, incorporated by reference in A.A.C. R9-1-412, in effect on the date:
 - i. Listed on the building permit or zoning clearance submitted as part of the application for approval of the architectural plans and specifications for the modification, or
 - ii. The application for approval of the architectural plans and specifications of the modification of the outpatient treatment center required in R9-10-104(A) is submitted to the Department; and
 3. A modification of the outpatient treatment center complies with applicable physical plant health and safety codes and standards for outpatient treatment centers providing dialysis services, incorporated by reference in A.A.C. R9-1-412 in effect on the date:
 - a. Listed on the building permit or zoning clearance submitted as part of the application for approval of the architectural plans and specifications for the modification, or
 - b. The application for approval of the architectural plans and specifications required in R9-10-104(A) is submitted to the Department.
- E.** An administrator of an outpatient treatment center that is authorized to provide dialysis services shall ensure that for a patient receiving dialysis services:
1. The dialysis services provided to the patient meet the needs of the patient;
 2. A physician:
 - a. Performs a medical history and physical examination on the patient within 30 calendar days before admission or within 48 hours after admission, and
 - b. Documents the medical history and physical examination in the patient's medical record within 48 hours after admission;

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3. If the patient's medical history and physical examination required in subsection (E)(2) is not performed by the patient's nephrologist, the patient's nephrologist, within 30 calendar days after the date of the medical history and physical examination:
 - a. Reviews and authenticates the patient's medical history and physical examination, documents concurrence with the medical history and physical examination, and includes information specific to nephrology; or
 - b. Performs a medical history and physical examination that includes information specific to nephrology;
4. The patient's nephrologist or the nephrologist's designee:
 - a. Performs a medical history and physical examination on the patient at least once every 12 months after the date of the patient's admission to the outpatient treatment center, and
 - b. Documents monthly notes related to the patient's progress in the patient's medical record;
5. A registered nurse responsible for the nursing services provided to the patient receiving dialysis services:
 - a. Reviews with the patient the results of any diagnostic tests performed on the patient;
 - b. Assesses the patient's medical condition before the patient begins receiving hemodialysis and after the patient has received hemodialysis;
 - c. If the patient returns to another health care institution after receiving dialysis services at the outpatient treatment center, provides an oral or written notice of information related to the patient's medical condition to the registered nurse responsible for the nursing services provided to the patient at the health care institution or, if there is not a registered nurse responsible, the individual responsible for the medical services, nursing services, or health-related services provided to the patient at the health care institution;
 - d. Informs the patient's nephrologist of any changes in the patient's medical condition or needs; and
 - e. Documents in the patient's medical record:
 - i. Any notice provided as required in subsection (E)(5)(c), and
 - ii. Monthly notes related to the patient's progress;
6. If the patient is not stable, before dialysis is provided to the patient, a nephrologist is notified of the patient's medical condition and dialysis is not provided until the nephrologist provides direction;
7. The patient:
 - a. Is under the care of a nephrologist;
 - b. Is assigned a patient identification number according to the policy and procedure in subsection (C)(1)(b);
 - c. Is identified by a personnel member before beginning dialysis;
 - d. Receives the dialysis services ordered for the patient by a medical practitioner;
 - e. Is monitored by a personnel member while receiving dialysis at least once every 30 minutes; and
 - f. If the outpatient treatment center reprocesses and reuses dialyzers, is informed that the outpatient treatment center reprocesses and reuses dialyzers before beginning hemodialysis;
8. Equipment used for hemodialysis is inspected and tested according to the manufacturer's recommendations or the outpatient treatment center's policies and procedures before being used to provide hemodialysis to a patient;
9. The equipment inspection and testing required in subsection (E)(8) is documented in the patient's medical record;
10. Supplies and equipment used for dialysis services for the patient are used, stored, and discarded according to manufacturer's recommendations;
11. If hemodialysis is provided to the patient, a personnel member:
 - a. Inspects the dialyzer before use to ensure that the:
 - i. External surface of the dialyzer is clean;
 - ii. Dialyzer label is intact and legible;
 - iii. Dialyzer, blood port, and dialysate port are free from leaks and cracks or other structural damage; and
 - iv. Dialyzer is free of visible blood and other foreign material;
 - b. Verifies the order for the dialyzer to ensure the correct dialyzer is used for the correct patient;
 - c. Verifies the duration of dialyzer storage based on the type of germicide used or method of sterilization or disinfection used;
 - d. If the dialyzer has been reprocessed and is being reused, verifies that the label on the dialyzer includes:
 - i. The patient's name and the patient's identification number,
 - ii. The number of times the dialyzer has been used in patient treatments,
 - iii. The date of the last use of the dialyzer by the patient, and
 - iv. The date of the last reprocessing of the dialyzer;
 - e. If the patient's name is similar to the name of another patient receiving dialysis in the same outpatient treatment center, informs other personnel members, employees, and volunteers, of the similar names to ensure that the name or other identifying information on the label corresponds to the correct patient; and
 - f. Ensures that a patient's vascular access is visible to a personnel member during dialysis;
12. A patient receiving dialysis is visible to a nurse at a location used by nurses to coordinate patients and treatment;
13. If the patient has an adverse reaction during dialysis, a personnel member responds by implementing the policy and procedure required in subsection (C)(1)(c);
14. If the equipment used during the patient's dialysis malfunctions, a personnel member responds by implementing the policy and procedure required in subsection (C)(1)(d); and
15. After a patient's discharge from an outpatient treatment center, the nephrologist responsible for the dialysis services provided to the patient documents the patient's discharge in the patient's medical record within 30 calendar days after the patient's discharge and includes:
 - a. A description of the patient's medical condition and the dialysis services provided to the patient, and
 - b. The signature of the nephrologist.
- F. If an outpatient treatment center provides support for self-dialysis services, an administrator shall ensure that:
 1. A patient or the patient's caregiver is:
 - a. Instructed to use the equipment to perform self-dialysis by a personnel member trained to provide the instruction, and
 - b. Monitored in the patient's home to assess the patient's or patient caregiver's ability to use the equipment to perform self-dialysis;

2. Instruction provided to a patient as required in subsection (F)(1)(a) and monitoring in the patient's home as required in subsection (F)(1)(b) is documented in the patient's medical record;
 3. All supplies for self-dialysis necessary to meet the needs of the patient are provided to the patient;
 4. All equipment necessary to meet the needs of the patient's self-dialysis is provided for the patient and maintained by the outpatient treatment center according to the manufacturer's recommendations;
 5. The water used for hemodialysis is tested and treated according to the requirements in subsection (N);
 6. Documentation of the self-dialysis maintained by the patient or the patient's caregiver is:
 - a. Reviewed to ensure that the patient is receiving continuity of care, and
 - b. Placed in the patient's medical record; and
 7. If a patient uses self-dialysis and self-administers medication:
 - a. The medical practitioner responsible for the dialysis services provided to the patient reviews the patient's diagnostic laboratory tests;
 - b. The patient and the patient's caregiver are informed of any potential:
 - i. Side effects of the medication; and
 - ii. Hazard to a child having access to the medication and, if applicable, a syringe used to inject the medication; and
 - c. The patient or the patient's caregiver is:
 - i. Taught the route and technique of administration and is able to administer the medication, including injecting the medication;
 - ii. Taught and able to perform sterile techniques if the patient or the patient's caregiver will be injecting the medication;
 - iii. Provided with instructions for the administration of the medication, including the specific route and technique the patient or the patient's caregiver has been taught to use;
 - iv. Able to read and understand the directions for using the medication;
 - v. Taught and able to self-monitor the patient's blood pressure; and
 - vi. Informed how to store the medication according to the manufacturer's instructions.
- G.** An administrator of an outpatient treatment center that is authorized to provide dialysis services shall ensure that a social worker is employed by the outpatient treatment center to meet the needs of a patient receiving dialysis services including:
1. Conducting an initial psychosocial evaluation of the patient within 30 calendar days after the patient's admission to the outpatient treatment center;
 2. Participating in reviewing the patient's need for social work services;
 3. Recommending changes in treatment based on the patient's psychosocial evaluation;
 4. Assisting the patient and the patient's representative in obtaining and understanding information for making decisions about the medical services provided to the patient;
 5. Identifying community agencies and resources and assisting the patient and the patient's representative to utilize the community agencies and resources;
 6. Documenting monthly notes related to the patient's progress in the patient's medical record; and
 7. Conducting a follow-up psychosocial evaluation of the patient at least once every 12 months after the date of the patient's admission to the outpatient treatment center.
- H.** An administrator of an outpatient treatment center that is authorized to provide dialysis services shall ensure that a registered dietitian is employed by the outpatient treatment center to assist a patient receiving dialysis services to meet the patient's nutritional and dietetic needs including:
1. Conducting an initial nutritional assessment of the patient within 30 calendar days after the patient's admission to the outpatient treatment center;
 2. Consulting with the patient's nephrologist and recommending a diet to meet the patient's nutritional needs;
 3. Providing advice to the patient and the patient's representative regarding a diet prescribed by the patient's nephrologist;
 4. Monitoring the patient's adherence and response to a prescribed diet;
 5. Reviewing with the patient any diagnostic test performed on the patient that is related to the patient's nutritional or dietetic needs;
 6. Documenting monthly notes related to the patient's progress in the patient's medical record; and
 7. Conducting a follow-up nutritional assessment of the patient at least once every 12 months after the date of the patient's admission to the outpatient treatment center.
- I.** An administrator of an outpatient treatment center that is authorized to provide dialysis services shall ensure that a long-term care plan for each patient:
1. Is developed by a team that includes at least:
 - a. The chief clinical officer of the outpatient treatment center;
 - b. If the chief clinical officer is not a nephrologist, the patient's nephrologist;
 - c. A transplant surgeon or the transplant surgeon's designee;
 - d. A registered nurse responsible for nursing services provided to the patient;
 - e. A social worker;
 - f. A registered dietitian; and
 - g. The patient or patient's representative, if the patient or patient's representative chooses to participate in the development of the long-term care plan;
 2. Identifies the modality of treatment and dialysis services to be provided to the patient;
 3. Is reviewed and approved by the chief clinical officer;
 4. Is signed and dated by each personnel member participating in the development of the long-term care plan;
 5. Includes documentation signed by the patient or the patient's representative that the patient or the patient's representative was provided an opportunity to participate in the development of the long-term care plan;
 6. Is signed and dated by the patient or the patient's representative; and
 7. Is reviewed at least once every 12 months by the team in subsection (I)(1) and updated according to the patient's needs.
- J.** An administrator of an outpatient treatment center that is authorized to provide dialysis services shall ensure that a patient care plan for each patient:
1. Is developed by a team that includes at least:
 - a. The patient's nephrologist;
 - b. A registered nurse responsible for nursing services provided to the patient;
 - c. A social worker;
 - d. A registered dietitian; and

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- e. The patient or the patient's representative, if the patient or patient's representative chooses to participate in the development of the patient care plan;
 2. Includes an assessment of the patient's need for dialysis services;
 3. Identifies treatment and treatment goals;
 4. Is signed and dated by each personnel member participating in the development of the patient care plan;
 5. Includes documentation signed by the patient or the patient's representative that the patient or the patient's representative was provided an opportunity to participate in the development of the patient care plan;
 6. Is signed and dated by the patient or the patient's representative;
 7. Is implemented;
 8. Is evaluated by:
 - a. The registered nurse responsible for the dialysis services provided to the patient,
 - b. The registered dietitian providing services to the patient related to the patient's nutritional or dietetic needs, and
 - c. The social worker providing services to the patient related to the patient's psychosocial needs;
 9. Includes documentation of interventions, resolutions, and outcomes related to treatment goals; and
 10. Is reviewed and updated according to the needs of the patient:
 - a. At least once every six months for a patient whose medical condition is stable, and
 - b. At least once every 30 calendar days for a patient whose medical condition is not stable.
- K.** In addition to the requirements in R9-10-1009(C), an administrator of an outpatient treatment center that is authorized to provide dialysis services shall ensure that a medical record for each patient contains:
1. An annual medical history;
 2. An annual physical examination;
 3. Monthly notes related to the patient's progress by a medical practitioner, registered dietitian, social worker, and registered nurse;
 4. If applicable, documentation of:
 - a. The equipment inspection and testing required in subsection (E)(9), and
 - b. The self-dialysis required in subsection (F)(2); and
 5. If applicable, documentation of the patient's discharge.
- L.** For a patient who received dialysis services, an administrator shall ensure that after the patient's discharge from an outpatient treatment center that is authorized to provide dialysis services, the nephrologist responsible for the dialysis services provided to the patient documents the patient's discharge in the patient's medical record within 30 calendar days after the patient's discharge and includes:
1. A description of the patient's medical condition and the dialysis services provided to the patient, and
 2. The signature of the nephrologist.
- M.** If an outpatient treatment center reuses dialyzers or other dialysis supplies, an administrator shall ensure that the outpatient treatment center complies with the guidelines adopted by the Association for the Advancement of Medical Instrumentation in Reuse of Hemodialyzers, ANSI/AAMI RD47:2002 & RD47:2002/A1:2003, incorporated by reference, on file with the Department, and including no future editions or amendments. Copies may be purchased from the Association for the Advancement of Medical Instrumentation, 1110 N. Glebe Road, Suite 220, Arlington, VA 22201-4795.
- N.** A chief clinical officer shall ensure that the quality of water used in dialysis conforms to the guidelines adopted by the Association for the Advancement of Medical Instrumentation in Hemodialysis systems, ANSI/AAMI RD5:2003, incorporated by reference, on file with the Department, and including no future editions or amendments. Copies may be purchased from the Association for the Advancement of Medical Instrumentation, 1110 N. Glebe Road, Suite 220, Arlington, VA 22201-4795.

Historical Note

Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Former Section R9-10-1018 adopted as an emergency now adopted and amended as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed by summary action interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1018 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1019. Emergency Room Services

An administrator of an outpatient treatment center that is authorized to provide emergency room services shall ensure that:

1. Emergency room services are:
 - a. Available on the premises:
 - i. At all times, and
 - ii. To stabilize an individual's emergency medical condition; and
 - b. Provided:
 - i. In a designated area, and
 - ii. Under the direction of a physician;
2. Clinical laboratory services are available on the premises;
3. Diagnostic imaging services are available on the premises;
4. An area designated for emergency room services complies with the physical plant codes and standards for a freestanding emergency care facility in R9-1-412;
5. Policies and procedures are established, documented, and implemented to protect the health and safety of a patient that specify requirements for the use of a seclusion room;
6. A physician is present in an area designated for emergency room services;
7. A registered nurse is present in an area designated for emergency room services and provides direction for nursing services in the designated area;
8. The outpatient treatment center has a documented transfer agreement with a general hospital;
9. Emergency room services are provided to an individual, including a woman in active labor, requesting medical services in an emergency;
10. If emergency room services cannot be provided at the outpatient treatment center, measures and procedures are implemented to minimize the risk to the patient until the patient is transferred to the general hospital with which the outpatient treatment center has a transfer agreement as required in subsection (8);
11. There is a chronological log of emergency room services provided to a patient that includes:

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- a. The patient's name;
 - b. The date, time, and mode of arrival; and
 - c. The disposition of the patient, including discharge or transfer; and
12. The chronological log required in subsection (12) is maintained:
- a. In the designated area for emergency room services for at least 12 months after the date the emergency room services were provided; and
 - b. By the outpatient treatment center for a total of at least 24 months after the date the emergency room services were provided.

Historical Note

Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Former Section R9-10-1019 adopted as an emergency now adopted as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1019 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1020. Opioid Treatment Services

- A. A governing authority of an outpatient treatment center that is authorized to provide opioid treatment services shall:
 - 1. Ensure that the outpatient treatment center obtains certification by the Substance Abuse and Mental Health Services Administration before providing opioid treatment,
 - 2. Maintain a current Substance Abuse and Mental Health Services Administration certificate for the outpatient treatment center on the premises, and
 - 3. Ensure that the administrator appointed as required in R9-10-1003(B)(3) is named on the Substance Abuse and Mental Health Services Administration certificate as the individual responsible for the opioid treatment services provided by or at the outpatient treatment center.
 - B. An administrator of an outpatient treatment center that is authorized to provide opioid treatment services shall ensure that:
 - 1. In addition to the policies and procedures required in R9-10-1003(D), policies and procedures are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Include the criteria for receiving opioid treatment services and address:
 - i. Comprehensive maintenance treatment consisting of dispensing or administering an opioid agonist treatment medication at stable dosage levels to a patient for a period in excess of 21 calendar days and providing medical and health-related services to the patient, and
 - ii. Detoxification treatment that occurs over a continuous period of more than 30 calendar days;
 - b. Include the criteria and procedures for discontinuing opioid treatment services;
 - c. Address the needs of specific groups of patients, such as patients who:
 - i. Are pregnant;
 - ii. Are children;
 - iii. Have chronic or acute medical conditions such as HIV infection, hepatitis, diabetes, tuberculosis, or cardiovascular disease;
 - iv. Have a mental disorder;
 - v. Abuse alcohol or other drugs; or
 - vi. Are incarcerated or detained;
 - d. Contain a method of patient identification to ensure the patient receives the opioid treatment services ordered;
 - e. Contain methods to assess whether a patient is receiving concurrent opioid treatment services from more than one health care institution;
 - f. Contain methods to ensure that the opioid treatment services provided to a patient by or at the outpatient treatment center meet the patient's needs;
 - g. Include relapse prevention procedures;
 - h. Include for laboratory testing:
 - i. Criteria for the assessment of a patient's opioid agonist blood levels,
 - ii. Procedures for specimen collection and processing to reduce the risk of fraudulent results, and
 - iii. Procedures for conducting random drug testing of patients receiving an opioid agonist treatment medication;
 - i. Include procedures for the response of personnel members to a patient's adverse reaction during opioid treatment; and
 - j. Include criteria for dispensing one or more doses of an opioid agonist treatment medication to a patient for use off the premises and address:
 - i. Who may authorize dispensing,
 - ii. Restrictions on dispensing, and
 - iii. Information to be provided to a patient or the patient's representative before dispensing;
 - 2. A physician provides direction for the opioid treatment services provided at the outpatient treatment center;
 - 3. If a patient requires administration of an opioid agonist treatment medication as a result of chronic pain, the patient:
 - a. Receives consultation with or a referral for consultation with a physician or registered nurse practitioner who specializes in chronic pain management, and
 - b. Is not admitted for opioid treatment services:
 - i. Unless the patient is physically addicted to an opioid drug, as manifested by the symptoms of withdrawal in the absence of the opioid drug; and
 - ii. A medical practitioner at the outpatient treatment center coordinates with the physician or registered nurse practitioner who is providing chronic pain management to the patient; and
 - 4. In addition to the requirements in R9-10-1009(C), a medical record for each patient contains:
 - a. If applicable, documentation of the dispensing of doses of an opioid agonist treatment medication to the patient for use off the premises; and
 - b. If applicable, documentation of the patient's discharge from receiving opioid treatment services.
- C. An administrator of an outpatient treatment center that is authorized to provide opioid treatment services shall ensure that for a patient receiving opioid treatment services:
 - 1. The opioid treatment services provided to the patient meet the needs of the patient;

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2. A physician or a medical practitioner under the direction of a physician:
 - a. Performs a medical history and physical examination on the patient within 30 calendar days before admission or within 48 hours after admission, and
 - b. Documents the medical history and physical examination in the patient's medical record within 48 hours after admission;
 3. Before receiving opioid treatment, the patient is informed of the following:
 - a. The progression of opioid addiction and the patient's apparent stage of opioid addiction;
 - b. The goal and benefits of opioid treatment;
 - c. The signs and symptoms of overdose and when to seek emergency assistance;
 - d. The characteristics of opioid agonist treatment medication, including common side-effects and potential interaction effects with other drugs;
 - e. The requirement for a staff member to report suspected or alleged abuse or neglect of a child or an incapacitated or vulnerable adult according to state law;
 - f. Confidentiality requirements;
 - g. Drug screening and urinalysis procedures;
 - h. Requirements for dispensing to a patient one or more doses of an opioid agonist treatment medication for use by the patient off the premises;
 - i. Testing and treatment available for HIV and other communicable diseases; and
 - j. The patient complaint process;
 4. Documentation of the provision of the information specified in subsection (C)(3) is included in the patient's medical record;
 5. The patient receives a dose of an opioid agonist treatment medication only on the order of a medical practitioner;
 6. The patient begins detoxification treatment only at the request of the patient or according to the outpatient treatment center's policy and procedure for discontinuing opioid treatment services required in subsection (B)(1)(b);
 7. If the patient has an adverse reaction during opioid treatment, a personnel member and, if appropriate, a medical practitioner responds by implementing the policy and procedure required in subsection (B)(1)(i);
 8. Before the patient's discharge from opioid treatment services, the patient is provided with patient follow-up instructions that:
 - a. Include information that may reduce the risk of relapse; and
 - b. May include a referral for counseling, support groups, or medication for depression or sleep disorders; and
 9. After the patient's discharge from opioid treatment services provided by or at the outpatient treatment center, the medical practitioner responsible for the opioid treatment services provided to the patient documents the patient's discharge in the patient's medical record within 30 calendar days after the patient's discharge and includes:
 - a. A description of the patient's medical condition and the opioid treatment services provided to the patient, and
 - b. The signature of the medical practitioner.
- D.** An administrator of an outpatient treatment center that is authorized to provide opioid treatment services shall ensure that an assessment for each patient receiving opioid treatment services:
1. Includes, in addition to the information in R9-10-1010(B):
 - a. An assessment of the patient's need for opioid treatment services,
 - b. An assessment of the patient's medical conditions that may be affected by opioid treatment,
 - c. An assessment of other medications being taken by the patient and conditions that may be affected by opioid treatment, and
 - d. A plan to prevent relapse;
 2. Identifies the treatment to be provided to the patient and treatment goals; and
 3. Specifies whether the patient may receive an opioid agonist treatment medication for use off the premises and, if so, the number of doses that may be dispensed.

Historical Note

Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Former Section R9-10-1020 adopted as an emergency now adopted and amended as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1020 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1021. Pain Management Services

An administrator of an outpatient treatment center that is authorized to provide pain management services shall ensure that:

1. Pain management services are provided under the direction of a physician;
2. A personnel member certified in cardiopulmonary resuscitation is available on the outpatient treatment center's premise;
3. If a controlled substance is used to provide pain management services:
 - a. A medical practitioner discusses the risks and benefits of using a controlled substance with a patient; and
 - b. The following information is included in a patient's medical record:
 - i. The patient's history or alcohol and substance abuse,
 - ii. Documentation of the discussion in subsection (3)(a),
 - iii. The nature and intensity of the patient's pain, and
 - iv. The objectives used to determine whether the patient is being successfully treated; and
4. If an injection or a nerve block is used to provide pain management services:
 - a. Before the injection or nerve block is initially used on a patient, an evaluation of the patient is performed by a physician or nurse anesthetist;
 - b. An injection or nerve block is administered by a physician or nurse anesthetist; and
 - c. The following information is included in a patient's medical record:

- i. The evaluation of the patient required in sub-section (4)(a),
- ii. A record of the administration of the injection or nerve block, and
- iii. Any resuscitation measures taken.

Historical Note

Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Former Section R9-10-1021 adopted as an emergency now adopted and amended as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1021 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1022. Physical Health Services

An administrator of an outpatient treatment center that is authorized to provide physical health services shall ensure that:

1. Medical services provided at or by the outpatient treatment center are provided under the direction of a physician or a registered nurse practitioner,
2. Nursing services provided at or by the outpatient treatment center are provided under the direction of a registered nurse, and
3. A personnel member certified in cardiopulmonary resuscitation is available on the outpatient treatment center's premise.

Historical Note

Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Former Section R9-10-1022 adopted as an emergency now adopted and amended as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1022 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1023. Pre-petition Screening

An administrator of an outpatient treatment center that is authorized to provide pre-petition screening shall comply with the requirements for pre-petition screening in A.R.S. Title 36, Chapter 5, Article 4.

Historical Note

Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Former Section R9-10-1023 adopted as an emergency now adopted and amended as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed

by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1023 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1024. Rehabilitation Services

An administrator shall ensure that if an outpatient treatment center is authorized to provide:

1. Occupational therapy services, an occupational therapist provides direction for the occupational therapy services provided at or by the outpatient treatment center;
2. Physical therapy services, a physical therapist provides direction for the physical therapy services provided at or by the outpatient treatment center; or
3. Speech-language pathology services, a speech-language pathologist provides direction for the speech-language pathology services provided at or by the outpatient treatment center.

Historical Note

Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). New Section R9-10-1024 adopted as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1024 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1025. Respite Services

- A. In addition to the definitions in A.R.S. § 36-401, R9-10-101, and R9-10-1001, the following definitions apply in this Section:
 1. "Emergency safety response" has the same meaning as in R9-10-701.
 2. "Outing" means travel by a child, who is receiving respite services provided by an outpatient treatment center, to a location away from the outpatient treatment center premises or, if applicable, the child's residence for a specific activity.
 3. "Parent" means a child's:
 - a. Mother or father, or
 - b. Legal guardian.
 4. "Respite capacity" means the total number of children for whom an outpatient treatment center is authorized by the Department to provide respite services on the outpatient treatment center's premises.
- B. An administrator of an outpatient treatment center that is authorized to provide respite services shall ensure that:
 1. Respite services are not provided in a personnel member's residence unless the personnel member's residence is licensed as a behavioral health respite home;

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2. Except for an outpatient treatment center that is authorized to provide respite services for children on the premises, respite services are provided:
 - a. In a patient's residence; or
 - b. Up to 10 continuous hours in a 24-hour time period while the individual who is receiving the respite services is:
 - i. Supervised by a personnel member;
 - ii. Awake;
 - iii. Except as stated in subsection (B)(3), provided food;
 - iv. Allowed to rest;
 - v. Provided an opportunity to use the toilet and meet the individual's hygiene needs; and
 - vi. Participating in activities in the community but is not in a licensed health care institution or child care facility; and
 3. If a child is provided respite services according to subsection (B)(2)(b), the child is provided the appropriate meals or snacks in subsection (J)(1) for the amount of time the child is receiving respite services from the outpatient treatment center.
- C. If an outpatient treatment center that is authorized to provide respite services for children includes outings in the outpatient treatment center's scope of services, an administrator shall ensure that:
 1. Before a personnel member takes a child receiving respite services on an outing, written permission is obtained from the child's parent that includes:
 - a. The child's name;
 - b. A description of the outing;
 - c. The name of the outing destination, if applicable;
 - d. The street address and, if available, the telephone number of the outing destination;
 - e. Either:
 - i. The date or dates of the outing; or
 - ii. The time period, not to exceed 12 months, during which the permission is given;
 - f. The projected time of departure from the outpatient treatment center or, if applicable, the child's residence;
 - g. The projected time of arrival back at the outpatient treatment center or, if applicable, the child's residence; and
 - h. The dated signature of the child's parent;
 2. Each motor vehicle used on an outing by a personnel member for a child receiving respite services from the outpatient treatment center:
 - a. Is maintained in a mechanically safe condition;
 - b. Is free from hazards;
 - c. Has an operational heating system;
 - d. Has an operational air-conditioning system; and
 - e. Is equipped with:
 - i. A first-aid kit that meets the requirements in subsection (S)(1), and
 - ii. Two large, clean towels or blankets;
 3. On an outing, a child does not ride in a truck bed, camper, or trailer attached to a motor vehicle;
 4. The Department is notified within 24 hours after a motor vehicle accident that involves a child who is receiving respite services while riding in the motor vehicle on an outing; and
 5. A personnel member who drives a motor vehicle with children receiving respite services from the outpatient treatment center in the motor vehicle:
 - a. Requires that each door be locked before the motor vehicle is set in motion and keeps the doors locked while the motor vehicle is in motion;
 - b. Does not permit a child to be seated in front of a motor vehicle's air bag;
 - c. Requires that a child remain seated and entirely inside the motor vehicle while the motor vehicle is in motion;
 - d. Requires that a child is secured, as required in A.R.S. § 28-907 or 28-909, before the motor vehicle is set in motion and while the motor vehicle is in motion;
 - e. Assists a child into or out of the motor vehicle away from moving traffic at curbside or in a driveway, parking lot, or other location designated for this purpose;
 - f. Carries drinking water in an amount sufficient to meet the needs of each child on the outing and a sufficient number of cups or other drinking receptacles so that each child can drink from a different cup or receptacle; and
 - g. Accounts for each child while on the outing.
- D. An administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises shall ensure that:
 1. Respite services are only provided on the premises for up to 10 continuous hours per day between the hours of 6:00 a.m. and 10:00 p.m.;
 2. The specific 10 continuous hours per day during which the outpatient treatment center provides respite services on the premises is stated in the outpatient treatment center's hours of operation that is submitted as part of the outpatient treatment center's initial or renewal license application;
 3. A personnel member, who is expected to provide respite services eight or more hours a week, complies with the requirements for tuberculosis screening in R9-10-113;
 4. At least one personnel member who has current training in first aid and cardiopulmonary resuscitation is available on the premises when a child is receiving respite services on the premises;
 5. At least one personnel member who has completed training in crisis intervention according to R9-10-716(F) is available on the premises when a child is receiving respite services on the premises;
 6. A personnel member does not use or possess any of the following items when a child receiving respite services is on the premises:
 - a. A controlled substance as listed in A.R.S. Title 36, Chapter 27, Article 2, except where used as a prescription medication in the manner prescribed;
 - b. A dangerous drug as defined in A.R.S. § 13-3401, except where used as a prescription medication in the manner prescribed;
 - c. A prescription medication as defined in A.R.S. § 32-1901, except where used in the manner prescribed; or
 - d. A firearm as defined in A.R.S. § 13-105;
 7. An unannounced fire and emergency evacuation drill is conducted at least once a month, and at different times of the day, and each personnel member providing respite services for children on the premises and each child receiving respite services on the premises participates in the fire and emergency evacuation drill;
 8. Each fire and emergency evacuation drill is documented, and the documentation is maintained for at least 12

- months after the date of the fire and emergency evacuation drill;
9. Before a child receives respite services on the premises of the outpatient treatment center, in addition to the requirements in R9-10-1009, the following information is obtained and maintained in the child's medical record;
 - a. The name, home address, city, state, zip code, and contact telephone number of each parent of the child;
 - b. The name and contact telephone number of at least two additional individuals authorized by the child's parent to collect the child from the outpatient treatment center;
 - c. The name and contact telephone number of the child's health care provider;
 - d. The written authorization for emergency medical care of the child when the parent cannot be contacted at the time of an emergency;
 - e. The name of the individual to be contacted in case of injury or sudden illness of the child;
 - f. If applicable, a description of any dietary restrictions or needs due to a medical condition or diagnosed food sensitivity or allergy;
 - g. A written record completed by the child's parent or health care provider noting the child's susceptibility to illness, physical conditions of which a personnel member should be aware, and any specific requirements for health maintenance; and
 10. Documentation is obtained and maintained in the child's medical record each time the child receives respite services on the premises that includes:
 - a. The date and time of each admission to and discharge from receiving respite services; and
 - b. A signature, which contains at least a first initial of a first name and the last name of the child's parent or other individual designated by the child's parent, each time the child is admitted or discharged from receiving respite services on the premises;
 11. Policies and procedures are developed, documented, and implemented to ensure that the identity of an individual is known to a personnel member or is verified with picture identification before the personnel member discharges a child to the individual;
 12. A child is not discharged to an individual other than the child's parent or other individual designated according to subsection (D)(9)(b), except:
 - a. When the child's parent authorizes the administrator by telephone or electronic means to release the child to an individual not so designated, and
 - b. The administrator can verify the telephone or electronic authorization using a means of verification that has been agreed to by the administrator and the child's parent and documented in the child's medical record; and
 13. The number of personnel members providing respite services for children on the premises is determined by the needs of the children present, with a minimum of at least:
 - a. One personnel member providing supervision for every five children receiving respite services on the premises; and
 - b. Two personnel members on the premises when a child is receiving respite services on the premises.
 - E. If swimming activities are conducted at a swimming pool for a child receiving respite services on the premises of an outpatient treatment center, an administrator shall ensure that there is an individual at the swimming pool on the premises who has current lifeguard certification that includes a demonstration of the individual's ability to perform cardiopulmonary resuscitation. If the individual is a personnel member, the personnel member cannot be counted in the personnel member-to-children ratio required by subsection (D)(13).
 - F. An administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises shall ensure that in each area designated for providing respite services:
 1. Drinking water is provided sufficient for the needs of and accessible to each child in both indoor and outdoor areas;
 2. Indoor areas used by children are decorated with age-appropriate articles such as bulletin boards, pictures, and posters;
 3. Storage space is provided for indoor and outdoor toys, materials, and equipment in areas accessible to children;
 4. Clean clothing is available to a child when the child needs a change of clothing;
 5. At least one indoor area in the outpatient treatment center where respite services are provided for children is equipped with at least one cot or mat, a sheet, and a blanket, where a child can rest quietly away from the other children;
 6. Except as provided in subsection (AA)(2)(a), outdoor or large muscle development activities are scheduled to allow not less than 75 square feet for each child occupying the outdoor area or indoor area substituted for outdoor area at any time;
 7. The premises, including the buildings, are maintained free from hazards;
 8. Toys and play equipment, required in this Section, are maintained:
 - a. Free from hazards, and
 - b. In a condition that allows the toy or play equipment to be used for the original purpose of the toy or play equipment;
 9. Temperatures are maintained between 70° F and 84° F in each room or indoor area used by children;
 10. Except when a child is napping or sleeping or for a child who has a sensory issue documented in the child's behavioral health assessment, each room or area used by a child is maintained at a minimum of 30 foot candles of illumination;
 11. When a child is napping or sleeping in a room, the room is maintained at a minimum of five foot candles of illumination;
 12. Each child's toothbrush, comb, washcloth, and cloth towel that are provided for the child's use by the child's parent are maintained in a clean condition and stored in an identified space separate from those of other children;
 13. Except as provided in subsection (F)(14), the following are stored separate from food storage areas and are inaccessible to a child:
 - a. All materials and chemicals labeled as a toxic or flammable substance;
 - b. All substances that have a child warning label and may be a hazard to a child; and
 - c. Lawn mowers, ladders, toilet brushes, plungers, and other equipment that may be a hazard to a child;
 14. Hand sanitizers:
 - a. When being stored, are stored separate from food storage areas and are inaccessible to children; and

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- b. When being provided for use, are accessible to children; and
- 15. Except when used as part of an activity, the following are stored in an area inaccessible to a child:
 - a. Garden tools, such as a rake, trowel, and shovel; and
 - b. Cleaning equipment and supplies, such as a mop and mop bucket.
- G.** An administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises shall ensure that a personnel member:
 - 1. Supervises each child at all times;
 - 2. Does not smoke or use tobacco:
 - a. In any area where respite services may be provided for a child, or
 - b. When transporting or transferring a child;
 - 3. Except for a child who can change the child's own clothing, changes a child's clothing when wet or soiled;
 - 4. Empties clothing soiled with feces into a toilet without rinsing;
 - 5. Places a child's soiled clothing in a plastic bag labeled with the child's name, stores the clothing in a container used for this purpose, and sends the clothing home with the child's parent;
 - 6. Prepares and posts in each indoor area, before the first child arrives to receive respite services that day, a current schedule of age-appropriate activities that meet the needs of the children receiving respite services that day, including the times the following are provided:
 - a. Meals and snacks,
 - b. Naps,
 - c. Indoor activities,
 - d. Outdoor or large muscle development activities,
 - e. Quiet and active activities,
 - f. Personnel member-directed activities,
 - g. Self-directed activities, and
 - h. Activities that develop small muscles;
 - 7. Provides activities and opportunities, consistent with a child's behavioral health assessment, for each child to:
 - a. Gain a positive self-concept;
 - b. Develop and practice social skills;
 - c. Acquire communication skills;
 - d. Participate in large muscle physical activity;
 - e. Develop habits that meet health, safety, and nutritional needs;
 - f. Express creativity;
 - g. Learn to respect cultural diversity of children and staff;
 - h. Learn self-help skills; and
 - i. Develop a sense of responsibility and independence;
 - 8. Implements the schedule in subsection (G)(6);
 - 9. If an activity on the schedule in subsection (G)(6) is not implemented, writes on the schedule the activity that was not implemented and what activity was substituted;
 - 10. Ensures that each indoor area has a supply of age-appropriate toys, materials, and equipment, necessary to implement the schedule required in subsection (G)(6), in a quantity sufficient for the number of children receiving respite services at the outpatient treatment center that day, including:
 - a. Art and crafts supplies;
 - b. Books;
 - c. Balls;
 - d. Puzzles, blocks, and toys to enhance manipulative skills;
 - e. Creative play toys;
 - f. Musical instruments; and
 - g. Indoor and outdoor equipment to enhance large muscle development;
- 11. Does the following when a parent permits or asks a personnel member to apply personal products, such as petroleum jelly, diaper rash ointments, sun screen or sun block preparations, toothpaste, and baby diapering preparations on the parent's child:
 - a. Obtains the child's personal products and written approval for use of the personal products from the child's parent;
 - b. Labels the personal products with the child's name; and
 - c. Keeps the personal products inaccessible to children; and
- 12. Monitors a child for overheating or overexposure to the sun.
- H.** An administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises and includes in the outpatient treatment center's scope of respite services for children wearing diapers shall ensure that there is a diaper changing space in the area designated for providing respite services for children that contains:
 - 1. A nonabsorbent, sanitizable diaper changing surface that is:
 - a. Seamless and smooth, and
 - b. Kept clear of items not required for diaper changing;
 - 2. A hand-washing sink adjacent to the diaper changing surface, for a personnel member's use when changing diapers and for washing a child during or after diapering, that provides:
 - a. Running water,
 - b. Soap from a dispenser, and
 - c. Single-use paper hand towels from a dispenser;
 - 3. At least one waterproof, sanitizable container with a waterproof liner and a tight-fitting lid for soiled diapers; and
 - 4. At least one waterproof, sanitizable container with a waterproof liner and a tight-fitting lid for soiled clothing.
- I.** In a diaper changing space, an administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises shall ensure that:
 - 1. A diaper changing procedure is established, documented, and implemented that states that a child's diaper is changed as soon as it is soiled and that a personnel member when diapering:
 - a. Washes and dries the child, using a separate wash cloth and towel only once for each child;
 - b. If applicable, applies the child's individual personal products labeled with the child's name;
 - c. Uses single-use non-porous gloves;
 - d. Washes the personnel member's own hands with soap and running water according to the requirements in R9-10-1028(5);
 - e. Washes each child's hands with soap and running water after each diaper change; and
 - f. Cleans, sanitizes, and dries the diaper changing surface following each diaper change; and
 - 2. A personnel member:
 - a. Removes disposable diapers and disposable training pants from a diaper changing space as needed or at least twice every 24 hours to a waste receptacle outside the building; and
 - b. Does not:
 - i. Permit a bottle, formula, food, eating utensil, or food preparation in a diaper changing space;

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- ii. Draw water for human consumption from the hand-washing sink adjacent to a diaper changing surface, required in subsection (H)(2); or
 - iii. If responsible for food preparation, change diapers until food preparation duties have been completed for the day.
- J.** Except as provided in subsection (K)(3), an administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises shall:
 - 1. Serve the following meals or snacks to a child receiving respite services on the premises:
 - a. For the following periods of time:
 - i. Two to four hours, one or more snacks;
 - ii. Four to eight hours, one or more snacks and one or more meals; and
 - iii. More than eight hours, two snacks and one or more meals;
 - b. Make breakfast available to a child receiving respite services on the premises before 8:00 a.m.;
 - c. Serve lunch to a child who is receiving respite services on the premises between 11:00 a.m. through 1:00 p.m.; and
 - d. Serve dinner to a child who is receiving respite services on the premises from 5:00 p.m. through 7:00 p.m. and who will remain on the premises after 7:00 p.m.;
 - 2. Ensure that a meal or snack provided by the outpatient treatment center meets the meal pattern requirements in Table 10.1; and
 - 3. If the outpatient treatment center provides a meal or snack to a child:
 - a. Make a second serving of a food component of a provided snack or meal available to a child who requests a second serving, and
 - b. Substitute a food that is equivalent to a specific food component if a requested second serving of a specific food component is not available.
- K.** An administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises:
 - 1. May serve food provided for a child by the child's parent;
 - 2. If a child's parent does not provide a sufficient number of meals or snacks to meet the requirements in subsection (J)(1), shall supplement, according to the requirements in Table 10.1, the meals or snacks provided by the child's parent; and
 - 3. If applicable, shall serve food to a child at the times and in quantities consistent with the information documented according to subsection (D)(9)(f) for the child and the child's behavioral health assessment, to meet the child's dietary and nutritional needs.
- L.** An administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises that has a respite capacity of more than 10 shall obtain a food establishment license or permit according to the requirements in 9 A.A.C. 8, Article 1, and, if applicable, maintain documentation of the current food establishment license or permit.
- M.** If an administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises serves food to a child receiving respite services on the premises that is not prepared by the outpatient treatment center or provided by the child's parent, the administrator shall ensure that the food was prepared by a food establishment, as defined according to A.A.C. R9-8-101.
- N.** An administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises shall ensure that:
 - 1. Children, except infants and children who cannot wash their own hands, wash their hands with soap and running water before and after handling or eating food;
 - 2. A personnel member:
 - a. Washes the hands of an infant or a child who cannot wash the child's own hands before and after the infant or child handles or eats food, using:
 - i. A washcloth,
 - ii. A single-use paper towel, or
 - iii. Soap and running water; and
 - b. If using a washcloth, uses each washcloth on only one child and only one time before it is laundered or discarded;
 - 3. Non-single-use utensils and equipment used in preparing, eating, or drinking food are:
 - a. After each use:
 - i. Washed in an automatic dishwasher and air dried or heat dried; or
 - ii. Washed in hot soapy water, rinsed in clean water, sanitized, and air dried or heat dried; and
 - b. Stored in a clean area protected from contamination;
 - 4. Single-use utensils and equipment are disposed of after being used;
 - 5. Perishable foods are covered and stored in a refrigerator at a temperature of 41° F or less;
 - 6. A refrigerator at the outpatient treatment center maintains a temperature of 41° F or less, as shown by a thermometer kept in the refrigerator at all times;
 - 7. A freezer at the outpatient treatment center maintains a temperature of 0° F or less, as shown by a thermometer kept in the freezer at all times; and
 - 8. Foods are prepared as close as possible to serving time and, if prepared in advance, are either:
 - a. Cold held at a temperature of 45° F or less or hot held at a temperature of 130° F or more until served, or
 - b. Cold held at a temperature of 45° F or less and then reheated to a temperature of at least 165° F before being served.
- O.** An administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises:
 - 1. May allow a personnel member to separate a child who is receiving respite services on the premises from other children for unacceptable behavior for no longer than three minutes after the child has regained self-control, but not more than 10 minutes without the personnel member interacting with the child, consistent with the child's behavioral health assessment;
 - 2. Shall ensure that:
 - a. A personnel member, consistent with the child's behavioral health assessment:
 - i. Defines and maintains consistent and reasonable guidelines and limitations for a child's behavior;
 - ii. Teaches, models, and encourages orderly conduct, personal control, and age-appropriate behavior; and
 - iii. Explains to a child why a particular behavior is not allowed, suggests an alternative, and assists the child to become engaged in an alternative activity;
 - b. An emergency safety response is:

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- i. Only used:
 - (1) By a personnel member trained according to R9-10-716(F)(1) to use an emergency safety response,
 - (2) For the management of a child's violent or self-destructive behavior, and
 - (3) When less restrictive interventions have been determined to be ineffective; and
 - ii. Discontinued at the earliest possible time, but no longer than five minutes after the emergency safety response is initiated;
 - c. If an emergency safety response was used for a child, a personnel member, when the child is discharged to the child's parent:
 - i. Notifies the child's parent of the use of the emergency safety response for the child and the behavior, event, or environmental factor that caused the need for the emergency safety response; and
 - ii. Documents in the child's medical record that the child's parent was notified of the use of the emergency safety response;
 - d. Within 24 hours after an emergency safety response is used for a child receiving respite services on the premises, the following information is entered into the child's medical record:
 - i. The date and time the emergency safety response was used;
 - ii. The name of each personnel member who used an emergency safety response;
 - iii. The specific emergency safety response used;
 - iv. The behavior, event, or environmental factor that caused the need for the emergency safety response; and
 - v. Any injury that resulted from the use of the emergency safety response;
 - e. Within 10 working days after an emergency safety response is used for a child receiving respite services on the premises, a behavioral health professional reviews the information in subsection (O)(2)(d) and documents the review in the child's medical record;
 - f. After the review required in subsection (O)(2)(e), the following information is entered into the child's medical record:
 - i. Actions taken or planned to prevent the need for a subsequent use of an emergency safety response for the child,
 - ii. A determination of whether the child is appropriately placed at the outpatient treatment center providing respite services for children on the premises, and
 - iii. Whether the child's treatment plan was reviewed or needs to be reviewed and amended to ensure that the child's treatment plan is meeting the child's treatment needs;
 - g. Emergency safety response training is documented according to the requirements in R9-10-716(F)(2); and
 - h. Materials used for emergency safety response training are maintained according to the requirements in R9-10-716(F)(3); and
3. A personnel member does not use or permit:
- a. A method of discipline that could cause harm to the health, safety, or welfare of a child;
 - b. Corporal punishment;
 - c. Abusive language;
 - d. Discipline associated with:
 - i. Eating, napping, sleeping, or toileting;
 - ii. Medication; or
 - iii. Mechanical restraint; or
 - e. Discipline administered to any child by another child.
- P. An administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises shall:
- 1. Provide each child who naps or sleeps on the premises with a separate cot or mat and ensure that:
 - a. A cot or mat used by the child accommodates the child's height and weight;
 - b. A personnel member covers each cot or mat with a clean sheet that is laundered when soiled, or at least once every seven days and before use by a different child;
 - c. A clean blanket or sheet is available for each child;
 - d. A rug, carpet, blanket, or towel is not used as a mat; and
 - e. Each cot or mat is maintained in a clean and repaired condition;
 - 2. Not use bunk beds or waterbed mattresses for a child receiving respite services;
 - 3. Provide an unobstructed passageway at least 18 inches wide between each row of cots or mats to allow a personnel member access to each child;
 - 4. Ensure that if a child naps or sleeps while receiving respite services at the outpatient treatment center, the administrator:
 - a. Does not permit the child to lie in direct contact with the floor while napping or sleeping;
 - b. Prohibits the operation of a television in a room where the child is napping or sleeping; and
 - c. Requires that a personnel member remain awake while supervising the napping or sleeping child; and
 - 5. Ensure that storage space is provided on the premises for cots, mats, sheets, and blankets, that is:
 - a. Accessible to an area used for napping or sleeping; and
 - b. Separate from food service and preparation areas, toilet rooms, and laundry rooms.
- Q. An administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises shall, in the area of the premises where the respite services are provided:
- 1. Maintain the premises and furnishings:
 - a. Free of insects and vermin,
 - b. In a clean condition, and
 - c. Free from odor; and
 - 2. Ensure that:
 - a. Floor coverings are:
 - i. Clean; and
 - ii. Free from:
 - (1) Dampness,
 - (2) Odors, and
 - (3) Hazards;
 - b. Toilet bowls, lavatory fixtures, and floors in toilet rooms and kitchens are cleaned and sanitized as often as necessary to maintain them in a clean and sanitized condition or at least once every 24 hours;
 - c. Each toilet room used by children receiving respite services on the premises contains, within easy reach of children:
 - i. Mounted toilet tissue;
 - ii. A sink with running water;

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- iii. Soap contained in a dispenser; and
 - iv. Disposable, single-use paper towels, in a mounted dispenser, or a mechanical hand dryer;
 - d. Personnel members wash their hands with soap and running water after toileting;
 - e. A child's hands are washed with soap and running water after toileting;
 - f. Except for a cup or receptacle used only for water, food waste is stored in a covered container and the container is clean and lined with a plastic bag;
 - g. Food waste and other refuse is removed from the area of the premises where respite services are provided for children at least once every 24 hours or more often as necessary to maintain a clean condition and avoid odors;
 - h. A personnel member or a child does not draw water for human consumption from a toilet room hand-washing sink;
 - i. Toys, materials, and equipment are maintained in a clean condition;
 - j. Plumbing fixtures are maintained in a clean and working condition; and
 - k. Chipped or cracked sinks and toilets are replaced or repaired.
- R.** If laundry belonging to an outpatient treatment center providing respite services for children on the premises is done on the premises, an administrator shall:
- 1. Not use a kitchen or food storage area for sorting, handling, washing, or drying laundry;
 - 2. Locate the laundry equipment in an area that is separate from areas used by children and inaccessible to children;
 - 3. Not permit a child to be in a laundry room or use a laundry area as a passageway for children; and
 - 4. Ensure that laundry soiled by vomitus, urine, feces, blood, or other body fluid is stored, cleaned, and sanitized separately from other laundry.
- S.** An administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises shall ensure that there is a first aid kit in the designated area of the outpatient treatment center where respite services are provided that:
- 1. Contains first aid supplies in a quantity sufficient to meet the needs of the children receiving respite services, including the following:
 - a. Sterile bandages including:
 - i. Self-adhering bandages of assorted sizes,
 - ii. Sterile gauze pads, and
 - iii. Sterile gauze rolls;
 - b. Antiseptic solution or sealed antiseptic wipes;
 - c. A pair of scissors;
 - d. Self-adhering tape;
 - e. Single-use, non-porous gloves; and
 - f. Reclosable plastic bags of at least one-gallon size; and
 - 2. Is accessible to personnel members but inaccessible to children receiving respite services on the premises.
- T.** An administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises shall:
- 1. Prepare and date a written fire and emergency plan that contains:
 - a. The location of the first aid kit;
 - b. The names of personnel members who have first aid training;
 - c. The names of personnel members who have cardiopulmonary resuscitation training;
 - d. The directions for:
 - i. Initiating notification of a child's parent by telephone or other equally expeditious means within 60 minutes after a fire or emergency; and
 - ii. Providing written notification to the child's parent within 24 hours after a fire or emergency; and
 - e. The outpatient treatment center's street address and the emergency telephone numbers for the local fire department, police department, ambulance service, and poison control center;
- 2.** Maintain the plan required in subsection (T)(1) in the area designated for providing respite services;
- 3.** Post the plan required in subsection (T)(1) in any indoor area where respite services are provided that does not have an operable telephone service or two-way voice communication system that connects the indoor area where respite services are provided with an individual who has direct access to an in-and-out operable telephone services; and
- 4.** Update the plan in subsection (T)(1) at least once every 12 months after the date of initial preparation of the plan or when any information changes.
- U.** An administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises shall in the area designated for providing respite services:
- 1. Post, near a room's designated exit, a building evacuation plan that details the designated exits from the room and the facility where the outpatient treatment center is located; and
 - 2. Maintain and use a communication system that contains:
 - a. A direct-access, in-and-out, operating telephone service in the area where respite services are provided; or
 - b. A two-way voice communication system that connects the area where respite services are provided with an individual who has direct access to an in-and-out, operating telephone service.
- V.** If, while receiving respite services at an outpatient treatment center authorized to provide respite services for children on the premises, a child has an accident, injury, or emergency that, based on an evaluation by a personnel member, requires medical treatment by a health care provider, an administrator shall ensure that a personnel member:
- 1. Notifies the child's parent immediately after the accident, injury, or emergency;
 - 2. Documents:
 - a. A description of the accident, injury, or emergency, including the date, time, and location of the accident, injury, or emergency;
 - b. The method used to notify the child's parent; and
 - c. The time the child's parent was notified; and
 - 3. Maintains the documentation required in subsection (V)(2) for at least 12 months after the date the child last received respite services on the outpatient treatment center's premises.
- W.** If a parent of a child who received respite services at an outpatient treatment center authorized to provide respite services for children on the premises informs a personnel member that the child's parent obtained medical treatment for the child from a health care provider for an accident, injury, or emergency the child had while on the premises, an administrator shall ensure that a personnel member:
- 1. Documents any information about the child's accident, injury, or emergency received from the child's parent; and

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2. Maintains the documentation required in subsection (W)(1) for at least 12 months after the date the child last received respite services on the outpatient treatment center's premises.
- X.** If a child exhibits signs of illness or infestation at an outpatient treatment center authorized to provide respite services for children on the premises, an administrator shall ensure that a personnel member:
 1. Immediately separates the child from other children,
 2. Immediately notifies the child's parent by telephone or other expeditious means to arrange for the child's discharge from the outpatient treatment center,
 3. Documents the notification required in subsection (X)(2), and
 4. Maintains documentation of the notification required in subsection (X)(3) for at least 12 months after the date of the notification.
- Y.** An administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises shall comply with the following physical plant requirements:
 1. Toilets and hand-washing sinks are available to children in the area designated for providing respite services or on the premises as follows:
 - a. At least one flush toilet and one hand-washing sink for 10 or fewer children;
 - b. At least two flush toilets and two hand-washing sinks for 11 to 25 children; and
 - c. At least one flush toilet and one hand-washing sink for each additional 20 children;
 2. A hand-washing sink provides running water with a drain connected to a sanitary sewer as defined in A.R.S. § 45-101;
 3. A glass mirror, window, or other glass surface that is located within 36 inches of the floor is made of safety glass that has been manufactured, fabricated, or treated to prevent the glass from shattering or flying when struck or broken, or is shielded by a barrier to prevent impact by or physical injury to a child; and
 4. There is at least 30 square feet of unobstructed indoor space for each child who may be receiving respite services on the premises, which excludes floor space occupied by:
 - a. The interior walls;
 - b. A kitchen, a bathroom, a closet, a hallway, a stair, an entryway, an office, an area designated for isolating a child from other children, a storage room, or a room or floor space designated for the sole use of personnel members;
 - c. Room space occupied by desks, file cabinets, storage cabinets, or hand-washing sinks for a personnel member's use; or
 - d. Indoor area that is substituted for required outdoor area.
- Z.** An administrator of an outpatient treatment center authorized to provide respite services for children on the premises shall ensure that, in addition to the policies and procedures required in this Article, policies and procedures are established, documented, and implemented for the children's use of a toilet and hand-washing sink that ensure the children's health and safety and include:
 1. Supervision requirements for children using the toilet, based on a child's age, gender, and behavioral health issue; and
 2. If the outpatient treatment center does not have a toilet and hand-washing sink available for the exclusive use of children receiving respite services, a method to ensure that an individual, other than a child receiving respite services or a personnel member providing respite services, is not present in the toilet and hand-washing sink area when a child receiving respite services is present in the toilet and hand-washing sink area.
- AA.** To provide activities that develop large muscles and an opportunity to participate in structured large muscle physical activities, an administrator of an outpatient treatment center authorized to provide respite services for children on the premises shall:
 1. Provide at least 75 square feet of outdoor area per child for at least 50% of the outpatient treatment center's respite capacity; or
 2. Comply with one of the following:
 - a. If no child receives respite services on the premises for more than four hours per day, provide at least 50 square feet of indoor area for each child, based on the outpatient treatment center's respite capacity;
 - b. If a child receives respite services on the premises for more than four hours but less than six hours per day, provide at least 75 square feet of indoor area per child for at least 50% of the outpatient treatment center's respite capacity, in addition to the indoor area required in subsection (Y)(4); or
 - c. Provide at least 37.5 square feet of outdoor area and 37.5 square feet of indoor area per child for at least 50% of the outpatient treatment center's respite capacity, in addition to the activity area required in subsection (Y)(4).
- BB.** If an administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises is substituting indoor area for outdoor area, the administrator shall:
 1. Designate, on the site plan and the floor plan submitted with the license application or a request for an intended change or modification, the indoor area that is being substituted for an outdoor area; and
 2. In the indoor area substituted for outdoor area, install and maintain a mat or pad designed to provide impact protection in the fall zone of indoor swings and climbing equipment.
- CC.** An administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises shall ensure that:
 1. An outdoor area used by children receiving respite services:
 - a. Is enclosed by a fence:
 - i. A minimum of 4.0 feet high,
 - ii. Secured to the ground, and
 - iii. With either vertical or horizontal open spaces on the fence or gate that do not exceed 4.0 inches;
 - b. Is maintained free from hazards, such as exposed concrete footings and broken toys; and
 - c. Has gates that are kept closed while a child is in the outdoor area;
 2. The following is provided and maintained within the fall zones of swings and climbing equipment in an outdoor area:
 - a. A shock-absorbing unitary surfacing material manufactured for such use in outdoor activity areas; or

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- b. A minimum depth of 6.0 inches of a nonhazardous, resilient material such as fine loose sand or wood chips;
3. Hard surfacing material such as asphalt or concrete is not installed or used under swings or climbing equipment unless used as a base for shock-absorbing unitary surfacing material;
 4. A swing or climbing equipment is not located in the fall zone of another swing or climbing equipment; and
 5. A shaded area for each child occupying an outdoor area at any time of the day is provided.
- DD.** An administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises shall install and maintain a portable, pressurized fire extinguisher that meets, at a minimum, a 2A-10-BC rating of the Underwriters Laboratories in an outpatient treatment center's kitchen and any other location required for Existing Health Care Occupancies in National Fire Protection Association 101, Life Safety Code, incorporated by reference in A.A.C. R9-1-412.
- EE.** In addition to the requirements in R9-10-1029(F), an administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises shall ensure that:
1. Combustible material, such as paper, boxes, or rags, is not permitted to accumulate inside or outside the premises;
 2. An unvented or open-flame space heater or portable heater is not used on the premises;
 3. A gas valve on an unused gas outlet is removed and capped where it emerges from the wall or floor;
 4. Heating and cooling equipment is inaccessible to a child;
 5. Fans are mounted and inaccessible to a child;
 6. Toilet rooms are ventilated to the outside of the building, either by a screened window open to the outside air or by an exhaust fan and duct system that is operated when the toilet room is in use;
 7. A toilet room with a door that opens to the exterior of a building is equipped with a self-closing device that keeps the door closed except when an individual is entering or exiting; and
 8. A toilet room door does not open into a kitchen or laundry.
- Historical Note**
- Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Former Section R9-10-1025 adopted as an emergency now adopted and amended as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1025 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by exempt rulemaking at 22 A.A.R. 1035, pursuant to Laws 2015, Ch. 158, § 3; effective May 1, 2016 (Supp. 16-2). Sequential numbering corrections made under subsection R9-10-1025(G) at the request of the Department of Health Services on June 27, 2016; file number M16-185 (Supp. 16-3).

Table 10.1 Meal Pattern Requirements for Children**Meal Pattern Requirements for Children**

Food Components	Ages 1 through 2 years	Ages 3 through 5 years	Ages 6 and older
Breakfast:			
1. Milk, fluid	1/2 cup	3/4 cup	1 cup
2. Vegetable, fruit, or full-strength juice	1/4 cup	1/2 cup	1/2 cup
3. Bread and bread alternates (whole grain or enriched):			
Bread	1/2 slice	1/2 slice	1 slice
or cornbread, rolls, muffins, or biscuits	1/2 serving	1/2 serving	1 serving
or cold dry cereal (volume or weight, whichever is less)	1/4 cup	1/3 cup	3/4 cup
or cooked cereal, pasta, noodle products, or cereal grains	1/4 cup	1/4 cup	1/2 cup

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Lunch or Supper: 1. Milk, fluid 2. Vegetable and/or fruit (2 or more kinds) 3. Bread and bread alternates (whole grain or enriched): Bread or cornbread, rolls, muffins, or biscuits or cold dry cereal (volume or weight, whichever is less) or cooked cereal, pasta, noodle products, or cereal grains 4. Meat or meat alternates: Lean meat, fish, or poultry (edible portion as served) or cheese or egg or cooked dry beans or peas* or peanut butter, soy nut butter, or other nut or seed butters or peanuts, soy nuts, tree nuts, or seeds or an equivalent quantity of any combination of the above meat/meat alternates or yogurt	1/2 cup 1/4 cup total 1/2 slice 1/2 serving 1/4 cup 1/4 cup 1 oz. 1 oz. 1/2 egg 1/4 cup 2 tbsp.** 1/2 oz.** 4 oz.	3/4 cup 1/2 cup total 1/2 slice 1/2 serving 1/3 cup 1/4 cup 1 1/2 oz. 1 1/2 oz. 3/4 egg 3/8 cup 3 tbsp.** 3/4 oz.** 6 oz.	1 cup 3/4 cup total 1 slice 1 serving 3/4 cup 1/2 cup 2 oz. 2 oz. 1 egg 1/2 cup 4 tbsp.** 1 oz.** 8 oz.
Snack: (select 2 of these 4 components)*** 1. Milk, fluid 2. Vegetable, fruit, or full-strength juice 3. Bread and bread alternates (whole grain or enriched): Bread or cornbread, rolls, muffins, or biscuits or cold dry cereal (volume or weight, whichever is less) or cooked cereal, pasta, noodle products, or cereal grains 4. Meat or meat alternates: Lean meat, fish, or poultry (edible portion as served) or cheese or egg or cooked dry beans or peas* or peanut butter, soy nut butter, or other nut or seed butters or peanuts, soy nuts, tree nuts, or seeds or an equivalent quantity of any combination of the above meat/meat alternates or yogurt	1/2 cup 1/2 cup 1/2 slice 1/2 serving 1/4 cup 1/4 cup 1/2 oz. 1/2 oz. 1/2 egg 1/8 cup 1 tbsp. 1/2 oz. 2 oz.	1/2 cup 1/2 cup 1/2 slice 1/2 serving 1/3 cup 1/4 cup 1/2 oz. 1/2 oz. 1/2 egg 1/8 cup 1 tbsp. 1/2 oz. 2 oz.	1 cup 3/4 cup 1 slice 1 serving 3/4 cup 1/2 cup 1 oz. 1 oz. 1/2 egg 1/4 cup 2 tbsp. 1 oz. 4 oz.
* In the same meal service, dried beans or dried peas may be used as a meat alternate or as a vegetable; however, such use does not satisfy the requirement for both components. ** At lunch and supper, no more than 50% of the requirement shall be met with nuts, seeds, or nut butters. Nuts, seeds, or nut butters shall be combined with another meat or meat alternative to fulfill the requirement. Two tablespoons of nut butter or one ounce of nuts or seeds equals one ounce of meat. *** Juice may not be served when milk is served as the only other component.			

Historical Note

Table 10.1 made by exempt rulemaking at 22 A.A.R. 1035, pursuant to Laws 2015, Ch. 158, § 3; effective May 1, 2016 (Supp. 16-2).

R9-10-1026. Sleep Disorder Services

An administrator of an outpatient treatment center that is authorized to provide sleep disorder services shall ensure that:

1. A physician provides direction for the sleep disorder services provided by the outpatient treatment center;
2. At least one of the following is present on the premise of the outpatient treatment center:
 - a. A polysomnographic technician certified by the Board of Registered Polysomnographic Technologists (BRPT),
 - b. A polysomnographic technician accepted by the BRPT to sit for the BRPT certification examination, or
 - c. A respiratory therapist;
3. There is at least one patient testing room having a minimum of 140 square feet and no dimension less than 10 feet;
4. There is a bathroom available for use by a patient that contains:
 - a. A working sink with running water,
 - b. A working toilet that flushes and has a seat,
 - c. Toilet tissue,
 - d. Soap for hand washing,
 - e. Paper towels or a mechanical air hand dryer,
 - f. Lighting, and
 - g. A means of ventilation;
5. A personnel member certified in cardiopulmonary resuscitation is available on the outpatient treatment center's premise; and
6. Equipment for the delivery of continuous positive airway pressure and bi-level positive airway pressure, including remote control of the airway pressure, is available on the premises of the outpatient treatment center.

Historical Note

Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Former Section R9-10-1026 adopted as an emergency now adopted and amended as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1026 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1027. Urgent Care Services Provided in a Freestanding Urgent Care Setting

An administrator of an outpatient treatment center that is authorized to provide urgent care services in a freestanding urgent care setting shall ensure that:

1. In addition to the policies and procedures required in R9-10-1003(D)(1), policies and procedures are established, documented, and implemented to protect the health and safety of a patient that cover basic life support training and pediatric basic life support training including:
 - a. Method and content of training,
 - b. Qualifications of individuals providing the training, and
 - c. Documentation that verifies a medical practitioner has received the training;
2. A medical practitioner is on the premises during hours of clinical operation to provide the medical services, nursing services, and health-related services included in the outpatient treatment center's scope of services;
3. If a physician is not on the premises during hours of operation, a notice stating this fact is conspicuously posted in the waiting room according to A.R.S. § 36-432;
4. If a patient's death occurs at the outpatient treatment center, a written report is submitted to the Department as required in A.R.S. § 36-445.04;
5. A medical practitioner completes basic life support training and pediatric basic life support training:
 - a. Before providing medical services, nursing services, or health-related services at the outpatient treatment center, and
 - b. At least once every 24 months after the initial date of employment;
6. Except as provided in subsection (5), a personnel member completes basic adult and pediatric cardiopulmonary resuscitation training:
 - a. Before providing medical services, nursing services, or health-related services at the outpatient treatment center; and
 - b. At least once every 24 months after the initial date of employment or volunteer service; and
7. In addition to the requirements in R9-10-1006(11), a medical practitioner's record includes documentation of completion of basic life support training and pediatric basic life support training.

Historical Note

Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days

(Supp. 83-6). Former Section R9-10-1027 adopted as an emergency now adopted and amended as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1027 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1028. Infection Control

An administrator shall ensure that:

1. An infection control program is established, under the direction of an individual qualified according to the outpatient treatment center's policies and procedures, to prevent the development and transmission of infections and communicable diseases including:
 - a. A method to identify and document infections occurring at the outpatient treatment center;
 - b. Analysis of the types, causes, and spread of infections and communicable diseases at the outpatient treatment center;
 - c. The development of corrective measures to minimize or prevent the spread of infections and communicable diseases at the outpatient treatment center; and
 - d. Documentation of infection control activities including:
 - i. The collection and analysis of infection control data,
 - ii. The actions taken related to infections and communicable diseases, and
 - iii. Reports of communicable diseases to the governing authority and state and county health departments;
2. Infection control documentation is maintained for at least 12 months after the date of the documentation;
3. Policies and procedures are established, documented, and implemented to protect the health and safety of a patient that cover:
 - a. If applicable:
 - i. Handling and disposal of biohazardous medical waste;
 - ii. Isolation of a patient;
 - iii. Sterilization and disinfection of medical equipment and supplies;
 - iv. Use of personal protective equipment such as aprons, gloves, gowns, masks, or face protection when applicable; and
 - v. Collection, storage, and cleaning of soiled linens and clothing;
 - b. Cleaning an individual's hands when the individual's hands are visibly soiled;
 - c. Training of personnel members, employees, and volunteers in infection control practices; and
 - d. Work restrictions for a personnel member, employee, or volunteer with a communicable disease or infected skin lesion;
4. Biohazardous medical waste is identified, stored, and disposed of according to 18 A.A.C. 13, Article 14 and policies and procedures; and

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5. A personnel member, employee, or volunteer washes his or her hands with soap and water or uses a hand disinfection product before and after each patient contact and after handling soiled linen, soiled clothing, or a potentially infectious material.

Historical Note

Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Former Section R9-10-1028 adopted as an emergency now adopted and amended as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1028 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1029. Emergency and Safety Standards

- A. An administrator shall ensure that policies and procedures for providing emergency treatment are established, documented, and implemented that protect the health and safety of patients and include:
 1. A list of the medications, supplies, and equipment required on the premises for the emergency treatment provided by the outpatient treatment center;
 2. A system to ensure medications, supplies, and equipment are available, have not been tampered with, and, if applicable, have not expired;
 3. A requirement that a cart or a container is available for emergency treatment that contains the medication, supplies, and equipment specified in the outpatient treatment center's policies and procedures; and
 4. A method to verify and document that the contents of the cart or container are available for emergency treatment.
- B. An administrator shall ensure that emergency treatment is provided to a patient admitted to the outpatient treatment center according to the outpatient treatment center's policies and procedures.
- C. An administrator shall ensure that:
 1. A disaster plan is developed, documented, maintained in a location accessible to personnel members, and, if necessary, implemented that includes:
 - a. Procedures for protecting the health and safety of patients and other individuals on the premises;
 - b. Assigned responsibilities for each personnel member, employee, or volunteer;
 - c. Instructions for the evacuation of patients and other individuals on the premises; and
 - d. Arrangements to provide medical services, nursing services, and health-related services to meet patients' needs;
 2. The disaster plan required in subsection (C)(1) is reviewed at least once every 12 months;
 3. An evacuation drill is conducted on each shift at least once every 12 months;
 4. A disaster plan review required in subsection (C)(2) or an evacuation drill required in subsection (C)(3) is documented as follows:
 - a. The date and time of the evacuation drill or disaster plan review;
 - b. The name of each personnel member, employee, or volunteer participating in the evacuation drill or disaster plan review;
 - c. A critique of the evacuation drill or disaster plan review; and
 - d. If applicable, recommendations for improvement;
- D. An administrator shall ensure that an outpatient treatment center has either:
 1. Both of the following that are tested and serviced at least once every 12 months:
 - a. A fire alarm system installed according to the National Fire Protection Association 72: National Fire Alarm and Signaling Code, incorporated by reference in A.A.C. R9-1-412, that is in working order; and
 - b. A sprinkler system installed according to the National Fire Protection Association 13 Standard for the Installation of Sprinkler Systems, incorporated by reference in A.A.C. R9-1-412, that is in working order; or
 2. The following:
 - a. A smoke detector installed in each hallway of the outpatient treatment center that is:
 - i. Maintained in an operable condition;
 - ii. Either battery operated or, if hard-wired into the electrical system of the outpatient treatment center, has a back-up battery; and
 - iii. Tested monthly; and
 - b. A portable, operable fire extinguisher, labeled as rated at least 2A-10-BC by the Underwriters Laboratories, that:
 - i. Is available at the outpatient treatment center;
 - ii. Is mounted in a fire extinguisher cabinet or placed on wall brackets so that the top handle of the fire extinguisher is not over five feet from the floor and the bottom of the fire extinguisher is at least four inches from the floor;
 - iii. If a disposable fire extinguisher, is replaced when its indicator reaches the red zone; and
 - iv. If a rechargeable fire extinguisher, is serviced at least once every 12 months and has a tag attached to the fire extinguisher that specifies the date of the last servicing and the name of the servicing person.
- E. An administrator shall ensure that documentation of a test required in subsection (D) is maintained for at least 12 months after the date of the test.
- F. An administrator shall ensure that:
 1. Exit signs are illuminated, if the local fire jurisdiction requires illuminated exit signs;
 2. Except as provided in subsection (G), a corridor in the outpatient treatment center is at least 44 inches wide;
 3. Corridors and exits are kept clear of any obstructions;
 4. A patient can exit through any exit during hours of operation;
 5. An extension cord is not used instead of permanent electrical wiring;
 6. Each electrical outlet and electrical switch has a cover plate that is in good repair;

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7. If applicable, a sign is placed at the entrance of a room or an area indicating that oxygen is in use; and
8. Oxygen and medical gas containers:
 - a. Are maintained in a secured, upright position; and
 - b. Are stored in a room with a door:
 - i. In a building with sprinklers, at least five feet from any combustible materials; or
 - ii. In a building without sprinklers, at least 20 feet from any combustible materials.
- G. If an outpatient treatment center licensed before October 1, 2013 has a corridor less than 44 inches wide, an administrator shall ensure that:
 1. The corridor is wide enough to allow for:
 - a. Unobstructed movement of patients within the outpatient treatment center; and
 - b. The safe evacuation of patients from the outpatient treatment center; and
 2. The corridor is used only as a passageway.
- H. An administrator shall:
 1. Obtain a fire inspection conducted according to the time-frame established by the local fire department or the State Fire Marshal,
 2. Make any repairs or corrections stated on the fire inspection report, and
 3. Maintain documentation of a current fire inspection.

Historical Note

Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Former Section R9-10-1029 adopted as an emergency now adopted and amended as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1029 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1030. Physical Plant, Environmental Services, and Equipment Standards

- A. An administrator shall ensure that:
 1. An outpatient treatment center's premises are:
 - a. Sufficient to provide the outpatient treatment center's scope of services;
 - b. Cleaned and disinfected according to the outpatient treatment center's policies and procedures to prevent, minimize, and control illness and infection; and
 - c. Free from a condition or situation that may cause an individual to suffer physical injury;
 2. If an outpatient treatment center collects urine or stool specimens from a patient, except as provided in subsection (B), or is authorized to provide respite services for children on the premises, the outpatient treatment center has at least one bathroom on the premises that:
 - a. Contains:
 - i. A working sink with running water,
 - ii. A working toilet that flushes and has a seat,
 - iii. Toilet tissue,
 - iv. Soap for hand washing,
 - v. Paper towels or a mechanical air hand dryer,
 - vi. Lighting, and
 - vii. A means of ventilation; and
 - b. Is for the exclusive use of the outpatient treatment center;
3. A pest control program is implemented and documented;
4. A tobacco smoke-free environment is maintained on the premises;
5. A refrigerator used to store a medication is:
 - a. Maintained in working order, and
 - b. Only used to store medications;
6. Equipment at the outpatient treatment center is:
 - a. Sufficient to provide the outpatient treatment center's scope of services;
 - b. Maintained in working condition;
 - c. Used according to the manufacturer's recommendations; and
 - d. If applicable, tested and calibrated according to the manufacturer's recommendations or, if there are no manufacturer's recommendations, as specified in policies and procedures; and
7. Documentation of equipment testing, calibration, and repair is maintained for at least 12 months after the date of testing, calibration, or repair.
- B. An outpatient treatment center may have a bathroom used for the collection of a patient's urine or stool that is not for the exclusive use of the outpatient treatment center if:
 1. The bathroom is located in the same contiguous building as the outpatient treatment center's premises,
 2. The bathroom is of a sufficient size to support the outpatient treatment center's scope of services, and
 3. There is a documented agreement between the licensee and the owner of the building stating that the bathroom complies with the requirements in this Section and allowing the Department access to the bathroom to verify compliance.
- C. If an outpatient treatment center has a bathroom that is not for the exclusive use of the outpatient treatment center as allowed in subsection (B), an administrator shall ensure that:
 1. Policies and procedures are established, documented, and implemented to:
 - a. Protect the health and safety of an individual using the bathroom; and
 - b. Ensure that the bathroom is cleaned and sanitized to prevent, minimize, and control illness and infection;
 2. Documented instructions are provided to a patient that cover:
 - a. Infection control measures when a patient uses the bathroom, and
 - b. The safe return of a urine or stool specimen to the outpatient treatment center;
 3. The bathroom complies with the requirements in subsection (A)(2)(a); and
 4. The bathroom is free from a condition or situation that may cause an individual using the bathroom to suffer a physical injury.

Historical Note

Adopted effective February 15, 1984 (Supp. 84-1). Repealed by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1030 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New

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Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by exempt rulemaking at 22 A.A.R. 1035, pursuant to Laws 2015, Ch. 158, § 3; effective May 1, 2016 (Supp. 16-2).

R9-10-1031. Colocation Requirements

- A.** In addition to the definitions in A.R.S. §§ 36-401 and 36-439 and R9-10-101 and R9-10-1001, the following definition applies in this Section:
 “Patient” means an individual who enters the premises of a collaborating outpatient treatment center to obtain physical health services or behavioral health services from the collaborating outpatient treatment center or a colocator that shares common areas with the collaborating outpatient treatment center.
- B.** Only one outpatient treatment center in a facility may be designated as a collaborating outpatient treatment center for the facility.
- C.** The following health care institutions are not permitted to be a collaborating outpatient treatment center or a colocator in a collaborating outpatient treatment center:
1. An affiliated counseling facility, as defined in R9-10-1901;
 2. An outpatient treatment center authorized by the Department to provide dialysis services according to R9-10-1018;
 3. An outpatient treatment center authorized by the Department to provide emergency room services according to R9-10-1019; or
 4. An outpatient treatment center operating under a single group license according to A.R.S. § 36-422 (F) or (G).
- D.** In addition to the requirements for an initial license application in R9-10-105, renewal license application in R9-10-107, or, if part of a license change or modification, the supplemental application requirements in R9-10-1002, a governing authority of an outpatient treatment center requesting authorization to operate or continue to operate as a collaborating outpatient treatment center shall submit, in a Department-provided format:
1. The following information for each proposed colocator that may share a common area and nontreatment personnel at the collaborating outpatient treatment center:
 - a. For each proposed associated licensed provider:
 - i. Name,
 - ii. The associated licensed provider's license number or the date the associated licensed provider submitted to the Department an initial license application for an outpatient treatment center or a counseling facility license,
 - iii. Proposed scope of services, and
 - iv. A copy of the written agreement with the collaborating outpatient treatment center required in subsection (E); and
 - b. For each exempt health care provider:
 - i. Name,
 - ii. Current health care professional license number,
 - iii. Proposed scope of services, and
 - iv. A copy of the written agreement required in subsection (F) with the collaborating outpatient treatment center; and
 2. In addition to the requirements in R9-10-105(A)(5)(b)(v), a floor plan that shows:
 - a. Each colocator's proposed treatment area, and
 - b. The common areas of the collaborating outpatient treatment center.
- E.** An administrator of a collaborating outpatient treatment center shall have a written agreement with each associated licensed provider that includes:
1. In a Department-provided format:
 - a. The associated licensed provider's name;
 - b. The name of the associated licensed provider's governing authority;
 - c. Whether the associated licensed provider plans to share medical records with the collaborating outpatient treatment center;
 - d. If the associated licensed provider plans to share medical records with the collaborating outpatient treatment center, specific information about which party will obtain a patient's:
 - i. General consent or informed consent, as applicable;
 - ii. Consent to allow a colocator access to the patient's medical record; and
 - iii. Advance directives;
 - e. How the associated licensed provider will transport or transfer a patient to another colocator within the collaborating outpatient treatment center;
 - f. How the associated licensed provider will ensure controlled substances stored in the associated licensed provider's licensed premises are not diverted;
 - g. How the associated licensed provider will ensure environmental services in the associated licensed provider's licensed premises will not affect patient care in the collaborating outpatient treatment center;
 - h. How the associated licensed provider's personnel members will respond to a patient's sudden, intense, or out-of-control behavior, in the associated licensed provider's treatment area, to prevent harm to the patient or another individual in the collaborating outpatient treatment center;
 - i. A statement that, if any of the colocators include children's behavioral health services in the colocator's scope of services, the associated licensed provider will ensure that all employees and personnel members of the associated licensed provider comply the fingerprint clearance card requirements in A.R.S. § 36-425.03;
 - j. A statement that the associated licensed provider will:
 - i. Document the following each time another colocator provides emergency health care services in the associated licensed provider's treatment area:
 - (1) The name of colocator;
 - (2) If different from the name of the colocator, the name of the physician, physician assistant, registered nurse practitioner, or behavioral health professional providing the emergency health care services;
 - (3) A description of the emergency health care services provided; and
 - (4) The date and time the emergency health care services were provided;
 - ii. Maintain the documentation in subsection (E)(1)(j)(i) for at least 12 months after the emergency health care services were provided; and

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- iii. Submit a copy of the documentation to the collaborating outpatient treatment center within 48 hours after the provision of the emergency health care services;
 - k. A statement that the associated licensed provider will:
 - i. Document the following each time the associated licensed provider provides emergency health care services in another colocator's treatment area:
 - (1) If different from the name of the associated licensed provider, the name of the physician, physician assistant, registered nurse practitioner, or behavioral health professional providing the emergency health care services;
 - (2) The name of colocator;
 - (3) A description of the emergency health care services provided; and
 - (4) The date and time the emergency health care services were provided;
 - ii. Maintain the documentation in subsection (E)(1)(k)(i) for at least 12 months after the emergency health care services were provided; and
 - iii. Submit a copy of the documentation to the collaborating outpatient treatment center within 48 hours after the provision of the emergency health care services;
 - l. An attestation that the associated licensed provider will comply with the written agreement;
 - m. The signature of the associated licensed provider's governing authority according to A.R.S. § 36-422(B) and the date signed; and
 - n. The signature of the collaborating outpatient treatment center's governing authority according to A.R.S. § 36-422(B) and the date signed; and
 - 2. A copy of the associated licensed provider's scope of services, including whether the associated licensed provider plans to provide behavioral health services for children.
- F. An administrator of a collaborating outpatient treatment center shall have a written agreement with each exempt health care provider that includes:
 - 1. In a Department-provided format:
 - a. The exempt health care provider's name;
 - b. The exempt health care provider license type and license number;
 - c. Whether the exempt health care provider plans to share medical records with the collaborating outpatient treatment center;
 - d. If the exempt health care provider plans to share medical records with the collaborating outpatient treatment center, specific information about which party will obtain a patient's:
 - i. General consent or informed consent, as applicable;
 - ii. Consent to allow a colocator access to the patient's medical record; and
 - iii. Advance directives;
 - e. How the exempt health care provider will transport or transfer a patient to another colocator within the collaborating outpatient treatment center;
 - f. How the exempt health care provider will ensure controlled substances stored in the exempt health care provider's designated premises are not diverted;
 - g. How the exempt health care provider will ensure environmental services in the exempt health care provider's licensed premises will not affect patient care in the collaborating outpatient treatment center;
 - h. How the exempt health care provider and any staff of the exempt health care provider will respond to a patient's sudden, intense, or out-of-control behavior, in the exempt health care provider's treatment area, to prevent harm to the patient or another individual in the collaborating outpatient treatment center;
 - i. A statement that, if any of the colocators include children's behavioral health services in the colocator's statement of services, the exempt health care provider will ensure that all employees and staff of the exempt health care provider comply with the fingerprint clearance card requirements A.R.S. § 36-425.03;
 - j. A statement that the exempt health care provider will:
 - i. Document the following each time another colocator provides emergency health care services in the exempt health care provider's treatment area:
 - (1) The name of colocator;
 - (2) If different from the name of the colocator, the name of the physician, physician assistant, registered nurse practitioner, or behavioral health professional providing the emergency health care services;
 - (3) A description of the emergency health care services provided; and
 - (4) The date and time the emergency health care services were provided;
 - ii. Maintain the documentation in subsection (F)(1)(j)(i) for at least 12 months after the emergency health care services were provided; and
 - iii. Submit a copy of the documentation to the collaborating outpatient treatment center within 48 hours after the provision of the emergency health care services;
 - k. A statement that the exempt health care provider will:
 - i. Document the following each time the exempt health care provider provides emergency health care services in another colocator's treatment area:
 - (1) If different from the name of the exempt health care provider, the name of the physician, physician assistant, registered nurse practitioner, or behavioral health professional providing the emergency health care services;
 - (2) The name of colocator;
 - (3) A description of the emergency health care services provided; and
 - (4) The date and time the emergency health care services were provided;
 - ii. Maintain the documentation in subsection (F)(1)(k)(i) for at least 12 months after the emergency health care services were provided; and
 - iii. Submit a copy of the documentation to the collaborating outpatient treatment center within 48 hours after the provision of the emergency health care services;

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- l. An attestation that the exempt health care provider will comply with the written agreement;
 - m. The signature of the exempt health care provider and the date signed; and
 - n. The signature of the collaborating outpatient treatment center's governing authority according to A.R.S. § 36-422(B) and the date signed; and
2. A copy of the exempt health care provider's scope of services, including whether the exempt health care provider plans to provide behavioral health services for children.
- G.** As part of the policies and procedures required in this Article, an administrator of a collaborating outpatient treatment center shall ensure that policies and procedures are established, documented, and implemented to protect the health and safety of a patient based on the scopes of services of all colocators that:
1. Cover job descriptions, duties, and qualifications, including required skills, knowledge, education, and experience for nontreatment personnel who may provide services in the common areas of the collaborating outpatient treatment center;
 2. Cover orientation and in-service education for nontreatment personnel who may provide services in the common areas of the collaborating outpatient treatment center;
 3. Cover cardiopulmonary resuscitation training, including:
 - a. The method and content of cardiopulmonary resuscitation training, which includes a demonstration of the individual's ability to perform cardiopulmonary resuscitation;
 - b. The qualifications for an individual to provide cardiopulmonary resuscitation training;
 - c. The time-frame for renewal of cardiopulmonary resuscitation training; and
 - d. The documentation that verifies that an individual has received cardiopulmonary resuscitation training;
 4. Cover first aid training;
 5. Cover patient screening, including a method to ensure that, if a patient identifies a specific colocator, the patient is directed to the identified colocator;
 6. Cover the provision of emergency treatment to protect the health and safety of a patient or individual present in a common area according to the requirements for emergency treatment policies and procedures in R9-10-1029(A);
 7. If medication is stored in the collaborating outpatient treatment center's common areas, cover obtaining, storing, accessing, and disposing of medications, including provisions for controlling inventory and preventing diversion of controlled substances;
 8. Cover biohazardous wastes, if applicable;
 9. Cover environmental services in the common area that affect patient care; and
 10. Cover how personnel members and nontreatment personnel will respond to a patient's sudden, intense, or out-of-control behavior to prevent harm to the patient or another individual in the collaborating outpatient treatment center's common areas.
- H.** An administrator of a collaborating outpatient treatment center shall ensure that:
1. An outpatient treatment center's common areas are:
 - a. Sufficient to accommodate the outpatient treatment center's and any colocators' scopes of services;
 - b. Cleaned and disinfected according to the outpatient treatment center's policies and procedures to prevent, minimize, and control illness and infection; and
 - c. Free from a condition or situation that may cause an individual to suffer physical injury;
2. A written log is maintained that documents the date, time, and circumstances each time a colocator provides emergency health care services in another colocator's designated treatment area; and
 3. The documentation in the written log required in subsection (H)(2) is maintained for at least 12 months after the date the colocator provides emergency health care services in another colocator's designated treatment area.
- I.** If any colocator at a collaborating outpatient treatment center includes children's behavioral health services as part of the colocator's scope of services, an administrator of the collaborating outpatient treatment center shall ensure that the governing authority, employees, personnel members, nontreatment personnel, and volunteers of the collaborating outpatient treatment center comply with the fingerprint clearance card requirements in A.R.S. § 36-425.03.

Historical Note

New Section made by exempt rulemaking at 22 A.A.R. 1035, pursuant to Laws 2015, Ch. 158, § 3; effective May 1, 2016 (Supp. 16-2).

ARTICLE 11. ADULT DAY HEALTH CARE FACILITIES**R9-10-1101. Definitions**

In addition to the definitions in A.R.S. § 36-401 and R9-10-101, the following applies in this Article, unless otherwise specified:

"Care plan" means a written program of action for a participant's care based upon an assessment of the participant's physical, nutritional, psychosocial, economic, and environmental strengths and needs and implemented according to established short- and long-term goals.

Historical Note

Adopted effective July 22, 1994 (Supp. 94-3). Section amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1102. Supplemental Application Requirements

In addition to the license application requirements in A.R.S. § 36-422 and R9-10-105, an applicant for an initial license as an adult day health care facility shall include on the application the number of participants for whom the applicant is requesting authorization to provide adult day health services.

Historical Note

Adopted effective July 22, 1994 (Supp. 94-3). Section amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1102 renumbered to Section R9-10-1103; new Section R9-10-1102 made by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1103. Administration**A.** A governing authority shall:

1. Consist of one or more individuals responsible for the organization, operation, and administration of an adult day health care facility;
2. Establish, in writing:
 - a. An adult day health care facility's scope of services, and
 - b. Qualifications for an administrator;
3. Designate, in writing, an administrator who has the qualifications established in subsection (A)(2)(b);

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4. Adopt a quality management program according to R9-10-1104;
 5. Review and evaluate the effectiveness of the quality management program at least once every 12 months;
 6. Designate, in writing, an acting administrator, who has the qualifications established in subsection (A)(2)(b) if the administrator is:
 - a. Expected not to be present on an adult day health care facility's premises for more than 30 calendar days, or
 - b. Not present on an adult day health care facility's premises for more than 30 calendar days; and
 7. Except as provided in (A)(6), notify the Department according to A.R.S. § 36-425(I), when there is a change in an administrator and identify the name and qualifications of the new administrator.
- B. An administrator:**
1. Is 21 years of age or older;
 2. Is directly accountable to the governing authority of an adult day health care facility for the daily operation of the adult day health care facility and all services provided by or at the adult day health care facility;
 3. Has the authority and responsibility to manage the adult day health care facility; and
 4. Except as provided in subsection (A)(6), designates, in writing, an individual who is 21 years of age or older and present on the adult day health care facility's premises and accountable for the adult day health care facility when the administrator is not present on the adult day health care facility premises and participants are present on the adult day health care facility's premises.
- C. An administrator shall ensure that:**
1. Policies and procedures are established, documented, and implemented to protect the health and safety of a participant that:
 - a. Cover job descriptions, duties, and qualifications, including required skills, knowledge, education, and experience for personnel members, employees, volunteers, and students;
 - b. Cover orientation and in-service education for personnel members, employees, volunteers, and students;
 - c. Cover certification in cardiopulmonary resuscitation and first aid training;
 - d. Include how a personnel member may submit a complaint relating to services provided to a participant;
 - e. Cover the requirements in A.R.S. Title 36, Chapter 4, Article 11;
 - f. Include a method to identify a participant to ensure that the participant receives the appropriate services;
 - g. Cover participant rights, including assisting a participant who does not speak English or who has a disability to become aware of participant rights;
 - h. Cover specific steps for:
 - i. A participant to file a complaint, and
 - ii. The adult day health care facility to respond to a participant complaint;
 - i. Cover medical records, including electronic medical records; and
 - j. Cover a quality management program, including incident reports and supporting documentation;
 2. Policies and procedures for services provided by an adult day health care facility are established, documented, and implemented to protect the health and safety of a participant that:
 - a. Cover screening, enrollment, and discharge;
 - b. Cover the provision of the services in the adult day health care facility's scope of services;
 - c. Cover dispensing, administering, and disposing of medications, including provisions for inventory control and preventing diversion of controlled substances;
 - d. Cover how personnel members will respond to a participant's sudden, intense, or out-of-control behavior to prevent harm to the participant or another individual;
 - e. Cover food services;
 - f. Cover environmental services;
 - g. Cover infection control;
 - h. Cover contracted services;
 - i. Cover emergency treatment provided at the adult day health care facility; and
 - j. Designate which employees or personnel members are required to have current certification in cardiopulmonary resuscitation and first aid training;
 3. Policies and procedures are:
 - a. Available to personnel members, employees, volunteers, and students, and
 - b. Reviewed at least once every three years and updated as needed; and
 4. Unless otherwise stated:
 - a. Documentation required by this Article is provided to the Department within two hours after a Department request; and
 - b. When documentation or information is required by this Chapter to be submitted on behalf of an adult day health care facility, the documentation or information is provided to the unit in the Department that is responsible for licensing and monitoring the adult day health care facility.
- D. An administrator shall:**
1. Maintain, and make available to individuals upon request, a schedule of rates and charges;
 2. Ensure that a monthly calendar of planned activities is:
 - a. Posted before the beginning of a month, and
 - b. Maintained on the premises for at least 90 calendar days after the end of the month;
 3. Ensure that materials, supplies, and equipment are provided for the planned activities; and
 4. Assist in the formation of a participants' council according to R9-10-1112.

Historical Note

Adopted effective July 22, 1994 (Supp. 94-3). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1103 renumbered to Section R9-10-1104; new Section R9-10-1103 renumbered from Section R9-10-1102 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1104. Quality Management

An administrator shall ensure that:

1. A plan is established, documented, and implemented for an ongoing quality management program that, at a minimum, includes:
 - a. A method to identify, document, and evaluate incidents;
 - b. A method to collect data to evaluate services provided to participants;

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- c. A method to evaluate the data collected to identify a concern about the delivery of services related to participant care;
- d. A method to make changes or take action as a result of the identification of a concern about the delivery of services related to participant care; and
- e. The frequency of submitting a documented report required in subsection (2) to the governing authority;
- 2. A documented report is submitted to the governing authority that includes:
 - a. An identification of each concern about the delivery of services related to participant care, and
 - b. Any change made or action taken as a result of the identification of a concern about the delivery of services related to participant care; and
- 3. The report required in subsection (2) and the supporting documentation for the report are maintained for at least 12 months after the date the report is submitted to the governing authority.

Historical Note

Adopted effective July 22, 1994 (Supp. 94-3). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1104 renumbered to Section R9-10-1105; new Section R9-10-1104 renumbered from Section R9-10-1103 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1105. Contracted Services

An administrator shall ensure that:

- 1. Contracted services are provided according to the requirements in this Article, and
- 2. Documentation of current contracted services is maintained that includes a description of the contracted services provided.

Historical Note

Adopted effective July 22, 1994 (Supp. 94-3). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1105 renumbered to Section R9-10-1106; new Section R9-10-1105 renumbered from Section R9-10-1104 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1106. Personnel

A. An administrator shall ensure that:

- 1. The qualifications, skills, and knowledge required for each type of personnel member:
 - a. Are based on:
 - i. The type of physical health services or behavioral health services expected to be provided by the personnel member according to the established job description, and
 - ii. The acuity of the participants receiving physical health services or behavioral health services from the personnel member according to the established job description; and
 - b. Include:
 - i. The specific skills and knowledge necessary for the personnel member to provide the expected physical health services and behavioral health services listed in the established job description,

- ii. The type and duration of education that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services or behavioral health services listed in the established job description, and
- iii. The type and duration of experience that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services or behavioral health services listed in the established job description;

- 2. A personnel member's skills and knowledge are verified and documented:
 - a. Before the personnel member provides physical health services or behavioral health services, and
 - b. According to policies and procedures;
- 3. Sufficient personnel members are present on an adult day health care facility's premises when participants are present and have the qualifications, skills, and knowledge necessary to:
 - a. Provide the services in the adult day health care facility's scope of services,
 - b. Meet the needs of a participant, and
 - c. Ensure the health and safety of a participant; and
- 4. A personnel member, or an employee or a volunteer who has or is expected to have direct interaction with a participant for more than eight hours a week, provides evidence of freedom from infectious tuberculosis:
 - a. On or before the date the individual begins providing services at or on behalf of the adult day health care facility, and
 - b. As specified in R9-10-113.

B. An administrator shall ensure that a personnel member:

- 1. Is 18 years of age or older, and
- 2. Is not a participant of the adult day health care facility.

C. An administrator shall ensure that a personnel record for each personnel member, employee, volunteer, or student:

- 1. Includes:
 - a. The individual's name, date of birth, and contact telephone number;
 - b. The individual's starting date of employment or volunteer service and, if applicable, the ending date; and
 - c. Documentation of:
 - i. The individual's qualifications, including skills and knowledge applicable to the individual's job duties;
 - ii. The individual's education and experience applicable to the individual's job duties;
 - iii. The individual's completed orientation and in-service education as required by policies and procedures;
 - iv. The individual's license or certification, if the individual is required to be licensed or certified in this Article or policies and procedures;
 - v. Cardiopulmonary resuscitation training, if required for the individual according to this Article and policies and procedures;
 - vi. First aid training, if required for the individual according to this Article and policies and procedures; and
 - vii. Evidence of freedom from infectious tuberculosis, if required for the individual according to this Article or policies and procedures;
- 2. Is maintained:

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- a. Throughout the individual's period of providing services in or for the adult day health care facility, and
 - b. For at least 24 months after the last date the individual provided service in or for the adult day health care facility; and
- 3. For a personnel member who has not provided physical health services or behavioral health services at or for the adult day health care facility during the previous 12 months, is provided to the Department within 72 hours after the Department's request.
- D.** An administrator shall ensure that:
 - 1. At least two personnel members are present on the premises whenever two or more participants are in the adult day health care facility;
 - 2. At least one personnel member with cardiopulmonary resuscitation and first-aid certification is on the premises at all times;
 - 3. A registered nurse manages the nursing services and provides direction for health-related services provided by the adult day health care facility; and
 - 4. A nurse is on the premises daily to:
 - a. Administer medications and treatments, and
 - b. Monitor a participant's health status.
- ii. Cognitive awareness of self, location, and time; and
 - iii. Deficits in cognitive awareness;
- b. Physical, mental, and emotional problems experienced by the participant;
- c. A schedule of the participant's medications;
- d. A list of treatments the participant is receiving;
- e. The participant's special dietary needs; and
- f. The participant's known allergies.
- E.** At the time of enrollment, an administrator shall ensure that the participant or participant's representative:
 - 1. Documents whether the participant may sign in and out of the adult day health care facility; and
 - 2. Provides the following:
 - a. The name and telephone number of the:
 - i. Participant's representative;
 - ii. Family member to be contacted in an emergency;
 - iii. Participant's medical practitioner; and
 - iv. Adult who provides the participant with supervision and assistance in the preparation of meals, housework, and personal grooming, if applicable; and
 - b. If applicable, a copy of the participant's health care directive.
- F.** An administrator shall ensure that a comprehensive assessment of the participant:
 - 1. Is completed by a registered nurse before the participant's tenth visit or within 30 calendar days after enrollment, whichever comes first;
 - 2. Documents the participant's:
 - a. Physical health,
 - b. Mental and emotional status, and
 - c. Social history; and
 - 3. Includes:
 - a. Medical practitioner orders,
 - b. Adult day health care services recommended for the participant's care plan, and
 - c. The signature of the registered nurse conducting the comprehensive assessment and date signed.

Historical Note

Adopted effective July 22, 1994 (Supp. 94-3). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1106 renumbered to Section R9-10-1107; new Section R9-10-1106 renumbered from Section R9-10-1105 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1107. Enrollment

- A.** An administrator shall ensure that a participant provides evidence of freedom from infectious tuberculosis:
 - 1. Before or within seven calendar days after the participant's enrollment, and
 - 2. As specified in R9-10-113.
- B.** Before or at the time of enrollment, an administrator shall ensure that a participant or the participant's representative signs a written agreement with the adult day health care facility that includes:
 - 1. The participant's name and date of birth,
 - 2. Enrollment requirements,
 - 3. A list of the customary services that the adult day health care facility provides,
 - 4. A list of services that are available at an additional cost,
 - 5. A list of fees and charges,
 - 6. Procedures for termination of the agreement,
 - 7. The requirements of the adult day health care facility,
 - 8. The names and telephone numbers of individuals designated by the participant to be notified in the event of an emergency, and
 - 9. A copy of the adult day health care facility's procedure on health care directives.
- C.** An administrator shall give a copy of the agreement in subsection (B) to the participant or the participant's representative and keep the original in the participant's medical record.
- D.** An administrator shall ensure that a participant has a signed written medical assessment that:
 - 1. Was completed by the participant's medical practitioner within 60 calendar days before enrollment; and
 - 2. Includes:
 - a. Information that addresses the participant's:
 - i. Physical health;

Historical Note

Adopted effective July 22, 1994 (Supp. 94-3). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1107 renumbered to Section R9-10-1108; new Section R9-10-1107 renumbered from Section R9-10-1106 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1108. Care Plan

- An administrator shall ensure that a care plan for a participant:
- 1. Is developed within seven calendar days after the completion of the participant's comprehensive assessment;
 - 2. Has input from:
 - a. The participant or participant's representative,
 - b. The registered nurse who performed the comprehensive assessment, and
 - c. Personnel who have provided services to the participant;
 - 3. Is based on the participant's comprehensive assessment;
 - 4. Includes:
 - a. A summary of the participant's medical or health problems, including physical, mental, and emotional disabilities or impairments;
 - b. Adult day health services to be provided;

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- c. Goals and objectives of care that are time-limited and measurable;
 - d. Interventions required to achieve objectives, including recommendations for therapy and referrals to other service providers; and
 - e. Discharge instructions according to R9-10-1109(B); and
5. Is reviewed and updated at least once every six months and whenever there is a significant change in the participant's condition.

Historical Note

Adopted effective July 22, 1994 (Supp. 94-3). Section amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1108 renumbered to Section R9-10-1109; new Section R9-10-1108 renumbered from Section R9-10-1107 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1109. Discharge

- A.** An administrator may discharge a participant from an adult day health care facility by terminating the agreement in R9-10-1107(B):
1. After giving the participant or participant's representative five working days written notice; and
 2. For any of the following reasons:
 - a. Evidence of repeated failure to comply with the requirements of the adult day health care facility,
 - b. Documented proof of failure to pay,
 - c. Behavior that is dangerous to self or that interferes with the physical or psychological well-being of other participants, or
 - d. The participant requires services not in the adult day health care facility's scope of services.
- B.** An administrator shall ensure that discharge instructions for a participant are:
1. Developed that:
 - a. Identify any specific needs of the participant after discharge,
 - b. Are completed before discharge occurs,
 - c. Include a description of the level of care that may meet the participant's assessed and anticipated needs after discharge, and
 - d. Are documented in the participant's medical record within 48 hours after the discharge instructions are completed; and
 2. Provided to the participant or the participant's representative before the discharge occurs.

Historical Note

Adopted effective July 22, 1994 (Supp. 94-3). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1109 renumbered to Section R9-10-1110; new Section R9-10-1109 renumbered from Section R9-10-1108 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1110. Participant Rights

- A.** An administrator shall ensure that:
1. The requirements in subsection (B) and the participant rights in subsection (C) are conspicuously posted on the premises;
 2. At the time of enrollment, a participant or the participant's representative receives a written copy of the

requirements in subsection (B) and the participant rights in subsection (C); and

3. Policies and procedures include:

- a. How and when a participant or the participant's representative is informed of participant rights in subsection (C), and
- b. Where participant rights are posted as required in subsection (A)(1).

B. An administrator shall ensure that:

1. A participant is treated with dignity, respect, and consideration;
2. A participant is not subjected to:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Coercion;
 - e. Manipulation;
 - f. Sexual abuse;
 - g. Sexual assault;
 - h. Seclusion;
 - i. Restraint;
 - j. Retaliation for submitting a complaint to the Department or another entity; or
 - k. Misappropriation of personal and private property by the adult day health care facility's personnel members, employees, volunteers, or students; and
3. A participant or the participant's representative:
 - a. Except in an emergency, either consents to or refuses treatment;
 - b. May refuse or withdraw consent for treatment before treatment is initiated;
 - c. Except in an emergency, is informed of proposed alternatives to the treatment, associated risks, and possible complications;
 - d. Is informed of the following:
 - i. The policy on health care directives,
 - ii. The participant complaint process,
 - iii. Rates and charges for participating at the adult day health care facility, and
 - iv. The process for contacting the local office of Adult Protective Services;
 - e. Consents to photographs of the participant before the participant is photographed, except that a participant may be photographed when enrolled at an adult day health care facility for identification and administrative purposes; and
 - f. Except as otherwise permitted by law, provides written consent to the release of information in the participant's:
 - i. Medical record, or
 - ii. Financial records.

C. A participant has the following rights:

1. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, or diagnosis;
2. To receive treatment that supports and respects the participant's individuality, choices, strengths, and abilities;
3. To communicate, associate, and meet privately with individuals of the participant's choice;
4. To have access to a telephone, to make and receive calls, and to send and receive correspondence without interception or interference by the adult day health care facility;
5. To arrive and depart from the adult day health care facility, consistent with the participant's care plan and personal safety;

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6. To receive privacy in treatment and care for personal needs;
 7. To review, upon written request, the participant's own records;
 8. To receive a referral to another health care institution if the adult day health care facility is not authorized or not able to provide physical health services or behavioral health services needed by the participant;
 9. To participate or have the participant's representative participate in the development of a care plan or decisions concerning treatment;
 10. To participate or refuse to participate in research or experimental treatment; and
 11. To receive assistance from a family member, the participant's representative, or other individual in understanding, protecting, or exercising the participant's rights.
3. An enrollment agreement and date of the participant's first visit;
 4. If applicable, documented general consent and informed consent by the participant or the participant's representative;
 5. If applicable, the name and contact information of the participant's representative and:
 - a. The document signed by the participant consenting for the participant's representative to act on the participant's behalf; or
 - b. If the participant's representative:
 - i. Has a health care power of attorney established under A.R.S. § 36-3221 or a mental health care power of attorney executed under A.R.S. § 36-3282, a copy of the health care power of attorney or mental health care power of attorney; or
 - ii. Is a legal guardian, a copy of the court order establishing guardianship;

Historical Note

New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1110 renumbered to Section R9-10-1111; new Section R9-10-1110 renumbered from Section R9-10-1109 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1111. Medical Records

- A. An administrator shall ensure that:
 1. A medical record is established and maintained for a participant according to A.R.S. Title 12, Chapter 13, Article 7.1;
 2. An entry in a participant's medical record is:
 - a. Recorded only by an individual authorized by policies and procedures to make the entry;
 - b. Dated, legible, and authenticated; and
 - c. Not changed to make the initial entry illegible;
 3. If a rubber-stamp signature or an electronic signature is used to authenticate an order, the individual whose signature the rubber-stamp signature or electronic signature represents is accountable for the use of the rubber-stamp signature or electronic signature;
 4. A participant's medical record is available to an individual:
 - a. Authorized according to policies and procedures to access the participant's medical record;
 - b. If the individual is not authorized according to policies and procedures, with the written consent of the participant or the participant's representative; or
 - c. As permitted by law; and
 5. A participant's medical record is protected from loss, damage, or unauthorized use.
 - B. If an adult day health care facility maintains participant's medical records electronically, an administrator shall ensure that:
 1. Safeguards exist to prevent unauthorized access, and
 2. The date and time of an entry in a participant's medical record is recorded by the computer's internal clock.
 - C. An administrator shall ensure that a participant's medical record contains:
 1. Participant information that includes:
 - a. The participant's name;
 - b. The participant's address;
 - c. The participant's date of birth; and
 - d. Any known allergies, including medication allergies;
 2. The name of the participant's medical practitioner or other individuals involved in the care of the participant;
6. Documentation of medical history;
 7. A copy of the participant's health care directive, if applicable;
 8. Orders;
 9. The medical assessment required in R9-10-1107(D);
 10. A care plan;
 11. The comprehensive assessment required in R9-10-1107(F);
 12. Progress notes;
 13. If applicable, documentation of any actions taken to control the participant's sudden, intense, or out-of-control behavior to prevent harm to the participant or another individual;
 14. Documentation of adult day health services provided to the participant;
 15. The disposition of the participant upon discharge;
 16. The discharge date, if applicable;
 17. Documentation of a medication administered to the participant that includes:
 - a. The date and time of administration;
 - b. The name, strength, dosage, and route of administration;
 - c. The identification and signature of the individual administering, providing assistance in the self-administration of medication, or observing the participant's self-administration of the medication;
 - d. If medication for pain is administered on a PRN basis to a participant:
 - i. An identification of the participant's pain before administering the medication, and
 - ii. The effect of the medication administered; and
 - e. Any adverse reaction a participant has to the medication;
 18. If applicable, documentation of:
 - a. A significant change in the participant's condition,
 - b. An injury or accident that occurred at the adult day health care facility and required medical services, and
 - c. Notification provided to the participant's medical practitioner or the participant's representative of the significant change in subsection (C)(18)(a) or the injury or accident in subsection (C)(18)(b);
 19. Documentation of whether the participant may sign in or out of the adult day health care facility;
 20. Documentation of freedom from infectious tuberculosis required in R9-10-1107(A); and
 21. Names and telephone numbers of individuals to be notified in the event of an emergency.

Historical Note

Amended effective September 2, 1977 (Supp. 77-5). Repealed effective July 22, 1994 (Supp. 94-3). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1111 renumbered to Section R9-10-1112; new Section R9-10-1111 renumbered from Section R9-10-1110 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1112. Participant's Council

- A. A participants' council:
 - 1. Is composed of participants, who are willing to serve on the council and take part in scheduled meetings;
 - 2. May develop guidelines that govern the council's activities;
 - 3. May meet quarterly;
 - 4. May record minutes of the meetings; and
 - 5. May provide written input on planned activities and policies of the adult day health care facility.
- B. A participants' council may invite personnel or the administrator to attend their meetings.
- C. An administrator shall act as a liaison between the participants' council and personnel members, employees, and volunteers.

Historical Note

Amended effective September 2, 1977 (Supp. 77-5). Repealed effective July 22, 1994 (Supp. 94-3). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1112 renumbered to Section R9-10-1113; new Section R9-10-1112 renumbered from Section R9-10-1111 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1113. Adult Day Health Services

- A. An administrator shall ensure that a personnel member provides supervision for a participant, except during periods of the day when the participant signs out or is signed out according to policies and procedures.
- B. An administrator shall ensure that a personnel member provides assistance with activities of daily living and supervision of personal hygiene according to the participant's care plan and policies and procedures.
- C. An administrator shall ensure that a personnel member provides a participant with planned therapeutic individual and group activities:
 - 1. According to the:
 - a. Participant's care plan,
 - b. Policies and procedures, and
 - c. Monthly calendar of planned activities required in R9-10-1103(D)(2); and
 - 2. That include:
 - a. Physical activities,
 - b. Group discussion,
 - c. Techniques a participant may use to maintain or improve the participant's independence in performing activities of daily living,
 - d. Assessment of deficits in cognitive awareness and reinforcement of remaining cognitive awareness,
 - e. Activities of daily living,
 - f. Participants' council meetings, and
 - g. Leisure time.

- D. An administrator shall ensure that a nurse monitors the health status of a participant according to the participant's care plan and policies and procedures by:
 - 1. Observing the participant's mental and physical condition, including monthly monitoring of the participant's vital signs and nutritional status;
 - 2. Documenting changes in the participant's mental and physical condition in the participant's medical record; and
 - 3. Reporting any changes to the participant's representative or medical practitioner.
- E. If an adult day health care facility administers medication or provides assistance in the self-administration of medication, an administrator shall ensure that policies and procedures for medication administration or assistance in the self-administration of medication:
 - 1. Include:
 - a. A process for providing information to a participant about medication prescribed for the participant including:
 - i. The prescribed medication's anticipated results,
 - ii. The prescribed medication's potential adverse reactions,
 - iii. The prescribed medication's potential side effects, and
 - iv. Potential adverse reactions that could result from not taking the medication as prescribed;
 - b. Procedures for preventing, responding to, and reporting:
 - i. A medication error,
 - ii. An adverse response to a medication, or
 - iii. A medication overdose; and
 - c. Procedures for documenting medication services and assistance in the self-administration of medication; and
 - 2. Specify a process for review through the quality management program of:
 - a. A medication administration error, and
 - b. An adverse reaction to a medication.
- F. An administrator shall ensure that:
 - 1. Policies and procedures for medication administration:
 - a. Are reviewed and approved by a pharmacist, medical practitioner, or registered nurse; and
 - b. Ensure that medication is administered to a participant only as prescribed;
 - 2. Verbal orders for medication services are taken by a nurse, unless otherwise provided by law; and
 - 3. A medication administered to a participant:
 - a. Is administered in compliance with an order, and
 - b. Is documented in the participant's medical record.
- G. If an adult day health care facility provides assistance in the self-administration of medication, an administrator shall ensure that:
 - 1. A participant's medication is stored by the adult day health care facility;
 - 2. The following assistance is provided to a participant:
 - a. A reminder when it is time to take the medication;
 - b. Opening the medication container for the participant;
 - c. Observing the participant while the participant removes the medication from the container;
 - d. Verifying that the medication is taken as ordered by the participant's medical practitioner by confirming that:

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- i. The participant taking the medication is the individual stated on the medication container label,
 - ii. The participant is taking the dosage of the medication stated on the medication container label or according to an order from a medical practitioner dated later than the date on the medication container label, and
 - iii. The participant is taking the medication at the time stated on the medication container label or according to an order from a medical practitioner dated later than the date on the medication container label; or
 - e. Observing the participant while the participant takes the medication;
 - 3. Policies and procedures for assistance in the self-administration of medication are reviewed and approved by a pharmacist, medical practitioner, or registered nurse;
 - 4. Training for a personnel member, other than a medical practitioner or registered nurse, in assistance in the self-administration of medication:
 - a. Is provided by a medical practitioner or registered nurse or an individual trained by a medical practitioner or registered nurse; and
 - b. Includes:
 - i. A demonstration of the personnel member's skills and knowledge necessary to provide assistance in the self-administration of medication,
 - ii. Identification of medication errors and medical emergencies related to medication that require emergency medical intervention, and
 - iii. The process for notifying the appropriate entities when an emergency medical intervention is needed;
 - 5. A personnel member, other than a medical practitioner or registered nurse, completes the training in subsection (G)(4) before the personnel member provides assistance in the self-administration of medication; and
 - 6. Assistance in the self-administration of medication provided to a participant:
 - a. Is in compliance with an order, and
 - b. Is documented in the participant's medical record.
- H.** An administrator shall ensure that:
- 1. A current drug reference guide is available for use by personnel members, and
 - 2. A current toxicology reference guide is available for use by personnel members.
- I.** When medication is stored at an adult day health care facility, an administrator shall ensure that:
- 1. Medication is stored in a separate locked room, closet, or self-contained unit used only for medication storage;
 - 2. Medication is stored according to the instructions on the medication container; and
 - 3. Policies and procedures are established, documented, and implemented to protect the health and safety of a participant for:
 - a. Receiving, storing, inventorying, tracking, dispensing, and discarding medication, including expired medication; and
 - b. Storing, inventorying, and dispensing controlled substances.
- J.** A medication error or a participant's refusal to take a medication is:
- 1. Reported to the participant's representative within 12 hours, and
 - 2. Documented in the participant's medical record within 24 hours.
- K.** An adverse reaction is:
- 1. Reported to the participant's representative and medical practitioner within 12 hours, and
 - 2. Documented in the participant's medical record within 24 hours.
- L.** An administrator shall:
- 1. Immediately notify a participant's representative and medical practitioner of an injury that may require medical services;
 - 2. Report an injury to Adult Protective Services according to A.R.S. § 46-454, when applicable;
 - 3. Prepare a written report on the day of occurrence or when any injury of unknown origin is detected that includes the:
 - a. Name of the participant;
 - b. Type of injury;
 - c. Names of witnesses, if applicable; and
 - d. Action taken;
 - 4. Investigate the injury within 24 hours and documenting any corrective action in the report; and
 - 5. Retain the report for at least 12 months after the date of the injury.
- M.** For a participant whose care plan includes counseling on an individual or group basis, an administrator shall ensure that:
- 1. If the counseling needed by the participant is within the adult day health care facility's scope of services, a personnel member provides the counseling to the participant according to policies and procedures; or
 - 2. If the counseling needed by the participant is not within the adult day health care facility's scope of services, a personnel member assists the participant or the participant's representative to obtain counseling for the participant according to policies and procedures.

Historical Note

Amended effective September 2, 1977 (Supp. 77-5).
 Repealed effective July 22, 1994 (Supp. 94-3). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1113 renumbered to Section R9-10-1114; new Section R9-10-1113 renumbered from Section R9-10-1112 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1114. Food Services**A.** An administrator shall:

- 1. Designate a food service supervisor who is responsible for food service in an adult day health care facility; and
- 2. If an adult day health care facility provides a therapeutic diet to participants, ensure that:
 - a. The therapeutic diet is prescribed in writing by:
 - i. The participant's medical practitioner, or
 - ii. A registered dietitian; and
 - b. A current therapeutic diet reference manual is available to the food service supervisor.

B. A food service supervisor shall ensure that:

- 1. A food menu:
 - a. Is prepared at least one week in advance,
 - b. Includes the foods to be served each day,
 - c. Is conspicuously posted at least one calendar day before the first meal on the food menu will be served,

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- d. Includes any food substitution no later than the morning of the day of meal service with a food substitution, and
 - e. Is maintained for at least 60 calendar days after the last day included in the food menu;
 2. Meals and snacks provided by the adult day health care facility are served according to posted menus;
 3. Meals and snacks for each day are planned using the applicable guidelines in <http://www.health.gov/dietaryguidelines/2010.asp>;
 4. A participant is provided a diet that meets the participant's nutritional needs as specified in the participant's comprehensive assessment, under R9-10-1107(F), or the participant's care plan;
 5. Water is available and accessible to participants at all times, unless otherwise stated by the participant's medical practitioner; and
 6. A participant requiring assistance to eat is provided with assistance that recognizes the participant's nutritional, physical, and social needs, including the use of adaptive eating equipment or utensils, such as a plate guard, rocking fork, or assistive hand device, if not provided by the participant.
- C.** An administrator shall ensure that food is obtained, prepared, served, and stored as follows:
1. Food is free from spoilage, filth, or other contamination and is safe for human consumption;
 2. Food is protected from potential contamination;
 3. Food is prepared:
 - a. Using methods that conserve nutritional value, flavor, and appearance; and
 - b. In a form to meet the needs of a participant, such as cut, chopped, ground, pureed, or thickened;
 4. Potentially hazardous food is maintained as follows:
 - a. Foods requiring refrigeration are maintained at 41° F or below;
 - b. Foods requiring cooking are cooked to heat all parts of the food to a temperature of at least 145° F for 15 seconds, except that:
 - i. Ground beef and ground meats are cooked to heat all parts of the food to at least 155° F;
 - ii. Poultry, poultry stuffing, stuffed meats, and stuffing that contains meat are cooked to heat all parts of the food to at least 165° F;
 - iii. Pork and any food containing pork are cooked to heat all parts of the food to at least 155° F;
 - iv. Raw shell eggs for immediate consumption are cooked to at least 145° F for 15 seconds and any food containing raw shell eggs is cooked to heat all parts of the food to at least 155° F;
 - v. Roast beef and beef steak are cooked to an internal temperature of at least 155° F; and
 - vi. Leftovers are reheated to a temperature of at least 165° F;
 5. A refrigerator contains a thermometer, accurate to plus or minus 3° F, at the warmest part of the refrigerator;
 6. Frozen foods are stored at a temperature of 0° F or below; and
 7. Tableware, utensils, equipment, and food-contact surfaces are clean and in good repair.
- D.** An administrator shall ensure that:
1. If an adult day health care facility is licensed to provide adult day health services to more than 15 participants, the adult day health care facility:
 - a. Has a license or permit as a food establishment under 9 A.A.C. 8, Article 1; and
 - b. Maintains a copy of the adult day health care facility's food establishment license or permit;
 2. If the adult day health care facility contracts with a food establishment, as established in 9 A.A.C. 8, Article 1, to prepare and deliver food to the adult day health care facility, a copy of the contracted food establishment's license or permit under 9 A.A.C. 8, Article 1 is maintained by the adult day health care facility; and
 3. The adult day health care facility is able to store, refrigerate, and reheat food to meet the dietary needs of a participant.

Historical Note

Amended effective September 2, 1977 (Supp. 77-5).
 Repealed effective July 22, 1994 (Supp. 94-3). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1114 renumbered to Section R9-10-1115; new Section R9-10-1114 renumbered from Section R9-10-1113 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1115. Emergency and Safety Standards

- A.** An administrator shall ensure that:
1. A disaster plan is developed, documented, maintained in a location accessible to personnel members and employees, and, if necessary, implemented that includes:
 - a. Procedures for protecting the health and safety of participants and other individuals on the premises;
 - b. Assigned responsibilities for each personnel member and employee;
 - c. Instructions for the evacuation of participants, including:
 - i. When, how, and where participants will be relocated; and
 - ii. A plan for notifying the emergency contact for each participant;
 - d. A plan to ensure each participant's medications will be available to administer to the participant during a disaster; and
 - e. A plan for providing water, food, and needed services to participants present in the adult day health care facility or the adult day health care facility's relocation site during a disaster;
 2. The disaster plan required in subsection (A)(1) is reviewed at least once every 12 months;
 3. Documentation of a disaster plan review required in subsection (A)(2) is created, is maintained for at least 12 months after the date of the disaster plan review, and includes:
 - a. The date and time of the disaster plan review;
 - b. The name of each personnel member, employee, or volunteer participating in the disaster plan review;
 - c. A critique of the disaster plan review; and
 - d. If applicable, recommendations for improvement; and
 4. A disaster drill for assigned personnel is conducted on each shift at least once every three months and documented.
- B.** An administrator shall ensure that:
1. A participant receives orientation to the exits from the adult day health care facility and the route to be used when evacuating participants within two visits after the participant's enrollment, and
 2. A participant's orientation is documented in the participant's medical record.

- C. An administrator shall ensure that:
1. An evacuation drill for employees and participants is conducted at least once every six months;
 2. Documentation of an evacuation drill is created, is maintained for at least 12 months after the date of the evacuation drill, and includes:
 - a. The date and time of the evacuation drill;
 - b. The amount of time taken for all employees and participants to evacuate to a designated area;
 - d. Any problems encountered in conducting the evacuation drill; and
 - e. Recommendations for improvement, if applicable; and
 3. An evacuation path is conspicuously posted on each hallway of each floor of the adult day health care facility.

Historical Note

Adopted effective September 2, 1977 (Supp. 77-5). Repealed effective July 22, 1994 (Supp. 94-3). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1115 renumbered to Section R9-10-1116; new Section R9-10-1115 renumbered from Section R9-10-1114 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1116. Environmental Standards

- A. An administrator shall ensure that:
1. The adult day health care facility's premises are:
 - a. Cleaned and disinfected according to policies and procedures to prevent, minimize, and control illness and infection; and
 - b. Free from a condition or situation that may cause a participant or an individual to suffer physical injury;
 2. A pest control program is implemented and documented;
 3. Windows and doors opening to the outside are screened if they are kept open at any time for ventilation or other purposes;
 4. Biohazardous medical waste is identified, stored, and disposed of according to 18 A.A.C. 13, Article 14 and policies and procedures;
 5. Equipment used at the adult day health care facility is:
 - a. Maintained in working order;
 - b. Tested and calibrated according to the manufacturer's recommendations or, if there are no manufacturer's recommendations, as specified in policies and procedures; and
 - c. Used according to the manufacturer's recommendations;
 6. Documentation of equipment testing, calibration, and repair is maintained for at least 12 months after the date of the testing, calibration, or repair;
 7. Garbage and refuse are:
 - a. Stored in covered containers lined with plastic bags, and
 - b. Removed from the premises at least once a week;
 8. Heating and cooling systems maintain the adult day health care facility at a temperature between 70° F and 84° F;
 9. The supply of hot and cold water is sufficient to meet the personal hygiene needs of participants and the cleaning and sanitation requirements in this Article;
 10. Soiled linen and soiled clothing stored by the adult day health care facility are maintained separate from clean

- linen and clothing and stored in closed containers away from food storage, kitchen, and dining areas;
11. Oxygen containers are secured in an upright position;
12. Poisonous or toxic materials stored by the adult day health care facility are maintained in labeled containers in a locked area separate from food preparation and storage, dining areas, and medications and are inaccessible to participants;
13. Combustible or flammable liquids and hazardous materials stored by the adult day health care facility are stored in the original labeled containers or safety containers in a locked area inaccessible to participants; and
14. Pets or animals are:
 - a. Controlled to prevent endangering the participants and to maintain sanitation;
 - b. Not allowed in treatment, food storage, food preparation, or dining areas;
 - c. Licensed consistent with local ordinances; and
 - d. For a dog or cat, vaccinated against rabies.

- B. If a swimming pool is located on the premises, an administrator shall ensure that:

1. On a day that a participant uses the swimming pool, an employee:
 - a. Tests the swimming pool's water quality at least once for compliance with one of the following chemical disinfection standards:
 - i. A free chlorine residual between 1.0 and 3.0 ppm as measured by the N, N-Diethyl-p-phenylenediamine test;
 - ii. A free bromine residual between 2.0 and 4.0 ppm as measured by the N, N-Diethyl-p-phenylenediamine test; or
 - iii. An oxidation-reduction potential equal to or greater than 650 millivolts; and
 - b. Records the results of the water quality tests in a log that includes the date tested and test result;
2. Documentation of the water quality test is maintained for at least 12 months after the date of the test;
3. A swimming pool is not used by a participant if a water quality test shows that the swimming pool water does not comply with subsection (B)(1)(a);
4. At least one personnel member with cardiopulmonary resuscitation training, required in R9-10-1106(D), is present in the pool area when a participant is in the pool area; and
5. At least two personnel members are present in the pool area if two or more participants are in the pool area.

Historical Note

Adopted effective September 2, 1977 (Supp. 77-5). Repealed effective July 22, 1994 (Supp. 94-3). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1116 renumbered to Section R9-10-1117; new Section R9-10-1116 renumbered from Section R9-10-1115 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1117. Physical Plant Standards

- A. An administrator shall ensure that an adult day health care facility complies with the physical plant health and safety codes and standards applicable to existing educational occupancies in the Life Safety Code, incorporated by reference in A.A.C. R9-1-412(A)(2)(b), in effect on the date the adult day health care facility submitted architectural plans and specifications to the Department for approval, according to R9-10-104.

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- B.** An administrator shall ensure that the premises and equipment are sufficient to accommodate:
1. The services stated in the adult day health care facility's scope of services, and
 2. An individual accepted as a participant by the adult day health care facility.
- C.** An administrator shall ensure that an adult day health care facility has at least 40 square feet of indoor activity space for each participant, excluding bathrooms, halls, storage areas, kitchens, wall thicknesses, and rooms designated for use by individuals who are not participants.
- D.** An administrator shall ensure that an outside activity space is provided and available that:
1. Is on the premises,
 2. Has a hard-surfaced section for wheelchairs,
 3. Has an available shaded area, and
 4. Has a means of egress without entering the adult day health care facility.
- E.** An administrator shall ensure that:
1. There is at least one working toilet that flushes and has a seat and one sink with running water for each ten participants;
 2. A bathroom for use by participants provides privacy when in use and contains in a location accessible to participants:
 - a. A mirror;
 - b. Toilet paper for each toilet;
 - c. Soap accessible from each sink;
 - d. Paper towels in a dispenser or an air hand dryer; and
 - e. Grab bars for the toilet and other assistive devices, if required, to provide for participant safety;
 3. A bathroom has a window that opens or another means of ventilation;
 4. If a bathing facility is provided:
 - a. The bathing facility provides privacy when in use,
 - b. Shower enclosures have nonporous surfaces,
 - c. Showers and tubs have grab bars for participant safety, and
 - d. Tub and shower floors have slip-resistant surfaces;
 5. Dining areas are furnished with dining tables and chairs and large enough to accommodate participants;
 6. There is a wall or other means of physical separation between dining facilities and food preparation areas;
 7. If the adult day health care facility serves food, areas are designated for food preparation, storage, and handling and are not used as a passageway by participants; and
 8. All flooring is slip-resistant.
- F.** If the adult day health care facility has a swimming pool on the premises, an administrator shall ensure that:
1. The swimming pool is equipped with the following:
 - a. An operational water circulation system that clarifies and disinfects the swimming pool water continuously and that includes at least:
 - i. A removable strainer,
 - ii. Two swimming pool inlets located on opposite sides of the swimming pool, and
 - iii. A drain located at the swimming pool's lowest point and covered by a grating that cannot be removed without using tools; and
 - b. An operational vacuum cleaning system;
 2. The swimming pool is enclosed by a wall or fence that:
 - a. Is at least five feet in height as measured on the exterior of the wall or fence;
 - b. Has no vertical openings greater than four inches across;
 - c. Has no horizontal openings, except as described in subsection (C)(2)(e);
 - d. Is not chain-link;
 - e. Does not have a space between the ground and the bottom fence rail that exceeds four inches in height; and
 - f. Has a self-closing, self-latching gate that:
 - i. Opens away from the swimming pool,
 - ii. Has a latch located at least 54 inches from the ground; and
 - iii. Is locked when the swimming pool is not in use;
 3. A life preserver or shepherd's crook is available and accessible in the pool area; and
 4. If the swimming pool is used by participants, pool safety requirements are conspicuously posted in the pool area.

Historical Note

Adopted effective September 2, 1977 (Supp. 77-5).
 Repealed effective July 22, 1994 (Supp. 94-3). New Section R9-10-1117 renumbered from Section R9-10-1116 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1118. Repealed**Historical Note**

Adopted effective September 2, 1977 (Supp. 77-5).
 Repealed effective July 22, 1994 (Supp. 94-3).

R9-10-1119. Repealed**Historical Note**

Adopted effective September 2, 1977 (Supp. 77-5).
 Repealed effective July 22, 1994 (Supp. 94-3).

R9-10-1120. Repealed**Historical Note**

Adopted effective September 2, 1977 (Supp. 77-5).
 Repealed effective July 22, 1994 (Supp. 94-3).

R9-10-1121. Repealed**Historical Note**

Adopted effective September 2, 1977 (Supp. 77-5).
 Repealed effective July 22, 1994 (Supp. 94-3).

R9-10-1122. Repealed**Historical Note**

Adopted effective September 2, 1977 (Supp. 77-5).
 Repealed effective July 22, 1994 (Supp. 94-3).

R9-10-1123. Repealed**Historical Note**

Adopted effective September 2, 1977 (Supp. 77-5).
 Repealed effective July 22, 1994 (Supp. 94-3).

R9-10-1124. Repealed**Historical Note**

Adopted effective September 2, 1977 (Supp. 77-5).
 Repealed effective July 22, 1994 (Supp. 94-3).

R9-10-1125. Repealed**Historical Note**

Adopted effective September 2, 1977 (Supp. 77-5).
 Repealed effective July 22, 1994 (Supp. 94-3).

R9-10-1126. Repealed**Historical Note**

Adopted effective September 2, 1977 (Supp. 77-5).

Repealed effective July 22, 1994 (Supp. 94-3).

R9-10-1127. Repealed**Historical Note**

Adopted effective September 2, 1977 (Supp. 77-5).

Repealed effective July 22, 1994 (Supp. 94-3).

ARTICLE 12. HOME HEALTH AGENCIES**R9-10-1201. Definitions**

In addition to the definitions in A.R.S. § 36-401 and R9-10-101, the following apply in this Article, unless otherwise specified:

1. "Branch office" means a location other than a home health agency's main administrative office that:
 - a. Operates under the license of the home health agency, and
 - b. Is under the control of the home health agency's administrator.
2. "Home health services director" means an individual who provides direction for the home health services provided by or through a home health agency.
3. "Medical social services" means activities that assist a patient to cope with concerns about the patient's illness or injury, and may include helping to find resources to address the patient's concerns.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1202. Supplemental Application Requirements

In addition to the license application requirements in A.R.S. § 36-422 and R9-10-105, an applicant for a license as a home health agency shall:

1. Include on the application:
 - a. The name and address of each proposed branch office, if applicable; and
 - b. The geographic region to be served by:
 - i. The proposed home health agency's administrative office, and
 - ii. Each proposed branch office; and
2. Submit to the Department a copy of a valid fingerprint clearance card issued according to A.R.S. Title 41, Chapter 12, Article 3.1 for:
 - a. The applicant, if the applicant is an individual; or
 - b. Each individual with a 10% or greater ownership of the business organization, if the applicant is a business organization.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1203. Administration**A. A governing authority shall:**

1. Consist of one or more individuals responsible for the organization, operation, and administration of the home health agency;
2. Establish, in writing:
 - a. A home health agency's scope of services, and
 - b. Qualifications for an administrator;

3. Designate, in writing, an administrator who has the qualifications established in subsection (A)(2)(b);
4. Adopt a quality management program according to R9-10-1204;
5. Review and evaluate the effectiveness of the quality management program at least once every 12 months;
6. Designate, in writing, an acting administrator who has the qualifications established in subsection (A)(2)(b) if the administrator is:
 - a. Expected not to be present in a home health agency's administrative office for more than 30 calendar days, or
 - b. Not present in a home health agency's administrative office for more than 30 calendar days;
7. Except as provided in subsection (A)(6), notify the Department according to A.R.S. § 36-425(I) when there is a change in the administrator and identify the name and qualifications of the new administrator;
8. Appoint, according to A.R.S. § 36-151(5)(b), an advisory group that consists of four or more members that include:
 - a. A physician;
 - b. A registered nurse who has at least one year of experience as a registered nurse providing home health services; and
 - c. Two or more individuals who represent a medical, nursing, or health-related profession; and
9. Ensure that the advisory group appointed according to subsection (A)(8):
 - a. Meets at least once every 12 months,
 - b. Documents meetings, and
 - c. Assists in establishing and evaluating policies and procedures for the home health agency.

B. An administrator:

1. Is directly accountable to the governing authority of a home health agency for all services provided by the home health agency;
2. Has the authority and responsibility to manage the home health agency;
3. Except as provided in subsection (A)(6), designates, in writing, an individual who is present at the home health agency's administrative office and accountable for services provided by the home health agency when the administrator is not present at the home health agency's administrative office; and
4. Ensures compliance with A.R.S. § 36-411.

C. An administrator shall:

1. Ensure that policies and procedures are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Cover job descriptions, duties, and qualifications, including required skills, knowledge, education, and experience for personnel members, employees, and volunteers;
 - b. Cover orientation and in-service education for personnel members, employees, and volunteers;
 - c. Cover how a personnel member may submit a complaint relating to patient care;
 - d. Cover the requirements in A.R.S. Title 36, Chapter 4, Article 11;
 - e. Include a method to identify a patient to ensure the patient receives the appropriate services;
 - f. Cover patient rights, including assisting a patient who does not speak English or who has a disability to become aware of patient rights;
 - g. Cover specific steps for:
 - i. A patient to file a complaint, and

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- ii. The home health agency to respond to a patient complaint;
 - h. Cover health care directives;
 - i. Cover medical records, including electronic medical records;
 - j. Cover a quality management program, including incident reports and supporting documentation;
 - k. Cover contracted services; and
 - l. Cover and designate which personnel members or employees are required to have current certification in cardiopulmonary resuscitation and first aid training;
2. Ensure that policies and procedures for services provided by a home health agency are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Cover patient admission, discharge planning, and discharge;
 - b. Cover the provision of home health services and, if applicable, supportive services;
 - c. Include when general consent and informed consent are required;
 - d. Cover how personnel members will respond to a patient's sudden, intense, or out-of-control behavior to prevent harm to the patient or another individual;
 - e. Cover medication procurement, if applicable, and administration; and
 - f. Cover infection control;
 3. Ensure that policies and procedures are:
 - a. Available to personnel members, employees, and volunteers, and
 - b. Reviewed at least once every three years and updated as needed;
 4. Ensure that records of advisory group meetings are maintained for at least 24 months after the date of the meeting;
 5. Designate, in writing, a home health services director who is:
 - a. A physician with at least 24 months of experience working for or with a home health agency; or
 - b. A registered nurse with at least three years of nursing experience, including at least 24 months of experience as a registered nurse providing home health services;
 6. Ensure that:
 - a. Speech therapy or speech-language pathology services are provided by a speech-language pathologist or speech-language pathologist assistant licensed according to A.R.S. § 36-1940.04;
 - b. Nutritional services are provided by a registered dietitian;
 - c. Occupational therapy services are provided by an occupational therapist or occupational therapy assistant;
 - d. Physical therapy services are provided by a physical therapist or a physical therapist assistant;
 - e. Respiratory care services are provided by a respiratory therapist, respiratory therapy technician licensed according to A.R.S. Title 32, Chapter 35, or registered nurse;
 - f. Pharmacy services are provided by a pharmacist; and
 - g. Medical social services are provided:
 - i. By a personnel member qualified according to policies and procedures that coordinates medical social services; and
 - ii. For medical social services that require a license under A.R.S. Title 32, Chapter 33, Article 5, by a personnel member licensed under A.R.S. Title 32, Chapter 33, Article 5;
 7. Ensure that the services specified in subsection (C)(6) are provided to a patient only under an order by the patient's physician, registered nurse practitioner, or podiatrist, as applicable; and
 8. Unless otherwise stated, ensure that:
 - a. Documentation required by this Article is provided to the Department within two hours after a Department request; and
 - b. When documentation or information is required by this Chapter to be submitted on behalf of a home health agency, the documentation or information is provided to the unit in the Department that is responsible for licensing and monitoring the home health agency.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1204. Quality Management

An administrator shall ensure that:

1. A plan for a quality management program for the home health agency is established, documented, and implemented that includes:
 - a. A method to identify, document, and evaluate incidents;
 - b. A method to collect data to evaluate the provision of services, including oversight of personnel members;
 - c. A method to evaluate the data collected to identify a concern about the provision of services;
 - d. A method to make changes or take action as a result of the identification of a concern about the provision of services;
 - e. A method to determine whether actions taken improved the provision of services; and
 - f. The frequency of submitting the documented report required in subsection (2) to the governing authority;
2. A documented report is submitted to the governing authority that includes:
 - a. Each identified concern about the delivery of services related to patient care, and
 - b. Any change made or action taken as a result of the identification of a concern about the delivery of services related to patient care; and
3. The report in subsection (2) and the supporting documentation for the report are maintained for at least 12 months after the date the report is submitted to the governing authority.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1205. Contracted Services

An administrator shall ensure that:

1. Contracted services are provided according to the requirements in this Article, and
2. Documentation of current contracted services is maintained that includes a description of the contracted services provided.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1206. Personnel**A.** An administrator shall ensure that:

1. The qualifications, skills, and knowledge required for each type of personnel member:
 - a. Are based on:
 - i. The type of services expected to be provided by the personnel member according to the established job description, and
 - ii. The acuity of the patients receiving services from the personnel member according to the established job description; and
 - b. Include:
 - i. The specific skills and knowledge necessary for the personnel member to provide the expected services listed in the established job description,
 - ii. The type and duration of education that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected services listed in the established job description, and
 - iii. The type and duration of experience that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected services listed in the established job description;
2. A personnel member's skills and knowledge are verified and documented:
 - a. Before the personnel member provides physical health services, and
 - b. According to policies and procedures;
3. Sufficient personnel members are available with the qualifications, skills, and knowledge necessary to:
 - a. Provide the services in the home health agency's scope of services,
 - b. Meet the needs of a patient, and
 - c. Ensure the health and safety of a patient; and
4. A personnel member, or an employee, a volunteer, or a student who has or is expected to have direct interaction with a patient, provides evidence of freedom from infectious tuberculosis:
 - a. On or before the date the individual begins providing services at or on behalf of the home health agency, and
 - b. As specified in R9-10-113.

B. An administrator shall ensure that a personnel record for each personnel member, employee, or volunteer:

1. Includes:
 - a. The individual's name, date of birth, and contact telephone number;
 - b. The individual's starting date of employment or volunteer service, and if applicable, ending date; and
 - c. Documentation of:
 - i. The individual's qualifications, including skills and knowledge applicable to the individual's job duties;
 - ii. The individual's education and experience applicable to the individual's job duties;

- iii. The individual's completed orientation and in-service education as required by policies and procedures;
 - iv. The individual's license or certification, if the individual is required to be licensed or certified in this Article or policies and procedures;
 - v. The individual's compliance with the requirements in A.R.S. § 36-411;
 - vi. Cardiopulmonary resuscitation training, if required for the individual according to this Article and policies and procedures;
 - vii. First aid training, if required for the individual according to this Article and policies and procedures; and
 - viii. Evidence of freedom from infectious tuberculosis, if required according to subsection (A)(4);
2. Is maintained:
 - a. Throughout the individual's period of providing services in or for the home health agency; and
 - b. For at least 24 months after the last date the individual provided services in or for the home health agency; and
 3. For a personnel member who has not provided services for the home health agency during the previous 12 months, provided to the Department within 72 hours after the Department's request.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1207. Care Plan**A.** An administrator shall ensure that a care plan is developed for each patient:

1. Based on an assessment of the patient as required in R9-10-1210(D)(1) or (F)(2)(e)(i);
2. With participation from:
 - a. The patient's physician, registered nurse practitioner, or podiatrist, as applicable; and
 - b. A registered nurse; and
3. That includes:
 - a. The patient's diagnosis;
 - b. Surgery dates relevant to home health services, if applicable;
 - c. The patient's cognitive awareness of self, location, and time;
 - d. Functional abilities and limitations;
 - e. Goals for functional rehabilitation, if applicable;
 - f. The type, duration, and frequency of each service to be provided;
 - g. Treatments the patient is receiving from a source other than the home health agency;
 - h. Medications and herbal supplements reported by the patient or the patient's representative as being used by the patient, and the dose, route of administration, and schedule for administration of each medication or herbal supplement;
 - i. Any known drug allergies;
 - j. Nutritional requirements and preferences;
 - k. Specific measures to improve the patient's safety and protect the patient against injury; and
 - l. A discharge plan for the patient including, if applicable, a plan for assessing the accomplishment of treatment or therapy goals for the patient.

B. An administrator shall ensure that:

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1. Home health services are provided to a patient by the home health agency according to the patient's care plan;
2. The patient's care plan is reviewed and updated:
 - a. Whenever there is a change in the patient's condition that indicates a need for a change in the type, duration, or frequency of the services being provided;
 - b. If the patient's physician, registered nurse practitioner, or podiatrist, as applicable, orders a change in the care plan; and
 - c. At least every 60 calendar days; and
3. The patient's physician, registered nurse practitioner, or podiatrist, as applicable, authenticates the care plan with a signature within 30 calendar days after the care plan is initially developed and whenever the care plan is reviewed or updated.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1208. Patient Rights

- A.** An administrator shall ensure that:
1. The requirements in subsection (B) and the patient rights in subsection (C) are conspicuously posted at the home health agency's administrative office;
 2. At the time of admission, a patient or the patient's representative receives a written copy of the requirements in subsection (B) and the patient rights in subsection (C); and
 3. Policies and procedures include:
 - a. How and when a patient or the patient's representative is informed of patient rights in subsection (C); and
 - b. Where patient rights are posted as required in subsection (A)(1).
- B.** An administrator shall ensure that:
1. A patient is treated with dignity, respect, and consideration;
 2. A patient is not subjected to:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Coercion;
 - e. Manipulation;
 - f. Sexual abuse;
 - g. Sexual assault;
 - h. Seclusion;
 - i. Restraint;
 - j. Retaliation for submitting a complaint to the Department or another entity; or
 - k. Misappropriation of personal and private property by a home health agency's personnel members, employees, or volunteers; and
 3. A patient or the patient's representative:
 - a. Except in an emergency, either consents to or refuses treatment;
 - b. May refuse or withdraw consent for treatment before treatment is initiated;
 - c. Except in an emergency, is informed of proposed alternatives to a psychotropic medication and the associated risks and possible complications of a psychotropic medication;
 - d. Is informed of the following:
 - i. The home health agency's policy on health care directives;

- ii. The patient complaint process;
- iii. Home health services provided by or through the home health agency; and
- iv. The rates and charges for services before the services are initiated and before a change in rates, charges, or services;
- e. Consents to photographs of the patient before the patient is photographed, except that a patient may be photographed when admitted to a home health agency for identification and administrative purposes; and
- f. Except as otherwise permitted by law, provides written consent to the release of information in the patient's:
 - i. Medical record, or
 - ii. Financial records.

C. A patient has the following rights:

1. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, or diagnosis;
2. To receive treatment that supports and respects the patient's individuality, choices, strengths, and abilities;
3. To receive privacy in treatment and care for personal needs;
4. To review, upon written request, the patient's own medical record according to A.R.S. §§ 12-2293, 12-2294, and 12-2294.01;
5. To receive a referral to another health care institution if the home health agency is not authorized or not able to provide physical health services needed by the patient;
6. To participate or have the patient's representative participate in the development of a care plan or decisions concerning treatment;
7. To participate or refuse to participate in research or experimental treatment; and
8. To receive assistance from a family member, the patient's representative, or other individual in understanding, protecting, or exercising the patient's rights.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1209. Medical Records

- A.** An administrator shall ensure that:
1. A medical record is established and maintained for each patient according to A.R.S. Title 12, Chapter 13, Article 7.1;
 2. An entry in a patient's medical record is:
 - a. Recorded only by an individual authorized by a policies and procedures to make the entry;
 - b. Dated, legible, and authenticated; and
 - c. Not changed to make the initial entry illegible;
 3. An order is:
 - a. Dated when the order is entered in the patient's medical record and includes the time of the order;
 - b. Authenticated by a physician, registered nurse practitioner, or podiatrist according to policies and procedures; and
 - c. If the order is a verbal order, authenticated by the physician, registered nurse practitioner, or podiatrist issuing the order;
 4. If a rubber-stamp signature or an electronic signature is used to authenticate an order, the individual whose signature the rubber-stamp signature or electronic signature

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- represents is accountable for the use of the rubber-stamp signature or electronic signature;
5. A patient's medical record is available to personnel members, physicians, registered nurse practitioners, or podiatrists authorized by policies and procedures to access the patient's medical record;
 6. Information in a patient's medical record is disclosed to an individual not authorized under subsection (A)(5) only with the written consent of a patient or the patient's representative or as permitted by law; and
 7. A patient's medical record is protected from loss, damage, or unauthorized use.
- B.** If a home health agency maintains patients' medical records electronically, an administrator shall ensure that:
1. Safeguards exist to prevent unauthorized access, and
 2. The date and time of an entry in a patient's medical record is recorded by the computer's internal clock.
- C.** An administrator shall ensure that a patient's medical record contains:
1. Patient information that includes:
 - a. The patient's name;
 - b. The patient's address and telephone number;
 - c. The patient's date of birth; and
 - d. Any known allergies, including medication allergies;
 2. The date the patient began receiving services from the home health agency and, if applicable, the date the patient stopped receiving services from the home health agency;
 3. The name and telephone of the patient's physician or registered nurse practitioner;
 4. The name and telephone number of patient's podiatrist, if applicable;
 5. Documentation of general consent and, if applicable, informed consent;
 6. Documentation of medical history and current diagnoses;
 7. A copy of patient's health care directive, if applicable;
 8. If applicable, the name and contact information of the patient's representative and:
 - a. If the patient is 18 years of age or older or an emancipated minor, the document signed by the patient consenting for the patient's representative to act on the patient's behalf; or
 - b. If the patient's representative:
 - i. Is a legal guardian, a copy of the court order establishing guardianship; or
 - ii. Has a health care power of attorney established under A.R.S. § 36-3221 or a mental health care power of attorney executed under A.R.S. § 36-3282, a copy of the health care power of attorney or mental health care power of attorney;
 9. Orders;
 10. Assessments;
 11. Care plan;
 12. Progress notes;
 13. If applicable, documentation of any actions taken to control the patient's sudden, intense or out-of-control behavior to prevent harm to the patient or another individual;
 14. Documentation of meetings with the patient to assess the home health services and supportive services provided to the patient;
 15. The disposition of the patient upon discharge;
 16. The discharge plan;
 17. Discharge instructions and discharge summary, if applicable;
 18. If applicable:
 - a. Laboratory reports,
 - b. Radiologic reports,
 - c. Diagnostic reports, and
 - d. Consultation reports;
 19. Documentation of a medication administered to the patient that includes:
 - a. The date and time of administration;
 - b. The name, strength, dosage, and route of administration;
 - c. For a medication administered for pain:
 - i. An assessment of the patient's pain before administering the medication, and
 - ii. The effect of the medication administered;
 - d. For a psychotropic medication:
 - i. An assessment of the patient's behavior before administering the psychotropic medication, and
 - ii. The effect of the psychotropic medication administered;
 - e. The identification, signature, and professional designation of the individual administering or observing the self-administration of the medication; and
 - f. Any adverse reaction a patient has to the medication;
 20. Documentation of tasks assigned to a home health aide or other personnel member;
 21. Documentation of coordination of patient care;
 22. Copies of patient summary reports sent to the patient's physician, registered nurse practitioner, or podiatrist, as applicable; and
 23. Documentation of contacts with the patient's physician, registered nurse practitioner, or podiatrist, as applicable, by a personnel member or the patient.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1210. Home Health Services

- A.** An administrator shall ensure that an individual admitted to the home health agency has an order from a physician, registered nurse practitioner, or podiatrist for home health services.
- B.** An administrator shall ensure that the home health services director provides direction for home health services provided by or through the home health agency.
- C.** A home health services director shall ensure that nursing services are provided by a registered nurse or practical nurse, according to policies and procedures.
- D.** A home health services director shall ensure that a registered nurse:
1. Unless a patient's physician or registered nurse practitioner orders only speech therapy, occupational therapy, or physical therapy for the patient, within 48 hours after the patient begins receiving home health services provided by or through the home health agency, conducts an initial assessment of the patient to determine:
 - a. The needs of the patient;
 - b. Resources available to address the patient's needs;
 - c. The patient's home and family environment;
 - d. Goals for patient care;
 - e. Medications used by the patient, including non-compliance, drug interactions, side effects, and contraindications; and
 - f. Medical supplies or equipment needed by the patient;
 2. Reviews a patient's health care directives at the time of the initial assessment;

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3. Implements a patient's care plan, developed as specified in R9-10-1207;
 4. Coordinates patient care with other individuals providing home health services or other services to the patient;
 5. Immediately informs the patient's physician or registered nurse practitioner of a change in a patient's condition that requires medical services; and
 6. At least every 60 calendar days until a patient is discharged:
 - a. Reassesses the patient based on the patient's care plan, needs, and medical condition; and
 - b. Summarizes the patient's condition and needs for the patient's physician, registered nurse practitioner, or podiatrist, as applicable.
- E.** A home health services director shall ensure that:
1. A patient's condition and the services provided to the patient are documented in the patient's medical record after each patient contact; and
 2. Verbal orders from a patient's physician, registered nurse practitioner, or podiatrist, as applicable, are:
 - a. Except as specified in subsection (F)(2)(d), received by a registered nurse and documented by the registered nurse in the patient's medical record; and
 - b. Authenticated by the patient's physician, registered nurse practitioner, or podiatrist, as applicable, with a signature, within 30 calendar days.
- F.** A home health services director shall ensure that:
1. A registered nurse:
 - a. Except as specified in subsection (F)(2)(b)(i) and (ii):
 - i. Assigns tasks in writing to a home health aide who is providing home health services to a patient; and
 - ii. Verifies the competency of the home health aide in performing assigned tasks;
 - b. Except as specified in subsection (F)(2)(b)(iii), provides direction for the home health aide services provided to a patient; and
 - c. Except as specified in subsection (F)(2)(e)(ii), meets with a patient who is receiving home health aide services to assess the home health services provided by the home health aide:
 - i. At least every two weeks when the patient is also receiving nursing services or therapy services; and
 - ii. At least every 60 calendar days when the patient is only receiving home health aide services;
 2. When a patient's physician or registered nurse practitioner orders speech therapy, occupational therapy, or physical therapy for the patient, an individual specified in R9-10-1203(C)(6)(a), (c), or (d), as applicable:
 - a. Provides the applicable therapy service to the patient according to the patient's care plan;
 - b. If a home health aide is assigned to assist the patient in performing activities related to the therapy service:
 - i. Assigns tasks in writing to the home health aide who is assisting the patient;
 - ii. Verifies the competency of the home health aide in performing assigned tasks; and
 - iii. Provides direction to the home health aide in performing the assigned tasks related to the therapy service;
 - c. Coordinates the provision of the therapy service to the patient with the registered nurse providing direction for other home health services for the patient;
 - d. Documents in the patient's medical record any orders by the patient's physician or registered nurse practitioner received concerning the therapy service; and
 - e. If the only home health services ordered for the patient are speech therapy, occupational therapy, or physical therapy:
 - i. Within 48 hours after the patient begins receiving home health services provided by or through the home health agency, conducts an initial assessment of the patient as specified in subsections (D)(1)(a) through (f); and
 - ii. Meets with a patient who is receiving home health services from a home health aide every two weeks to assess the home health services provided by the home health aide; and
 3. A home health aide:
 - a. Is only assigned to provide services the home health aide can competently perform; and
 - b. Only performs tasks assigned to the home health aide in writing by a registered nurse or as specified in subsection (F)(2)(b)(i).

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1211. Supportive Services

- A.** A governing authority may include supportive services, including personal care services, in the scope of services for a home health agency.
- B.** An administrator:
1. May allow:
 - a. Supportive services to be provided to a patient without an order from a physician, registered nurse practitioner, or podiatrist; and
 - b. A personnel member who is not a home health aide to perform personal care services; and
 2. Shall ensure that:
 - a. Supportive services are provided to a patient according to policies and procedures;
 - b. A registered nurse:
 - i. Assesses a patient's need for supportive services,
 - ii. Assigns specific tasks in writing to a home health aide providing supportive services other than personal care services,
 - iii. Assigns specific tasks in writing to a personnel member providing personal care services,
 - iv. Provides direction for supportive services, and
 - v. Includes supportive services in the reassessment of a patient required in R9-10-1210(D)(6); and
 - c. Supportive services are documented in a patient's medical record.

Historical Note

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13;

effective July 1, 2014 (Supp. 14-2).

R9-10-1212. Repealed**Historical Note**

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3).

R9-10-1213. Repealed**Historical Note**

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3).

R9-10-1214. Repealed**Historical Note**

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3).

R9-10-1215. Repealed**Historical Note**

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3).

R9-10-1216. Repealed**Historical Note**

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3).

R9-10-1217. Repealed**Historical Note**

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3).

R9-10-1218. Repealed**Historical Note**

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3).

R9-10-1219. Repealed**Historical Note**

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3).

R9-10-1220. Repealed**Historical Note**

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3).

R9-10-1221. Repealed**Historical Note**

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3).

R9-10-1222. Repealed**Historical Note**

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3721, effective

August 9, 2002 (Supp. 02-3).

R9-10-1223. Repealed**Historical Note**

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3).

R9-10-1224. Repealed**Historical Note**

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3).

R9-10-1225. Reserved**R9-10-1226. Repealed****Historical Note**

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3).

R9-10-1227. Repealed**Historical Note**

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3).

R9-10-1228. Repealed**Historical Note**

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3).

R9-10-1229. Reserved**R9-10-1230. Repealed****Historical Note**

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3).

ARTICLE 13. BEHAVIORAL HEALTH SPECIALIZED TRANSITIONAL FACILITY**R9-10-1301. Definitions**

Definitions in A.R.S. § 36-401 and R9-10-101 apply in this Article unless otherwise specified.

Historical Note

Emergency rule adopted effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency rule adopted again effective August 27, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Adopted with changes effective November 25, 1992 (Supp. 92-4). Reference in paragraph (24) corrected (Supp. 94-2). Section R9-10-1301 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

R9-10-1302. Administration

- A.** The governing authority for a behavioral health specialized transitional facility:
1. Is the superintendent of the state hospital; and
 2. Shall:
 - a. Establish, in writing:
 - i. A behavioral health specialized transitional facility's scope of services, and
 - ii. Qualifications for an administrator;
 - b. Designate, in writing, an administrator who has the qualifications established in subsection (A)(2)(a)(ii);
 - c. Adopt a quality management program according to R9-10-1303;
 - d. Review and evaluate the effectiveness of the quality management program at least once every 12 months;
 - e. Designate an acting administrator, in writing, who has the qualifications established in subsection (A)(2)(a)(ii), if the administrator is:
 - i. Expected not to be present on the behavioral health specialized transitional facility's premises for more than 30 calendar days, or
 - ii. Not present on the behavioral health specialized transitional facility's premises for more than 30 calendar days; and
 - f. Except as provided in subsection (A)(2)(e), notify the Department according to A.R.S. § 36-425(I) when there is a change in the administrator and identify the name and qualifications of the new administrator.
- B.** An administrator:
1. Is directly accountable to the superintendent of the state hospital for the daily operation of the behavioral health specialized transitional facility and for all services provided by or at the behavioral health specialized transitional facility;
 2. Has the authority and responsibility to manage the behavioral health specialized transitional facility; and
 3. Except as provided in subsection (A)(2)(e), designates, in writing, an individual who is present on the behavioral health specialized transitional facility's premises and accountable for the behavioral health specialized transitional facility when the administrator is not present on the behavioral health specialized transitional facility's premises.
- C.** An administrator shall ensure that:
1. Policies and procedures are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Cover job descriptions, duties, and qualifications, including required skills, knowledge, education, and experience for personnel members, employees, volunteers, and students;
 - b. Cover orientation and in-service education for personnel members, employees, volunteers, and students;
 - c. Cover patient admission, assessment, treatment plan, transfer, discharge planning, discharge, and recordkeeping;
 - d. Cover patient rights, including assisting a patient who does not speak English or who has a physical or other disability to become aware of patient rights;
 - e. Cover the requirements in A.R.S. §§ 36-3708, 36-3709, and 36-3714;
 - f. Establish the process for warning an identified or identifiable individual, as described in A.R.S. § 36-517.02 (B) through (C), if a patient communicates to a personnel member a threat of imminent serious physical harm or death to the identified or identifiable individual and the patient has the apparent intent and ability to carry out the threat;
 2. Policies and procedures are available to each personnel member;
 3. Laboratory services are provided by a laboratory that holds a certificate of accreditation or certificate of compliance issued by the U.S. Department of Health and Human Services under the 1988 amendments to the Clinical Laboratories Improvement Act of 1967;
 4. Food services are provided as specified in R9-10-1314;
 5. The following individuals have access to a patient:
 - a. The patient's representative,
 - b. An individual assigned by a court of law to provide services to the patient, and
 - c. An attorney hired by the patient or patient's family;
 6. Labor performed by a patient for the behavioral health specialized transitional facility is consistent with A.R.S. § 36-510 and applicable state and federal law; and
- g. Cover when informed consent is required and how informed consent is obtained;
 - h. Cover the criteria and process for conducting research using patients or patients' medical records;
 - i. Include the establishment of, disbursing from, and recordkeeping for a patient personal funds account;
 - j. Include a method of patient identification to ensure a patient receives the services ordered for the patient;
 - k. Cover contracted services;
 - l. Cover health care directives;
 - m. Cover medical records, including electronic medical records;
 - n. Cover medication procurement, storage, inventory monitoring and control, and disposal;
 - o. Cover infection control;
 - p. Cover and designate which personnel members or employees are required to have current certification in cardiopulmonary resuscitation and first aid training;
 - q. Cover environmental services that affect patient care;
 - r. Cover reporting suspected or alleged abuse, neglect, exploitation, or other criminal activity;
 - s. Cover quality management, including incident reports and supporting documentation;
 - t. Cover emergency treatment and disaster plan;
 - u. Cover how personnel members will respond to a patient's sudden, intense, or out-of-control behavior to prevent harm to the patient or another individual;
 - v. Include security of the facility, patients and their possessions, personnel members, and visitors at the behavioral health specialized transitional facility;
 - w. Include preventing unauthorized patient absences;
 - x. Cover transportation of patients, including the criteria for using a locking mechanism to restrict a patient's movement during transportation;
 - y. Cover specific steps for:
 - i. A patient to file a complaint, and
 - ii. The behavioral health specialized transitional facility to respond to a patient's complaint;
 - z. Cover visitation, telephone usage, sending or receiving mail, computer usage, and other recreational activities; and
 - aa. Include equipment inspection and maintenance;

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7. The following information is posted in an area easily viewed by a patient or an individual entering or leaving the behavioral health specialized transitional facility:
 - a. Patient rights,
 - b. Telephone number for the Department and the Office of Human Rights,
 - c. Location of inspection reports,
 - d. Complaint procedures, and
 - e. Visitation hours and procedures;
- D.** An administrator shall:
 1. Provide written notification to the Department of a patient's:
 - a. Death, if the patient's death is required to be reported according to A.R.S. § 11-593, within one working day after the patient's death;
 - b. Self-injury, within two working days after the patient inflicts a self-injury that requires immediate intervention by an emergency medical service provider; and
 - c. Absence, within one working day after an unauthorized patient absence from the behavioral health specialized transitional facility is discovered;
 2. Maintain the documentation required in subsection (D)(1) for at least 12 months after the date of the notification; and
 3. Ensure that sufficient personnel are present at the behavioral health specialized transitional facility at all times to maintain safe and secure conditions.
- E.** If an administrator has a reasonable basis, according to A.R.S. § 46-454, to believe abuse, neglect, or exploitation has occurred on the premises or while the patient is receiving services from an employee or personnel member of the behavioral health specialized transitional facility, the administrator shall:
 1. If applicable, take immediate action to stop the suspected abuse, neglect, or exploitation;
 2. Report the suspected abuse, neglect, or exploitation of the patient according to A.R.S. § 46-454;
 3. Document:
 - a. The suspected abuse, neglect, or exploitation of the patient;
 - b. Any action taken according to subsection (E)(1); and
 - c. The report in subsection (E)(2);
 4. Maintain the documentation required in subsections (E)(1) and (E)(2) for at least 12 months after the date of the report;
 5. Initiate an investigation of the suspected abuse, neglect, or exploitation and document the following information within five working days after the report required in subsection (E)(2):
 - a. The dates, times, and description of the suspected abuse, neglect, or exploitation;
 - b. A description of any injury to the patient related to the abuse or neglect and any change to the patient's physical, cognitive, functional, or emotional condition;
 - c. The names of witnesses to the suspected abuse, neglect, or exploitation; and
 - d. The actions taken by the administrator to prevent the suspected abuse, neglect, or exploitation from occurring in the future; and
 6. Maintain a copy of the documented information required in subsection (C)(10)(e) and any other information obtained during the investigation for at least 12 months after the date the investigation was initiated.
- F.** An administrator shall:
 1. Unless otherwise stated, ensure that:
 - a. Documentation required by this Article is provided to the Department within two hours after a Department request; and
 - b. When documentation or information is required by this Chapter to be submitted on behalf of a behavioral health specialized transitional facility, the documentation or information is provided to the unit in the Department that is responsible for licensing and monitoring the behavioral health specialized transitional facility;
 2. Appoint a medical director, to direct the medical and nursing services provided by or at the behavioral health specialized transitional facility, who:
 - a. Is a medical staff member, and
 - b. Has at least two years of experience providing services in an organized psychiatric services unit of a hospital or in a behavioral health facility; and
 3. Appoint a clinical director, to provide direction for the behavioral health services provided by or at the behavioral health specialized transitional facility, who:
 - a. Is a psychiatrist or a psychologist;
 - b. Has at least two years of experience providing services in an organized psychiatric services unit of a hospital or in a behavioral health facility; and
 - c. May, if qualified, also serve as the medical director.
- G.** A medical director:
 1. Is responsible for the medical services, nursing services, and physical health-related services provided to patients consistent with the patients behavioral treatment plan; and
 2. Shall ensure that policies and procedures are established, documented, and implemented to protect the health and safety of a patient that cover:
 - a. Restraint, according to R9-10-225;
 - b. The process for patient assessments, including the identification of and criteria for the on-going monitoring of a patient's physical health conditions;
 - c. Dispensing and administration of medications, including the process and criteria for determining whether a patient is capable of and eligible to self-administer medication;
 - d. The process by which emergency medical treatment will be provided to a patient; and
 - e. The requirements for completion of medication records and recording of adverse events.
- H.** A clinical director:
 1. Is responsible for the behavioral health services provided to patients;
 2. Shall ensure that policies and procedures are established, documented, and implemented to protect the health and safety of a patient that cover:
 - a. Assessing the competency and proficiency of a behavioral health personnel member for each type of service the personnel member provides and each type of patient to which the personnel member is assigned;
 - b. Providing:
 - i. Supervision to behavioral health paraprofessionals, according to R9-10-115(1); and
 - ii. Clinical oversight to behavioral health technicians, according to R9-10-115(2);
 - c. The qualifications for personnel members who provide clinical oversight;

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- d. The process for patient assessments, including the identification of and criteria for the on-going monitoring of a patient's behavioral health issues;
 - e. The process for developing and implementing a patient's treatment plan;
 - f. The frequency of and process for reviewing and modifying a patient's treatment plan, based on the ongoing monitoring of the patient's response to treatment; and
 - g. The process for determining whether a patient is eligible for discharge or conditional release to a less restrictive alternative;
3. Shall ensure that patient services are provided by personnel competent and proficient in providing the services; and
 4. Shall ensure that clinical oversight of personnel members is provided according to the policies and procedures.

Historical Note

Emergency rule adopted effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency rule adopted again effective August 27, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Adopted with changes effective November 25, 1992 (Supp. 92-4). Section R9-10-1302 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1303. Quality Management

An administrator shall ensure that:

1. A plan is established, documented, and implemented for an ongoing quality management program that, at a minimum, includes:
 - a. A method to identify, document, and evaluate incidents;
 - b. A method to collect data to evaluate services provided to patients;
 - c. A method to evaluate the data collected to identify a concern about the delivery of services related to patient care;
 - d. A method to make changes or take action as a result of the identification of a concern about the delivery of services related to patient care; and
 - e. The frequency of submitting a documented report required in subsection (2) to the governing authority;
2. A documented report is submitted to the governing authority that includes:
 - a. An identification of each concern about the delivery of services related to patient care, and
 - b. Any change made or action taken as a result of the identification of a concern about the delivery of services related to patient care; and
3. The report required in subsection (2) and the supporting documentation for the report are maintained for at least 12 months after the date the report is submitted to the governing authority.

Historical Note

Emergency rule adopted effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency rule adopted again effective August 27, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Adopted with changes effective November 25, 1992 (Supp. 92-4). Section R9-10-1303 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1304. Contracted Services

An administrator shall ensure that:

1. Contracted services are provided according to the requirements in this Article, and
2. Documentation of current contracted services is maintained that includes a description of the contracted services provided.

Historical Note

Emergency rule adopted effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency rule adopted again effective August 27, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Adopted without change effective November 25, 1992 (Supp. 92-4). Section R9-10-1304 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1305. Personnel Requirements and Records

A. An administrator shall ensure that a personnel member:

1. Is at least 21 years of age; and
2. Either:
 - a. Holds a valid fingerprint clearance card issued under A.R.S. Title 41, Chapter 12, Article 3.1; or
 - b. Submits to the administrator a copy of a fingerprint clearance card application showing that the personnel member submitted the application to the fingerprint division of the Department of Public Safety under A.R.S. § 41-1758.02 within seven working days after becoming a personnel member.

B. An administrator shall ensure that each personnel member submits to the administrator a copy of the individual's valid fingerprint clearance card:

1. Except as provided in subsection (A)(2)(b), before the personnel member's starting date of employment; and

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2. Each time the fingerprint clearance card is issued or renewed.
- C. If a personnel member holds a fingerprint clearance card that was issued before the individual became a personnel member, an administrator shall:
 1. Contact the Department of Public Safety within seven working days after the individual becomes a personnel member to determine whether the fingerprint clearance card is valid; and
 2. Make a record of this determination, including the name of the personnel member, the date of the contact with the Department of Public Safety, and whether the fingerprint clearance card is valid.
- D. An administrator shall ensure that:
 1. The qualifications, skills, and knowledge required for each type of personnel member:
 - a. Are based on:
 - i. The type of physical health services or behavioral health services expected to be provided by the personnel member according to the established job description, and
 - ii. The acuity of the patients receiving physical health services or behavioral health services from the personnel member according to the established job description; and
 - b. Include:
 - i. The specific skills and knowledge necessary for the personnel member to provide the expected physical health services and behavioral health services listed in the established job description,
 - ii. The type and duration of education that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services or behavioral health services listed in the established job description, and
 - iii. The type and duration of experience that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services or behavioral health services listed in the established job description;
 2. A personnel member's skills and knowledge are verified and documented:
 - a. Before the personnel member provides physical health services or behavioral health services, and
 - b. According to policies and procedures; and
 3. Personnel members are present on a behavioral health specialized transitional facility's premises with the qualifications, skills, and knowledge necessary to:
 - a. Provide the services in the behavioral health specialized transitional facility's scope of services,
 - b. Meet the needs of a patient, and
 - c. Ensure the health and safety of a patient.
- E. An administrator shall comply with the requirements for behavioral health technicians and behavioral health paraprofessionals in R9-10-115.
- F. An administrator shall ensure that a personnel member or an employee or volunteer who has or is expected to have direct interaction with a patient for more than eight hours a week, provides evidence of freedom from infectious tuberculosis:
 1. On or before the date the individual begins providing service at or on behalf of the behavioral health specialized transition facility, and
 2. As specified in R9-10-113.
- G. An administrator shall ensure that a personnel record is maintained for each personnel member, employee, volunteer, or student that includes:
 1. The individual's name, date of birth, and contact telephone number;
 2. The individual's starting date of employment or volunteer service and, if applicable, ending date;
 3. A copy of the individual's fingerprint clearance card; and
 4. Documentation of:
 - a. The individual's qualifications including skills and knowledge applicable to the individual's job duties;
 - b. The individual's education and experience applicable to the individual's job duties;
 - c. The individual's orientation and in-service education as required by policies and procedures;
 - d. The individual's license or certification, if the individual is required to be licensed or certified in this Article or policies and procedures;
 - e. If the individual is a behavioral health technician, clinical oversight required in R9-10-115;
 - f. Cardiopulmonary resuscitation training, if required for the individual according to this Article or policies and procedures;
 - g. First aid training, if required for the individual according to this Article or policies and procedures; and
 - h. Evidence of freedom from infectious tuberculosis, if required for the individual according to subsection (F).
- H. An administrator shall ensure that personnel records are maintained:
 1. Throughout an individual's period of providing services in or for the behavioral health specialized transitional facility; and
 2. For at least 24 months after the last date the individual provided services in or for the behavioral health specialized transitional facility.
- I. An administrator shall ensure that:
 1. A plan to provide orientation specific to the duties of a personnel member, an employee, a volunteer, and a student is developed, documented, and implemented;
 2. A personnel member completes orientation before providing behavioral health services or physical health services;
 3. An individual's orientation is documented, to include:
 - a. The individual's name,
 - b. The date of the orientation, and
 - c. The subject or topics covered in the orientation;
 4. A plan to provide in-service education specific to the duties of a personnel member is developed, documented and implemented; and
 5. A personnel member's in-service education is documented, to include:
 - a. The personnel member's name,
 - b. The date of the training, and
 - c. The subject or topics covered in the training.

Historical Note

Emergency rule adopted effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency rule adopted again effective August 27, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3).

Adopted with changes effective November 25, 1992 (Supp. 92-4). Section R9-10-1305 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1306. Admission Requirements

- A.** An administrator shall ensure that, before a patient is admitted to the behavioral health specialized transitional facility, a court of competent jurisdiction has ordered the patient to be:
 1. Detained under A.R.S. § 36-3705(B) or § 36-3713(B); or
 2. Committed under A.R.S. § 36-3707.
- B.** An administrator shall ensure that, at the time a patient is admitted to the behavioral health specialized transitional facility:
 1. The administrator receives a copy of the court order for the patient to be detained at or committed to the behavioral health specialized transitional facility,
 2. The patient's possessions are taken to the bedroom to which the patient has been assigned, and
 3. The patient is provided with a written list and verbal explanation of the patient's rights and responsibilities.
- C.** Within seven calendar days after a patient is admitted to the behavioral health specialized transitional facility, a medical director shall ensure that:
 1. A medical history is taken from and a physical examination performed on the patient;
 2. Except as specified in subsection (C)(3), a patient provides evidence of freedom from infectious tuberculosis as required in R9-10-113;
 3. A patient is not required to be retested for tuberculosis or provide another written statement by a physician, physician assistant, or registered nurse practitioner as specified in R9-10-113(1) if:
 - a. Fewer than 12 months have passed since the patient was tested for tuberculosis or since the date of the written statement, and
 - b. The documentation of freedom from infectious tuberculosis required in subsection (C)(2) accompanies the patient at the time of the patient's admission to the behavioral health specialized transitional facility; and
 4. An assessment for the patient is completed:
 - a. According to the behavioral health specialized transitional facility's policies and procedures;
 - b. That includes the patient's:
 - i. Legal history, including criminal justice record;
 - ii. Behavioral health treatment history;
 - iii. Medical conditions and history; and
 - iv. Symptoms reported by the patient and referrals needed by the patient, if any; and
 - c. That includes:
 - i. Recommendations for further assessment or examination of the patient's needs,
 - ii. The physical health services or ancillary services that will be provided to the patient until the patient's treatment plan is completed; and
 - iii. The signature of the personnel member conducting the assessment and the date signed.

Historical Note

Emergency rule adopted effective November 29, 1991,

pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency rule adopted again effective August 27, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Adopted with changes effective November 25, 1992 (Supp. 92-4). Section R9-10-1306 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1307. Discharge or Conditional Release to a Less Restrictive Alternative

- A.** An administrator shall ensure that annual written notice is given to a patient of the patient's right to petition for:
 1. Conditional release to a less restrictive alternative under A.R.S. § 36-3709, or
 2. Discharge under A.R.S. § 36-3714.
- B.** An administrator shall ensure that a patient who is detained at or committed to the behavioral health specialized transitional facility is transported to a hearing to determine the patient's continued detention at or commitment to the behavioral health specialized transitional facility.
- C.** An administrator shall ensure that a patient is not discharged or conditionally released to a less restrictive alternative before the behavioral health specialized transitional facility receives documentation from a court of competent jurisdiction of the patient's:
 1. Conditional release to a less restrictive alternative, or
 2. Discharge including the disposition of the patient upon discharge.
- D.** A clinical director shall ensure that before a patient is discharged or conditionally released to a less restrictive alternative:
 1. The clinical director or the clinical director's designee, as specified in the behavioral health specialized transitional facility's discharge policies and procedures, receives the name of the health care provider or behavioral health professional to whom a copy of the patient's discharge summary will be sent; and
 2. The patient receives:
 - a. Written follow-up instructions including as applicable to the patient:
 - i. On-going behavioral health issues and physical health conditions;
 - ii. A list of the patient's medications and, for each medication, directions for taking the medication, possible side-effects, and possible results of not taking the medication; and
 - iii. Counseling goals; and
 - b. A supply of medications sufficient to last the patient for at least 14 calendar days.

Historical Note

Emergency rule adopted effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted

again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency rule adopted again effective August 27, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Adopted with changes effective November 25, 1992 (Supp. 92-4). Section R9-10-1307 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

R9-10-1308. Transportation

An administrator of a behavioral health specialized transitional facility that uses a vehicle owned or leased by the behavioral health specialized transitional facility to provide transportation to a patient shall ensure that:

1. The vehicle:
 - a. Is safe and in good repair,
 - b. Contains a locked first aid kit,
 - c. Contains a working heating and air conditioning system, and
 - d. Contains drinking water sufficient to meet the needs of each patient present in the vehicle;
2. Documentation of current vehicle insurance and a record of maintenance performed or a repair of the vehicle is maintained;
3. A driver of the vehicle:
 - a. Is 21 years of age or older,
 - b. Has a valid driver license,
 - c. Operates the vehicle in a manner that does not endanger a patient in the vehicle,
 - d. Does not leave a patient in the vehicle unattended, and
 - e. Ensures the safe and hazard-free loading and unloading of patients; and
4. Transportation safety is maintained as follows:
 - a. Each individual in the vehicle is sitting in a seat and wearing a working seat belt while the vehicle is in motion, and
 - b. Each seat in the vehicle is securely fastened to the vehicle and provides sufficient space for a patient's body.

Historical Note

Emergency rule adopted effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency rule adopted again effective August 27, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Adopted with changes effective November 25, 1992 (Supp. 92-4). Section R9-10-1308 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1309. Patient Rights

An administrator shall ensure that:

1. A patient:
 - a. Has privacy in treatment and personal care needs;
 - b. Has the opportunity for and privacy in correspondence, communications, and visitation unless:
 - i. Restricted by court order; or
 - ii. Contraindicated on the basis of clinical judgment, as documented in the patient's medical record;
 - c. Is given the opportunity to seek, speak to, and be assisted by legal counsel:
 - i. Whom the court assigns to the patient, or
 - ii. Whom the patient obtains at the patient's own expense; and
 - d. Is not subjected to:
 - i. Abuse;
 - ii. Neglect;
 - iii. Exploitation;
 - iv. Coercion;
 - v. Manipulation;
 - vi. Seclusion;
 - vii. Restraint, if not necessary to prevent imminent harm to self or others;
 - viii. Sexual abuse according to A.R.S. § 13-1404; or
 - ix. Sexual assault according to A.R.S. § 13-1406; and
2. A patient or the patient's representative:
 - a. Is provided with the opportunity to participate in the development of the patient's treatment plan and in treatment decisions before the treatment is initiated, except in a medical emergency;
 - b. Is provided with information about proposed treatments, alternatives to treatments, associated risks, and possible complications;
 - c. Is allowed to control the patient's finances and have access to the patient's personal funds account according to the behavioral health specialized transitional facility's policies and procedures specified in R9-10-1302(C)(1)(i);
 - d. Has an opportunity to review the medical record for the patient according to the behavioral health specialized transitional facility's policies and procedures; and
 - e. Receives information about the behavioral health specialized transitional facility's policies and procedures for:
 - i. Health care directives;
 - ii. Filing complaints, including the telephone number of an individual at the behavioral health specialized transitional facility to contact about a complaint and the Department's telephone number; and
 - iii. Petitioning a court for a patient's discharge or conditional release to a less restrictive alternative.

Historical Note

Emergency rule adopted effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency rule adopted again effective August 27, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Adopted with changes effective November 25, 1992 (Supp. 92-4). Section R9-10-1309 repealed effective

November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1310. Behavioral Health Services

A. A clinical director shall ensure that:

1. A treatment plan is developed and implemented for the patient:
 - a. According to the behavioral health specialized transitional facility's policies and procedures;
 - b. Based on the assessment conducted under R9-10-1306(C)(4) and on-going changes to the assessment of the patient's behavioral health issues, mental disorders, and physical health conditions, as applicable; and
 - c. Including:
 - i. The physical health services, behavioral health services, and ancillary services to be provided to the patient until completion of the treatment plan;
 - ii. The type, frequency, and duration of counseling or other treatment ordered for the patient;
 - iii. The name of each individual who ordered medication, counseling, or other treatment for the patient;
 - iv. The signature of the patient or the patient's representative and dated signed, or documentation of the refusal to sign;
 - v. The date when the patient's treatment plan will be reviewed;
 - vi. If a discharge date has been determined, the treatment needed after discharge; and
 - vii. The signature of the personnel member who developed the treatment plan and the date signed; and
 2. A patient's treatment plan is reviewed and updated:
 - a. According to the review date specified in the treatment plan,
 - b. When a treatment goal is accomplished or changes,
 - c. When additional information that affects the patient's assessment is identified, and
 - d. When a patient has a significant change in condition or experiences an event that affects treatment.
- B. A clinical director shall ensure that treatment is:**
1. Offered to a patient according to the patient's treatment plan;
 2. Except for a patient obtaining treatment under A.R.S. § 36-512, only provided after obtaining informed consent to the treatment from the patient; and
 3. Documented in the patient's medical record as specified in R9-10-1312.
- C. The clinical director shall ensure that restraint is used, performed, and documented according to the behavioral health specialized transitional facility's policies and procedures.**
- D. A clinical director shall ensure that:**
1. A patient receives the annual examination required by A.R.S. § 36-3708, and
 2. A report of the patient's annual examination is prepared according to the behavioral health specialized transitional facility's policies and procedures.

Historical Note

Emergency rule adopted effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency rule adopted again effective August 27, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Adopted with changes effective November 25, 1992 (Supp. 92-4). Section R9-10-1310 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1311. Physical Health Services

A. A medical director shall ensure that:

1. A patient's physical health is assessed during the physical examination specified in R9-10-1306(C)(1), and
 2. Any physical health conditions identified through the assessment are addressed in the patient's treatment plan.
- B. A medical director shall ensure that on-going assessment or treatment of a patient's physical health condition is:**
1. Offered to a patient according to the patient's treatment plan;
 2. Except for a patient obtaining treatment under A.R.S. § 36-512, only provided after obtaining informed consent to the assessment or treatment from the patient; and
 3. Documented in the patient's medical record as specified in R9-10-1312.
- C. An administrator shall ensure that, if a patient requires assessment or treatment not available at the behavioral health specialized transitional facility, the patient is provided with transportation to the location where assessment or treatment may be provided to the patient.**

Historical Note

Emergency rule adopted effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency rule adopted again effective August 27, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Adopted with changes effective November 25, 1992 (Supp. 92-4). Section R9-10-1311 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1312. Medical Records

A. An administrator shall ensure that:

1. A medical record is established and maintained for each patient according to A.R.S. Title 12, Chapter 13, Article 7.1;

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2. An entry in a patient's medical record is:
 - a. Recorded only by an individual authorized by facility policies and procedures to make the entry;
 - b. Dated, legible, and authenticated; and
 - c. Not changed to make the initial entry illegible;
3. An order is:
 - a. Dated when the order is entered in the patient's medical record and includes the time of the order;
 - b. Authenticated by a medical practitioner or behavioral health professional according to facility policies and procedures; and
 - c. If the order is a verbal order, authenticated by the medical practitioner or behavioral health professional issuing the order;
4. If a rubber-stamp signature or an electronic signature is used to authenticate an order, the individual whose signature the rubber-stamp signature or electronic signature represents is accountable for the use of the rubber-stamp signature or the electronic signature;
5. A patient's medical record is available to an individual:
 - a. Authorized according to policies and procedures to access the patient's medical record;
 - b. If the individual is not authorized according to policies and procedures, with the written consent of the patient or the patient's representative; or
 - c. As permitted by law;
6. A patient's medical record is available to the patient or patient's representative upon request at a time agreed upon by the patient or patient's representative and the administrator; and
7. A patient's medical record is protected from loss, damage, or unauthorized use.
- B.** If a behavioral health specialized transitional facility maintains patient's medical records electronically, an administrator shall ensure that:
 1. Safeguards exist to prevent unauthorized access, and
 2. The date and time of an entry in a patient's medical record is recorded by the computer's internal clock.
- C.** An administrator shall ensure that a patient's medical record contains:
 1. A copy of the court order requiring the patient to be detained at or committed to the behavioral health specialized transitional facility;
 2. The date the patient was detained at or committed to the behavioral health specialized transitional facility;
 3. Patient information that includes:
 - a. The patient's name;
 - b. The patient's address;
 - c. The patient's date of birth; and
 - d. Any known allergies, including medication allergies;
 4. Documentation of the patient's freedom from infectious tuberculosis as required in R9-10-1306(C)(2);
 5. Documentation of general consent and, if applicable, informed consent for treatment by the patient or the patient's representative, except in an emergency;
 6. If applicable, the name and contact information of the patient's representative and:
 - a. The document signed by the patient consenting for the patient's representative to act on the patient's behalf; or
 - b. If the patient's representative:
 - i. Is a legal guardian, a copy of the court order establishing guardianship; or
 - ii. Has a health care power of attorney established under A.R.S. § 36-3221 or a mental health care power of attorney executed under A.R.S. § 36-3282, a copy of the health care power of attorney or mental health care power of attorney;
7. Documentation of medical history and physical examination of the patient;
8. A copy of patient's health care directives, if applicable;
9. Orders;
10. The patient's assessment including updates;
11. The patient's treatment plan including updates;
12. Progress notes;
13. Documentation of transportation provided to the patient;
14. Documentation of behavioral health services and physical health services provided to the patient;
15. Documentation of patient's annual examination and report required by A.R.S. § 36-3708;
16. Documentation of the annual written notice of the patient of the patient's right to petition for:
 - a. Conditional release to a less restrictive alternative as required by A.R.S. § 36-3709, or
 - b. Discharged as required by A.R.S. § 36-3714;
17. A copy of any petition for discharge or conditional release to a less restrictive alternative filed by the patient and provided to the behavioral health specialized transitional facility and the outcome of the petition;
18. Documentation of the patient's, if applicable:
 - a. Conditional release to a less restrictive alternative; or
 - b. Discharge, including the disposition of the patient upon discharge;
19. If a patient has been discharged, a discharge summary that includes:
 - a. A summary of the treatment provided to the patient;
 - b. The patient's progress in meeting treatment goals, including treatment goals that were and were not achieved;
 - c. The name, dosage, and frequency of each medication for the patient ordered at the time of the patient's discharge from the behavioral health specialized transitional facility;
 - d. A description of the disposition of the patient's possessions, funds, or medications; and
 - e. The date the patient was discharged from the behavioral health specialized transitional facility;
20. If applicable:
 - a. Laboratory reports,
 - b. Radiologic reports,
 - c. Diagnostic reports,
 - d. Documentation of restraint,
 - e. Patient follow-up instructions, and
 - f. Consultation reports; and
21. Documentation of a medication administered to the patient that includes:
 - a. The date and time of administration;
 - b. The name, strength, dosage, and route of administration;
 - c. For a medication administered for pain:
 - i. An assessment of the patient's pain before administering the medication, and
 - ii. The effect of the medication administered;
 - d. For a psychotropic medication:
 - i. An assessment of the patient's behavior before administering the psychotropic medication, and
 - ii. The effect of the psychotropic medication administered;

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- e. The identification, signature, and professional designation of the individual administering or observing the self-administration of the medication;
- f. Any adverse reaction a patient has to the medication; and
- g. If applicable, a patient's refusal to take medication ordered for the patient.

Historical Note

Emergency rule adopted effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency rule adopted again effective August 27, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Adopted with changes effective November 25, 1992 (Supp. 92-4). Section R9-10-1312 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1313. Medication Services**A.** An administrator shall ensure that policies and procedures for medication services:

1. Include:
 - a. A process for providing information to a patient about medication prescribed for the patient, including:
 - i. The prescribed medication's anticipated results,
 - ii. The prescribed medication's potential adverse reactions,
 - iii. The prescribed medication's potential side effects, and
 - iv. Potential adverse reactions that could result from not taking the medication as prescribed;
 - b. Procedures for preventing, responding to, and reporting:
 - i. A medication error,
 - ii. An adverse response to a medication, or
 - iii. A medication overdose;
 - c. Procedures for documenting medication services and assistance in the self-administration of medication; and
 - d. If applicable, procedures for providing medication administration or assistance in the self-administration of medication off the premises; and
2. Specify a process for review through the quality management program of:
 - a. A medication administration error, and
 - b. An adverse reaction to a medication.

B. A medical director shall ensure that:

1. Policies and procedures for medication administration:
 - a. Are reviewed and approved by a medical practitioner;
 - b. Specify the individuals who may:
 - i. Order medication, and
 - ii. Administer medication; and

- c. Ensure that medication is administered to a patient only as prescribed;
2. A patient's refusal to take prescribed medication is documented in the patient's medical record;
3. Verbal orders for medication services are taken by a nurse, unless otherwise provided by law;
4. A medication administered to a patient:
 - a. Is administered in compliance with an order, and
 - b. Is documented in the patient's medical record; and
5. If pain medication is administered to a patient on a PRN basis, documentation in the patient's medical record includes:
 - a. An identification of the patient's pain before administering the medication, and
 - b. The effect of the pain medication administered.

C. If a behavioral health specialized transitional facility provides assistance in the self-administration of medication, a medical director shall ensure that:

1. A patient's medication is stored by the behavioral health specialized transitional facility;
2. The following assistance is provided to a patient:
 - a. A reminder when it is time to take the medication;
 - b. Opening the medication container for the patient;
 - c. Observing the patient while the patient removes the medication from the container;
 - d. Verifying that the medication is taken as ordered by the patient's medical practitioner by confirming that:
 - i. The patient taking the medication is the individual stated on the medication container label,
 - ii. The dosage of the medication is the same as stated on the medication container label, and
 - iii. The medication is being taken by the patient at the time stated on the medication container label; or
 - e. Observing the patient while the patient takes the medication;
3. Policies and procedures for assistance in the self-administration of medication are reviewed and approved by a medical practitioner or registered nurse;
4. Training for a personnel member, other than a medical practitioner or nurse, in assistance in the self-administration of medication:
 - a. Is provided by a medical practitioner or registered nurse or an individual trained by a medical practitioner or registered nurse; and
 - b. Includes:
 - i. A demonstration of the personnel member's skills and knowledge necessary to provide assistance in the self-administration of medication,
 - ii. Identification of medication errors and medical emergencies related to medication that require emergency medical intervention, and
 - iii. Process for notifying the appropriate entities when an emergency medical intervention is needed;
5. A personnel member, other than a medical practitioner or nurse, completes the training in subsection (C)(4) before the personnel member provides assistance in the self-administration of medication; and
6. Assistance in the self-administration of medication provided to a patient:
 - a. Is in compliance with an order, and
 - b. Is documented in the patient's medical record.

D. An administrator shall ensure that:

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1. A current drug reference guide is available for use by personnel members;
 2. A current toxicology reference guide is available for use by personnel members; and
 3. If pharmaceutical services are provided:
 - a. The pharmaceutical services are provided under the direction of a pharmacist;
 - b. The pharmaceutical services comply with A.R.S. Title 36, Chapter 27; A.R.S. Title 32, Chapter 18; and 4 A.A.C. 23; and
 - c. A copy of the pharmacy license is provided to the Department upon request.
- E.** When medication is stored at a behavioral health specialized transitional facility, an administrator shall ensure that:
1. Medication is stored in a separate locked room, closet, or self-contained unit used only for medication;
 2. Medication is stored according to the instructions on the medication container; and
 3. Policies and procedures are established, documented, and implemented for:
 - a. Receiving, storing, inventorying, tracking, dispensing, and discarding medication including expired medication;
 - b. Discarding or returning prepackaged and sample medication to the manufacturer if the manufacturer requests the discard or return of the medication;
 - c. A medication recall and notification of patients who received recalled medication;
 - d. Storing, inventorying, and dispensing controlled substances; and
 - e. Documenting the maintenance of a medication requiring refrigeration.
- F.** An administrator shall ensure that a personnel member immediately reports a medication error or a patient's adverse reaction to a medication to the medical practitioner who ordered the medication and, if applicable, the behavioral health specialized transitional facility's medical director.
- Historical Note**
- Emergency rule adopted effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency rule adopted again effective August 27, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Adopted with changes effective November 25, 1992 (Supp. 92-4). Section R9-10-1313 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).
- R9-10-1314. Food Services**
- A.** An administrator shall ensure that:
1. The behavioral health specialized transitional facility has a license or permit as a food establishment under 9 A.A.C. 8, Article 1;
 2. A copy of the behavioral health specialized transitional facility's food establishment license is maintained;
3. If a behavioral health specialized transitional facility contracts with a food establishment, as defined in 9 A.A.C. 8, Article 1, to prepare and deliver food to the behavioral health specialized transitional facility:
 - a. A copy of the food establishment's license or permit under 9 A.A.C. 8, Article 1 is maintained by the behavioral health specialized transitional facility; and
 - b. The behavioral health specialized transitional facility is able to store, refrigerate, and reheat food to meet the dietary needs of a patient;
 4. A registered dietitian is employed full-time, part-time, or as a consultant; and
 5. If a registered dietitian is not employed full-time, an individual is designated as a director of food services who consults with a registered dietitian as often as necessary to meet the nutritional needs of the patients.
- B.** A registered dietitian or director of food services shall ensure that:
1. A food menu:
 - a. Is prepared at least one week in advance,
 - b. Includes the foods to be served each day,
 - c. Is conspicuously posted at least one day before the first meal on the food menu will be served,
 - d. Includes any food substitution no later than the morning of the day of meal service with a food substitution, and
 - e. Is maintained for at least 60 calendar days after the last day included in the food menu;
 2. Meals and snacks provided by the behavioral health specialized transitional facility are served according to posted menus;
 3. Meals for each day are planned using the applicable guidelines in <http://www.health.gov/dietaryguidelines/2010.asp>;
 4. A patient is provided:
 - a. A diet that meets the patient's nutritional needs as specified in the patient's assessment plan;
 - b. Three meals a day with not more than 14 hours between the evening meal and breakfast except as provided in subsection (B)(4)(d);
 - c. The option to have a daily evening snack identified in subsection (B)(4)(d)(ii) or other snack; and
 - d. The option to extend the time span between the evening meal and breakfast from 14 hours to 16 hours if:
 - i. A patient group agrees; and
 - ii. The patient is offered an evening snack that includes meat, fish, eggs, cheese, or other protein, and a serving from either the fruit and vegetable food group or the bread and cereal food group;
 5. A patient requiring assistance to eat is provided with assistance that recognizes the patient's nutritional, physical, and social needs, including the use of adaptive eating equipment or utensils; and
 6. Water is available and accessible to a patient at all times, unless otherwise specified in the patient's treatment plan.
- C.** An administrator shall ensure that food is obtained, prepared, served, and stored as follows:
1. Food is free from spoilage, filth, or other contamination and is safe for human consumption;
 2. Food is protected from potential contamination;
 3. Food is prepared:
 - a. Using methods that conserve nutritional value, flavor, and appearance; and

- b. In a form to meet the needs of a patient such as cut, chopped, ground, pureed, or thickened;
- 4. Potentially hazardous food is maintained as follows:
 - a. Foods requiring refrigeration are maintained at 41° F or below; and
 - b. Foods requiring cooking are cooked to heat all parts of the food to a temperature of at least 145° F for 15 seconds, except that:
 - i. Ground beef and ground meats are cooked to heat all parts of the food to at least 155° F;
 - ii. Poultry, poultry stuffing, stuffed meats, and stuffing that contains meat are cooked to heat all parts of the food to at least 165° F;
 - iii. Pork and any food containing pork are cooked to heat all parts of the food to at least 155° F;
 - iv. Raw shell eggs for immediate consumption are cooked to at least 145° F for 15 seconds and any food containing raw shell eggs is cooked to heat all parts of the food to at least 155° F;
 - v. Roast beef and beef steak are cooked to an internal temperature of at least 155° F; and
 - vi. Leftovers are reheated to a temperature of at least 165° F;
- 5. A refrigerator contains a thermometer, accurate to plus or minus 3° F, placed at the warmest part of the refrigerator;
- 6. Frozen foods are stored at a temperature of 0° F or below; and
- 7. Tableware, utensils, equipment, and food-contact surfaces are clean and in good repair.

Historical Note

Emergency rule adopted effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency rule adopted again effective August 27, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Adopted with changes effective November 25, 1992 (Supp. 92-4). Section R9-10-1314 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1315. Emergency and Safety Standards

- A. A medical director shall ensure that policies and procedures for providing medical emergency treatment to a patient are established, documented, and implemented and include:
 - 1. The medications, supplies, and equipment required on the premises for the medical emergency treatment provided by the behavioral health specialized transitional facility;
 - 2. A system to ensure all medications, supplies, and equipment are available, have not been tampered with, and, if applicable, have not expired;
 - 3. A requirement that a cart or container is available for medical emergency treatment that contains all of the medication, supplies, and equipment specified in the

behavioral health specialized transitional facility's policies and procedures;

- 4. A method to verify and document that the contents of the cart or container in subsection (A)(3) are available for medical emergency treatment; and
- 5. A method for ensuring a patient may be transported to a hospital or other health care institution to receive treatment for a medical emergency that the behavioral health specialized transitional facility is not able or not authorized to provide.
- B. An administrator shall ensure that medical emergency treatment is provided to a patient admitted to the behavioral health specialized transitional facility according to the behavioral health specialized transitional facility's policies and procedures.
- C. An administrator shall ensure that the behavioral health specialized transitional facility has:
 - 1. A fire alarm system installed according to the National Fire Protection Association 72: National Fire Alarm and Signaling Code, incorporated by reference in A.A.C. R9-1-412, that is in working order; and a sprinkler system installed according to the National Fire Protection Association 13 Standard for the Installation of Sprinkler Systems, incorporated by reference in A.A.C. R9-1-412, that is in working order; or
 - 2. An alternative method to ensure a patient's safety, documented and approved by the local jurisdiction.
- D. An administrator shall ensure that:
 - 1. A disaster plan is developed, documented, maintained in a location accessible to personnel members and other employees, and, if necessary, implemented that includes:
 - a. Procedures for protecting the health and safety of patients and other individuals at the behavioral health specialized transitional facility;
 - b. When, how, and where patients will be relocated;
 - c. How each patient's medical record will be available to personnel providing services to the patient during a disaster;
 - d. A plan to ensure each patient's medication will be available to administer to the patient during a disaster; and
 - e. A plan for obtaining food and water for individuals present in the behavioral health specialized transitional facility or the behavioral health specialized transitional facility's relocation site during a disaster;
 - 2. The disaster plan required in subsection (D)(1) is reviewed at least once every 12 months;
 - 3. A disaster drill is performed on each shift at least once every 12 months;
 - 4. Documentation of a disaster plan review required in subsection (D)(2) and a disaster drill required in subsection (D)(3) is created, is maintained for at least 12 months after the date of the disaster plan review or disaster drill, and includes:
 - a. The date and time of the disaster plan review or disaster drill;
 - b. The name of each personnel member, employee, or volunteer participating in the disaster plan review or disaster drill;
 - c. A critique of the disaster plan review or disaster drill; and
 - d. If applicable, recommendations for improvement;
 - 5. An evacuation drill is conducted on each shift at least once every three months;

6. Documentation of an evacuation drill is created, is maintained for at least 12 months after the date of the evacuation drill, and includes:
 - a. The date and time of the evacuation drill;
 - b. The amount of time taken for all employees and patients to evacuate the behavioral health specialized transitional facility;
 - c. If applicable, an identification of patients needing assistance for evacuation;
 - d. Any problems encountered in conducting the evacuation drill; and
 - e. Recommendations for improvement, if applicable; and
 7. An evacuation path is conspicuously posted on each hallway of each floor of the behavioral health specialized transitional facility.
- E.** An administrator shall:
1. Obtain a fire inspection conducted according to the time-frame established by the local fire department or the State Fire Marshal,
 2. Make any repairs or corrections stated on the fire inspection report, and
 3. Maintain documentation of a current fire inspection.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1316. Environmental Standards

- A.** An administrator shall ensure that:
1. The premises and equipment are:
 - a. Cleaned and, if applicable, disinfected according to policies and procedures designed to prevent, minimize, and control illness or infection; and
 - b. Free from a condition or situation that may cause a patient or other individual to suffer physical injury;
 2. A pest control program is implemented and documented;
 3. Biohazardous medical wastes are identified, stored, and disposed of according to 18 A.A.C. 13, Article 14;
 4. Equipment used at the behavioral health specialized transitional facility is:
 - a. Maintained in working order;
 - b. Tested and calibrated according to the manufacturer's recommendations or, if there are no manufacturer's recommendations, as specified in policies and procedures; and
 - c. Used according to the manufacturer's recommendations;
 5. Documentation of equipment testing, calibration, and repair is maintained for at least 12 months after the date of the testing, calibration, or repair;
 6. Garbage and refuse are:
 - a. Stored in covered containers, and
 - b. Removed from the premises at least once a week;
 7. Heating and cooling systems maintain the behavioral health specialized transitional facility at a temperature between 70° F and 84° F;
 8. Common areas:
 - a. Are lighted to assure the safety of patients, and
 - b. Have lighting sufficient to allow personnel members to monitor patient activity;
 9. Hot water temperatures are maintained between 95° F and 120° F in the areas of a behavioral health specialized transitional facility used by patients;
 10. The supply of hot and cold water is sufficient to meet the personal hygiene needs of patients and the cleaning and sanitation requirements in this Article;
 11. Soiled linen and soiled clothing stored by the behavioral health specialized transitional facility are maintained separate from clean linen and clothing and stored in closed containers away from food storage, kitchen, and dining areas; and
 12. Pets and animals, except for service animals, are prohibited on the premises.
- B.** An administrator shall ensure that smoking or tobacco products are not permitted within or on the premises of the facility.
- C.** An administrator shall ensure that:
1. Poisonous or toxic materials stored by the behavioral health specialized transitional facility are maintained in labeled containers in a locked area separate from food preparation and storage, dining areas, and medications and are inaccessible to patients;
 2. Combustible or flammable liquids and hazardous materials stored by a behavioral health specialized transitional facility are stored in the original labeled containers or safety containers in an area inaccessible to patients; and
 3. Poisonous, toxic, combustible, or flammable medical supplies in use for a patient are stored in a locked area according to the behavioral health specialized transitional facility's policies and procedures.
- D.** An administrator shall ensure that:
1. A patient's bedroom is provided with:
 - a. An individual storage space, such as a dresser or chest;
 - b. A bed that:
 - i. Consists of at least a mattress and frame, and
 - ii. Is at least 36 inches wide and 72 inches long; and
 - c. A pillow and linens that include:
 - i. A mattress pad;
 - ii. A top sheet and a bottom sheet are large enough to tuck under the mattress;
 - iii. A pillow case;
 - iv. A waterproof mattress cover, if needed; and
 - v. A blanket or bedspread sufficient to ensure the patient's warmth;
 2. Clean linens and bath towels are provided to a patient as needed and at least once every seven calendar days; and
 3. A patient's clothing may be cleaned according to policies and procedures.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1317. Physical Plant Standards

- A.** An administrator shall ensure that a behavioral health specialized transitional facility complies with the applicable physical plant health and safety codes and standards for secure residential facilities, incorporated by reference in A.A.C. R9-1-412, in effect on the date the behavioral health specialized transitional facility submitted architectural plans and specifications to the Department for approval according to R9-10-104.
- B.** An administrator shall ensure that the premises and equipment are sufficient to accommodate:
1. The services stated in the behavioral health specialized transitional facility's scope of services, and
 2. An individual accepted as a patient by the behavioral health specialized transitional facility.

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- C. An administrator shall ensure that:
1. A behavioral health specialized transitional facility has:
 - a. An area in which a patient may meet with a visitor;
 - b. Areas where patients may receive individual treatment;
 - c. Areas where patients may receive group counseling or other group treatment;
 - d. An area for community dining; and
 - e. Sufficient space in one or more common areas for individual and group activities.
- D. An administrator shall ensure that the behavioral health specialized transitional facility has:
1. A bathroom adjacent to a common area for use by patients and visitors that:
 - a. Provides privacy to the user; and
 - b. Contains:
 - i. A working sink with running water;
 - ii. A working toilet that flushes and has a seat;
 - iii. Toilet tissue dispenser;
 - iv. Dispensed soap for hand washing;
 - v. Single use paper towels or a mechanical air hand dryer;
 - vi. Lighting; and
 - vii. A means of ventilation;
 2. An indoor common area that is not used as a sleeping area and that has:
 - a. A working telephone that allows a patient to make a private telephone call;
 - b. A distortion-free mirror;
 - c. A current calendar and an accurate clock;
 - d. A variety of books, current magazines and newspapers, and arts and crafts supplies appropriate to the age, educational, cultural, and recreational needs of patients; and
 - e. A working television and access to a radio;
 3. A dining room or dining area that:
 - a. Is lighted and ventilated;
 - b. Contains tables and seats; and
 - c. Is not used as a sleeping area;
 4. An outdoor area that:
 - a. Is accessible to patients;
 - b. Has sufficient space to accommodate the social and recreational needs of patients; and
 - c. Has shaded and unshaded areas;
 5. For every ten patients, at least one working toilet that flushes and has a seat and dispensed toilet tissue;
 6. For every 12 patients, at least one sink with running water, dispensed soap for hand washing, and single use paper towels or a mechanical air hand dryer;
 7. For every 12 patients, at least one working bathtub or shower with a slip resistant surface; and
 8. For each patient, a private bedroom that:
 - a. Contains at least 60 square feet of floor space, not including the closet;
 - b. Has walls from floor to ceiling;
 - c. Has a door that opens into a hallway or common area;
 - d. Is constructed and furnished to provide unimpeded access to the door;
 - e. Is not used as a passageway to another bedroom or a bathroom, unless the bathroom is for the exclusive use of the patient occupying the bedroom; and
 - f. Has sufficient lighting for a patient to read.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by

exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

ARTICLE 14. SUBSTANCE ABUSE TRANSITIONAL FACILITIES**R9-10-1401. Definitions**

In addition to the definitions in A.R.S. § 36-401 and R9-10-101, the following applies in this Article unless otherwise specified:

"Emergency medical care technician" has the same meaning as in A.R.S. § 36-2201.

Historical Note

Adopted effective February 1, 1994 (Supp. 94-1).

Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1402. Administration

- A. A governing authority shall:
1. Consist of one or more individuals accountable for the organization, operation, and administration of a substance abuse transitional facility;
 2. Establish, in writing:
 - a. A substance abuse transitional facility's scope of services; and
 - b. Qualifications for an administrator;
 3. Designate, in writing, an administrator who meets the qualifications established in subsection (A)(2)(b);
 4. Adopt a quality management program according to R9-10-1403;
 5. Review and evaluate the effectiveness of the quality management program at least once every 12 months;
 6. Designate, in writing, an acting administrator who has the qualifications established in subsection (A)(2)(b) if the administrator is:
 - a. Expected not to be present on a substance abuse transitional facility's premises for more than 30 calendar days; or
 - b. Not present on a substance abuse transitional facility's premises for more than 30 calendar days; and
 7. Except as provided in subsection (A)(6), notify the Department according to A.R.S. § 36-425(l) when there is a change in the administrator and identify the name and qualifications of the new administrator.
- B. An administrator:
1. Is directly accountable to the governing authority for the daily operation of the substance abuse transitional facility and all services provided by or at the substance abuse transitional facility;
 2. Has the authority and responsibility to manage the substance abuse transitional facility; and
 3. Except as provided in subsection (A)(6), designates, in writing, an individual who is present on a substance abuse transitional facility's premises and accountable for the substance abuse transitional facility when the administrator is not present on the substance abuse transitional facility's premises.
- C. An administrator shall ensure that:
1. Policies and procedures are established, documented, and implemented to protect the health and safety of a participant that:
 - a. Cover job descriptions, duties, and qualifications, including required skills, knowledge, education, and experience for personnel members, employees, volunteers, and students;

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- b. Cover orientation and in-service education for personnel members, employees, volunteers, and students;
 - c. Include how a personnel member may submit a complaint relating to services provided to a participant;
 - d. Cover the requirements in A.R.S. Title 36, Chapter 4, Article 11;
 - e. Cover cardiopulmonary resuscitation training, including:
 - i. The method and content of cardiopulmonary resuscitation training, which includes a demonstration of the individual's ability to perform cardiopulmonary resuscitation;
 - ii. The qualifications for an individual to provide cardiopulmonary resuscitation training;
 - iii. The time-frame for renewal of cardiopulmonary resuscitation training; and
 - iv. The documentation that verifies that the individual has received cardiopulmonary resuscitation training;
 - f. Include a method to identify a participant to ensure the participant receives physical health services and behavioral health services as ordered;
 - g. Cover first aid training;
 - h. Cover participant rights, including assisting a participant who does not speak English or who has a physical or other disability to become aware of participant rights;
 - i. Cover specific steps for:
 - i. A participant to file a complaint, and
 - ii. The substance abuse transitional facility to respond to a participant's complaint;
 - j. Cover medical records, including electronic medical records;
 - k. Cover quality management, including incident reports and supporting documentation;
 - l. Cover contracted services; and
 - m. Cover when an individual may visit a participant in the substance abuse transitional facility;
2. Policies and procedures for services are established, documented, and implemented to protect the health and safety of a participant that:
- a. Cover participant screening, admission, assessment, transfer, discharge planning, and discharge;
 - b. Include when general consent and informed consent are required;
 - c. Cover the provision of behavioral health services and physical health services;
 - d. Cover medication administration, assistance in the self-administration of medication, and disposing of medication, including provisions for inventory control and preventing diversion of controlled substances;
 - e. Cover infection control;
 - f. Cover environmental services that affect participant care;
 - g. Cover the process for receiving a fee from and refunding a fee to a participant or the participant's representative;
 - h. Cover the security of a participant's possessions that are allowed on the premises;
 - i. Cover smoking tobacco products on the premises;
 - j. Cover how the facility will respond to a participant's sudden, intense, or out-of-control behavior to prevent harm to the participant or another individual; and
 - k. Cover how often periodic monitoring occurs based on a participant's condition;
3. Policies and procedures are reviewed at least once every three years and updated as needed;
4. Policies and procedures are available to employees; and
5. Unless otherwise stated:
- a. Documentation required by this Article is provided to the Department within two hours after a Department request; and
 - b. When documentation or information is required by this Chapter to be submitted on behalf of a substance abuse transitional facility, the documentation or information is provided to the unit in the Department that is responsible for licensing and monitoring the substance abuse transitional facility.
- D.** An administrator shall provide written notification to the Department of a participant's:
- 1. Death, if the participant's death is required to be reported according to A.R.S. § 11-593, within one working day after the participant's death; and
 - 2. Self-injury, within two working days after the participant inflicts a self-injury that requires immediate intervention by an emergency medical services provider.
- E.** If abuse, neglect, or exploitation of a participant is alleged or suspected to have occurred before the participant was admitted or while the participant is not on the premises and not receiving services from a substance abuse transitional facility's employee or personnel member, an administrator shall immediately report the alleged or suspected abuse, neglect, or exploitation of the participant according to A.R.S. § 46-454.
- F.** If an administrator has a reasonable basis, according to A.R.S. § 46-454, to believe that abuse, neglect, or exploitation has occurred on the premises or while a participant is receiving services from a substance abuse transitional facility's employee or personnel member, the administrator shall:
- 1. If applicable, take immediate action to stop the suspected abuse, neglect, or exploitation;
 - 2. Report the suspected abuse, neglect, or exploitation of the participant according to A.R.S. § 46-454;
 - 3. Document:
 - a. The suspected abuse, neglect, or exploitation;
 - b. Any action taken according to subsection (F)(1); and
 - c. The report in subsection (F)(2);
 - 4. Maintain the documentation in subsection (F)(3) for at least 12 months after the date of the report in subsection (F)(2);
 - 5. Initiate an investigation of the suspected abuse, neglect, or exploitation and document the following information within five working days after the report required in subsection (F)(2):
 - a. The dates, times, and description of the suspected abuse, neglect, or exploitation;
 - b. A description of any injury to the participant and any change to the participant's physical, cognitive, functional, or emotional condition;
 - c. The names of witnesses to the suspected abuse, neglect, or exploitation; and
 - d. The actions taken by the administrator to prevent the suspected abuse, neglect, or exploitation from occurring in the future; and
 - 6. Maintain a copy of the documented information required in subsection (F)(5) and any other information obtained during the investigation for at least 12 months after the date the investigation was initiated.

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- G.** An administrator shall establish, document, and implement a process for responding to a participant's need for immediate and unscheduled behavioral health services or physical health services.
- H.** An administrator shall ensure that the following information or documents are conspicuously posted on the premises and are available upon request to a personnel member, an employee, a participant, or a participant's representative:
1. The participant rights listed in R9-10-1409,
 2. The facility's current license,
 3. The location at which inspection reports are available for review or can be made available for review, and
 4. The days and times when a participant may accept visitors and make telephone calls.

Historical Note

Adopted effective February 1, 1994 (Supp. 94-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1402 repealed; new Section R9-10-1402 renumbered from Section R9-10-1403 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1403. Quality Management

An administrator shall ensure that:

1. A plan is established, documented, and implemented for an ongoing quality management program that, at a minimum, includes:
 - a. A method to identify, document, and evaluate incidents;
 - b. A method to collect data to evaluate services provided to participants;
 - c. A method to evaluate the data collected to identify a concern about the delivery of services related to participant care;
 - d. A method to make changes or take action as a result of the identification of a concern about the delivery of services related to participant care; and
 - e. The frequency of submitting a documented report required in subsection (2) to the governing authority;
2. A documented report is submitted to the governing authority that includes:
 - a. An identification of each concern about the delivery of services related to participant care, and
 - b. Any change made or action taken as a result of the identification of a concern about the delivery of services related to participant care; and
3. The report required in subsection (2) and the supporting documentation for the report are maintained for at least 12 months after the date the report is submitted to the governing authority.

Historical Note

Adopted effective February 1, 1994 (Supp. 94-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1403 renumbered to R9-10-1402; new Section R9-10-1403 renumbered from R9-10-1404 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1404. Contracted Services

An administrator shall ensure that:

1. Contracted services are provided according to the requirements in this Article, and

2. Documentation of current contracted services is maintained that includes a description of the contracted services provided.

Historical Note

Adopted effective February 1, 1994 (Supp. 94-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1404 renumbered to R9-10-1403; new Section R9-10-1404 renumbered from R9-10-1405 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1405. Personnel

A. An administrator shall ensure that:

1. A personnel member is:
 - a. At least 21 years old, or
 - b. Licensed or certified under A.R.S. Title 32 and providing services within the personnel member's scope of practice;
2. An employee is at least 18 years old;
3. A student is at least 18 years old; and
4. A volunteer is at least 21 years old.

B. An administrator shall ensure that:

1. The qualifications, skills, and knowledge required for each type of personnel member:
 - a. Are based on:
 - i. The type of behavioral health services or physical health services expected to be provided by the personnel member according to the established job description, and
 - ii. The acuity of participants receiving behavioral health services or physical health services from the personnel member according to the established job description;
 - b. Include:
 - i. The specific skills and knowledge necessary for the personnel member to provide the expected behavioral health services and physical health services listed in the established job description,
 - ii. The type and duration of education that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected behavioral health services or physical health services listed in the established job description, and
 - iii. The type and duration of experience that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected behavioral health services or physical health services listed in the established job description;
2. A personnel member's skills and knowledge are verified and documented:
 - a. Before the personnel member provides behavioral health services or physical health services, and
 - b. According to policies and procedures;
3. An emergency medical care technician complies with the requirements in 9 A.A.C. 25 for certification and medical direction;
4. A substance abuse transitional facility has sufficient personnel members with the qualifications, education, experience, skills, and knowledge necessary to:

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- a. Provide the behavioral health services and physical health services in the substance abuse transitional facility's scope of services;
 - b. Meet the needs of a participant; and
 - c. Ensure the health and safety of a participant;
- 5. A written plan is developed and implemented to provide orientation specific to the duties of a personnel member;
- 6. A personnel member's orientation is documented, to include:
 - a. The personnel member's name;
 - b. The date of the orientation; and
 - c. The subject or topics covered in the orientation;
- 7. In addition to the training required in subsections (B)(1) and (B)(5), a written plan is developed and implemented to provide a personnel member with in-service education specific to the duties of the personnel member;
- 8. A personnel member receives training in how to respond to a participant's sudden, intense, or out-of-control behavior to prevent harm to the participant or another individual:
 - a. Before providing services related to participant care, and
 - b. At least once every 12 months after the date the personnel member begins providing services related to participant care; and
- 9. An individual's in-service education and, if applicable, training in how to respond to a participant's sudden, intense, or out-of-control behavior is documented, to include:
 - a. The personnel member's name;
 - b. The date of the training; and
 - c. The subject or topics covered in the training.
- C. An administrator shall ensure that an individual who is licensed under A.R.S. Title 32, Chapter 33 as a baccalaureate social worker, master social worker, associate marriage and family therapist, associate counselor, or associate substance abuse counselor receives direct supervision as defined in A.A.C. R4-6-101.
- D. An administrator shall ensure that a personnel member, or an employee, a volunteer, or a student who has or is expected to have direct interaction with a participant for more than eight hours in a week, provides evidence of freedom from infectious tuberculosis:
 - 1. On or before the date the individual begins providing services at or on behalf of the substance abuse transitional facility; and
 - 2. As specified in R9-10-113.
- E. An administrator shall comply with the requirements for behavioral health technicians and behavioral health paraprofessionals in R9-10-115.
- F. An administrator shall ensure that a personnel record is maintained for a personnel member, employee, volunteer, or student that contains:
 - 1. The individual's name, date of birth, and contact telephone number;
 - 2. The individual's starting date of employment or volunteer service and, if applicable, the ending date; and
 - 3. Documentation of:
 - a. The individual's qualifications including skills and knowledge applicable to the individual's job duties;
 - b. The individual's education and experience applicable to the individual's job duties;
 - c. The individual's completed orientation and in-service education as required by policies and procedures;
 - d. The individual's license or certification, if the individual is required to be licensed or certified in this Article or policies and procedures;
 - e. The individual's completion of the training required in subsection (B)(8), if applicable;
 - f. If the individual is a behavioral health technician, clinical oversight required in R9-10-115;
 - g. Cardiopulmonary resuscitation training, if required for the individual according to subsection (H) or policies and procedures;
 - h. First aid training, if required for the individual according to subsection (H) or policies and procedures; and
 - i. Evidence of freedom from infectious tuberculosis, if required for the individual according to subsection (D).
- G. An administrator shall ensure that personnel records are:
 - 1. Maintained:
 - a. Throughout an individual's period of providing services at or for a substance abuse transitional facility; and
 - b. For at least 24 months after the last date the individual provided services at or for a substance abuse transitional facility; and
 - 2. For a personnel member who has not provided physical health services or behavioral health services at or for the substance abuse transitional facility during the previous 12 months, provided to the Department within 72 hours after the Department's request.
- H. An administrator shall ensure at least one personnel member who is present at the substance abuse transitional facility during hours of facility operation has first-aid and cardiopulmonary resuscitation training certification specific to the populations served by the facility.
- I. An administrator shall ensure that:
 - 1. At least one personnel member is present and awake at a substance abuse transitional facility at all times when a participant is on the premises;
 - 2. In addition to the personnel member in subsection (I)(1), at least one personnel member is on-call and available to come to the substance abuse transitional facility if needed;
 - 3. A substance abuse transitional facility has sufficient personnel members to provide general participant supervision and treatment and sufficient personnel members or employees to provide ancillary services to meet the scheduled and unscheduled needs of each participant;
 - 4. There is a daily staffing schedule that:
 - a. Indicates the date, scheduled work hours, and name of each individual assigned to work, including on-call individuals;
 - b. Includes documentation of the employees who work each day and the hours worked by each employee; and
 - c. Is maintained for at least 12 months after the last date on the documentation;
 - 5. A behavioral health professional is present on the substance abuse transitional facility's premises or on-call; and
 - 6. A registered nurse is present on the substance abuse transitional facility's premises or on-call.

Historical Note

Adopted effective February 1, 1994 (Supp. 94-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1405 renumbered to R9-10-1404; new

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Section R9-10-1405 renumbered from R9-10-1406 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1406. Admission; Assessment

An administrator shall ensure that:

1. A participant is admitted based upon the participant's presenting behavioral health issue and treatment needs and the substance abuse transitional facility's ability and authority to provide behavioral health services or physical health services consistent with the participant's needs;
2. General consent is obtained from a participant or the participant's representative before or at the time of admission;
3. The general consent obtained in subsection (2) is documented in the participant's medical record;
4. An assessment of a participant is completed or updated by an emergency medical care technician or a registered nurse;
5. If an assessment is completed or updated by an emergency medical care technician, a registered nurse reviews the assessment within 24 hours after the completion of the assessment to ensure that the assessment identifies the behavioral health services and physical health services needed by the participant;
6. If an assessment that complies with the requirements in this Section is received from a behavioral health provider other than the substance abuse transitional facility or the substance abuse transitional facility has a medical record for the participant that contains an assessment that was completed within 12 months before the date of the participant's current admission:
 - a. The participant's assessment information is reviewed and updated if additional information that affects the participant's assessment is identified, and
 - b. The review and update of the participant's assessment information is documented in the participant's medical record within 48 hours after the review is completed;
7. An assessment:
 - a. Documents a participant's:
 - i. Presenting issue;
 - ii. Substance abuse history;
 - iii. Co-occurring disorder;
 - iv. Medical condition and history;
 - v. Behavioral health treatment history;
 - vi. Symptoms reported by the participant; and
 - vii. Referrals needed by the participant, if any;
 - b. Includes:
 - i. Recommendations for further assessment or examination of the participant's needs,
 - ii. The behavioral health services and physical health services that will be provided to the participant, and
 - iii. The signature and date signed of the personnel member conducting the assessment; and
 - c. Is documented in participant's medical record;
8. A participant is referred to a medical practitioner if a determination is made that the participant requires immediate physical health services or the participant's behavioral health issue may be related to the participant's medical condition;
9. If a participant requires behavioral health services that the substance abuse transitional facility is not authorized or not able to provide, a personnel member arranges for the participant to be provided transportation to transfer to

another health care institution where the behavioral health services can be provided;

10. A request for participation in a participant's assessment is made to the participant or the participant's representative;
11. An opportunity for participation in the participant's assessment is provided to the participant or the participant's representative;
12. Documentation of the request in subsection (10) and the opportunity in subsection (11) is in the participant's medical record; and
13. A participant's assessment information is:
 - a. Documented in the medical record within 48 hours after completing the assessment, and
 - b. Reviewed and updated when additional information that affects the participant's assessment is identified.

Historical Note

Adopted effective February 1, 1994 (Supp. 94-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1406 renumbered to R9-10-1405; new Section R9-10-1406 renumbered from R9-10-1407 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1407. Discharge

A. An administrator shall ensure that:

1. If a participant is not being transferred to another health care institution, before discharging the participant from a substance abuse transitional facility, a personnel member:
 - a. Identifies the specific needs of the participant after discharge necessary to assist the participant to address the participant's substance abuse issues;
 - b. Identifies any resources, including family members, community social services, peer support services, and Regional Behavioral Health Agency staff, that may be available to assist the participant; and
 - c. Documents the information in subsection (A)(1)(a) and the resources in subsection (A)(1)(b) in the participant's medical record; and
2. When an individual is discharged, a personnel member:
 - a. Provides the participant with discharge information that includes:
 - i. The identified specific needs of the participant after discharge, and
 - ii. Resources that may be available for the participant; and
 - b. Contacts any resources identified as required in subsection (A)(1)(b).

B. An administrator shall ensure that there is a documented discharge order by a medical practitioner before a participant is discharged unless the participant leaves the facility against a medical practitioner's advice.

C. An administrator shall ensure that, at the time of discharge, a participant receives a referral for behavioral health services that the participant may need after discharge, if applicable.

D. An administrator shall ensure that a discharge summary:

1. Is entered into the participant's medical record within 10 working days after a participant's discharge; and
2. Includes the following information completed by an individual authorized by policies and procedures:
 - a. The participant's presenting issue and other behavioral health and physical health issues identified in the participant's assessment;
 - b. A summary of the behavioral health services and physical health services provided to the participant;

- c. The name, dosage, and frequency of each medication for the participant ordered at the time of the participant's discharge by a medical practitioner at the facility; and
 - d. A description of the disposition of the participant's possessions, funds, or medications brought to the facility by the participant.
- E.** An administrator shall ensure that a participant who is dependent upon a prescribed medication is offered a written referral to detoxification services or opioid treatment before the participant is discharged.

Historical Note

Adopted effective February 1, 1994 (Supp. 94-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1407 renumbered to R9-10-1406; new Section R9-10-1407 renumbered from R9-10-1408 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1408. Transfer

Except for a transfer of a participant due to an emergency, an administrator shall ensure that:

1. A personnel member coordinates the transfer and the services provided to the participant;
2. According to policies and procedures:
 - a. An evaluation of the participant is conducted before the transfer;
 - b. Information in the participant's medical record, including orders that are in effect at the time of the transfer, is provided to a receiving health care institution; and
 - c. A personnel member explains risks and benefits of the transfer to the participant or the participant's representative; and
3. Documentation in the participant's medical record includes:
 - a. Communication with an individual at a receiving health care institution;
 - b. The date and time of the transfer;
 - c. The mode of transportation; and
 - d. If applicable, the name of the personnel member accompanying the participant during a transfer.

Historical Note

Adopted effective February 1, 1994 (Supp. 94-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1408 renumbered to R9-10-1407; new Section R9-10-1408 renumbered from R9-10-1409 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1409. Participant Rights

- A.** An administrator shall ensure that:
1. The requirements in subsection (B) and the participant rights in subsection (C) are conspicuously posted on the premises;
 2. At the time of admission, a participant or the participant's representative receives a written copy of the requirements in subsection (B) and the participant rights in subsection (C); and
 3. Policies and procedures are established, documented, and implemented to protect the health and safety of a participant that include:

- a. How and when a participant or the participant's representative is informed of participant rights in subsection (C), and
- b. Where participant rights are posted as required in subsection (A)(1).

B. An administrator shall ensure that:

1. A participant is treated with dignity, respect, and consideration;
2. A participant is not subjected to:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Coercion;
 - e. Manipulation;
 - f. Sexual abuse;
 - g. Sexual assault;
 - h. Seclusion;
 - i. Restraint;
 - j. Retaliation for submitting a complaint to the Department or another entity;
 - k. Misappropriation of personal and private property by the substance abuse transitional facility's personnel members, employees, volunteers, or students; or
 - l. Discharge or transfer, or threat of discharge or transfer, for reasons unrelated to the participant's treatment needs, except as established in a fee agreement signed by the participant or the participant's representative; and
3. A participant or the participant's representative:
 - a. Except in an emergency, either consents to or refuses treatment;
 - b. May refuse or withdraw consent for treatment before treatment is initiated;
 - c. Except in an emergency, is informed of alternatives to a proposed psychotropic medication, associated risks, and possible complications;
 - d. Is informed of the participant complaint process; and
 - e. Except as otherwise permitted by law, provides written consent to the release of information in the participant's:
 - i. Medical record, or
 - ii. Financial records.

C. A participant has the following rights:

1. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, or diagnosis;
2. To receive treatment that:
 - a. Supports and respects the participant's individuality, choices, strengths, and abilities;
 - b. Supports the participant's personal liberty and only restricts the participant's personal liberty according to a court order, by the participant's or the participant's representative's general consent, or as permitted in this Chapter; and
 - c. Is provided in the least restrictive environment that meets the participant's treatment needs;
3. To receive privacy in treatment and care for personal needs, including the right not to be fingerprinted, photographed, or recorded without consent, except:
 - a. A participant may be photographed when admitted to a substance abuse transitional facility for identification and administrative purposes;
 - b. For a participant receiving treatment according to A.R.S. Title 36, Chapter 37; or
 - c. For video recordings used for security purposes that are maintained only on a temporary basis;

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4. To review, upon written request, the participant's own medical record according to A.R.S. §§ 12-2293, 12-2294, and 12-2294.01;
5. To receive a referral to another health care institution if the substance abuse transitional facility is not authorized or not able to provide behavioral health services or physical health services needed by the participant;
6. To participate or have the participant's representative participate in the development of or decisions concerning treatment;
7. To receive assistance from a family member, the participant's representative, or other individual in understanding, protecting, or exercising the participant's rights;
8. To be provided locked storage space for the participant's belongings while the participant receives services; and
9. To be informed of the requirements necessary for the participant's discharge.

Historical Note

Adopted effective February 1, 1994 (Supp. 94-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1409 renumbered to R9-10-1408; new Section R9-10-1409 renumbered from R9-10-1410 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1410. Medical Records**A.** An administrator shall ensure that:

1. A medical record is established and maintained for each participant according to A.R.S. Title 12, Chapter 13, Article 7.1;
2. An entry in a participant's medical record is:
 - a. Recorded only by a personnel member authorized by policies and procedures to make the entry;
 - b. Dated, legible, and authenticated; and
 - c. Not changed to make the initial entry illegible;
3. An order is:
 - a. Dated when the order is entered in the participant's medical record and includes the time of the order;
 - b. Authenticated by a medical practitioner or behavioral health professional according to policies and procedures; and
 - c. If the order is a verbal order, authenticated by the medical practitioner or behavioral health professional issuing the order;
4. If a rubber-stamp signature or an electronic signature is used to authenticate an order, the individual whose signature the rubber-stamp signature or electronic signature represents is accountable for the use of the rubber-stamp signature or electronic signature;
5. A participant's medical record is available to an individual:
 - a. Authorized according to policies and procedures to access the participant's medical record;
 - b. If the individual is not authorized according to policies and procedures, with the written consent of the participant or the participant's representative; or
 - c. As permitted by law; and
6. A participant's medical record is protected from loss, damage, or unauthorized use.

B. If a substance abuse transitional agency maintains participants' medical records electronically, an administrator shall ensure that:

1. Safeguards exist to prevent unauthorized access, and

2. The date and time of an entry in a medical record is recorded by the computer's internal clock.

C. An administrator shall ensure that a participant's medical record contains:

1. Participant information that includes:
 - a. The participant's name;
 - b. The participant's address;
 - c. The participant's date of birth; and
 - d. Any known allergies, including medication allergies;
2. A participant's presenting behavioral health issue;
3. Documentation of general consent and, if applicable, informed consent for treatment by the participant or the participant's representative, except in an emergency;
4. If applicable, the name and contact information of the participant's representative and:
 - a. The document signed by the participant consenting for the participant's representative to act on the participant's behalf; or
 - b. If the participant's representative:
 - i. Has a health care power of attorney established under A.R.S. § 36-3221 or a mental health care power of attorney executed under A.R.S. § 36-3282, a copy of the health care power of attorney or mental health care power of attorney; or
 - ii. Is a legal guardian, a copy of the court order establishing guardianship;
5. Documentation of medical history and results of a physical examination;
6. The date of admission and, if applicable, date of discharge;
7. Orders;
8. Assessment;
9. Progress notes;
10. Documentation of substance abuse transitional agency services provided to the participant;
11. If applicable, documentation of any actions taken to control the participant's sudden, intense, or out-of-control behavior to prevent harm to the participant or another individual;
12. The disposition of the participant upon discharge;
13. The discharge plan;
14. A discharge summary, if applicable; and
15. Documentation of a medication administered to a participant that includes:
 - a. The date and time of administration;
 - b. The name, strength, dosage, and route of administration;
 - c. For a medication administered for pain:
 - i. An evaluation of the participant's pain before administering the medication, and
 - ii. The effect of the medication administered;
 - d. For a psychotropic medication:
 - i. An evaluation of the participant's behavior before administering the psychotropic medication, and
 - ii. The effect of the psychotropic medication administered;
 - e. The signature of the individual administering the medication; and
 - f. Any adverse reaction a participant has to the medication.

Historical Note

Adopted effective February 1, 1994 (Supp. 94-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

Section R9-10-1410 renumbered to R9-10-1409; new Section R9-10-1410 renumbered from R9-10-1411 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1411. Behavioral Health Services

- A.** An administrator shall ensure that counseling is:
 - 1. Offered as described in the substance abuse transitional facility's scope of services,
 - 2. Provided according to the frequency and number of hours identified in the participant's assessment, and
 - 3. Provided by a behavioral health professional.
- B.** An administrator shall ensure that:
 - 1. A behavioral health professional providing counseling that addresses a specific type of behavioral health issue has the skills and knowledge necessary to provide the counseling that addresses the specific type of behavioral health issue; and
 - 2. Each counseling session is documented in a participant's medical record to include:
 - a. The date of the counseling session;
 - b. The amount of time spent in the counseling session;
 - c. Whether the counseling was individual counseling, family counseling, or group counseling;
 - d. The treatment goals addressed in the counseling session; and
 - e. The signature of the personnel member who provided the counseling and the date signed.

Historical Note

Adopted effective February 1, 1994 (Supp. 94-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1411 renumbered to R9-10-1410; new Section R9-10-1411 renumbered from R9-10-1412 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1412. Medication Services

- A.** If a facility provides medication administration or assistance in the self-administration of medication, an administrator shall ensure that policies and procedures for medication services:
 - 1. Include:
 - a. A process for providing information to a participant about medication prescribed for the participant including:
 - i. The prescribed medication's anticipated results,
 - ii. The prescribed medication's potential adverse reactions,
 - iii. The prescribed medication's potential side effects, and
 - iv. Potential adverse reactions that could result from not taking the medication as prescribed;
 - b. Procedures for preventing, responding to, and reporting:
 - i. A medication error,
 - ii. An adverse reaction to a medication, or
 - iii. A medication overdose;
 - c. Procedures to ensure that a participant's medication regimen is reviewed by a medical practitioner to ensure the medication regimen meets the participant's needs;
 - d. Procedures for documenting medication administration and assistance in the self-administration of medication;
- 2. Specify a process for review through the quality management program of:
 - a. A medication administration error, and
 - b. An adverse reaction to a medication.
- B.** If a substance abuse transitional facility provides medication administration, an administrator shall ensure that:
 - 1. Policies and procedures for medication administration:
 - a. Are reviewed and approved by a medical practitioner;
 - b. Specify the individuals who may:
 - i. Order medication, and
 - ii. Administer medication;
 - c. Ensure that medication is administered to a participant only as prescribed;
 - d. Cover the documentation of a participant's refusal to take prescribed medication in the participant's medical record;
 - 2. Verbal orders for medication services are taken by a nurse, unless otherwise provided by law; and
 - 3. A medication administered to a participant:
 - a. Is administered in compliance with an order, and
 - b. Is documented in the participant's medical record.
- C.** If a substance abuse transitional facility provides assistance in the self-administration of medication, an administrator shall ensure that:
 - 1. A participant's medication is stored by the substance abuse transitional facility;
 - 2. The following assistance is provided to a participant:
 - a. A reminder when it is time to take the medication;
 - b. Opening the medication container for the participant;
 - c. Observing the participant while the participant removes the medication from the container;
 - d. Verifying that the medication is taken as ordered by the participant's medical practitioner by confirming that:
 - i. The participant taking the medication is the individual stated on the medication container label,
 - ii. The participant is taking the dosage of the medication stated on the medication container label or according to an order from a medical practitioner dated later than the date on the medication container label, and
 - iii. The participant is taking the medication at the time stated on the medication container label or according to an order from a medical practitioner dated later than the date on the medication container label; or
 - e. Observing the participant while the participant takes the medication;
 - 3. Policies and procedures for assistance in the self-administration of medication are reviewed and approved by a medical practitioner or registered nurse;
 - 4. Training for a personnel member, other than a medical practitioner or registered nurse, in assistance in the self-administration of medication:
 - a. Is provided by a medical practitioner or registered nurse or an individual trained by a medical practitioner or registered nurse;
 - b. Includes:

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- i. A demonstration of the personnel member's skills and knowledge necessary to provide assistance in the self-administration of medication,
 - ii. Identification of medication errors and medical emergencies related to medication that require emergency medical intervention, and
 - iii. The process for notifying the appropriate entities when an emergency medical intervention is needed;
- 5. A personnel member, other than a medical practitioner or registered nurse, completes the training in subsection (C)(4) before the personnel member provides assistance in the self-administration of medication; and
- 6. Assistance in the self-administration of medication provided to a participant:
 - a. Is in compliance with an order, and
 - b. Is documented in the participant's medical record.
- D.** An administrator shall ensure that:
 - 1. A current drug reference guide is available for use by personnel members, and
 - 2. A current toxicology reference guide is available for use by personnel members.
- E.** When medication is stored at the substance abuse transitional facility, an administrator shall ensure that:
 - 1. Medication is stored in a separate locked room, closet, or self-contained unit used only for medication storage;
 - 2. Medication is stored according to the instructions of the medication container; and
 - 3. Policies and procedures are established, documented, and implemented for:
 - a. Receiving, storing, inventorying, tracking, dispensing, and discarding medication, including expired medication;
 - b. Discarding or returning prepackaged and sample medication to the manufacturer if the manufacturer requests the discard or return of the medication;
 - c. A medication recall and notification of participants who received recalled medication;
 - d. Storing, inventorying, and dispensing controlled substances; and
 - e. Documenting the maintenance of a medication requiring refrigeration.
- F.** An administrator shall ensure that a personnel member immediately reports a medication error or a participant's adverse reaction to a medication to the medical practitioner who ordered the medication and the registered nurse required in R9-10-1405(I)(6).
- b. A copy of the substance abuse transitional facility's food establishment license or permit required according to subsection (A)(1) is maintained;
- 2. If a substance abuse transitional facility contracts with a food establishment, as established in 9 A.A.C. 8, Article 1, to prepare and deliver food to the facility:
 - a. A copy of the contracted food establishment's license or permit is maintained by the substance abuse transitional facility; and
 - b. The substance abuse transitional facility is able to store, refrigerate, and reheat food to meet the dietary needs of a participant;
- 3. A registered dietitian is employed full-time, part-time, or as a consultant; and
- 4. If a registered dietitian is not employed full-time, an individual is designated as a director of food services who consults with a registered dietitian as often as necessary to meet the nutritional needs of the participants.
- B.** A registered dietitian or director of food services shall ensure that:
 - 1. Food is prepared:
 - a. Using methods that conserve nutritional value, flavor, and appearance; and
 - b. In a form to meet the needs of a participant such as cut, chopped, ground, pureed, or thickened;
 - 2. A food menu is:
 - a. Prepared at least one week in advance,
 - b. Conspicuously posted, and
 - c. Maintained for at least 60 calendar days after the last day included in the food menu;
 - 3. If there is a change to a posted food menu, the change is noted on the posted menu no later than the morning of the day the change occurs;
 - 4. Meals and snacks provided by the substance abuse transitional facility are served according to posted menus;
 - 5. Meals and snacks for each day are planned using the applicable guidelines in <http://www.health.gov/dietaryguidelines/2010.asp>;
 - 6. A participant is provided:
 - a. A diet that meets the participant's nutritional needs as specified in the participant's assessment;
 - b. Three meals a day with not more than 14 hours between the evening meal and breakfast, except as provided in subsection (B)(6)(d);
 - c. The option to have a daily evening snack identified in subsection (B)(6)(d)(ii) or other snack; and
 - d. The option to extend the time span between the evening meal and breakfast from 14 hours to 16 hours if:
 - i. The participant agrees; and
 - ii. The participant is offered an evening snack that includes meat, fish, eggs, cheese, or other protein, and a serving from either the fruit and vegetable food group or the bread and cereal food group;
 - 7. A participant requiring assistance to eat is provided with assistance that recognizes the participant's nutritional, physical, and social needs, including the use of adaptive eating equipment or utensils; and
 - 8. Water is available and accessible to participants at all times, unless otherwise stated in a participant's assessment.
- C.** An administrator shall ensure that food is obtained, prepared, served, and stored as follows:
 - 1. Food is free from spoilage, filth, or other contamination and is safe for human consumption;

Historical Note

Adopted effective February 1, 1994 (Supp. 94-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1412 renumbered to R9-10-1411; new Section R9-10-1412 renumbered from R9-10-1413 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1413. Food Services

- A.** An administrator shall ensure that:
 - 1. If a substance abuse transitional facility has a licensed capacity of more than 10 participants:
 - a. Food services are provided in compliance with 9 A.A.C. 8, Article 1; and

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2. Food is protected from potential contamination;
 3. Potentially hazardous food is maintained as follows:
 - a. Foods requiring refrigeration are maintained at 41° F or below; and
 - b. Foods requiring cooking are cooked to heat all parts of the food to a temperature of at least 145° F for 15 seconds, except that:
 - i. Ground beef and any food containing ground beef are cooked to heat all parts of the food to at least 155° F;
 - ii. Poultry, poultry stuffing, stuffed meats, and stuffing that contains meat are cooked to heat all parts of the food to at least 165° F;
 - iii. Pork and any food containing pork are cooked to heat all parts of the food to at least 155° F;
 - iv. Raw shell eggs for immediate consumption are cooked to at least 145° F for 15 seconds and any food containing raw shell eggs is cooked to heat all parts of the food to at least 155° F;
 - v. If the facility serves a population that is not a highly susceptible population, rare roast beef may be served cooked to an internal temperature of at least 145° F for at least three minutes and a whole muscle intact beef steak may be served cooked on both top and bottom to a surface temperature of at least 145° F; and
 - vi. Leftovers are reheated to a temperature of at least 165° F;
 4. A refrigerator contains a thermometer, accurate to plus or minus 3° F, placed at the warmest part of the refrigerator;
 5. Frozen foods are stored at a temperature of 0° F or below; and
 6. Tableware, utensils, equipment, and food-contact surfaces are clean and in good repair.
- b. How a participant's medical record will be available to individuals providing services to the participant during a disaster;
 - c. A plan to ensure a participant's medication will be available to administer to the participant during a disaster; and
 - d. A plan for obtaining food and water for individuals present in the substance abuse transitional facility or the substance abuse transitional facility's relocation site during a disaster;
5. The disaster plan required in subsection (A)(4) is reviewed at least once every 12 months;
 6. Documentation of a disaster plan review required in subsection (A)(5) is created, is maintained for at least 12 months after the date of the disaster plan review, and includes:
 - a. The date and time of the disaster plan review;
 - b. The name of each employee or volunteer participating in the disaster plan review;
 - c. A critique of the disaster plan review; and
 - d. If applicable, recommendations for improvement; and
 7. A disaster drill for employees is conducted on each shift at least once every three months and documented.
- B.** An administrator shall ensure that:
1. A fire inspection is conducted by a local fire department or the State Fire Marshal before initial licensing and according to the time-frame established by the local fire department or the State Fire Marshal,
 2. Any repairs or corrections stated on the fire inspection report are made, and
 3. Documentation of a current fire inspection is maintained.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1414 renumbered to R9-10-1413; new Section R9-10-1414 renumbered from R9-10-1415 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1415. Environmental Standards**R9-10-1414. Emergency and Safety Standards**

- A.** An administrator shall ensure that:
1. An evacuation drill for employees and participants on the premises is conducted at least once every six months on each shift;
 2. Documentation of each evacuation drill is created, is maintained for at least 12 months after the date of the evacuation drill, and includes:
 - a. The date and time of the drill;
 - b. The amount of time taken for all employees and participants to evacuate the substance abuse transitional facility;
 - c. Any problems encountered in conducting the drill; and
 - d. Recommendations for improvement, if applicable;
 3. An evacuation path is conspicuously posted on each hallway of each floor of the facility;
 4. A disaster plan is developed, documented, maintained in a location accessible to personnel members, and, if necessary, implemented that includes:
 - a. When, how, and where participants will be relocated;
- A.** An administrator shall ensure that:
1. The premises and equipment are sufficient to accommodate the activities, treatment, and ancillary services stated in the substance abuse transitional facility's scope of services;
 2. The premises and equipment are:
 - a. Maintained in a condition that allows the premises and equipment to be used for the original purpose of the premises and equipment,
 - b. Clean, and
 - c. Free from a condition or situation that may cause a participant or other individual to suffer physical injury or illness;
 3. A pest control program is implemented and documented;
 4. Biohazardous waste and hazardous waste are identified, stored, used, and disposed of according to 18 A.A.C. 13, Article 14 and policies and procedures;
 5. Equipment used at the substance abuse transitional facility is:
 - a. Maintained in working order;
 - b. Tested and calibrated according to the manufacturer's recommendations or, if there are no manufacturer's recommendations, as specified in policies and procedures; and

- c. Used according to the manufacturer's recommendations;
- 6. Documentation of equipment testing, calibration, and repair is maintained for at least 12 months after the date of the testing, calibration, or repair;
- 7. Garbage and refuse are:
 - a. Stored in plastic bags in covered containers, and
 - b. Removed from the premises at least once a week;
- 8. Heating and cooling systems maintain the facility at a temperature between 70° F and 84° F at all times;
- 9. A space heater is not used;
- 10. Common areas:
 - a. Are lighted to assure the safety of participants, and
 - b. Have lighting sufficient to allow personnel members to monitor participant activity;
- 11. Hot water temperatures are maintained between 95° F and 120° F in the areas of the substance abuse transitional facility used by participants;
- 12. The supply of hot and cold water is sufficient to meet the personal hygiene needs of participants and the cleaning and sanitation requirements in this Article;
- 13. Soiled linen and soiled clothing stored by the substance abuse transitional facility are maintained separate from clean linen and clothing and stored in closed containers away from food storage, kitchen, and dining areas;
- 14. Oxygen containers are secured in an upright position;
- 15. Poisonous or toxic materials stored by the substance abuse transitional facility are maintained in labeled containers in a locked area separate from food preparation and storage, dining areas, and medications and are inaccessible to participants;
- 16. Combustible or flammable liquids and hazardous materials stored by the substance abuse transitional facility are stored in the original labeled containers or safety containers in a locked area inaccessible to participants;
- 17. If a water source that is not regulated under 18 A.A.C. 4 by the Arizona Department of Environmental Quality is used:
 - a. The water source is tested at least once every 12 months for total coliform bacteria and fecal coliform or *E. coli* bacteria;
 - b. If necessary, corrective action is taken to ensure the water is safe to drink; and
 - c. Documentation of testing is retained for at least 12 months after the date of the test; and
- 18. If a non-municipal sewage system is used, the sewage system is in working order and is maintained according to all applicable state laws and rules.

B. An administrator shall ensure that:

- 1. Smoking tobacco products is not permitted within a substance abuse transitional facility; and
- 2. Smoking tobacco products may be permitted on the premises outside a substance abuse transitional facility if:
 - a. Signs designating smoking areas are conspicuously posted, and
 - b. Smoking is prohibited in areas where combustible materials are stored or in use.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1415 renumbered to R9-10-1414; new Section R9-10-1415 renumbered from R9-10-1416 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1416. Physical Plant Standards

A. An administrator shall ensure that a substance abuse transitional facility has:

- 1. A fire alarm system installed according to the National Fire Protection Association 72: National Fire Alarm and Signaling Code, incorporated by reference in A.A.C. R9-1-412, that is in working order; and a sprinkler system installed according to the National Fire Protection Association 13 Standard for the Installation of Sprinkler Systems, incorporated by reference in A.A.C. R9-1-412, that is in working order; or
- 2. An alternative method to ensure participant safety that is documented and approved by the local jurisdiction.

B. An administrator shall ensure that:

- 1. If a participant has a mobility, sensory, or other physical impairment, modifications are made to the premises to ensure that the premises are accessible to and usable by the participant; and
- 2. A substance abuse transitional facility has:
 - a. A room that provides privacy for a participant to receive treatment or visitors; and
 - b. A common area and a dining area that:
 - i. Are not converted, partitioned, or otherwise used as a sleeping area; and
 - ii. Contain furniture and materials to accommodate the recreational and socialization needs of the participants and other individuals in the facility.

C. An administrator shall ensure that:

- 1. For every six participants, there is at least one working toilet that flushes and one sink with running water;
- 2. For every eight participants, there is at least one working bathtub or shower;
- 3. A participant bathroom provides privacy when in use and contains:
 - a. A shatter-proof mirror;
 - b. Toilet tissue for each toilet;
 - c. Soap accessible from each sink;
 - d. Paper towels in a dispenser or a mechanical air hand dryer for a bathroom that is used by more than one participant;
 - e. A window that opens or another means of ventilation; and
 - f. Nonporous surfaces for shower enclosures, clean usable shower curtains, and slip-resistant surfaces in tubs and showers;
- 4. Each participant is provided a bedroom for sleeping; and
- 5. A participant bedroom complies with the following:
 - a. Is not used as a common area;
 - b. Except as provided in subsection (D):
 - i. Contains a door that opens into a hallway, common area, or outdoors; and
 - ii. In addition to the door in subsection (C)(5)(b)(i), contains another means of egress;
 - c. Is constructed and furnished to provide unimpeded access to the door;
 - d. Has window or door covers that provide participant privacy;
 - e. Except as provided in subsection (D), is not used as a passageway to another bedroom or bathroom unless the bathroom is for the exclusive use of an individual occupying the bedroom;
 - f. Has floor to ceiling walls;
 - g. Is a:
 - i. Private bedroom that contains at least 60 square feet of floor space, not including the closet; or

- ii. Shared bedroom that, except as provided in subsection (D):
 - (1) Is shared by no more than eight participants;
 - (2) Contains at least 60 square feet of floor space, not including a closet, for each individual occupying the bedroom; and
 - (3) Provides at least three feet of floor space between beds or bunk beds;
 - h. Except as provided in subsection (D), contains for each participant occupying the bedroom:
 - i. A bed that is at least 36 inches wide and at least 72 inches long, and consists of at least a frame and mattress and linens; and
 - ii. Individual storage space for personnel effects and clothing such as a dresser or chest; and
 - i. Has sufficient lighting for participant occupying the bedroom to read.
- D.** An administrator of a substance abuse transitional facility that uses a building that was licensed as a rural substance abuse transitional center before October 1, 2013 shall ensure that:
- 1. A bedroom has a door that allows egress from the bedroom,
 - 2. A shared bedroom contains enough space to allow each participant occupying the bedroom to freely move about the bedroom,
 - 3. A bed is of a sufficient size to accommodate a participant using the bed and provide space for all parts of the participant's body on the bed's mattress, and
 - 4. A participant is provided storage space on a substance abuse transitional facility's premises that is accessible to the participant.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1416 renumbered to R9-10-1415; new Section R9-10-1416 renumbered from R9-10-1417 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1417. Renumbered

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1417 renumbered to R9-10-1416 by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

Editor's Note: *The following Article was adopted under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1999, Ch. 311, which means these rules were not reviewed by the Governor's Regulatory Review Council or approved by the Attorney General's Office.*

ARTICLE 15. ABORTION CLINICS

Editor's Note: *The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act, which means these rules were not reviewed by the Governor's Regulatory Review Council or approved by the Attorney General's Office.*

R9-10-1501. Definitions

In addition to the definitions in A.R.S. §§ 36-401, 36-449.01, 36-449.03, and R9-10-101, the following definitions apply in this Article, unless otherwise specified:

1. "Admission" means documented acceptance by a hospital of an individual as an inpatient as defined in R9-10-201 on the order of a physician.
2. "Admitting privileges" means permission extended by a hospital to a physician to allow admission of a patient:
 - a. By the patient's own physician, or
 - b. Through a written agreement between the patient's physician and another physician that states that the other physician has permission to personally admit the patient to a hospital in this state and agrees to do so.
3. "Conspicuously posted" means placed at a location within an abortion clinic that is accessible and visible to patients and the public.
4. "Course" means hands-on practice under the supervision of a physician, training, or education.
5. "Discharge" means a patient no longer requires the medical services, nursing services, or health-related services provided by the abortion clinic.
6. Emergency means a potentially life-threatening occurrence that requires an immediate response or medical treatment.
7. "Employee" means an individual who receives compensation from a licensee, but does not provide medical services, nursing services, or health-related services.
8. "First trimester" means 1 through 14 weeks as measured from the first day of the last menstrual period or 1 through 12 weeks as measured from the date of fertilization.
9. "Incident" means an abortion related patient death or serious injury to a patient or viable fetus.
10. "Licensee" means an individual, a partnership, an association, a limited liability company, or corporation authorized by the Department to operate an abortion clinic.
11. "Local" means under the jurisdiction of a city or county in Arizona.
12. "Medical director" means a physician who is responsible for the direction of the medical services, nursing services, and health-related services provided to patients at an abortion clinic.
13. "Medical evaluation" means obtaining a patient's medical history, performing a physical examination of a patient's body, and conducting laboratory tests as provided in R9-10-1508.
14. "Monitor" means to observe and document, continuously or intermittently, the values of certain physiologic variables on a patient such as pulse, blood pressure, oxygen saturation, respiration, and blood loss.
15. "Nationally recognized medical journal" means any publication distributed nationally that contains peer-reviewed medical information, such as the *American Journal of Radiology* or the *Journal of Ultrasound in Medicine*.
16. "Patient" means a female receiving medical services, nursing services, or health-related services related to an abortion.
17. "Patient care staff" means a physician, registered nurse practitioner, nurse, physician assistant, or surgical assistant who provides medical services, nursing services, or health-related services to a patient.
18. "Patient's representative" means a patient's legal guardian, an individual acting on behalf of a patient with the written consent of the patient, or a surrogate according to A.R.S. § 36-3201.
19. "Patient transfer" means relocating a patient requiring medical services from an abortion clinic to another health care institution.

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20. "Personally identifiable patient information" means:
- The name, address, telephone number, e-mail address, Social Security number, and birth date of:
 - The patient,
 - The patient's representative,
 - The patient's emergency contact,
 - The patient's children,
 - The patient's spouse,
 - The patient's sexual partner, and
 - Any other individual identified in the patient's medical record other than patient care staff;
 - The patient's place of employment;
 - The patient's referring physician;
 - The patient's insurance carrier or account;
 - Any "individually identifiable health information" as proscribed in 45 CFR 164-514; and
 - Any other information in the patient's medical record that could reasonably lead to the identification of the patient.
21. "Personnel" means patient care staff, employees, and volunteers.
22. "Physical facilities" means property that is:
- Designated on an application for a license by the applicant; and
 - Licensed to provide services by the Department according to A.R.S. Title 36, Chapter 4.
23. "Surgical assistant" means an individual who is not licensed as a physician, physician assistant, registered nurse practitioner, or nurse who performs duties as directed by a physician, physician assistant, registered nurse practitioner or nurse.
24. "Volunteer" means an individual who, without compensation, performs duties as directed by a member of the patient care staff at an abortion clinic.

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, § 3(B). Amended effective May 2, 1997, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 329, § 5 (Supp. 97-2). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4). Amended by exempt rulemaking at 6 A.A.R. 3755, effective January 1, 2001 (Supp. 00-3). Amended by final rulemaking at 16 A.A.R. 688, effective November 1, 2010 (Supp. 10-2). Amended by exempt rulemaking at 20 A.A.R. 448, effective April 1, 2014 (Supp. 14-1).

Editor's Note: The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act, which means these rules were not reviewed by the Governor's Regulatory Review Council or approved by the Attorney General's Office.

R9-10-1502. Application Requirements

An applicant shall submit an application for licensure that meets the requirements in A.R.S. § 36-422 and 9 A.A.C. 10, Article 1.

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, § 3(B). Amended effective May 2, 1997, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 329, § 5 (Supp. 97-2). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4). Amended by exempt rulemaking at 20 A.A.R. 448, effective April 1, 2014 (Supp. 14-1).

Editor's Note: The following Exhibit was adopted and subsequently repealed under an exemption from the provisions of the Administrative Procedure Act, which means that this rule was not reviewed by the Governor's Regulatory Review Council; the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department was not required to hold public hearings on the rule; and the Attorney General has not certified this rule.

Exhibit A. Repealed**Historical Note**

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, Section 3(B). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4).

Editor's Note: The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act, which means these rules were not reviewed by the Governor's Regulatory Review Council or approved by the Attorney General's Office.

R9-10-1503. Administration

- A licensee is responsible for the organization and management of an abortion clinic.
- A licensee shall:
 - Adopt policies and procedures for the administration and operation of an abortion clinic;
 - Designate a medical director who is licensed according to A.R.S. Title 32, Chapter 13, 17, or 29. The licensee and the medical director may be the same individual; and
 - Ensure the following documents are conspicuously posted at the physical facilities:
 - Current abortion clinic license issued by the Department;
 - Current telephone number and address of the unit in the Department responsible for licensing the abortion clinic;
 - Evacuation map; and
 - Signs that comply with A.R.S. § 36-2153(G).
- A medical director shall ensure written policies and procedures are established, documented, and implemented for:
 - Personnel qualifications, duties, and responsibilities;

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2. Individuals qualified to provide counseling in the abortion clinic and the amount and type of training required for an individual to provide counseling;
3. Verification of the competency of the physician performing an abortion according to R9-10-1505;
4. The storage, administration, accessibility, disposal, and documentation of a medication, and a controlled substance;
5. Accessibility and security of patient medical records;
6. Abortion procedures including recovery and follow-up care; and the minimum length of time a patient remains in the recovery room or area based on:
 - a. The type of abortion performed;
 - b. The estimated gestational age of the fetus;
 - c. The type and amount of medication administered; and
 - d. The physiologic signs including vital signs and blood loss;
7. Infection control including methods of sterilizing equipment and supplies;
8. Medical emergencies; and
9. Patient discharge and patient transfer.

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, § 3(B). Amended effective May 2, 1997, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 329, § 5 (Supp. 97-2). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4). Amended by final rulemaking at 16 A.A.R. 688, effective November 1, 2010 (Supp. 10-2). Amended by exempt rulemaking at 20 A.A.R. 448, effective April 1, 2014 (Supp. 14-1). Amended by exempt rulemaking at 20 A.A.R. 2078, effective July 24, 2014 (Supp. 14-3).

Editor's Note: *The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act, which means these rules were not reviewed by the Governor's Regulatory Review Council or approved by the Attorney General's Office.*

R9-10-1504. Incident Reporting

- A. A licensee shall ensure that the Department is notified of an incident as follows:
 1. For the death of a patient, verbal notification the next working day; and
 2. For a serious injury, written notification within 10 calendar days after the date of the serious injury.
- B. A medical director shall conduct an investigation of an incident and document an incident report that includes:
 1. The date and time of the incident;
 2. The name of the patient;
 3. A description of the incident;
 4. Names of individuals who observed the incident;
 5. Action taken by patient care staff and employees during the incident and immediately following the incident; and
 6. Action taken by the patient care staff and employees to prevent the incident from occurring in the future.

- C. A medical director shall ensure that the incident report is:
 1. Submitted to the Department and, if the incident involved a licensed individual, the applicable professional licensing board within 10 calendar days after the date of the notification in subsection (A); and
 2. Maintained in the physical facilities for at least two years after the date of the incident.

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, § 3(B). Amended effective May 2, 1997, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 329, § 5 (Supp. 97-2). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4). Amended by exempt rulemaking at 20 A.A.R. 448, effective April 1, 2014 (Supp. 14-1).

Editor's Note: *The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act, which means these rules were not reviewed by the Governor's Regulatory Review Council or approved by the Attorney General's Office.*

R9-10-1505. Personnel Qualifications and Records

A licensee shall ensure that:

1. A physician who performs an abortion demonstrates to the medical director that the physician is competent to perform an abortion by:
 - a. The submission of documentation of education and experience; and
 - b. Observation by or interaction with the medical director;
2. Surgical assistants and volunteers who provide counseling and patient advocacy receive training in these specific responsibilities and any other responsibilities assigned and that documentation is maintained in the individual's personnel file of the training received;
3. An individual who performs an ultrasound provides documentation that the individual is:
 - a. A physician;
 - b. A physician assistant, registered nurse practitioner, or nurse who completed a hands-on course in performing ultrasounds under the supervision of a physician; or
 - c. An individual who:
 - i. Completed a hands-on course in performing ultrasounds under the supervision of a physician, and
 - ii. Is not otherwise precluded by law from performing an ultrasound;
4. An individual has completed a course for the type of ultrasound the individual performs;
5. A personnel file for each member of the patient care staff and each volunteer is maintained either electronically or in writing and includes:
 - a. The individual's name and position title;
 - b. The first and, if applicable, the last date of employment or volunteer service;

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- c. Verification of qualifications, training, or licensure, as applicable;
 - d. Documentation of cardiopulmonary resuscitation certification, as applicable;
 - e. Documentation of verification of competency, as required in subsection (1), and signed and dated by the medical director;
 - f. Documentation of training for surgical assistants and volunteers; and
 - g. Documentation of completion of a course as required in subsection (3), for an individual performing ultrasounds; and
6. Personnel files are maintained in the physical facilities for at least two years from the ending date of employment or volunteer service.

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, Section 3(B). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4). Amended by exempt rulemaking at 6 A.A.R. 3755, effective January 1, 2001 (Supp. 00-3). Amended by final rulemaking at 16 A.A.R. 688, effective November 1, 2010 (Supp. 10-2). Amended by exempt rulemaking at 20 A.A.R. 448, effective April 1, 2014 (Supp. 14-1).

Editor's Note: *The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act, which means these rules were not reviewed by the Governor's Regulatory Review Council or approved by the Attorney General's Office.*

R9-10-1506. Staffing Requirements

- A.** A licensee shall ensure that there is a sufficient number of patient care staff and employees to:
- 1. Meet the requirements of this Article;
 - 2. Ensure the health and safety of a patient; and
 - 3. Meet the needs of a patient based on the patient's medical evaluation.
- B.** A licensee shall ensure that:
- 1. A member of the patient care staff, except for a surgical assistant, who is current in cardiopulmonary resuscitation certification is in the physical facilities until all patients are discharged;
 - 2. A physician, with admitting privileges at a health care institution that is classified by the director as a hospital according to A.R.S. § 36-405(B), remains on the premises of the abortion clinic until all patients who received a medication abortion are stable and ready to leave;
 - 3. A physician, with admitting privileges at a health care institution that is classified by the director as a hospital according to A.R.S. § 36-405(B) and that is within 30 miles of the abortion clinic by road, as defined in A.R.S. § 17-451, remains on the abortion clinic's premises until all patients who received a surgical abortion are stable and ready to leave the recovery room; and
 - 4. A physician, a nurse, a registered nurse practitioner, a physician assistant, or, if a physician is able to provide direct supervision as defined in A.R.S. § 32-1401 or

A.R.S. § 32-1800 as applicable, a medical assistant under the direct supervision of the physician:

- a. Monitors each patient during the patient's recovery following the abortion; and
- b. Remains in the abortion clinic until each patient is discharged by a physician.

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, § 3(B). Amended effective May 2, 1997, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 329, § 5 (Supp. 97-2). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4). Amended by exempt rulemaking at 6 A.A.R. 3755, effective January 1, 2001 (Supp. 00-3). Amended by final rulemaking at 16 A.A.R. 688, effective November 1, 2010 (Supp. 10-2). Amended by exempt rulemaking at 20 A.A.R. 448, effective April 1, 2014 (Supp. 14-1).

Editor's Note: *The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act, which means these rules were not reviewed by the Governor's Regulatory Review Council or approved by the Attorney General's Office.*

R9-10-1507. Patient Rights

A licensee shall ensure that a patient is afforded the following rights, and is informed of these rights:

- 1. To refuse treatment, or withdraw consent for treatment;
- 2. To have medical records kept confidential; and
- 3. To be informed of:
 - a. Billing procedures and financial liability before abortion services are provided;
 - b. Proposed medical or surgical procedures, associated risks, possible complications, and alternatives;
 - c. Counseling services that are provided in the physical facilities; and
 - d. The right to review the ultrasound results with a physician, a physician assistant, a registered nurse practitioner, or a registered nurse before the abortion procedure.

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, § 3(B). Amended effective May 2, 1997, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 329, § 5 (Supp. 97-2). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4). Amended by exempt

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Editor's Note: *The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act, which means these rules were not reviewed by the Governor's Regulatory Review Council or approved by the Attorney General's Office.*

R9-10-1508. Abortion Procedures

- A.** A medical director shall ensure that a medical evaluation of a patient is conducted before the patient's abortion is performed that includes:
 1. A medical history including:
 - a. Allergies to medications, antiseptic solutions, or latex;
 - b. Obstetrical and gynecological history;
 - c. Past surgeries;
 - d. Medication the patient is currently taking; and
 - e. Other medical conditions;
 2. A physical examination performed by a physician that includes a bimanual examination to estimate uterine size and palpation of adnexa; and
 3. The following laboratory tests:
 - a. A urine or blood test to determine pregnancy;
 - b. Rh typing unless the patient provides written documentation of blood type acceptable to the physician;
 - c. Anemia screening; and
 - d. Other laboratory tests recommended by the physician or medical director on the basis of the physical examination.
- B.** If the medical evaluation indicates a patient is Rh negative, a medical director shall ensure that:
 1. The patient receives information from a physician on this condition;
 2. The patient is offered RhO(d) immune globulin within 72 hours after the abortion procedure;
 3. If a patient refuses RhO(d) immune globulin, the patient signs and dates a form acknowledging the patient's condition and refusing the RhO(d) immune globulin;
 4. The form in subsection (B)(3) is maintained in the patient's medical record; and
 5. If a patient refuses RhO(d) immune globulin or if a patient refuses to sign and date an acknowledgment and refusal form, the physician documents the patient's refusal in the patient's medical record.
- C.** A physician estimates the gestational age of the fetus, and records the estimated age in the patient's medical record. The estimated age is based upon:
 1. Ultrasound measurements of the biparietal diameter, length of femur, abdominal circumference, visible pregnancy sac, or crown-rump length or a combination of these; or
 2. The date of the last menstrual period or the date of fertilization and a bimanual examination of the patient.
- D.** A medical director shall ensure that:
 1. An ultrasound of a patient is performed by an individual who meets the requirements in R9-10-1505(3);
 2. An ultrasound estimate of gestational age of a fetus is performed using methods and tables or charts published in a nationally recognized medical journal;
 3. An original patient ultrasound print is:
 - a. Interpreted by a physician; and
 - b. Maintained in the patient's medical record in either electronic or paper form; and
- E.** If requested by the patient, the ultrasound is reviewed with the patient by a physician, physician assistant, registered nurse practitioner, or registered nurse.
- F.** A medical director shall ensure that before an abortion is performed on a patient:
 1. Written consent is signed and dated by the patient or the patient's legal guardian; and
 2. Information is provided to the patient on the abortion procedure including alternatives, risks, and potential complications.
- G.** A medical director shall ensure that any medication, drug, or substance used to induce an abortion is administered in compliance with the protocol authorized by the United States Food and Drug Administration and that is outlined in the final printing labeling instructions for that medication, drug, or substance.
- H.** A medical director shall ensure that:
 1. Patient care staff monitor the patient's vital signs throughout an abortion procedure to ensure the patient's health and safety;
 2. Intravenous access is established and maintained on a patient undergoing an abortion after the first trimester unless the physician determines that establishing intravenous access is not appropriate for the particular patient and documents that fact in the patient's medical record; and
 3. If a viable fetus shows signs of life:
 - a. Resuscitative measures are used to support life;
 - b. The viable fetus is transferred as required in R9-10-1509; and
 - c. Resuscitative measures and the transfer are documented.
- I.** A medical director shall ensure that following the abortion procedure:
 1. A patient's vital signs and bleeding are monitored by a physician, nurse, registered nurse practitioner, physician assistant, or, if a physician is able to provide direct supervision as defined in A.R.S. § 32-1401 or A.R.S. § 32-1800, as applicable, a medical assistant under the direct supervision of the physician to ensure the patient's health and safety; and
 2. A patient remains in the recovery room or recovery area until a physician, physician assistant, registered nurse practitioner or nurse examines the patient and determines that the patient's medical condition is stable and the patient is ready to leave the recovery room or recovery area.
- J.** A medical director shall ensure that follow-up care includes:
 1. With a patient's consent, a telephone call to the patient by a member of the patient care staff, except a surgical assistant, within 24 hours after the patient's discharge following a surgical abortion to assess the patient's recovery. If the patient care staff is unable to speak with the patient, for any reason, the attempt to contact the patient is documented in the patient's medical record;
 2. Following a surgical abortion, a follow-up visit offered and scheduled, if requested, no more than 21 days after the abortion. The follow-up visit shall include:
 - a. A physical examination;
 - b. A review of all laboratory tests as required in R9-10-1508(A)(3); and

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- c. A urine pregnancy test; and
- 3. Following a medication abortion, a follow-up visit offered and scheduled between seven and 21 days after the initial dose of a substance used to induce an abortion. The follow-up visit shall include:
 - a. A urine pregnancy test; and
 - b. An assessment of the degree of bleeding.
- K. If a continuing pregnancy is suspected as a result of the follow-up visit required in subsection (J)(2) or (J)(3), a physician who performs abortions shall be consulted.

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, § 3(B). Amended effective May 2, 1997, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 329, § 5 (Supp. 97-2). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4). Amended by exempt rulemaking at 6 A.A.R. 3755, effective January 1, 2001 (Supp. 00-3). Amended by final rulemaking at 16 A.A.R. 688, effective November 1, 2010 (Supp. 10-2). Amended by exempt rulemaking at 20 A.A.R. 448, effective April 1, 2014 (Supp. 14-1).

Editor's Note: The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act, which means these rules were not reviewed by the Governor's Regulatory Review Council or approved by the Attorney General's Office.

R9-10-1509. Patient Transfer and Discharge

- A. A medical director shall ensure that:
 - 1. A patient is transferred to a hospital for an emergency involving the patient;
 - 2. A viable fetus requiring emergency care is transferred to a hospital;
 - 3. A patient transfer is documented in the patient's medical record; and
 - 4. Documentation of a medical evaluation, treatment given, and laboratory and diagnostic information is transferred with a patient.
- B. A medical director shall ensure that before a patient is discharged:
 - 1. A physician signs the patient's discharge order; and
 - 2. A patient receives follow-up instructions at discharge that include:
 - a. Signs of possible complications;
 - b. When to access medical services in response to complications;
 - c. A telephone number of an individual or entity to contact for medical emergencies;
 - d. Information and precautions for resuming vaginal intercourse after the abortion; and
 - e. Information specific to the patient's abortion or condition.

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act

pursuant to Laws 1993, Ch. 163, Section 3(B). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4). Amended by exempt rulemaking at 20 A.A.R. 448, effective April 1, 2014 (Supp. 14-1).

Editor's Note: The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act, which means these rules were not reviewed by the Governor's Regulatory Review Council or approved by the Attorney General's Office.

R9-10-1510. Medications and Controlled Substances

A medical director shall ensure that:

1. The abortion clinic complies with the requirements for medications and controlled substances in A.R.S. Title 32, Chapter 18, and A.R.S. Title 36, Chapter 27;
2. A medication is administered in compliance with an order from a physician, physician assistant, registered nurse practitioner, or as otherwise provided by law;
3. A medication is administered to a patient by a physician or as otherwise provided by law;
4. Medications and controlled substances are maintained in a locked area in the physical facilities;
5. Only personnel designated by policies and procedures have access to the locked area containing medications and controlled substances;
6. Expired, mislabeled, or unusable medications and controlled substances are disposed of according to policies and procedures;
7. A medication error or an adverse reaction, including any actions taken in response to the medication error or adverse reaction, is immediately reported to the medical director and licensee, and recorded in the patient's medical record;
8. Medication information is maintained in a patient's medical record and contains:
 - a. The patient's name, age, and weight;
 - b. The medications the patient is currently taking; and
 - c. Allergies or sensitivities to medications, antiseptic solutions, or latex; and
9. If medication is administered to a patient, the following are documented in the patient's medical record:
 - a. The date and time of administration;
 - b. The name, strength, dosage form, amount of medication, and route of administration; and
 - c. The identification and signature of the individual administering the medication.

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, Section 3(B). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State

December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4).
Amended by exempt rulemaking at 6 A.A.R. 3755, effective January 1, 2001 (Supp. 00-3). Amended by exempt rulemaking at 20 A.A.R. 448, effective April 1, 2014 (Supp. 14-1).

Editor's Note: The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act, which means these rules were not reviewed by the Governor's Regulatory Review Council or approved by the Attorney General's Office.

R9-10-1511. Medical Records

A. A licensee shall ensure that:

1. A medical record is established and maintained for a patient that contains:
 - a. Patient identification including:
 - i. The patient's name, address, and date of birth;
 - ii. The designated patient's representative, if applicable; and
 - iii. The name and telephone number of an individual to contact in an emergency;
 - b. The patient's medical history required in R9-10-1508(A)(1);
 - c. The patient's physical examination required in R9-10-1508(A)(2);
 - d. The laboratory test results required in R9-10-1508(A)(3);
 - e. The physician's estimated gestational age of the fetus required in R9-10-1508(C);
 - f. The ultrasound results, including the original print, required in R9-10-1508(D);
 - g. Each consent form signed by the patient or the patient's legal guardian;
 - h. Orders issued by a physician, physician assistant or registered nurse practitioner;
 - i. A record of medical services, nursing services, and health-related services provided to the patient; and
 - j. The patient's medication information;
2. A medical record is accessible only to the Department or personnel authorized by policies and procedures;
3. Medical record information is confidential and released only with the written informed consent of a patient or the patient's representative or as otherwise permitted by law;
4. A medical record is protected from loss, damage, or unauthorized use and is maintained and accessible for seven years after the date of an adult patient's discharge or if the patient is a child, either for at least three years after the child's 18th birthday or for at least seven years after the patient's discharge, whichever date occurs last;
5. A medical record is maintained at the abortion clinic for at least six months after the date of the patient's discharge; and
6. Vital records and vital statistics are retained according to A.R.S. § 36-343.

B. A licensee shall comply with Department requests for access to or copies of patient medical records as follows:

1. Subject to the redaction permitted in subsection (B)(5), for patient medical records requested for review in connection with a compliance inspection, the licensee shall provide the Department with the following patient medical records related to medical services associated with an abortion, including any follow-up visits to the abortion clinic in connection with the abortion:
 - a. Patient identification including:
 - i. The patient's name, address, and date of birth;

- ii. The designated patient's representative, if applicable; and
 - iii. The name and telephone number of an individual to contact in an emergency;
 - b. The patient's medical history required in R9-10-1508(A)(1);
 - c. The patient's physical examination required in R9-10-1508(A)(2);
 - d. The laboratory test results required in R9-10-1508(A)(3);
 - e. The physician's estimated gestational age of the fetus required in R9-10-1508(C);
 - f. The ultrasound results required in R9-10-1508(D);
 - g. Each consent form signed by the patient or the patient's representative;
 - h. Orders issued by a physician, physician assistant, or registered nurse practitioner;
 - i. A record of medical services, nursing services, and health-related services provided to the patient; and
 - j. The patient's medication information.
2. For patient medical records requested for review in connection with an initial licensing or compliance inspection, the licensee is not required to produce for review by the Department any patient medical records created or prepared by a referring physician or any of that referring physician's medical staff.
 3. The licensee is not required to provide patient medical records regarding medical services associated with an abortion that occurred before:
 - a. The effective date of these rules, or
 - b. A previous licensing or compliance inspection of the abortion clinic.
 4. The patient medical records may be provided to the Department in either paper or in an electronic format that is acceptable to the Department.
 5. When access to or copies of patient medical records are requested from a licensee by the Department, the licensee shall redact only personally identifiable patient information from the patient medical records before the disclosure of the patient medical records to the Department, except as provided in subsection (B)(8).
 6. For patient medical records requested for review in connection with an initial licensing or compliance inspection, the licensee shall provide the redacted copies of the patient medical records to the Department within two business days of the Department's request for the redacted medical records if the total number of patients for whom patient medical records are requested by the Department is from one to ten patients, unless otherwise agreed to by the Department and the licensee. The time within which the licensee shall produce redacted records to the Department shall be increased by two business days for each additional five patients for whom patient medical records are requested by the Department, unless otherwise agreed to by the Department and the licensee.
 7. Upon request by the Department, in addition to redacting only personally identifiable patient information, the licensee shall code the requested patient medical records by a means that allows the Department to track all patient medical records related to a specific patient without the personally identifiable patient information.
 8. For patient medical records requested for review in connection with a complaint investigation, the Department shall have access to or copies of unredacted patient medical records.

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9. If the Department obtains copies of unredacted patient medical records, the Department shall:
 - a. Allow the examination and use of the unredacted patient medical records only by those Department employees who need access to the patient medical records to fulfill their investigative responsibilities and duties;
 - b. Maintain all unredacted patient medical records in a locked drawer, cabinet, or file or in a password-protected electronic file with access to the secured drawer, cabinet, or file limited to those individuals who have access to the patient medical records according to subsection (B)(9)(a);
 - c. Destroy all unredacted patient medical records at the termination of the Department's complaint investigation or at the termination of any administrative or legal action that is taken by the Department as the result of the Department's complaint investigation, whichever is later;
 - d. If the unredacted patient medical records are filed with a court or other judicial body, including any administrative law judge or panel, file the records only under seal; and
 - e. Prevent access to the unredacted records by anyone except as provided in subsection (B)(9)(a) or subsection (B)(9)(d).
- C. A medical director shall ensure that only personnel authorized by policies and procedures, records or signs an entry in a medical record and:
 1. An entry in a medical record is dated and legible;
 2. An entry is authenticated by:
 - a. A written signature;
 - b. An individual's initials if the individual's written signature already appears in the medical record;
 - c. A rubber-stamp signature; or
 - d. An electronic signature;
 3. An entry is not changed after it has been recorded but additional information related to an entry may be recorded in the medical record;
 4. When a verbal or telephone order is entered in the medical record, the entry is authenticated within 21 days by the individual who issued the order;
 5. If a rubber-stamp signature or an electronic signature is used:
 - a. An individual's rubber stamp or electronic signature is not used by another individual;
 - b. The individual who uses a rubber stamp or electronic signature signs a statement that the individual is responsible for the use of the rubber stamp or the electronic signature; and
 - c. The signed statement is included in the individual's personnel record; and
 6. If an abortion clinic maintains medical records electronically, the medical director shall ensure the date and time of an entry is recorded by the computer's internal clock.
- D. As required by A.R.S. § 36-449.03(I), the Department shall not release any personally identifiable patient or physician information.

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, Section 3(B). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4).

New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4). Amended by exempt rulemaking at 6 A.A.R. 3755, effective January 1, 2001 (Supp. 00-3). Amended by final rulemaking at 16 A.A.R. 688, effective November 1, 2010 (Supp. 10-2). Amended by exempt rulemaking at 20 A.A.R. 448, effective April 1, 2014 (Supp. 14-1). Amended by exempt rulemaking at 20 A.A.R. 2078, effective July 24, 2014 (Supp. 14-3).

Editor's Note: *The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act, which means these rules were not reviewed by the Governor's Regulatory Review Council or approved by the Attorney General's Office.*

R9-10-1512. Environmental and Safety Standards

A licensee shall ensure that:

1. Physical facilities:
 - a. Provide lighting and ventilation to ensure the health and safety of a patient;
 - b. Are maintained in a clean condition;
 - c. Are free from a condition or situation that may cause a patient to suffer physical injury;
 - d. Are maintained free from insects and vermin; and
 - e. Are smoke-free;
2. A warning notice is placed at the entrance to a room or area where oxygen is in use;
3. Soiled linen and clothing are kept:
 - a. In a covered container, and
 - b. Separate from clean linen and clothing;
4. Personnel wash hands after each direct patient contact and after handling soiled linen, soiled clothing, or biohazardous medical waste;
5. A written emergency plan is established, documented, and implemented that includes procedures for protecting the health and safety of patients and other individuals in a fire, natural disaster, loss of electrical power, or threat or incidence of violence; and
6. An evacuation drill is conducted at least once every six months that includes all personnel in the physical facilities the day of the evacuation drill. Documentation of the evacuation drill is maintained in the physical facilities for one year after the date of the evacuation drill and includes:
 - a. The date and time of the evacuation drill; and
 - b. The names of personnel participating in the evacuation drill.

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, Section 3(B). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4). Amended by exempt rulemaking at 20 A.A.R. 448, effective April 1, 2014 (Supp. 14-1).

Editor's Note: The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act, which means these rules were not reviewed by the Governor's Regulatory Review Council or approved by the Attorney General's Office.

R9-10-1513. Equipment Standards

A licensee shall ensure that:

1. Equipment and supplies are maintained in a quantity sufficient to meet the needs of patients present in the abortion clinic;
2. Equipment to monitor vital signs is in each room in which an abortion is performed;
3. A surgical or gynecologic examination table is used for an abortion;
4. The following equipment and supplies are available in the abortion clinic:
 - a. Equipment to measure blood pressure;
 - b. A stethoscope;
 - c. A scale for weighing a patient;
 - d. Supplies for obtaining specimens and cultures and for laboratory tests; and
 - e. Equipment and supplies for use in a medical emergency including:
 - i. Ventilatory assistance equipment;
 - ii. Oxygen source;
 - iii. Suction apparatus; and
 - iv. Intravenous fluid equipment and supplies; and
 - f. Ultrasound equipment;
5. In addition to the requirements in subsection (4), the following equipment is available for an abortion procedure performed after the first trimester:
 - a. Drugs to support cardiopulmonary function; and
 - b. Equipment to monitor cardiopulmonary status;
6. Equipment and supplies are clean and, if applicable, sterile before each use;
7. Equipment required in this Section is maintained in working order, tested and calibrated at least once every 12 months or according to the manufacturer's recommendations, and used according to the manufacturer's recommendations; and
8. Documentation of each equipment test, calibration, and repair is maintained in the physical facilities for one year after the date of the testing, calibration, or repair and provided to the Department for review within two hours after the Department requests the documentation.

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, Section 3(B). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4). Amended by exempt rulemaking at 20 A.A.R. 448, effective April 1, 2014 (Supp. 14-1).

Editor's Note: The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act, which means these rules were not reviewed by the Governor's Regulatory Review Council or approved by the Attorney General's Office.

R9-10-1514. Physical Facilities

- A. A licensee shall ensure that an abortion clinic complies with all local building codes, ordinances, fire codes, and zoning requirements. If there are no local building codes, ordinances, fire codes, or zoning requirements, the abortion clinic shall comply with the applicable codes and standards incorporated by reference in A.A.C. R9-1-412 that were in effect on the date the abortion clinic's architectural plans and specifications were submitted to the Department for approval.
- B. A licensee shall ensure that an abortion clinic provides areas or rooms:
 1. That provide privacy for:
 - a. A patient's interview, medical evaluation, and counseling;
 - b. A patient to dress; and
 - c. Performing an abortion procedure;
 2. For personnel to dress;
 3. With a sink and a flushable toilet in working order;
 4. For cleaning and sterilizing equipment and supplies;
 5. For storing medical records;
 6. For storing equipment and supplies;
 7. For hand washing before the abortion procedure; and
 8. For a patient recovering after an abortion.
- C. A licensee shall ensure that an abortion clinic has an emergency exit to accommodate a stretcher or gurney.

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, Section 3(B). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4). Amended by exempt rulemaking at 6 A.A.R. 3755, effective January 1, 2001 (Supp. 00-3). Amended by exempt rulemaking at 20 A.A.R. 448, effective April 1, 2014 (Supp. 14-1).

R9-10-1515. Enforcement

- A. For an abortion clinic that is not in substantial compliance or that is in substantial compliance but refuses to carry out a plan of correction acceptable to the Department, the Department may:
 1. Assess a civil penalty according to A.R.S. § 36-431.01,
 2. Impose an intermediate sanction according to A.R.S. § 36-427,
 3. Suspend or revoke a license according to A.R.S. § 36-427,
 4. Deny a license, or
 5. Bring an action for an injunction according to A.R.S. § 36-430.
- B. In determining the appropriate enforcement action, the Department must consider the threat to the health, safety, and welfare of the abortion clinic's patients or the general public, including:
 1. Whether the abortion clinic has repeated violations of statutes or rules;
 2. Whether the abortion clinic has engaged in a pattern of noncompliance; and
 3. The type, severity, and number of violations.

Historical Note

New Section R9-10-1515 made by exempt rulemaking at 20 A.A.R. 448, effective April 1, 2014 (Supp. 14-1).

ARTICLE 16. BEHAVIORAL HEALTH RESPITE HOMES**R9-10-1601. Definitions**

In addition to the definitions in A.R.S. § 36-401 and R9-10-101, the following apply in this Article unless otherwise specified:

1. "Acceptance" means, after a referral from a collaborating health care institution, an individual receives services from a provider in a behavioral health respite home.
2. "Provider" means an individual who lives in a behavioral health respite home and ensures that a recipient receives the behavioral health services and ancillary services in the recipient's treatment plan.
3. "Recipient" means an individual referred by a collaborating health care institution to and accepted by a behavioral health respite home.
4. "Release" means a documented termination of services by a provider to a recipient that is authorized by a collaborating health care institution.
5. "Sibling" means one of two or more individuals having one or both parents in common.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1602. Supplemental Application Requirements

In addition to the license application requirements in A.R.S. § 36-422 and 9 A.A.C. 10, Article 1, an applicant shall include, in a format provided by the Department, the following information for the behavioral health respite home's collaborating health care institution:

1. Name,
2. Address,
3. Class or subclass,
4. License number, and
5. Name and contact information for an individual assigned by the collaborating health care institution to monitor the behavioral health respite home.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1602 renumbered to R9-10-1603; new Section R9-10-1602 made by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1603. Administration**A. A governing authority of a behavioral health respite home:**

1. Consists of no more than two providers, who live in the behavioral health respite home;
2. Has the authority and responsibility to manage the behavioral health respite home;
3. Has a documented agreement with a collaborating health care institution that establishes the responsibilities of the behavioral health respite home and the collaborating health care institution, consistent with the requirements in this Chapter;
4. Shall establish, in writing, the behavioral health respite home's scope of services, which are approved by the collaborating health care institution; and
5. Shall ensure that:

- a. Except as provided in R9-10-1612(A), no more than three recipients are accepted by the behavioral health respite home;
- b. A provider is on the premises whenever a recipient is present in the behavioral health respite home;
- c. Documentation required by this Article is provided to the Department within two hours after a Department request; and
- d. When documentation or information is required by this Chapter to be submitted on behalf of the behavioral health respite home, the documentation or information is provided to the unit in the Department that is responsible for licensing the behavioral health respite home.

B. A provider:

1. Is at least 21 years of age;
2. Holds current certification in cardiopulmonary resuscitation and first aid training applicable to the ages of recipients;
3. Has the skills and knowledge established by the collaborating health care institution as specified in R9-10-118;
4. Has documentation of completion of training in assistance in the self-administration of medication as specified in R9-10-118; and
5. Has documentation of evidence of freedom from infectious tuberculosis:
 - a. On or before the date the provider begins providing services at or on behalf of the behavioral health respite home, and
 - b. As specified in R9-10-113.

C. A provider shall ensure that policies and procedures are:

1. Established, documented, and implemented to protect the health and safety of a recipient that cover:
 - a. Recordkeeping;
 - b. Recipient acceptance and release;
 - c. The release of a recipient under 18 years of age to an individual other than the recipient's parent or guardian;
 - d. Recipient rights;
 - e. The provision of respite care services, including coordinating the provision of behavioral health services;
 - f. Recipients' medical records, including electronic medical records;
 - g. Assistance in the self-administration of medication;
 - h. Infection control; and
 - i. How a provider will respond to a recipient's sudden, intense, or out-of-control behavior to prevent harm to the recipient or another individual;
2. Approved, in writing, by the behavioral health respite home's collaborating health care institution before implementation and when the policies and procedures are reviewed or updated; and
3. Reviewed by the provider and the behavioral health respite home's collaborating health care institution at least once every three years and updated as needed.

D. A provider shall provide written notification to the Department and the collaborating health care institution of a recipient's:

1. Death, if the recipient's death is required to be reported according to A.R.S. § 11-593, within one working day after the recipient's death; and
2. Self-injury, within two working days after the recipient inflicts a self-injury that requires immediate intervention by an emergency medical services provider.

E. If abuse, neglect, or exploitation of a recipient is alleged or suspected to have occurred before the recipient was accepted

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or while the recipient is not at a behavioral health respite home and not receiving services from the behavioral health respite home, a provider shall report the alleged or suspected abuse, neglect, or exploitation of the recipient as follows:

1. For a recipient 18 years of age or older, according to A.R.S. § 46-454; or
 2. For a recipient under 18 years of age, according to A.R.S. § 13-3620.
- F.** If a provider has a reasonable basis, according to A.R.S. § 13-3620 or 46-454, to believe that abuse, neglect, or exploitation has occurred on the premises or while a recipient is receiving behavioral health respite home services, the provider shall:
1. If applicable, take immediate action to stop the suspected abuse, neglect, or exploitation;
 2. Report the suspected abuse, neglect, or exploitation of the recipient as follows:
 - a. To the behavioral health respite home's collaborating health care institution; and
 - b. For a:
 - i. Recipient 18 years of age or older, according to A.R.S. § 46-454; and
 - ii. Recipient under 18 years of age, according to A.R.S. § 13-3620;
 3. Document:
 - a. The suspected abuse, neglect, or exploitation;
 - b. Any action taken according to subsection (F)(1); and
 - c. The report in subsection (F)(2);
 4. Maintain the documentation in subsection (F)(3) for at least 12 months after the date of the report in subsection (F)(2);
 5. Initiate an investigation of the suspected abuse, neglect, or exploitation and document the following information within five working days after the report required in subsection (F)(2):
 - a. The dates, times, and description of the suspected abuse, neglect, or exploitation;
 - b. A description of any injury to the recipient related to the suspected abuse or neglect and any change to the recipient's physical, cognitive, functional, or emotional condition;
 - c. The names of witnesses to the suspected abuse, neglect, or exploitation; and
 - d. The action taken by the provider to prevent the suspected abuse, neglect, or exploitation from occurring in the future; and
 6. Maintain a copy of the documented information required in subsection (F)(5) and any other information obtained during the investigation for at least 12 months after the date the investigation was initiated.
- G.** A provider shall ensure that a recipient under 18 years of age is only released to an individual who, according to policies and procedures:
1. Is designated by the recipient's parent or guardian to release the recipient, and
 2. Presents documentation at the time of the recipient's release that verifies the individual's identity.
- H.** A provider shall maintain a record for each provider that includes:
1. The provider's:
 - a. Name,
 - b. Date of birth, and
 - c. Contact telephone number; and
 2. Documentation of:
 - a. Verification of skills and knowledge, completed by the behavioral health respite home's collaborating health care institution;

- b. Certification in cardiopulmonary resuscitation and first aid training;
- c. Completion of training in assistance in the self-administration of medication, provided by the behavioral health respite home's collaborating health care institution; and
- d. Evidence of freedom from infectious tuberculosis.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1603 renumbered to R9-10-1604; new Section R9-10-1603 renumbered from R9-10-1602 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1604. Recipient Rights

- A.** A provider shall ensure that:
1. A recipient is treated with dignity, respect, and consideration;
 2. A recipient is not subjected to:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Coercion;
 - e. Manipulation;
 - f. Sexual abuse;
 - g. Sexual assault;
 - h. Seclusion;
 - i. Restraint;
 - j. Retaliation for submitting a complaint to the Department or another entity; or
 - k. Misappropriation of personal and private property by:
 - i. A behavioral health respite home's provider, or
 - ii. An individual other than a recipient residing in the behavioral health respite home; and
 3. A recipient or the recipient's representative:
 - a. Is informed of the recipient complaint process;
 - b. Consents to photographs of the recipient before the recipient is photographed, except that a recipient may be photographed when accepted by a behavioral health respite home for identification and administrative purposes; and
 - c. Except as otherwise permitted by law, provides written consent to the release of information in the recipient's medical record.
- B.** A recipient has the following rights:
1. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, or diagnosis;
 2. To receive services that support and respect the recipient's individuality, choices, strengths, and abilities;
 3. To receive privacy in care for personal needs;
 4. To review, upon written request, the recipient's own medical record according to A.R.S. §§ 12-2293, 12-2294, and 12-2294.01;
 5. To receive a referral to another health care institution if the provider is not authorized or not able to provide physical health services or behavioral health services needed by the recipient; and
 6. To receive assistance from a family member, recipient's representative, or other individual in understanding, protecting, or exercising the recipient's rights.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-

1604 renumbered to R9-10-1605; new Section R9-10-1604 renumbered from R9-10-1603 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1605. Providing Services

- A.** A provider shall ensure that behavioral health services and ancillary services are provided to a recipient according to the recipient's treatment plan obtained from the behavioral health respite home's collaborating health care institution.
- B.** A provider shall submit to the behavioral health respite home's collaborating health care institution and, if applicable, the recipient's case manager:
 - 1. Documentation of any significant change in a recipient's behavior or physical, cognitive, or functional condition and the action taken by a provider to address the recipient's changing needs; and
 - 2. Notification of a recipient's unexpected self-release.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1605 renumbered to R9-10-1606; new Section R9-10-1605 renumbered from R9-10-1604 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1606. Assistance in the Self-Administration of Medication

- A.** If a provider provides assistance in the self-administration of medication, the provider shall ensure that:
 - 1. If a recipient is receiving assistance in the self-administration of medication, the recipient's medication is stored by the provider;
 - 2. The following assistance is provided to a recipient:
 - a. A reminder when it is time to take the medication;
 - b. Opening the medication container or medication organizer for the recipient;
 - c. Observing the recipient while the recipient removes the medication from the medication container or medication organizer;
 - d. Verifying that the medication is taken as ordered by the recipient's medical practitioner by confirming that:
 - i. The recipient taking the medication is the individual stated on the medication container label,
 - ii. The recipient is taking the dosage of the medication as stated on the medication container label, and
 - iii. The recipient is taking the medication at the time stated on the medication container label; or
 - e. Observing the recipient while the recipient takes the medication; and
 - 3. Assistance in the self-administration of medication provided to a recipient is documented in the recipient's medical record.
- B.** When medication is stored by a provider, the provider shall ensure that:
 - 1. A locked cabinet, closet, or self-contained unit is used for medication storage;
 - 2. Medication is stored according to the instructions on the medication container; and
 - 3. Medication, including expired medication, that is no longer being used is discarded.
- C.** A provider shall immediately report a medication error or a recipient's adverse reaction to a medication to the:
 - 1. Medical practitioner who ordered the medication, or

- 2. Contact individual at the behavioral health respite home's collaborating health care institution.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1606 renumbered to R9-10-1607; new Section R9-10-1606 renumbered from R9-10-1605 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1607. Medical Records

- A.** A provider shall ensure that:
 - 1. A medical record is established and maintained for each recipient according to A.R.S. Title 12, Chapter 13, Article 7.1;
 - 2. An entry in a recipient's medical record is:
 - a. Only recorded by the provider or an individual designated by the provider to record an entry;
 - b. Dated, legible, and authenticated; and
 - c. Not changed to make the initial entry illegible;
 - 3. A recipient's medical record is available to an individual:
 - a. Authorized by policies and procedures to access the recipient's medical record;
 - b. If the individual is not authorized according to policies and procedures, with the written consent of the recipient or the recipient's representative; or
 - c. As permitted by law; and
 - 4. A recipient's medical record is protected from loss, damage, or unauthorized use.
- B.** If a provider maintains recipients' medical records electronically, the provider shall ensure that safeguards exist to prevent unauthorized access.
- C.** A provider shall ensure that a recipient's medical record contains:
 - 1. Recipient information that includes:
 - a. The recipient's name,
 - b. The recipient's date of birth,
 - c. Any known allergies, and
 - d. Medication information for the recipient;
 - 2. The names, addresses, and telephone numbers of:
 - a. The recipient's medical practitioner;
 - b. The recipient's case manager, if applicable;
 - c. The behavioral health professional assigned to the recipient by the behavioral health respite home's collaborating health care institution; and
 - d. An individual to be contacted in the event of an emergency;
 - 3. The date and time of the recipient's acceptance by the behavioral health respite home and, if applicable, the date and time of the recipient's release from the behavioral health respite home;
 - 4. If applicable, the name and contact information of the recipient's representative and:
 - a. If the recipient is 18 years of age or older or an emancipated minor, the document signed by the recipient consenting for the recipient's representative to act on the recipient's behalf; or
 - b. If the recipient's representative:
 - i. Has a health care power of attorney established under A.R.S. § 36-3221 or a mental health care power of attorney executed under A.R.S. § 36-3282, a copy of the health care power of attorney or mental health care power of attorney; or
 - ii. Is a legal guardian, a copy of the court order establishing guardianship;

5. A copy of the recipient's treatment plan and any updates to the recipient's treatment plan obtained from the behavioral health respite home's collaborating health care institution;
 6. For a recipient receiving assistance in the self-administration of medication, documentation that includes for each medication:
 - a. The date and time of assistance;
 - b. The name, strength, dosage, and route of administration;
 - c. The provider's signature or first and last initials; and
 - d. Any adverse reaction the recipient has to the medication;
 7. Documentation of the recipient's refusal of a medication, if applicable;
 8. Documentation of any significant change in the recipient's behavior or physical, cognitive, or functional condition and the action taken by a provider to address the recipient's changing needs;
 9. If applicable, documentation of any actions taken to control the recipient's sudden, intense, or out-of-control behavior to prevent harm to the recipient or another individual;
 10. If applicable, documentation of a notification to the behavioral health respite home's collaborating health care institution of an unexpected self-release of the recipient; and
 11. A written notice of release from the behavioral health respite home, if applicable.
- ii. Inaccessible to a recipient;
 3. A smoke detector is installed in:
 - a. A bedroom used by a recipient,
 - b. A hallway in a behavioral health respite home, and
 - c. A behavioral health respite home's kitchen;
 4. A smoke detector required in subsection (3):
 - a. Is maintained in operable condition; and
 - b. Is battery operated or, if hard-wired into the electrical system of a behavioral health respite home, has a back-up battery;
 5. A behavioral health respite home has a portable fire extinguisher that is labeled 1A-10-BC by the Underwriters Laboratory and available in the behavioral health respite home's kitchen;
 6. A portable fire extinguisher required in subsection (5) is:
 - a. If a disposable fire extinguisher, replaced when the fire extinguisher's indicator reaches the red zone; or
 - b. Serviced at least once every 12 months and has a tag attached to the fire extinguisher that includes the date of service;
 7. A written evacuation plan is maintained and available for use by the provider and any recipient in a behavioral health respite home;
 8. An evacuation drill is conducted at least once every six months; and
 9. A record of an evacuation drill required in subsection (8) is maintained for at least 12 months after the date of the evacuation drill.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1607 renumbered to R9-10-1608; new Section R9-10-1607 renumbered from R9-10-1606 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1608. Food Services

A provider shall ensure that:

1. Food is obtained, handled, and stored to prevent contamination, spoilage, or a threat to the health of a recipient;
2. Three nutritionally balanced meals are served each day;
3. Nutritious snacks are available between meals;
4. Food served meets any special dietary needs of a recipient as prescribed by the recipient's physician or registered dietitian; and
5. Chemicals and detergents are not stored with food.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1608 renumbered to R9-10-1609; new Section R9-10-1608 renumbered from R9-10-1607 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1609. Emergency and Safety Standards

A provider shall ensure that:

1. A first aid kit is available at a behavioral health respite home sufficient to meet the needs of recipients;
2. If a firearm or ammunition for a firearm is stored at a behavioral health respite home:
 - a. The firearm is stored separate from the ammunition for the firearm; and
 - b. The firearm and the ammunition for the firearm are:
 - i. Stored in a locked closet, cabinet, or container; and
 - ii. Inaccessible to a recipient;
3. A smoke detector is installed in:
 - a. A bedroom used by a recipient,
 - b. A hallway in a behavioral health respite home, and
 - c. A behavioral health respite home's kitchen;
4. A smoke detector required in subsection (3):
 - a. Is maintained in operable condition; and
 - b. Is battery operated or, if hard-wired into the electrical system of a behavioral health respite home, has a back-up battery;
5. A behavioral health respite home has a portable fire extinguisher that is labeled 1A-10-BC by the Underwriters Laboratory and available in the behavioral health respite home's kitchen;
6. A portable fire extinguisher required in subsection (5) is:
 - a. If a disposable fire extinguisher, replaced when the fire extinguisher's indicator reaches the red zone; or
 - b. Serviced at least once every 12 months and has a tag attached to the fire extinguisher that includes the date of service;
7. A written evacuation plan is maintained and available for use by the provider and any recipient in a behavioral health respite home;
8. An evacuation drill is conducted at least once every six months; and
9. A record of an evacuation drill required in subsection (8) is maintained for at least 12 months after the date of the evacuation drill.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1609 renumbered to R9-10-1610; new Section R9-10-1609 renumbered from R9-10-1608 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1610. Environmental Standards

A. A provider shall ensure that a behavioral health respite home:

1. Is in a building that:
 - a. Is arranged, designed, and used for the living, sleeping, and housekeeping activities for one family on a permanent basis; and
 - b. Is free of any plumbing, electrical, ventilation, mechanical, chemical, or structural hazard that may jeopardize the health or safety of a recipient;
2. Has a living room accessible at all times to a recipient;
3. Has a dining area furnished for group meals that is accessible to the provider, recipients, and any other individuals present in the behavioral health respite home;
4. For each six individuals residing in the behavioral health respite home, including recipients, has at least one bathroom equipped with:
 - a. A working toilet that flushes and has a seat; and
 - b. A sink with running water accessible for use by a recipient;
5. Has equipment and supplies to maintain a recipient's personal hygiene accessible to the recipient;
6. Is clean and free from accumulations of dirt, garbage, and rubbish; and
7. Implements a pest control program to minimize the presence of insects and vermin at the behavioral health respite home.

B. A provider shall ensure that any pets or other animals allowed on the premises are:

1. Controlled to prevent endangering a recipient and to maintain sanitation;

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2. Licensed consistent with local ordinances; and
 3. For a dog or cat, vaccinated against rabies.
- C.** If a swimming pool is located on the premises, a provider shall ensure that:
1. The swimming pool is equipped with the following:
 - a. An operational water circulation system that clarifies and disinfects the swimming pool water continuously and that includes at least:
 - i. A removable strainer;
 - ii. Two swimming pool inlets located on opposite sides of the swimming pool, and
 - iii. A drain located at the swimming pool's lowest point and covered by a grating that cannot be removed without using tools; and
 - b. An operational cleaning system;
 2. The swimming pool is enclosed by a wall or fence that:
 - a. Is at least five feet in height as measured on the exterior of the wall or fence;
 - b. Has no vertical openings greater than four inches across;
 - c. Has no horizontal openings, except as described in subsection (C)(2)(e);
 - d. Is not chain-link;
 - e. Does not have a space between the ground and the bottom fence rail that exceeds four inches in height; and
 - f. Has a self-closing, self-latching gate that:
 - i. Opens away from the swimming pool,
 - ii. Has a latch located at least 54 inches from the ground, and
 - iii. Is locked when the swimming pool is not in use; and
 3. A life preserver or shepherd's crook is available and accessible in the pool area.
- D.** A provider shall ensure that a spa that is not enclosed by a wall or fence as described in subsection (C)(2) is covered and locked when not in use.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1610 renumbered to R9-10-1611; new Section R9-10-1610 renumbered from R9-10-1609 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1611. Adult Behavioral Health Respite Services

A provider shall ensure that:

1. A bedroom for use by a recipient:
 - a. Is separated from a hall, corridors, or other habitable room by floor to ceiling walls containing no interior openings except doors and is not used as a passageway to another bedroom or habitable room;
 - b. Provides sufficient space for an individual in the bedroom to have unobstructed access to the bedroom door;
 - c. Contains for each recipient using the bedroom:
 - i. A separate, adult-sized, single bed or larger bed with a clean mattress in good repair;
 - ii. Clean bedding appropriate for the season; and
 - iii. Storage space for personal effects and clothing such as shelves, a dresser, or chest of drawers; and
 - d. If used for:
 - i. Single occupancy, contains at least 60 square feet of floor space; or

- ii. Double occupancy, contains at least 100 square feet of floor space;
2. A mirror is available to a recipient for grooming;
 3. A recipient does not share a bedroom with an individual who is not a recipient;
 4. No more than two recipients share a bedroom;
 5. If two recipients share a bedroom, each recipient agrees, in writing, to share the bedroom; and
 6. A recipient's bedroom is not used to store anything that may be a hazard to the recipient or another individual.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1611 renumbered to R9-10-1612; new Section R9-10-1611 renumbered from R9-10-1610 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1612. Children's Behavioral Health Respite Services

- A.** A provider may provide children's behavioral health respite services for up to four recipients if at least two of the recipients are siblings.
- B.** For a behavioral health respite home that provides children's behavioral health respite services, a provider shall:
1. Have a valid fingerprint clearance card according to A.R.S. § 36-425.03; and
 2. Ensure that:
 - a. If an adult other than a provider is present in the behavioral health respite home, the provider supervises the adult when and where a recipient is present;
 - b. A recipient does not share a bedroom with:
 - i. An individual that, based on the other individual's developmental levels, social skills, verbal skills, and personal history, may present a threat to the recipient;
 - ii. Except as provided in subsection (C), an adult; or
 - iii. Except as provided in subsection (B)(2)(c), an individual that is not the same gender;
 - c. A recipient may share a bedroom with an individual that is not the same gender if the individual is the recipient's sibling;
 - d. A bedroom used by a recipient:
 - i. If the bedroom is a private bedroom, contains at least 60 square feet of floor space, not including the closet; or
 - ii. If the bedroom is a shared bedroom:
 - (1) Contains at least 100 square feet of floor space, not including a closet, for two individuals occupying the bedroom or contains at least 140 square feet of floor space, not including a closet, for three individuals occupying the bedroom;
 - (2) If there are four siblings occupying the bedroom, contains at least 140 square feet of floor space, not including a closet;
 - (3) Provides space between beds or bunk beds; and
 - (4) Provides sufficient space for an individual in the bedroom to have unobstructed access to the bedroom door;
 - iii. For a recipient under three years of age, may contain a crib;
 - iv. Except for a recipient under three years of age who has a crib, contains a bed for the recipient

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- that is at least 36 inches wide and at least 72 inches long, and consists of at least a frame and mattress and clean linens; and
- v. Contains individual storage space for personal effects and clothing such as shelves, a dresser, or chest of drawers;
- e. Clean linens for a bed include a mattress pad, sheets large enough to tuck under the mattress, pillows, pillow cases, waterproof mattress covers as needed, and blankets to ensure warmth and comfort of a recipient;
- f. A recipient older than three years of age does not sleep in a crib;
- g. Clean and non-hazardous toys, educational materials, and physical activity equipment are available and accessible to recipients in a quantity sufficient to meet each recipient's needs and are appropriate to each recipient's age and developmental level; and
- h. The following are stored in a labeled container separate from food storage areas and inaccessible to a recipient:
 - i. Materials and chemicals labeled as a toxic substance, and
 - ii. Substances that have a child warning label and may be a hazard to a recipient.
- C. If a recipient is younger than 2 years of age and sleeps in a crib, the recipient may sleep in a crib placed in a provider's bedroom.

Historical Note

New Section R9-10-1612 renumbered from R9-10-1611 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

ARTICLE 17. UNCLASSIFIED HEALTH CARE INSTITUTIONS**R9-10-1701. Definitions**

Definitions in A.R.S. § 36-401 and R9-10-101 apply in this Article unless otherwise specified.

Historical Note

Adopted effective July 6, 1994 (Supp. 94-3). Section amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

R9-10-1702. Administration

- A. A governing authority for a health care institution not otherwise classified or subclassified in A.R.S. Title 36, Chapter 4 or 9 A.A.C. 10 shall:
 - 1. Consist of one or more individuals responsible for the organization, operation, and administration of the health care institution;
 - 2. Establish, in writing:
 - a. A health care institution's scope of services, and
 - b. Qualifications for an administrator;
 - 3. Designate, in writing, an administrator who has the qualifications established in subsection (A)(2)(b);
 - 4. Adopt a quality management program according to R9-10-1703;
 - 5. Review and evaluate the effectiveness of the quality management program in R9-10-1703 at least once every 12 months;
 - 6. Designate, in writing, an acting administrator who has the qualifications established in subsection (A)(2)(b) if the administrator is:
 - a. Expected not to be present on a health care institution's premises for more than 30 calendar days, or
 - b. Not present on a health care institution's premises for more than 30 calendar days; and
- 7. Except as provided in subsection (A)(6), notify the Department according to A.R.S. § 36-425 when there is a change in an administrator and identify the name and qualifications of the new administrator.
- B. An administrator:
 - 1. Is directly accountable to the governing authority of a health care institution for the daily operation of the health care institution and all services provided by or at the health care institution;
 - 2. Has the authority and responsibility to manage the health care institution; and
 - 3. Except as provided in subsection (A)(6), designates, in writing, an individual who is present on the health care institution's premises and accountable for the health care institution when the administrator is not present on the health care institution's premises.
- C. An administrator shall ensure that:
 - 1. Policies and procedures are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Cover job descriptions, duties, and qualifications, including required skills, knowledge, education, and experience for personnel members, employees, volunteers and students;
 - b. Cover orientation and in-service education for personnel members, employees, volunteers and students;
 - c. Include how a personnel member may submit a complaint relating to services provided to a patient;
 - d. Cover the requirements in A.R.S. Title 36, Chapter 4, Article 11;
 - e. Cover cardiopulmonary resuscitation training, including:
 - i. The method and content of cardiopulmonary resuscitation training,
 - ii. The qualifications for an individual providing cardiopulmonary resuscitation training,
 - iii. The time-frame for renewal of cardiopulmonary resuscitation training, and
 - iv. The documentation that verifies that the individual has received cardiopulmonary resuscitation training;
 - f. Include a method to identify a patient to ensure the patient receives services as ordered;
 - g. Cover first aid training;
 - h. Cover patient rights, including assisting a patient who does not speak English or who has a physical or other disability to become aware of patient rights;
 - i. Cover specific steps for:
 - i. A patient to file a complaint, and
 - ii. The health care institution to respond to and resolve a patient complaint;
 - j. Cover medical records, including electronic medical records;
 - k. Cover a quality management program, including incident report and supporting documentation;
 - l. Cover contracted services;
 - m. Cover health care directives; and
 - n. Cover when an individual may visit a patient in a health care institution;
 - 2. Policies and procedures for health care institution services are established, documented, and implemented to protect the health and safety of a patient that:

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- a. Cover patient screening, admission, assessment, treatment plan, transport, transfer, and discharge, if applicable;
 - b. Cover patient outings, if applicable;
 - c. Include when general consent and informed consent are required;
 - d. Cover the provision of services listed in the health care institution's scope of services;
 - e. Cover administering medication, assistance in the self-administration of medication, and disposing of medication, including provisions for inventory control and preventing diversion of controlled substances, if applicable;
 - f. Cover infection control;
 - g. Cover telemedicine, if applicable;
 - h. Cover environmental services that affect patient care;
 - i. Cover smoking and the use of tobacco products on the health care institution's premises;
 - j. Cover how the health care institution will respond to a patient's sudden, intense, or out-of-control behavior to prevent harm to the patient or another individual;
 - k. Cover how incidents are reported and investigated; and
 - l. Designate which employees or personnel members are required to have current certification in cardiopulmonary resuscitation and first aid training;
3. Policies and procedures are reviewed at least once every three years and updated as needed;
 4. Policies and procedures are available to personnel members, employees, volunteers, and students; and
 5. Unless otherwise stated:
 - a. Documentation required by this Article is provided to the Department within two hours after the Department's request; and
 - b. When documentation or information is required by this Chapter to be submitted on behalf of a health care institution, the documentation or information is provided to the unit in the Department that is responsible for licensing and monitoring the health care institution.
- D.** If applicable, an administrator shall designate a clinical director who:
1. Provides direction for behavioral health services provided at the health care institution, and
 2. Is a behavioral health professional.
- E.** An administrator shall provide written notification to the Department of a patient's:
1. Death, if the patient's death is required to be reported according to A.R.S. § 11-593, within one working day after the patient's death; and
 2. Self-injury, within two working days after the patient inflicts a self-injury that requires immediate intervention by an emergency medical services provider.
- F.** If abuse, neglect, or exploitation of a patient is alleged or suspected to have occurred before the patient was admitted or while the patient is not on the premises and not receiving services from a health care institution's employee or personnel member, an administrator shall report the alleged or suspected abuse, neglect, or exploitation of the patient as follows:
1. For a patient 18 years of age or older, according to A.R.S. § 46-454; or
 2. For a patient under 18 years of age, according to A.R.S. § 13-3620.
- G.** If an administrator has a reasonable basis, according to A.R.S. § 13-3620 or 46-454, to believe abuse, neglect, or exploitation has occurred on the premises or while the patient is receiving unclassified healthcare services, the administrator shall:
1. If applicable, take immediate action to stop the suspected abuse, neglect, or exploitation;
 2. Report the suspected abuse, neglect, or exploitation of the patient:
 - a. For a patient 18 years of age or older, according to A.R.S. § 46-454; or
 - b. For a patient under 18 years of age, according to A.R.S. § 13-3620;
 3. Document:
 - a. The suspected abuse, neglect, or exploitation;
 - b. Any action taken according to subsection (G)(1); and
 - c. The report in subsection (G)(2);
 4. Maintain the documentation in subsection (G)(3) for at least 12 months after the date of the report in subsection (G)(2);
 5. Initiate an investigation of the suspected abuse, neglect, or exploitation and document the following information within five working days after the report required in (G)(2):
 - a. The dates, times, and description of the suspected abuse, neglect, or exploitation;
 - b. A description of any injury to the patient related to the suspected abuse or neglect and any change to the patient's physical, cognitive, functional, or emotional condition;
 - c. The names of witnesses to the suspected abuse, neglect, or exploitation; and
 - d. The action taken by the administrator to prevent the suspected abuse, neglect, or exploitation from occurring in the future; and
 6. Maintain a copy of the documented information required in subsection (G)(5) and any other information obtained during the investigation for at least 12 months after the date the investigation was initiated.
- H.** An administrator shall ensure that the following information or documents are conspicuously posted on the premises and are available upon request to a personnel member, an employee, a patient, or a patient's representative:
1. The health care institution's current license,
 2. The evacuation plan listed in R9-10-1711, and
 3. The location at which inspection reports required in R9-10-1712(B) are available for review or can be made available for review.

Historical Note

Adopted effective July 6, 1994 (Supp. 94-3). Amended by final rulemaking at 16 A.A.R. 688, effective November 1, 2010 (Supp. 10-2). Section amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1703. Quality Management

An administrator shall ensure that:

1. A plan is established, documented, and implemented for an ongoing quality management program that, at a minimum, includes:
 - a. A method to identify, document, and evaluate incidents;
 - b. A method to collect data to evaluate services provided to patients;

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- c. A method to evaluate the data collected to identify a concern about the delivery of services related to patient care;
- d. A method to make changes or take action as a result of the identification of a concern about the delivery of services related to patient care; and
- e. The frequency of submitting a documented report required in subsection (2) to the governing authority;
- 2. A documented report is submitted to the governing authority that includes:
 - a. An identification of each concern about the delivery of services related to patient care, and
 - b. Any changes made or actions taken as a result of the identification of a concern about the delivery of services related to patient care; and
- 3. The report required in subsection (2) and the supporting documentation for the report are maintained for at least 12 months after the date the report is submitted to the governing authority.

Historical Note

Adopted effective July 6, 1994 (Supp. 94-3). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1704. Contracted Services

An administrator shall ensure that:

- 1. Contracted services are provided according to the requirements in this Article,
- 2. Documented of current contracted services is maintained that includes a description of the contracted services provided.

Historical Note

Adopted effective July 6, 1994 (Supp. 94-3). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1705. Personnel

A. An administrator shall ensure that:

- 1. A personnel member is:
 - a. At least 21 years old, or
 - b. Licensed or certified under A.R.S. Title 32 and providing services within the personnel member's scope of practice;
- 2. An employee is at least 18 years old,
- 3. A student is at least 18 years old, and
- 4. A volunteer is at least 21 years old.

B. An administrator shall ensure that:

- 1. The qualifications, skills, and knowledge required for each type of personnel member:
 - a. Are based on:
 - i. The type of physical health services or behavioral health services expected to be provided by the personnel member according to the established job description, and
 - ii. The acuity of the patients receiving physical health services or behavioral health services from the personnel member according to the established job description; and
 - b. Include:

- i. The specific skills and knowledge necessary for the personnel member to provide the expected physical health services and behavioral health services listed in the established job description,
- ii. The type and duration of education that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services or behavioral health services listed in the established job description, and
- iii. The type and duration of experience that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services or behavioral health services listed in the established job description;

- 2. A personnel member's skills and knowledge are verified and documented:
 - a. Before the personnel member provides physical health services or behavioral health services, and
 - b. According to policies and procedures;
- 3. Sufficient personnel members are present on a health care institution's premises with the qualifications, skills, and knowledge necessary to:
 - a. Provide the services in the health care institution's scope of services,
 - b. Meet the needs of a patient, and
 - c. Ensure the health and safety of a patient.

C. An administrator shall ensure that:

- 1. A plan to provide orientation specific to the duties of a personnel member, employee, volunteer, and student is developed, documented, and implemented;
- 2. A personnel member completes orientation before providing behavioral health services or physical health services;
- 3. An individual's orientation is documented, to include:
 - a. The individual's name,
 - b. The date of the orientation, and
 - c. The subject or topics covered in the orientation;
- 4. A plan to provide in-service education specific to the duties of a personnel member is developed;
- 5. A personnel member's in-service education is documented, to include:
 - a. The personnel member's name,
 - b. The date of the training, and
 - c. The subject or topics covered in the training; and
- 6. A work schedule of each personnel member is developed and maintained at the health care institution for at least 12 months after the date of the work schedule.

D. An administrator shall ensure that a personnel member, or an employee, a volunteer, or a student who has or is expected to have direct interaction with a patient, provides evidence of freedom from infectious tuberculosis:

- a. On or before the date the individual begins providing services at or on behalf of the unclassified healthcare institution, and
- b. As specified in R9-10-113.

E. An administrator shall ensure that a personnel record is maintained for each personnel member, employee, volunteer, or student that includes:

- 1. The individual's name, date of birth, and contact telephone number;
- 2. The individual's starting date of employment or volunteer service and, if applicable, the ending date; and
- 3. Documentation of:

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- a. The individual's qualifications including skills and knowledge applicable to the individual's job duties;
 - b. The individual's education and experience applicable to the individual's job duties;
 - c. The individual's completed orientation and in-service education as required by policies and procedures;
 - d. The individual's license or certification, if the individual is required to be licensed or certified in this Article or policies and procedures;
 - e. If the health care institution provides services to children, the individual's compliance with the fingerprinting requirements in A.R.S. § 36-425.03;
 - f. Cardiopulmonary resuscitation training, if required for the individual according to R9-10-1702(C)(2)(I);
 - g. First aid training, if required for the individual according to this Article or policies and procedures; and
 - h. Evidence of freedom from infectious tuberculosis, if the individual is required to provide evidence of freedom according to subsection (D).
- F.** An administrator shall ensure that personnel records are:
- 1. Maintained:
 - a. Throughout an individual's period of providing services in or for the health care institution, and
 - b. For at least 24 months after the last date the individual provided services in or for the health care institution; and
 - 2. For a personnel member who has not provided physical health services or behavioral health services at or for the health care institution during the previous 12 months, provided to the Department within 72 hours after the Department's request.
- G.** An administrator shall ensure that at least one personnel member who is present at the health care institution during the hours of the health care institution operation has first-aid training and cardiopulmonary resuscitation certification specific to the populations served by the health care institution.

Historical Note

Adopted effective July 6, 1994 (Supp. 94-3). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1706. Transport; Transfer

- A.** Except as provided in subsection (B), an administrator shall ensure that:
- 1. A personnel member coordinates the transport and the services provided to the patient;
 - 2. According to policies and procedures:
 - a. An evaluation of the patient is conducted before and after the transport,
 - b. Information in the patient's medical record is provided to a receiving health care institution, and
 - c. A personnel member explains risks and benefits of the transport to the patient or the patient's representative; and
 - 3. Documentation in the patient's medical record includes:
 - a. Communication with an individual at a receiving health care institution;
 - b. The date and time of the transport;
 - c. The mode of transportation; and
 - d. If applicable, the personnel member accompanying the patient during a transport.

- B.** Subsection (A) does not apply to:
- 1. Transportation to a location other than a licensed health care institution,
 - 2. Transportation provided for a patient by the patient or the patient's representative,
 - 3. Transportation provided by an outside entity that was arranged for a patient by the patient or the patient's representative, or
 - 4. A transport to another licensed health care institution in an emergency.
- C.** Except for a transfer of a patient due to an emergency, an administrator shall ensure that:
- 1. A personnel member coordinates the transfer and the services provided to the patient;
 - 2. According to policies and procedures:
 - a. An evaluation of the patient is conducted before the transfer;
 - b. Information in the patient's medical record, including orders that are in effect at the time of the transfer, is provided to a receiving health care institution; and
 - c. A personnel member explains risks and benefits of the transfer to the patient or the patient's representative; and
 - 3. Documentation in the patient's medical record includes:
 - a. Communication with an individual at a receiving health care institution;
 - b. The date and time of the transfer;
 - c. The mode of transportation; and
 - d. If applicable, the name of the personnel member accompanying the patient during a transfer.

Historical Note

Adopted effective July 6, 1994 (Supp. 94-3). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1707. Patient Rights

- A.** An administrator shall ensure that:
- 1. The requirements in subsection (B) and the patient rights in subsection (C) are conspicuously posted on the premises;
 - 2. At the time of admission, a patient or the patient's representative receives a written copy of the requirements in subsection (B) and the patient rights in subsection (C); and
 - 3. Policies and procedures include:
 - a. How and when a patient or the patient's representative is informed of patient rights in subsection (C), and
 - b. Where patient rights are posted as required in subsection (A)(1).
- B.** An administrator shall ensure that:
- 1. A patient is treated with dignity, respect, and consideration;
 - 2. A patient is not subjected to:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Coercion;
 - e. Manipulation;
 - f. Sexual abuse;
 - g. Sexual assault;
 - h. Seclusion;

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- i. Restraint;
 - j. Retaliation for submitting a complaint to the Department or another entity; or
 - k. Misappropriation of personal and private property by the unclassified health care institution's personnel members, employees, volunteers, or students; and
 - 3. A patient or the patient's representative:
 - a. Is informed of the patient complaint process;
 - b. Consents to photographs of the patient before the patient is photographed, except that a patient may be photographed when admitted to a health care institution for identification and administrative purposes; and
 - c. Except as otherwise permitted by law, provides written consent to the release of information in the patient's:
 - i. Medical record, or
 - ii. Financial records.
 - C. A patient has the following rights:
 - 1. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, or diagnosis;
 - 2. To receive services that support and respect the patient's individuality, choices, strengths, and abilities;
 - 3. To receive privacy in care for personal needs;
 - 4. To review, upon written request, the patient's own medical record according to A.R.S. §§ 12-2293, 12-2294, and 12-2294.01;
 - 5. To receive a referral to another health care institution if the provider is not authorized or not able to provide physical health services or behavioral health services needed by the patient; and
 - 6. To receive assistance from a family member, representative, or other individual in understanding, protecting, or exercising the patient's rights.
- Historical Note**
- Adopted effective July 6, 1994 (Supp. 94-3). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).
- R9-10-1708. Medical Records**
- A. An administrator shall ensure that:
 - 1. A medical record is established and maintained for each patient according to A.R.S. Title 12, Chapter 13, Article 7.1;
 - 2. An entry in a patient's medical record is:
 - a. Recorded only by a personnel member authorized by policies and procedures to make the entry;
 - b. Dated, legible, and authenticated; and
 - c. Not changed to make the entry illegible;
 - 3. An order is:
 - a. Dated when the order is entered in the patient's medical record and includes the time of the order;
 - b. Authenticated by a medical practitioner or behavioral health professional according to policies and procedures; and
 - c. If the order is a verbal order, authenticated by the medical practitioner or behavioral health professional issuing the order;
 - 4. If a rubber-stamp signature or an electronic signature is used to authenticate an order, the individual whose signature the rubber-stamp signature or electronic signature represents is accountable for the use of the rubber-stamp signature or electronic signature;
 - 5. A patient's medical record is available to an individual:
 - a. Authorized according to policies and procedures to access the patient's medical record;
 - b. If the individual is not authorized according to policies and procedures, with the written consent of the patient or the patient's representative; or
 - c. As permitted by law;
 - 6. Policies and procedures include the maximum time-frame to retrieve a patient's medical record at the request of a medical practitioner, behavioral health professional, or authorized personnel member; and
 - 7. A patient's medical record is protected from loss, damage, or unauthorized use.
 - B. If a health care institution maintains a patient's medical records electronically, an administrator shall ensure that:
 - 1. Safeguards exist to prevent unauthorized access, and
 - 2. The date and time of an entry in a patient's medical record is recorded by the computer's internal clock.
 - C. An administrator shall ensure that a patient's medical record contains:
 - 1. Patient information that includes:
 - a. The patient's name;
 - b. The patient's address;
 - c. The patient's date of birth; and
 - d. Any known allergies, including medication allergies;
 - 2. The name of the admitting medical practitioner or behavioral health professional;
 - 3. The date of admission and, if applicable, the date of discharge;
 - 4. An admitting diagnosis;
 - 5. If applicable, the name and contact information of the patient's representative and:
 - i. Is a legal guardian, a copy of the court order establishing guardianship; or
 - ii. Has a health care power of attorney established under A.R.S. § 36-3221 or a mental health care power of attorney executed under A.R.S. § 36-3282, a copy of the health care power of attorney or mental health care power of attorney;
 - 6. If applicable, documented general consent and informed consent by the patient or the patient's representative;
 - 7. Documentation of medical history and results of a physical examination;
 - 8. A copy of the patient's health care directive, if applicable;
 - 9. Orders;
 - 10. Assessment;
 - 11. Treatment plans;
 - 12. Interval note;
 - 13. Progress notes;
 - 14. Documentation of health care institution services provided to the patient;
 - 15. Disposition of the patient after discharge;
 - 16. If applicable, documentation of any actions taken to control the patient's sudden, intense, or out-of-control behavior to prevent harm to the patient or another individual;
 - 17. Discharge plan;
 - 18. A discharge summary, if applicable;
 - 19. If applicable:

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- a. Laboratory reports,
 - b. Radiologic reports,
 - c. Diagnostic reports, and
 - d. Consultation reports; and
20. Documentation of a medication administered to the patient that includes:
- a. The date and time of administration;
 - b. The name, strength, dosage, and route of administration;
 - c. For a medication administered for pain, when initially administered or PRN:
 - i. An assessment of the patient's pain before administering the medication, and
 - ii. The effect of the medication administered;
 - d. For a psychotropic medication, when initially administered or PRN:
 - i. An assessment of the patient's behavior before administering the psychotropic medication, and
 - ii. The effect of the psychotropic medication administered;
 - e. The identification, signature, and professional designation of the individual administering or observing the self-administration of the medication; and
 - f. Any adverse reaction a patient has to the medication.

Historical Note

Adopted effective July 6, 1994 (Supp. 94-3). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1709. Medication Services

- A.** An administrator shall ensure that:
- 1. Policies and procedures for medication services include:
 - a. A process for providing information to a patient about medication prescribed for the patient including:
 - i. The prescribed medication's anticipated results,
 - ii. The prescribed medication's potential adverse reactions,
 - iii. The prescribed medication's potential side effects, and
 - iv. Potential adverse reactions that could result from not taking the medication as prescribed;
 - b. Procedures for preventing, responding to, and reporting a medication error;
 - c. Procedures for responding to and reporting an unexpected reaction to a medication;
 - d. Procedures to ensure that a patient's medication regimen and method of administration is reviewed by a medical practitioner and to ensure the medication regimen meets the patient's needs;
 - e. Procedures for:
 - i. Documenting, as applicable, medication administration and assistance in the self-administration of medication; and
 - ii. Monitoring a patient who self-administers medication;
 - f. Procedures for assisting a patient in obtaining medication; and
 - g. If applicable, procedures for providing medication administration or assistance in the self-administration of medication off the premises; and
 - 2. A process is specified for review through the quality management program of:
 - a. A medication administration error, and
 - b. An adverse reaction to a medication.
- B.** If a health care institution provides medication administration, an administrator shall ensure that:
- 1. Medication is stored by the health care institution;
 - 2. Policies and procedures for medication administration:
 - a. Are reviewed and approved by a medical practitioner;
 - b. Specify the individuals who may:
 - i. Order medication, and
 - ii. Administer medication;
 - c. Ensure that medication is administered to a patient only as prescribed; and
 - d. Cover the documentation of a patient's refusal to take prescribed medication in the patient's medical record;
 - 3. Verbal orders for medication services are taken by a nurse, unless otherwise provided by law; and
 - 4. A medication administered to a patient:
 - a. Is administered in compliance with an order, and
 - b. Is documented in the patient's medical record.
- C.** If a health care institution provides assistance in the self-administration of medication, an administrator shall ensure that:
- 1. A patient's medication is stored by the health care institution;
 - 2. The following assistance is provided to a patient:
 - a. A reminder when it is time to take the medication;
 - b. Opening the medication container for the patient;
 - c. Observing the patient while the patient removes the medication from the container;
 - d. Verifying that the medication is taken as ordered by the patient's medical practitioner by confirming that:
 - i. The patient taking the medication is the individual stated on the medication container label,
 - ii. The patient is taking the dosage of the medication as stated on the medication container label, and
 - iii. The patient is taking the medication at the time stated on the medication container label; or
 - e. Observing the patient while the patient takes the medication;
 - 3. Policies and procedures for assistance in the self-administration of medication are reviewed and approved by a medical practitioner or registered nurse;
 - 4. Training for a personnel member, other than a medical practitioner or registered nurse, in assistance in the self-administration of medication:
 - a. Is provided by a medical practitioner or registered nurse or an individual trained by a medical practitioner or registered nurse; and
 - b. Includes:
 - i. A demonstration of the personnel member's skills and knowledge necessary to provide assistance in the self-administration of medication,
 - ii. Identification of medication errors and medical emergencies related to medication that require emergency medical intervention, and
 - iii. Process for notifying the appropriate entities when an emergency medical intervention is needed;
 - 5. A personnel member, other than a medical practitioner or registered nurse, completes the training in subsection (C)(4) before the personnel member provides assistance in the self-administration of medication; and

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6. Assistance in the self-administration of medication provided to a patient:
 - a. Is in compliance with an order, and
 - b. Is documented in the patient's medical record.
- D.** An administrator shall ensure that:
 1. A current drug reference guide is available for use by personnel members;
 2. A current toxicology reference guide is available for use by personnel members; and
 3. If pharmaceutical services are provided on the premises:
 - a. A committee, composed of at least one physician, one pharmacist, and other personnel members as determined by policies and procedures, is established to:
 - i. Develop a drug formulary,
 - ii. Update the drug formulary at least once every 12 months,
 - iii. Develop medication usage and medication substitution policies and procedures, and
 - iv. Specify which medications and medication classifications are required to be automatically stopped after a specific time period unless the ordering medical practitioner specifically orders otherwise;
 - b. The pharmaceutical services are provided under the direction of a pharmacist;
 - c. The pharmaceutical services comply with A.R.S. Title 36, Chapter 27; A.R.S. Title 32, Chapter 18; and 4 A.A.C. 23; and
 - d. A copy of the pharmacy license is provided to the Department upon request.
- E.** When medication is stored at a health care institution, an administrator shall ensure that:
 1. Medication is stored in a separate locked room, closet, or self-contained unit used only for medication storage;
 2. Medication is stored according to the instructions on the medication container; and
 3. Policies and procedures are established, documented, and implemented to protect the health and safety of a patient for:
 - a. Receiving, storing, inventorying, tracking, dispensing, and discarding medication including expired medication;
 - b. Discarding or returning prepackaged and sample medication to the manufacturer if the manufacturer requests the discard or return of the medication;
 - c. A medication recall and notification of patients who received recalled medication; and
 - d. Storing, inventorying, and dispensing controlled substances.
- F.** An administrator shall ensure that a personnel member immediately reports a medication error or a patient's adverse reaction to a medication to the medical practitioner who ordered the medication and, if applicable, the health care institution's clinical director.

Historical Note

Adopted effective July 6, 1994 (Supp. 94-3). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1710. Food Services

If food services are provided, an administrator shall ensure:

1. Food is obtained, handled, and stored to prevent contamination, spoilage, or a threat to the health of a patient;
2. Three nutritionally balanced meals are served each day;
3. Nutritious snacks are available between meals;
4. Food served meets any special dietary needs of a patient as prescribed by the patient's physician or dietitian; and
5. Chemicals and detergents are not stored with food.

Historical Note

Adopted effective July 6, 1994 (Supp. 94-3). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

R9-10-1711. Emergency and Safety Standards

- A.** An administrator shall ensure that:
 1. A first aid kit is available at a health care institution;
 2. If a firearm or ammunition for a firearm are stored at a health care institution:
 - a. The firearm is stored separate from the ammunition for the firearm; and
 - b. The firearm and the ammunition for the firearm are:
 - i. Stored in a locked closet, cabinet, or container; and
 - ii. Inaccessible to a patient;
 3. If applicable, there is a smoke detector installed in:
 - a. A bedroom used by a patient,
 - b. A hallway in a health care institution, and
 - c. A health care institution's kitchen;
 4. A smoke detector required in subsection (A)(3):
 - a. Is maintained in operable condition; and
 - b. Is battery operated or, if hard-wired into the electrical system of a health care institution, has a back-up battery;
 5. A health care institution has a portable fire extinguisher that is labeled 1A-10-BC by the Underwriters Laboratory and is available to a personnel member;
 6. A portable fire extinguisher required in subsection (A)(5) is:
 - a. If a disposable fire extinguisher, replaced when the fire extinguisher's indicator reaches the red zone; or
 - b. Serviced at least once every 12 months and has a tag attached to the fire extinguisher that includes the date of service;
 7. A written evacuation plan is maintained and available for use by personnel members and any patient in a health care institution;
 8. An evacuation drill is conducted at least once every six months; and
 9. A record of an evacuation drill required in subsection (A)(8) is maintained for at least 12 months after the date of the evacuation drill.
- B.** An administrator shall:
 1. Obtain a fire inspection conducted according to the time-frame established by the local fire department or the State Fire Marshal,
 2. Make any repairs or corrections stated on the fire inspection report, and
 3. Maintain documentation of a current fire inspection.

Historical Note

Adopted effective July 24, 1978 (Supp. 78-4). Section repealed; new Section adopted effective July 6, 1994 (Supp. 94-3). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1712. Physical Plant, Environmental Services, and Equipment Standards

A. If applicable, an administrator shall ensure that a health care institution:

1. Is in a building that:
 - a. Has a certificate of occupancy from the local jurisdiction; and
 - b. Is free of any plumbing, electrical, ventilation, mechanical, or structural hazard that may jeopardize the health or safety of a patient;
2. Has a living room accessible at all times to a patient;
3. Has a dining area furnished for group meals that is accessible to the provider, patients, and any other individuals present in the health care institution;
4. Has:
 - a. At least one bathroom for each six individuals residing in the health care institution, including patients; and
 - b. A bathroom accessible for use by a patient that contains:
 - i. A working sink with running water, and
 - ii. A working toilet that flushes and has a seat; and
5. Has equipment and supplies to maintain a patient's personal hygiene that are accessible to the patient.

B. An administrator shall ensure that:

1. A health care institution's premises are:
 - a. Sufficient to provide the health care institution's scope of services;
 - b. Cleaned and disinfected according to the health care institution's policies and procedures to prevent, minimize, and control illness and infection;
 - c. Clean and free from accumulations of dirt, garbage, and rubbish; and
 - d. Free from a condition or situation that may cause an individual to suffer physical injury;
2. If a health care institution collects urine or stool specimens from a patient, the health care institution has at least one bathroom that:
 - a. Contains:
 - i. A working sink with running water,
 - ii. A working toilet that flushes and has a seat,
 - iii. Toilet tissue,
 - iv. Soap for hand washing,
 - v. Paper towels or a mechanical air hand dryer,
 - vi. Lighting, and
 - vii. A means of ventilation; and
 - b. Is for the exclusive use of the health care institution;
3. A pest control program is implemented and documented;
4. If pets or animals are allowed in the health care institution, pets or animals are:
 - a. Controlled to prevent endangering the patients and to maintain sanitation;
 - b. Licensed consistent with local ordinances; and
 - c. For a dog or a cat, vaccinated against rabies;
5. A smoke-free environment is maintained on the premises;
6. A refrigerator used to store a medication is:
 - a. Maintained in working order, and
 - b. Only used to store medications;
7. Equipment at the health care institution is:
 - a. Sufficient to provide the health care institution's scope of service;
 - b. Maintained in working condition;
 - c. Used according to the manufacturer's recommendations; and
 - d. If applicable, tested and calibrated according to the manufacturer's recommendations or, if there are no

manufacturer's recommendations, as specified in policies and procedures;

8. Documentation of an equipment test, calibration, and repair is maintained for at least 12 months after the date of testing, calibration, or repair; and
9. Combustible or flammable liquids and hazardous materials stored by the health care institution are stored in the original labeled containers or safety containers in a storage area that is locked and inaccessible to patients.

Historical Note

Adopted effective July 24, 1978 (Supp. 78-4). Section repealed, new Section adopted effective July 6, 1994 (Supp. 94-3). Section repealed; new Section adopted effective July 6, 1994 (Supp. 94-3). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1713. Repealed**Historical Note**

Adopted effective July 24, 1978 (Supp. 78-4). Section repealed, new Section adopted effective July 6, 1994 (Supp. 94-3). Section repealed by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

R9-10-1714. Reserved**R9-10-1715. Repealed****Historical Note**

Adopted effective July 24, 1978 (Supp. 78-4). Repealed effective July 6, 1994 (Supp. 94-3).

R9-10-1716. Repealed**Historical Note**

Adopted effective July 24, 1978 (Supp. 78-4). Repealed effective July 6, 1994 (Supp. 94-3).

R9-10-1717. Repealed**Historical Note**

Adopted effective July 24, 1978 (Supp. 78-4). Repealed effective July 6, 1994 (Supp. 94-3).

R9-10-1718. Repealed**Historical Note**

Adopted effective July 24, 1978 (Supp. 78-4). Repealed effective July 6, 1994 (Supp. 94-3).

R9-10-1719. Repealed**Historical Note**

Adopted effective July 24, 1978 (Supp. 78-4). Repealed effective July 6, 1994 (Supp. 94-3).

R9-10-1720. Repealed**Historical Note**

Adopted effective July 24, 1978 (Supp. 78-4). Repealed effective July 6, 1994 (Supp. 94-3).

R9-10-1721. Repealed**Historical Note**

Adopted effective July 24, 1978 (Supp. 78-4). Repealed effective July 6, 1994 (Supp. 94-3).

R9-10-1722. Repealed**Historical Note**

Adopted effective July 24, 1978 (Supp. 78-4). Repealed effective July 6, 1994 (Supp. 94-3).

R9-10-1723. Repealed**Historical Note**

Adopted effective July 24, 1978 (Supp. 78-4). Repealed effective July 6, 1994 (Supp. 94-3).

R9-10-1724. Reserved**R9-10-1725. Reserved****R9-10-1726. Reserved****R9-10-1727. Reserved****R9-10-1728. Reserved****R9-10-1729. Reserved****R9-10-1730. Reserved****R9-10-1731. Repealed****Historical Note**

Adopted effective July 24, 1978 (Supp. 78-4). Repealed effective July 6, 1994 (Supp. 94-3).

R9-10-1732. Repealed**Historical Note**

Adopted effective July 24, 1978 (Supp. 78-4). Repealed effective July 6, 1994 (Supp. 94-3).

R9-10-1733. Repealed**Historical Note**

Adopted effective July 24, 1978 (Supp. 78-4). Corrections: R9-10-1733(B)(2), correction in spelling, "architectural"; R9-10-1733(C)(1)(d), 100 square feet, corrected to read "1000" square feet, as certified effective July 24, 1978 (Supp. 87-2). Repealed effective July 6, 1994 (Supp. 94-3).

R9-10-1734. Repealed**Historical Note**

Adopted effective July 24, 1978 (Supp. 78-4). Repealed effective July 6, 1994 (Supp. 94-3).

ARTICLE 18. ADULT BEHAVIORAL HEALTH THERAPEUTIC HOMES

R9-10-1801. Definitions

In addition to the definitions in A.R.S. § 36-401 and R9-10-101, the following definitions apply in this Article unless otherwise specified:

1. "Acceptance" means, after a referral from a collaborating health care institution, an individual begins to live in and receive services from a provider in an adult behavioral health therapeutic home.
2. "Backup provider" means an individual designated by a provider to be present in an adult behavioral health therapeutic home, when a provider is not present, who ensures that a resident receives the behavioral health services and ancillary services in the resident's treatment plan.
3. "Provider" means an individual who lives in an adult behavioral health therapeutic home and ensures that a resident receives the behavioral health services and ancillary services in the resident's treatment plan.
4. "Release" means a documented termination of services to a resident by a provider that is authorized by a collaborating health care institution.

5. "Resident" means an individual referred by a collaborating health care institution to and accepted by an adult behavioral health therapeutic home.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1802. Supplemental Application Requirements

In addition to the license application requirements in A.R.S. § 36-422 and 9 A.A.C. 10, Article 1, an applicant shall include, in a format provided by the Department:

1. The name of the backup provider; and
2. For the adult behavioral health therapeutic home's collaborating health care institution:
 - a. Name,
 - b. Address,
 - c. Class or subclass,
 - d. License number, and
 - e. Name and contact information for an individual assigned by the collaborating health care institution to monitor the adult behavioral health therapeutic home.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1803. Administration

- A governing authority of an adult behavioral health therapeutic home:
 1. Consists of no more than two providers, who live in the adult behavioral health therapeutic home;
 2. Has the authority and responsibility to manage the adult behavioral health therapeutic home;
 3. Has a documented agreement with a collaborating health care institution that establishes the responsibilities of the adult behavioral health therapeutic home and the collaborating health care institution, consistent with the requirements in this Chapter;
 4. Shall establish, in writing, the adult behavioral health therapeutic home's scope of services, which are approved by the collaborating health care institution;
 5. Shall designate a back-up provider to be present in the adult behavioral health therapeutic home and accountable for services provided by the adult behavioral health therapeutic home when the provider is not present at the adult behavioral health therapeutic home; and
 6. Shall ensure that:
 - a. No more than three residents are accepted by the adult behavioral health therapeutic home;
 - b. Documentation required by this Article is provided to the Department within two hours after a Department request; and
 - c. When documentation or information is required by this Chapter to be submitted on behalf of the adult behavioral health therapeutic home, the documentation or information is provided to the unit in the Department that is responsible for licensing the adult behavioral health therapeutic home.
- B. A provider or back-up provider:
 1. Is at least 21 years of age;
 2. Holds current certification in cardiopulmonary resuscitation and first aid training applicable to the ages of residents;

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3. Has the skills and knowledge established by the collaborating health care institution as specified in R9-10-118;
 4. Has documentation of completion of training in assistance in the self-administration of medication as specified in R9-10-118; and
 5. Has documentation of evidence of freedom from infectious tuberculosis:
 - a. On or before the date the provider or back-up provider begins providing services at or on behalf of the adult behavioral health therapeutic home, and
 - b. As specified in R9-10-113.
- C.** A provider shall ensure that policies and procedures are:
1. Established, documented, and implemented to protect the health and safety of a resident that cover:
 - a. Recordkeeping;
 - b. Resident acceptance and release;
 - c. Resident rights;
 - d. The provision of services, including coordinating the provision of behavioral health services;
 - e. Residents' medical records, including electronic medical records;
 - f. Assistance in the self-administration of medication;
 - g. Infection control; and
 - h. How a provider will respond to a resident's sudden, intense, or out-of-control behavior to prevent harm to the resident or another individual;
 2. Approved, in writing, by an adult behavioral health therapeutic home's collaborating health care institution before implementation and when the policies and procedures are reviewed or updated; and
 3. Reviewed by the provider and an adult behavioral health therapeutic home's collaborating health care institution at least once every three years and updated as needed.
- D.** A provider shall provide written notification to the Department and the adult behavioral health therapeutic home's collaborating health care institution of a resident's:
1. Death, if the resident's death is required to be reported according to A.R.S. § 11-593, within one working day after the resident's death; and
 2. Self-injury, within two working days after the resident inflicts a self-injury that requires immediate intervention by an emergency medical services provider.
- E.** If abuse, neglect, or exploitation of a resident is alleged or suspected to have occurred before the resident was accepted or while the resident is not at an adult behavioral health therapeutic home and not receiving services from the adult behavioral health therapeutic home, a provider shall report the alleged or suspected abuse, neglect, or exploitation of the resident according to A.R.S. § 46-454.
- F.** If a provider has a reasonable basis, according to A.R.S. § 46-454, to believe abuse, neglect, or exploitation has occurred on the premises or while a resident is receiving adult behavioral health therapeutic services, the provider shall:
1. If applicable, take immediate action to stop the suspected abuse, neglect, or exploitation;
 2. Immediately report the suspected abuse, neglect, or exploitation of the resident as follows:
 - a. To the adult behavioral health therapeutic home's collaborating health care institution; and
 - b. According to A.R.S. § 46-454;
 3. Document:
 - a. The suspected abuse, neglect, or exploitation;
 - b. Any action taken according to subsection (F)(1); and
 - c. The report in subsection (F)(2);
4. Maintain the documentation in subsection (F)(3) for at least 12 months after the date of the report in subsection (F)(2);
 5. Initiate an investigation of the suspected abuse, neglect, or exploitation and document the following information within five working days after the report required in subsection (F)(2):
 - a. The dates, times, and description of the suspected abuse, neglect, or exploitation;
 - b. A description of any injury to the resident related to the suspected abuse or neglect and any change to the resident's physical, cognitive, functional, or emotional condition;
 - c. The names of witnesses to the suspected abuse, neglect, or exploitation; and
 - d. The actions taken by the provider to prevent the suspected abuse, neglect, or exploitation from occurring in the future; and
 6. Maintain a copy of the documented information required in subsection (F)(5) and any other information obtained during the investigation for at least 12 months after the date the investigation was initiated.
- G.** A provider shall maintain a record for each provider and backup provider that includes:
1. For the provider and the backup provider:
 - a. Name;
 - b. Date of birth;
 - c. Contact telephone number; and
 - d. Documentation of:
 - i. Verification of skills and knowledge, completed by the adult behavioral health therapeutic home's collaborating health care institution;
 - ii. Certification in cardiopulmonary resuscitation and first aid training;
 - iii. Completion of training in assistance in the self-administration of medication, provided by the adult behavioral health therapeutic home's collaborating health care institution;
 - iv. If the provider or backup provider provides behavioral health services, clinical oversight as required in R9-10-1805(C); and
 - v. Evidence of freedom from infectious tuberculosis; and
 2. For the backup provider, home address.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1804. Resident Rights**A.** A provider shall ensure that:

1. A resident is treated with dignity, respect, and consideration;
2. A resident is not subjected to:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Coercion;
 - e. Manipulation;
 - f. Sexual abuse;
 - g. Sexual assault;
 - h. Seclusion;
 - i. Restraint;
 - j. Retaliation for submitting a complaint to the Department or another entity; or

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- k. Misappropriation of personal and private property by:
 - i. An adult behavioral health therapeutic home's provider or backup provider, or
 - ii. An individual other than a resident residing in the adult behavioral health therapeutic home; and
 - 3. A resident or the resident's representative:
 - a. Is informed of the resident complaint process;
 - b. Consents to photographs of the resident before the resident is photographed, except that the resident may be photographed when accepted by an adult behavioral health therapeutic home for identification and administrative purposes; and
 - c. Except as otherwise permitted by law, provides written consent to the release of information in the resident's medical record.
- B.** A resident has the following rights:
 - 1. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, or diagnosis;
 - 2. To receive services that support and respect the resident's individuality, choices, strengths, and abilities;
 - 3. To receive privacy in care for personal needs;
 - 4. To review, upon written request, the resident's own medical record according to A.R.S. §§ 12-2293, 12-2294, and 12-2294.01;
 - 5. To receive a referral to another health care institution if the provider is not authorized or not able to provide physical health services or behavioral health services needed by the resident; and
 - 6. To receive assistance from a family member, resident's representative, or other individual in understanding, protecting, or exercising the resident's rights.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1805. Providing Services

- A.** A provider shall ensure that behavioral health services and ancillary services are provided to a resident according to the resident's treatment plan obtained from the adult behavioral health therapeutic home's collaborating health care institution.
- B.** A provider shall submit documentation of any significant change in a resident's behavior or physical, cognitive, or functional condition and the action taken by the provider to address the resident's changing needs to the adult behavioral health therapeutic home's collaborating health care institution or, if applicable, the resident's case manager.
- C.** A provider who provides behavioral health services to a resident:
 - 1. For the purpose of an exception to licensing in A.R.S. § 32-3271, is considered a behavioral health technician; and
 - 2. Shall comply with the requirements for clinical oversight for a behavioral health technician in R9-10-115.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1806. Assistance in the Self-Administration of Medication

- A.** If a provider provides assistance in the self-administration of medication, the provider shall ensure that:

- 1. If a resident is receiving assistance in the self-administration of medication, the resident's medication is stored by the provider;
 - 2. The following assistance is provided to a resident:
 - a. A reminder when it is time to take the medication;
 - b. Opening the medication container or medication organizer for the resident;
 - c. Observing the resident while the resident removes the medication from the medication container or medication organizer;
 - d. Verifying that the medication is taken as ordered by the resident's medical practitioner by confirming that:
 - i. The resident taking the medication is the individual stated on the medication container label,
 - ii. The resident is taking the dosage of the medication as stated on the medication container label, and
 - iii. The resident is taking the medication at the time stated on the medication container label; or
 - e. Observing the resident while the resident takes the medication; and
 - 3. Assistance in the self-administration of medication provided to a resident is documented in the resident's medical record.
- B.** When medication is stored by a provider, the provider shall ensure that:
 - 1. A locked cabinet, closet, or self-contained unit is used for medication storage;
 - 2. Medication is stored according to the instructions on the medication container; and
 - 3. Medication, including expired medication, that is no longer being used is discarded.
- C.** A provider shall immediately report a medication error or a resident's adverse reaction to a medication to the:
 - 1. Medical practitioner who ordered the medication, or
 - 2. Contact individual at an adult behavioral health therapeutic home's collaborating health care institution.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1807. Medical Records

- A.** A provider shall ensure that:
 - 1. A medical record is established and maintained for each resident according to A.R.S. Title 12, Chapter 13, Article 7.1;
 - 2. An entry in a resident's medical record is:
 - a. Only recorded by the provider or individual designated by the provider to record an entry;
 - b. Dated, legible, and authenticated; and
 - c. Not changed to make the initial entry illegible;
 - 3. A resident's medical record is available to an individual:
 - a. Authorized by policies and procedures to access the resident's medical record;
 - b. If the individual is not authorized according to policies and procedures, with the written consent of the resident or the resident's representative; or
 - c. As permitted by law; and
 - 4. A resident's medical record is protected from loss, damage, or unauthorized use.
- B.** If a provider maintains residents' medical records electronically, the provider shall ensure that safeguards exist to prevent unauthorized access.

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- C. A provider shall ensure that a resident's medical record contains:
1. Resident information that includes:
 - a. The resident's name,
 - b. The resident's date of birth,
 - c. Any known allergies, and
 - d. Medication information for the resident;
 2. The names, addresses, and telephone numbers of:
 - a. The resident's medical practitioner;
 - b. The resident's case manager, if applicable;
 - c. The behavioral health professional assigned to the resident by the adult behavioral health therapeutic home's collaborating health care institution; and
 - d. An individual to be contacted in the event of an emergency;
 3. The date of the resident's acceptance by the adult behavioral health therapeutic home and, if applicable, the date of the resident's release from the adult behavioral health therapeutic home;
 4. If applicable, the name and contact information of the resident's representative and:
 - a. The document signed by the resident consenting for the resident's representative to act on the resident's behalf; or
 - b. If the resident's representative:
 - i. Has a health care power of attorney established under A.R.S. § 36-3221 or a mental health care power of attorney executed under A.R.S. § 36-3282, a copy of the health care power of attorney or mental health care power of attorney; or
 - ii. Is a legal guardian, a copy of the court order establishing guardianship;
 5. A copy of the resident's treatment plan and any updates to the resident's treatment plan, obtained from the adult behavioral health therapeutic home's collaborating health care institution;
 6. For a resident receiving assistance in the self-administration of medication, documentation that includes for each medication:
 - a. The date and time of assistance;
 - b. The name, strength, dosage, and route of administration;
 - c. The provider's signature or first and last initials; and
 - d. Any adverse reaction the resident has to the medication;
 7. Documentation of the resident's refusal of a medication, if applicable;
 8. Documentation of any significant change in a resident's behavior or physical, cognitive, or functional condition and the action taken by a provider to address the resident's changing needs;
 9. If applicable, documentation of any actions taken to control the resident's sudden, intense, or out-of-control behavior to prevent harm to the resident or another individual; and
 10. If applicable, a written notice of termination of residency.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1808. Food Services

A provider shall ensure that:

1. Food is obtained, handled, and stored to prevent contamination, spoilage, or a threat to the health of a resident;
2. Three nutritionally balanced meals are served each day;

3. Nutritious snacks are available between meals;
4. Food served meets any special dietary needs of a resident as prescribed by the resident's physician or registered dietitian; and
5. Chemicals or detergents are not stored with food.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1809. Emergency and Safety Standards

A provider shall ensure that:

1. A first aid kit is available at an adult behavioral health therapeutic home sufficient to meet the needs of residents;
2. If a firearm or ammunition for a firearm is stored at an adult behavioral health therapeutic home:
 - a. The firearm is stored separate from the ammunition for the firearm; and
 - b. The firearm and the ammunition for the firearm are:
 - i. Stored in a locked closet, cabinet, or container; and
 - ii. Inaccessible to a resident;
3. A smoke detector is installed in:
 - a. A bedroom used by a resident,
 - b. A hallway in an adult behavioral health therapeutic home, and
 - c. An adult behavioral health therapeutic home's kitchen;
4. A smoke detector required in subsection (3):
 - a. Is maintained in operable condition; and
 - b. Is battery operated or, if hard-wired into the electrical system of an adult behavioral health therapeutic home, has a back-up battery;
5. An adult behavioral health therapeutic home has a portable fire extinguisher that is labeled 1A-10-BC by the Underwriters Laboratory and available in the adult behavioral health therapeutic home's kitchen;
6. A portable fire extinguisher required in subsection (5) is:
 - a. If a disposable fire extinguisher, replaced when the fire extinguisher's indicator reaches the red zone; or
 - b. Serviced at least once every 12 months and has a tag attached to the fire extinguisher that includes the date of service;
7. A written evacuation plan is maintained and available for use by the provider and any resident in an adult behavioral health therapeutic home;
8. An evacuation drill is conducted at least once every six months; and
9. A record of an evacuation drill required in subsection (8) is maintained for at least one year after the date of the evacuation drill.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1810. Physical Plant, Environmental Services, and Equipment Standards

A. A provider shall ensure that an adult behavioral health therapeutic home:

1. Is in a building that:
 - a. Is arranged, designed, and used for the living, sleeping, and housekeeping activities for one family on a permanent basis; and

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- b. Is free of any plumbing, electrical, ventilation, mechanical, chemical, or structural hazard that may jeopardize the health or safety of a resident;
 - 2. Has a living room accessible at all times to a resident;
 - 3. Has a dining area furnished for group meals that is accessible to the provider, residents, and any other individuals present in the adult behavioral health therapeutic home;
 - 4. For each six individuals residing in the adult behavioral health therapeutic home, including residents, has at least one bathroom equipped with:
 - a. A working toilet that flushes and has a seat; and
 - b. A sink with running water accessible for use by a resident;
 - 5. Has equipment and supplies to maintain a resident's personal hygiene that are accessible to the resident;
 - 6. Is clean and free from accumulations of dirt, garbage, and rubbish; and
 - 7. Implements a pest control program to minimize the presence of insects and vermin at the adult behavioral health therapeutic home.
- B.** A provider shall ensure that pets and animals are:
 - 1. Controlled to prevent endangering the residents and to maintain sanitation;
 - 2. Licensed consistent with local ordinances; and
 - 3. For a dog or cat, vaccinated against rabies.
- C.** If a swimming pool is located on the premises, a provider shall ensure that:
 - 1. The swimming pool is equipped with the following:
 - a. An operational water circulation system that clarifies and disinfects the swimming pool water continuously and that includes at least:
 - i. A removable strainer,
 - ii. Two swimming pool inlets located on opposite sides of the swimming pool, and
 - iii. A drain located at the swimming pool's lowest point and covered by a grating that cannot be removed without using tools; and
 - b. An operational cleaning system;
 - 2. The swimming pool is enclosed by a wall or fence that:
 - a. Is at least five feet in height as measured on the exterior of the wall or fence;
 - b. Has no vertical openings greater than four inches across;
 - c. Has no horizontal openings, except as described in subsection (C)(2)(e);
 - d. Is not chain-link;
 - e. Does not have a space between the ground and the bottom fence rail that exceeds four inches in height; and
 - f. Has a self-closing, self-latching gate that:
 - i. Opens away from the swimming pool,
 - ii. Has a latch located at least 54 inches from the ground, and
 - iii. Is locked when the swimming pool is not in use; and
 - 3. A life preserver or shepherd's crook is available and accessible in the pool area.
- D.** A provider shall ensure that a spa that is not enclosed by a wall or fence as described in subsection (C)(2) is covered and locked when not in use.
- E.** A provider shall ensure that:
 - 1. A bedroom for use by a resident:
 - a. Is separated from a hall, corridors, or other habitable room by floor-to-ceiling walls containing no interior openings except doors and is not used as a passageway to another bedroom or habitable room;
 - b. Provides sufficient space for an individual in the bedroom to have unobstructed access to the bedroom door;
 - c. Contains for each resident using the bedroom:
 - i. A separate, adult-sized, single bed or larger bed with a clean mattress in good repair;
 - ii. Clean bedding appropriate for the season; and
 - iii. An individual dresser and closet for storage of personal possessions and clothing; and
 - d. If used for:
 - i. Single occupancy, contains at least 60 square feet of floor space; or
 - ii. Double occupancy, contains at least 100 square feet of floor space; and
- 2. A mirror is available to a resident for grooming;
- 3. A resident does not share a bedroom with an individual who is not a resident;
- 4. No more than two residents share a bedroom;
- 5. If two residents share a bedroom, each resident agrees, in writing, to share the bedroom; and
- 6. A resident's bedroom is not used to store anything other than the furniture and articles used by the resident and the resident's belongings.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

ARTICLE 19. COUNSELING FACILITIES**R9-10-101. Definitions**

In addition to the definitions in A.R.S. § 36-401 and R9-10-101, the following definitions apply in this Article:

- 1. "Affiliated counseling facility" means a counseling facility that shares administrative support with one or more other counseling facilities that operate under the same governing authority.
- 2. "Affiliated outpatient treatment center" means an outpatient treatment center authorized by the Department to provide behavioral health services that provides administrative support to a counseling facility or counseling facilities that operate under the same governing authority as the outpatient treatment center.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 3535, pursuant to Laws 2014, Ch. 233, § 5; effective January 1, 2015 (Supp. 14-4).

R9-10-102. Supplemental Application Requirements

In addition to the license application requirements in A.R.S. § 36-422 and 9 A.A.C. 10, Article 1, a governing authority applying for an initial license as a counseling facility shall submit, in a format provided by the Department:

- 1. The days and hours of clinical operation and, if different from the days and hours of clinical operation, the days and hours of administrative operation;
- 2. If applicable, a request to provide one of more of the following:
 - a. DUI screening,
 - b. DUI education,
 - c. DUI treatment, or
 - d. Misdemeanor domestic violence offender treatment;
- 3. Whether the counseling facility has an affiliated outpatient treatment center;
- 4. If the counseling facility has an affiliated outpatient treatment center:

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- a. The affiliated outpatient treatment center's name; and
- b. Either:
 - i. The license number assigned to the affiliated outpatient treatment center by the Department; or
 - ii. If the affiliated outpatient treatment center is not currently licensed, the:
 - (1) Street address of the affiliated outpatient treatment center, and
 - (2) Date the affiliated outpatient treatment center submitted to the Department an initial application for a health care institution license;
5. Whether the counseling facility is sharing administrative support with an affiliated counseling facility; and
6. If the counseling facility is sharing administrative support with an affiliated counseling facility, for each affiliated counseling facility sharing administrative support with the counseling facility:
 - a. The affiliated counseling facility's name; and
 - b. Either:
 - i. The license number assigned to the affiliated counseling facility by the Department; or
 - ii. If the affiliated counseling facility is not currently licensed, the:
 - (1) Street address of the affiliated counseling facility, and
 - (2) Date the affiliated counseling facility submitted to the Department an initial application for a health care institution license.
2. Has the authority and responsibility to manage the counseling facility; and
3. Except as provided in subsection (A)(6), designates in writing, an individual who is present on the counseling facility's premises and accountable for the counseling facility when the administrator is not available.
- C. An administrator or the administrator of the counseling facility's affiliated outpatient treatment center shall establish policies and procedures to protect the health and safety of a patient that:
 1. Cover job descriptions, duties, and qualifications, including required skills, knowledge, education, and experience, for personnel members, employees, volunteers, and students;
 2. Cover orientation and in-service education for personnel members, employees, volunteers, and students;
 3. Include how a personnel member may submit a complaint relating to services provided to a patient;
 4. Cover the requirements in Title 36, Chapter 4, Article 11;
 5. Cover patient screening, admission, assessment, discharge planning, and discharge;
 6. Cover medical records;
 7. Cover the provision of counseling and any services listed in the counseling facility's scope of services;
 8. Include when general consent and informed consent are required;
 9. Cover telemedicine, if applicable;
 10. Cover specific steps for:
 - a. A patient or a patient's representative to file a complaint, and
 - b. A counseling facility to respond to a complaint; and
 11. Cover how personnel members will respond to a patient's sudden, intense, or out-of-control behavior to prevent harm to the patient or another individual.
- D. An administrator shall ensure that:
 1. Policies and procedures established according to subsection (C) are documented and implemented;
 2. Counseling facility policies and procedures are:
 - a. Reviewed at least once every three years and updated as needed, and
 - b. Available to personnel members and employees;
 3. Unless otherwise stated:
 - a. Documentation required by this Article is maintained and provided to the Department within two hours after a Department request; and
 - b. When documentation or information is required by this Chapter to be submitted on behalf of a counseling facility, the documentation or information is provided to the unit in the Department that is responsible for licensing and monitoring the counseling facility;
 4. The following are conspicuously posted:
 - a. The current license for the counseling facility issued by the Department;
 - b. The name, address, and telephone number of the Department;
 - c. A notice that a patient may file a complaint with the Department about the counseling facility;
 - d. A list of patient rights;
 - e. A map for evacuating the facility; and
 - f. A notice identifying the location on the premises where current license inspection reports required in A.R.S. § 36-425(H), with patient information redacted, are available;
 5. Patient follow-up instructions are:

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 3535, pursuant to Laws 2014, Ch. 233, § 5; effective January 1, 2015 (Supp. 14-4).

R9-10-1903. Administration

- A. A governing authority shall:
 1. Consist of one of more individuals accountable for the organization, operation, and administration of a counseling facility;
 2. Establish, in writing:
 - a. A counseling facility's scope of services, and
 - b. Qualifications for an administrator;
 3. Designate, in writing, an administrator who has the qualifications established in subsection (A)(2)(b);
 4. Adopt a quality management program according to R9-10-1904;
 5. Review and evaluate the effectiveness of the quality management program in R9-10-1904 at least once every 12 months;
 6. Designate, in writing, an acting administrator who has the qualifications established in subsection (A)(2)(b) if the administrator is:
 - a. Expected not to be present on the premises for more than 30 calendar days, or
 - b. Not present on the premises for more than 30 calendar days; and
 7. Except as provided in subsection (A)(6), notify the Department according to A.R.S. § 36-425(I) when there is a change in an administrator and identify the name and qualifications of the new administrator.
- B. An administrator:
 1. Is directly accountable to the governing authority for the daily operation of the counseling facility and all services provided by or at the counseling facility;

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- a. Provided, orally or in written form, to a patient or the patient's representative before the patient leaves the counseling facility unless the patient leaves against a personnel member's advice; and
 - b. Documented in the patient's medical record; and
- 6. Cardiopulmonary resuscitation training includes a demonstration of the individual's ability to perform cardiopulmonary resuscitation.
- E. If abuse, neglect, or exploitation of a patient is alleged or suspected to have occurred before the patient was admitted or while the patient is not on the premises and not receiving services from a counseling facility's employee or personnel member, an administrator shall report the alleged or suspected abuse, neglect, or exploitation of the patient as follows:
 - 1. For a patient 18 years of age or older, according to A.R.S. § 46-454; or
 - 2. For a patient under 18 years of age, according to A.R.S. § 13-3620.
- F. If an administrator has a reasonable basis, according to A.R.S. §§ 13-3620 or 46-454, to believe that abuse, neglect, or exploitation has occurred on the premises or while a patient is receiving services from a counseling facility's employee or personnel member, an administrator shall:
 - 1. If applicable, take immediate action to stop the suspected abuse, neglect, or exploitation;
 - 2. Report the suspected abuse, neglect, or exploitation of the patient as follows:
 - a. For a patient 18 years of age or older, according to A.R.S. § 46-454; or
 - b. For a patient under 18 years of age, according to A.R.S. § 13-3620;
 - 3. Document:
 - a. The suspected abuse, neglect, or exploitation;
 - b. Any action taken according to subsection (F)(1); and
 - c. The report in subsection (F)(2);
 - 4. Maintain the documentation in subsection (F)(3) for at least 12 months after the date of the report in subsection (F)(2);
 - 5. Initiate an investigation of the suspected abuse, neglect, or exploitation and document the following information within five working days after the report required in subsection (F)(2):
 - a. The dates, times, and description of the suspected abuse, neglect, or exploitation;
 - b. A description of any injury to the patient related to the suspected abuse or neglect and any change to the patient's physical, cognitive, functional, or emotional condition;
 - c. The names of witnesses to the suspected abuse, neglect, or exploitation; and
 - d. The actions taken by the administrator to prevent the suspected abuse, neglect, or exploitation from occurring in the future; and
 - 6. Maintain a copy of the documented information required in subsection (F)(5) and any other information obtained during the investigation for at least 12 months after the date the investigation was initiated.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 3535, pursuant to Laws 2014, Ch. 233, § 5; effective January 1, 2015 (Supp. 14-4).

R9-10-1904. Quality Management

An administrator shall ensure that:

- 1. A plan is established, documented, and implemented for an ongoing quality management program that, at a minimum, includes:
 - a. A method to identify, document, and evaluate incidents;
 - b. A method to collect data to evaluate services provided to patients;
 - c. A method to evaluate the data collected to identify a concern about the delivery of services related to patient care;
 - d. A method to make changes or take action as a result of the identification of a concern about the delivery of services related to patient care; and
 - e. The frequency of submitting a documented report required in subsection (2) to the governing authority;
- 2. A documented report is submitted to the governing authority that includes:
 - a. An identification of each concern about the delivery of services related to patient care, and
 - b. Any change made or action taken as a result of the identification of a concern about the delivery of services related to patient care; and
- 3. The report required in subsection (2) and the supporting documentation for the report are maintained for at least 12 months after the date the report is submitted to the governing authority.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 3535, pursuant to Laws 2014, Ch. 233, § 5; effective January 1, 2015 (Supp. 14-4).

R9-10-1905. Contracted Services

An administrator shall ensure that:

- 1. Contracted services are provided according to the requirements in this Article, and
- 2. Documentation of current contracted services is maintained that includes a description of the contracted services provided.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 3535, pursuant to Laws 2014, Ch. 233, § 5; effective January 1, 2015 (Supp. 14-4).

R9-10-1906. Personnel

An administrator shall ensure that:

- 1. The qualifications, skills, and knowledge required for each type of personnel member:
 - a. Are based on:
 - i. The type of counseling expected to be provided by the personnel member according to the established job description, and
 - ii. The acuity of the patients expected to be receiving the counseling from the personnel member according to the established job description; and
 - b. Include:
 - i. The specific skills and knowledge necessary for the personnel member to provide the counseling listed in the established job description,
 - ii. The type and duration of education that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the counseling listed in the established job description, and
 - iii. The type and duration of experience that may allow the personnel member to have acquired

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- the specific skills and knowledge for the personnel member to provide the counseling listed in the established job description;
2. A personnel member's skills and knowledge are verified and documented:
 - a. Before the personnel member provides counseling, and
 - b. According to policies and procedures;
 3. Sufficient personnel members are present on a counseling facility's premises during hours of clinical operation with the qualifications, skills, and knowledge necessary to:
 - a. Provide the counseling in the counseling facility's scope of services,
 - b. Meet the needs of a patient, and
 - c. Ensure the health and safety of a patient;
 4. At least one personnel member with cardiopulmonary resuscitation training is present on a counseling facility's premises during hours of clinical operation;
 5. At least one personnel member with first aid training is present on a counseling facility's premises during hours of clinical operation;
 6. A personnel member only provides counseling the personnel member is qualified to provide;
 7. A plan is developed, documented, and implemented to provide orientation specific to the duties of personnel members, employees, volunteers, and students;
 8. A personnel member completes orientation before providing counseling to a patient;
 9. An individual's orientation is documented, to include:
 - a. The individual's name,
 - b. The date of the orientation, and
 - c. The subject or topics covered in the orientation;
 10. A plan is developed, documented, and implemented to provide in-service education specific to the duties of a personnel member;
 11. A personnel member's in-service education is documented, to include:
 - a. The personnel member's name,
 - b. The date of the in-service education, and
 - c. The subject or topics covered in the in-service education;
 12. A personnel member who is a behavioral health technician or behavioral health paraprofessional complies with the applicable requirements in R9-10-115;
 13. A record for a personnel member, an employee, a volunteer, or a student is maintained that includes:
 - a. The individual's name, date of birth, and contact telephone number;
 - b. The individual's starting date of employment or volunteer service and, if applicable, the ending date; and
 - c. Documentation of:
 - i. The individual's qualifications, including skills and knowledge applicable to the individual's job duties;
 - ii. The individual's education and experience applicable to the individual's job duties;
 - iii. The individual's completed orientation and in-service education as required by policies and procedures;
 - iv. The individual's license or certification, if the individual is required to be licensed or certified in this Article or policies and procedures;
 - v. If the individual is a behavioral health technician, clinical oversight required in R9-10-115;
 - vi. The individual's compliance with the fingerprinting requirements in A.R.S. § 36-425.03, if applicable;
 - vii. If applicable, cardiopulmonary resuscitation training; and
 - viii. If applicable, first aid training; and
 14. The record in subsection (13) is:
 - a. Maintained while an individual provides services for or at the counseling facility and for at least 24 months after the last date the individual provided services for or at the counseling facility; and
 - b. If the ending date of employment or volunteer service was 12 or more months before the date of the Department's request, provided to the Department within 72 hours after the Department's request.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 3535, pursuant to Laws 2014, Ch. 233, § 5; effective January 1, 2015 (Supp. 14-4).

R9-10-1907. Patient Rights

- A. An administrator shall ensure that at the time of admission, a patient or the patient's representative receives a written copy of the requirements in subsection (B) and the patient rights in subsection (C).
- B. An administrator shall ensure that:
 1. A patient is treated with dignity, respect, and consideration;
 2. A patient as not subjected to:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Coercion;
 - e. Manipulation;
 - f. Sexual abuse;
 - g. Sexual assault;
 - h. Restraint or seclusion;
 - i. Retaliation for submitting a complaint to the Department or another entity; or
 - j. Misappropriation of personal and private property by a counseling facility's personnel member, employee, volunteer, or student; and
 3. A patient or the patient's representative:
 - a. Either consents to or refuses counseling;
 - b. May refuse or withdraw consent for receiving counseling before counseling is initiated;
 - c. Is informed of the following:
 - i. The counseling facility's policy on health care directives, and
 - ii. The patient complaint process;
 - d. Consents to photographs of the patient before the patient is photographed, except that a patient may be photographed when admitted to a counseling facility for identification and administrative purposes; and
 - e. Except as otherwise permitted by law, provides written consent to the release of information in the patient's:
 - i. Medical record, or
 - ii. Financial records.
- C. A patient has the following rights:
 1. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, or diagnosis;
 2. To receive counseling that supports and respects the patient's individuality, choices, strengths, and abilities;
 3. To receive privacy during counseling;

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4. To review, upon written request, the patient's own medical record according to A.R.S. §§ 12-2293, 12-2294, and 12-2294.01;
5. To receive a referral to another health care institution if the counseling facility is not authorized or not able to provide the behavioral health services needed by the patient;
6. To participate or have the patient's representative participate in the development of, or decisions concerning, the counseling provided to the patient;
7. To participate or refuse to participate in research or experimental treatment; and
8. To receive assistance from a family member, the patient's representative, or other individual in understanding, protecting, or exercising the patient's rights.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 3535, pursuant to Laws 2014, Ch. 233, § 5; effective January 1, 2015 (Supp. 14-4).

R9-10-1908. Medical Records**A.** An administrator shall ensure that:

1. A medical record is established and maintained for each patient according to A.R.S. Title 12, Chapter 13, Article 7.1;
2. An entry in a patient's medical record is:
 - a. Recorded only by a personnel member authorized by policies and procedures to make the entry;
 - b. Dated, legible, and authenticated; and
 - c. Not changed to make the initial entry illegible;
3. An order is:
 - a. Dated when the order is entered in the patient's medical record and includes the time of the order;
 - b. Authenticated by a medical practitioner or behavioral health professional according to policies and procedures; and
 - c. If the order is a verbal order, authenticated by the medical practitioner or behavioral health professional issuing the order;
4. If a rubber-stamp signature or an electronic signature is used to authenticate an order, the individual whose signature the rubber-stamp signature or electronic signature represents is accountable for the use of the rubber-stamp signature or electronic signature;
5. A patient's medical record is available to an individual:
 - a. Authorized according to policies and procedures to access the patient's medical record;
 - b. If the individual is not authorized according to policies and procedures, with the written consent of the patient or the patient's representative; or
 - c. As permitted by law; and
6. A patient's medical record is protected from loss, damage, or unauthorized use.

B. If a counseling facility maintains patients' medical records electronically, an administrator shall ensure that:

1. Safeguards exist to prevent unauthorized access, and
2. The date and time of an entry in a medical record is recorded by the computer's internal clock.

C. An administrator shall ensure that a patient's medical record contains:

1. Patient information that includes:
 - a. The patient's name and address, and
 - b. The patient's date of birth;
2. A diagnosis or reason for counseling;
3. Documentation of general consent and, if applicable, informed consent for counseling by the patient or the patient's representative;

4. If applicable, the name and contact information of the patient's representative and:

- a. If the patient is 18 years of age or older or an emancipated minor, the document signed by the patient consenting for the patient's representative to act on the patient's behalf; or
- b. If the patient's representative:
 - i. Has a health care power of attorney established under A.R.S. § 36-3221 or a mental health care power of attorney executed under A.R.S. § 36-3282, a copy of the health care power of attorney or mental health care power of attorney; or
 - ii. Is a legal guardian, a copy of the court order establishing guardianship;
5. Documentation of medical history;
6. Orders;
7. Assessment;
8. Interval notes;
9. Progress notes;
10. Documentation of counseling provided to the patient;
11. The name of each individual providing counseling;
12. Disposition of the patient upon discharge;
13. Documentation of the patient's follow-up instructions provided to the patient;
14. A discharge summary; and
15. If applicable, documentation of any actions taken to control the patient's sudden, intense, or out-of-control behavior to prevent harm to the patient or another individual.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 3535, pursuant to Laws 2014, Ch. 233, § 5; effective January 1, 2015 (Supp. 14-4).

R9-10-1909. Counseling**A.** An administrator of a counseling facility shall ensure that:

1. Counseling provided at the counseling facility is provided under the direction of a behavioral health professional;
2. A personnel member who provides counseling is:
 - a. At least 21 years of age, or
 - b. At least 18 years of age and is licensed or certified under A.R.S. Title 32 and providing services within the personnel member's scope of practice; and
3. If a counseling facility provides counseling to a patient who is less than 18 years of age, an employee or a volunteer and the owner comply with the fingerprint clearance card requirements in A.R.S. § 36-425.03.

B. An administrator of a counseling facility shall ensure that:

1. Before counseling for a patient is initiated, there is a behavioral health assessment for the patient that complies with the requirements in this Section that is:
 - a. Available:
 - i. In the patient's medical record maintained by the counseling facility;
 - ii. If the counseling facility is an affiliated counseling facility, in the patient's integrated medical record; or
 - iii. If the counseling facility has an affiliated outpatient treatment center, in the patient's integrated medical record maintained by the counseling facility's affiliated outpatient treatment center;
 - b. Completed by a personnel member at the counseling facility; and
 - c. Obtained from a behavioral health provider other than the counseling facility; or

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2. A behavioral health assessment, obtained from a behavioral health provider other than the counseling facility or available in a medical record or integrated medical record, was completed within 12 months before the date of the patient's current admission;
 3. If a behavioral health assessment is obtained from a behavioral health provider other than the counseling facility or is available as stated in subsection (B)(1)(a), the information in the behavioral health assessment is reviewed and updated if additional information that affects the patient's behavioral health assessment is identified;
 4. The review and update of the patient's assessment information in subsection (B)(3) is documented in the patient's medical record within 48 hours after the review is completed;
 5. If a behavioral health assessment is conducted by a:
 - a. Behavioral health technician or a registered nurse, within 72 hours after the behavioral health assessment is conducted, a behavioral health professional certified or licensed to provide the counseling needed by the patient reviews and signs the behavioral health assessment to ensure that the behavioral health assessment identifies the counseling needed by the patient; or
 - b. Behavioral health paraprofessional, a behavioral health professional certified or licensed to provide the counseling needed by the patient supervises the behavioral health paraprofessional during the completion of the behavioral health assessment and signs the behavioral health assessment to ensure that the assessment identifies the counseling needed by the patient;
 6. A behavioral health assessment:
 - a. Documents a patient's:
 - i. Presenting issue;
 - ii. Substance use history;
 - iii. Co-occurring disorder;
 - iv. Medical condition and history;
 - v. Legal history, including:
 - (1) Custody,
 - (2) Guardianship, and
 - (3) Pending litigation;
 - vi. Criminal justice record;
 - vii. Family history;
 - viii. Behavioral health treatment history; and
 - ix. Symptoms reported by the patient or the patient's representative and referrals needed by the patient, if any;
 - b. Includes:
 - i. Recommendations for further assessment or examination of the patient's needs;
 - ii. A description of the counseling, including type, frequency, and number of hours, that will be provided to the patient; and
 - iii. The signature and date signed of the personnel member conducting the behavioral health assessment; and
 - c. Is documented in patient's medical record;
 7. A patient is referred to a medical practitioner if a determination is made that the patient requires immediate physical health services or the patient's behavioral health issue may be related to the patient's medical condition;
 8. A request for participation in a patient's behavioral health assessment is made to the patient or the patient's representative;
 9. An opportunity for participation in the patient's behavioral health assessment is provided to the patient or the patient's representative;
 10. Documentation of the request in subsection (B)(8) and the opportunity in subsection (B)(9) is in the patient's medical record;
 11. A patient's behavioral health assessment information is documented in the medical record within 48 hours after completing the assessment;
 12. If information in subsection (B)(6)(a) is obtained about a patient after the patient's behavioral health assessment is completed, an interval note, including the information, is documented in the patient's medical record within 48 hours after the information is obtained;
 13. Counseling is:
 - a. Offered as described in the counseling facility's scope of services;
 - b. Provided according to the type, frequency, and number of hours identified in the patient's assessment; and
 - c. Provided by a behavioral health professional or a behavioral health technician;
 14. A personnel member providing counseling to address a specific type of behavioral health issue has the skills and knowledge necessary to provide the counseling that addresses the specific type of behavioral health issue; and
 15. Each counseling session is documented in the patient's medical record to include:
 - a. The date of the counseling session;
 - b. The amount of time spent in the counseling session;
 - c. Whether the counseling was individual counseling, family counseling, or group counseling;
 - d. The treatment goals addressed in the counseling session; and
 - e. The signature of the personnel member who provided the counseling and the date signed.
- C.** An administrator may request authorization to provide any of the following to individuals required to attend by a referring court:
1. DUI screening,
 2. DUI education,
 3. DUI treatment, or
 4. Misdemeanor domestic violence offender treatment.
- D.** An administrator of a counseling facility authorized to provide the services in subsection (C):
1. Shall comply with the requirements for the specific service in 9 A.A.C. 20, and
 2. May have a behavioral health technician who has the appropriate skills and knowledge established in policies and procedures provide the services.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 3535, pursuant to Laws 2014, Ch. 233, § 5; effective January 1, 2015 (Supp. 14-4).

R9-10-1910. Physical Plant, Environmental Services, and Equipment Standards

- A.** An administrator shall ensure that a counseling facility has either:
1. Both of the following:
 - a. A smoke detector installed in each hallway of the counseling facility that is:
 - i. Maintained in an operable condition;
 - ii. Either battery operated or, if hard-wired into the electrical system of the outpatient treatment center, has a back-up battery; and

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- iii. Tested monthly; and
 - b. A portable, operable fire extinguisher, labeled as rated at least 2A-10-BC by the Underwriters Laboratories, that:
 - i. Is available at the counseling facility;
 - ii. Is mounted in a fire extinguisher cabinet or placed on wall brackets so that the top handle of the fire extinguisher is not over five feet from the floor and the bottom of the fire extinguisher is at least four inches from the floor;
 - iii. If a disposable fire extinguisher, is replaced when its indicator reaches the red zone; and
 - iv. If a rechargeable fire extinguisher, is serviced at least once every 12 months and has a tag attached to the fire extinguisher that specifies the date of the last servicing and the name of the servicing person; or
- 2. Both of the following that are tested and serviced at least once every 12 months:
 - a. A fire alarm system installed according to the National Fire Protection Association 72: National Fire Alarm and Signaling Code, incorporated by reference in A.A.C. R9-1-412, that is in working order; and
 - b. A sprinkler system installed according to the National Fire Protection Association 13: Standard for the Installation of Sprinkler Systems, incorporated by reference in A.A.C. R9-1-412, that is in working order.
- B.** An administrator shall ensure that documentation of a test required in subsection (A) is maintained for at least 12 months after the date of the test.
- C.** An administrator shall ensure that on a counseling facility's premises:
 - 1. Exit signs are illuminated, if the local fire jurisdiction requires illuminated exit signs;
 - 2. Corridors and exits are kept clear of any obstructions;
 - 3. A patient can exit through any exit during hours of clinical operation;
 - 4. An extension cord is not used instead of permanent electrical wiring; and
 - 5. Each electrical outlet and electrical switch has a cover plate that is in good repair.
- D.** An administrator shall:
 - 1. Obtain a fire inspection conducted according to the time-frame established by the local fire department or the State Fire Marshal,
 - 2. Make any repairs or corrections stated on the fire inspection report, and
 - 3. Maintain documentation of a current fire inspection.
- E.** An administrator shall ensure that:
 - 1. A counseling facility's premises are:
 - a. Sufficient to provide the counseling facility's scope of services;
 - b. Cleaned and disinfected to prevent, minimize, and control illness and infection; and
 - c. Free from a condition or situation that may cause an individual to suffer physical injury;
 - 2. If a bathroom is on the premises, the bathroom contains:
 - a. A working sink with running water,
 - b. A working toilet that flushes and has a seat,
 - c. Toilet tissue,
 - d. Soap for hand washing,
 - e. Paper towels or a mechanical air hand dryer,
 - f. Lighting, and
 - g. A means of ventilation;
 - 3. If a bathroom is not on the premises, a bathroom is:
 - a. Available for a patient's use,
 - b. Located in a building in contiguous proximity to the counseling facility, and
 - c. Free from a condition or situation that may cause an individual using the bathroom to suffer a physical injury; and
 - 4. A tobacco smoke-free environment is maintained on the premises.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 3535, pursuant to Laws 2014, Ch. 233, § 5; effective January 1, 2015 (Supp. 14-4).

R9-10-1911. Integrated Information

- A.** An administrator of an affiliated outpatient treatment center may maintain the following information, required in this Article for a counseling facility for which the affiliated outpatient treatment center provides administrative support, integrated with information required in 9 A.A.C. 10, Article 10 for the outpatient treatment center:
 - 1. Quality management plan, documented incidents, and reports required in R9-10-1904;
 - 2. Contracted services information in R9-10-1905;
 - 3. Orientation plan, in-service education plan, and personnel records in R9-10-1906; and
 - 4. Medical records in R9-10-1908.
- B.** An administrator of an affiliated counseling facility that shares administrative support with one or more other affiliated counseling facilities may maintain the information in subsections (A)(1) through (A)(4) integrated with information maintained by the other affiliated counseling facilities.
- C.** If an administrator of an affiliated outpatient treatment center or an affiliated counseling facility maintains integrated information according to subsection (A) or (B), the administrator shall develop, document, and implement a method to ensure that:
 - 1. If the quality management plan is integrated, the incidents documented, concerns identified, and changes or actions taken are identified for each facility;
 - 2. If a person provides contracted services at more than one facility, the types of services the person provides at each facility is identified in the contract information;
 - 3. If an orientation plan is applicable to more than one facility, the orientation a personnel member is expected to obtain for each facility is identified in the orientation plan;
 - 4. If an in-service education plan is applicable to more than one facility, the in-service education a personnel member is expected to obtain for each facility is identified in the orientation plan;
 - 5. If a personnel member provides counseling at more than one facility, the following is identified in the personnel member's record:
 - a. The days and hours the personnel member provides counseling for each facility;
 - b. If the personnel member's job description is different for each facility:
 - i. Each job description for the personnel member; and
 - ii. Verification of the skills and knowledge to provide counseling according to each of the personnel member's job descriptions; and
 - c. If a personnel member is a behavioral health technician, documentation of the clinical oversight provided to the personnel member, based on the number

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- and acuity of the patients to whom the personnel member provided counseling at each facility; and
6. If a patient receives counseling at more than one facility, the counseling received and any information related to the counseling received at each facility is identified in the patient's medical record.
- D.** An administrator of a counseling facility receiving administrative support from an affiliated outpatient treatment center or an affiliated counseling facility shall ensure that if the counseling facility:
1. Has integrated information, the integrated information is provided to the Department for review within two hours after the Department's request:
- a. In a written or electronic format at the counseling facility's premises; or
 - b. Electronically directly to the Department.
2. No longer receives or shares administrative support that includes integrating the information in subsection (A), the information for the counseling facility required in this Article is maintained by the counseling facility and provided to the Department according to the requirements in this Article.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 3535, pursuant to Laws 2014, Ch. 233, § 5; effective January 1, 2015 (Supp. 14-4).

Supplement Separator Page



Supplement to the
Arizona Administrative Code
The official compilation of Arizona Rules
Replacement Check List

For rules filed in the third quarter between
July 1 - September 30
2017

Within the stated calendar quarter, this Title contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information. Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

TITLE 09. Health Services

Chapter 16. Department of Health Services - Occupational Licensing

Section Expired
R9-16-117

☐ REMOVE Supp. 14-2
Pages: 1 - 39

☐ REPLACE with Supp. 17-3
Pages: 1 - 40

The contact person who can answer questions about the expired rules in this Chapter:

Name: Governor's Regulatory Review Council
Address: 100 N. 15th Ave #305
Phoenix, AZ 85007
Telephone: (602) 542-2058

Disclaimer: Please be advised the person listed is the contact of record as submitted in the rulemaking package for this supplement. The contact and other information may change and is provided as a public courtesy.

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Office of the Secretary of State, Administrative Rules Division

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the Administrative Code. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION
September 30, 2017

RULES

A.R.S. § 41-1001(17) states: “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions. Virtually everything in your life is affected in some way by rules published in the Arizona Administrative Code, from the quality of air you breathe to the licensing of your dentist. This chapter is one of more than 230 in the Code compiled in 21 Titles.

ADMINISTRATIVE CODE SUPPLEMENTS

Rules filed by an agency to be published in the Administrative Code are updated quarterly. Supplement release dates are printed on the footers of each chapter:

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2017 is cited as Supp. 17-1.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the Arizona Administrative Register for recent updates to rule Sections.

ARTICLES AND SECTIONS

Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering system separated into subsections.

HISTORICAL NOTES AND EFFECTIVE DATES

Historical notes inform the user when the last time a Section was updated in the Administrative Code. Be aware, since the Office publishes each quarter by entire chapters, not all Sections are updated by an agency in a supplement release. Many times just one Section or a few Sections may be updated in the entire chapter.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in the introduction of a chapter can be found at the Secretary of State’s website, www.azsos.gov/services/legislative-filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the Arizona Administrative Register online at www.azsos.gov/rules, click on the Administrative Register link.

In the Administrative Code the Office includes editor’s notes at the beginning of a chapter indicating that certain rulemaking Sections were made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR

If you are researching rules and come across rescinded chapters on a different paper color, this is because the agency filed a Notice of Exempt Rulemaking. At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

PERSONAL USE/COMMERCIAL USE

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Public Services managing rules editor, Rhonda Paschal, assisted with the editing of this chapter.

TITLE 9. HEALTH SERVICES**CHAPTER 16. DEPARTMENT OF HEALTH SERVICES - OCCUPATIONAL LICENSING****ARTICLE 1. LICENSING OF MIDWIFERY**

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Article 2, consisting of Sections R9-16-201 through R9-16-207 and R9-16-211 through R9-16-214, repealed effective March 14, 1994 (Supp. 94-1).

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ARTICLE 1. LICENSING OF MIDWIFERY**R9-16-101. Definitions**

In addition to the definitions in A.R.S. § 36-751, the following definitions apply in this Article unless otherwise specified:

1. "Abnormal presentation" means the fetus is not in a head-down position with the crown of the head being the leading body part.
2. "Addiction" means a condition that results when a person ingests a substance that becomes compulsive and interferes with ordinary life responsibilities, such as work, relationships, or health.
3. "Amniotic" means the fluid surrounding the fetus while in the mother's uterus.
4. "Apgar score" means the number indicating a newborn's physical condition attained by rating selected body functions.
5. "Aseptic" means free of germs.
6. "Breech" means a complete breech, a frank breech, or an incomplete breech.
7. "Certified nurse midwife" means an individual who meets the criteria in 4 A.A.C. 19, Article 5 and is certified by the Arizona State Board of Nursing.
8. "Complete breech" means that at the time of birth the buttocks of a fetus is pointing downward with both legs folded at the knees and the feet near the buttocks.
9. "Calendar day" means each day, not including the day of the act, event, or default from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
10. "Cervix" means the narrow lower end of the uterus which protrudes into the cavity of the vagina.
11. "Consultation" means communication between a midwife and a physician or a midwife and a certified nurse midwife for the purpose of receiving a written or verbal recommendation and implementing prospective advice regarding the care of a pregnant woman or the woman's child.
12. "Current photograph" means an image of an individual, taken no more than 60 calendar days before the submission of the individual's application, in a Department-approved electronic format capable of producing an image that:
 - a. Has a resolution of at least 600 x 600 pixels but not more than 1200 x 1200 pixels;
 - b. Is 2 inches by 2 inches in size;
 - c. Is in natural color;
 - d. Is a front view of the individual's full face, without a hat or headgear that obscures the hair or hairline;
 - e. Has a plain white or off-white background; and
 - f. Has between 1 and 1 3/8 inches from the bottom of the chin to the top of the head.
13. "Dilation" means opening of the cervix during the mechanism of labor to allow for passage of the fetus.
14. "Effacement" means the gradual thinning of the cervix during the mechanism of labor and indicates progress in labor.
15. "Emergency care plan" means the arrangements established by a midwife for a client's transfer of care in a situation in which the health or safety of the client or newborn are determined to be at risk.
16. "Emergency medical services provider" has the same meaning as in A.R.S. § 36-2201.
17. "Episiotomy" means the cutting of the perineum, center, middle, or midline, in order to enlarge the vaginal opening for delivery.
18. "Fetus" means a child in utero from conception to birth.
19. "Frank breech" means that at the time of birth the buttocks of a fetus is pointing downward with both legs folded flat up against the head.
20. "Gestation" means the length of time from conception to birth, as calculated from the first day of the last normal menstrual period.
21. "Gravida" means the number of times the mother has been pregnant, including a current pregnancy, regardless of whether these pregnancies were carried to term.
22. "Incomplete breech" means that at the time of birth the buttocks of a fetus is pointing downward with one leg folded at the knee with the foot near the buttocks.
23. "Infant" has the same meaning as in A.R.S. § 36-694.
24. "Informed consent" means a document signed by a client, as provided in R9-16-109, agreeing to the provision of midwifery services.
25. "Intrapartum" means occurring from the onset of labor until after the delivery of the placenta.
26. "Jurisprudence test" means an assessment of an individual's knowledge of the:
 - a. Laws of this state concerning the reporting of births, prenatal blood tests, and newborn screening; and
 - b. Rules pertaining to the practice of midwifery.
27. "Ketones" means certain harmful chemical elements which are present in the body in excessive amounts when there is a compromised bodily function.
28. "Local registrar" means a person appointed by the state's registrar of vital statistics for a registration district whose duty includes receipt of birth and death certificates for births and deaths occurring within that district for review, registration, and transmittal to the state office of vital records according to A.R.S. Title 36, Chapter 3.
29. "Meconium" means the first bowel movement of the newborn, which is greenish black in color and tarry in consistency.
30. "Midwifery services" means health care, provided by a midwife to a mother, related to pregnancy, labor, delivery or postpartum care.
31. "Newborn" has the same meaning as in A.R.S. § 36-694.
32. "Para" means the number of births that are greater than 20 weeks of gestation, including viable and non-viable births, where multiples are counted as one birth.
33. "Parity" means the number of newborns a woman has delivered.
34. "Perineum" means the muscular region in the female between the vaginal opening and the anus.
35. "Physician" means an allopathic, an osteopathic, or a naturopathic practitioner licensed according to A.R.S. Title 32, Chapters 13, 14, or 17.
36. "Postpartum" means the six-week period following delivery of a newborn and placenta.
37. "Prenatal" means the period from conception to the onset of labor and birth.
38. "Prenatal care" means the on-going risk assessments, clinical examinations, and prenatal, nutritional, and anticipatory guidance offered to a pregnant woman.
39. "Prenatal visit" means each clinical examination of a pregnant woman for the purpose of monitoring the course of gestation and the overall health of the woman.
40. "Primigravida" means a woman who is pregnant for the first time.

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41. "Primipara" means a woman who has given birth to her first newborn.
 42. "Quickening" means the first perceptible movement of the fetus in the uterus, occurring usually in the 16th to the 20th week of gestation.
 43. "Rh" means a blood antigen.
 44. "Serious mental illness" means a condition in an individual who is 18 years of age or older and who exhibits emotional or behavioral functioning, as a result of a mental disorder as defined in A.R.S. § 36-501, that:
 - a. Is severe and persistent, resulting in a long-term limitation of their functional capacities for primary activities of daily living such as interpersonal relationships, homemaking, self-care, employment and recreation; and
 - b. Impairs or substantially interferes with the capacity of the individual to remain in the community without supportive treatment or services of a long-term or indefinite duration.
 45. "Substance abuse" means the continued use of alcohol or other drugs in spite of negative consequences.
 46. "Shoulder dystocia" means the shoulders of the fetus are wedged in the mother's pelvis in such a way that the fetus is unable to be born without emergency action.
 47. "Transfer of care" means that a midwife refers the care of a client or newborn to an emergency medical services provider, a certified nurse midwife, a hospital, or a physician who then assumes responsibility for the direct care of the client or newborn.
 48. "Working day" means a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday or a state-wide furlough day.
- b. Birth certificate;
 - c. Naturalization documents; or
 - d. Documentation of legal resident alien status;
3. Documentation that demonstrates the applicant is 21 years of age or older if the documentation submitted in subsection (A)(2) does not demonstrate that the applicant is 21 years of age or older;
 4. Current documentation of completion of training in:
 - a. Adult basic cardiopulmonary resuscitation through a course recognized by the American Heart Association, and
 - b. Neonatal resuscitation through a course recognized by the American Academy of Pediatrics or American Heart Association;
 5. Documentation of a high school diploma, a high school equivalency diploma, an associate degree, or a higher degree;
 6. Documentation that the applicant is certified by the North American Registry of Midwives as a Certified Professional Midwife;
 7. A current photograph of the applicant;
 8. A non-refundable application fee of \$25; and
 9. A non-refundable testing fee of \$100 for a jurisprudence test administered by the Department.
- B.** The Department shall review an application for an initial license to practice midwifery according to R9-16-107 and Table 1.1.
 - C.** If an applicant receives notification of eligibility to take the jurisprudence test, the applicant:
 1. Shall take the jurisprudence test administered by the Department,
 2. Shall provide proof of identity by a government-issued photographic identification card upon the request of the individual administering the jurisprudence test,
 3. May take the jurisprudence test as many times as desired without paying an additional testing fee, and
 4. Shall score 80% or higher correct answers on the jurisprudence test to be eligible to receive an initial license to practice midwifery.
 - D.** If an applicant scores 80% or higher correct answers on the jurisprudence test, the Department shall provide written notice to the applicant, within five working days after the date of the jurisprudence test, to submit to the Department:
 1. A licensing fee of \$25; and
 2. The documentation required in subsection (A)(4) or (6), if the training required in subsection(A)(4) or certification required in subsection (A)(6) is not current.
 - E.** The Department shall issue an initial license to practice midwifery within five working days after receiving the applicable documentation and licensing fee required in subsection (D).
 - F.** The Department shall provide to an applicant a written notice of denial that complies with A.R.S. § 41-1092.03(A) and inform the applicant that the applicant may reapply under subsection (A) if the applicant does not:
 1. Score 80% or higher correct answers on the jurisprudence test within 180 calendar days after the date of the notification of eligibility to take the jurisprudence test, or
 2. Submit to the Department the applicable documentation and licensing fee required in subsection (D) within 120 calendar days after the date of the notification in subsection (D).

Historical Note

Section repealed, new Section adopted effective March 14, 1994 (Supp. 94-1). Section amended by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

R9-16-102. Application for Initial Licensure

- A.** An applicant for an initial license to practice midwifery shall submit:
 1. An application in a format provided by the Department that contains:
 - a. The applicant's name, address, telephone number, and e-mail address;
 - b. The applicant's Social Security Number, as required under A.R.S. §§ 25-320 and 25-502;
 - c. Whether the applicant has ever been convicted of a felony or a misdemeanor in this or another state or jurisdiction;
 - d. If the applicant was convicted of a felony or misdemeanor:
 - i. The date of the conviction,
 - ii. The state or jurisdiction of the conviction,
 - iii. An explanation of the crime of which the applicant was convicted, and
 - iv. The disposition of the case;
 - e. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-16-107(C)(2);
 - f. An attestation that information required as part of the application has been submitted and is true and accurate; and
 - g. The applicant's signature and date of signature;
 2. A copy of the applicant's:
 - a. U.S. passport, current or expired;

Historical Note

Section repealed, new Section adopted effective March 14, 1994 (Supp. 94-1). Amended by final rulemaking at 8 A.A.R. 2896, effective June 18, 2002 (Supp. 02-2). Section R9-16-102 repealed; new Section R9-16-102 renum-

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bered from R9-16-103 and amended by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

Exhibit A. Repealed**Historical Note**

Section repealed, new Section adopted effective March 14, 1994 (Supp. 94-1). Exhibit A repealed by final rulemaking at 8 A.A.R. 2896, effective June 18, 2002 (Supp. 02-2).

R9-16-103. Renewal

- A.** At least 30 calendar days and no more than 60 calendar days before the expiration date of a midwifery license, a midwife shall submit to the Department:
1. An application for renewal of a midwifery license in a format provided by the Department, that contains:
 - a. The midwife's name, address, telephone number, and e-mail address;
 - b. The midwife's license number;
 - c. Whether the midwife has been convicted of a felony or a misdemeanor in this or another state or jurisdiction in the previous two years;
 - d. If the midwife was convicted of a felony or misdemeanor:
 - i. The date of the conviction,
 - ii. The state or jurisdiction of the conviction,
 - iii. An explanation of the crime of which the midwife was convicted, and
 - iv. The disposition of the case;
 - e. Whether the midwife agrees to allow the Department to submit supplemental requests for information under R9-16-107(C)(2);
 - f. An attestation that the midwife has completed the continuing education requirement in R9-16-105;
 - g. An attestation that the midwife is complying with the requirements in A.R.S. § 32-3211;
 - h. An attestation that information required as part of the application has been submitted and is true and accurate; and
 - i. The midwife's signature and date of signature;
 2. Either:
 - a. Documentation that the midwife is currently certified by the North American Registry of Midwives as a Certified Professional Midwife; or
 - b. For a midwife who has been continuously licensed as a midwife by the Department since 1999, a copy of both sides of documentation showing the completion of current training in:
 - i. Adult basic cardiopulmonary resuscitation that meets the requirements in R9-16-102(A)(4)(a), and
 - ii. Neonatal resuscitation that meets the requirements in R9-16-102(A)(4)(b); and
 3. A non-refundable renewal fee of \$25.
- B.** The Department shall review an application for renewal of a license to practice midwifery according to R9-16-107 and Table 1.

Historical Note

Adopted effective March 14, 1994 (Supp. 94-1). Section R9-16-103 renumbered to R9-16-102; new Section R9-16-103 made by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

Exhibit B. Repealed**Historical Note**

Adopted effective March 14, 1994 (Supp. 94-1). Exhibit B repealed by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

Exhibit C. Repealed**Historical Note**

Adopted effective March 14, 1994 (Supp. 94-1). Exhibit C repealed by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

R9-16-104. Administration

- A.** A midwife may submit a written request for the Department to:
1. Add the midwife's name, address, and telephone number to a list of licensed midwives on the Department's website; or
 2. Remove the midwife's name, address, and telephone number from a list of licensed midwives on the Department's website.
- B.** A midwife shall:
1. Notify the Department in a format provided by the Department within five working days after:
 - a. A client has died while under the midwife's care,
 - b. A stillborn child has been delivered by the midwife, or
 - c. A newborn delivered by the midwife has died within the first 6 weeks after birth; and
 2. Provide a summary of the:
 - a. Circumstances leading up to the event, and
 - b. Actions taken by the midwife in response to the event.
- C.** A midwife shall:
1. Maintain documentation of:
 - a. Completion of current training in:
 - i. Adult basic cardiopulmonary resuscitation that meets the requirements in R9-16-102(A)(4)(a), and
 - ii. Neonatal resuscitation that meets the requirements in R9-16-102(A)(4)(b);
 - b. Except as provided in R9-16-103(A)(2)(b), current certification as a Certified Professional Midwife by the North American Registry of Midwives; and
 - c. The continuing education required in subsection R9-16-105 for at least the previous three years; and
 2. Provide a copy of documentation required in subsection (C)(1) to the Department within 2 working days after the Department's request.

Historical Note

Adopted effective March 14, 1994 (Supp. 94-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

R9-16-105. Continuing Education

During the term of a midwifery license, the midwife shall obtain at least 20 continuing education units that:

1. Improve the midwife's ability to:
 - a. Provide services within the midwife's scope of practice,
 - b. Recognize and respond to situations outside the midwife's scope of practice, or
 - c. Provide guidance to other services a client may need; and
2. Have been approved as applicable to the practice of midwifery by the:
 - a. American Nurses Association,

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- b. American Congress of Obstetrics and Gynecologists,
- c. Midwives Alliance of North America,
- d. Arizona Medical Association,
- e. American College of Nurse Midwives,
- f. Midwifery Education Accreditation Council, or
- g. Another health professional organization.

Historical Note

Adopted effective March 14, 1994, except for subsections (B)(3) and (C) which are effective September 15, 1994 (Supp. 94-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

Exhibit D. Repealed**Historical Note**

Adopted effective March 14, 1994 (Supp. 94-1). Exhibit D repealed by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

R9-16-105.01. Repealed**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 2896, effective June 18, 2002 (Supp. 02-2). Section repealed by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

Table 1. Repealed**Historical Note**

Table 1 made by final rulemaking at 8 A.A.R. 2896, effective June 18, 2002 (Supp. 02-2). Table 1 repealed by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

R9-16-106. Name Change; Duplicate License

- A. To request a name change on a midwifery license or a duplicate midwifery license, a midwife shall submit in writing to the Department:
 - 1. The midwife's name on the current midwifery license;
 - 2. If applicable, the midwife's new name;
 - 3. The midwife's address, license number, and e-mail address;
 - 4. As applicable:
 - a. Documentation supporting the midwife's name change, or
 - b. A statement that the midwife is requesting a duplicate midwifery license; and
 - 5. A non-refundable fee of \$10.00.
- B. Upon receipt of the written request required in subsection (A), the Department shall issue, as applicable:
 - 1. An amended midwifery license that incorporates the name change but retains the expiration date of the midwifery license, or
 - 2. A duplicate midwifery license.

Historical Note

Adopted effective March 14, 1994 (Supp. 94-1). Section R9-16-106 renumbered to R9-16-108; new Section R9-16-106 made by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

R9-16-107. Time-frames

- A. The overall time-frame described in A.R.S. § 41-1072(2) for each type of license granted by the Department is specified in Table 1.1. The applicant or midwife and the Department may agree in writing to extend the substantive review time-frame

and the overall time-frame. The substantive review time-frame and the overall time-frame may not be extended by more than 25 percent of the overall time-frame.

- B. The administrative completeness review time-frame described in A.R.S. § 41-1072(1) for each type of license granted by the Department is specified in Table 1.1.

- 1. The administrative completeness review time-frame begins:

- a. For an applicant submitting an application for initial licensure, when the Department receives the application packet required in R9-16-102(A); and
- b. For a licensed midwife applying to renew a midwifery license, when the Department receives the application packet required in R9-16-103(A).

- 2. If an application is incomplete, the Department shall provide a notice of deficiencies to the applicant or midwife describing the missing documentation or incomplete information. The administrative completeness review time-frame and the overall time-frame are suspended from the date of the notice until the date the Department receives the documentation or information listed in the notice of deficiencies. An applicant or midwife shall submit to the Department the documentation or information listed in the notice of deficiencies within the time specified in Table 1.1 for responding to a notice of deficiencies.

- 3. If the applicant or midwife submits the documentation or information listed in the notice of deficiencies within the time specified in Table 1.1, the Department shall provide a written notice of administrative completeness to the applicant or midwife.

- 4. If the applicant or midwife does not submit the documentation or information listed in the notice of deficiencies within the time specified in Table 1.1, the Department shall consider the application withdrawn.

- 5. When an application is complete the Department shall provide a notice of administrative completeness to the applicant or midwife.

- 6. If the Department issues a notice of eligibility to take the jurisprudence test or a license during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.

- C. The substantive review time-frame described in A.R.S. § 41-1072(3) is specified in Table 1.1 and begins on the date of the notice of administrative completeness.

- 1. If an application complies with the requirements in this Article and A.R.S. Title 36, Chapter 6, Article 7, the Department shall issue a notice of eligibility to take the jurisprudence test to an applicant or a license to a midwife.

- 2. If an application does not comply with the requirements in this Article or A.R.S. Title 36, Chapter 6, Article 7, the Department shall make one comprehensive written request for additional information, unless the applicant or midwife has agreed in writing to allow the Department to submit supplemental requests for information. The substantive review time-frame and the overall time-frame are suspended from the date that the Department sends a comprehensive written request for additional information or a supplemental request for information until the date that the Department receives all of the information requested.

- 3. An applicant or midwife shall submit to the Department all of the information requested in a comprehensive written request for additional information or a supplemental

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request for information within the time specified in Table 1.1.

4. If the applicant or midwife does not submit the additional information within the time specified in Table 1.1 or the additional information submitted by the applicant or midwife does not demonstrate compliance with this Article and A.R.S. Title 36, Chapter 6, Article 7, the Department shall provide to the applicant a written notice of denial that complies with A.R.S. § 41-1092.03(A).
5. If the applicant or midwife submits the additional information within the time specified in Table 1.1 and the

additional information submitted by the applicant or midwife demonstrates compliance with this Article and A.R.S. Title 36, Chapter 6, Article 7, the Department shall issue a notice of eligibility to take the jurisprudence test to an applicant or a license to a midwife.

Historical Note

Adopted effective March 14, 1994 (Supp. 94-1). Section R9-16-107 renumbered to R9-16-115; new Section R9-16-107 made by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

Table 1.1. Time-frames (in calendar days)

Type of Approval	Statutory Authority	Overall Time-Frame	Administrative Completeness Review Time-Frame	Time to Respond to Notice of Deficiency	Substantive Review Time-Frame	Time to Respond to Comprehensive Written Request
Eligibility for Jurisprudence Test (R9-16-102)	A.R.S. §§ 36-753, 36-754, and 36-755	30	15	60	15	30
Midwifery License Renewal (R9-16-103)	A.R.S. § 36-754	30	15	30	15	15

Historical Note

Table 1.1 made by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

Exhibit E. Repealed**Historical Note**

Adopted effective March 14, 1994 (Supp. 94-1).
Amended to correct printing errors (Supp. 99-4). Exhibit E repealed by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

R9-16-108. Responsibilities of a Midwife; Scope of Practice

- A. A midwife shall provide midwifery services only to a healthy woman, determined through a physical assessment and review of the woman's obstetrical history, whose expected outcome of pregnancy is most likely to be the delivery of a healthy newborn and an intact placenta.
- B. Except as provided in R9-16-111(C) or (D), a midwife who is certified by the North American Registry of Midwives as a Certified Professional Midwife may accept a client for a vaginal delivery:
 1. After prior Cesarean section, or
 2. Of a fetus in a complete breech or frank breech presentation.
- C. Before providing services to a client, a midwife shall:
 1. Inform a client, both orally and in writing, of:
 - a. The midwife's scope of practice, educational background, and credentials;
 - b. If applicable to the client's condition, the midwife's experience with:
 - i. Vaginal birth after prior Cesarean section delivery, or
 - ii. Delivery of a fetus in a complete breech or frank breech presentation;
 - c. The potential risks; adverse outcomes; neonatal or maternal complications, including death; and alternatives associated with an at-home delivery specific to the client's condition, including the conditions described in subsection (C)(1)(b);
 - d. The requirement for tests specified in subsections (I) and (K)(4)(c), and the potential risks for declining a

test, and, if a test is declined, the need for a written assertion of a client's decision to decline testing;

- e. The requirement for consultation for a condition specified in R9-16-112; and
- f. The requirement for the transfer of care for a condition specified in R9-16-111; and
2. Obtain a written informed consent for midwifery services according to R9-16-109.
- D. A midwife shall establish an emergency care plan for the client that includes:
 1. The name, address, and phone number of:
 - a. The hospital closest to the birthing location that provides obstetrical services, and
 - b. An emergency medical services provider that provides service between the birthing location and the hospital identified in subsection (D)(1)(a);
 2. The hospital identified in subsection (D)(1)(a) is within 25 miles of the birthing location for a delivery identified in subsection (B);
 3. The signature of the client and the date signed; and
 4. The signature of the midwife and the date signed.
- E. A midwife shall ensure the client receives a copy of the emergency care plan required in subsection (D).
- F. A midwife shall implement the emergency care plan by immediately calling the emergency medical services provider identified in subsection (D)(1)(b) for any condition that threatens the life of the client or the client's child.
- G. A midwife shall maintain all instruments used for delivery in an aseptic manner and other birthing equipment and supplies in clean and good condition.
- H. A midwife shall assess a client's physical condition in order to establish the client's continuing eligibility to receive midwifery services.
- I. During the prenatal period, the midwife shall:
 1. Until October 1, 2013, schedule or arrange for the following tests for the client within 28 weeks gestation:
 - a. Blood type, including ABO and Rh, with antibody screen;

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- b. Urinalysis;
 - c. HIV;
 - d. Hepatitis B;
 - e. Hepatitis C;
 - f. Syphilis as required in A.R.S. § 36-693;
 - g. Rubella titer;
 - h. Chlamydia; and
 - i. Gonorrhea;
2. Until October 1, 2013, schedule or arrange for the following tests for the client:
 - a. A blood glucose screening test for diabetes completed between 24 and 28 weeks of gestation;
 - b. A hematocrit and hemoglobin or complete blood count test completed between 28 and 36 weeks of gestation;
 - c. A vaginal-rectal swab for Group B Strep Streptococcus culture completed between 35 and 37 weeks of gestation;
 - d. At least one ultrasound and recommended follow-up testing to determine placental location and risk for placenta previa and placenta accrete; and
 - e. An ultrasound at 36-37 weeks gestation to confirm fetal presentation and estimated fetal weight for a breech pregnancy;
 3. As of October 1, 2013, except as provided in R9-16-110, ensure that the tests in section (I)(1) are completed by the client within 28 weeks gestation;
 4. As of October 1, 2013, except as provided in R9-16-110, ensure that the tests in subsection (I)(2) are completed by the client;
 5. Conduct a prenatal visit at least once every 4 weeks until the beginning of 28 weeks of gestation, once every 2 weeks from the beginning of 28 weeks until the end of 36 weeks of gestation, and once a week after 36 weeks of gestation that includes:
 - a. Taking the client's weight, urinalysis for protein, nitrites, glucose and ketones; blood pressure; and assessment of the lower extremities for swelling;
 - b. Measurement of the fundal height and listening for fetal heart tones and, later in the pregnancy, feeling the abdomen to determine the position of the fetus;
 - c. Documentation of fetal movement beginning at 28 weeks of gestation;
 - d. Document of:
 - i. The occurrence of bleeding or invasive uterine procedures, and
 - ii. Any medications taken during the pregnancy that are specific to the needs of an Rh negative client;
 - e. Referral of a client for lab tests or other assessments, if applicable, based upon examination or history; and
 - f. Recommendation of administration of the drug RhoGam to unsensitized Rh negative mothers after 28 weeks, or any time bleeding or invasive uterine procedures are done, or midwife administration of RhoGam under a physician's written orders;
 6. Monitor fetal heart tones with fetoscope and document the client's report of first quickening, between 18 and 20 weeks of gestation;
 7. Conduct weekly visits until signs of first quickening have occurred if first quickening has not been reported by 20 weeks of gestation;
 8. Initiate a consultation if first quickening has not occurred by the end of 22 weeks of gestation; and
 9. Conduct a prenatal visit of the birthing location before the end of 35 weeks of gestation to ensure that the birthing environment is appropriate for birth and that communication is available to the hospital and emergency medical services provider identified in subsection(D)(1).
- J. During the intrapartum period, a midwife shall:**
1. Determine if the client is in labor and the appropriate course of action to be taken by:
 - a. Assessing the interval, duration, intensity, location, and pattern of the contractions;
 - b. Determining the condition of the membranes, whether intact or ruptured, and the amount and color of fluid;
 - c. Reviewing with the client the need for an adequate fluid intake, relaxation, activity, and emergency management; and
 - d. Deciding whether to go to client's home, remain in telephone contact, or arrange for transfer of care or consultation;
 2. Contact the hospital identified in subsection (D)(1)(a) according to the policies and procedures established by the hospital regarding communication with midwives when the client begins labor and ends labor;
 3. During labor, assess the condition of the client and fetus upon initial contact, every half hour in active labor until completely dilated, and every 15 to 20 minutes during pushing, following rupture of the amniotic bag, or until the newborn is delivered, including:
 - a. Initial physical assessment and checking of vital signs every 2 to 4 hours of the client;
 - b. Assessing fetal heart tones every 30 minutes in active first stage labor, and every 15 minutes during second stage, following rupture of the amniotic bag, or with any significant change in labor patterns;
 - c. Periodically assessing contractions, fetal presentation, dilation, effacement, and fetal position by vaginal examination;
 - d. Maintaining proper fluid balance for the client throughout labor as determined by urinary output and monitoring urine for presence of ketones; and
 - e. Assisting in support and comfort measures to the client and family;
 4. For deliveries described in subsection (B), during labor determine:
 - a. For primiparas, the progress of active labor by monitoring whether dilation occurs at an average of 1 centimeter per hour until completely dilated, and a second stage does not exceed 2 hours, if applicable;
 - b. Normal progress of active labor for multigravidas by monitoring whether dilation occurs at an average of 1.5 to 2 centimeters per hour until completely dilated, and a second stage does not exceed 1 hour, if applicable; or
 - c. The progress of active labor according to the Management Guidelines recommended by the American Congress of Obstetricians and Gynecologists;
 5. After delivery of the newborn:
 - a. Assess the newborn at 1 minute and 5 minutes to determine the Apgar scores;
 - b. Physically assess the newborn for any abnormalities;
 - c. Inspect the client's perineum, vagina, and cervix for lacerations;
 - d. Deliver the placenta within 1 hour and assess the client for signs of separation, frank or occult bleeding; and

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- e. Examine the placenta for intactness and to determine the number of umbilical cord vessels; and
- 6. Recognize and respond to any situation requiring immediate intervention.
- K.** During the postpartum period, the midwife shall:
 - 1. During the 2 hours after delivery of the placenta, provide the following care to the client:
 - a. Every 15 to 20 minutes for the first hour and every 30 minutes for the second hour:
 - i. Take vital signs of the client,
 - ii. Perform external massage of the uterus, and
 - iii. Evaluate bleeding;
 - b. Assist the client to urinate within 2 hours following the birth, if applicable;
 - c. Evaluate the perineum, vagina, and cervix for tears, bleeding, or blood clots;
 - d. Assist with maternal newborn and infant bonding;
 - e. Assist with initial breast feeding, instructing the client in the care of the breast, and reviewing potential danger signs, if appropriate;
 - f. Provide instruction to the family about adequate fluid and nutritional intake, rest, and the types of exercise allowed, normal and abnormal bleeding, bladder and bowel function, appropriate baby care, signs and symptoms of postpartum depression, and any symptoms that may pose a threat to the health or life of the client or the client's newborn and appropriate emergency phone numbers;
 - g. Recommend or administer under physician's written orders, the drug RhoGam to an unsensitized Rh-negative mother who delivers an Rh-positive newborn. Administration shall occur not later than 72 hours after birth; and
 - h. Document any medications taken by the client in the client's record to an unsensitized Rh-negative client who delivers an Rh-positive newborn;
 - 2. During the 2 hours after delivery of the placenta, provide the following care to the newborn:
 - a. Perform a newborn physical exam to determine the newborn's gestational age and any abnormalities;
 - b. Comply with the requirements in A.A.C. R9-6-332;
 - c. Recommend or administer Vitamin K under physician's written orders to the newborn. Administration shall occur not later than 72 hours after birth; and
 - d. Document the administration of any medications or vitamins to the newborn in the newborn's record according to the physician's written orders;
 - 3. Evaluate the client or newborn for any abnormal or emergency situation and seek consultation or intervention, if applicable, according to these rules; and
 - 4. Re-evaluate the condition of the client and newborn between 24 and 72 hours after delivery to determine whether the recovery is following a normal course, including:
 - a. Assessing baseline indicators such as the client's vital signs, bowel and bladder function, bleeding, breasts, feeding of the newborn, sleep/rest cycle, activity with any recommendations for change;
 - b. Assessing baseline indicators of well-being in the newborn such as vital signs, weight, cry, suck and feeding, fontanel, sleeping, and bowel and bladder function with documentation of meconium, and providing any recommendations for changes made to the family;
 - c. Submitting blood obtained from a heel stick to the newborn to the state laboratory for screening according to A.R.S. § 36-694(B) and 9 A.A.C. 13, Article 2, unless a written refusal is obtained from the client and documented in the client's record and the newborn's record; and
 - d. Recommending to the client that the client secure medical follow-up for her newborn.
- L.** A midwife shall file a birth certificate with the local registrar within seven calendar days after the birth of the newborn.
- M.** Subsections (B), (C)(1)(b), (C)(1)(d) and (J)(2) and (4) are effective July 1, 2014.

Historical Note

Adopted effective March 14, 1994 (Supp. 94-1). R9-16-108 renumbered to R9-16-111; new Section R9-16-108 renumbered from R9-16-106 and amended by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

R9-16-109. Informed Consent for Midwifery Services

- A.** A midwife shall obtain a written informed consent for midwifery services in a format provided by the Department that contains:
 - 1. The midwife's:
 - a. Name,
 - b. Telephone number,
 - c. License number, and
 - d. E-mail address;
 - 2. The client's:
 - a. Name;
 - b. Address;
 - c. Telephone number;
 - d. Date of birth; and
 - e. E-mail address, if applicable;
 - 3. An attestation that the client was:
 - a. Provided the information required in R9-16-108(C)(1);
 - b. Informed of the emergency care plan as required in R9-16-108(D); and
 - c. Given an opportunity to have questions answered, have an understanding of the information provided, and choose to continue with midwifery services; and
 - 4. The signatures of the client and midwife and date signed.
- B.** A midwife shall ensure that the written informed consent for midwifery services is placed in the client file.
- C.** A midwife shall ensure that a copy of the written informed consent for midwifery services is provided to the:
 - 1. Client, and
 - 2. Department within five calendar days after a Department request.
- D.** This section is effective October 1, 2013.

Historical Note

Adopted effective March 14, 1994 (Supp. 94-1). R9-16-109 renumbered to R9-16-112; new Section R9-16-109 made by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2). Manifest typographical errors corrected in subsections (A)(3)(a) and (b) to rule Section reference of incorrect Chapter number; request made by department at file number R13-232 (Supp. 13-3).

R9-16-110. Assertion to Decline Required Tests

- A.** Except for R9-16-108(I)(1)(f), if the client declines a test required in R9-16-108(I)(3) and (4), a midwife shall obtain a written assertion of a client's decision to decline a required test in a format provided by the Department, that contains:
 - 1. The midwife's:
 - a. Name,
 - b. Telephone number,

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- c. License number, and
 - d. E-mail address;
- 2. The client's:
 - a. Name;
 - b. Address;
 - c. Telephone number;
 - d. Date of birth; and
 - e. E-mail address, if applicable;
- 3. The required test being declined by the client;
- 4. Additional information as required by the Department;
- 5. An attestation that the client:
 - a. Was provided the information as required in R9-16-108(C)(1)(d), and
 - b. Is declining testing; and
- 6. The signatures of the client and midwife and date signed.
- B.** A midwife shall ensure that the written assertion of the decision to decline a test is placed in the client file.
- C.** A midwife shall ensure that a copy of the written assertion of the decision to decline a test is provided to the:
 - 1. Client, and
 - 2. Department within five calendar days after a Department request.
- D.** This section is effective October 1, 2013.

Historical Note

Adopted effective March 14, 1994 (Supp. 94-1). R9-16-110 renumbered to R9-16-113; new Section R9-16-110 made by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2). Manifest typographical error corrected in subsection (A)(5)(a) to rule Section reference of incorrect Chapter number; request made by department at file number R13-232 (Supp. 13-3).

R9-16-111. Prohibited Practice; Transfer of Care

- A.** A midwife shall not provide midwifery services in a location that has the potential to cause harm to the client or the client's child.
- B.** A midwife shall not accept for midwifery services or continue midwifery services for a client who has or develops any of the following:
 - 1. A previous surgery that involved:
 - a. An incision in the uterus, except as provided in R9-16-108(B)(1); or
 - b. A previous uterine surgery that enters the myometrium;
 - 2. Multiple fetuses;
 - 3. Placenta previa or placenta accreta;
 - 4. A history of severe postpartum bleeding, of unknown cause, which required transfusion;
 - 5. Deep vein thrombosis or pulmonary embolism;
 - 6. Uncontrolled gestational diabetes;
 - 7. Insulin-dependent diabetes;
 - 8. Hypertension;
 - 9. Rh disease with positive titers;
 - 10. Active:
 - a. Tuberculosis;
 - b. Syphilis;
 - c. Genital herpes at the onset of labor;
 - d. Hepatitis until treated and recovered, following which midwifery services may resume; or
 - e. Gonorrhea until treated and recovered, following which midwifery services may resume;
 - 11. Preeclampsia or eclampsia persisting after the second trimester;
 - 12. A blood pressure of 140/90 or an increase of 30 millimeters of Mercury systolic or 15 millimeters of Mercury dia-

- stolic over the client's lowest baseline blood pressure for two consecutive readings taken at least six hours apart;
- 13. A persistent hemoglobin level below 10 grams or a hematocrit below 30 during the third trimester;
- 14. A pelvis that will not safely allow a baby to pass through during labor;
- 15. A serious mental illness;
- 16. Evidence of substance abuse, including six months prior to pregnancy, to one of the following, evident during an assessment of a client:
 - a. Alcohol,
 - b. Narcotics, or
 - c. Other drugs;
- 17. Except as provided in R9-16-108(B)(2), a fetus with an abnormal presentation;
- 18. Labor beginning before the beginning of 36 weeks gestation;
- 19. A progression of labor that does not meet the requirements of R9-16-108(J)(4), if applicable;
- 20. Gestational age greater than 34 weeks with no prior prenatal care;
- 21. A gestation beyond 42 weeks;
- 22. Presence of ruptured membranes without onset of labor within 24 hours;
- 23. Abnormal fetal heart rate consistently less than 120 beats per minute or more than 160 beats per minute;
- 24. Presence of thick meconium, blood-stained amniotic fluid, or abnormal fetal heart tones;
- 25. A postpartum hemorrhage of greater than 500 milliliters in the current pregnancy; or
- 26. A non-bleeding placenta retained for more than 60 minutes.
- C.** A midwife shall not perform a vaginal delivery after prior Cesarean section for a client who:
 - 1. Had:
 - a. More than one previous Cesarean section;
 - b. A previous Cesarean section:
 - i. With a classical, vertical, or unknown uterine incision;
 - ii. Within 18 months before the expected delivery;
 - iii. With complications, including uterine infection; or
 - iv. Due to failure to progress as a result of cephalopelvic insufficiency; or
 - c. Complications during a previous vaginal delivery after a Cesarean section; or
 - 2. Has a fetus:
 - a. With fetal anomalies, confirmed by an ultrasound; or
 - b. In a breech presentation.
- D.** A midwife shall not perform a vaginal delivery of a fetus in a breech presentation for a client who:
 - 1. Had a previous:
 - a. Unsuccessful vaginal delivery or other demonstration of an inadequate maternal pelvis, or
 - b. Cesarean section; or
 - 2. Has a fetus:
 - a. With fetal anomalies, confirmed by an ultrasound;
 - b. With an estimated fetal weight less than 2500 grams or more than 3800 grams; or
 - c. In an incomplete breech presentation.
- E.** If the client has any of the conditions in subsections (B) through (D), a midwife shall:
 - 1. Document the condition in the client record, and
 - 2. Initiate transfer of care.

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- F.** A midwife shall not perform any operative procedures except as provided in R9-16-113.
- G.** A midwife shall not:
1. Use any artificial, forcible, or mechanical means to assist birth; or
 2. Attempt to correct fetal presentations by external or internal movement of the fetus.
- H.** A midwife shall not administer drugs or medications except as provided in R9-16-108(I)(5)(f), (K)(1)(g), (K)(2)(c), or R9-16-113.
- I.** Except as provided in R9-16-113, a midwife shall:
1. Discontinue midwifery services and transfer care of a newborn in which any of the following conditions are present:
 - a. Birth weight less than 2000 grams;
 - b. Pale, blue, or gray color after 10 minutes;
 - c. Excessive edema;
 - d. Major congenital anomalies; or
 - e. Respiratory distress; and
 2. Document the condition in subsection (I)(1) in the newborn record.

Historical Note

Adopted effective March 14, 1994 (Supp. 94-1). R9-16-111 renumbered to R9-16-116; new Section R9-16-111 renumbered from R9-16-108 and amended by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

R9-16-112. Required Consultation

- A.** A midwife shall obtain a consultation at the time a client is determined to have any of the following during the current pregnancy:
1. A positive culture for Group B Streptococcus;
 2. History of seizure disorder;
 3. History of stillbirth, premature labor, or parity greater than 5;
 4. Age younger than 16 years;
 5. A primigravida older than 40 years of age;
 6. Failure to auscultate fetal heart tones by the beginning of 22 weeks gestation;
 7. Failure to gain 12 pounds by the beginning of 30 weeks gestation or gaining more than 8 pounds in any two-week period during pregnancy;
 8. Greater than 1+ sugar, ketones, or protein in the urine on two consecutive visits;
 9. Excessive vomiting or continued vomiting after the end of 20 weeks gestation;
 10. Symptoms of decreased fetal movement;
 11. A fever of 100.4° F or 38° C or greater measured twice at 24 hours apart;
 12. Tender uterine fundus;
 13. Effacement or dilation of the cervix, greater than a fingertip, accompanied by contractions, prior to the beginning of 36 weeks gestation;
 14. Measurements for fetal growth that are not within 2 centimeters of the gestational age;
 15. Second degree or greater lacerations of the birth canal;
 16. Except as provided in R9-16-111(B)(19), an abnormal progression of labor;
 17. An unengaged head at 7 centimeters dilation in active labor;
 18. Failure of the uterus to return to normal size in the current postpartum period;
 19. Persistent shortness of breath requiring more than 24 breaths per minute, or breathing which is difficult or painful;
 20. Gonorrhea;
 21. Chlamydia;
 22. Syphilis;
 23. Heart disease;
 24. Kidney disease;
 25. Blood disease; or
 26. A positive test result for:
 - a. HIV,
 - b. Hepatitis B, or
 - c. Hepatitis C.
- B.** A midwife shall obtain a consultation at the time a newborn demonstrates any of the following conditions:
1. Weight less than 2500 grams or 5 pounds, 8 ounces;
 2. Congenital anomalies;
 3. An Apgar score less than 7 at 5 minutes;
 4. Persistent breathing at a rate of more than 60 breaths per minute;
 5. An irregular heartbeat;
 6. Persistent poor muscle tone;
 7. Less than 36 weeks gestation or greater than 42 weeks gestation by gestational exam;
 8. Yellowish-colored skin within 48 hours;
 9. Abnormal crying;
 10. Meconium staining of the skin;
 11. Lethargy;
 12. Irritability;
 13. Poor feeding;
 14. Excessively pink coloring over the entire body;
 15. Failure to urinate or pass meconium in the first 24 hours of life;
 16. A hip examination which results in a clicking or incorrect angle;
 17. Skin rashes not commonly seen in the newborn; or
 18. Temperature persistently above 99.0° or below 97.6° F.
- C.** The midwife shall inform the client of the consultation required in subsections (A) or (B) and recommendations of the physician or certified nurse midwife.
- D.** The midwife shall document the consultation required in subsections (A) or (B) and recommendations received in the client record or newborn record.

Historical Note

Adopted effective March 14, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 5029, effective September 30, 2001 (Supp. 01-4). New Section R9-16-112 renumbered from R9-16-109 and amended by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

R9-16-113. Emergency Measures

- A.** In an emergency situation in which the health or safety of the client or newborn are determined to be at risk, a midwife:
1. Shall ensure that an emergency medical services provider is called; and
 2. May perform the following procedures as necessary:
 - a. Cardiopulmonary resuscitation of the client or newborn with a bag and mask;
 - b. Administration of oxygen at no more than 8 liters per minute via mask for the client and 5 liters per minute for the newborn via neonatal mask;
 - c. Episiotomy to expedite the delivery during fetal distress;
 - d. Suturing of episiotomy or tearing of the perineum to stop active bleeding, following administration of local anesthetic, contingent upon consultation with a physician or certified nurse midwife, or physician's written orders;

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- e. Release of shoulder dystocia by utilizing:
 - i. Hyperflexion of the client's legs to the abdomen,
 - ii. Application of external pressure suprapubically,
 - iii. Rotation of the nonimpacted shoulder until the impacted shoulder is released,
 - iv. Delivery of the posterior shoulder,
 - v. Application of posterior pressure on the anterior shoulder, or
 - vi. Positioning of the client on all fours with the back arched;
 - f. Manual exploration of the uterus for control of severe bleeding; or
 - g. Manual removal of placenta.
- B.** A licensed midwife may administer a maximum dose of 20 units of pitocin intramuscularly, in 10-unit dosages each, 30 minutes apart, to a client for the control of postpartum hemorrhage, contingent upon physician or certified nurse midwife consultation and written orders by a physician, and arrangements for immediate transport of the client to a hospital.
- C.** A midwife shall document in the client's record any medications taken by a client for the control of postpartum hemorrhage.

Historical Note

New Section R9-16-113 renumbered from R9-16-110 and amended by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

R9-16-114. Midwife Report after Termination of Midwifery Services

- A.** A midwife shall complete a midwife report for each client, in a format provided by the Department, that includes the following:
1. The midwife's:
 - a. First name,
 - b. Last name, and
 - c. License number;
 2. The client's:
 - a. Date of birth;
 - b. Client number;
 - c. Date of last menstrual period;
 - d. Estimated date of delivery;
 - e. Gravida (number);
 - f. Para (number); and
 - g. If applicable, whether the client had a vaginal delivery after prior Cesarean section or vaginal delivery of a fetus in a complete breech or frank breech presentation;
 3. A description of the maternal outcome, including any complications;
 4. If a vaginal delivery after prior Cesarean section or vaginal delivery of a fetus in a complete breech or frank breech presentation:
 - a. Rate of dilation, and
 - b. Duration of second stage labor;
 5. If applicable, the newborn's:
 - a. Date of birth;
 - b. Gender;
 - c. Weight;
 - d. Length;
 - e. Head circumference;
 - f. Designation of average, small, or large for gestational age;
 - g. Apgar score at 1 minute;
 - h. Apgar score at 5 minutes;

- i. Existence of complications;
 - j. Description of complications, if applicable;
 - k. Birth certificate filing date; and
 - l. Birth certificate number, if available;
6. Whether the client required transfer of care and, if applicable:
- a. Method of transport,
 - b. Type of facility or individual to which the midwife transferred care of the client,
 - c. Name of destination,
 - d. Time arrived at destination,
 - e. Confirmation the emergency care plan was utilized, and
 - f. Medical reason for transfer of care;
7. The date midwifery services were terminated;
 8. Reason for the termination of midwifery services;
 9. If termination of midwifery services was due to a medical condition, the specific medical condition;
 10. Whether information was provided on newborn screening; and
 11. Whether newborn screening tests were ordered as required in A.R.S. § 36-694.
- B.** The midwife shall submit a midwife report for a client to the Department within 30 calendar days after the termination of midwifery services to the client.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

R9-16-115. Client and Newborn Records

- A.** A midwife shall ensure that a record is established and maintained according to A.R.S. §§ 12-2291 and 12-2297 for each:
1. Client, and
 2. Newborn delivered by the midwife from a client.
- B.** A midwife shall ensure that a record for each client includes the following:
1. The client's full name, date of birth, address, and client number;
 2. Names, addresses, and telephone numbers of the client's spouse or other individuals designated by the client to be contacted in an emergency;
 3. Written informed consent for midwifery services, as required in R9-16-108(C)(2);
 4. Assertion to decline required tests, as required in R9-16-110(A)(3);
 5. A copy of the emergency care plan, as required in R9-16-108(E);
 6. The date the midwife began providing midwifery services to the client;
 7. The date the client is expected to deliver the newborn;
 8. The date the newborn was delivered, if applicable;
 9. An initial assessment of the client to:
 - a. Determine whether the client has a history of a condition or circumstance that would preclude care of the client by the midwife, as specified in R9-16-111; and
 - b. Determine the:
 - i. Number and outcome of previous pregnancies, and
 - ii. Number of previous medical or midwife visits the client has had during the current pregnancy;
 10. Progress notes documenting the midwifery services provided to the client;
 11. For a delivery identified in R9-16-108(B):
 - a. Rate of dilation, and
 - b. Duration of second stage labor;

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12. Laboratory and diagnostic reports, according to R9-16-108(I);
 13. Documentation of consultations as required in R9-16-112, including:
 - a. Reason for the consultation,
 - b. Name of physician or certified nurse midwife,
 - c. Date of consultation,
 - d. Time of consultation, and
 - e. Recommendation made by the physician or certified nurse midwife;
 14. Written reports received from consultations as required in R9-16-112;
 15. A description of any conditions or circumstances arising during the pregnancy that required the transfer of care;
 16. The name of the physician, certified nurse midwife, or hospital to which the care of the client was transferred, if applicable;
 17. Documentation of medications or vitamins taken by the client;
 18. Documentation of medications or vitamins administered to the client and the physician's written orders for the medications or vitamins;
 19. The outcome of the pregnancy;
 20. The date the midwife stopped providing midwifery services to the client; and
 21. Instructions provided to the client before the midwife stopped providing midwifery services to the client.
- C. A midwife shall ensure that a record for each newborn includes the following:
1. The full name, date of birth, and address of the newborn's mother;
 2. The newborn's:
 - a. Date of birth,
 - b. Gender,
 - c. Weight at birth,
 - d. Length at birth, and
 - e. Apgar scores at 1 minute and 5 minutes after birth;
 3. The newborn's estimated gestational age at birth;
 4. Progress notes documenting the midwifery services provided to the newborn;
 5. Laboratory and diagnostic reports, as required in R9-16-108(I);
 6. Documentation of consultations as required in R9-16-112:
 - a. Reason for the consultation,
 - b. Name of physician or certified nurse midwife,
 - c. Date of consultation,
 - d. Time of consultation, and
 - e. Recommendation made by the physician or certified nurse midwife;
 7. Written reports received from consultations as required in R9-16-112;
 8. A description of any conditions or circumstances arising during or after the newborn's birth that required the transfer of care;
 9. The name of the physician, certified nurse midwife, or hospital to which the care of the newborn was transferred, if applicable;
 10. Documentation of medications or vitamins taken by the newborn;
 11. Documentation of medications or vitamins administered to the newborn and the physician's written orders for the medications or vitamins;
 12. Documentation of newborn screening, including when the specimen collection kit, as defined in A.A.C. R9-13-

201, was submitted and results received, as required in R9-16-108(K)(4)(c);

13. The date the midwife stopped providing midwifery services to the newborn; and
14. Instructions provided to the client about the newborn before the midwife stopped providing midwifery services to the newborn.

Historical Note

New Section R9-16-115 renumbered from R9-16-107 and amended by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

R9-16-116. Denial, Suspension, or Revocation of License; Civil Penalties; Procedures

In addition to the grounds specified in A.R.S. §§ 36-756 and 13-904(E), the Department may deny, suspend, or revoke a license permanently or for a definite period of time, and may assess a civil penalty for each violation, for any of the following causes:

1. Practicing under a false name or alias so as to interfere with or obstruct the investigative or regulatory process,
2. Practicing under the influence of drugs or alcohol,
3. Falsification of records,
4. Obtaining any fee for midwifery services by fraud or misrepresentation,
5. Permitting another to use the midwife's license, or
6. Knowingly providing false information to the Department.

Historical Note

New Section R9-16-116 renumbered from R9-16-111 and amended by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

R9-16-117. Expired**Historical Note**

New Section made by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 1044, effective August 26, 2017 (Supp. 17-3).

ARTICLE 2. LICENSING AUDIOLOGISTS AND SPEECH-LANGUAGE PATHOLOGISTS**R9-16-201. Definitions**

In addition to the definitions in A.R.S. § 36-1901, the following definitions apply in this Article, unless otherwise specified:

1. "Accredited" means approved by the:
 - a. New England Association of Schools and Colleges,
 - b. Middle States Commission on Higher Education,
 - c. North Central Association of Colleges and Schools,
 - d. Northwest Commission on Colleges and Universities,
 - e. Southern Association of Colleges and Schools, or
 - f. Western Association of Schools and Colleges.
2. "Applicant" means:
 - a. An individual who submits an application packet, or
 - b. A person who submits a request for approval for a continuing education course.
3. "Application packet" means the information, documents, and fees required by the Department for a license.
4. "ASHA" means the American Speech-Language-Hearing Association, a national scientific and professional organization for audiologists and speech-language pathologists.
5. "Calendar day" means each day, not including the day of the act, event, or default, from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until

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- the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
6. "CCC" means Certificate of Clinical Competence, an award issued by ASHA to an individual who:
 - a. Completes a degree in audiology or speech-language pathology from an accredited college or university that includes a clinical practicum,
 - b. Passes the ETSNEA or ETSNESLP, and
 - c. Completes a clinical fellowship.
 7. "Clinical fellow" means an individual engaged in a clinical fellowship.
 8. "Clinical fellowship" means an individual's postgraduate professional experience assessing, diagnosing, screening, treating, writing reports, and counseling individuals exhibiting speech, language, hearing, or communication disorders, obtained:
 - a. After completion of graduate level academic course work and a clinical practicum;
 - b. Under the supervision of a clinical fellowship supervisor; and
 - c. While employed on a full-time or part-time equivalent basis.
 9. "Clinical fellowship agreement" means the document submitted to the Department by a clinical fellow to register the initiation of a clinical fellowship.
 10. "Clinical fellowship report" means a document completed by a clinical fellowship supervisor containing:
 - a. A summary of the diagnostic and therapeutic procedures performed by the clinical fellow,
 - b. A verification by the clinical fellowship supervisor of the clinical fellow's performance of diagnostic and therapeutic procedures, and
 - c. An evaluation of the clinical fellow's ability to perform the diagnostic and therapeutic procedures.
 11. "Clinical fellowship supervisor" means a licensed speech-language pathologist who:
 - a. Is a sponsor of a temporary licensee,
 - b. Had a CCC while supervising a clinical fellow before October 28, 1999, or
 - c. Has a CCC while supervising a clinical fellow in another state.
 12. "Clinical practicum" means the experience acquired by an individual who is completing course work in audiology or speech-language pathology, while supervised by a licensed audiologist, a licensed speech-language pathologist, or an individual holding a CCC, by assessing, diagnosing, evaluating, screening, treating, and counseling individuals exhibiting speech, language, cognitive, hearing, or communication disorders.
 13. "Continuing education" means a course that provides instruction and training that is designed to develop or improve the licensee's professional competence in disciplines directly related to the licensee's scope of practice.
 14. "Course" means a workshop, seminar, lecture, conference, or class.
 15. "Current CCC" means documentation issued by ASHA verifying that an individual is presently certified by ASHA.
 16. "Department-designated written hearing aid dispenser examination" means one of the following that has been identified by the Department as complying with the requirements in A.R.S. § 36-1924:
 - a. The International Licensing Examination for Hearing Healthcare Professionals, administered by the International Hearing Society; or
 - b. A test provided by the Department or other organization.
 17. "Diagnostic and therapeutic procedures" means the principles and methods used by an audiologist in the practice of audiology or a speech-language pathologist in the practice of speech-language pathology.
 18. "Disciplinary action" means a proceeding that is brought against a licensee by the Department under A.R.S. § 36-1934 or a state licensing entity.
 19. "ETSNEA" means Educational Testing Service National Examination in Audiology, the specialty area test of the Praxis Series given by the Education Testing Service, Princeton, N.J.
 20. ETSNESLP means Educational Testing Service National Examination in Speech-Language Pathology, the specialty area test of the Praxis Series given by the Education Testing Service, Princeton, N.J.
 21. Full-time means 30 clock hours or more per week.
 22. "Graduate level" means leading to, or creditable towards, a master's or doctoral degree.
 23. "Local education agency" means a school district governing board established by A.R.S. §§ 15-301 through 15-396.
 24. "Monitoring" means being responsible for and providing direction to a clinical fellow without directly observing diagnostic and therapeutic procedures.
 25. "On-site" observations" means the presence of a clinical fellowship supervisor who is watching a clinical fellow perform diagnostic and therapeutic procedures.
 26. "Part-time equivalent" means:
 - a. 25-29 clock hours per week for 48 weeks,
 - b. 20-24 clock hours per week for 60 weeks, or
 - c. 15-19 clock hours per week for 72 weeks.
 27. "Pupil" means a child attending a school, a charter school, a private school, or an accommodation school as defined in A.R.S. § 15-101.
 28. "Semester credit hour" means one earned academic unit of study based on completing, at an accredited college or university, a 50 to 60 minute class session per calendar week for 15 to 18 weeks.
 29. "Semester credit hour equivalent" means one quarter credit, which is equal in value to 2/3 of a semester credit hour.
 30. "State-supported institution" means a school receiving funding under A.R.S. §§ 15-901 through 15-1045.
 31. "Supervise" means being responsible for and providing direction to:
 - a. A clinical fellow during on-site observations or monitoring of the clinical fellow's performance of diagnostic and therapeutic procedures; or
 - b. An individual completing a clinical practicum.
 32. "Supervisory activities" means evaluating and assessing a clinical fellow's performance of diagnostic and therapeutic procedures in assessing, diagnosing, evaluating, screening, treating, and counseling individuals exhibiting speech, language, cognitive, hearing, or communication disorders.
 33. "Week" means the period of time beginning at 12:00 a.m. on Sunday and ending at 11:59 p.m. the following Saturday.

Historical Note

Former Section R9-16-201 repealed, new Section R9-16-201 adopted effective January 23, 1978 (Supp. 78-1).
 Repealed effective March 14, 1994 (Supp. 94-1).
 Adopted by final rulemaking at 5 A.A.R. 4359, effective October 28, 1999 (Supp. 99-4). Amended by exempt

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rulemaking at 20 A.A.R. 1998, effective July 1, 2014
(Supp. 14-2).

R9-16-202. Application for an Initial License for an Audiologist

A. Except as provided in subsection (B), an applicant for an audiology license or an audiology license to fit and dispense shall submit to the Department:

1. An application in a format provided by the Department that contains:
 - a. The applicant's name, home address, telephone number, and e-mail address;
 - b. The applicant's Social Security number, as required under A.R.S. §§ 25-320 and 25-502;
 - c. If applicable, the applicant's business address and telephone number;
 - d. If applicable, the name of applicant's employer, including the employer's business address and telephone number;
 - e. Whether the applicant is requesting an audiology license to fit and dispense;
 - f. Whether the applicant has ever been convicted of a felony or a misdemeanor involving moral turpitude in this or another state;
 - g. If the applicant has been convicted of a felony or a misdemeanor involving moral turpitude:
 - i. The date of the conviction,
 - ii. The state or jurisdiction of the conviction,
 - iii. An explanation of the crime of which the applicant was convicted, and
 - iv. The disposition of the case;
 - h. Whether the applicant is or has been licensed as an audiologist or an audiologist to fit and dispense hearing aids in another state or country;
 - i. Whether the applicant has had a license revoked or suspended by any state within the previous two years;
 - j. Whether the applicant is currently ineligible for licensing in any state because of a license revocation or suspension;
 - k. Whether any disciplinary action has been imposed by any state, territory or district in this country for an act related to the applicant's practice of audiology;
 - l. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-16-209;
 - m. An attestation that the information submitted is true and accurate; and
 - n. The applicant's signature and date of signature;
2. If a license for the applicant has been revoked or suspended by any state within the previous two years, documentation that includes:
 - a. The date of the revocation or suspension,
 - b. The state or jurisdiction of the revocation or suspension, and
 - c. An explanation of the revocation or suspension;
3. If the applicant is currently ineligible for licensing in any state because of a license revocation or suspension, documentation that includes:
 - a. The date of the ineligibility for licensing,
 - b. The state or jurisdiction of the ineligibility for licensing, and
 - c. An explanation of the ineligibility for licensing;
4. If the applicant has been disciplined by any state, territory, or district of this country for an act related to the applicant's audiologist license that is grounds for disci-

plinary action under Title 37, Chapter 17, documentation that includes:

- a. The date of the disciplinary action,
 - b. The state or jurisdiction of the disciplinary action,
 - c. An explanation of the disciplinary action, and
 - d. Any other applicable documents, including a legal order or settlement agreement;
5. If applicable, a list of all states and countries in which the applicant is or has been licensed as an audiologist or an audiologist to fit and dispense hearing aids;
 6. A copy of the applicant's:
 - a. U.S. passport, current or expired;
 - b. Birth certificate;
 - c. Naturalization documents; or
 - d. Documentation of legal resident alien status;
 7. One of the following:
 - a. A copy of the applicant's official transcript issued to the applicant by an accredited college or university after the applicant's completion of a doctoral degree consistent with the standards of this state's universities, as required in A.R.S. § 36-1940(A)(2); or
 - b. Documentation that the applicant is eligible for a waiver, according to A.R.S. § 36-1940.02(C), of the education and clinical rotation requirements in A.R.S. § 36-1940;
 8. Documentation:
 - a. Of a passing grade on a ETSNEA dated within three years before the date of application required in A.R.S. § 36-1902(E);
 - b. Of a current CCC completed by the applicant within three years before the date of application; or
 - c. The applicant is eligible for a waiver, according to A.R.S. § 36-1940.02(D), of the audiology examination requirements in A.R.S. § 36-1940; and
 9. A nonrefundable \$100 application fee.
- B.** An applicant for an audiology license to fit and dispense hearing aids who was awarded a master's degree before December 31, 2007 shall submit to the Department:
1. An application in a format provided by the Department that contains the information in subsections (A)(1) through (A)(7) and (A)(9);
 2. A copy of the applicant's official transcript from an accredited college or university demonstrating the applicant's completion of a master's degree in audiology before December 31, 2007;
 3. Documentation that the applicant is eligible, according to A.R.S. § 36-1940.02(C), for a waiver of the education and clinical rotation requirements in A.R.S. § 36-1940;
 4. Documentation that the applicant:
 - a. Has a passing grade on a ETSNEA completed within three years before the date of application;
 - b. Has a CCC completed within three years before the date of application; or
 - c. Is eligible for a waiver, according to A.R.S. § 36-1940.02(D), of the audiology examination requirements in A.R.S. § 36-1940; and
 5. Documentation:
 - a. Of a passing grade obtained by the applicant on a Department designated written hearing aid dispenser's examination as required in A.R.S. § 36-1940(C); or
 - b. That the applicant is eligible for a waiver, according to A.R.S. § 36-1940.02(E), of the hearing aid dispensing examination requirements in A.R.S. § 36-1940.

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- C. The Department shall review the application packet for a license to practice as an audiologist, an audiologist to fit and dispense hearing aids, or an audiologist, who has a master's degree, to fit and dispense hearing aids, as applicable, according to R9-16-209 and Table 2.1.
- D. An audiologist with a doctoral degree in audiology who is licensed to fit and dispense hearing aids shall take and pass a Department-provided jurisprudence and ethics examination within six months after the issue date of the audiologist's license.

Historical Note

Former Section R9-16-202 repealed, new Section R9-16-202 adopted effective January 23, 1978 (Supp. 78-1).

Repealed effective March 14, 1994 (Supp. 94-1).

Adopted by final rulemaking at 5 A.A.R. 4359, effective October 28, 1999 (Supp. 99-4). Section R9-16-202 repealed; new Section R9-16-202 renumbered from R9-16-203 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

R9-16-203. Application for an Initial License for a Speech-language Pathologist

- A. Except as provided in subsection (B), an applicant for a speech-language pathologist license shall submit to the Department:
 - 1. An application in a format provided by the Department that contains:
 - a. The applicant's name, home address, telephone number, and e-mail address;
 - b. The applicant's Social Security number, as required under A.R.S. §§ 25-320 and 25-502;
 - c. If applicable, the applicant's business address and telephone number;
 - d. If applicable, the name of the applicant's employer, including the employer's business address and telephone number;
 - e. Whether the applicant has ever been convicted of a felony or a misdemeanor involving moral turpitude in this or another state;
 - f. If the applicant has been convicted of a felony or a misdemeanor involving moral turpitude:
 - i. The date of the conviction,
 - ii. The state or jurisdiction of the conviction,
 - iii. An explanation of the crime of which the applicant was convicted, and
 - iv. The disposition of the case;
 - g. Whether the applicant is or has been licensed as a speech-language pathologist in another state or country;
 - h. Whether the applicant has had a license revoked or suspended by any state within the previous two years;
 - i. Whether the applicant is currently ineligible for licensing in any state because of a license revocation or suspension;
 - j. Whether a disciplinary action has been imposed by any state, territory, or district in this country for an act related to the applicant's speech-language pathologist license;
 - k. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-16-209;
 - l. An attestation that the information submitted is true and accurate; and
 - m. The applicant's signature and date of signature;
 - 2. If applicable, a list of all states and countries in which the applicant is or has been licensed as speech-language pathologist;
 - 3. If a license for the applicant has been revoked or suspended by any state within the previous two years, documentation that includes:
 - a. The date of the revocation or suspension,
 - b. The state or jurisdiction of the revocation or suspension, and
 - c. An explanation of the revocation or suspension;
 - 4. If the applicant is currently ineligible for licensing in any state because of a license revocation or suspension, documentation that includes:
 - a. The date of the ineligibility for licensing,
 - b. The state or jurisdiction of the ineligibility for licensing, and
 - c. An explanation of the ineligibility for licensing;
 - 5. If the applicant has been disciplined by any state, territory, or district of this country for an act related to the applicant's speech-language pathologist license that is grounds for disciplinary action under Title 37, Chapter 17, documentation that includes:
 - a. The date of the disciplinary action;
 - b. The state or jurisdiction of the disciplinary action;
 - c. An explanation of the disciplinary action; and
 - d. Any other applicable documents, including a legal order or settlement agreement;
 - 6. A copy of the applicant's:
 - a. U.S. passport, current or expired;
 - b. Birth certificate;
 - c. Naturalization documents; or
 - d. Documentation of legal resident alien status;
 - 7. Documentation of the applicant's:
 - a. Official transcript issued to the applicant by an accredited college or university after the applicant's completion of a master's degree consistent with the standards of this state's universities;
 - b. Completion of a clinical practicum, as required in A.R.S. § 36-1940.01(A)(2)(b); and
 - c. One of the following:
 - i. Completion of clinical fellowship signed by the clinical fellowship supervisor as required in A.R.S. § 36-1940.01(A)(2)(c); or
 - ii. Completion of a CCC within three years before the date of the application;
 - 8. Documentation:
 - a. Of the applicant's passing score on the ETSNESLP; or
 - b. That the applicant is eligible for a waiver, according to A.R.S. § 36-1940.02(B), from the examination requirements in A.R.S. § 36-1940.01; and
 - 9. A nonrefundable \$100 application fee.
- B. An applicant for a speech-language pathologist license, limited to providing services to pupils under the authority of a local education agency or state-supported institution, shall submit:
 - 1. An application in a format provided by the Department that contains requirements in subsections (A)(1) through (6) and (A)(9);
 - 2. A copy of an employee agreement or employment contract, conditioned upon the applicant's receipt of a speech-language pathologist license, with a local education agency or a state-supported institution that includes the:
 - a. Applicant's name and Social Security number,

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- b. Name of the local education agency or state-supported institution,
- c. Classification title of the applicant,
- d. Work dates or projected work dates of the employment contract, and
- e. Signatures of the applicant and the individual authorized by the governing board to represent the local education agency or state-supported institution; and
- 3. A copy of a temporary or regular certificate in speech and language therapy issued by the State Board of Education to the applicant.
- C. The Department shall review an application packet for a license to practice as a speech-language pathologist according to R9-16-209 and Table 2.1.

Historical Note

Former Section R9-16-203 repealed, new Section R9-16-203 adopted effective January 23, 1978 (Supp. 78-1).

Repealed effective March 14, 1994 (Supp. 94-1).

Adopted by final rulemaking at 5 A.A.R. 4359, effective October 28, 1999 (Supp. 99-4). Amended by final rulemaking at 10 A.A.R. 2063, effective July 3, 2004 (Supp. 04-2). Section R9-16-203 renumbered to R9-16-202; new Section R9-16-203 made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

R9-16-204. Application for a Temporary License for a Speech-Language Pathologist License

A. An applicant for a temporary speech-language pathologist license shall submit to the Department:

- 1. An application in a format provided by the Department that contains:
 - a. The applicant's name, home address, telephone number, and e-mail address;
 - b. The applicant's Social Security number, as required under A.R.S. §§ 25-320 and 25-502;
 - c. If applicable, the applicant's business address and telephone number;
 - d. If applicable, the name of the applicant's employer, including the employer's business address and telephone number;
 - e. Whether the applicant has ever been convicted of a felony or a misdemeanor involving moral turpitude in this or another state;
 - f. If the applicant has been convicted of a felony or a misdemeanor involving moral turpitude:
 - i. The date of the conviction,
 - ii. The state or jurisdiction of the conviction,
 - iii. An explanation of the crime of which the applicant was convicted, and
 - iv. The disposition of the case;
 - g. Whether the applicant is or has been licensed as a speech-language pathologist in another state or country;
 - h. Whether the applicant has had a license revoked or suspended by any state within the previous two years;
 - i. Whether the applicant is currently ineligible for licensing in any state because of a license revocation or suspension;
 - j. Whether any disciplinary action, consent order, or settlement agreement is pending or has been imposed by any state or country upon the applicant's speech-language pathologist license;
 - k. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-16-209;

- l. An attestation that the information submitted is true and accurate; and
- m. The applicant's signature and date of signature;
- 2. If applicable, a list of all states and countries in which the applicant is or has been licensed as a speech-language pathologist;
- 3. If a license for the applicant has been revoked or suspended by any state within the previous two years, documentation that includes:
 - a. The date of the revocation or suspension,
 - b. The state or jurisdiction of the revocation or suspension, and
 - c. An explanation of the revocation or suspension;
- 4. If the applicant is currently ineligible for licensing in any state because of a license revocation or suspension, documentation that includes:
 - a. The date of the ineligibility for licensing,
 - b. The state or jurisdiction of the ineligibility for licensing, and
 - c. An explanation of the ineligibility for licensing;
- 5. If the applicant has been disciplined by any state, territory or district of this country for an act related to the applicant's speech-language pathologist license that is grounds for disciplinary action under Title 37, Chapter 17, documentation that includes:
 - a. The date of the disciplinary action;
 - b. The state or jurisdiction of the disciplinary action;
 - c. An explanation of the disciplinary action; and
 - d. Any other applicable documents, including a legal order or settlement agreement;
- 6. A copy of the applicant's:
 - a. U.S. passport, current or expired;
 - b. Birth certificate;
 - c. Naturalization documents; or
 - d. Documentation of legal resident alien status;
- 7. Documentation of the applicant's:
 - a. Official transcript issued to the applicant by an accredited college or university after the applicant's completion of a master's degree consistent with the standards of this state's universities, as required in A.R.S. § 36-1940.01(A)(2)(a); and
 - b. Completion of a clinical practicum, as required in A.R.S. § 36-1940.01(A)(2)(b);
- 8. A copy of the applicant's clinical fellowship agreement that includes:
 - a. The applicant's name, home address, and telephone number;
 - b. The clinical fellowship supervisor's name, business address, telephone number, and Arizona speech-language pathology license number;
 - c. The name and address where the clinical fellowship will take place;
 - d. A statement by the clinical fellowship supervisor agreeing to comply with R9-16-210; and
 - e. The signatures of the applicant and the clinical fellowship supervisor;
- 9. Documentation of the applicant's completion of the ETS-NESLP as required in A.R.S. § 36-1940.01(A)(3); and
- 10. A nonrefundable \$100 application fee.
- B. A temporary license issued is effective for 12 months from the date of issuance.
- C. A temporary license may be renewed only once.
- D. An applicant issued a temporary speech-language pathologist license shall:
 - 1. Practice under the supervision of a licensed speech-language pathologist, and

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2. Not practice under the supervision of individual who has a temporary speech-language pathologist license.
- E. The Department shall review an application packet for a temporary speech-language pathologist license according to R9-16-209 and Table 2.1

Historical Note

Former Section R9-16-204 repealed, new Section R9-16-204 adopted effective January 23, 1978 (Supp. 78-1).
 Repealed effective March 14, 1994 (Supp. 94-1).
 Adopted by final rulemaking at 5 A.A.R. 4359, effective October 28, 1999 (Supp. 99-4). Amended by final rulemaking at 10 A.A.R. 2063, effective July 3, 2004 (Supp. 04-2). Section R9-16-204 renumbered to R9-16-209; new Section R9-16-204 made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

R9-16-205. License Renewal for an Audiologist

- A. Except as provided in subsection (B) and before the expiration date of the audiologist's license, a licensed audiologist or audiologist who fits and dispenses hearing aids shall submit to the Department:
 1. A renewal application in a format provided by the Department that contains:
 - a. The applicant's name, home address, telephone number, and e-mail address;
 - b. If applicable, the applicant's business address and telephone number;
 - c. If applicable, the name of the applicant's employer, including the employer's business address and telephone number;
 - d. The applicant's license number and date of expiration;
 - e. Since the previous license application, whether the applicant has been convicted of a felony or a misdemeanor involving moral turpitude in this or another state;
 - f. If the applicant was convicted of a felony or a misdemeanor involving moral turpitude:
 - i. The date of the conviction;
 - ii. The state or jurisdiction of the conviction;
 - iii. An explanation of the crime of which the applicant was convicted, and
 - iv. The disposition of the case;
 - g. Whether the applicant has had, within two years before the renewal application date, an audiologist license suspended or revoked by any state;
 - h. An attestation that the information submitted is true and accurate; and
 - i. The applicant's signature and date of signature;
 2. Documentation of the continuing education required in R9-16-208, completed within the two years before the expiration date of the license, including:
 - a. The name of the individual or organization providing the course;
 - b. The date and location where the course was provided;
 - c. The title of each course attended;
 - d. A description of each course's content;
 - e. The name of the instructor;
 - f. The instructor's education, training, and experience background, if applicable; and
 - g. The number of continuing education hours earned for each course; and
 3. A \$200 license renewal fee.
- B. In addition to the documentation and renewal fee in subsection (A), an applicant who submits a renewal application within 30

calendar days after the license expiration date shall submit a \$25 late fee.

- C. An applicant who does not submit the documentation and the fee in subsection (A) and, if applicable, (B) within 30 calendar days after the license expiration date shall apply for a new license in R9-16-202.
- D. If an applicant applies for a license according to R9-16-202 more than 30 calendar days but less than one year after the expiration date of the applicant's previous license, the applicant:
 1. Is not required to submit ETSNEA documentation, and
 2. Shall submit documentation of continuing education according to R9-16-208, completed within the two years before the date of application.
- E. The Department shall review the application packet for a renewal license to practice as an audiologist or an audiologist to fit and dispense hearing aids according to R9-16-209 and Table 2.1.

Historical Note

Former Section R9-16-205 repealed, new Section R9-16-205 adopted effective January 23, 1978 (Supp. 78-1).
 Repealed effective March 14, 1994 (Supp. 94-1).
 Adopted by final rulemaking at 5 A.A.R. 4359, effective October 28, 1999 (Supp. 99-4). Section R9-16-205 renumbered to R9-16-210; new Section R9-16-205 renumbered from R9-16-206 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

R9-16-206. License Renewal for a Speech-language Pathologist

- A. Except as provided in subsection (B) and before the expiration date of the speech-language pathologist's license, a licensed speech-language pathologist shall submit to the Department:
 1. A renewal application in a format provided by the Department that contains:
 - a. The applicant's name, home address, telephone number, and e-mail address;
 - b. If applicable, the applicant's business address and telephone number;
 - c. If applicable, the name of the applicant's employer, including the employer's business address and telephone number;
 - d. The applicant's license number and date of expiration;
 - e. Since the previous license application, whether the applicant has been convicted of a felony or a misdemeanor involving moral turpitude in this or another state;
 - f. If the applicant was convicted of a felony or a misdemeanor:
 - i. The date of the conviction;
 - ii. The state or jurisdiction of the conviction;
 - iii. An explanation of the crime of which the applicant was convicted, and
 - iv. The disposition of the case;
 - g. Whether the applicant had, within two years before the renewal application date, a speech-language pathologist license suspended or revoked by any state;
 - h. An attestation that the information submitted is true and accurate; and
 - i. The applicant's signature and date of signature;
 2. Documentation of the continuing education required in R9-16-208, completed within the two years before the expiration date of the license, including:

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- a. The name of the individual or organization providing the course;
 - b. The date and location where the course was provided;
 - c. The title of each course attended;
 - d. The description of each course's content;
 - e. The name of the instructor;
 - f. The instructor's education, training, and experience background, if applicable; and
 - g. The number of continuing education hours earned for each course;
3. If the applicant is limited to providing speech-language pathology services to pupils under the authority of a local education agency or state-supported institution the documents required in R9-16-203(B); and
4. A \$200 license renewal fee.
- B.** In addition to the documentation and renewal fee in subsection (A), an applicant who submits a renewal application within 30 calendar days after the license expiration date shall submit a \$25 late fee.
- C.** An applicant who does not submit the documentation and the fee in subsection (A) and, if applicable, (B) within 30 calendar days after the license expiration date shall apply for a new license in R9-16-203.
- D.** If an applicant applies for a license according to R9-16-203 more than 30 calendar days but less than one year after the expiration date of the applicant's previous license, the applicant:
- 1. Is not required to submit ETSNESLP documentation, and
 - 2. Shall submit documentation of continuing education according to R9-16-208 completed within the two years before the date of application.
- E.** The Department shall review the application packet for a renewal license to practice as a speech-language pathologist according to R9-16-209 and Table 2.1.

Historical Note

Former Section R9-16-206 repealed, new Section R9-16-206 adopted effective January 23, 1978 (Supp. 78-1).
 Repealed effective March 14, 1994 (Supp. 94-1).
 Adopted by final rulemaking at 5 A.A.R. 4359, effective October 28, 1999 (Supp. 99-4). Amended by final rulemaking at 10 A.A.R. 2063, effective July 3, 2004 (Supp. 04-2). Section R9-16-206 renumbered to R9-16-205; new Section R9-16-206 made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

R9-16-207. License Renewal for a Temporary Speech-language Pathologist

- A.** Before the expiration date of the temporary speech-language pathologist license, a licensed temporary speech-language pathologist shall submit to the Department:
- 1. A renewal application in a format provided by the Department that contains:
 - a. The applicant's name, home address, e-mail address, and telephone number;
 - b. The applicant's license number and date of expiration;
 - c. The name of the applicant's employer, including the employer's business address, and telephone number;
 - d. The name, business address, telephone number, and license number of the speech language pathologist providing supervision to the applicant;
 - e. Since the previous license application, whether the applicant has been convicted of a felony or a misdemeanor involving moral turpitude in this or another state;

- f. If the applicant was convicted of a felony or a misdemeanor:
 - i. The date of the conviction,
 - ii. The state or jurisdiction of the conviction,
 - iii. An explanation of the crime of which the applicant was convicted, and
 - iv. The disposition of the case;
 - g. An attestation that the information submitted is true and accurate; and
 - h. The applicant's signature and date of signature;
2. A statement signed and dated by the applicant's clinical fellowship supervisor agreeing to comply with R9-16-210; and
3. A \$100 license renewal fee.
- B.** The Department shall review the application packet for a renewal temporary license to practice as a temporary speech-language pathologist according to R9-16-209 and Table 2.1.

Historical Note

Former Section R9-16-207 repealed, new Section R9-16-207 adopted effective January 23, 1978 (Supp. 78-1).
 Repealed effective March 14, 1994 (Supp. 94-1).
 Adopted by final rulemaking at 5 A.A.R. 4359, effective October 28, 1999 (Supp. 99-4). Section R9-16-207 renumbered to R9-16-208; new Section R9-16-207 made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

R9-16-208. Continuing Education

- A.** Every 24 months after the effective date of a regular license, a licensee shall complete continuing education approved by the Department.
- 1. Except as provided in (A)(2), a licensed audiologist shall complete at least 20 continuing education hours related to audiology;
 - 2. A licensed audiologist who fits and dispenses hearing aids shall complete:
 - a. At least 20 continuing education hours related to audiology and hearing aid dispensing, and
 - b. No more than eight continuing education hours required in subsection (A)(2)(a) provided by a single manufacturer of hearing aids; and
 - 3. A licensed speech-language pathologist shall complete at least 20 continuing education hours in speech-language pathology related courses.
- B.** Continuing education shall:
- 1. Directly relate to the practice of audiology, speech-language pathology, or fitting and dispensing hearing aids;
 - 2. Have educational objectives that exceed an introductory level of knowledge of audiology, speech-language pathology, or fitting and dispensing hearing aids; and
 - 3. Consist of courses that include advances within the last five years in:
 - a. Practice of audiology,
 - b. Practice of speech-language pathology,
 - c. Procedures in the selection and fitting of hearing aids,
 - d. Pre- and post-fitting management of clients,
 - e. Instrument circuitry and acoustic performance data,
 - f. Ear mold design and modification contributing to improved client performance,
 - g. Audiometric equipment or testing techniques that demonstrate an improved ability to identify and evaluate hearing loss,
 - h. Auditory rehabilitation,
 - i. Ethics,
 - j. Federal and state statutes or rules, or

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- k. Assistive listening devices.
- C. A continuing education course developed, endorsed, or sponsored by one of the following meets the requirements in subsection (B):
 1. Hearing Healthcare Providers of Arizona,
 2. Arizona Speech-Language-Hearing Association,
 3. American Speech-Language-Hearing Association,
 4. International Hearing Society,
 5. International Institute for Hearing Instrument Studies,
 6. American Auditory Society,
 7. American Academy of Audiology,
 8. Academy of Doctors of Audiology,
 9. Arizona Society of Otolaryngology-Head and Neck Surgery,
 10. American Academy of Otolaryngology-Head and Neck Surgery, or
 11. An organization determined by the Department to be consistent with an organization in subsection (C)(1) through (10).
- D. An applicant may request approval for a continuing education course by submitting the following to the Department:
 1. The applicant's name, address, telephone number, and e-mail address, as applicable;
 2. If the applicant is a licensee, the licensee's license number;
 3. The title of the continuing education course;
 4. A brief description of the course;
 5. The name, educational background, and teaching experience of the individual presenting the course, if available;
 6. The educational objectives of the course; and
 7. The date, time, and place of presentation of the course.
- E. If an applicant submits the information in subsection (D), the Department shall review the request for approval for a continuing education course according to R9-16-209 and Table 2.1.
- F. The Department shall approve a continuing education course if the Department determines that the continuing education course:
 1. Is designed to provide current developments, skills, procedures, or treatment in diagnostic and therapeutic procedures in audiology, speech-language pathology, or hearing aid dispensing;
 2. Is developed and presented by individuals knowledgeable and experienced in the subject area; and
 3. Contributes directly to the professional competence of a licensee.

Historical Note

Adopted by final rulemaking at 5 A.A.R. 4359, effective October 28, 1999 (Supp. 99-4). Section R9-16-208 renumbered to R9-16-214; new Section R9-16-208 renumbered from R9-16-207 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

R9-16-209. Time-frames

- A. For each type of license or approval issued by the Department under this Article, Table 2.1 specifies the overall time-frame described in A.R.S. § 41-1072(2).
 1. An applicant and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame.
 2. The extension of the substantive review time-frame and the overall time-frame may not exceed 25% of the overall time-frame.
- B. For each type of license or approval issued by the Department under this Article, Table 2.1 specifies the administrative completeness review time-frame described in A.R.S. § 41-1072(1), which begins on the date the Department receives an application packet.
 1. The administrative completeness review time-frame begins:
 - a. The date the Department receives an application packet required in this Article, or
 - b. The date the Department receives a request for continuing education course approval according to R9-16-208.
 2. Except as provided in subsection (B)(3), the Department shall provide a written notice of administrative completeness or a notice of deficiencies to an applicant within the administrative completeness review time-frame.
 - a. If a license application packet or request for continuing education course approval is not complete, the notice of deficiencies listing each deficiency and the information or documentation needed to complete the license application packet or request for continuing education course approval.
 - b. A notice of deficiencies suspends the administrative completeness review time-frame and the overall time-frame from the date of the notice until the date the Department receives the missing information or documentation.
 - c. If the applicant does not submit to the Department all the information or documentation listed in the notice of deficiencies within 30 calendar days after the date of the notice of deficiencies, the Department shall consider the license application packet or request for continuing education course approval withdrawn.
 3. If the Department issues a license or approval during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.
- C. For each type of license or approval issued by the Department under this Article, Table 2.1 specifies the substantive review time-frame described in A.R.S. § 41-1072(3), which begins on the date the Department sends a written notice of administrative completeness.
 1. Within the substantive review time-frame, the Department shall provide a written notice to the applicant that the Department approved or denied the license or continuing education course approval.
 2. During the substantive review time-frame:
 - a. The Department may make one comprehensive written request for additional information or documentation; and
 - b. If the Department and the applicant agree in writing to allow one or more supplemental requests for additional information or documentation, the Department may make the number of supplemental requests agreed to between the Department and the applicant.
 3. A comprehensive written request or a supplemental request for additional information or documentation suspends the substantive review time-frame and the overall time-frame from the date of the request until the date the Department receives all the information or documentation requested.
 4. If the applicant does not submit to the Department all the information or documentation listed in a comprehensive written request or supplemental request for additional information or documentation within 30 calendar days

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after the date of the request, the Department shall deny the license or approval.

- D. After receiving the written notice of approval in subsection (C)(1), an applicant for a regular license or a temporary license shall send the required license fee to the Department. If the applicant does not submit the license fee within 30 calendar days after the date the Department sends the written notice of approval to the applicant, the Department shall consider the application withdrawn.
- E. The Department shall issue a regular license or a temporary license:
1. Within five calendar days after receiving the license fee, and
 2. From the date of issue, the license is valid for:

- a. Two years, if a regular license, and
- b. Twelve months, if a temporary license.

- F. An applicant who is denied a license may appeal the denial according to A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

Adopted by final rulemaking at 5 A.A.R. 4359, effective October 28, 1999 (Supp. 99-4). Section R9-16-209 renumbered to R9-16-212; new Section R9-16-209 renumbered from R9-16-204 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

Table 2.1. Time-frames (in calendar days)

Type of Approval	Statutory Authority	Overall Time-Frame	Administrative Completeness Review Frame	Time to Respond to Notice of Deficiency	Substantive Review Time-Frame	Time to Respond to Comprehensive Written Request
Application for an Initial License for an Audiologist (R9-16-202)	A.R.S. §§ 36-1904 and 36-1940	60	30	30	30	30
Application for an Initial License for a Speech-language Pathologist (R9-16-203)	A.R.S. §§ 36-1904 and 36-1940.01	60	30	30	30	30
Application for Temporary License for a Speech-language Pathologist (R9-16-204)	A.R.S. §§ 36-1904 and 36-1940.03	60	30	30	30	30
License Renewal for an Audiologist (R9-16-205)	A.R.S. § 36-1904	60	30	30	30	30
License Renewal for a Speech-language Pathologist (R9-16-206)	A.R.S. § 36-1904	60	30	30	30	30
License Renewal for a Temporary Speech-language Pathologist (R9-16-207)	A.R.S. §§ 36-1904 and 36-1940.03	60	30	30	30	30
Approval of Continuing Education Course (R9-16-208)	A.R.S. § 36-1904	45	30	30	15	30

Historical Note

Table 2.1 made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

R9-16-210. Clinical Fellowship Supervisors

In addition to complying with the requirements in A.R.S. § 36-1905, a clinical fellowship supervisor shall:

1. Complete a minimum of 36 supervisory activities throughout an individual's clinical fellowship that include:
 - a. A minimum of 18 on-site observations,
 - b. No more than six on-site observations in a 24-hour period, and
 - c. A minimum of 18 monitoring activities;
2. Submit a copy of the clinical fellowship report to the Department within 30 calendar days after the completion of the clinical fellowship; and

3. Provide the Department and the clinical fellow with written notice within 72 hours after the decision to stop supervising the clinical fellow if the clinical fellowship supervisor voluntarily stops supervising a clinical fellow before the completion of the clinical fellowship.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2063, effective July 3, 2004 (Supp. 04-2). Section R9-16-210 renumbered to R9-16-215; new Section R9-16-210 renumbered from R9-16-205 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

R9-16-211. Requirements for Supervising a Speech-language

Pathologist Assistant

A licensed speech-language pathologist who provides direct supervision or indirect supervision to a speech-language pathologist assistant shall:

1. Have at least two years of full-time professional experience as a licensed speech-language pathologist;
2. Provide direct supervision or indirect supervision to no more than two full-time or three part-time speech-language pathologist assistants at one time;
3. Ensure that the amount and type of direct supervision and indirect supervision provided is consistent with:
 - a. The speech-language pathologist assistant's skills and experience,
 - b. The needs of the clients served,
 - c. The setting where the services are provided, and
 - d. The tasks assigned;
4. Inform a client when the services of a speech-language pathology assistant is being provided;
5. Document each occurrence of direct supervision and indirect supervision provided to a speech-language pathology assistant, including:
 - a. The speech-language pathologist assistant's name and license number,
 - b. The name and address of business where services occurred, and
 - c. The date and type of supervision provided;
6. Ensure that the amount and type of direct supervision and indirect supervision provided to a speech-language pathology assistant is:
 - a. A minimum of 20 per cent direct supervision and 10 per cent indirect supervision during the first 90 days of employment; and
 - b. Subsequent to the first 90 days of employment, a minimum of 10 per cent direct supervision and 10 per cent indirect supervision;
7. If more than one licensed speech-language pathologist provides direct supervision or indirect supervision to a speech-language pathology assistant, designate one speech-language pathologist as the primary speech-language pathologist who is responsible for coordinating direct supervision and indirect supervision provided by other speech-language pathologists;
8. Establish a record for each speech-language pathologist assistant who receives direct supervision and indirect supervision from the speech-language pathologist that includes:
 - a. The speech-language pathologist assistant's name, home address, telephone number, and e-mail;
 - b. A plan indicating the types of skills and the number of hours allocated to the development of each skill that the speech-language pathologist assistant is expected to complete;
 - c. A document listing each occurrence of direct supervision or indirect supervision provided to the speech-language pathologist assistant that includes:
 - i. Business name and address where supervision occurred;
 - ii. The times when the supervision started and ended,
 - iii. The types of clinical interactions provided; and
 - iv. Notation of speech-language pathologist assistant's progress;
 - d. Documentation of evaluations provided to the speech-language pathologist assistant during the time supervision was provided; and

- e. Documentation of when supervision was terminated; and
9. Maintain a speech-language pathologist assistant record:
 - a. Throughout the period that the speech-language pathologist assistant receives direct supervision and indirect supervision clinical interactions from the supervisor; and
 - b. For at least two years after the last date the speech-language pathologist assistant received clinical interactions from the supervisor.

Historical Note

Adopted as an emergency effective July 12, 1982, pursuant to A.R.S. § 41-1003, valid for 90 days (Supp. 82-4). Emergency expired. Permanent rule R9-16-211 adopted effective January 14, 1983 (Supp. 83-1). Repealed effective March 14, 1994 (Supp. 94-1). New Section R9-16-211 made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

R9-16-212. Equipment; Records

- A. A licensee shall maintain equipment used by the licensee in the practice of audiology or the practice of speech-language pathology according to the manufacturer's specifications.
- B. If a licensee uses equipment that requires calibration, the licensee shall ensure that:
 1. The equipment is calibrated a minimum of every 12 months and according to the American National Standard - Specifications for Audiometers, S3.6-2010, Standards Secretariat, c/o Acoustical Society of America, 1305 Walt Whitman Road, Suite 300, Melville, New York, 11747-4300, November 2, 2010, incorporated by reference and on file with the Department and the Office of the Secretary of State with no future additions or amendments; and
 2. A written record of the calibration is maintained in the same location as the calibrated equipment for at least 36 months after the date of the calibration.
- C. A licensee shall maintain the following records according to A.R.S. § 32-3211 for each client for at least 36 months after the date the licensee provided a service or dispensed a product while engaged in the practice of audiology, practice of speech-language pathology, or practice of fitting and dispensing hearing aids:
 1. The name, address, and telephone number of the individual to whom services are provided;
 2. The name or description and the results of each test and procedure used in evaluating speech, language, and hearing disorders or determining the need for dispensing a product or service; and
 3. If a product such as a hearing aid, augmentative communication device, or laryngeal device is dispensed, a record of the following:
 - a. The name of the product dispensed;
 - b. The product's serial number, if any;
 - c. The product's warranty or guarantee, if any;
 - d. The refund policy for the product, if any;
 - e. A statement of whether the product is new or used;
 - f. The total amount charged for the product;
 - g. The name of the licensee; and
 - h. The name of the intended user of the product.

Historical Note

Adopted as an emergency effective July 12, 1982, pursuant to A.R.S. § 41-1003, valid for 90 days (Supp. 82-4). Emergency expired. Permanent rule R9-16-212 adopted effective January 14, 1983 (Supp. 83-1). Repealed effective March 14, 1994 (Supp. 94-1). New Section R9-16-

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212 renumbered from R9-16-209 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

R9-16-213. Bill of Sale Requirements

An audiologist who dispenses hearing aids shall provide a bill of sale to a client at the time the audiologist provides a hearing aid to the client or at a time requested by the client that complies with the requirements in R9-16-314.

Historical Note

Adopted as an emergency effective July 12, 1982, pursuant to A.R.S. § 41-1003, valid for 90 days (Supp. 82-4). Emergency expired. Permanent rule R9-16-213 adopted effective January 14, 1983 (Supp. 83-1). Repealed effective March 14, 1994 (Supp. 94-1). New Section R9-16-213 made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

R9-16-214. Disciplinary Actions

- A. The Department may, as applicable:
 1. Deny, revoke, or suspend an audiologist or speech-language pathologist's license under A.R.S. § 36-1934;
 2. Request an injunction under A.R.S. § 36-1937; or
 3. Assess a civil money penalty under A.R.S. § 36-1939.
- B. In determining which disciplinary action specified in subsection (A) is appropriate, the Department shall consider:
 1. The type of violation,
 2. The severity of the violation,
 3. The danger to the public health and safety,
 4. The number of violations,
 5. The number of clients affected by the violations,
 6. The degree of harm to the consumer,
 7. A pattern of noncompliance, and
 8. Any mitigating or aggravating circumstances.
- C. A licensee may appeal a disciplinary action taken by the Department according to A.R.S. Title 41, Chapter 6, Article 10.
- D. The Department shall notify a licensee's employer within five calendar days after the Department initiates a disciplinary action against a licensee.

Historical Note

Adopted as an emergency effective July 12, 1982, pursuant to A.R.S. § 41-1003, valid for 90 days (Supp. 82-4). Emergency expired. Permanent rule R9-16-214 adopted effective January 14, 1983 (Supp. 83-1). Repealed effective March 14, 1994 (Supp. 94-1). New Section R9-16-214 renumbered from R9-16-208 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

R9-16-215. Changes Affecting a License or a Licensee; Request for a Duplicate License

- A. A licensee shall submit a notice to the Department in writing within 30 calendar days after the effective date of a change in:
 1. The licensee's home address or e-mail address, including the new home address or e-mail address;
 2. The licensee's name, including a copy of one of the following with the licensee's new name:
 - a. Marriage certificate,
 - b. Divorce decree, or
 - c. Other legal document establishing the licensee's new name; and
 3. The place or places, including address or addresses, where the licensee engages in the practice of audiology, speech-language pathology, or fitting and dispensing hearing aids.

- B. A licensee may obtain a duplicate license by submitting to the Department a written request for a duplicate license in a format provided by the Department that includes:
 1. The licensee's name and address,
 2. The licensee's license number and expiration date,
 3. The licensee's signature and date of signature, and
 4. A \$25 duplicate license fee.

Historical Note

New Section R9-16-215 renumbered from R9-16-210 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

ARTICLE 3. LICENSING HEARING AID DISPENSERS**R9-16-301. Definitions**

In addition to the definitions in A.R.S. § 36-1901, the following definitions apply in this Article unless otherwise specified:

1. "Applicant" means an individual or a business organization that submits to the Department an approval to test, or initial, renewal or temporary license application packet to practice as a hearing aid dispenser.
2. "Application packet" means the information, documents, and fees required by the Department to apply for a license.
3. "Business organization" means an entity identified in A.R.S. § 36-1910.
4. "Calendar day" means each day, not including the day of the act, event, or default from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
5. "Continuing education" means a course that provides instruction and training that directly relates to the practice of fitting and dispensing hearing aids as specified in A.R.S. § 36-1904.
6. "Continuing education hour" means 50 minutes of continuing education.
7. "Controlling person" has the same meaning as in A.R.S. § 36-881.
8. "Course" means a workshop, seminar, lecture, conference, or class.
9. "Department-designated written hearing aid dispenser examination" means one of the following that has been identified by the Department as complying with the requirements in A.R.S. § 36-1924:
 - a. The International Licensing Examination for Healthcare Professionals, administered by the International Hearing Society; or
 - b. A test provided by the Department or other organization.
10. "Designated agent" means an individual who is authorized by an applicant or hearing aid dispenser to receive communications from the Department, including legal service of process, and to file or sign documents on behalf of the applicant or hearing aid dispenser.
11. "Disciplinary action" means a proceeding that is brought against a licensee by the Department under A.R.S. § 36-1934 or a state licensing entity.
12. "In-service education" means organized instruction or information that is provided to a licensed hearing aid dispenser.

Historical Note

Section repealed, new Section adopted effective June 25, 1993 (Supp. 93-2). Section amended by exempt rulemak-

ing at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

R9-16-302. Individuals to Act for Applicant

When an applicant or a hearing aid dispenser is required by this Article to provide information on or sign an application form or other document, the following shall satisfy the requirement on behalf of the applicant or hearing aid dispenser:

1. If the applicant or the hearing aid dispenser is an individual, the individual; or
2. If the applicant or hearing aid dispenser is a business organization, the designated agent who:
 - a. Is a controlling person of the business organization,
 - b. Is a U.S. citizen or legal resident, and
 - c. Has an Arizona address.

Historical Note

Amended effective March 22, 1976 (Supp. 76-2). Section repealed, new Section adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

R9-16-303. Examination Requirements

- A. Within two years after the date an applicant receives the approval notification in R9-16-304(C)(1), or a hearing aid dispenser with a temporary license receives the approval in R9-16-309(C), the applicant or hearing aid dispenser with a temporary license shall take and obtain a passing score on the Department-designated:
 1. Written hearing aid dispenser examination required R9-16-304, and
 2. Practical examination required in R9-16-305.
- B. An applicant approved to take the Department-designated practical examination according to R9-16-304(C)(1), the examination required in R9-16-307(E), or a hearing aid dispenser with a temporary license approved to take the Department-designated practical examination according to R9-16-309(F)(1) shall:
 1. Arrive on the scheduled date and time of the examination,
 2. Provide proof of identity by a government-issued photographic identification card that is provided by the applicant or hearing aid dispenser with a temporary license upon the request of the individual administering the examination, and
 3. Exhibit ethical conduct during the examination process.
- C. An applicant or hearing aid dispenser with a temporary license who does not comply with subsection (B)(1) or (B)(2) is ineligible to take the examination on the scheduled date and time.
- D. An applicant or hearing aid dispenser with a temporary license taking the examination:
 1. Required in R9-16-307(E), will receive:
 - a. A passing score if 75% or more of the responses are correct, as determined by the Department; or
 - b. A failing score if fewer than 75% of the responses are incorrect, as determined by the Department; and
 2. Required in R9-16-304(C)(1) or R9-16-309(F)(1) will receive a passing score on the examination if the applicant or hearing aid dispenser with a temporary license demonstrates the proficiencies in A.R.S. § 36-1924(A)(4), as determined by the Department.
- E. The Department shall notify an applicant or hearing aid dispenser with a temporary license that the applicant or hearing aid dispenser with a temporary license may apply for an initial hearing aid dispenser license when the applicant or hearing aid dispenser with a temporary license has received a passing score on both of the examinations in subsection (A).

Historical Note

The Department of Health Services advises that this rule is preempted by Section 521(a) of the federal Food, Drug and Cosmetic Act (21 U.S.C. 360K). See 21 CFR 808.53, effective November 10, 1980 (Supp. 80-6). Section repealed, new Section adopted effective June 25, 1993 (Supp. 93-2). Amended by final rulemaking at 10 A.A.R. 2063, effective July 3, 2004 (Supp. 04-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

R9-16-304. Written Hearing Aid Dispenser Examination

- A. An applicant applying for an approval to take the Department-designated written hearing aid dispenser examination shall submit to the Department:
 1. An application in a format provided by the Department that contains:
 - a. The applicant's name, home address, telephone number, and e-mail address;
 - b. The applicant's Social Security number, as required under A.R.S. §§ 25-320 and 25-502;
 - c. If applicable, the name of the applicant's employer and the employer's business address and business telephone number;
 - d. Whether the applicant has ever been convicted of a felony or a misdemeanor in this or another state or jurisdiction; and
 - e. If the applicant was convicted of a felony or misdemeanor:
 - i. The date of the conviction,
 - ii. The state or jurisdiction of the conviction,
 - iii. An explanation of the crime of which the applicant was convicted, and
 - iv. The disposition of the case;
 - f. Whether within the two years before the application date, a hearing aid dispenser license issued to the applicant was suspended or revoked;
 - g. Whether the applicant is currently ineligible to apply for a hearing aid dispenser license due to a prior revocation or suspension of the applicant's hearing aid dispenser license;
 - h. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-16-316;
 - i. An attestation that the information submitted as part of the application is true and accurate; and
 - j. The applicant's signature and date of signature;
 2. A copy of the applicant's:
 - a. U.S. passport, current or expired;
 - b. Birth certificate;
 - c. Naturalization documents; or
 - d. Documentation of legal resident alien status;
 3. Documentation that the applicant:
 - a. Received a high school diploma from an accredited high school;
 - b. Passed the general education development tests;
 - c. Completed an associate degree or higher from an accredited college or university; or
 - d. Continuously engaged in the practice of fitting and dispensing hearing aids during the three years before August 11, 1970;
 4. If the applicant was issued a hearing aid dispenser license in another state or jurisdiction, where the applicant was issued a hearing aid dispenser license; and
 5. A nonrefundable \$100 application fee.

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- B. The Department shall review an application for an approval to take the Department-designated written hearing aid examination according to R9-16-316 and Table 3.1.
- C. Within five calendar days after the Department receives the applicant's Department-designated written hearing aid dispenser examination results, the Department shall provide written notification to the applicant of:
 1. A passing score that includes approval to take the Department-designated practical examination in R9-16-305; or
 2. A failing score that includes, as applicable, approval to retake the Department-designated written hearing aid dispenser examination.

Historical Note

Amended effective March 22, 1976 (Supp. 76-2). The Department of Health Services advises that this rule is preempted by Section 521(a) of the federal Food, Drug and Cosmetic Act (21 U.S.C. 360K). See 21 CFR 808.53, effective November 10, 1980 (Supp. 80-6). Section repealed, new Section adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

R9-16-305. Practical Examination

- A. After an applicant takes the Department-designated practical examination required in R9-16-303(A), the Department shall provide written notification to the applicant within five calendar days after the Department receives the applicant's examination results whether the applicant received:
 1. A passing score; or
 2. A failing score and, as applicable, approval to retake the Department-designated practical examination.
- B. The Department shall administer the Department-designated practical exam that complies with A.R.S. § 36-1924(A)(4):
 1. In October each calendar year, and
 2. According to A.R.S. § 36-1923.

Historical Note

Section repealed, new Section adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

R9-16-306. Application for an Initial License by Examination

- A. Within six months after receiving the written notice in R9-16-303(E), an applicant for an initial license by examination shall submit to the Department:
 1. An application in a format provided by the Department that contains:
 - a. The applicant's name, home address, telephone number, and e-mail address;
 - b. An attestation that the information submitted as part of the application for approval to take the Department-designated written hearing aid dispenser examination required in R9-16-304 is currently true and accurate; and
 - c. The applicant's signature and date signed; and
 2. A license fee of \$200.
- B. The Department shall review an application for an initial hearing aid dispenser license by examination according to R9-16-316 and Table 3.1.
- C. If the Department does not issue an initial hearing aid dispenser license by examination to an applicant, the Department shall return the license fee to the applicant.
- D. An initial hearing aid dispenser license is valid for two years from the date of issue.

Historical Note

Adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

R9-16-307. Application for an Initial License by Reciprocity

- A. An applicant for an initial license by reciprocity shall submit to the Department:
 1. An application in a format provided by the Department that contains:
 - a. The information required in R9-16-304(A)(1)(a) through (A)(1)(j),
 - b. The name of each state that issued the applicant a current hearing aid dispenser license,
 - c. The license number of each current hearing aid dispenser license, and
 - d. The date each current hearing aid dispenser license was issued;
 2. The documents required R9-16-304(A)(2) through (A)(5);
 3. For each state named in subsection (A)(1)(b):
 - a. A statement, on the letterhead of the state licensing entity that issued the hearing aid dispenser license and signed by an official of the state licensing entity, that the applicant holds a current hearing aid dispenser license in good standing;
 - b. A copy of the written and practical portions of the Department-designated hearing aid dispenser examination taken by the applicant or a detailed description of each portion of the examination;
 - c. The state licensing entity's statement of:
 - i. The applicant's score on each section of the hearing aid dispenser examination taken by the applicant,
 - ii. The minimum passing score for each section of the hearing aid dispenser examination taken by the applicant, and
 - iii. The minimum passing score for the hearing aid dispenser examination taken by the applicant;
 - d. A copy of the applicant's current license;
 - e. An attestation that the information submitted as part of the application for an initial license by reciprocity is true and accurate; and
 - f. The applicant's signature and date of signature; and
 4. A \$200 license fee.
- B. Based on the information submitted under subsections (A)(1) through (A)(3), the Department shall determine whether:
 1. The content of the examination taken by the applicant is substantially the same as the content of the Department's examinations in:
 - a. The Department-designated written hearing aid dispenser examination, and
 - b. The Department-designated practical examination;
 2. The applicant's scores on the examinations in (A)(3)(c) meet the requirements in R9-16-303 for passing; and
 3. The applicant complies with A.R.S. §§ 36-1922 and 36-1923(A), and this Article.
- C. The Department shall review an application for an initial license by reciprocity according to R9-16-316 and Table 3.1.
- D. If the Department does not issue an initial license by reciprocity to an applicant, the Department shall return the license fee to the applicant.
- E. If the Department issues an initial license by reciprocity to an applicant, the Department shall provide notification to the applicant that the applicant is approved to take and required to pass the examination identified in A.R.S. § 36-1922 within six months after the initial license by reciprocity is issued.

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- F. After an applicant takes the examination in subsection (E), the Department shall provide written notification to the applicant within five calendar days after the Department receives the applicant's examination results whether the applicant received:
1. A passing score; or
 2. A failing score and, as applicable, approval to retake the examination.
- G. An initial license by reciprocity issued to an applicant is valid for two years from the date of issue.

Historical Note

Adopted effective June 25, 1993 (Supp. 93-2). Amended by final rulemaking at 10 A.A.R. 2063, effective July 3, 2004 (Supp. 04-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

R9-16-308. Application for an Initial License to a Business Organization

- A. An applicant that is a business organization shall submit to the Department:
1. An application for an initial hearing aid dispenser license in a format provided by the Department that contains:
 - a. The name of the business organization;
 - b. The business organization's Arizona business name, address, and telephone number;
 - c. The name, address, telephone number, and e-mail address of the individual authorized by the business organization to be the designated agent;
 - d. The name, business telephone number, and Arizona hearing aid dispenser license number of each hearing aid dispenser employed by the business organization in Arizona;
 - e. Whether the business organization or a hearing aid dispenser working for the business organization has had a hearing aid dispenser license suspended or revoked by any state within two years before the application date;
 - f. Whether the business organization or a hearing aid dispenser working for the business organization currently is not eligible for licensing in any state due to a suspension or revocation;
 - g. An attestation that information required as part of the application has been submitted and is true and accurate; and
 - h. The signature and date of signature from the designated agent;
 2. A nonrefundable \$100 application fee; and
 3. A \$200 license fee.
- B. The Department shall review an application for an initial hearing aid dispenser license to a business organization according to R9-16-316 and Table 3.1.
- C. If the Department does not issue an initial hearing aid dispenser license to a business organization, the Department shall return the license fee in subsection (A)(3) to the applicant.
- D. A business organization licensed according to this Section shall comply with A.R.S. § 36-1910.
- E. An initial license issued to a business organization according to this Section is valid for two years from the date of issue.
- A. An applicant for a temporary license shall submit to the Department:
1. An application in a format provided by the Department that contains:
 - a. The information in R9-16-304(A)(1)(a) through (A)(5); and
 - b. The applicant's sponsor's:
 - i. Name,
 - ii. Business address,
 - iii. Business telephone number, and
 - iv. Arizona hearing aid dispenser license number;
 2. A statement signed by the sponsor that the sponsor is a licensed hearing aid dispenser who agrees to train, supervise, and be responsible for the applicant's hearing aid dispenser practice according to A.R.S. § 36-1905; and
 3. A \$100 license fee.
- B. The Department shall review an application for a temporary license according to R9-16-316 and Table 3.1.
- C. If the Department issues a temporary license to the applicant, the Department shall also provide written notification to the applicant of approval to take the Department-designated written hearing aid dispenser examination within six months after the temporary license is issued.
- D. If the Department does not issue an applicant a temporary license, the Department shall return the license fee in subsection (A)(3) to the applicant.
- E. If a hearing aid dispenser with a temporary license takes and fails the Department-designated written hearing aid dispenser examination required in subsection (C), the temporary hearing aid dispenser may:
1. Renew the temporary license once according to R9-16-311(F), and
 2. Take the Department-designated written hearing aid dispenser examination within the six months after renewal of the temporary license.
- F. Within five calendar days after the Department receives an individual's Department-designated written hearing aid dispenser examination results, the Department shall provide written notification to the individual of:
1. A passing score that includes approval to take the Department-designated practical examination; or
 2. A failing score that includes, as applicable, approval to retake the Department-designated written hearing aid dispenser examination.
- G. A temporary license is no longer valid on the date the Department receives notice from the sponsor that the sponsor is terminating sponsorship.
- H. A hearing aid dispenser whose temporary license is terminated according to subsection (G), shall:
1. Not practice until issued a new license, and
 2. May apply for an initial license as a hearing aid dispenser according to this Article or a temporary license according to this Section.
- I. A temporary license is valid for 12 months from the date of issue.

Historical Note

Adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

R9-16-310. Sponsors

- A. A sponsor shall:
1. Provide to a hearing aid dispenser with a temporary license a minimum of 64 hours per month of on-site training and supervision that:

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- a. Consists of coordinating, directing, watching, inspecting, and evaluating the fitting and dispensing activities of the hearing aid dispenser with a temporary license; and
 - b. Directly relates to the type of training and education needed to pass the licensing examination required in A.R.S. § 36-1924;
 2. Maintain a record that:
 - a. Is signed by the hearing aid dispenser with a temporary license;
 - b. Has the date, time, and content of the training and supervision provided to the hearing aid dispenser with a temporary license, as required in subsection (A)(1); and
 - c. Is available for inspection by the Department for at least 12 months after the end of the sponsorship agreement; and
 3. Not provide sponsorship to more than two hearing aid dispensers with temporary licenses, at one time.
 - B.** When a sponsor terminates a sponsorship agreement with a hearing aid dispenser with a temporary license:
 1. The sponsor shall:
 - a. Provide a written notice to the hearing aid dispenser with a temporary license indicating termination of the sponsorship agreement; and
 - b. Provide a copy of the written notice required in subsection (B)(1)(a), and documentation that the hearing aid dispenser with a temporary license received the written notice, to the Department; and
 2. The hearing aid dispenser with a temporary license shall return the temporary license to the Department.
- Historical Note**
- Adopted effective June 25, 1993 (Supp. 93-2). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 5029, effective September 30, 2001 (Supp. 01-4). New Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).
- R9-16-311. License Renewal**
- A.** A licensee, except for a hearing aid dispenser with a temporary license, shall submit a renewal application in a format provided by the Department that contains:
 1. For an individual licensed as a hearing aid dispenser:
 - a. The applicant's name, home address, telephone number, and e-mail address;
 - b. The applicant's Social Security Number, as required under A.R.S. §§ 25-320 and 25-502;
 - c. If applicable, the name of the applicant's employer and the employer's business address and business telephone number;
 - d. The applicant's license number and expiration date;
 - e. Since the hearing aid dispenser's previous license application, whether the applicant has been convicted of a felony or a misdemeanor involving moral turpitude in this or another state or jurisdiction;
 - f. If the applicant was convicted of a felony or misdemeanor involving moral turpitude:
 - i. The date of the conviction,
 - ii. The state or jurisdiction of the conviction,
 - iii. An explanation of the crime of which the applicant was convicted, and
 - iv. The disposition of the case;
 - g. Whether the applicant has had a license revoked or suspended by any state within the previous two years;
 - h. Whether the applicant is currently ineligible for licensure in any state because of a prior license revocation or suspension;
 - i. Whether any disciplinary action has been imposed by any state, territory or district in this country for an act upon the applicant's hearing aid dispenser license;
 - j. An attestation that information required as part of the application has been submitted and is true and accurate; and
 - k. The applicant's signature and date of signature;
 2. In addition to the requirements in subsection (A)(1) an individual shall submit:
 - a. Documentation of 24 continuing education hours completed within the 24 months before the expiration date on the license, including:
 - i. The name of the organization providing the course;
 - ii. The date and location where the course was provided;
 - iii. The title of each course attended;
 - iv. A description of each course's content;
 - v. Whether the course was taught in-person;
 - vi. The name of the instructor;
 - vii. The instructor's education, training, and experience background, if available; and
 - viii. The number of continuing education hours earned for each course; and
 - b. A \$200 license renewal fee; or
 3. For a business organization licensed as a hearing aid dispenser:
 - a. The information in subsection R9-16-308(A)(1), and
 - b. A \$200 license renewal fee.
 - B.** A licensee, except for a hearing aid dispenser with a temporary license, who renews a license within 30 calendar days after the expiration date of the license, shall submit to the Department:
 1. The information and renewal fee required in subsection (A), and
 2. A \$25 late fee.
 - C.** A renewal license issued to a licensee, except for a hearing aid dispenser with a temporary license, is valid for two years after the expiration date of the previous license issued by the Department.
 - D.** If a licensee does not comply with subsections (A) or (B), the license is nonrenewable and:
 1. The hearing aid dispenser may apply for a new license according to subsection (E), or
 2. The business organization may apply for a new license according to R9-16-308.
 - E.** A licensee whose license is nonrenewable according to subsection (D)(1) and it is within one year after the expiration date of the hearing aid dispenser's license:
 1. The applicant shall submit an application in a format provided by the Department that contains:
 - a. The information required in R9-16-304(A)(1) through (A)(4), and
 - b. Documentation of continuing education according to R9-16-312; and
 2. A nonrefundable \$100 application fee and a \$100 license fee.
 - F.** If allowed in R9-16-309(E)(1), a hearing aid dispenser with a temporary license shall submit at least 30 calendar days before the expiration date on the license, a renewal application in a format provided by the Department that contains:
 1. The information in R9-16-304(A)(1) through (A)(4);
 2. The applicant's sponsor's:

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- a. Name,
- b. Business address,
- c. Business telephone number, and
- d. Arizona hearing aid dispenser license number;
- 3. A statement signed by the sponsor that the sponsor is a licensed hearing aid dispenser who agrees to train, supervise, and be responsible for the applicant's hearing aid dispenser practice according to A.R.S. § 36-1905; and
- 4. A \$100 license renewal fee.
- G.** A renewal license issued to a licensee according to subsection (F) is valid for one year after the expiration date of the previous license issued by the Department.
- H.** The Department shall review a renewal application according to R9-16-316 and Table 3.1.

Historical Note

Adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

R9-16-312. Continuing Education

- A.** Continuing education shall:
 - 1. Directly relate to the practice of fitting and dispensing hearing aids;
 - 2. Have educational objectives that exceed an introductory level of knowledge of fitting and dispensing hearing aids; and
 - 3. Consist of courses that include advances within the last five years in:
 - a. Procedures in the selection and fitting of hearing aids,
 - b. Pre- and post-fitting management of clients,
 - c. Instrument circuitry and acoustic performance data,
 - d. Ear mold design and modification contributing to improved client performance,
 - e. Audiometric equipment or testing techniques that demonstrate an improved ability to identify and evaluate hearing loss,
 - f. Auditory rehabilitation,
 - g. Ethics,
 - h. Federal and state statutes or rules, or
 - i. Assistive listening devices.
- B.** A continuing education course developed, endorsed, or sponsored by one of the following meets the requirements in subsection (A):
 - 1. Hearing Healthcare Providers of Arizona,
 - 2. Arizona Speech-Language-Hearing Association,
 - 3. American Speech-Language-Hearing Association,
 - 4. International Hearing Society,
 - 5. International Institute for Hearing Instrument Studies,
 - 6. American Auditory Society,
 - 7. American Academy of Audiology,
 - 8. Academy of Doctors of Audiology,
 - 9. Arizona Society of Otolaryngology-Head and Neck Surgery,
 - 10. American Academy of Otolaryngology-Head and Neck Surgery, or
 - 11. An organization determined by the Department to be consistent with an organization in subsection (B)(1) through (10).
- C.** A hearing aid dispenser shall comply with the continuing education requirements in A.R.S. § 36-1904.

Historical Note

Adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20

A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

R9-16-313. Responsibilities of a Hearing Aid Dispenser

- A.** A hearing aid dispenser licensed according to subsections R9-16-306 or R9-16-307 shall:
 - 1. Upon licensure, notify the Department in writing of the address where the hearing aid dispenser practices the fitting and dispensing of hearing aids;
 - 2. Conspicuously post the license received according to subsections R9-16-306 or R9-16-307 in the hearing aid dispenser's office or place of business;
 - 3. Except as specified in subsections (A)(4) or (A)(5), conduct audiometric tests before selecting a hearing aid for a client that provides detailed information about the client's hearing loss, including:
 - a. Type, degree, and configuration of hearing loss;
 - b. Ability, as measured by the percentage of words the client is able to repeat correctly, to discriminate speech; and
 - c. The client's most comfortable and uncomfortable loudness levels in decibels;
 - 4. Have the option to conduct audiometric testing required in subsection (A)(3) before selling a client a hearing aid if the client provides to the dispenser the information required in subsection (A)(3) from a licensed professional and the information was:
 - a. Obtained within the previous 12 months for an adult, or
 - b. Within the previous six months for an individual under the age of 18;
 - 5. Have the option to conduct audiometric testing required in subsection (A)(3) if the tests cannot be performed on the client due to:
 - a. The client's young age, or
 - b. A physical or mental disability;
 - 6. Maintain documentation for three years from the date of receipt of the information, that supports the exclusion of specific audiometric tests according to subsections (A)(4) and (A)(5);
 - 7. Evaluate the performance characteristics of the hearing aid as it functions on the client's ear for the purpose of assessing the degree of audibility provided by the device and benefit to the client;
 - 8. Provide a bill of sale to a client according to A.R.S. § 36-1909(A) that contains:
 - a. Information required in A.R.S. § 36-1909;
 - b. A complete description of:
 - i. Warranty information, and
 - ii. The conditions of any offer of a trial period with a money back guarantee or partial refund; and
 - c. The client's signature and date of signature; and
 - 9. Not:
 - a. Practice without a license according to A.R.S. § 36-1907,
 - b. Commit unlawful acts according to A.R.S. § 36-1936, or
 - c. Commit actions described in A.R.S. § 36-1934(A).
- B.** The trial period described in subsection (A)(8)(b)(ii) shall not include any time that the hearing aid is in the possession of the hearing aid dispenser or the manufacturer of the hearing aid.

Historical Note

Adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

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R9-16-314. Equipment and Records

- A. A licensee shall maintain an audiometer that performs the audiometric tests as described in R9-16-313 according to the manufacturer's specifications.
- B. If a licensee uses equipment that requires calibration, the licensee shall ensure that:
 - 1. The equipment is calibrated at least every 12 months and according to the American National Standard - Specifications for Audiometers, S3.6-2010, Standards Secretariat, c/o Acoustical Society of America, 1305 Walt Whitman Road, Suite 300, Melville, New York, 11747-4300, November 2, 2010, incorporated by reference and on file with the Department and the Office of the Secretary of State, with no future additions or amendments; and
 - 2. A written record of the calibration is maintained in the same location as the calibrated equipment for at least 36 months after the date of the calibration.
- C. A licensee shall maintain a record according to A.R.S. § 32-3211 for each client with the following documents for at least 36 months after the date the licensee provided a service or dispensed a product while engaged in the practice of fitting and dispensing hearing aids:
 - 1. The name, address, and telephone number of the individual to whom services are provided;
 - 2. A written statement from a licensed physician that the client has medical clearance to use hearing aids or a medical waiver signed by the client who is 18 years of age or older;
 - 3. For each audiometric test conducted for the client, the:
 - a. Audiometric test results by date and procedure used in evaluating hearing disorders or determining the need for dispensing a product or service,
 - b. Name of the individual who performed the audiometric tests, and
 - c. Signature of the individual who performed the audiometric tests;
 - 4. A copy of the bill of sale required in R9-16-313(A)(8);
 - 5. Documented verification of the effectiveness of the hearing aid required in R9-16-313 (A)(7); and
 - 6. The contracts, agreements, warranties, trial periods, or other documents involving the client.

Historical Note

Adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

R9-16-315. Disciplinary Actions

- A. The Department may, as applicable:
 - 1. Take an action under A.R.S. § 36-1934,
 - 2. Request an injunction under A.R.S. § 36-1937, or
 - 3. Assess a civil money penalty under A.R.S. § 36-1939.
- B. In determining which disciplinary action specified in subsection (A) is appropriate, the Department shall consider:
 - 1. The type of violation,
 - 2. The severity of the violation,
 - 3. The danger to the public health and safety,
 - 4. The number of violations,
 - 5. The number of clients affected by the violations,
 - 6. The degree of harm to the consumer,
 - 7. A pattern of noncompliance, and
 - 8. Any mitigating or aggravating circumstances.
- C. A licensee may appeal a disciplinary action taken by the Department according to A.R.S. Title 41, Chapter 6, Article 10.

- D. The Department shall notify a licensee's employer within five days after the Department initiates a disciplinary action against a licensee.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2688, effective June 7, 2002 (Supp. 02-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

Table 1. Renumbered**Historical Note**

Table 1 made by final rulemaking at 8 A.A.R. 2688, effective June 7, 2002 (Supp. 02-2). Table 1 renumbered to Table 3.1 by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

R9-16-316. Time-frames

- A. The overall time-frame described in A.R.S. § 41-1072 for each type of license or approval granted by the Department is specified in Table 3.1. The Department and an applicant may agree in writing to extend the substantive review time-frame and the overall time-frame. The substantive review time-frame and the overall time-frame may not be extended by more than 25 percent of the overall time-frame.
- B. The administrative completeness review time-frame described in A.R.S. § 41-1072 for each type of license or approval granted by the Department is specified in Table 3.1.
 - 1. The administrative completeness review time-frame begins:
 - a. For an applicant submitting an application for approval to take the Department-designated written hearing aid dispenser examination, when the Department receives the application required in R9-16-304(A);
 - b. For an applicant submitting an application for initial hearing aid dispenser license by examination, when the Department receives the application required in R9-16-306;
 - c. For an applicant submitting an application for initial hearing aid dispenser license by reciprocity, when the Department receives the application required in R9-16-307;
 - d. For a business organization submitting an application for an initial hearing aid dispenser license to a business organization, when the Department receives the application required in R9-16-308;
 - e. For an applicant submitting an application for a temporary license, when the Department receives the application required in R9-16-309;
 - f. For a licensed hearing aid dispenser applying to renew a hearing aid dispenser license, when the Department receives the application required in R9-16-311;
 - g. For a business organization applying to renew a business organization hearing aid dispenser license, when the Department receives the application required in R9-16-311; and
 - h. For a temporary hearing aid dispenser applying to renew a temporary license, when the Department receives the application required in R9-16-311.
 - 2. If an application is incomplete, the Department shall provide a notice of deficiencies to the applicant or licensee describing the missing documents or incomplete information. The administrative completeness review time-frame and the overall time-frame are suspended from the date of the notice until the date the Department receives the doc-

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umentation or information listed in the notice of deficiencies. An applicant or licensee shall submit to the Department the documentation or information listed in the notice of deficiencies within the time specified in Table 3.1 for responding to a notice of deficiencies.

3. If the applicant or licensee submits the documentation or information listed in the notice of deficiencies within the time specified in Table 3.1, the Department shall provide a written notice of administrative completeness to the applicant or licensee.
 4. If the applicant or licensee does not submit the documentation or information listed in the notice of deficiencies within the time specified in Table 3.1, the Department shall consider the application withdrawn.
 5. When an application is complete, the Department shall provide a notice of administrative completeness to the applicant or licensee.
 6. If the Department issues a license or notice of approval during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.
- C. The substantive review time-frame described in A.R.S. § 41-1072 is specified in Table 3.1 and begins on the date of the notice of administrative completeness.
1. If an application complies with this Article and A.R.S. Title 36, Chapter 17, Articles 1 through 4, the Department shall issue a notice of approval to an applicant or a license to an applicant or licensee.
 2. If an application does not comply with this Article and A.R.S. Title 36, Chapter 17, Articles 1 through 4, the Department shall make one comprehensive written request for additional information, unless the applicant or licensee has agreed in writing to allow the Department to submit supplemental requests for information. The sub-

stantive review time-frame and the overall time-frame are suspended from the date that the Department sends a comprehensive written request for additional or a supplemental request for information until the date that the Department receives all of the information requested.

3. An applicant or licensee shall submit to the Department all of the information requested in a comprehensive written request for additional information or a supplemental request for information within the time specified in Table 3.1.
4. If the applicant or licensee does not submit the additional information within the time specified in Table 3.1 or the additional information submitted by the applicant or licensee does not demonstrate compliance with this Article and A.R.S. Title 36, Chapter 17, Articles 1 through 4, the Department shall provide to the applicant or licensee a written notice of denial that complies with A.R.S. § 41-1092.03(A).
5. If the applicant or licensee submits the additional information within the time specified in Table 3.1 and the additional information submitted by the applicant or licensee demonstrates compliance with this Article and A.R.S. Title 36, Chapter 17, Articles 1 through 4, the Department shall issue a license to an applicant or licensee or a notice of approval to an applicant.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2063, effective July 3, 2004 (Supp. 04-2). Historical note corrected to reflect the rulemaking action on file and effective with the 04-2 supplement (Supp. 05-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

Table 3.1. Time-frames (in calendar days)

Type of Approval	Statutory Authority	Overall Time-frame	Administrative Completeness Review Time-frame	Time to Respond to Notice of Deficiency	Substantive Review Time-frame	Time to Respond to Comprehensive Written Request
Approval to take the Department-designated Written Hearing Aid Dispenser Examination	A.R.S. §§ 36-1923, 36-1924	60	30	60	30	30
Initial License by Examination	A.R.S. §§ 36-1904, 36-1923	60	30	30	30	15
Initial License by Reciprocity	A.R.S. § 36-1922	60	30	30	30	15
Initial License to a Business Organization	A.R.S. § 36-1910	60	30	30	30	15
Temporary License	A.R.S. § 36-1926	60	30	30	30	15
Renewal of a Hearing Aid Dispenser License	A.R.S. § 36-1904	60	30	30	30	15

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Renewal of a Business Organization License	A.R.S. § 36-1910	60	30	30	30	15
Renewal of a Temporary License	A.R.S. § 36-1926	60	30	30	30	15

Historical Note

Table 3.1 renumbered from Table 1 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

R9-16-317. Change Affecting a License or a Licensee; Request for Duplicate License

- A.** A licensee shall submit a written notice to the Department in writing within 30 calendar days after the effective date of a change in:
1. The licensee's home address or e-mail address, including the new home address or e-mail address;
 2. The licensee's name, including a copy of one of the following with the licensee's new name:
 - a. Marriage certificate,
 - b. Divorce decree, or
 - c. Other legal document establishing the licensee's new name; or
 3. The place or places where the licensee engages in the practice of hearing aid dispensing, including the address or addresses of the place or places where the licensee engages in the practice of hearing aid dispensing.
- B.** A licensee may obtain a duplicate license by submitting to the Department a request for a duplicate license in a format provided by the Department that includes:
1. The licensee's name and address,
 2. The licensee's license number and expiration date,
 3. The licensee's signature and date of signature, and
 4. A \$25 duplicate license fee

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

ARTICLE 4. REGISTRATION OF SANITARIANS**R9-16-401. Definitions**

In this Article, unless otherwise specified:

1. "Applicant" means an individual requesting from the Council:
 - a. Approval to take the sanitarian examination;
 - b. Registration as a sanitarian; or
 - c. Renewal of registration as a sanitarian.
2. "Application packet" means a Council-approved application form and the documentation necessary to establish an individual's qualifications for registration as a sanitarian.
3. "Billet" means an individual's military job position and job description.
4. "Council" means the Sanitarians' Council established under A.R.S. § 36-136.01(A).
5. "Course" means a program of instruction for which credit toward graduation or certification is given.
6. "Continuing education" means a course, seminar, lecture, conference, workshop, or programmed learning activity related to employment as a registered sanitarian.
7. "Day" means calendar day.
8. "Environmental health" means the well-being of a human as affected or influenced by external conditions such as: bacteria and viruses; transmitted diseases; hygiene; housing; and contamination of food, air, water, or soil.

9. "Full-time military duty" means active duty in any branch of the United States military service.
10. "Natural science" means anatomy, bacteriology, biochemistry, biology, botany, biophysics, biostatistics, cell physiology, chemical engineering, chemistry, ecology, embryology, endocrinology, entomology, environmental health, epidemiology, food bacteriology, dairy sciences, genetics, geophysics, geology, herpetology, histology, hydro geology, hydrology, ichthyology, limnology, microbiology, molecular biology, ornithology, parasitology, pathology, pharmacy, physics, physiology, plant taxonomy, radiological health, sanitary engineering, sewage sanitation, soil science, toxicology, vector control, veterinary science, virology, or zoology or the study of air pollution, community health, environmental diseases, hazardous waste, industrial hygiene, infectious diseases, occupational safety, or public health.
11. "Person" has the same meaning as in A.R.S. § 1-215.
12. "Practice of a registered sanitarian" means acting under the authority of R9-16-408(A).
13. "Registration" means the approval issued by the Council to an applicant who meets the requirements in A.R.S. § 36-136.01 and this Article.
14. "Regulatory authority" has the same meaning as in R9-8-107(B)(11).
15. "Supervise" means to oversee and provide guidance for the accomplishment of a function or activity.

Historical Note

Adopted effective September 29, 1976 (Supp. 76-4). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 5257, effective September 30, 2001 (Supp. 01-4). New Section made by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2). Amended by final rulemaking at 10 A.A.R. 3004, effective September 11, 2004 (Supp. 04-3).

R9-16-402. Sanitarian Examination

- A.** The Council shall provide the sanitarian examination at least four times per calendar year.
- B.** An applicant meeting any one of the requirements in A.R.S. § 36-136.01(I) may sit for the sanitarian examination.
- C.** At least seven days before a Council meeting, an applicant for the sanitarian examination shall:
1. Submit an application form to the Council that contains:
 - a. The applicant's full name and all former names;
 - b. The applicant's current address and telephone number;
 - c. The applicant's social security number;
 - d. If applying under A.R.S. § 36-136.01(I)(1) on the basis of the applicant's employment by a public health agency or private industry in a position directly related to environmental health:
 - i. The name of each of the applicant's employers,
 - ii. The applicant's position for each employer,
 - iii. The months and years of employment in each position, and
 - iv. The name and telephone number of each individual who supervised the applicant during five years of employment in environmental health;

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- e. If applying under A.R.S. § 36-136.01(I)(2) on the basis of military duty:
 - i. Each of the applicant's billets in environmental health,
 - ii. The months and years in each billet, and
 - iii. The name and telephone number of each individual who supervised the applicant during five years of full-time military duty in environmental health;
 - f. If applying under A.R.S. § 36-136.01(I)(3) on the basis of education in natural science:
 - i. The name and address of each college or university attended,
 - ii. The months and years of attendance,
 - iii. Any degree obtained, and
 - iv. A listing of courses in natural science completed with a grade of C or better;
 - g. Whether the applicant has had an application for a registration, license, or certificate related to the practice of a registered sanitarian denied or rejected by any state or jurisdiction and if so, the:
 - i. Reason for denial or rejection,
 - ii. Date of the denial or rejection, and
 - iii. Name and address of the state or jurisdiction that denied or rejected the application;
 - h. Whether the applicant has had a registration, license, or certificate related to the practice of a registered sanitarian suspended or revoked by any state or jurisdiction or entered into a consent agreement with a state or jurisdiction and if so, the:
 - i. Reason for the suspension, revocation, or consent agreement;
 - ii. Date of the suspension, revocation, or consent agreement; and
 - iii. Name and address of the state or jurisdiction that suspended or revoked the registration, license, or certificate or issued the consent agreement;
 - i. Whether the applicant has pled guilty to, been convicted of, or entered a plea of no contest to a misdemeanor related to the applicant's employment as a sanitarian or a felony and if so, the:
 - i. Felony or misdemeanor charged;
 - ii. Date of conviction or plea; and
 - iii. Court having jurisdiction over the felony or misdemeanor;
 - j. Whether the applicant has been named as a defendant in a malpractice case resulting from the applicant's employment as a sanitarian and if so, an explanation of the circumstances of the malpractice case;
 - k. The applicant's current employer, including address, job position, and dates of employment, if applicable; and
 - l. A signed statement by the applicant verifying the truthfulness of the information provided;
2. If applying under A.R.S. § 36-136.01(I)(1), arrange to have a letter provided directly to the Council from each individual who supervised the applicant identifying the dates the individual supervised the applicant, totaling at least five years of employment directly related to environmental health;
 3. If applying under A.R.S. § 36-136.01(I)(2), arrange to have a letter provided directly to the Council from each individual who supervised the applicant identifying the dates the individual supervised the applicant, totaling at least five years of full-time military duty in environmental health;
 4. If applying under A.R.S. § 36-136.01(I)(3), arrange to have an official college or university transcript provided directly to the Council from each college or university; and
 5. Submit the application fee in A.R.S. § 36-136.01(F).
- D.** After receiving the written notice of approval in R9-16-407(C)(1)(b), an applicant shall submit to the Council, at least 30 days before the scheduled date of a sanitarian examination, a nonrefundable examination fee of \$110 payable to the Treasurer of the state of Arizona.
- E.** An applicant who does not take a sanitarian examination on the scheduled date shall comply with subsection (D) before taking a subsequent sanitarian examination.
- F.** An applicant who scores:
1. Seventy percent or more on the sanitarian examination is issued a certificate of registration; or
 2. Less than 70%:
 - a. Fails the sanitarian examination; and
 - b. Shall meet the requirements in subsections (B), (C) and (D) to sit for the sanitarian examination again.

Historical Note

Adopted effective September 29, 1976 (Supp. 76-4).
 Amended effective April 12, 1985 (Supp. 85-2). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2).
 Amended by final rulemaking at 10 A.A.R. 3004, effective September 11, 2004 (Supp. 04-3).

R9-16-403. Sanitarian Registration

An applicant for registration as a sanitarian shall submit to the Council the application form, information, and application fee in R9-16-402 and:

1. If the applicant is registered, certified, or licensed as a sanitarian in another jurisdiction submit to the Council:
 - a. A copy of the applicant's sanitarian registration, certification, or licensure from the other jurisdiction;
 - b. A copy of the examination requirements for registration, certification, or licensure in the other jurisdiction;
 - c. The name of the testing company that provided the sanitarian examination the applicant passed to be registered, certified, or licensed in the other jurisdiction; and
 - d. Documentation of a score of 70% or more by the applicant on the other jurisdiction's sanitarian examination; or
2. If the applicant is not registered, certified, or licensed as a sanitarian in another jurisdiction:
 - a. Be approved to take the sanitarian examination,
 - b. Take and pass the sanitarian examination in R9-16-402 with a score of 70% or more, and
 - c. Submit to the Council the examination fee in R9-16-402(D).

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2). Former R9-16-403 renumbered to R9-16-404; new R9-16-403 made by final rulemaking at 10 A.A.R. 3004, effective September 11, 2004 (Supp. 04-3).

R9-16-404. Annual Registration Renewal

- A.** Except as provided in subsection (B), a registered sanitarian shall submit an application packet for registration renewal on or before December 31 of each year that includes:

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1. The applicant's name and current address;
 2. Whether the applicant, since the applicant last submitted a registration or registration renewal application in this state:
 - a. Has had a registration, license, or certificate related to the practice of a registered sanitarian suspended or revoked by any state or jurisdiction or entered into a consent agreement with a state or jurisdiction and if so, the:
 - i. Reason for the suspension, revocation, or consent agreement;
 - ii. Date of the suspension, revocation, or consent agreement; and
 - iii. Name and address of the state or jurisdiction that suspended or revoked the registration, license, or certificate or issued the consent agreement;
 - b. Has pled guilty to, been convicted of, or entered into a plea of no contest to a misdemeanor that is related to the applicant's employment as a sanitarian or a felony and if so, the:
 - i. Felony or misdemeanor,
 - ii. Date of conviction, and
 - iii. Court having jurisdiction over the felony or misdemeanor; or
 - c. Has been named as a defendant in a malpractice case resulting from the applicant's employment as a sanitarian and if so, an explanation of the circumstances of the malpractice case;
 3. Documentation of:
 - a. The continuing education required in R9-16-405(A) or (E) including for each continuing education:
 - i. A description of the continuing education's content,
 - ii. The name of the person providing the continuing education,
 - iii. The number of hours the sanitarian participated in the continuing education, and
 - iv. The date the continuing education was completed; or
 - b. A request for deferring continuing education and applicable documentation required in R9-16-405(C);
 4. The fee required in A.R.S. § 36-136.01(F); and
 5. A signed statement by the applicant verifying the truthfulness of the information provided.
- B.** A registered sanitarian who does not submit an application packet for renewal registration by December 31 has a grace period until February 15 to submit the application packet. If the registered sanitarian does not submit the application packet for renewal registration in subsection (A) during the grace period:
1. The sanitarian's registration expires; and
 2. The sanitarian shall, before practicing as a registered sanitarian:
 - a. Submit for Council approval a new application to take the sanitarian examination and the application fee required in R9-16-402(C)(5),
 - b. Receive Council approval to take the sanitarian examination,
 - c. Submit the nonrefundable examination fee required in R-16-402(D), and
 - d. Pass the sanitarian examination as required in R9-16-402(F)(1).

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2). Former R9-16-404

renumbered to R9-16-406; new R9-16-404 renumbered from R9-16-403 and amended by final rulemaking at 10 A.A.R. 3004, effective September 11, 2004 (Supp. 04-3).

R9-16-405. Continuing Education

- A.** Except as provided in subsections (B) and (C), a registered sanitarian shall obtain 12 hours of continuing education in each calendar year for renewal of registration.
- B.** A registered sanitarian who has been registered for less than 12 months is not required to obtain continuing education for renewal of registration.
- C.** A registered sanitarian may submit, with a renewal application, a request to defer the 12 hours of continuing education for renewal of registration that includes written documentation of the registered sanitarian's illness or active military duty for at least six months of the preceding 12 months that prevented the registered sanitarian from completing the continuing education requirement.
- D.** The Council shall approve a registered sanitarian's request for a deferral of the continuing education requirement if the request includes the documentation required in subsection (C).
- E.** A registered sanitarian who has had the continuing education requirement deferred in a calendar year shall obtain:
 1. The 12 deferred hours of continuing education by the end of the subsequent calendar year, and
 2. The 12 hours of continuing education required in subsection (A) for the calendar year.

Historical Note

Adopted effective September 29, 1976 (Supp. 76-4). Amended effective April 12, 1985 (Supp. 85-2). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 5257, effective September 30, 2001 (Supp. 01-4). New Section made by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2). Former R9-16-405 renumbered to R9-16-407; new R9-16-405 made by final rulemaking at 10 A.A.R. 3004, effective September 11, 2004 (Supp. 04-3).

R9-16-406. Change of Name or Address

- A.** A registered sanitarian shall send written notice of a change in the registered sanitarian's name to the Council within 30 days from the date of the change.
- B.** A registered sanitarian shall send written notice of a change in the registered sanitarian's mailing address to the Council within 30 days from the date of the change.

Historical Note

Adopted effective September 29, 1976 (Supp. 76-4). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2). Former R9-16-406 renumbered to R9-16-408; new R9-16-406 renumbered from R9-16-404 by final rulemaking at 10 A.A.R. 3004, effective September 11, 2004 (Supp. 04-3).

R9-16-407. Time-frames

- A.** The overall time-frame described in A.R.S. § 41-1072(2) for each type of approval granted by the Council is set forth in Table 1. The applicant and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame. The substantive review time-frame and the overall time-frame may not be extended by more than 25% of the overall time-frame.
- B.** The administrative completeness review time-frame described in A.R.S. § 41-1072(1) for each type of approval granted by the Council is specified in Table 1.

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1. The administrative completeness review time-frame begins:
 - a. For an applicant applying to take the sanitarian examination, when the Council receives the application packet required in R9-16-402;
 - b. For an applicant who is approved to take the sanitarian examination, when the applicant takes the sanitarian examination; or
 - c. For an applicant who is registered, certified, or licensed as a sanitarian in another jurisdiction, when the Council receives the application packet required in R9-16-403; or
 - d. For an applicant applying to renew the applicant's registration as a sanitarian, when the Council receives the application packet required in R9-16-404.
2. If an application packet in subsection (B)(1)(a), (B)(1)(c), or (B)(1)(d) is:
 - a. Incomplete, the Council shall provide a deficiency notice to the applicant describing the missing documentation or incomplete information. The administrative completeness review time-frame and the overall time-frame are suspended from the date of the notice until the date the Council receives the documentation or information listed in the deficiency notice. An applicant shall submit to the Council the documentation or information listed in the deficiency notice within the time period specified in Table 1 for responding to a deficiency notice.
 - i. If the applicant submits the documentation or information listed in the deficiency notice within the time period specified in Table 1, the Council shall provide a written notice of administrative completeness to the applicant.
 - ii. If the applicant does not submit the documentation or information listed in the deficiency notice within the time period in Table 1, the Council considers the application withdrawn and shall return the application packet to the applicant; or
 - b. Complete, the Council shall provide a notice of administrative completeness to the applicant.
3. If an applicant takes and submits the sanitarian examination in subsection (B)(1)(b) and the examination is:
 - a. Incomplete, the Council shall provide a deficiency notice to the applicant stating that the applicant's sanitarian examination is incomplete and identifying the date of the next scheduled sanitarian examination. The administrative completeness review time-frame and the overall time-frame are suspended from the date of the notice until the Council receives a completed sanitarian examination; or
 - b. Complete, the Council shall provide a written notice of administrative completeness to the applicant.
- C. The substantive review time-frame described in A.R.S. § 41-1072(3) is specified in Table 1 and begins to run on the date of the notice of administrative completeness.
 1. If an application for approval to take the sanitarian examination in subsection (B)(1)(a):
 - a. Does not comply with the requirements in this Article, the Council shall provide a comprehensive request for additional information to the applicant.
 - i. If the applicant does not submit the additional information within the time specified in Table 1 or the additional information submitted by the applicant does not demonstrate compliance with this Article and A.R.S. § 36-136.01, the Council shall deny approval to take the sanitarian examination and provide the applicant a written notice of denial that complies with A.R.S. § 41-1092.03(A); or
 - ii. If the applicant submits the additional information within the time specified in Table 1 and the additional information submitted by the applicant demonstrates compliance with this Article and A.R.S. § 36-136.01, the Council shall provide a written notice of approval to take the sanitarian examination to the applicant; or
 - b. Complies with the requirements in this Article and A.R.S. § 36-136.01, the Council shall provide a written notice of approval to take the sanitarian examination to the applicant.
 2. If the Council determines that an applicant:
 - a. Failed to sit for the sanitarian examination within the time-frame in subsection (F), the Council shall provide a written notice to the applicant requiring the applicant to submit a new application for approval to take the sanitarian examination if the applicant requests registration;
 - b. Failed the sanitarian examination, the Council shall deny registration and provide a written notice of appealable agency action that complies with A.R.S. § 41-1092.03(A) to the applicant; or
 - c. Passed the sanitarian examination, the Council shall issue a certificate of registration as a sanitarian to the applicant.
 3. If an application for registration as a sanitarian in subsection (B)(1)(c):
 - a. Does not comply with the requirements in this Article, the Council shall provide a comprehensive request for additional information to the applicant and take action as follows:
 - i. If the applicant does not submit the additional information within the time specified in Table 1 or the additional information submitted by the applicant does not demonstrate compliance with this Article and A.R.S. § 36-136.01, the Council shall deny registration and provide the applicant a written notice of appealable agency action that complies with A.R.S. § 41-1092.03(A); or
 - ii. If the applicant submits the additional information within the time specified in Table 1 and the additional information submitted by the applicant demonstrates compliance with this Article and A.R.S. § 36-136.01, the Council shall issue a certificate of registration as a sanitarian to the applicant; or
 - b. Complies with the requirements in this Article and A.R.S. § 36-136.01, the Council shall issue a certificate of registration as a sanitarian to the applicant.
 4. If an application for renewal of registration as a sanitarian in subsection (B)(1)(d):
 - a. Does not comply with the requirements in this Article, the Council shall provide a comprehensive request for additional information to the applicant;
 - i. If the applicant does not submit the additional information within the time specified in Table 1 or the additional information submitted does not demonstrate compliance with the requirements in this Article and A.R.S. § 36-136.01, the Council shall deny renewal and provide a

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- written notice of appealable agency action that complies with A.R.S. § 41-1092.03(A) to the applicant; or
- ii. If the applicant submits the additional information within the time specified in Table 1 and the additional information submitted demonstrates compliance with the requirements in this Article and A.R.S. § 36-136.01, the Council shall issue a renewal certificate of registration as a sanitarian to the applicant; or
 - b. Complies with the requirements in this Article and A.R.S. § 36-136.01, the Council shall issue a renewal certificate of registration as a sanitarian to the applicant.
- D.** If an applicant receives a written notice of appealable agency action in subsections (C)(1)(a)(i), (C)(2)(b), (C)(3)(a)(i), or (C)(4)(a)(i), the applicant may file a notice of appeal with the Department within 30 days after receiving the notice of appealable agency action. The appeal shall be conducted according to A.R.S. Title 41, Chapter 6, Article 10.
- E.** If the Council grants approval to take the sanitarian examination or issues or renews a certificate of registration as a sanitarian during the administrative completeness review time-frame, the Council shall not issue a separate written notice of administrative completeness.
- F.** If an applicant does not sit for the sanitarian examination within 12 months of the Council's approval to take the sanitarian examination, the applicant shall, before taking the sanitarian examination:
1. Submit a new application for Council approval and the application fee required in R9-16-402(C);
 2. Receive Council approval to take the sanitarian examination; and
 3. Submit the nonrefundable examination fee required in R9-16-402(D).
- G.** If a time-frame's last day falls on a Saturday, Sunday, or a legal holiday, the Council considers the next business day as the time-frame's last day.

Table 1. Time-frames (in days)

Type of Approval	Statutory Authority	Overall Time-frame	Administrative Completeness Review Time-frame	Time to Respond to Deficiency Notice	Substantive Review Time-frame	Time to Respond to Comprehensive Written Request
Sanitarian Examination (R9-16-402)	A.R.S. § 36-136.01(B)	290	30	60	200	60
Registration after completing the sanitarian examination (R9-16-403)	A.R.S. § 36-136.01(B)	90	30	N/A	60	N/A
Registration of an individual registered, certified, or licensed as a sanitarian in another jurisdiction (R9-16-403)	A.R.S. § 36-136.01(C)	180	90	15	90	15
Annual Registration Renewal (R9-16-404)	A.R.S. § 36-136.01(D)	180	90	15	90	15

Historical Note

Adopted effective September 29, 1976 (Supp. 76-4). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2). Former R9-16-407 renumbered to R9-16-409; new R9-16-407 renumbered from R9-16-405 and amended by final rulemaking at 10 A.A.R. 3004, effective September 11, 2004 (Supp. 04-3).

R9-16-408. Authority of a Registered Sanitarian

- A.** A registered sanitarian may:
1. Act as an authorized representative of a regulatory authority under 9 A.A.C. 8; and
 2. Sign inspection reports under 9 A.A.C. 8 and 9 A.A.C. 17.
- B.** An individual who is not a registered sanitarian shall not approve or disapprove operation of a food establishment under 9 A.A.C. 8.
- C.** An individual who is not a registered sanitarian and who prepares an inspection report under 9 A.A.C. 8 and 9 A.A.C. 17 shall submit the report to a registered sanitarian.

Historical Note

Adopted effective September 29, 1976 (Supp. 76-4). Section repealed by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2). Section R9-16-408 renumbered from R9-16-406 by final rulemaking at 10

A.A.R. 3004, effective September 11, 2004 (Supp. 04-3).

R9-16-409. Denial, Suspension, or Revocation

- A.** The Council may deny, suspend, or revoke a sanitarian's registration if the Council determines that the applicant or registered sanitarian:
1. Intentionally provided false information on an application or cheated during the sanitarian examination;
 2. Had an application for a registration, license, or certificate related to the practice of a registered sanitarian denied or rejected by any state or jurisdiction;
 3. Had a registration, license, or certificate related to the practice of a registered sanitarian suspended or revoked by any state or jurisdiction or entered into a consent agreement with any state or jurisdiction;
 4. Pled guilty to, was convicted of, or entered into a plea of no contest to a misdemeanor resulting from employment as a registered sanitarian or a felony;

5. Assisted an individual who is not a registered sanitarian to circumvent the requirements in this Article;
 6. Allowed an individual who is not a registered sanitarian to use the registered sanitarian's registration; or
 7. Failed to comply with any of the requirements in A.R.S. § 36-136.01 or this Article.
- B.** In determining whether to deny an applicant's registration or suspend or revoke a sanitarian's registration, the Council shall consider the threat to public health based on:
1. Whether there is repeated non-compliance with statutes or rules,
 2. Whether there is a pattern of violations or non-compliance,
 3. Type of violation,
 4. Severity of violation, and
 5. Number of violations.
- C.** The Council's notice of denial, suspension, or revocation to the applicant or registered sanitarian, notice of hearing, and all hearing procedures shall comply with A.R.S. Title 41, Chapter 6, Article 10.
- D.** The Council shall provide written notice of a registered sanitarian's denial, suspension, or revocation containing a description of the sanitarian's noncompliance with applicable statutes and rules, by certified mail, to each local health department and each public health service district.

Historical Note

Adopted effective September 29, 1976 (Supp. 76-4). Amended effective April 12, 1985 (Supp. 85-2). Section repealed by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2). Section R9-16-409 renumbered from R9-16-407 and amended by final rulemaking at 10 A.A.R. 3004, effective September 11, 2004 (Supp. 04-3).

R9-16-410. Repealed

Historical Note

Adopted effective September 29, 1976 (Supp. 76-4). Former Section R9-16-410 repealed, new Section R9-16-410 adopted effective April 12, 1985 (Supp. 85-2). Section repealed by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2).

R9-16-411. Repealed

Historical Note

Adopted effective September 29, 1976 (Supp. 76-4). Former Section R9-16-411 renumbered as Section R9-16-414, new Section R9-16-411 adopted effective April 12, 1985 (Supp. 85-2). Section repealed by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2).

R9-16-412. Repealed

Historical Note

Adopted effective April 12, 1985 (Supp. 85-2). Section repealed by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2).

R9-16-413. Repealed

Historical Note

Adopted effective April 12, 1985 (Supp. 85-2). Section repealed by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2).

R9-16-414. Expired

Historical Note

Former Section R9-16-411 renumbered as Section R9-16-

414 effective April 12, 1985 (Supp. 85-2). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 5257, effective September 30, 2001 (Supp. 01-4).

ARTICLE 5. LICENSING SPEECH-LANGUAGE PATHOLOGIST ASSISTANTS

R9-16-501. Definitions

In addition to the definitions in A.R.S. § 36-1901, the following definitions apply in this Article unless otherwise specified:

1. "Accredited" means approved by the:
 - a. New England Association of Schools and Colleges,
 - b. Middle States Commission on Higher Education,
 - c. North Central Association of Colleges and Schools,
 - d. Northwest Commission on Colleges and Universities,
 - e. Southern Association of Colleges and Schools, or
 - f. Western Association of Schools and Colleges.
2. "Applicant" means:
 - a. An individual who submits a license application packet, or
 - b. A person who submits a request for approval of a continuing education course.
3. "Application packet" means the information, documents, and fees required by the Department to apply for a license.
4. "Calendar day" means each day, not including the day of the act, event, or default from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
5. "Client" means an individual who receives speech-language pathology services from a speech-language pathologist assistant.
6. "Continuing education" means a course that provides instruction and training that is designed to develop or improve a licensee's professional competence in disciplines that directly relate to the licensee's scope of practice.
7. "Continuing education hour" means 50 to 60 minutes of continuous instruction.
8. "Course" means a workshop, seminar, lecture, conference, or class.
9. "Documentation" or "documented" means information in written, photographic, electronic, or other permanent form.
10. "General education" means instruction that includes:
 - a. Oral communication,
 - b. Written communication,
 - c. Mathematics,
 - d. Computer instruction,
 - e. Social sciences, and
 - f. Natural sciences.
11. "Observation" means to witness:
 - a. The provision of speech-language pathology services to a client, or
 - b. A demonstration of how to provide speech-language pathology services to a client.
12. "Semester credit hour" means one earned academic unit of study completed, at an accredited college or university, by:
 - a. Attending a 50 to 60 minute class session each calendar week for at least 16 weeks, or
 - b. Completing practical work for a course as determined by the accredited college or university.

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13. "Speech-language pathologist" means an individual who is licensed under A.R.S. § 36-1940.01.
14. "Speech-language pathology technical course work" means a curriculum that provides knowledge to develop core skills and assume job responsibilities, including:
 - a. Language acquisition,
 - b. Speech development,
 - c. Communication disorders,
 - d. Articulation and phonology, and
 - e. Intervention techniques for speech and language disorders.
15. "Supervision" means instruction and monitoring provided by a licensed speech-language pathologist as required in A.R.S. § 36-1940.04 to an individual training to become a speech-language pathologist assistant that includes:
 - a. Onsite observation and guidance; and
 - b. Activities, such as consultation, record review, and review and evaluation of an audiotaped or videotaped screening evaluation or clinical session.
3. If a license for an applicant has been revoked or suspended by any state within the previous two years, documentation that includes:
 - a. The date of the revocation or suspension,
 - b. The state or jurisdiction of the revocation or suspension, and
 - c. An explanation of the revocation or suspension;
4. If the applicant is currently ineligible for licensure in any state because of a prior license revocation or suspension, documentation that includes:
 - a. The date of the ineligibility for licensure,
 - b. The state or jurisdiction of the ineligibility for licensure, and
 - c. An explanation of the ineligibility for licensure;
5. A copy of the applicant's:
 - a. U.S. passport, current or expired;
 - b. Birth certificate;
 - c. Naturalization documents; or
 - d. Documentation of legal resident alien status;
6. An official transcript issued to the applicant from an accredited college or university, showing completion of at least 60 semester credit hours of general education and speech-language pathology technical course work, as required in A.R.S. § 36.1940.04(A);
7. Documentation, signed by a licensed speech-language pathologist as required in A.R.S. § 36-1940.04 who provided supervision to the applicant, confirming the applicant's completion of at least 100 hours of clinical interaction that did not include observation;
8. A nonrefundable \$100 application fee; and
9. A \$200 license fee.

Historical Note

New Section made by final rulemaking at 15 A.A.R. 2132, effective January 30, 2010 (Supp. 09-4). Amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

R9-16-502. Application for an Initial License

- A. An applicant for a speech-language pathologist assistant initial license shall submit to the Department an application packet that includes:
 1. An application in a format provided by the Department that contains:
 - a. The applicant's name, home address, telephone number, and e-mail address;
 - b. The applicant's Social Security number, as required under A.R.S. §§ 25-320 and 25-502;
 - c. If applicable, the name of the applicant's employer and the employer's business address and telephone number;
 - d. Whether the applicant has ever been convicted of a felony or of a misdemeanor involving moral turpitude in this state or another state;
 - e. If the applicant has been convicted of a felony or a misdemeanor involving moral turpitude:
 - i. The date of the conviction,
 - ii. The state or jurisdiction of the conviction,
 - iii. An explanation of the crime of which the applicant was convicted, and
 - iv. The disposition of the case;
 - f. Whether the applicant has had a license revoked or suspended by any state within the previous two years;
 - g. Whether the applicant is currently ineligible for licensure in any state because of a prior license revocation or suspension;
 - h. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-16-505;
 - i. An attestation that the information submitted is true and accurate; and
 - j. The applicant's signature and date of signature;
 2. If applicable, a list of all states and countries in which the applicant is or has been licensed as a speech-language pathologist assistant;

- B. The Department shall review the application packet for an initial license to practice as a speech-language pathologist assistant according to R9-16-505 and Table 5.1.
- C. If the Department does not issue an initial license to an applicant, the Department shall refund the license fee to the applicant.

Historical Note

New Section made by final rulemaking at 15 A.A.R. 2132, effective January 30, 2010 (Supp. 09-4). Section R9-16-502 repealed; new Section R9-16-502 renumbered from R9-16-503 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

R9-16-503. License Renewal

- A. Before the expiration date of a speech-language pathologist assistant license, an applicant shall submit to the Department:
 1. An application for renewal of a speech-language pathologist assistant license in a format provided by the Department that contains:
 - a. The applicant's name, home address, telephone number, and e-mail address;
 - b. If applicable, the name of the applicant's employer and the employer's business address and telephone number;
 - c. If applicable, the name of the applicant's supervising speech-language pathologist;
 - d. The applicant's license number and date of expiration;
 - e. Since the previous license application, whether the applicant has been convicted of a felony or a misdemeanor involving moral turpitude in this or another state;
 - f. If the applicant has been convicted of a felony or a misdemeanor:
 - i. The date of the conviction,

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- ii. The state or jurisdiction of the conviction,
 - iii. An explanation of the crime of which the applicant was convicted, and
 - iv. The disposition of the case;
- g. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-16-505;
- h. An attestation that the information submitted is true and accurate; and
- i. The applicant's signature and date of signature;
- 2. Documentation of continuing education as required in R9-16-504 and completed within 24 months before the expiration date on the license, including:
 - a. The name of the individual or organization providing the course;
 - b. The date and location where the course was provided;
 - c. The title of each course attended;
 - d. A description of each course's content;
 - e. The name of the instructor;
 - f. The instructor's education, training, and experience background, if applicable; and
 - g. The number of continuing education hours earned for each course; and
- 3. A \$200 license renewal fee.
- B.** According to A.R.S. § 36-1904, the Department shall allow a speech-language pathologist assistant to renew a license within 30 calendar days after the expiration date of the license by submitting to the Department:
 - 1. The renewal application packet required in subsection (A), and
 - 2. A \$25 late fee.
- C.** An individual who does not submit a renewal application packet required according to subsection (A) or (B) shall reapply for an initial license according to R9-16-502.
- 7. American Academy of Audiology,
- 8. Academy of Doctors of Audiology,
- 9. Arizona Society of Otolaryngology-Head and Neck Surgery,
- 10. American Academy of Otolaryngology-Head and Neck Surgery, or
- 11. An organization determined by the Department to be consistent with an organization in subsection (C)(1) through (10).
- D.** An applicant may request approval for a continuing education course by submitting the following to the Department:
 - 1. The applicant's name, address, telephone number, and e-mail address, as applicable;
 - 2. If a licensee, the licensee's license number;
 - 3. The title of the continuing education course;
 - 4. A brief description of the course;
 - 5. The name, educational background, and teaching experience of the individual presenting the course, if available;
 - 6. The educational objectives of the course; and
 - 7. The date, time, and place of presentation of the course, if applicable.
- E.** If an applicant submits the information in subsection (D), the Department shall review the request for approval for a continuing education course according to R9-16-505 and Table 5.1.
- F.** The Department shall approve a continuing education course if the Department determines that the continuing education course:
 - 1. Is designed to provide current developments, skills, procedures, or treatment in diagnostic and therapeutic procedures in speech-language pathology;
 - 2. Is developed and presented by individuals knowledgeable and experienced in the presented subject area; and
 - 3. Contributes directly to the professional competence of a licensee.
- G.** A speech-language pathologist assistant shall comply with the requirements in A.R.S. § 36-1904.

Historical Note

New Section made by final rulemaking at 15 A.A.R. 2132, effective January 30, 2010 (Supp. 09-4). Section R9-16-503 renumbered to R9-16-502; new Section R9-16-503 renumbered from R9-16-504 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

R9-16-504. Continuing Education

- A.** According to A.R.S. § 36-1904, a licensee shall complete at least 20 continuing education hours.
- B.** Continuing education shall:
 - 1. Directly relate to the practice of speech-language pathology;
 - 2. Have educational objectives that exceed an introductory level of knowledge of speech-language pathology; and
 - 3. Consist of courses that include advances within the last five years in:
 - a. Practice of speech-language pathology,
 - b. Auditory rehabilitation,
 - c. Ethics, or
 - d. Federal and state statutes or rules.
- C.** A continuing education course developed, endorsed, or sponsored by one of the following meets the requirements in subsection (B):
 - 1. Hearing Healthcare Providers of Arizona,
 - 2. Arizona Speech-Language-Hearing Association,
 - 3. American Speech-Language-Hearing Association,
 - 4. International Hearing Society,
 - 5. International Institute for Hearing Instrument Studies,
 - 6. American Auditory Society,

Historical Note

New Section made by final rulemaking at 15 A.A.R. 2132, effective January 30, 2010 (Supp. 09-4). Section R9-16-504 renumbered to R9-16-503; new Section R9-16-504 renumbered from R9-16-506 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

R9-16-505. Time-frames

- A.** For each type of license or approval issued by the Department under this Article, Table 5.1 specifies the overall time-frame described in A.R.S. § 41-1072(2).
 - 1. A regular license is valid for two years.
 - 2. An applicant and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame.
 - 3. An extension of the substantive review time-frame and the overall time-frame may not exceed 25% of the overall time-frame.
- B.** For each type of license or approval issued by the Department under this Article, Table 5.1 specifies the administrative completeness review time-frame described in A.R.S. § 41-1072(1).
 - 1. The administrative completeness review time-frame begins on the date the Department receives:
 - a. An application packet required in R9-10-502 and R9-10-503, or
 - b. A request for continuing education course approval according to R9-10-504.

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2. Except as provided in subsection (B)(3), the Department shall provide a written notice of administrative completeness or a notice of deficiencies to an applicant within the administrative completeness review time-frame.
 - a. If a license application packet or request for continuing education course approval is not complete, the notice of deficiencies shall list each deficiency and the documents or information needed to complete the license application packet or request for continuing education course approval.
 - b. A notice of deficiencies suspends the administrative completeness review time-frame and the overall time-frame from the date of the notice until the date the Department receives the missing documents or information.
 - c. If the applicant does not submit to the Department all the documents and information listed in the notice of deficiencies within 30 calendar days after the date of the notice of deficiencies, the Department shall consider the license application packet or request for continuing education course approval withdrawn.
 3. If the Department issues a license or approval during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.
- C.** For each type of license or approval issued by the Department under this Article, Table 5.1 specifies the substantive review time-frame described in A.R.S. § 41-1072(3), which begins on the date of the notice of administrative completeness.
1. Within the substantive review time-frame, the Department shall provide a written notice to the applicant that the Department issued or denied the license or continuing education course approval.
 2. During the substantive review time-frame:
 - a. The Department may make one comprehensive written request for additional information or documentation; and
 - b. If the Department and the applicant agree in writing to allow one or more supplemental requests for additional information or documentation, the Department may make the number of supplemental requests agreed to between the Department and the applicant.
 3. A comprehensive written request or a supplemental request for additional information or documentation suspends the substantive review time-frame and the overall time-frame from the date of the request until the date the Department receives all the documents and information requested.
 4. If the applicant does not submit to the Department all the information or documentation listed in a comprehensive written request or supplemental request for information or documentation within 30 calendar days after the date of the request, the Department shall deny the license or approval.
- D.** An applicant who is denied a license may appeal the denial according to A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

New Section made by final rulemaking at 15 A.A.R. 2132, effective January 30, 2010 (Supp. 09-4). Amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

Table 1. Renumbered**Historical Note**

New Table 1 made by final rulemaking at 15 A.A.R. 2132, effective January 30, 2010 (Supp. 09-4). Table 1 renumbered to Table 5.1 by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

Table 5.1. Time-frames (in calendar days)

Type of Approval	Statutory Authority	Overall Time-Frame	Administrative Completeness Review Time-Frame	Time to Respond to Notice of Deficiency	Substantive Review Time-Frame	Time to Respond to Comprehensive Written Request
Initial License (R9-16-502)	A.R.S. §§ 36-1904 and 36-1904.04	60	30	30	30	30
Renewal License (R9-16-503)	A.R.S. § 36-1904	60	30	30	30	30
Continuing Education (R9-16-504)	A.R.S. § 36-1904	45	30	30	15	30

Historical Note

Table 5.1 renumbered from Table 1 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

R9-16-506. Disciplinary Actions

- A.** The Department may, as applicable:
1. Deny, revoke, or suspend a speech-language pathologist assistant license under A.R.S. § 36-1934;
 2. Request an injunction under A.R.S. § 36-1937; or
 3. Assess a civil money penalty under A.R.S. § 36-1939.
- B.** In determining which disciplinary action specified in subsection (A) is appropriate, the Department shall consider:
1. The type of violation,
 2. The severity of the violation,
 3. The danger to public health and safety,
 4. The number of violations,
 5. The number of clients affected by the violations,
 6. The degree of harm to a client,
 7. A pattern of noncompliance, and
 8. Any mitigating or aggravating circumstances.
- C.** A licensee may appeal a disciplinary action taken by the Department according to A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

New Section made by final rulemaking at 15 A.A.R. 2132, effective January 30, 2010 (Supp. 09-4). Section R9-16-506 renumbered to R9-16-504; new Section R9-16-506 renumbered from R9-16-507 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1,

2014 (Supp. 14-2).

R9-16-507. Changes Affecting a License or a Licensee; Request for a Duplicate License

- A.** A licensee shall submit a notice to the Department in writing within 30 calendar days after the effective date of a change in:
1. The licensee's home address or e-mail address, including the new home address or e-mail address;
 2. The licensee's name, including one of the following with the licensee's new name:
 - a. Marriage certificate,
 - b. Divorce decree, or
 - c. Other legal document establishing the licensee's new name; or
 3. The place or places, including address or addresses, where the licensee engages in the practice of speech-language pathology.
- B.** A licensee may obtain a duplicate license by submitting to the Department a written request for a duplicate license in a format provided by the Department that contains:

1. The licensee's name and address,
2. The licensee's license number and expiration date,
3. The licensee's signature and date of signature, and
4. A \$25 duplicate license fee.

Historical Note

New Section made by final rulemaking at 15 A.A.R. 2132, effective January 30, 2010 (Supp. 09-4). Section R9-16-507 renumbered to R9-16-506; new Section R9-16-507 renumbered from R9-16-508 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

R9-16-508. Renumbered

Historical Note

New Section made by final rulemaking at 15 A.A.R. 2132, effective January 30, 2010 (Supp. 09-4). R9-16-508 renumbered to R9-16-507 by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).



Supplement to the
Arizona Administrative Code
The official compilation of Arizona Rules
Replacement Check List

For rules filed in the third quarter between
July 1 - September 30
2017

Within the stated calendar quarter, this Title contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information. Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

TITLE 09. Health Services

Chapter 22. Arizona Health Care Cost Containment System - Administration

Sections, Parts, Exhibits, Tables or Appendices modified
R9-22-712.35, R9-22-712.61, R9-22-712.71

☐ REMOVE Supp. 17-2
Pages: 1 - 121

☐ REPLACE with Supp. 17-3
Pages: 1 - 121

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PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the Administrative Code. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION
September 30, 2017

RULES

A.R.S. § 41-1001(17) states: “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions. Virtually everything in your life is affected in some way by rules published in the Arizona Administrative Code, from the quality of air you breathe to the licensing of your dentist. This chapter is one of more than 230 in the Code compiled in 21 Titles.

ADMINISTRATIVE CODE SUPPLEMENTS

Rules filed by an agency to be published in the Administrative Code are updated quarterly. Supplement release dates are printed on the footers of each chapter:

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2017 is cited as Supp. 17-1.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the Arizona Administrative Register for recent updates to rule Sections.

ARTICLES AND SECTIONS

Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering system separated into subsections.

HISTORICAL NOTES AND EFFECTIVE DATES

Historical notes inform the user when the last time a Section was updated in the Administrative Code. Be aware, since the Office publishes each quarter by entire chapters, not all Sections are updated by an agency in a supplement release. Many times just one Section or a few Sections may be updated in the entire chapter.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in the introduction of a chapter can be found at the Secretary of State’s website, www.azsos.gov/services/legislative-filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the Arizona Administrative Register online at www.azsos.gov/rules, click on the Administrative Register link.

In the Administrative Code the Office includes editor’s notes at the beginning of a chapter indicating that certain rulemaking Sections were made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR

If you are researching rules and come across rescinded chapters on a different paper color, this is because the agency filed a Notice of Exempt Rulemaking. At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

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Public Services managing rules editor, Rhonda Paschal, assisted with the editing of this chapter.

TITLE 9. HEALTH SERVICES**CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM - ADMINISTRATION**

Editor's Note: The Office of the Secretary of State prints all Code Chapters on white paper (Supp 01-3).

Editor's Note: This Chapter contains rules which were adopted or amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6), pursuant to Laws 1992, Ch. 301, § 61 and Ch. 302, § 13, and Laws 1993, Ch. 6, § 34. Exemption from A.R.S. Title 41, Chapter 6 means that AHCCCS did not submit notice of this rulemaking to the Secretary of State's Office for publication in the Arizona Administrative Register; the Governor's Regulatory Review Council did not review these rules; AHCCCS was not required to hold public hearings on these rules; and the Attorney General did not certify these rules. Because this Chapter contains rules which are exempt from the regular rulemaking process, the Chapter is printed on blue paper.

ARTICLE 1. DEFINITIONS

New Article 1, consisting of Sections R9-22-101 through R9-22-103, R9-22-105, and R9-22-106 through R9-22-112 adopted effective December 8, 1997 (Supp. 97-4).

Former Article 1, consisting of Section R9-22-101, repealed effective December 8, 1997 (Supp. 97-4).

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Article 3, consisting of Sections R9-22-301 through R9-22-319 and R9-22-321 through R9-22-344, repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section R9-22-320 repealed December 13, 1993 (Supp. 93-4).

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Article 6, consisting of Sections R9-22-601 through R9-22-604, adopted by final rulemaking at 5 A.A.R. 607, effective February 5, 1999 (Supp. 99-1).

Article 6, consisting of Sections R9-22-601 through R9-22-605, repealed by final rulemaking at 5 A.A.R. 607, effective February 5, 1999 (Supp. 99-1).

Article 6, consisting of Sections R9-22-601 through R9-22-604, adopted effective July 16, 1985.

Former Article 6, consisting of Sections R9-22-601 through R9-22-603, repealed effective October 1, 1983.

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ARTICLE 8. REPEALED

Article 8, consisting of Sections R9-22-801 through R9-22-804 and Exhibit A, repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004. The subject matter of Article 8 is now in 9 A.A.C. 34 (Supp. 04-1).

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ARTICLE 9. REPEALED

Article 22, consisting of Sections R9-22-901 through R9-22-909, repealed by final rulemaking at 12 A.A.R. 4484, January 6, 2007 (Supp. 06-4).

Article 22, consisting of Sections R9-22-901 through R9-22-908, adopted effective August 29, 1985.

Former Article 22, consisting of Section R9-22-901, repealed effective October 1, 1983.

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Article 10, consisting of Section R9-22-1001 through R9-22-1002, adopted effective November 7, 1997 (Supp. 97-4).

Article 10, consisting of Section R9-22-1001 through R9-22-1002, repealed effective November 7, 1997 (Supp. 97-4).

Article 10 consisting of Sections R9-22-1001 and R9-22-1002 adopted effective October 1, 1985.

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Article 11 consisting of Sections R9-22-1101 through R9-22-1104 adopted effective October 1, 1986.

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ARTICLE 12. BEHAVIORAL HEALTH SERVICES

Article 12, consisting of Sections R9-22-1201 through R9-22-1208, repealed; new Article 12, consisting of Sections R9-22-1201 through R9-22-1208 adopted by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4).

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ARTICLE 13. CHILDREN'S REHABILITATIVE SERVICES (CRS)

Article 13, consisting of Sections R9-22-1301 through R9-22-1306, made by final rulemaking at 19 A.A.R. 2954, effective November 10, 2013 (Supp. 13-3).

Article 13, consisting of Sections R9-22-1301 through R9-22-1306, made by exempt rulemaking at 18 A.A.R. 2074, effective August 1, 2012 (Supp. 12-3). Exemption to promulgate rules repealed under Laws 2012, Chapter 299, Section 7 (Supp. 13-3).

Article 13, consisting of Sections R9-22-1301 through R9-22-1309, repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004. The subject matter of Article 13 is now in 9 A.A.C. 34 (Supp. 04-1).

Article 13, consisting of Sections R9-22-1301 through R9-22-1309, adopted effective September 9, 1998 (Supp. 98-3).

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ARTICLE 14. AHCCCS MEDICAL COVERAGE FOR HOUSEHOLDS

Article 14, consisting of Sections R9-22-1401 through R9-22-1436, repealed; new Article 14, consisting of Sections R9-22-1401 through R9-22-1433 made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

Article 14, consisting of Sections R9-22-1401 through R9-22-1436, adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

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ARTICLE 15. AHCCCS MEDICAL COVERAGE FOR PEOPLE WHO ARE AGED, BLIND, OR DISABLED

Article 15, consisting of Sections R9-22-1501 through R9-22-1508, repealed; new Article 15, consisting of Sections R9-22-1501 through R9-22-1505 made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

Article 15, consisting of Sections R9-22-1501 through R9-22-1508, adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

Section	
R9-22-1501.	General Information
R9-22-1502.	Repealed
R9-22-1503.	Financial Eligibility Criteria
R9-22-1504.	Eligibility For A Person Who is Aged, Blind, or Disabled
R9-22-1505.	Eligibility for Special Groups
R9-22-1506.	Repealed
R9-22-1507.	Repealed
R9-22-1508.	Repealed

ARTICLE 16. HOSPITAL PRESUMPTIVE ELIGIBILITY

Article 16, consisting of Section R9-22-1601 made by final rulemaking at 20 A.A.R. 3436, effective January 1, 2015 (Supp. 14-4).

Article 16, consisting of Sections R9-22-1601 through R9-22-1612, R9-22-1614 through R9-22-1616, and R9-22-1618 through R9-22-1619, expired at 17 A.A.R. 2384, effective October 31, 2011 (Supp. 11-4).

Article 16, consisting of Sections R9-22-1601 through R9-22-1636, repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

Article 16, consisting of Sections R9-22-1601 through R9-22-1613, R9-22-1615 through R9-22-1620, R9-22-1622 through R9-22-1631, R9-22-1633, R9-22-1634, and R9-22-1636, adopted by

final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

Section	
R9-22-1601.	General Eligibility Requirements
R9-22-1602.	Expired
R9-22-1603.	Expired
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R9-22-1605.	Expired
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R9-22-1607.	Expired
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R9-22-1628.	Repealed
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R9-22-1630.	Repealed
R9-22-1631.	Repealed
R9-22-1632.	Reserved
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R9-22-1636.	Repealed

ARTICLE 17. ENROLLMENT

Article 17, consisting of Sections R9-22-1701 through R9-22-1704, adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

Section	
R9-22-1701.	Enrollment-Related Definitions
R9-22-1702.	Enrollment of a Member with an AHCCCS Contractor
R9-22-1703.	Effective Date of Enrollment with a Contractor
R9-22-1704.	Newborn Enrollment
R9-22-1705.	Guaranteed Enrollment Period

ARTICLE 18. RESERVED

ARTICLE 19. FREEDOM TO WORK

Article 19, consisting of Sections R9-22-1901 through R9-22-1922, made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4).

Section	
R9-22-1901.	General Freedom to Work Requirements
R9-22-1902.	General Administration Requirements
R9-22-1903.	Application for Coverage
R9-22-1904.	Notice of Approval or Denial
R9-22-1905.	Reporting and Verifying Changes

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ARTICLE 21. TRAUMA AND EMERGENCY SERVICES FUND

Article 21, consisting of Sections R9-22-2101 through R9-22-2103, made by exempt rulemaking at 9 A.A.R. 4001, effective October 19, 2003 (Supp. 03-3).

Section	
R9-22-2101.	General Provisions
R9-22-2102.	Distribution of Trauma and Emergency Services Fund: Level I Trauma Centers
R9-22-2103.	Distribution of Trauma and Emergency Services Fund: Emergency Services
R9-22-2104.	Additional Trauma and Emergency Services Payments under the Section 1115 Waiver

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ARTICLE 1. DEFINITIONS

R9-22-101. Location of Definitions

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

Definition	Section or Citation
"Accommodation"	R9-22-701
"Active treatment"	R9-22-1301
"ADHS"	R9-22-101
"Administration"	A.R.S. § 36-2901
"Adult behavioral health therapeutic home"	9 A.A.C. 10, Article 1
"Adverse action"	R9-22-101
"Affiliated corporate organization"	R9-22-101
"Aged"	42 U.S.C. 1382c(a)(1)(A) and R9-22-1501
"Agency"	R9-22-1201
"Aggregate"	R9-22-701
"AHCCCS"	R9-22-101
"AHCCCS inpatient hospital day or days of care"	R9-22-701
"AHCCCS registered provider"	R9-22-101
"Ambulance"	A.R.S. § 36-2201
"Ancillary service"	R9-22-101
"Anticipatory guidance"	R9-22-201
"Annual enrollment choice"	R9-22-1701
"APC"	R9-22-701
"Applicant"	R9-22-101 or R9-22-301
"Application"	R9-22-101
"Assessment"	R9-22-1101 or R9-22-1201
"Assignment"	R9-22-101
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"Authorization"	R9-22-202
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"Behavioral health therapeutic home care services"	R9-22-1201
"Behavioral health paraprofessional"	R9-22-101
"Behavioral health professional"	R9-22-101
"Behavioral health recipient"	R9-22-201
"Behavioral health services"	R9-22-1201
"Behavioral health technician"	R9-22-1201
"Benefit year"	R9-22-201
"BHS" R9-22-301	
"Billed charges"	R9-22-701
"Blind"	R9-22-1501
"Burial plot"	R9-22-1401
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"Calculated inpatient costs"	R9-22-712.07
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"CMDP"	R9-22-1701
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"Covered services"	R9-22-101
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"Date of the Notice of Adverse Action"	R9-22-1441
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B. General definitions. In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:

"ADHS" means the Arizona Department of Health Services.

"Adverse action" means an action taken by the Department or Administration to deny, discontinue, or reduce medical assistance.

"Affiliated corporate organization" means any organization that has ownership or control interests as defined in 42 CFR 455.101, and includes a parent and subsidiary corporation.

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

"AHCCCS registered provider" means a provider or non-contracting provider who:

Enters into a provider agreement with the Administration under R9-22-703(A), and

Meets license or certification requirements to provide covered services.

"Ancillary service" means all hospital services for patient care other than room and board and nursing services, including but not limited to, laboratory, radiology, drugs, delivery room (including maternity labor room), operating room (including postanesthesia and postoperative recovery rooms), and therapy services (physical, speech, and occupational).

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

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

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

"Attending physician" means a licensed allopathic or osteopathic doctor of medicine who has primary responsibility for providing or directing preventive and treatment services for a Fee-For-Service member.

"Authorized representative" means a person who is authorized to apply for medical assistance or act on behalf of another person.

"Behavioral health paraprofessional" means an individual who is not a behavioral health professional who provides behavioral health services at or for a health care institution according to the health care institution's policies and procedures that:

If the behavioral health services were provided in a setting other than a licensed health care institution,

If the individual would be required to be licensed as a behavioral professional under A.R.S. Title 32, Chapter 33,

If the behavioral health services were provided in a setting other than a licensed health care institution; and

Are provided under supervision by a behavioral health professional R9-10-101.

"Behavioral Health Professional" has the same meaning as defined A.A.C. R9-10-101 excluding subsection (g).

"Capped fee-for-service" means the payment mechanism by which a provider of care is reimbursed upon submission of a valid claim for a specific covered service or equipment provided to a member. A payment is made in accordance with an upper or capped limit established by the Director. This capped limit can either be a specific dollar amount or a percentage of billed charges.

"Case record" means an individual or family file retained by the Department that contains all pertinent eligibility information, including electronically stored data.

"Children's Rehabilitative Services" or "CRS" means the program that provides covered medical services and covered support services in accordance with A.R.S. § 36-261.

"CMS" means the Centers for Medicare and Medicaid Services.

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

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

"Contract year" means the period beginning on October 1 of a year and continuing until September 30 of the following year.

"Covered services" means the health and medical services described in Articles 2 and 12 of this Chapter as being eligible for reimbursement by AHCCCS.

"Day" means a calendar day unless otherwise specified.

"DBHS" means the Division of Behavioral Health Services within the Arizona Department of Health Services.

"DES" means the Department of Economic Security.

"Diagnostic services" means services provided for the purpose of determining the nature and cause of a condition, illness, or injury.

"Director" means the Director of the Administration or the Director's designee.

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“Discussion” means an oral or written exchange of information or any form of negotiation.

“DME” means durable medical equipment, which is an item or appliance that can withstand repeated use, is designed to serve a medical purpose, and is not generally useful to a person in the absence of a medical condition, illness, or injury.

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

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

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

“Fee-For-Service” or “FFS” means a method of payment by the AHCCCS Administration to a registered provider on an amount-per-service basis for a member not enrolled with a contractor.

“FES member” means a person who is eligible to receive emergency medical and behavioral health services through the FESP under R9-22-217.

“FESP” means the federal emergency services program under R9-22-217 which covers services to treat an emergency medical or behavioral health condition for a member who is determined eligible under A.R.S. § 36-2903.03(D).

“FQHC” means federally qualified health center.

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

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

“IHS” means Indian Health Service.

“IMD” or “Institution for Mental Diseases” means an Institution for Mental Diseases as described in 42 CFR 435.1010 that is licensed by ADHS.

“Legal representative” means a custodial parent of a child under 18, a guardian, or a conservator.

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

“Mailing date” when used in reference to a document sent first class, postage prepaid, through the United States mail, means the date:

Shown on the postmark;

Shown on the postage meter mark of the envelope, if no postmark; or

Entered as the date on the document, if there is no legible postmark or postage meter mark.

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

“Medical supplies” means consumable items that are designed specifically to meet a medical purpose.

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

“Medicare claim” means a claim for Medicare-covered services for a member with Medicare coverage.

“Non-FES member” means an eligible person who is entitled to full AHCCCS services.

“Offeror” means an individual or entity that submits a proposal to the Administration in response to an RFP.

“Physician” means a person licensed as an allopathic or osteopathic physician under A.R.S. Title 32, Chapter 13 or Chapter 17.

“Practitioner” means a physician assistant licensed under A.R.S. Title 32, Chapter 25, or a registered nurse practitioner certified under A.R.S. Title 32, Chapter 15.

“Prescription” means an order to provide covered services that is signed or transmitted by a provider authorized to prescribe the services.

“Primary care provider” or “PCP” means an individual who meets the requirements of A.R.S. § 36-2901 (14), and who is responsible for the management of a member’s health care.

“Prior authorization” means the process by which the Administration or contractor, whichever is applicable, authorizes, in advance, the delivery of covered services based on factors including but not limited to medical necessity, cost effectiveness, compliance with this Article and any applicable contract provisions. Prior authorization is not a guarantee of payment.

“Prior period coverage” means the period prior to the member’s enrollment during which a member is eligible for covered services. PPC begins on the first day of the month of application or the first eligible month, whichever is later, and continues until the day the member is enrolled with a contractor.

“Proposal” means all documents, including best and final offers, submitted by an offeror in response to an RFP by the Administration.

“Radiology” means professional and technical services rendered to provide medical imaging, radiation oncology, and radioisotope services.

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

“Rehabilitation services” means physical, occupational, and speech therapies, and items to assist in improving or restoring a person’s functional level.

“Responsible offeror” means an individual or entity that has the capability to perform the requirements of a contract and that ensures good faith performance.

“Responsive offeror” means an individual or entity that submits a proposal that conforms in all material respects to an RFP.

“Review” means a review of all factors affecting a member’s eligibility.

“Review month” means the month in which the individual’s or family’s circumstances and case record are reviewed.

“RFP” means Request for Proposals, including all documents, whether attached or incorporated by reference, that are used by the Administration for soliciting a proposal under 9 A.A.C. 22, Article 6.

“Service location” means a location at which a member obtains a covered service provided by a physician or other licensed practitioner of the healing arts under the terms of a contract.

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

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

“Specialist” means a Board-eligible or certified physician who declares himself or herself as a specialist and practices a specific medical specialty. For the purposes of this definition, Board-eligible means a physician who meets all the requirements for certification but has not tested for or has not been issued certification.

“Spouse” means a person who has entered into a contract of marriage recognized as valid by this state.

“SSN” means Social Security number.

“Standard of care” means a medical procedure or process that is accepted as treatment for a specific illness, injury, or medical condition through custom, peer review, or consensus by the professional medical community.

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

A provider of health care services who agrees to furnish covered services to a member,

A marketing organization, or

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

“Taxi” is as defined in A.R.S. § 28-101(53).

Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-101 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-101 repealed, former Sections R9-22-102 and R9-22-301 renumbered as Section R9-22-101 and amended effective October 1, 1983 (Supp. 83-5). Adopted as an emergency effective May 18, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Amended as an emergency by adding new paragraphs (24), (46), (84) and (91) and renumbering accordingly effective August 16, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Amended as an emergency by adding new paragraphs (2) and (15) and renumbering accordingly effective October 25, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-5). Emergency expired. Permanent amendment added paragraphs (2) and (15) and renumbered accordingly effective February 1, 1985 (Supp. 85-1). Amended effective October 1, 1985 (Supp. 85-5). Amended paragraphs (10) and (15) effective October 1, 1986 (Supp. 86-5). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended effective October 1, 1987; amended effective December 22, 1987 (Supp. 87-4). Amended by deleting paragraphs (39) and (62) and renumbering accordingly effective July 1, 1988 (Supp. 88-3). Amended effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective March 1, 1993 (Supp. 93-1). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 26, 1993 (Supp. 93-4). Amended effective December 13, 1993 (Supp. 93-4). Amended effective January 14, 1997 (Supp. 97-1). Section repealed; new Section adopted effective December 8, 1997 (Supp. 97-4). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Amended by final rulemaking at 5 A.A.R. 607, effective February 5, 1999 (Supp. 99-1). Amended by final rulemaking at 5 A.A.R. 867, effective March 4, 1999 (Supp. 99-1). Amended by final rulemaking at 5 A.A.R. 4061, effective October 8, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by exempt rulemaking at 7 A.A.R. 5701, effective December 1, 2001 (Supp. 01-4). Amended by final rulemaking at 7 A.A.R. 5814, effective December 6, 2001 (Supp. 01-4). Amended by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 8 A.A.R. 3317, effective July 15, 2002 (Supp. 02-3). Amended by exempt rulemaking at 9 A.A.R. 4001, effective October 19, 2003 (Supp. 03-3). Amended by exempt rulemaking at 10 A.A.R. 4588, effective October 12, 2004 (Supp. 04-4). Amended by final rulemaking at 11 A.A.R. 3830,

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effective November 12, 2005 (Supp. 05-3). Amended by final rulemaking at 11 A.A.R. 5467, effective December 6, 2005 (Supp. 05-4). Amended by final rulemaking at 13 A.A.R. 836, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 13 A.A.R. 3351, effective November 10, 2007 (Supp. 07-3). Amended by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2). Amended by exempt rulemaking at 16 A.A.R. 1638, effective October 1, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 1658, effective August 2, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 461, effective April 1, 2012 (Supp. 12-1). Amended by final rulemaking at 20 A.A.R. 3098, effective January 4, 2015 (Supp. 14-4).

R9-22-102. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-102 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1092 (Supp. 82-4). Former Section R9-22-102 renumbered together with former Section R9-22-301 as Section R9-22-101 and amended effective October 1, 1983 (Supp. 83-5). New Section adopted effective December 8, 1997 (Supp. 97-4). Amended by exempt rulemaking at 7 A.A.R. 5701, effective December 1, 2001 (Supp. 01-4). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 11 A.A.R. 5467, effective December 6, 2005 (Supp. 05-4). Amended by final rulemaking at 13 A.A.R. 836, effective May 5, 2007 (Supp. 07-1). Section repealed by final rulemaking at 13 A.A.R. 3351, effective November 10, 2007 (Supp. 07-3).

R9-22-103. Repealed**Historical Note**

Adopted effective December 8, 1997 (Supp. 97-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-104. Reserved**R9-22-105. Repealed****Historical Note**

Adopted effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Section repealed by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4).

R9-22-106. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 607, effective February 5, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Section repealed by final rulemaking at 11 A.A.R. 5467, effective December 6, 2005 (Supp. 05-4).

R9-22-107. Repealed**Historical Note**

Adopted effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 3317, effective July 15, 2002

(Supp. 02-3). Section repealed by exempt rulemaking at 11 A.A.R. 2297, effective July 1, 2005 (Supp. 05-2).

R9-22-108. Repealed**Historical Note**

Adopted effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1).

R9-22-109. Repealed**Historical Note**

Adopted effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 5 A.A.R. 4061, effective October 8, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. effective 4484, effective January 6, 2007 (Supp. 06-4).

R9-22-110. Repealed**Historical Note**

Adopted effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Section repealed by final rulemaking at 10 A.A.R. 1146, effective May 1, 2004 (Supp. 04-1).

R9-22-111. Reserved**R9-22-112. Repealed****Historical Note**

Adopted effective December 8, 1997 (Supp. 97-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Repealed by final rulemaking at 13 A.A.R. 836, effective May 5, 2007 (Supp. 07-1).

R9-22-113. Reserved**R9-22-114. Repealed****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 11 A.A.R. 5467, effective December 6, 2005 (Supp. 05-4).

R9-22-115. Repealed**Historical Note**

Final Section adopted at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 11 A.A.R. 5467, effective December 6, 2005 (Supp. 05-4).

R9-22-116. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000

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(Supp. 00-2). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

R9-22-117. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2).

R9-22-118. Reserved**R9-22-119. Reserved****R9-22-120. Repealed****Historical Note**

New Section made by final rulemaking at 7 A.A.R. 5814, effective December 6, 2001 (Supp. 01-4). Section repealed by final rulemaking at 12 A.A.R. 4488, effective January 6, 2007 (Supp. 06-4).

ARTICLE 2. SCOPE OF SERVICES**R9-22-201. Scope of Services-related Definitions**

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

“Anticipatory guidance” means a person responsible for a child receives information and guidance of what the person should expect of the child’s development and how to help the child stay healthy.

“Behavioral health recipient” means a Title XIX or Title XXI acute care member who is eligible for, and is receiving, behavioral health services through ADHS/DBHS.

“Benefit year” means a one-year time period of October 1st through September 30th.

“Emergency behavioral health condition for a non-FES member” means a condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson who possesses an average knowledge of health and medicine could reasonably expect the absence of immediate medical attention to result in:

Placing the health of the person, including mental health, in serious jeopardy;

Serious impairment to bodily functions;

Serious dysfunction of any bodily organ or part; or

Serious physical harm to another person.

“Emergency behavioral health services for a non-FES member” means those behavioral health services provided for the treatment of an emergency behavioral health condition.

“Emergency medical condition for a non-FES member” means treatment for a medical condition, including labor and delivery, which manifests itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

Placing the member’s health in serious jeopardy,

Serious impairment to bodily functions, or

Serious dysfunction of any bodily organ or part.

“Emergency medical services for a non-FES member” means services provided for the treatment of an emergency medical condition.

“Hearing aid” means an instrument or device designed for, or represented by the supplier as aiding or compensating for impaired or defective human hearing, and includes any parts, attachments, or accessories of the instrument or device.

“Home health services” means services and supplies that are provided by a home health agency that coordinates in-home intermittent services for curative, rehabilitative care, including home-health aide services, licensed nurse services, and medical supplies, equipment, and appliances.

“Occupational therapy” means medically prescribed treatment provided by or under the supervision of a licensed occupational therapist, to restore or improve an individual’s ability to perform tasks required for independent functioning.

“Pharmaceutical service” means medically necessary medications that are prescribed by a physician, practitioner, or dentist under R9-22-209.

“Physical therapy” means treatment services to restore or improve muscle tone, joint mobility, or physical function provided by or under the supervision of a registered physical therapist.

“Post-stabilization services” means covered services related to an emergency medical or behavioral health condition provided after the condition is stabilized.

“Primary care provider services” means healthcare services provided by and within the scope of practice, as defined by law, of a licensed physician, certified nurse practitioner, or licensed physician assistant.

“Psychosocial rehabilitation services” means services that provide education, coaching, and training to address or prevent residual functional deficits and may include services that may assist a member to secure and maintain employment. Psychosocial rehabilitation services may include:

Living skills training,

Cognitive rehabilitation,

Health promotion,

Supported employment, and

Other services that increase social and communication skills to maximize a member’s ability to participate in the community and function independently.

“RBHA” or “Regional Behavioral Health Authority” means the same as in A.R.S. § 36-3401.

“Residual functional deficit” means a member’s inability to return to a previous level of functioning, usually after experiencing a severe psychotic break or state of decompensation.

“Respiratory therapy” means treatment services to restore, maintain, or improve respiratory functions that are provided by, or under the supervision of, a respiratory therapist licensed according to A.R.S. Title 32, Chapter 35.

“Scope of services” means the covered, limited, and excluded services under Articles 2 and 12 of this Chapter.

“Speech therapy” means medically prescribed diagnostic and treatment services provided by or under the supervision of a certified speech therapist.

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“Sterilization” means a medically necessary procedure, not for the purpose of family planning, to render an eligible person or member barren in order to:

Prevent the progression of disease, disability, or adverse health conditions; or

Prolong life and promote physical health.

“Substance abuse” means the chronic, habitual, or compulsive use of any chemical matter that, when introduced into the body, is capable of altering human behavior or mental functioning and, with extended use, may cause psychological dependence and impaired mental, social or educational functioning. Nicotine addiction is not considered substance abuse for adults who are 21 years of age or older

Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-201 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (B) effective May 30, 1989 (Supp. 89-2). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Section repealed, new Section adopted effective September 22, 1997 (Supp. 97-3). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by exempt rulemaking at 10 A.A.R. 4588, effective October 12, 2004 (Supp. 04-4). Amended by final rulemaking at 11 A.A.R. 3217, effective October 1, 2005 (Supp. 05-3). Section repealed; new Section made by final rulemaking at 13 A.A.R. 3351, effective November 10, 2007 (Supp. 07-3). Amended by exempt rulemaking at 16 A.A.R. 1638, effective October 1, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 1658, effective August 2, 2011 (Supp. 11-3). Amended by exempt rulemaking at 17 A.A.R. 1707, effective October 1, 2011 (Supp. 11-3). Amended by final rulemaking at 19 A.A.R. 2747, effective October 8, 2013 (Supp. 13-3). Amended by final rulemaking at 20 A.A.R. 3098, effective January 4, 2015 (Supp. 14-4).

R9-22-202. General Requirements

- A. For the purposes of this Article, the following definitions apply:
1. “Authorization” means written, verbal, or electronic authorization by:
 - a. The Administration for services rendered to a fee-for-service member, or
 - b. The contractor for services rendered to a prepaid capitated member.
 2. Use of the phrase “attending physician” applies only to the fee-for-service population.
- B. In addition to other requirements and limitations specified in this Chapter, the following general requirements apply:
1. Only medically necessary, cost effective, and federally-reimbursable and state-reimbursable services are covered services.
 2. Covered services for the federal emergency services program (FESP) are under R9-22-217.
 3. The Administration or a contractor may waive the covered services referral requirements of this Article.
 4. Except as authorized by the Administration or a contractor, a primary care provider, attending physician, practi-

tioner, or a dentist shall provide or direct the member’s covered services. Delegation of the provision of care to a practitioner does not diminish the role or responsibility of the primary care provider.

5. A contractor shall offer a female member direct access to preventive and routine services from gynecology providers within the contractor’s network without a referral from a primary care provider.
 6. A member may receive physical and behavioral health services as specified in Articles 2 and 12.
 7. The Administration or a contractor shall provide services under the Section 1115 Waiver as defined in A.R.S. § 36-2901.
 8. An AHCCCS registered provider shall provide covered services within the provider’s scope of practice.
 9. In addition to the specific exclusions and limitations otherwise specified under this Article, the following are not covered:
 - a. A service that is determined by the AHCCCS Chief Medical Officer to be experimental or provided primarily for the purpose of research;
 - b. Services or items furnished gratuitously, and
 - c. Personal care items except as specified under R9-22-212.
 10. Medical or behavioral health services are not covered services if provided to:
 - a. An inmate of a public institution; or
 - b. A person who is in residence at an institution for the treatment of tuberculosis.
- C. The Administration or a contractor may deny payment of non-emergency services if prior authorization is not obtained as specified in this Article and Article 7 of this Chapter. The Administration or a contractor shall not provide prior authorization for services unless the provider submits documentation of the medical necessity of the treatment along with the prior authorization request.
- D. Services under A.R.S. § 36-2908 provided during the prior period coverage do not require prior authorization.
- E. Prior authorization is not required for services necessary to evaluate and stabilize an emergency medical condition. The Administration or a contractor shall not reimburse services that require prior authorization unless the provider documents the diagnosis and treatment.
- F. A service is not a covered service if provided outside the GSA unless one of the following applies:
1. A member is referred by a primary care provider for medical specialty care outside the GSA. If a member is referred outside the GSA to receive an authorized medically necessary service, the contractor shall also provide all other medically necessary covered services for the member;
 2. There is a net savings in service delivery costs as a result of going outside the GSA that does not require undue travel time or hardship for a member or the member’s family;
 3. The contractor authorizes placement in a nursing facility located out of the GSA; or
 4. Services are provided during prior period coverage or during the prior quarter coverage.
- G. If a member is traveling or temporarily residing outside of the GSA, covered services are restricted to emergency care services, unless otherwise authorized by the contractor.
- H. A contractor shall provide at a minimum, directly or through subcontracts, the covered services specified in this Chapter and in contract.

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- I. The Administration shall determine the circumstances under which a FFS member may receive services, other than emergency services, from service providers outside the member's county of residence or outside the state. Criteria considered by the Administration in making this determination shall include availability and accessibility of appropriate care and cost effectiveness.
- J. The restrictions, limitations, and exclusions in this Article do not apply to a contractor electing to provide noncovered services.
 - 1. The Administration shall not consider the costs of providing a noncovered service to a member in the development or negotiation of a capitation rate.
 - 2. A contractor shall pay for noncovered services from administrative revenue or other contractor funds that are unrelated to the provision of services under this Chapter.
 - 3. If a member requests a service that is not covered or is not authorized by a contractor, or the Administration, an AHCCCS-registered service provider may provide the service according to R9-22-702.
- K. Subject to CMS approval, the restrictions, limitations, and exclusions specified in the following subsections do not apply to American Indians receiving services through IHS or a tribal health program operating under P.L. 93-638 when those services are eligible for 100 percent federal financial participation:
 - 1. R9-22-205(A)(8),
 - 2. R9-22-206,
 - 3. R9-22-207,
 - 4. R9-22-212(C),
 - 5. R9-22-212(D),
 - 6. R9-22-212(E)(8),
 - 7. R9-22-215(C)(5), (C)(6), and
 - 8. R9-22-215(C)(4).
- A. Experimental services are not covered. A service is not experimental if:
 - 1. It is generally and widely accepted as a standard of care in the practice of medicine in the United States and is a safe and effective treatment for the condition for which it is intended or used.
 - 2. The service does not meet the standard in subsection (A)(1), but the service has been demonstrated to be safe and effective for the condition for which it is intended or used based on the weight of the evidence in peer-reviewed articles in medical journals published in the United States.
 - 3. The service does not meet the standard in subsection (A)(2) because the condition for which the service is intended or used is rare, but the service has been demonstrated to be safe and effective for the condition for which it is intended or used based on the weight of opinions from specialists who provide the service or related services.
- B. The following factors shall be considered when evaluating the weight of peer-reviewed articles or the opinions of specialists:
 - 1. The mortality rate and survival rate of the service as compared to the rates for alternative non-experimental services.
 - 2. The types, severity, and frequency of complications associated with the services as compared with the complications associated with alternative non-experimental services.
 - 3. The frequency with which the service has been performed in the past.
 - 4. Whether there is sufficient historical information regarding the service to provide reliable data regarding risks and benefits.
 - 5. The reputation and experience of the authors and/or specialists and their record in related areas.
 - 6. The extent to which medical science in the area develops rapidly and the probability that more definite data will be available in the foreseeable future.
 - 7. Whether the peer reviewed article describes a random controlled trial or an anecdotal clinical case study.

Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-202 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1985 (Supp. 85-5). Amended effective October 1, 1987; amended effective December 22, 1987 (Supp. 87-4). Amended effective May 30, 1989 (Supp. 89-2).

Amended effective April 13, 1990 (Supp. 90-2).

Amended effective December 13, 1993 (Supp. 93-4).

Amended effective July 1, 1995, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 322, § 21; filed with the Office of the Secretary of State June 22, 1995 (Supp. 95-3). Amended effective January 10, 1996, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Third Special Session, Ch. 1, § 5; filed with the Office of the Secretary of State December 28, 1995 (Supp. 95-4). Section repealed effective September 22, 1997 (Supp. 97-3). New Section made by final rulemaking at 13 A.A.R. 3351, effective November 10, 2007 (Supp. 07-3). Amended by exempt rulemaking at 16 A.A.R. 1638, effective October 1, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 1658, effective August 2, 2011 (Supp. 11-3). Amended by final rulemaking at 20 A.A.R. 1949, effective September 6, 2014 (Supp. 14-3). Amended by final rulemaking at 20 A.A.R. 3098, effective January 4, 2015 (Supp. 14-4). Amended by final rulemaking at 21 A.A.R. 1225, effective July 7, 2015 (Supp. 15-3).

Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-203 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1985 (Supp. 85-5). Amended effective October 1, 1987; amended effective December 22, 1987 (Supp. 87-4). Amended effective May 30, 1989 (Supp. 89-2).

Amended effective April 13, 1990 (Supp. 90-2).

Amended effective September 29, 1992 (Supp. 92-3). Amended under an exemption from the provisions of the Administrative Procedure Act effective March 22, 1993; received in the Office of the Secretary of State March 24, 1993 (Supp. 93-1). Amended effective December 13, 1993 (Supp. 93-4). Section repealed effective September 22, 1997 (Supp. 97-3). New Section made by exempt rulemaking at 16 A.A.R. 1638, effective October 1, 2010 (Supp. 10-3). Section amended by final rulemaking at 20 A.A.R. 1956, effective September 6, 2014 (Supp. 14-3).

R9-22-204. Inpatient General Hospital Services

- A. The following limitations apply to inpatient general hospital services that are provided by FFS providers.

R9-22-203. Experimental Services

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1. Providers shall obtain prior authorization from the Administration for the following inpatient hospital services:
 - a. Nonemergency and elective admission, including psychiatric hospitalization;
 - b. Elective surgery; and
 - c. Services or items provided to cosmetically reconstruct or improve personal appearance after an illness or injury.
 2. The Administration or a contractor may deny a claim if a provider fails to obtain prior authorization.
 3. Providers are not required to obtain prior authorization from the Administration for the following inpatient hospital services:
 - a. Voluntary sterilization,
 - b. Dialysis shunt placement,
 - c. Arteriovenous graft placement for dialysis,
 - d. Angioplasties or thrombectomies of dialysis shunts,
 - e. Angioplasties or thrombectomies of arteriovenous graft for dialysis,
 - f. Hospitalization for vaginal delivery that does not exceed 48 hours,
 - g. Hospitalization for cesarean section delivery that does not exceed 96 hours, and
 - h. Other services identified by the Administration through the Provider Participation Agreement.
 4. The Administration may perform concurrent review for hospitalizations of non-FES members to determine whether there is medical necessity for the hospitalization. A provider shall notify the Administration no later than 72 hours after an emergency admission.
- C.** Coverage of in-state and out-of-state inpatient hospital services is limited to 25 days per benefit year for members age 21 and older for claims with discharge dates on or before September 30, 2014. The limit applies for all inpatient hospital services with dates of service during the benefit year regardless of whether the member is enrolled in Fee for Service, is enrolled with one or more contractors, or both, during the benefit year.
1. For purposes of calculating the limit:
 - a. Inpatient days are counted towards the limit if paid by the Administration or a contractor;
 - b. Inpatient days will be counted toward the limit in the order of the adjudication date of a paid claim;
 - c. Paid inpatient days are allocated to the benefit year in which the date of service occurs;
 - d. Each 24 hours of paid observation services is counted as one inpatient day if the patient is not admitted to the same hospital directly following the observation services,
 - e. Observation services, which are directly followed by an inpatient admission to the same hospital are not counted towards the inpatient limit; and
 - f. After 25 days of inpatient hospital services have been paid as provided for in this rule Section:
 - i. Outpatient services that are directly followed by an inpatient admission to the same hospital, including observation services, are not covered.
 - ii. Continuous periods of observation services of less than 24 hours that are not directly followed by an inpatient admission to the same hospital are covered.
 - iii. For continuous periods of observation services of 24 hours or more that are not directly followed by an inpatient admission to the same hospital, 23 hours of observations services are covered.
 2. The following inpatient days are not included in the inpatient hospital limitation described in this Section:
 - a. Days reimbursed under specialty contracts between AHCCCS and a transplant facility that are included within the component pricing referred to in the contract;
 - b. Days related to Behavioral Health:
 - i. Inpatient days that qualify for the psychiatric tier under R9-22-712.09 and reimbursed by the Administration or its contractors, or
 - ii. Inpatient days with a primary psychiatric diagnosis code reimbursed by the Administration or its contractors, or
 - iii. Inpatient days paid by the Arizona Department of Health Services Division of Behavioral Health Services or a RBHA or TRBHA.
 - c. Days related to treatment for burns and burn late effects at an American College of Surgeons verified burn center;
 - d. Same Day Admit Discharge services are excluded from the 25 day limit; and
 - e. Subject to approval by CMS, days for which the state claims 100% FFP, such as payments for days provided by IHS or 638 facilities.

Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-204 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (A) effective December 22, 1987 (Supp. 87-4). Amended effective December 13, 1993 (Supp. 93-4). Section repealed, new Section adopted effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 17 A.A.R. 1658, effective August 2, 2011 (Supp. 11-3). Amended by exempt rulemaking at 17 A.A.R. 1707, effective October 1, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 1745, effective October 1, 2012 (Supp. 12-2). Amended by final rulemaking at 19 A.A.R. 2747, effective October 8, 2013 (Supp. 13-3). Amended by final rulemaking at 20 A.A.R. 1956, effective September 6, 2014 (Supp. 14-3).

R9-22-205. Attending Physician, Practitioner, and Primary Care Provider Services

- A.** A primary care provider, attending physician, or practitioner shall provide primary care provider services within the provider's scope of practice under A.R.S. Title 32. A member may receive primary care provider services in an inpatient or outpatient setting including at a minimum:
1. Periodic health examination and assessment;
 2. Evaluation and diagnostic workup;
 3. Medically necessary treatment;
 4. Prescriptions for medication and medically necessary supplies and equipment;
 5. Referral to a specialist or other health care professional if medically necessary;
 6. Patient education;
 7. Home visits if medically necessary; and

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8. Preventive health services, such as, well visits, immunizations, colonoscopies, mammograms and PAP smears.
- B. The following limitations and exclusions apply to attending physician and practitioner services and primary care provider services:
 1. Specialty care and other services provided to a member upon referral from a primary care provider, or to a member upon referral from the attending physician or practitioner are limited to the service or condition for which the referral is made, or for which authorization is given by the Administration or a contractor.
 2. A member's physical examination is not covered if the sole purpose is to obtain documentation for one or more of the following:
 - a. Qualification for insurance,
 - b. Pre-employment physical evaluation,
 - c. Qualification for sports or physical exercise activities,
 - d. Pilot's examination for the Federal Aviation Administration,
 - e. Disability certification to establish any kind of periodic payments,
 - f. Evaluation to establish third-party liabilities, or
 - g. Physical ability to perform functions that have no relationship to primary objectives of the services listed in subsection (A).
 3. Orthognathic surgery is covered only for a member who is less than 21 years of age;
 4. The following services are excluded from AHCCCS coverage:
 - a. Infertility services, reversal of surgically induced infertility (sterilization), and gender reassignment surgeries;
 - b. Pregnancy termination counseling services;
 - c. Pregnancy terminations, unless required by state or federal law.
 - d. Services or items furnished solely for cosmetic purposes; and
 - e. Hysterectomies unless determined medically necessary.

Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-205 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (A), paragraph (15) and added paragraph (20) effective December 22, 1987 (Supp. 87-4). Amended subsection (C)(2) effective May 30, 1989 (Supp. 89-2). Amended under an exemption from the provisions of the Administrative Procedure Act effective March 22, 1993; received in the Office of the Secretary of State March 24, 1993 (Supp. 93-1). Amended effective December 13, 1993 (Supp. 93-4). Section repealed, new Section adopted effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by exempt rulemaking at 10 A.A.R. 4588, effective October 12, 2004 (Supp. 04-4). Amended by exempt rulemaking at 16 A.A.R. 1638, effective October 1, 2010 (Supp. 10-3). Amended by final rulemaking at 20 A.A.R. 1949, effective September 6, 2014 (Supp. 14-3).

Editor's Note: The following Section was renumbered and a new Section adopted under an exemption from the provisions of the Administrative Procedure Act which means that this rule was not published as a proposed rule in the Arizona Administrative Register; the rule was not reviewed or approved by the Governor's Regulatory Review Council; and the agency was not required to hold public hearings on the rule. This Section was subsequently amended through the regular rulemaking process.

R9-22-206. Organ and Tissue Transplant Services

- A. Organ and tissue transplant services are covered for a member if prior authorized and coordinated with the member's contractor, or the Administration. Only the following transplants are covered for individuals 21 years of age or older:
 1. Heart, including transplants for the treatment of non-ischemic cardiomyopathy;
 2. Liver, including transplants for patients with hepatitis C;
 3. Kidney (cadaveric and live donor),
 4. Simultaneous Pancreas/Kidney (SPK),
 5. Autologous and Allogeneic related and unrelated Hematopoietic Cell transplants;
 6. Cornea;
 7. Bone;
 8. Lung; and
 9. Pancreas after a kidney transplant (PAK).
- B. The following transplants are not covered for members 21 years of age or older:
 1. Pancreas only transplants if it is not performed simultaneously with or following a kidney transplant. Partial pancreas transplants and autologous and allogeneic pancreas islet cell transplants are not covered even if performed simultaneously with or following a kidney transplant,
 2. Intestine transplants, and
 3. Any other type of transplant not specifically listed in subsection (A).
- C. When there is a transplant of multiple organs, reimbursement will only be made for those covered.
- D. Organ and tissue transplant services are not covered for non-qualified aliens or noncitizens members of FESP under A.R.S. § 36-2903.03(D).

Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-206 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1985 (Supp. 85-5). Amended effective December 13, 1993 (Supp. 93-4). Former Section R9-22-206 renumbered to R9-22-218, new Section R9-22-206 adopted effective January 1, 1996, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Third Special Session, Ch. 1, § 5; filed with the Office of the Secretary of State December 28, 1995 (Supp. 95-4). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Amended by exempt rulemaking at 7 A.A.R. 5701, effective December 1, 2001 (Supp. 01-4). Amended by exempt rulemaking at 10 A.A.R. 4588, effective October 12, 2004 (Supp. 04-4). Amended by exempt rulemaking at 16 A.A.R. 1386, effective July 15, 2010 (Supp. 10-3). Amended by exempt rulemaking at 16 A.A.R. 1638, effective October 1, 2010 (Supp. 10-3). Amended by exempt rulemaking at 17 A.A.R. 1122, April 1, 2011 (Supp. 11-2).

R9-22-207. Dental Services

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- A. The Administration or a contractor shall cover dental services for a member less than 21 years of age under R9-22-213.
- B. For individuals age 21 years of age or older, the Administration or a contractor shall cover medical and surgical services furnished by a dentist only to the extent such services may be performed under state law either by a physician or by a dentist and such services would be considered a physician service if furnished by a physician.
 - 1. Except as specified in subsection (C), such services must be related to the treatment of a medical condition such as acute pain, infection, or fracture of the jaw. Covered dental services include examination of the oral cavity, radiographs, complex oral surgical procedures such as treatment of maxillofacial fractures, administration of an appropriate level of anesthesia and the prescription of pain medication and antibiotics.
 - 2. Such services do not include services that physicians are not generally competent to perform such as dental cleanings, routine dental examinations, dental restorations including crowns and fillings, extractions, pulpotomies, root canals, and the construction or delivery of complete or partial dentures. Diagnosis and treatment of temporomandibular joint dysfunction are not covered except for the reduction of trauma.
- C. For the purposes of this subsection, simple restorations means silver amalgam or composite resin fillings, stainless steel crowns or preformed crowns. In addition, dental services for an individual 21 years of age or older include:
 - 1. The elimination of oral infections and the treatment of oral disease, which includes dental cleanings, treatment of periodontal disease, medically necessary extractions and the provision of simple restorations as a medically necessary pre-requisite to covered transplantation; and
 - 2. Prophylactic extraction of teeth in preparation for covered radiation treatment of cancer of the jaw, neck or head.

Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-207 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-207 repealed, new Section R9-22-207 adopted effective October 1, 1985 (Supp. 85-5). Section repealed, new Section adopted effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by exempt rulemaking at 16 A.A.R. 1638, effective October 1, 2010 (Supp. 10-3).

R9-22-208. Laboratory, Radiology, and Medical Imaging Services

Laboratory, radiology, and medical imaging services are covered services if:

- 1. Prescribed by the member's attending physician, practitioner, primary care provider or a dentist, or prescribed by a physician or practitioner upon referral from the primary care provider or dentist.
- 2. Provided by licensed health care providers in a:
 - a. Hospital,
 - b. Clinic,
 - c. Physician's office, or
 - d. Other health care facility.

Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-

3). Former Section R9-22-208 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-208 repealed, new Section R9-22-208 adopted effective October 1, 1985 (Supp. 85-5). Amended subsection (C) effective December 22, 1987 (Supp. 87-4). Amended effective December 13, 1993 (Supp. 93-4). Section repealed, new Section adopted effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2).

R9-22-209. Pharmaceutical Services

- A. An inpatient or outpatient provider, including a hospital, clinic, other appropriately licensed health care facility, and pharmacy may provide covered pharmaceutical services.
- B. The Administration or a contractor shall require a provider to make pharmaceutical services:
 - 1. Available during customary business hours, and
 - 2. Located within reasonable travel distance of a member's residence.
- C. Pharmaceutical services are covered if:
 - 1. Prescribed for a member by the member's primary care provider, attending physician, practitioner, or dentist;
 - 2. Prescribed by a specialist upon referral from the primary care provider or attending physician; or
 - 3. The contractor or its designee authorizes the service.
- D. The following limitations apply to pharmaceutical services:
 - 1. A medication personally dispensed by a physician, dentist, or a practitioner within the individual's scope of practice is not covered, except in geographically remote areas where there is no participating pharmacy or if accessible pharmacies are closed.
 - 2. A new prescription or refill in excess of a 30 day supply is not covered unless:
 - a. The member will be out of the provider's service area for an extended period of time and the prescription is limited to the extended time period, not to exceed a 90 day supply; or
 - b. The Contractor authorizes the prescription for an extended time period not to exceed a 90-day supply.
 - 3. An over-the-counter medication, in place of a covered prescription medication, is covered only if the over-the-counter medication is appropriate, equally effective, safe, and less costly than the covered prescription medication.
- E. A contractor shall monitor and ensure sufficient services to prevent any gap in the pharmaceutical regimen of a member who requires a continuing or complex regimen of pharmaceutical treatment to restore, improve, or maintain physical well being.

Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-209 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1985 (Supp. 85-5). Amended effective September 24, 1986 (Supp. 86-5). Amended subsections (A) and (C) effective December 22, 1987 (Supp. 87-4). Amended subsection (C)(3), effective May 30, 1989 (Supp. 89-2). Amended under an exemption from the Administrative Procedure Act effective March 22, 1993; received in the Office of the Secretary of State March 24, 1993 (Supp. 93-1). Amended effective December 13, 1993 (Supp. 93-4). Section repealed, new Section adopted effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000

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(Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 20 A.A.R. 1949, effective September 6, 2014 (Supp. 14-3).

R9-22-210. Emergency Medical Services for Non-FES Members

A. General provisions.

1. **Applicability.** This Section applies to emergency medical services for non-FES members. Provisions regarding emergency behavioral health services for non-FES members are in R9-22-210.01. Provisions regarding emergency medical and behavioral health services for FES members are in R9-22-217.
2. **Definitions.**
 - a. For the purposes of this Section, "contractor" has the same meaning as in A.R.S. § 36-2901. Contractor does not include ADHS/DBHS or a subcontractor of ADHS/DBHS.
 - b. For the purposes of this Section and R9-22-210.01, "fiscal agent" means a person who bills and accepts payment for a hospital or emergency room provider.
3. **Verification.** A provider of emergency medical services shall verify a person's eligibility status with AHCCCS, and if eligible, determine whether the person is enrolled with AHCCCS as non-FES FFS or is enrolled with a contractor.
4. **Prior authorization.**
 - a. **Emergency medical services.** A provider is not required to obtain prior authorization for emergency medical services.
 - b. **Non-emergency medical services.** If a non-FES member's medical condition does not require emergency medical services, the provider shall obtain prior authorization as required by the terms of the provider agreement under R9-22-714(A) or the provider's subcontract with the contractor, whichever is applicable.
5. **Prohibition against denial of payment.** Neither the Administration nor a contractor shall:
 - a. Limit what constitutes an emergency medical condition on the basis of lists of diagnoses or symptoms,
 - b. Deny or limit payment because the provider failed to obtain prior authorization for emergency services,
 - c. Deny or limit payment because the provider does not have a subcontract.
6. **Grounds for denial.** The Administration and a contractor may deny payment for emergency medical services for reasons including but not limited to:
 - a. The claim was not a clean claim;
 - b. The claim was not submitted timely; and
 - c. The provider failed to provide timely notification under subsection (B)(4) to the contractor or the Administration, as appropriate, and the contractor does not have actual notice from any other source that the member has presented for services.

B. Additional requirements for emergency medical services for non-FES members enrolled with a contractor.

1. **Responsible entity.** A contractor is responsible for the provision of all emergency medical services to non-FES members enrolled with the contractor.
2. **Prohibition against denial of payment.** A contractor shall not limit or deny payment for emergency medical services when an employee of the contractor instructs the member to obtain emergency medical services.

3. **Contractor notification.** A contractor shall not deny payment to a hospital, emergency room provider, or fiscal agent for an emergency medical service rendered to a non-FES member based on the failure of the hospital, emergency room provider, or fiscal agent to notify the member's contractor within 10 days from the day that the member presented for the emergency medical service.
4. **Contractor notification.** A hospital, emergency room provider, or fiscal agent shall notify the contractor no later than the 11th day after presentation of the non-FES member for emergency inpatient medical services. A contractor may deny payment for a hospital's, emergency room provider's, or fiscal agent's failure to provide timely notice, under this subsection.

C. Post-stabilization services for non-FES members enrolled with a contractor.

1. After the emergency medical condition of a member enrolled with a contractor is stabilized, a provider shall request prior authorization from the contractor for post-stabilization services.
2. The contractor is financially responsible for medical post-stabilization services obtained within or outside the network that have been prior authorized by the contractor.
3. The contractor is financially responsible for medical post-stabilization services obtained within or outside the network that are not prior authorized by the contractor, but are administered to maintain the member's stabilized condition within one hour of a request to the contractor for prior authorization of further post-stabilization services;
4. The contractor is financially responsible for medical post-stabilization services obtained within or outside the network that are not prior authorized by the contractor, but are administered to maintain, improve, or resolve the member's stabilized condition if:
 - a. The contractor does not respond to a request for prior authorization within one hour;
 - b. The contractor authorized to give the prior authorization cannot be contacted; or
 - c. The contractor representative and the treating physician cannot reach an agreement concerning the member's care and the contractor physician is not available for consultation. In this situation, the contractor shall give the treating physician the opportunity to consult with a contractor physician. The treating physician may continue with care of the member until the contractor physician is reached or:
 - i. A contractor physician with privileges at the treating hospital assumes responsibility for the member's care,
 - ii. A contractor physician assumes responsibility for the member's care through transfer,
 - iii. The contractor's representative and the treating physician reach agreement concerning the member's care, or
 - iv. The member is discharged.
5. **Transfer or discharge.** The attending physician or practitioner actually treating the member for the emergency medical condition shall determine when the member is sufficiently stabilized for transfer or discharge and that decision shall be binding on the contractor.

D. Additional requirements for FFS members.

1. **Responsible entity.** The Administration is responsible for the provision of all emergency medical services to non-FES FFS members.

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2. Grounds for denial. The Administration may deny payment for emergency medical services if a provider fails to provide timely notice to the Administration.
3. Notification. A provider shall notify the Administration no later than 72 hours after a FFS member receiving emergency medical services presents to a hospital for inpatient services. The Administration may deny payment for failure to provide timely notice.

Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-210 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-210 repealed, new Section R9-22-210 adopted effective October 1, 1983 (Supp. 83-5). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (B), paragraph (1) effective October 1, 1987 (Supp. 87-4). Amended effective December 13, 1993 (Supp. 93-4). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 5 A.A.R. 867, effective March 4, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 11 A.A.R. 5480, effective December 6, 2005 (Supp. 05-4). Amended by final rulemaking at 17 A.A.R. 1658, effective August 2, 2011 (Supp. 11-3). Amended by final rulemaking at 20 A.A.R. 1949, effective September 6, 2014 (Supp. 14-3).

R9-22-210.01. Emergency Behavioral Health Services for Non-FES Members**A. General provisions.**

1. Applicability. This Section applies to emergency behavioral health services for non-FES members. Provisions regarding emergency medical services for non-FES members are in R9-22-210. Provisions regarding emergency medical and behavioral health services for FES members are in R9-22-217.
2. Definition. For the purposes of this Section, "contractor" has the same meaning as in A.R.S. § 36-2901. Contractor does not include ADHS/DBHS, a subcontractor of ADHS/DBHS, or Children's Rehabilitative Services.
3. Responsible entity for inpatient emergency behavioral health services.
 - a. Members enrolled with a contractor. ADHS/DBHS or a subcontractor of ADHS/DBHS is responsible for providing all inpatient emergency behavioral health services to non-FES members with psychiatric or substance abuse diagnoses who are enrolled with the contractor.
 - b. FFS members. ADHS/DBHS or a subcontractor of ADHS/DBHS is responsible for providing all inpatient emergency behavioral health services for non-FES FFS members with psychiatric or substance abuse diagnoses unless services are provided in an IHS or tribally operated 638 facility.
4. Responsible entity for non-inpatient emergency behavioral health services for non-FES members. ADHS/DBHS or a subcontractor of ADHS/DBHS is responsible for providing all non-inpatient emergency behavioral health services for non-FES members.
5. Verification. A provider of emergency behavioral health services shall verify a person's eligibility status with AHCCCS, and if eligible, determine whether the person is a member enrolled with AHCCCS as non-FES FFS or is enrolled with a contractor, and determine whether the member is a behavioral health recipient as defined in R9-22-201.
6. Prior authorization.
 - a. Emergency behavioral health services. A provider is not required to obtain prior authorization for emergency behavioral health services.
 - b. Non-emergency behavioral health services. When a non-FES member's behavioral health condition is determined by the provider not to require emergency behavioral health services, the provider shall follow the prior authorization requirements of a contractor and ADHS/DBHS or a subcontractor of ADHS/DBHS.
7. Prohibition against limitation or denial of payment. A contractor, TRBHA, the Administration, ADHS/DBHS, or a subcontractor of ADHS/DBHS shall not limit or deny payment to an emergency behavioral health provider for emergency behavioral health services to a non-FES member for the following reasons:
 - a. On the basis of lists of diagnoses or symptoms;
 - b. Prior authorization was not obtained;
 - c. The provider does not have a contract;
 - d. An employee of the contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS instructs the member to obtain emergency behavioral health services; or
 - e. The failure of a hospital, emergency room provider, or fiscal agent to notify the member's contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS within 10 days from the day the member presented for the emergency service.
8. Grounds for denial. A contractor, the Administration, ADHS/DBHS, or a subcontractor of ADHS/DBHS may deny payment for emergency behavioral health services for reasons including but not limited to the following:
 - a. The claim was not a clean claim;
 - b. The claim was not submitted timely; or
 - c. The provider failed to provide timely notification under subsection (A)(9) to the contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS or the Administration.
9. Notification.
 - a. A hospital, emergency room provider, or fiscal agent shall notify a contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS, whichever is appropriate, no later than the 11th day from presentation of the non-FES member for emergency inpatient behavioral health services.
 - b. A hospital, emergency room provider, or fiscal agent shall notify the Administration no later than 72 hours after a FFS member receiving emergency behavioral health services presents to a hospital for inpatient services.
10. Transfer or discharge. The attending physician or the provider actually treating the non-FES member for the emergency behavioral health condition shall determine when the member is sufficiently stabilized for transfer or discharge and that decision shall be binding on the contractor and ADHS/DBHS or a subcontractor of ADHS/DBHS.

B. Post-stabilization requirements for non-FES members.

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1. A contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS, as appropriate, is financially responsible for behavioral health post-stabilization services obtained within or outside the network that have been prior authorized by the contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS.
 2. The contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS, as appropriate, is financially responsible for behavioral health post-stabilization services obtained within or outside the network that are not prior authorized by the contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS, but are administered to maintain the member's stabilized condition within one hour of a request to the contractor, ADHS/DBHS, or a subcontractor for prior authorization of further post-stabilization services;
 3. The contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS, as appropriate, is financially responsible for behavioral health post-stabilization services obtained within or outside the network that are not prior authorized by the contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS, but are administered to maintain, improve, or resolve the member's stabilized condition if:
 - a. The contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS, does not respond to a request for prior authorization within one hour;
 - b. The contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS authorized to give the prior authorization cannot be contacted; or
 - c. The representative of the contractor, ADHS/DBHS, or the subcontractor and the treating physician cannot reach an agreement concerning the member's care and the contractor's, ADHS/DBHS' or the subcontractor's physician, is not available for consultation. The treating physician may continue with care of the member until ADHS/DBHS', the contractor's, or the subcontractor's physician is reached, or:
 - i. A contracted physician with privileges at the treating hospital assumes responsibility for the member's care;
 - ii. ADHS/DBHS', a contractor's, or a subcontractor's physician assumes responsibility for the member's care through transfer;
 - iii. A representative of the contractor, ADHS/DBHS, or the subcontractor and the treating physician reach agreement concerning the member's care; or
 - iv. The member is discharged.
- in response to a 911 call or other emergency response system:
- a. If the member's medical condition justifies the medical necessity of the type of ambulance transportation received,
 - b. The transport is to the nearest appropriate provider or medical facility capable of meeting the member's medical needs, and
 - c. No prior authorization is required for reimbursement of these transports.
3. The member's medical condition at the time of transport determines whether the transport is medically necessary.
 4. A ground or air ambulance provider furnishing transport in response to a 911 call or other emergency response system shall notify the member's contractor within 10 working days from the date of transport. Failure of the provider to provide notification is cause for denial.
 5. Notification to the Administration of emergency transportation provided to a FFS member is not required, but the provider shall submit documentation with the claim that justifies the service.
- B.** The Administration or a contractor covers air ambulance services only if at least one criterion in subsection (B)(1) is met and at least one criterion in subsection (B)(2), or the criterion in subsection (B)(3) is met. The criteria are:
1. The air ambulance transport is initiated at the request of:
 - a. An emergency response unit,
 - b. A law enforcement official,
 - c. A clinic or hospital medical staff member, or
 - d. A physician or practitioner, and
 2. The point of pickup:
 - a. Is inaccessible by ground ambulance, or
 - b. Is a great distance from the nearest hospital or other provider with appropriate facilities to treat the member's condition and ground ambulance service will not suffice, or
 3. The medical condition of the member requires immediate intervention from emergency ambulance personnel or providers with the appropriate facilities to treat the member's condition.
- C.** Coverage of medically necessary nonemergency transportation is limited to the cost of transporting the member to an appropriate provider capable of meeting the member's medical needs.
1. As specified in contract, a contractor shall arrange or provide medically necessary nonemergency transportation services for a member who is unable to arrange transportation to a service site or location.
 2. For a fee-for-service member, the Administration shall authorize medically necessary nonemergency transportation for a member who is unable to arrange transportation to a service site or location.
- D.** For the purposes of this subsection, an individual means a person who is not in the business of providing transportation services such as a family or household member, friend, or neighbor. The Administration or a contractor shall cover expenses for transportation in traveling to and returning from an approved and prior authorized health care service site provided by an individual if:
1. The transportation services are authorized by the Administration or the member's contractor or designee,
 2. The individual is an AHCCCS registered provider, and
 3. No other means of appropriate transportation is available.
- E.** The Administration or a contractor shall cover expenses for meals, lodging, and transportation for a member traveling to

Historical Note

New Section made by final rulemaking at 11 A.A.R. 5480, effective December 6, 2005 (Supp. 05-4).
 Amended by final rulemaking at 17 A.A.R. 1658, effective August 2, 2011 (Supp. 11-3). Amended by final rulemaking at 20 A.A.R. 3098, effective January 4, 2015 (Supp. 14-4).

R9-22-211. Transportation Services**A. Emergency ambulance services.**

1. A member shall receive medically necessary emergency transportation in a ground or air ambulance:
 - a. To the nearest appropriate provider or medical facility capable of meeting the member's medical needs, and
 - b. If no other appropriate means of transportation is available.
2. The Administration or a member's contractor shall reimburse a ground or air ambulance transport that originates

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and returning from an approved health care service site outside of the member's service area or county of residence.

F. The Administration or a contractor shall cover the expense of meals, lodging, and transportation for:

1. A family member accompanying a member if:
 - a. The member is traveling to or returning from an approved health care service site outside of the member's service area or county of residence; and
 - b. The meals, lodging, and transportation services are authorized by the Administration or the member's contractor or designee.
2. An escort who is not a family member as follows:
 - a. If the member is travelling to or returning from an approved and prior authorized health care service site, including an inpatient facility, outside of the member's service area or county of residence;
 - b. If the escort services are authorized by the Administration or the member's contractor or designee; and
 - c. Wage paid to an escort as reimbursement shall not exceed the federal minimum wage.

G. A provider shall obtain prior authorization from the Administration for transportation services provided for a member for the following:

1. Medically necessary nonemergency transportation services not originated through a 911 call or other emergency response system when the distance traveled exceeds 100 miles (whether one way or round trip); and
2. All meals, lodging, and services of an escort accompanying the member under this Section.

H. A charitable organization routinely providing transportation service at no cost to an ambulatory or chairbound person shall not charge or seek reimbursement from the Administration or a contractor for the provision of the service to a member but may enter into a subcontract with a contractor for medically necessary transportation services provided to a member.

Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-211 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (A) effective October 1, 1986 (Supp. 86-5). Amended effective December 13, 1993 (Supp. 93-4). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 17 A.A.R. 1658, effective August 2, 2011 (Supp. 11-3).

R9-22-212. Durable Medical Equipment, Orthotic and Prosthetic Devices, and Medical Supplies

- A.** Durable medical equipment, orthotic and prosthetic devices, and medical supplies, including incontinence briefs as specified in subsection (E), are covered services to the extent permitted in this Section if provided in compliance with requirements of this Chapter; and
1. Prescribed by the primary care provider, attending physician, or practitioner; or
 2. Prescribed by a specialist upon referral from the primary care provider, attending physician, or practitioner; and
 3. Authorized as required by the Administration, contractor, or contractor's designee.
- B.** Covered medical supplies are consumable items that are designed specifically to meet a medical purpose, are disposable, and are essential for the member's health.

C. Covered DME is any item, appliance, or piece of equipment that is not a prosthetic or orthotic; and

1. Is designed for a medical purpose, and is generally not useful to a person in the absence of an illness or injury, and
2. Can withstand repeated use, and
3. Is generally reusable by others.

D. Prosthetics are devices prescribed by a physician or other licensed practitioner to artificially replace missing, deformed or malfunctioning portion of the body. Only those prosthetics that are medically necessary for rehabilitation are covered, except as otherwise provided in R9-22-215.

E. The following limitations on coverage apply:

1. The DME is furnished on a rental or purchase basis, whichever is less expensive. The total expense of renting the DME does not exceed the cost of the DME if purchased.
2. Reasonable repair or adjustment of purchased DME is covered if necessary to make the DME serviceable and if the cost of repair or adjustment is less than the cost of renting or purchasing another unit.
3. A change in, or addition to, an original order for DME is covered if approved by the prescriber in subsection (A), or prior authorized by the Administration or contractor, and the change or addition is indicated clearly on the order and initialed by the vendor. No change or addition to the original order for DME may be made after a claim for services is submitted to the member's contractor, or the Administration, without prior written notification of the change or addition to the Administration or the contractor.
4. Reimbursement for rental fees shall terminate:
 - a. No later than the end of the month in which the prescriber in subsection (A) certifies that the member no longer needs the DME;
 - b. If the member is no longer eligible for AHCCCS services; or
 - c. If the member is no longer enrolled with a contractor, with the exception of transitions of care as specified in R9-22-509.
5. Except for incontinence briefs for persons over 3 years old and under 21 years old as provided in subsection (E)(6), personal care items including items for personal cleanliness, body hygiene, and grooming are not covered unless needed to treat a medical condition. Personal care items are not covered services if used solely for preventive purposes.
6. Incontinence briefs, including pull-ups are covered to prevent skin breakdown and enable participation in social, community, therapeutic and educational activities under the following circumstances:
 - a. The member is over 3 years old and under 21 years old;
 - b. The member is incontinent due to a documented disability that causes incontinence of bowel or bladder, or both;
 - c. The PCP or attending physician has issued a prescription ordering the incontinence briefs;
 - d. Incontinence briefs do not exceed 240 briefs per month unless the prescribing physician presents evidence of medical necessity for more than 240 briefs per month for a member diagnosed with chronic diarrhea or spastic bladder;
 - e. The member obtains incontinence briefs from providers in the contractor's network;

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- f. Prior authorization has been obtained as required by the Administration, contractor, or contractor's designee. Contractors may require a new prior authorization to be issued no more frequently than every 12 months. Prior authorization for a renewal of an existing prescription may be provided by the physician through telephone contact with the member rather than an in-person physician visit. Prior authorization will be permitted to ascertain that:
 - i. The member is over age 3 and under age 21;
 - ii. The member has a disability that causes incontinence of bladder or bowel, or both;
 - iii. A physician has prescribed incontinence briefs as medically necessary. A physician prescription supporting medical necessity may be required for specialty briefs or for briefs different from the standard briefs supplied by the contractor; and
 - iv. The prescription is for 240 briefs or fewer per month, unless evidence of medical necessity for over 240 briefs is provided.
7. First aid supplies are not covered unless they are provided in accordance with a prescription.
8. The following services are not covered for individuals 21 years of age or older:
 - a. Hearing aids;
 - b. Prescriptive lenses unless they are the sole visual prosthetic device used by the member after a cataract extraction;
 - c. Bone Anchor Hearing Aid (BAHA);
 - d. Cochlear implant;
 - e. Percussive vest;
 - f. Insulin pump;
 - g. Microprocessor-controlled lower limbs or microprocessor-controlled joints for lower limbs; and
 - h. Orthotics, which are defined as devices that are prescribed by a physician or other licensed practitioner of the healing arts to support a weak or deformed portion of the body.
- F. Liability and ownership.
 1. Purchased DME that is provided to a member and no longer needed by the member may be disposed of in accordance with each contractor's policy.
 2. The Administration shall retain title to purchased DME provided to a member who becomes ineligible or no longer requires use of the DME.
 3. If customized DME is purchased by the Administration or contractor for a member, the equipment shall remain with the person during times of transition to a different contractor, or upon loss of eligibility. For purposes of this subsection, customized DME refers to equipment that is altered or built to specifications unique to a member's medical needs and that, most likely, cannot be used or reused to meet the needs of another individual.
 4. A member shall return DME obtained fraudulently to the Administration or the contractor.

Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-212 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-212 repealed, new Section R9-22-212 adopted effective October 1, 1983 (Supp. 83-5). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (B), para-

graph (2), and deleted subsection (C) effective October 1, 1986 (Supp. 86-5). Section repealed, new Section adopted effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 13 A.A.R. 3272, effective September 11, 2007 (Supp. 07-3). Amended by exempt rulemaking at 16 A.A.R. 1638, effective October 1, 2010 (Supp. 10-3).

R9-22-213. Early and Periodic Screening, Diagnosis, and Treatment Services (E.P.S.D.T.)

- A. The following E.P.S.D.T. services are covered for a member less than 21 years of age:
 1. Screening services including:
 - a. Comprehensive health and developmental history;
 - b. Comprehensive unclothed physical examination;
 - c. Appropriate immunizations according to age and health history;
 - d. Laboratory tests; and
 - e. Health education, including anticipatory guidance;
 2. Vision services including:
 - a. Diagnosis and treatment for defects in vision;
 - b. Eye examinations for the provision of prescriptive lenses;
 - c. Prescriptive lenses; and
 - d. Frames.
 3. Hearing services including:
 - a. Diagnosis and treatment for defects in hearing;
 - b. Testing to determine hearing impairment; and
 - c. Hearing aids;
 4. Dental services including:
 - a. Emergency dental services as specified in R9-22-207;
 - b. Preventive services including screening, diagnosis, and treatment of dental disease; and
 - c. Therapeutic dental services including fillings, crowns, dentures, and other prosthetic devices;
 5. Orthognathic surgery;
 6. Medically necessary, nutritional assessment and nutritional therapy as specified in contract to provide complete daily dietary requirements or supplement a member's daily nutritional and caloric intake;
 7. Behavioral health services under 9 A.A.C. 22, Article 12;
 8. Hospice services do not include home-delivered meals or services provided and covered through Medicare. The following hospice services are covered:
 - a. Hospice services are covered only for a member who is in the final stages of a terminal illness and has a prognosis of death within six months;
 - b. Services available to a member receiving hospice care are limited to those allowable under 42 CFR 418.202, October 1, 2006, incorporated by reference and on file with the Administration. This incorporation by reference contains no future editions or amendments;
 9. Incontinence briefs as specified under R9-22-212; and
 10. Other necessary health care, diagnostic services, treatment, and measures required by 42 U.S.C. 1396d(r)(5).
- B. Providers of E.P.S.D.T. services shall meet the following standards:
 1. Ensure that services are provided by or under the direction of the member's primary care provider, attending physician, practitioner, or dentist.
 2. Perform tests and examinations under 42 CFR 441 Subpart B, October 1, 2006, which is incorporated by reference and on file with the Administration. This

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- incorporation by reference contains no future editions or amendments.
- 3. Refer a member as necessary for dental diagnosis and treatment and necessary specialty care.
- 4. Refer a member as necessary for behavioral health evaluation and treatment services.
- C. Contractors shall meet other E.P.S.D.T. requirements as specified in contract.
- D. A primary care provider, attending physician, or practitioner shall refer a member with special health care needs under R9-7-301 to CRS.

Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-213 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-213 repealed, new Section R9-22-213 adopted effective October 1, 1983 (Supp. 83-5). Amended effective October 1, 1985 (Supp. 85-5). Amended effective December 13, 1993 (Supp. 93-4). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 13 A.A.R. 3272, effective September 11, 2007 (Supp. 07-3). Amended by final rulemaking at 20 A.A.R. 1949, effective September 6, 2014 (Supp. 14-3).

R9-22-214. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-214 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-214 repealed, new Section R9-22-214 adopted effective October 1, 1983 (Supp. 83-5). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (B), paragraph (4) and added subsection (C), paragraph (2) effective October 1, 1986 (Supp. 86-5). Correction to subsection (C), paragraph (2) (Supp. 87-4). Section repealed effective September 22, 1997 (Supp. 97-3).

R9-22-215. Other Medical Professional Services

- A. The following medical professional services are covered services if a member receives these services in an inpatient, outpatient, or office:
 - 1. Dialysis;
 - 2. The following family planning services if provided to delay or prevent pregnancy:
 - a. Medications,
 - b. Supplies,
 - c. Devices, and
 - d. Surgical procedures;
 - 3. Family planning services are limited to:
 - a. Contraceptive counseling, medications, supplies, and associated medical and laboratory examinations, including HIV blood screening as part of a package of sexually transmitted disease tests provided with a family planning service;
 - b. Sterilization; and
 - c. Natural family planning education or referral;
 - 4. Midwifery services provided by a certified nurse practitioner in midwifery;

- 5. Midwifery services for low-risk pregnancies and home deliveries provided by a licensed midwife;
 - 6. Respiratory therapy;
 - 7. Ambulatory and outpatient surgery facilities services;
 - 8. Home health services under A.R.S. § 36-2907(D);
 - 9. Private or special duty nursing services;
 - 10. Rehabilitation services including physical therapy, occupational therapy, speech therapy, and audiology within limitations in subsection (C);
 - 11. Total parenteral nutrition services, which are the provision of total caloric needs by intravenous route for individuals with severe pathology of the alimentary tract; and
 - 12. Chemotherapy.
- B. Prior authorization from the Administration for a member is required for services listed in subsections (A)(3)(b), and (A)(4) through (11); except for:
 - 1. Voluntary sterilization;
 - 2. Dialysis shunt placement;
 - 3. Arteriovenous graft placement for dialysis;
 - 4. Angioplasties or thrombectomies of dialysis shunts;
 - 5. Angioplasties or thrombectomies of arteriovenous grafts for dialysis;
 - 6. Eye surgery for the treatment of diabetic retinopathy;
 - 7. Eye surgery for the treatment of glaucoma;
 - 8. Eye surgery for the treatment of macular degeneration;
 - 9. Home health visits following an acute hospitalization (limited up to five visits);
 - 10. Hysteroscopies (up to two, one before and one after) when associated with a family planning diagnosis code and done within 90 days of hysteroscopic sterilization;
 - 11. Physical therapy subject to the limitation in subsection (C);
 - 12. Facility services related to wound debridement,
 - 13. Apnea management and training for premature babies up to the age of 1; and
 - 14. Other services identified by the Administration through the Provider Participation Agreement.
 - C. The following are not covered services:
 - 1. Occupational and speech therapies provided on an outpatient basis for a member age 21 or older;
 - 2. Abortion counseling;
 - 3. Services or items furnished solely for cosmetic purposes;
 - 4. Services provided by a podiatrist; or
 - 5. More than 15 outpatient physical therapy visits per benefit year for persons age 21 years or older for the purpose of restoring a skill or level of function and maintaining that skill or level of function once restored.
 - 6. More than 15 outpatient physical therapy visits per benefit year for persons age 21 years or older for the purpose of acquiring a new skill or a new level of function and maintaining that skill or level of function once acquired.

Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-215 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1985 (Supp. 85-5). Section repealed, new Section adopted effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by exempt rulemaking at 16 A.A.R. 1638, effective October 1, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 1658, effective August 2, 2011 (Supp. 11-3). Amended by final

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rulemaking at 20 A.A.R. 1949, effective September 6, 2014 (Supp. 14-3).

R9-22-216. NF, Alternative HCBS Setting, or HCBS

- A. Services provided in a NF, including room and board, an alternative HCBS setting as defined in R9-28-101, or a HCBS as defined in A.R.S. § 36-2939 are covered for a maximum of 90 days per contract year if the member's medical condition would otherwise require hospitalization.
- B. Except as otherwise provided in 9 A.A.C. 28, the following services are not itemized for separate billing if provided in a NF, alternative HCBS setting, or HCBS:
 1. Nursing services, including:
 - a. Administering medication;
 - b. Tube feedings;
 - c. Personal care services, including but not limited to assistance with bathing and grooming;
 - d. Routine testing of vital signs; and
 - e. Maintenance of a catheter;
 2. Basic patient care equipment and sickroom supplies, including:
 - a. First aid supplies such as bandages, tape, ointments, peroxide, alcohol, and over-the-counter remedies;
 - b. Bathing and grooming supplies;
 - c. Identification device;
 - d. Skin lotion;
 - e. Medication cup;
 - f. Alcohol wipes, cotton balls, and cotton rolls;
 - g. Rubber gloves (non-sterile);
 - h. Laxatives;
 - i. Bed and accessories;
 - j. Thermometer;
 - k. Ice bags;
 - l. Rubber sheeting;
 - m. Passive restraints;
 - n. Glycerin swabs;
 - o. Facial tissue;
 - p. Enemas;
 - q. Heating pad; and
 - r. Incontinence briefs.
 3. Dietary services including preparation and administration of special diets, and adaptive tools for eating;
 4. Any service that is included in a NF's room and board charge or a service that is required of the NF to meet a federal or state licensure standard or county certification requirement;
 5. Physician visits made solely for the purpose of meeting state licensure standards or county certification requirements;
 6. Physical therapy prescribed only as a maintenance regimen; and
 7. Assistive devices and non-customized durable medical equipment.
- C. A provider shall obtain prior authorization from the Administration for a NF admission for a FFS member.

Historical Note

Adopted effective October 1, 1985 (Supp. 85-5). Section repealed, new Section adopted effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Subsection (C) amended to correct a typographical error (Supp. 00-4). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 13 A.A.R. 3272, effective September 11, 2007 (Supp. 07-3). Amended by final rulemaking at

13 A.A.R. 4122, effective November 6, 2007 (Supp. 07-4).

R9-22-217. Services Included in the Federal Emergency Services Program

- A. Definition. Notwithstanding the definition in R9-22-201, for the purposes of this Section, an emergency medical or behavioral health condition for a FES member means a medical condition or a behavioral health condition, including labor and delivery, manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in:
 1. Placing the member's health in serious jeopardy,
 2. Serious impairment to bodily functions,
 3. Serious dysfunction of any bodily organ or part, or
 4. Serious physical harm to another person.
- B. Services. "Emergency services for a FES member" mean those medical or behavioral health services provided for the treatment of an emergency condition. Emergency services include outpatient dialysis services for a FES member with End Stage Renal Disease (ESRD) where a treating physician has certified for the month in which services are received that in the physician's opinion the absence of receiving dialysis at least three times per week would reasonably be expected to result in:
 1. Placing the member's health in serious jeopardy, or
 2. Serious impairment of bodily function, or
 3. Serious dysfunction of a bodily organ or part.
- C. Covered services. Services are considered emergency services if all of the criteria specified in subsection (A) are satisfied at the time the services are rendered. The Administration shall determine whether an emergency condition exists on a case-by-case basis.
- D. Prior authorization. A provider is not required to obtain prior authorization for emergency services for FES members. Prior authorization for outpatient dialysis services is met when the treating physician has completed and signed a monthly certification as described in subsection (B).
- E. Services rendered through the Federal Emergency Services Program are subject to all exclusions and limitation on services in this Article including but not limited to the limitations on inpatient hospital services in R9-22-204.

Historical Note

Adopted under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 26, 1993 (Supp. 93-4). Section repealed, new Section adopted effective September 22, 1997 (Supp. 97-3). Amended by exempt rulemaking at 7 A.A.R. 5701, effective December 1, 2001 (Supp. 01-4). Amended by exempt rulemaking at 10 A.A.R. 4588, effective October 12, 2004 (Supp. 04-4). Amended by final rulemaking at 11 A.A.R. 5480, effective December 6, 2005 (Supp. 05-4). Amended by final rulemaking at 13 A.A.R. 3351, effective November 10, 2007 (Supp. 07-3). Amended by final rulemaking at 17 A.A.R. 1658, effective August 2, 2011 (Supp. 11-3). Amended by exempt rulemaking at 17 A.A.R. 1868, effective October 1, 2011 (Supp. 11-3). Amended by final rulemaking at 19 A.A.R. 2747, effective October 8, 2013 (Supp. 13-3). Amended by final rulemaking at 20 A.A.R. 3098, effective January 4, 2015 (Supp. 14-4).

R9-22-218. Repealed

Historical Note

Section R9-22-218 renumbered from R9-22-206 effective January 1, 1996, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Third Special Session, Ch. 1, § 5; filed with the Office of the Secretary of State December 28, 1995 (Supp. 95-4). Section repealed effective September 22, 1997 (Supp. 97-3).

ARTICLE 3. GENERAL ELIGIBILITY REQUIREMENTS**R9-22-301. Reserved****Historical Note**

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-301 renumbered together with former Section R9-22-102 as Section R9-22-101 and amended effective October 1, 1983 (Supp. 83-5). New Section R9-22-301 adopted effective November 20, 1984 (Supp. 84-6).

Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (B), paragraph (8), subsection (E), paragraph (3), and subsection (J), paragraph (5) effective October 1, 1986 (Supp. 86-5). Amended subsections (C) and (E) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsections (B) and (C) effective October 1, 1987; amended subsection (D) effective December 22, 1987 (Supp. 87-4). Amended effective May 30, 1989 (Supp. 89-2). Amended effective September 29, 1992 (Supp. 92-3). Amended effective December 13, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section reserved by final rulemaking at 19 A.A.R. 3309, effective November 30, 2013 (Supp. 13-4).

R9-22-302. Reserved**Historical Note**

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-302 repealed, new Section R9-22-302 adopted effective November 20, 1984 (Supp. 84-6). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended effective September 29, 1992 (Supp. 92-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section reserved by final rulemaking at 19 A.A.R. 3309, effective November 30, 2013 (Supp. 13-4).

R9-22-303. Prior Quarter Eligibility

- A.** Prior Quarter eligibility shall be effective no earlier than January 1, 2014. An applicant may be eligible during any of the three months prior to application if the applicant:
1. Received one or more covered services described in 9 A.A.C. 22, Article 2 and Article 12, and 9 A.A.C. 28, Article 2 during the month; and
 2. Would have qualified for Medicaid at the time services were received if the person had applied regardless of whether the person is alive when the application is made.
- B.** The Prior Quarter requirements do not apply to:
1. Qualified Medicare Beneficiaries
 2. KidsCare

Historical Note

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-303 repealed, new Section R9-22-303 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsection (A) effective

February 26, 1988 (Supp. 88-1). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). New Section made by final rulemaking at 19 A.A.R. 3309, effective November 30, 2013 (Supp. 13-4).

R9-22-304. Verification of Eligibility Information

- A.** Except as provided in subsection (E), if information provided by or on behalf of an applicant or member on an application, renewal form or otherwise does not conflict with information obtained by the agency through an electronic data match, the Administration or its designee shall determine or renew eligibility based on such information.
- B.** The Administration or its designee shall not require an applicant, member, or representative to provide additional verification unless the verification cannot be obtained electronically or the verification obtained electronically conflicts with information provided by or on behalf of the applicant or member.
- C.** If information provided by or on behalf of an applicant or member does conflict with information obtained through an electronic data match, the applicant or member shall provide the Administration or its designee with information or documentation necessary to verify eligibility, including evidence originating from an agency, organization, or an individual with actual knowledge of the information.
- D.** Income information obtained through an electronic data match shall be considered reasonably compatible with income information provided by or on behalf of an individual if both meet or both exceed the applicable income limit.
- E.** The Administration or its designee shall not accept the applicant's or member's statement by itself as verification of:
1. SSN;
 2. Qualified alien status, except as described under 42 USC 1320b-7(d)(4)(A); or
 3. Citizenship, except as described under 42 USC 1396a(ee)(1).
- F.** The Administration or its designee shall give an applicant or member at least 10 days from the date of a written or electronic request for information to provide required verification. The Administration or its designee may deny the application or discontinue eligibility if an applicant or a member does not provide the required information timely.

Historical Note

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-304 repealed, new Section R9-22-304 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). New Section R9-22-304 made by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-305. Eligibility Requirements

As a condition of eligibility, the Administration or its designee must require applicants, and members to do the following:

1. Take all necessary steps to obtain any annuities, pensions, retirement, disability benefits to which they are entitled, unless they can show good cause for not doing so.
2. Furnish a SSN under 42 CFR 435.910 and 435.920, or in the absence of an SSN, provide proof of a submitted application of SSN. The Administration or its designee will assist in obtaining or verifying the applicant's SSN under 42 CFR 435.910 if an applicant cannot recall the applicant's SSN or has not been issued a SSN. An applicant is not required to furnish an SSN if the applicant is not able to legally obtain a SSN. The Administration or its designee shall determine eligibility notwithstanding the applicant's lack of a SSN, if the applicant is cooperat-

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- ing with the Administration or its designee to obtain a SSN and obtain a SSN prior to the next scheduled review of eligibility.
3. Provide proof of residency of Arizona. An applicant or a member is not eligible unless the applicant or member is a resident of Arizona under 42 CFR 435.403 effective October 1, 2012, which is incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.
 4. A written declaration, signed under penalty of perjury, must be provided for each person for whom benefits are being sought stating whether the individual is a citizen or national of the United States, and, if that individual is not a citizen or national of the United States, that the individual is a qualified alien. The declaration must be provided by the individual for whom eligibility is being sought or an adult member of the individual's family or household.
 5. Each applicant who claims qualified alien status must provide either:
 - a. Alien registration documentation or other proof of immigration registration from the Immigration and Naturalization Service that contains the individual's alien admission number or alien file number (or numbers if the individual has more than one number), or
 - b. Other documents that the Administration or its designee accepts as evidence of immigration status, such as:
 - i. a Form I-94 Departure Record issued by the USCIS,
 - ii. a Foreign Passport,
 - iii. a USCIS Parole Notice,
 - iv. a Victim of Trafficking Certification or Eligibility Letter issued by the US DHHS Office of Refugee Resettlement,
 - v. other documentation consistent with 42 CFR 435.406 or 435.407.
 - c. Sufficient information for the Administration or its designee to obtain electronic verification of immigration status from the USCIS.
 6. If a person for whom eligibility is being sought, states that they are an alien, that person is not required to comply with subsections (4) and (5); however, if they do not comply with those sections, and if they meet all other eligibility criteria, benefits will be limited to those necessary to treat an emergency medical condition.
 1. The Administration or its designee shall determine eligibility within 90 days for an applicant applying on the basis of disability and 45 days for all other applicants, unless:
 - a. The agency cannot reach a decision because the applicant or an examining physician delays or fails to take a required action, or
 - b. When there is an administrative or other emergency beyond the agency's control.
 2. If an applicant dies while an application is pending, the Administration or its designee shall complete an eligibility determination for the deceased applicant.
 3. The Administration or its designee shall complete an eligibility determination on an application filed on behalf of a deceased applicant.
 4. During the application process the Administration or its designee shall provide information to the applicant or member explaining the requirements to:
 - a. Cooperate with DCSS in establishing paternity and enforcing medical support, except in circumstances when good cause under 42 CFR 433.147 exists for not cooperating;
 - b. Establish good cause for not cooperating with DCSS in establishing paternity and enforcing medical support, when applicable;
 - c. Report a change listed under subsection (B)(3)(c) no later than 10 days from the date the applicant or member knows of the change;
 - d. Send to the Administration or its designee any medical support payments resulting from a court order;
 - e. Cooperate with the Administration or its designee's assignment of rights and securing payments received from any liable party for a member's medical care.
 5. Offer to help the applicant or member to complete the application form and to obtain the required verification;
 6. Provide the applicant or member with information explaining:
 - a. The eligibility and verification requirements for AHCCCS medical coverage;
 - b. The requirement that the applicant or member obtain and provide a SSN to the Administration or its designee;
 - c. How the Administration or its designee uses the SSN;
 7. Explain to the applicant or member the practice of exchange of eligibility and income information through the electronic service established by the Secretary;
 8. Explain to the applicant and member the right to appeal an adverse action under R9-22-315;
 9. Use any information provided by the member to complete data matches with potentially liable parties;
 10. Explain the eligibility review process;
 11. Explain the AHCCCS pre-enrollment process;
 12. Use the Systematic Alien Verification for Entitlements (SAVE) process to verify qualified alien status;
 13. Provide information regarding the penalties for perjury and fraud on the application;
 14. Review any verification items provided by the applicant or member and inform the member of any additional verification items and time-frames within which the applicant or member shall provide information to the Administration or its designee;
 15. Explain to the applicant or member the applicant's and member's responsibilities under subsection (B);
 16. Transfer the applicant's information to other insurance affordability programs as described under 42 CFR

Historical Note

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-305 repealed, new Section R9-22-305 adopted effective November 20, 1984 (Supp. 84-6). Amended subsection (A) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsection (A) effective February 26, 1988 (Supp. 88-1). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). New Section R9-22-305 made by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-306. Administration, Administration's designee or Member Responsibilities

- A. The Administration or its designee is responsible for the following:

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- 435.1200(e) when the applicant does not qualify for Medicaid;
17. Attain a written record of a collateral contact: such as a verbal statement from a representative of an agency or organization, or an individual with actual knowledge of the information;
 18. Complete a review of eligibility:
 - a. Any time there is a change in a member's circumstance that may affect eligibility,
 - b. For a member approved for the MED program under R9-22-1435 through R9-22-1440 before the end of the six-month eligibility period,
 - c. Of each member's continued eligibility for AHCCCS medical coverage once every 12 months;
 19. The Administration or its designee shall discontinue eligibility and notify the member of the discontinuance under R9-22-307 if the member:
 - a. Fails to comply with the review of eligibility,
 - b. Fails to comply under 42 CFR 433.148 with the requirements and conditions of eligibility under this Article regarding assignment of rights and cooperation of establishing paternity and obtaining medical support, or
 - c. Does not meet the eligibility requirements; and
 20. Redetermine eligibility for a person terminated from the SSI cash program.
 - a. Continuation of AHCCCS medical coverage. The Administration shall continue AHCCCS medical coverage for a person terminated from the SSI cash program until a redetermination of eligibility is completed.
 - b. Coverage group screening. Before terminating a person from the SSI cash program, the Administration shall determine if the person is eligible for coverage as a person described in A.R.S. §§ 36-2901(6)(a)(i) through (vi) or 36-2934.
 - c. Eligibility decision.
 - i. If a person is eligible under this Article or 9 A.A.C. 28, Article 4, the Administration shall send a notice informing the applicant that AHCCCS medical coverage is approved.
 - ii. If a person is ineligible, the Administration shall send a notice to deny AHCCCS medical coverage.
- B. Applicant and Member Responsibilities.**
1. An applicant or a member shall authorize the Administration or its designee to obtain verification for initial eligibility or continuation of eligibility.
 2. As a condition of eligibility, an applicant or a member shall:
 - a. Provide the Administration or its designee with complete and truthful information. The Administration or its designee may deny an application or discontinue eligibility if:
 - i. The applicant or member fails to provide information necessary for initial or continuing eligibility;
 - ii. The applicant or member fails to provide the Administration or its designee with written authorization or electronic authorization to permit the Administration or its designee to obtain necessary initial or continuing eligibility verification;
 - iii. The applicant or member fails to provide verification under R9-22-304 after the Administration or its designee made an effort to obtain the necessary verification but has not obtained the necessary information; or
 - iv. The applicant or member does not assist the Administration or its designee in resolving incomplete, inconsistent, or unclear information that is necessary for initial or continuing eligibility;
 - b. Cooperate with the Division of Child Support Services (DCSS) in establishing paternity and enforcing medical support obligations when requested unless good cause exists for not cooperating under 42 CFR 433.147 as of October 1, 2012, which is incorporated by reference, on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol St., NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments. The Administration or its designee shall not deny AHCCCS eligibility to an applicant who would otherwise be eligible, is a minor child, and whose parent or legal representative does not cooperate with the medical support requirements or first- and third-party liability requirements under Article 10 of this Chapter; and
 - c. Provide the information needed to pursue third party coverage for medical care, such as:
 - i. Name of policyholder,
 - ii. Policyholder's relationship to the applicant or member,
 - iii. Name and address of the insurance company, and
 - iv. Policy number.
 3. A member or an applicant shall:
 - a. Send to the Administration or its designee any medical support payments received while the member is eligible that result from a medical support order;
 - b. Cooperate with the Administration or its designee regarding any issues arising as a result of Eligibility Quality Control described under A.R.S. § 36-2903.01; and
 - c. Inform the Administration or its designee of the following changes within 10 days from the date the applicant or member knows of a change:
 - i. In address;
 - ii. In the household's composition;
 - iii. In income;
 - iv. In resources, when required under the Medical Expense Deduction (MED) program;
 - v. In Arizona state residency;
 - vi. In citizenship or immigrant status;
 - vii. In first- or third-party liability that may contribute to the payment of all or a portion of the person's medical costs;
 - viii. That may affect the member's or applicant's eligibility, including a change in a woman's pregnancy status;
 - ix. Death;
 - x. Change in marital status; or
 - xi. Change in school attendance.
 4. As a condition of eligibility, an applicant or a member shall cooperate with the assignment of rights as required by R9-22-311. If the applicant or member receives medical care and services for which a first or third party is or may be liable, the applicant or member shall cooperate with the Administration or its designee in assisting, identifying and providing information to assist the Adminis-

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tration or its designee in pursuing any first or third party who is or may be liable to pay for medical care and services.

5. A pregnant woman under A.R.S. § 36-2901(6)(a)(ii) is not required to provide the Administration or its designee with information regarding paternity or medical support from a father of a child born out of wedlock.

C. Administration or its designee responsibilities at Eligibility Renewal.

1. The Administration or its designee shall renew eligibility without requiring information from the individual if able to do so based on reliable information available to the agency, including through an electronic data match. If able to renew eligibility based on such information, the Administration or its designee shall send the member notice of:
 - a. The eligibility determination; and
 - b. The member's requirement to notify the Administration or its designee if any of the information contained in the renewal notice is inaccurate.
2. If unable to renew eligibility, the Administration or its designee shall:
 - a. Send a pre-populated renewal form listing the information needed to renew eligibility,
 - b. Give the member 30 days from the date of the renewal form to submit the signed renewal form and the information needed,
 - c. Send the member notice of the renewal decision under R9-22-312 or R9-22-1413(B) as applicable.

Historical Note

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-306 repealed, new Section R9-22-306 adopted effective November 20, 1984 (Supp. 84-6).

Amended effective October 1, 1985 (Supp. 85-5).

Amended subsection (B), paragraphs (1) and (6) effective October 1, 1986 (Supp. 86-5). Amended subsection (B), paragraph (1) and added a new subsection (N) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6).

Amended subsection (B) effective October 1, 1987; amended subsection (N) effective December 22, 1987 (Supp. 87-4). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 26, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). New Section R9-22-306 made by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-307. Approval or Denial of Eligibility

- A. Approval.** If the applicant meets all the eligibility requirements and conditions of eligibility of this Article, the Administration or its designee shall approve the application and provide the applicant with an approval notice. The approval notice shall contain:
 1. The name of each approved applicant,
 2. The effective date of eligibility for each approved applicant,
 3. The reason and the legal citations if a member is approved for only emergency medical services, and
 4. The applicant's right to appeal the decision.
- B. Denial.** If an applicant fails to meet the eligibility requirements or conditions of eligibility of this Article, the Administration

or its designee shall deny the application and provide the applicant with a denial notice. The denial notice shall contain:

1. The name of each ineligible applicant,
2. The specific reason why the applicant is ineligible,
3. The income and resource calculations for the applicant compared to the income or resource standards for eligibility when the reason for the denial is due to the applicant's income or resources exceeding the applicable standard,
4. The legal citations supporting the reason for the ineligibility,
5. The location where the applicant can review the legal citations,
6. The date of the application being denied; and
7. The applicant's right to appeal the decision and request a hearing.

Historical Note

Adopted effective August 30, 1982 (Supp. 82-4).

Amended subsections (A) and (C), added subsection (G) and (H) effective October 1, 1983 (Supp. 83-5). Former Section R9-22-307 repealed, new Section R9-22-307 adopted effective November 20, 1984 (Supp. 84-6).

Amended effective October 1, 1985 (Supp. 85-5).

Amended subsection (A) as an emergency effective December 4, 1985 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-6). Permanent amendment to subsection (A) effective February 5, 1986 (Supp. 86-1).

Amended subsections (E) and (F) effective October 1, 1986 (Supp. 86-5). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsection (A) effective February 26, 1988 (Supp. 88-1).

Amended effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended effective

September 29, 1992 (Supp. 92-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 26, 1993 (Supp. 93-4). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 8, 1996; filed with the Office of the Secretary of State November 6, 1996 (Supp. 96-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). New Section R9-22-307 made by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-308. Reinstating Eligibility

The Administration or its designee shall reopen an application or reinstate eligibility of a member when any of the following conditions are met:

1. The denial or discontinuance of eligibility was due to an administrative error,
2. The discontinuance of eligibility was due to noncompliance with a condition of eligibility and the applicant or member complies prior to the effective date of the discontinuance,
3. The member informs the Administration or its designee of a change of circumstances prior to the effective date of the discontinuance, that would allow for continued eligibility, or
4. Following a discontinuance, the member qualifies for continuation of medical coverage pending an appeal.

Historical Note

Adopted effective August 30, 1982 (Supp. 82-4).

Amended effective October 1, 1983 (Supp. 83-5).

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Amended by adding subsection (C) effective March 2, 1984 (Supp. 84-2). Former Section R9-22-308 repealed, new Section R9-22-308 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended effective October 1, 1986 (Supp. 86-5). Change in heading only effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 26, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). New Section R9-22-308 made by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-309. Confidentiality and Safeguarding of Information

The Administration or its designee shall maintain the confidentiality of an applicant or member's records and limit the release of safeguarded information under R9-22-512 and 6 A.A.C. 12, Article 1. In the event of a conflict between R9-22-512 and 6 A.A.C. 12, Article 1, R9-22-512 prevails.

Historical Note

Adopted effective August 30, 1984 (Supp. 82-4). Amended (D)(1)(d) effective October 1, 1983 (Supp. 83-5). Former Section R9-22-309 repealed, new Section R9-22-309 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended effective October 1, 1986 (Supp. 86-5). Amended subsection (F) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsections (A), (B) and (C) effective October 1, 1987 (Supp. 87-4). Amended effective May 30, 1989 (Supp. 89-2). Amended effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). New Section R9-22-309 made by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-310. Ineligible Person

A person is not eligible for AHCCCS medical coverage if the person is:

1. An inmate of a public institution, or
2. Over age 64 and is residing in an Institution for Mental Disease under 42 CFR 435.1009 except as allowed in 42 USC 1396d(h) or as allowed under the Administration's Section 1115 waiver.

Historical Note

Adopted effective August 30, 1982 (Supp. 82-4). Amended (B)(7) and added subsections (C) and (D) effective October 1, 1983 (Supp. 83-5). Former Section R9-22-310 repealed, new Section R9-22-310 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (B) and deleted subsection (C) effective October 1, 1986 (Supp. 86-5). Amended subsection (B), paragraph (7) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsection (B) effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended effective December 13, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5

A.A.R. 294, effective January 8, 1999 (Supp. 99-1). New Section R9-22-310 made by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-311. Assignment of Rights Under Operation of Law

By operation of law and under A.R.S. § 36-2903, a person determined eligible assigns rights to the system medical benefits to which the person is entitled.

Historical Note

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-311 repealed, new Section R9-22-311 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Change in heading only effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended effective April 13, 1990 (Supp. 90-2). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). New Section R9-22-311 made by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-312. Member Notices

- A.** Contents of notice. The Administration or its designee shall issue a notice by mail, personal delivery, or electronic means when an action is taken regarding a person's eligibility or premiums. The notice shall contain the following information:
 1. The date of the notice issued;
 2. A statement of the action being taken;
 3. The effective date of the action;
 4. The specific reason for the intended action;
 5. If eligibility is being discontinued due to income in excess of the income standards, the actual figures used in the eligibility determination and the amount by which the person exceeds income standards;
 6. If a premium is imposed or increased, the actual figures used in determining the premium amount;
 7. The specific law or regulation that supports the action, or a change in federal or state law that requires an action;
 8. An explanation of the member's rights to an appeal and continued benefits.
- B.** Advance notice of changes in eligibility or premiums. "Advance notice" means a notice that is issued to a person at least 10 days before the effective date of the change. Except as specified in subsection (C), advance notice shall be issued whenever the following adverse action is taken:
 1. To discontinue or suspend or reduce eligibility or covered services; or
 2. To impose a premium or increase a person's premium.
- C.** The Administration or its designee shall issue a Notice of Adverse Action to a member no later than the effective date of action if:
 1. The Administration or its designee receives a request to withdraw;
 2. A person provides information that requires termination of eligibility or an increase or imposition of the premium and the person signs a clear written statement waiving advance notice;
 3. A person cannot be located and mail sent to that person has been returned as undeliverable;
 4. A person has been admitted to a public institution where the person is ineligible under R9-22-310;
 5. A person has been approved for Medicaid or CHIP in another state; or
 6. The Administration or its designee has information that confirms the death of the person.

Historical Note

Adopted effective August 30, 1982 (Supp. 82-4). Amended subsections (A) and (B), added subsection (D) effective October 1, 1983 (Supp. 83-5). Former Section R9-22-312 repealed, new Section R9-22-312 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (A) effective October 1, 1986 (Supp. 86-5). Change in heading only effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsection (A) effective October 1, 1987 (Supp. 87-4). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). New Section R9-22-312 made by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-313. Withdrawal of Application

- A. An applicant may withdraw an application at any time before the Administration or its designee completes an eligibility determination by making an oral or written request for withdrawal to the Administration or its designee and stating the reason for withdrawal.
- B. If an applicant orally requests withdrawal of the application, the Administration or its designee shall document the:
 1. Date of the request,
 2. Name of the applicant for whom the withdrawal applies, and
 3. Reason for the withdrawal.
- C. An applicant may withdraw an application in writing by:
 1. Completing an Administration-approved voluntary withdrawal form; or
 2. Submitting a written, signed, and dated request to withdraw the application.
- D. The effective date of the withdrawal is the date of the application.
- E. If an applicant requests to withdraw an application, the Administration or its designee shall:
 1. Deny the application, and
 2. Notify the applicant of the denial following the notice requirements under R9-22-307.

Historical Note

Adopted effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1983 (Supp. 83-5). Amended subsections (C) and (D) as an emergency effective May 18, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Amended subsections (D) and (E) as an emergency effective August 16, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Emergency expired. Former Section R9-22-313 repealed, new Section R9-22-313 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended effective October 1, 1986 (Supp. 86-5). Amended subsections (B), (C), (E) and (G) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsections (B) and (C) effective December 22, 1987 (Supp. 87-4). Amended effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from the provisions of the Administrative Pro-

cedure Act, effective October 26, 1993 (Supp. 93-4).

Amended effective December 13, 1993 (Supp. 93-4).

Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 8, 1996; filed with the Office of the Secretary of State November 6, 1996 (Supp. 96-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). New Section R9-22-313 made by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-314. Withdrawal from AHCCCS Medical Coverage

- A. A member may withdraw from AHCCCS medical coverage at any time by giving oral or written notice of withdrawal to the Administration or its designee. The member or the member's legal or authorized representative shall provide the Administration or its designee with:
 1. The reason for the withdrawal,
 2. The date the notice is effective, and
 3. The name of the member for whom AHCCCS medical coverage is being withdrawn.
- B. If a notice of withdrawal does not identify specific members the Administration or its designee shall discontinue eligibility for any members that the person submitting the withdrawal has legal authority to act on behalf of.
- C. The Administration or its designee shall notify the member of the discontinuance as required by R9-22-312.

Historical Note

Adopted effective August 30, 1982 (Supp. 82-4). Amended subsection (A) and added subsection (F) as an emergency effective February 28, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Amended subsection (A) and added subsection (F) as a permanent rule effective May 16, 1983; text of the amended rule identical to the emergency (Supp. 83-3). Former Section R9-22-314 repealed, new Section R9-22-314 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended effective May 30, 1989 (Supp. 89-2). Amended effective September 29, 1992 (Supp. 92-3). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). New Section R9-22-314 made by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-315. Notice of Adverse Action

- A. Adverse actions. An applicant or member may appeal, as described under Chapter 34, by requesting a hearing from the Administration or its designee concerning any of the following adverse actions:
 1. Complete or partial denial of eligibility under R9-22-307 and R9-22-313(E);
 2. Suspension, termination, or reduction of AHCCCS medical coverage under R9-22-307, R9-22-312 and R9-22-314;
 3. Delay in the eligibility determination beyond the timeframes under this Article;
 4. The imposition of or increase in a premium or copayment; or
 5. The effective date of eligibility.
- B. Notice of Adverse Action. The Administration or its designee shall personally deliver or send, by mail, or electronic means a Notice of Adverse Action to the person affected by the action. For the purpose of this Section, the date of the Notice of Adverse Action shall be the date of personal delivery to the applicant or the postmark date, if mailed.

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C. Automatic change and hearing rights.

1. An applicant or a member is not entitled to a hearing if the sole issue is a federal or state law requiring an automatic change adversely affecting some or all recipients.
2. An applicant or a member is entitled to a hearing if a federal or state law requires an automatic change and the applicant or member timely files an appeal that alleges a misapplication of the facts to the law.

Historical Note

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-315 repealed, new Section R9-22-315 adopted effective November 20, 1984 (Supp. 84-6). Repealed effective October 1, 1985 (Supp. 85-5). New Section R9-22-315 adopted effective February 5, 1986 (Supp. 86-1). Amended effective February 26, 1988 (Supp. 88-1). Amended effective April 13, 1990 (Supp. 90-2). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). New Section R9-22-315 made by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-316. Exemptions from Sponsor Deemed Income

- A.** An applicant shall provide proof to the Administration or its designee when claiming an exemption from sponsor deemed income.
- B.** The Administration or its designee shall grant an exemption from deeming a sponsor's income for a Lawful Permanent Resident applicant if the applicant:
 1. Adjusted immigration status to Lawful Permanent Resident from status as a refugee or asylee;
 2. Is the spouse or dependent child of the sponsor and lives with the sponsor;
 3. Is indigent as specified in subsection (C);
 4. Is a victim of domestic violence or extreme cruelty as specified in subsection (D); or
 5. Has acquired 40 qualified quarters of work credit based on earnings as specified in subsection (E).
- C.** Exemption from sponsor deeming based on indigence.
 1. The Administration or its designee shall consider the applicant indigent and grant an exemption from sponsor deemed income for an applicant, for a period of 12 months beginning with the first month of eligibility if all the following are met:
 - a. An applicant is indigent if all of the following are met:
 - i. The applicant does not reside with the applicant's sponsor;
 - ii. The applicant does not receive free room and board; and
 - iii. The applicant's total gross income including monies received from the sponsor and the value of any vendor payments received for food, utilities, or shelter does not exceed 100% of the FPL for the size of the income group.
 2. The Administration or its designee shall send a notice under 8 U.S.C. 1631(e)(2) to the Attorney General's Office when approving an applicant who is exempt from sponsor deemed income due to indigence.
- D.** The Administration or its designee shall grant an exemption from sponsor deemed income for an applicant who is a victim of domestic violence or extreme cruelty under 8 CFR 204.2 for a period of 12 months beginning with the first month of eligibility. The Administration or its designee shall redetermine the exemption status at each renewal.

1. The Administration or its designee considers an applicant to be a victim of domestic violence or extreme cruelty when all of the following are met:
 - a. The applicant is the victim, the parent of a child victim, or the child of a parent victim;
 - b. The perpetrator of the domestic violence or extreme cruelty was the spouse or parent of the victim or other family member related by blood, marriage or adoption to the victim;
 - c. The perpetrator was residing in the same household as the victim when the abuse occurred;
 - d. The abuse occurred in the United States;
 - e. The applicant did not participate in the domestic violence or cruelty; and
 - f. The victim does not currently live with the perpetrator.
2. The applicant shall provide proof that the applicant or the applicant's child is a victim of domestic violence or extreme cruelty by presenting one of the following:
 - a. USCIS form I-360 Petition for Amerasian, Widow, or Special Immigrant;
 - b. USCIS form I-797 USCIS approval of the I-360 petition;
 - c. Reports or affidavits concerning the domestic violence or cruelty documented by police, judges, or other court officials, medical personnel, school officials, clergy, social workers, counseling or mental health personnel, or other social service agency personnel;
 - d. Legal documentation, such as an order of protection against the perpetrator or an order convicting the perpetrator of committing an act of domestic violence or extreme cruelty that chronicles the existence of domestic violence or extreme cruelty;
 - e. Evidence that indicates that the applicant sought safe haven in a battered women's shelter or similar refuge because of the domestic violence or extreme cruelty against the applicant or the applicant's child; or
 - f. Photographs of the applicant or applicant's child showing visible injury.
- E.** The Administration or its designee shall grant an exemption from sponsor deemed income for an applicant who has reached 40 qualifying quarters of work credit.
 1. The Administration or its designee shall not count quarters credited after January 1, 1997 that were earned while the applicant was receiving any federal means-tested benefits.
 2. The Administration or its designee shall not count the 40 qualifying quarters of work credit unless the credited quarters are:
 - a. Quarters that the applicant worked;
 - b. Quarters worked by the applicant's spouse or deceased spouse during their marriage; or
 - c. Quarters worked by the applicant's parents when the applicant was under age 18.

Historical Note

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-316 repealed, new Section R9-22-316 adopted as an emergency effective February 9, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Former Section R9-22-316 repealed, new Section R9-22-316 adopted as a permanent rule effective May 16, 1983; text of permanent rule identical to the emergency (Supp. 83-3). Amended effective October 1, 1983 (Supp. 83-5). Correction subsection (A), paragraph (1) amended

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effective October 1, 1983, (Supp. 83-6). Amended as an emergency effective May 18, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Amended as an emergency effective August 16, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Emergency expired. Former Section R9-22-316 repealed, new Section R9-22-316 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (C) effective October 1986 (Supp. 86-5). Change in heading only effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). New Section R9-22-316 made by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-317. Sponsor Deemed Income

- A.** The Administration or its designee shall use income of a USCIS sponsor to determine eligibility for a non-citizen applicant, whether or not the income is available, to the non-citizen applicant unless exempt under R9-22-316.
- B.** Counting the income from a sponsor.
 1. This Section applies to non-citizen applicants who:
 - a. Are Lawful Permanent Residents under 8 CFR 101.3;
 - b. Applied for Lawful Permanent Resident Status on or after December 19, 1997;
 - c. Are sponsored by an individual who signed a USCIS I-864 Affidavit of Support; and
 - d. Are eligible for full AHCCCS medical coverage.
 2. Sponsor deemed income shall be considered the income of the non-citizen applicant only.
 3. The Administration or its designee shall not use the provisions of this Section when:
 - a. The applicant becomes a naturalized U.S. citizen;
 - b. The applicant qualifies for an exemption listed in R9-22-316; or
 - c. The sponsor dies.
- C.** Determining income from a sponsor.
 1. For an applicant who is exempt from sponsor deeming under R9-22-316, only cash contributions actually received from the sponsor are countable income to the applicant.
 2. For an applicant to whom the sponsor's income is deemed, the Administration or its designee shall exclude any cash contributions received from the sponsor.
- D.** Calculation of income from a sponsor.
 1. The Administration or its designee shall include the total gross income of the sponsor and the sponsor's spouse, when living with the sponsor;
 2. The Administration or its designee shall subtract an amount equal to 100% of the FPL for the sponsor's household size from the total gross income under (D)(1); and
 3. The amount calculated under subsection (D)(2) is deemed as income to the applicant for purposes of determining eligibility.

Historical Note

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-317 repealed, new Section R9-22-317 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1986 (Supp. 86-5). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). New Section R9-22-317

made by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-318. Repealed**Historical Note**

Adopted effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1983 (Supp. 83-5). Amended as an emergency effective May 18, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Amended as an emergency effective August 16, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Emergency expired. Former Section R9-22-318 repealed, new Section R9-22-318 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (A) and added subsection (C) effective October 1, 1986 (Supp. 86-5). Amended subsection (A) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsection (B) effective October 1, 1987; amended subsection (A) effective December 22, 1987 (Supp. 87-4). Amended effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended effective December 13, 1993 (Supp. 93-4). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 8, 1996; filed with the Office of the Secretary of State November 6, 1996 (Supp. 96-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-319. Repealed**Historical Note**

Adopted effective August 30, 1982 (Supp. 82-4). Amended as an emergency effective May 18, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Amended as an emergency effective August 16, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Emergency expired. Former Section R9-22-319 repealed, new Section R9-22-319 adopted effective November 20, 1984 (Supp. 84-6). Amended effective May 30, 1989 (Supp. 89-2). Amended effective December 13, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-320. Repealed**Historical Note**

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-320 repealed, new Section R9-22-320 adopted effective November 20, 1984 (Supp. 84-6). Amended effective April 13, 1990 (Supp. 90-2). Repealed effective December 13, 1993 (Supp. 93-4).

R9-22-321. Repealed**Historical Note**

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-321 repealed, new Section R9-22-321 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended subsections (B) through (E) effective October 1, 1986 (Supp. 86-5). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended

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effective October 1, 1987 (Supp. 87-4). Amended subsections (B) and (D) effective May 30, 1989 (Supp. 89-2).

Amended effective April 13, 1990 (Supp. 90-2).

Amended effective September 29, 1992 (Supp. 92-3).

Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended December 13, 1993 (Supp. 93-4).

Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-322. Repealed**Historical Note**

Adopted effective August 30, 1982 (Supp. 82-4).

Amended as an emergency effective May 27, 1983 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-3). Former Section R9-22-322 repealed, new Section R9-22-322 adopted effective October 1, 1983 (Supp. 83-5). Amended as an emergency effective May 18, 1984 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Emergency expired. Former Section R9-22-322 repealed, new Section R9-22-322 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Change in heading only effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended effective September 29, 1992 (Supp. 92-3). Amended December 13, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-323. Repealed**Historical Note**

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-323 repealed, new Section R9-22-323 adopted effective October 1, 1983 (Supp. 83-5). Amended as an emergency effective May 18, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Amended as an emergency effective August 16, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Emergency expired. Former Section R9-22-323 repealed, new Section R9-22-323 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended subsections (B) through (D) effective October 1, 1986 (Supp. 86-5). Amended subsections (A), (B) and (D) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsections (B), (D) and (E) effective October 1, 1987 (Supp. 87-4). Amended subsections (B) and (D) effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Amended effective December 13, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-324. Repealed**Historical Note**

Adopted as an emergency effective July 27, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-4). Former Section R9-22-324 adopted as an emergency renumbered as Section R9-22-327. New Section R9-22-324 adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-324 repealed, former Section R9-22-323 renumbered as Section R9-22-324 and adopted as an emergency effective May 18, 1984, pursuant to A.R.S. §

41-1003, valid for only 90 days (Supp. 84-3). Former Section R9-22-324 repealed, new Section R9-22-324 adopted as an emergency effective August 16, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Emergency expired. Former Section R9-22-324 repealed, new Section R9-22-324 adopted effective November 20, 1984 (Supp. 84-6). Change in heading only effective October 1, 1987 (Supp. 87-4). Amended effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-325. Repealed**Historical Note**

Adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-325 repealed, new Section R9-22-325 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1987 (Supp. 87-4). Amended effective December 13, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-326. Repealed**Historical Note**

Adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-326 repealed, new Section R9-22-326 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (A) effective October 1, 1986 (Supp. 86-5). Amended subsection (A) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Change in heading only effective October 1, 1987 (Supp. 87-4). Amended subsection (A) effective May 30, 1989 (Supp. 89-2). Amended effective December 13, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-327. Repealed**Historical Note**

Former Section R9-22-324 adopted as an emergency effective July 27, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days renumbered as Section R9-22-327 and adopted as a permanent rule effective October 1, 1983 (Supp. 83-5). Former Section R9-22-327 repealed, new Section R9-22-327 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended subsections (A), (D), (E), (G), (H), and (I) effective October 1, 1986 (Supp. 86-5). Amended subsection (D) and added a new subsection (J) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsections (A) and (E) effective October 1, 1987 (Supp. 87-4). Amended effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-328. Repealed**Historical Note**

Adopted as an emergency effective October 6, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp.

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83-5). Emergency Expired. New Section R9-22-328 adopted effective November 20, 1984 (Supp. 84-6).

Amended effective October 1, 1985 (Supp. 85-5).

Amended subsections (A) and (E) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsection (D) effective October 1, 1987 (Supp. 87-4). Amended subsection (D) effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-329. Repealed**Historical Note**

Adopted as an emergency effective May 18, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Adopted as an emergency effective August 16, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Emergency expired. New Section R9-22-329 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (B) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-330. Repealed**Historical Note**

Adopted as an emergency effective August 16, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Emergency expired. New Section R9-22-330 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (A) effective October 1, 1986 (Supp. 86-5). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsection (A) effective October 1, 1987 (Supp. 87-4). Amended subsection (A) effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-331. Repealed**Historical Note**

Adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1 1985 (Supp. 85-5). Amended effective October 1, 1986 (Supp. 86-5). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended effective October 1, 1987 (Supp. 87-4). Amended effective December 13, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-332. Repealed**Historical Note**

Adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-333. Repealed**Historical Note**

Adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5).

Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-334. Repealed**Historical Note**

Adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended effective December 13, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-335. Repealed**Historical Note**

Adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended by adding subsection (C) effective October 1, 1986 (Supp. 86-5). Amended subsection (B) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-336. Repealed**Historical Note**

Adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended by adding subsection (C) effective September 16, 1987 (Supp. 87-3). Amended subsection (A) effective October 1, 1987 (Supp. 87-4). Amended effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-337. Repealed**Historical Note**

Adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended effective October 1, 1986 (Supp. 86-5). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Correction to subsection (B), paragraph (1) (Supp. 87-3). Amended subsection (C) effective December 22, 1987 (Supp. 87-4). Amended subsection (C) effective December 22, 1987 (Supp. 87-4). Amended effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-338. Repealed**Historical Note**

Adopted effective November 20, 1984 (Supp. 84-6). Heading changed effective October 1, 1985 (Supp. 85-5). Change in heading only effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-339. Repealed**Historical Note**

Adopted effective October 1, 1985 (Supp. 85-5). Amended effective October 1, 1986 (Supp. 86-5). Amended subsection (B) effective October 1, 1987

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(Supp. 87-4). Amended effective January 14, 1997 (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-340. Repealed**Historical Note**

Adopted effective October 1, 1986 (Supp. 86-5). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-341. Repealed**Historical Note**

Adopted effective March 1, 1987, filed December 31, 1986 (Supp. 86-6). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-342. Repealed**Historical Note**

Adopted effective September 29, 1992 (Supp. 92-3). Amended effective September 22, 1997 (Supp. 97-3). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-343. Repealed**Historical Note**

Adopted under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 26, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-344. Repealed**Historical Note**

Adopted under an exemption from the provisions of the Administrative Procedure Act, effective October 8, 1996; filed with the Office of the Secretary of State November 6, 1996 (Supp. 96-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

ARTICLE 4. PENALTY FOR OBTAINING ELIGIBILITY BY FRAUD**R9-22-401. Definitions**

Definitions. The following definitions apply specifically to terms used within this Article:

“Amounts incurred by the system” include capitation payments, costs incurred by any contractor in excess of capitation, reinsurance, and other administrative, legal or investigative costs associated with a person who obtained eligibility contrary to A.R.S. §§ 36-2905.04 and/or A.R.S. § 36-2991.

“Application for eligibility” means any request for benefits administered by AHCCCS under the authority of A.R.S. Title 36, Chapter 29, including applications for presumptive eligibility submitted to hospitals as described under Article 16 of this Chapter.

“Penalty” means an amount not to exceed the amounts incurred by the system during any time period that the person would have been ineligible for benefits but for the false or fraudulent information provided on the application for eligibility. A penalty does not include, and does not need to be reduced by, the amount of any overpayments that AHCCCS may be entitled to recoup from a person who violated A.R.S. § 36-2905.04 and/or A.R.S. § 36-2991.

Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-401 adopted as an emergency now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective January 31, 1986 (Supp. 86-1). Amended effective January 31, 1997 (Supp. 97-1). Amended by final rulemaking at 5 A.A.R. 867, effective March 4, 1999 (Supp. 99-1). Section repealed by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). New Section made by final rulemaking at 22 A.A.R. 3191, effective October 19, 2016 (Supp. 16-4).

R9-22-402. Determining the Amount of the Penalty

- A. AHCCCS shall determine the amount of a penalty according to A.R.S. § 36-2905.04(B) or A.R.S. § 36-2991(B), whichever is applicable, and this Article.
- B. In addition to any penalty imposed pursuant to ARS §§ 36-2905.04 or 36-2991, and this Article, the Administration may also recoup from the person the amounts incurred by the system as a part of the notice and appeal process described in this Article.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-402 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective January 31, 1986 (Supp. 86-1). Amended effective January 14, 1997 (Supp. 97-1). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Section repealed by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). New Section made by final rulemaking at 22 A.A.R. 3191, effective October 19, 2016 (Supp. 16-4).

R9-22-403. Mitigating and Aggravating Circumstances

- A. AHCCCS shall consider any of the following to be mitigating circumstances when determining the amount of a penalty for obtaining eligibility by fraud.
 1. Degree of culpability. The degree of culpability of a person is a mitigating circumstance if the person did not intend to provide or cause to be provided false information on the application for eligibility but was negligent as to the truthfulness of the information provided.
 2. Prior Offenses. At the time of the submittal of the application the person:
 - a. Did not have any prior criminal convictions; and
 - b. Had not been held civilly liable for defrauding a public assistance program.
 3. Financial condition. The financial condition of a person who violates A.R.S. §§ 36-2905.04 or 36-2991 is a mitigating circumstance if the imposition of a penalty without reduction will render the person incapable of obtaining necessities of life such as food, clothing, and shelter. AHCCCS may consider the resources available to the person when determining the amount of the penalty.
 4. Other matters as justice may require. AHCCCS shall take into account other circumstances of a mitigating nature, if in the interest of justice; the circumstances require a reduction of the penalty.
- B. AHCCCS shall consider any of the following to be aggravating circumstances when determining the amount of a penalty for obtaining eligibility by fraud.
 1. Degree of culpability. The degree of culpability of a person who provides or causes to be provided false informa-

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tion on the application for eligibility is an aggravating circumstance if the person knows or had reason to know that the information provided on the application for eligibility was false, or the person failed to correct the false information prior to AHCCCS incurring a financial loss as a result of the application for eligibility.

2. Prior offenses. At any time before the submittal of the application for eligibility, the person was held criminally or civilly liable for committing any fraud, waste, or abuse against any public assistance program.
3. Financial Loss. The person's violation of A.R.S. §§ 36-2905.04 or 36-2991 caused a loss to the system equal to or exceeding \$5,000.00.
4. Other matters as justice may require. AHCCCS shall take into account other circumstances of an aggravating nature, if in the interest of justice; the circumstances require an increase of the penalty.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-403 adopted as an emergency now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective January 31, 1986 (Supp. 86-1). Amended by adding subsection (C) effective October 1, 1987 (Supp. 87-4). Amended effective January 14, 1997 (Supp. 97-1). Section repealed by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). New Section made by final rulemaking at 22 A.A.R. 3191, effective October 19, 2016 (Supp. 16-4).

R9-22-404. Notice of Intent

- A. If AHCCCS imposes a penalty pursuant to this Article, AHCCCS shall hand deliver or send by certified mail, return receipt requested, or Federal Express to the person, a written Notice of Intent to impose a penalty.
- B. The Notice of Intent shall include:
 1. The legal and factual basis for AHCCCS' determination that there has been a violation of A.R.S. §§ 36-2905.04 and/or 36-2991;
 2. The penalty;
 3. The amounts incurred by the system as a result of the violation of A.R.S. §§ 36-2905.04 and/or 36-2991, if AHCCCS intends to recoup those amounts through this process; and
 4. The procedure for requesting a State Fair Hearing.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-404 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective January 31, 1986 (Supp. 86-1). Amended effective January 14, 1997 (Supp. 97-1). Section repealed by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). New Section made by final rulemaking at 22 A.A.R. 3191, effective October 19, 2016 (Supp. 16-4).

R9-22-405. Failure to Respond to the Notice of Intent

If a person fails to respond to the Notice of Intent within the time-frame described in A.A.C. § R9-22-406(A), AHCCCS shall uphold the penalty and recoupment amounts described in the Notice of Intent.

Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-

3). Former Section R9-22-405 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended as an emergency effective February 23, 1983 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Amended as a permanent rule effective May 16, 1983; text of the amended rule similar to the emergency (Supp. 83-3).

Amended effective January 31, 1986 (Supp. 86-1). Amended effective January 14, 1997 (Supp. 97-1). Section repealed by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). New Section made by final rulemaking at 22 A.A.R. 3191, effective October 19, 2016 (Supp. 16-4).

R9-22-406. Request for State Fair Hearing

- A. To dispute the agency action described in the Notice of Intent, the person shall file a written Request for State Fair Hearing with AHCCCS within sixty (60) days from the date of receipt of the Notice of Intent.
- B. If AHCCCS receives a timely request for a State Fair Hearing from the person, AHCCCS shall mail a Notice of Hearing pursuant to the Uniform Administrative Hearing Procedures described in A.R.S. Title 41, Chapter 6, Article 10.
- C. AHCCCS shall accept a written request for withdrawal of a hearing request if the written request for withdrawal is received from the person before AHCCCS mails a Notice of Hearing under the Uniform Administrative Hearing Procedures described in A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-406 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-406 repealed, new Section R9-22-406 adopted as an emergency effective February 23, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Former Section R9-22-316 repealed, new Section R9-22-316 adopted as a permanent rule effective May 16, 1983; text of the Section identical to the emergency (Supp. 83-3). Amended effective January 31, 1986 (Supp. 86-1). Amended effective January 14, 1997 (Supp. 97-1). Section repealed by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). New Section made by final rulemaking at 22 A.A.R. 3191, effective October 19, 2016 (Supp. 16-4).

R9-22-407. Burden of Proof

- A. In any State Fair Hearing conducted under this Article, AHCCCS shall prove a violation of A.R.S. §§ 36-2905.04 and/or 36-2991, and any aggravating circumstances by a preponderance of the evidence.
- B. AHCCCS does not have to prove any specific intent to defraud.
- C. A person shall bear the burden of producing and proving by a preponderance of the evidence any affirmative defense or any circumstance that would justify reducing the amount of the penalty.

Historical Note

New Section made by final rulemaking at 22 A.A.R. 3191, effective October 19, 2016 (Supp. 16-4).

R9-22-408. Rescission of the Notice of Intent

AHCCCS may rescind the Notice of Intent at any time prior to the State Fair Hearing without prejudice.

Historical Note

New Section made by final rulemaking at 22 A.A.R. 3191, effective October 19, 2016 (Supp. 16-4).

ARTICLE 5. GENERAL PROVISIONS AND STANDARDS**R9-22-501. General Provisions and Standards - Related Definitions**

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

“Quality management” means a process used by professional health personnel through a formal program involving multiple organizational components and committees to:

Assess the degree to which services provided conform to desired medical standards and practices; and

Quality improvement or maintenance of care and services.

“Quality Improvement” means a process designed to achieve, through ongoing measurements and intervention, significant improvement that is sustained over time, in the areas of clinical care and non-clinical care and is expected to have a favorable effect on health outcomes and member satisfaction. Quality Improvement includes focusing organizational efforts on improving performance and utilizing data to develop intervention strategies to improve performance and outcomes.

“Utilization management/review” means a methodology used by professional health personnel to assess the medical indications, appropriateness, and efficiency of care provided. Utilization management applies to a contractor’s process to evaluate and approve or deny the medical necessity, appropriateness, efficacy and efficiency of health care services, procedures, or settings. Utilization review includes processes for prior authorization, concurrent review, retrospective review, and case management.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-501 adopted as an emergency now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-501 repealed, former Section R9-22-502 renumbered and adopted without change as Section R9-22-501 effective October 1, 1983 (Supp. 83-5). Former Section R9-22-501 repealed, former Section R9-22-526 renumbered and amended as Section R9-22-501 effective October 1, 1985 (Supp. 85-5). Amended effective December 8, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 4330, effective January 3, 2009 (Supp. 08-4).

R9-22-502. Pre-existing Conditions

- A. A contractor shall not impose a pre-existing condition exclusion with respect to covered services.
- B. A contractor or subcontractor shall not adopt or use any procedure to identify a person who has an existing or anticipated medical or psychiatric condition in order to discourage or exclude the person from enrolling in the contractor’s health plan or encourage the person to enroll in another health plan.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-502 adopted as an emergency now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-502 renumbered without change as Section R9-22-501, former Sec-

tion R9-22-503 renumbered and amended as Section R9-22-502 effective October 1, 1983 (Supp. 83-5). Former Section R9-22-502 repealed, new Section R9-22-502 adopted effective October 1, 1985 (Supp. 85-5).

Amended effective December 8, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 4330, effective January 3, 2009 (Supp. 08-4). Amended by final rulemaking at 19 A.A.R. 3309, effective November 30, 2013 (Supp. 13-4).

R9-22-503. Provider Requirements Regarding Records

The provider shall maintain records that meet uniform accounting standards and generally accepted practices for maintenance of medical records, including detailed specification of all patient services delivered, the rationale for delivery, and the service date. A provider shall maintain and upon request, make available to a contractor and to the Administration, financial and medical records relating to payment for not less than five years from the date of final payment, or for records relating to costs and expenses to which the Administration has taken exception, five years after the date of final disposition or resolution of the exception. Providers shall provide one copy of a medical record at no cost if requested by the member.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-503 adopted as an emergency now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-503 renumbered and amended as Section R9-22-502, new Section R9-22-503 adopted effective October 1, 1983 (Supp. 83-5). Amended effective October 1, 1985 (Supp. 85-5). Amended effective May 30, 1986 (Supp. 86-3). Amended subsection (D) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsections (F) and (G) effective December 22, 1987 (Supp. 87-4). Amended subsection (I) effective May 30, 1989 (Supp. 89-2).

Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Amended effective December 8, 1997 (Supp. 97-4). Section repealed by final rulemaking at 8 A.A.R. 3317, effective July 15, 2002 (Supp. 02-3). New Section made by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 4330, effective January 3, 2009 (Supp. 08-4).

R9-22-504. Marketing; Prohibition Against Inducements; Misrepresentations; Discrimination; Sanctions

- A. A contractor or the contractor’s marketing representative shall not offer or give any form of compensation or reward, or engage in any behavior or activity that may be reasonably construed as coercive, to induce or procure AHCCCS enrollment with the contractor. Any marketing solicitation offering a benefit, good, or service in excess of the covered services in Article 2 is deemed an inducement.
- B. A marketing representative shall not misrepresent itself, the contracting health plan represented, or the AHCCCS program, through false advertising, false statements, or in any other manner to induce a member of another contractor to enroll in the represented health plan. Violations of this subsection include, but are not limited to, false or misleading claims, inferences, or representations such as:
 1. A member will lose benefits under the AHCCCS program or lose any other health or welfare benefits to which a member is legally entitled, if the member does not enroll in the represented contracting health plan;

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2. Marketing representatives are employees of the state or representatives of the Administration, a county, or any health plan other than the health plan by which they are employed, or by which they are reimbursed; and
 3. The represented health plan is recommended or endorsed as superior to its competition by any state or county agency, or any organization, unless the organization has certified its endorsement in writing to the health plan and the Administration.
- C.** A marketing representative shall not engage in any marketing or pre-enrollment practice that discriminates against a member because of race, creed, age, color, sex, religion, national origin, ancestry, marital status, sexual preference, physical or mental disability, or health status.
- D.** The Administration shall hold a contractor responsible for a violation of this Section resulting from the performance of any marketing representative, subcontractor, agent, program, or process under the contractor's employ or direction and shall impose contract sanctions on the contractor as specified in contract.
- E.** A contractor shall produce and distribute informational materials that are approved by the Administration to each enrolled member or designated representative after the contractor receives notification of enrollment from the Administration. The contractor shall ensure that the informational materials include, at a minimum:
1. A description of all covered services as specified in contract;
 2. An explanation of service limitations and exclusions;
 3. An explanation of the procedure for obtaining services;
 4. An explanation of the procedure for obtaining emergency services;
 5. An explanation of the procedure for filing a grievance and appeal; and
 6. An explanation of when plan changes may occur as specified in contract.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-504 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-504 repealed, former Section R9-22-505 renumbered and adopted without change as Section R9-22-504 effective October 1, 1983 (Supp. 83-5). Former Section R9-22-504 repealed, former Section R9-22-528 renumbered and amended as Section R9-22-504 effective October 1, 1985 (Supp. 85-5). Amended effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4).

Amended by final rulemaking at 14 A.A.R. 4330, effective January 3, 2009 (Supp. 08-4).

R9-22-505. Standards, Licensure, and Certification for Providers of Hospital and Medical Services

A provider shall not provide hospital or medical services to a member unless the provider is licensed by the Arizona Department of Health Services and meets the requirements in 42 CFR 441 and 482, as of October 1, 2007, and 42 CFR 456 Subpart C, as of October 1, 2007, incorporated by reference, on file with the Administration and available from the U.S. Government Printing Office, 732 N. Capitol St., N.W., Washington, D.C. 20401. This incorporation contains no future editions or amendments. An Indian Health Service (IHS) hospital and a Veterans Administration hospital shall not provide services to a member unless accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO).

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-505 adopted as an emergency expired, former Section R9-22-506 adopted as an emergency now adopted, amended and renumbered as Section R9-22-505 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-505 renumbered without change as Section R9-22-504, new Section R9-22-505 adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-505 renumbered and amended as Section R9-22-509, former Section R9-22-527 renumbered and amended as Section R9-22-505 effective October 1, 1985 (Supp. 85-5). Editorial correction, spelling of "paraphernalia" in subsection (A) (Supp. 87-4). Amended effective December 8, 1997 (Supp. 97-4). Section repealed by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4). New Section made by final rulemaking at 14 A.A.R. 4330, effective January 3, 2009 (Supp. 08-4).

R9-22-506. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-506 adopted as an emergency adopted, amended and renumbered as Section R9-22-505, former Section R9-22-507 adopted as an emergency now adopted, amended and renumbered as Section R9-22-506 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-506 repealed, new Section R9-22-506 adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-506 repealed, new Section R9-22-506 adopted effective October 1, 1985 (Supp. 85-5). Amended effective October 1, 1986 (Supp. 86-5). Amended subsection (D) effective December 22, 1987 (Supp. 87-4). Repealed effective April 13, 1990 (Supp. 90-2). New Section adopted effective December 13, 1993 (Supp. 93-4). Repealed effective December 8, 1997 (Supp. 97-4).

R9-22-507. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-507 adopted as an emergency adopted, amended and renumbered as Section R9-22-506, former Section R9-22-508 adopted as an emergency now adopted, amended and renumbered as Section R9-22-507 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-507 repealed, new Section R9-22-507 adopted effective October 1, 1985 (Supp. 85-5). Amended effective December 8, 1997 (Supp. 97-4). Section repealed by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4).

R9-22-508. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-508 adopted as an emergency adopted, amended and renumbered as Section R9-22-507, former Section R9-22-509 adopted as an emergency now adopted, amended and renumbered as Section R9-22-508 as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective December 8, 1997 (Supp. 97-4).

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Section repealed by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4).

R9-22-509. Transition and Coordination of Member Care

A. A contractor shall assist in the transition of members to and from other AHCCCS contractors.

1. Both the receiving and relinquishing contractor shall:
 - a. Coordinate with the other contractor to facilitate and schedule appointments for medically necessary services for the transitioned member within the Administration's timelines specified in the contract. If requested by the Administration, a contractor shall submit the policies and procedures regarding transition of members to the Administration for review and approval;
 - b. Assist in the referral of transitioned members to other community health agencies or county medical assistance programs for medically necessary services not covered by the Administration, as appropriate; and
 - c. Develop policies and procedures to be followed when transitioning members who have significant medical conditions; are receiving ongoing services; or have, at the time of the transition, received prior authorization or approval for undelivered, specific services.
2. The relinquishing contractor shall notify the receiving contractor of relevant information about the member's medical condition and current treatment regimens within the timelines defined in contract;
3. The relinquishing contractor shall forward medical records and other relevant materials to the receiving contractor. The relinquishing contractor shall bear the cost of reproducing and forwarding medical records and other relevant materials;
4. Within the timelines specified in contract, the receiving contractor shall ensure that the member selects or is assigned to a primary care provider, and provide the member with:
 - a. Information regarding the contractor's providers,
 - b. Emergency numbers, and
 - c. Instructions about how to obtain services.

B. A contractor shall not use a county or noncontracting provider health resource alternative to diminish the contractor's contractual responsibility or accountability for providing the full scope of covered services. The Administration may impose sanctions as described in contract if a contractor makes referrals to other agencies or programs to reduce expenses incurred by the contractor on behalf of its members.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-509 adopted as an emergency adopted, amended and renumbered as Section R9-22-508, former Section R9-22-510 adopted as an emergency now adopted and renumbered as Section R9-22-509 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-509 repealed, former Section R9-22-505 renumbered and amended as Section R9-22-509 effective October 1, 1985 (Supp. 85-5). Amended effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 4330, effective January 3, 2009 (Supp. 08-4).

R9-22-510. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-510 adopted as an emergency adopted and renumbered as Section R9-22-509, former Section R9-22-511 adopted as an emergency now adopted, amended and renumbered as Section R9-22-510 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-510 repealed, new Section R9-22-510 adopted effective October 1, 1985 (Supp. 85-5). Amended effective December 8, 1997 (Supp. 97-4). Section repealed by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4).

R9-22-511. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-511 adopted as an emergency adopted, amended and renumbered as Section R9-22-510, former Section R9-22-512 adopted as an emergency now adopted, amended and renumbered as Section R9-22-511 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-511 repealed, new Section R9-22-511 adopted effective October 1, 1985 (Supp. 85-5). Amended effective December 8, 1997 (Supp. 97-4). Section repealed by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4).

R9-22-512. Release of Safeguarded Information

- A. The Administration, contractors, providers, and noncontracting providers shall limit the release of safeguarded information to persons or agencies for the following purposes in accordance with 45 CFR 160 and 45 CFR 164, October 1, 2004, and 42 CFR 431.300 through 431.307, October 1, 2004, incorporated by reference, on file with the Administration and available from the U.S. Government Printing Office, 732 N. Capitol St., N.W., Washington, D.C. 20401. This incorporation by reference contains no future editions or amendments:
1. Official purposes directly related to the administration of the AHCCCS program including:
 - a. Establishing eligibility and post-eligibility treatment of income, as applicable;
 - b. Determining the amount of medical assistance;
 - c. Providing services for members;
 - d. Performing evaluations and analysis of AHCCCS operations;
 - e. Filing liens on property as applicable;
 - f. Filing claims on estates, as applicable; and
 - g. Filing, negotiating, and settling medical liens and claims.
 2. Law enforcement. The Administration may release safeguarded information without the applicant's or member's written or verbal consent, for the purpose of conducting or assisting an investigation, prosecution, or criminal or civil proceeding related to the administration of the AHCCCS program.
 3. The Administration may release safeguarded member information to a review committee in accordance with the provisions of A.R.S. § 36-2917, without the consent of the applicant or member.
- B. Except as provided in subsection (A), the Administration, contractors, providers, and noncontracting providers shall disclose safeguarded information only to:
1. An applicant;
 2. A member;

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3. An unemancipated minor, with written permission of a parent, custodial relative, or designated representative, if:
 - a. An Administration employee, authorized representative, or responsible caseworker is present during the examination of the safeguarded information; or
 - b. After written notification to the provider, and at a reasonable time and place.
 4. Persons authorized by the applicant or member; or
 5. A court order or subpoena compliant with 45 CFR 164.512(e), October 1, 2004, incorporated by reference, on file with the Administration and available from the U.S. Government Printing Office, 732 N. Capitol St., N.W., Washington, D.C. 20401. This incorporation by reference contains no future editions or amendments.
- C.** The Administration, contractors, providers, and noncontracting providers shall safeguard identifiable information, protected health information as specified in 45 CFR 160, and information obtained in the course of application for or re-determination of eligibility concerning an applicant or member, that includes, but is not limited to the following:
1. Name and address;
 2. Social Security number;
 3. Social and economic conditions or circumstances;
 4. Agency evaluation of personal information;
 5. Medical data and information concerning medical services received, including diagnosis and history of disease or disability;
 6. State Data Exchange (SDX) tapes, and other types of information received from outside sources for the purpose of verifying income eligibility and amount of medical assistance payments; and
 7. Any information received in connection with the identification of legally liable third-party resources.
- D.** The restriction upon disclosure of information in this Section does not apply to:
1. De-identified information as described by 45 CFR 164.514, October 1, 2004, incorporated by reference in subsection (A); or
 2. A disclosure, in response to a request for information, that complies with 45 CFR 160 and 45 CFR 164, October 1, 2004, and 42 CFR 431.300 through 431.307, October 1, 2004, incorporated by reference in subsection (A).
- E.** A provider shall furnish records requested by the Administration or a contractor to the Administration or the contractor at no charge.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-512 adopted as an emergency adopted, amended and renumbered as Section R9-22-511, former Section R9-22-513 adopted as an emergency now adopted and renumbered as Section R9-22-512 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-512 repealed, new Section R9-22-512 adopted effective October 1, 1985 (Supp. 85-5). Amended effective December 13, 1993 (Supp. 93-4). Amended effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 4330, effective January 3, 2009 (Supp. 08-4).

R9-22-513. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-513 adopted as an emergency adopted and renumbered as Section R9-22-512, former Section R9-22-514 adopted as an emergency now adopted, amended and renumbered as Section R9-22-513 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-513 repealed, former Section R9-22-526 renumbered and amended as Section R9-22-513 effective October 1, 1985 (Supp. 85-5). Amended effective December 8, 1997 (Supp. 97-4). Section repealed by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4).

R9-22-514. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-514 adopted as an emergency adopted, amended and renumbered as Section R9-22-513, former Section R9-22-515 adopted as an emergency now adopted, amended and renumbered as Section R9-22-514 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-514 repealed, former Section R9-22-517 renumbered and amended as Section R9-22-514 effective October 1, 1985 (Supp. 85-5). Amended effective December 8, 1997 (Supp. 97-4). Section repealed by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4).

R9-22-515. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-515 adopted as an emergency adopted, amended and renumbered as Section R9-22-514, former Section R9-22-517 adopted as an emergency now adopted, amended and renumbered as Section R9-22-515 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-515 repealed, former Section R9-22-522 renumbered and amended as Section R9-22-515 effective October 1, 1985 (Supp. 85-5). Repealed effective December 8, 1997 (Supp. 97-4).

R9-22-516. Renumbered**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-516 adopted as an emergency expired, former Section R9-22-518 adopted as an emergency now adopted, amended and renumbered as Section R9-22-516 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-516 renumbered as Section R9-22-513 effective October 1, 1985 (Supp. 85-5).

R9-22-517. Renumbered**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-517 adopted as an emergency adopted, amended and renumbered as Section R9-22-515, former Section R9-22-519 adopted as an emergency now adopted and renumbered and amended as Section R9-22-

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517 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-517 renumbered and amended as Section R9-22-514 effective October 1, 1985 (Supp. 85-5).

R9-22-518. Information to Enrolled Members

- A. Each contractor shall produce and distribute printed informational materials to each member or family unit no later than 10 days of receipt of notification of enrollment from the Administration. The contractor shall ensure that the informational materials meet the requirements specified in the contractor's current contract.
- B. A contractor shall provide a member with the name, address, and telephone number of the member's primary care provider no later than 10 days from the date of enrollment. The contractor shall include information on how the member may change primary care providers.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-518 adopted as an emergency adopted, amended and renumbered as Section R9-22-516, former Section R9-22-520 adopted as an emergency now adopted, amended and renumbered as Section R9-22-518 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-518 repealed, new Section R9-22-518 adopted effective October 1, 1985 (Supp. 85-5). Amended effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 4330, effective January 3, 2009 (Supp. 08-4).

R9-22-519. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-519 adopted as an emergency adopted, amended and renumbered as Section R9-22-517, former Section R9-22-521 adopted as an emergency now adopted, amended and renumbered as Section R9-22-519 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-519 repealed, new Section R9-22-519 adopted effective October 1, 1985 (Supp. 85-5). Repealed effective December 8, 1997 (Supp. 97-4).

R9-22-520. Expired**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-520 adopted as an emergency adopted, amended and renumbered as Section R9-22-518, former Section R9-22-522 adopted as an emergency now adopted, amended and renumbered as Section R9-22-520 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-520 repealed, new Section R9-22-520 adopted effective October 1, 1985 (Supp. 85-5). Amended effective December 13, 1993 (Supp. 93-4). Amended effective December 8, 1997 (Supp. 97-4). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 4851, effective October 9, 2002 (Supp. 02-4).

R9-22-521. Program Compliance Audits

- A. The Administration shall conduct an onsite program compliance audit of a contractor at least once every three years during the term of the Administration's contract with the contractor.

The Administration may conduct, without prior notice, inspections of contractor facilities or perform other elements of a program compliance audit.

- B. An audit team may perform any or all of the following procedures:

1. Conduct private interviews and group conferences with members, physicians, other health professionals, and members of the contractor's administrative staff including, but not limited to, the contractor's principal management persons;
2. Examine records, books, reports, and papers of the contractor and any management company, and all providers or subcontractors providing health care and other services. The examination may include, but need not be limited to: minutes of medical staff meetings, peer review and quality of care review records, duty rosters of medical personnel, appointment records, written procedures for the internal operation of the health plan, contracts and correspondence with members and with providers of health care services and other services to the plan, and additional documentation deemed necessary by the Administration to review the quality of medical care.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-521 adopted as an emergency adopted, amended and renumbered as Section R9-22-519, former Section R9-22-523 adopted as an emergency now adopted, amended and renumbered as Section R9-22-521 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-521 repealed, new Section R9-22-521 adopted effective October 1, 1985 (Supp. 85-5). Amended effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 4330, effective January 3, 2009 (Supp. 08-4).

Editor's Note: The following Section was amended under an exemption from the provisions of the Administrative Procedure Act which means that this rule was not reviewed by the Governor's Regulatory Review Council; the agency did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the agency was not required to hold public hearings on the rules; and the Attorney General has not certified this rule. This Section was subsequently amended through the regular rulemaking process.

R9-22-522. Quality Management/Utilization Management (QM/UM) Requirements

- A. A contractor shall comply with Quality Management/Utilization Management (QM/UM) requirements specified in this Section and in contract. The contractor shall ensure compliance with QM/UM requirements that are accomplished through delegation or subcontract with another party.
- B. In addition to any requirements specified in contract, a contractor shall:
 1. Submit to the Administration a written QM/UM plan that includes a description of the systems, methodologies, protocols, and procedures to be used in:
 - a. Monitoring and evaluating the types of services provided,
 - b. Identifying the numbers and costs of services provided,
 - c. Assessing and improving the quality and appropriateness of care and services,

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- d. Evaluating the outcome of care provided to members, and
- e. Determining the actions necessary to improve service delivery;
2. Submit the QM/UM plan to the Administration on an annual basis within timelines specified in contract. If the QM/UM plan is changed during the year, the contractor shall submit the revised plan to the Administration before implementation;
3. Receive approval from the Administration before implementing the initial or revised QM/UM plan;
4. Ensure that a QM/UM committee operates under the control of the contractor's medical director and includes representation from medical and executive management personnel. The committee shall:
 - a. Oversee the development, revision, and implementation of the QM/UM plan; and
 - b. Ensure that there are qualified QM/UM personnel and sufficient resources to implement the contractor's QM/UM activities; and
5. Ensure that the QM/UM activities include at least:
 - a. Prior authorization for non-emergency or scheduled hospital admissions;
 - b. Concurrent review of inpatient hospitalization;
 - c. Retrospective review of hospital claims;
 - d. Program and provider audits designed to detect over- or under-utilization, service delivery effectiveness, and outcome;
 - e. Medical records audits;
 - f. Surveys to determine satisfaction of members;
 - g. Assessment of the adequacy and qualifications of the contractor's provider network;
 - h. Review and analysis of QM/UM data;
 - i. Measurement of performance using objective quality indicators;
 - j. Ensuring individual and systemic quality of care;
 - k. Integrating quality throughout the organization;
 - l. Process improvement;
 - m. Credentialing a provider network;
 - n. Resolving quality of care grievances; and
 - o. Quality improvement activities focused on improving the quality of care and the efficient, cost-effective delivery and utilization of services.
- C. A member's primary care provider shall maintain medical records that:
 1. Conform to professional medical standards and practices for documentation of medical diagnostic and treatment data;
 2. Facilitate follow-up treatment; and
 3. Permit professional medical review and medical audit processes.
- D. Within 30 days following termination of the contract between a subcontractor and a contractor, the subcontractor or the subcontractor's designee shall forward to the primary care provider medical records or copies of medical records of all members assigned to the subcontractor or for whom the subcontractor has provided services.
- E. The Administration shall monitor each contractor and the contractor's providers to ensure compliance with Administration QM/UM requirements and adherence to the contractor's QM/UM plan.
 1. A contractor and the contractor's providers shall cooperate with the Administration in the performance of the Administration's QM/UM monitoring activities; and
 2. A contractor and the contractor's providers shall develop and implement mechanisms for correcting deficiencies identified through the Administration's QM/UM monitoring.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-522 adopted as an emergency adopted, amended and renumbered as Section R9-22-520, former Section R9-22-524 adopted as an emergency now adopted and renumbered as Section R9-22-522 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-522 renumbered and amended as Section R9-22-515, new Section R9-22-522 adopted effective October 1, 1985 (Supp. 85-5). Amended under an exemption from the provisions of the Administrative Procedure Act, effective March 1, 1993 (Supp. 93-1). Amended effective December 13, 1993 (Supp. 93-4). Amended effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 4330, effective January 3, 2009 (Supp. 08-4).

R9-22-523. Expired**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-523 adopted as an emergency adopted, amended and renumbered as Section R9-22-521, former Section R9-22-525 adopted as an emergency now adopted, amended and renumbered as Section R9-22-523 as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1985 (Supp. 85-5). Amended effective December 8, 1997 (Supp. 97-4). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 4851, effective October 9, 2002 (Supp. 02-4).

R9-22-524. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-524 adopted as an emergency adopted and renumbered as Section R9-22-522, former Section R9-22-526 adopted as an emergency now adopted, amended and renumbered as Section R9-22-524 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-524 repealed, new Section R9-22-524 adopted effective October 1, 1985 (Supp. 85-4). Amended effective December 8, 1997 (Supp. 97-4). Section repealed by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4).

R9-22-525. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-525 adopted as an emergency adopted, amended and renumbered as Section R9-22-523, former Section R9-22-527 adopted as an emergency now adopted, amended and renumbered as Section R9-22-525 as a permanent rule effective August 30, 1982 (Supp. 82-4). Repealed effective October 1, 1985 (Supp. 85-5).

R9-22-526. Renumbered

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Historical Note

Adopted as an emergency effective February 23, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Adopted as a permanent rule effective May 16, 1983; text of the permanent rule identical to the emergency (Supp. 83-3). Former Section R9-22-526 repealed, new Section R9-22-526 adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-526 renumbered and amended as Section R9-22-501 effective October 1, 1985 (Supp. 85-1).

R9-22-527. Renumbered**Historical Note**

Adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-527 renumbered and amended as Section R9-22-505 effective October 1, 1985 (Supp. 85-5).

R9-22-528. Renumbered**Historical Note**

Adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-528 renumbered and amended as Section R9-22-504 effective October 1, 1985 (Supp. 85-5).

R9-22-529. Renumbered**Historical Note**

Adopted as Section R9-22-529 effective October 1, 1985, then renumbered as Section R9-22-1002 effective October 1, 1985 (Supp. 85-5).

ARTICLE 6. RFP AND CONTRACT PROCESS**R9-22-601. General Provisions**

- A. The Director has full operational authority to adopt rules for the RFP process and the award of contracts under A.R.S. § 36-2906.
- B. This Article applies to the award of contracts under A.R.S. §§ 36-2904 and 36-2906 to provide services under A.R.S. § 36-2907 and the expenditure of public monies by the Administration pertaining to covered services when the procurement so states. The Administration shall establish conflict-of-interest safeguards for officers and employees of this state with responsibilities relating to contracts that comply with 42 U.S.C. 1396u-2(d)(3).
- C. The Administration is exempt from the procurement code under A.R.S. § 41-2501.
- D. The Administration and contractors shall retain all contract records for five years under A.R.S. § 36-2903 and dispose of the records under A.R.S. § 41-2550.
- E. The following terms are defined as related to this Article: "Procurement file" means the official records file of the Director whether located in the Office of the Director or at the public procurement unit. The procurement file shall include in electronic or paper form a list of notified vendors, final solicitation, solicitation amendments, bids/offers, final proposal revisions, clarifications, and final evaluation report.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-601 adopted as an emergency now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Repealed effective October 1, 1983 (Supp. 83-5). Adopted effective July 16, 1985 (Supp. 85-4). Amended effective December 13, 1993 (Supp. 93-4). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 607, effective February 5, 1999 (Supp. 99-1). Amended by final rulemaking at 8 A.A.R. 424,

effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 18 A.A.R. 2340, effective November 11, 2012 (Supp. 12-3).

R9-22-602. RFP

- A. RFP content. The Administration shall include the following items in any RFP under this Article:
 1. Instructions and information to an offeror concerning the proposal submission including:
 - a. The deadline for submitting a proposal,
 - b. The address of the office at which a proposal is to be received,
 - c. The period during which the RFP remains open, and
 - d. Any special instructions and information;
 2. The scope of covered services under Article 2 of this Chapter and A.R.S. §§ 36-2906 and 36-2907, covered populations, geographic coverage, service and performance requirements, and a delivery or performance schedule;
 3. The contract terms and conditions, including bonding or other security requirements, if applicable;
 4. The factors used to evaluate a proposal;
 5. The location and method of obtaining documents that are incorporated by reference in the RFP;
 6. A requirement that the offeror acknowledge receipt of all RFP amendments issued by the Administration;
 7. The type of contract to be used and a copy of a proposed contract form or provisions;
 8. The length of the contract service;
 9. A requirement for cost or pricing data;
 10. The minimum RFP requirements; and
 11. A provision requiring an offeror to certify that a submitted proposal does not involve collusion or other anti-competitive practices.
- B. Proposal process.
 1. After the deadline for submitting proposals, the Administration may open a proposal publicly and announce and record the name of the offeror. The Administration shall keep all other information contained in a proposal confidential. The Administration shall open a proposal for public inspection after contract award unless the Administration determines that disclosure is not in the best interest of the state.
 2. The Administration shall evaluate a proposal based on the GSA and the evaluation factors listed in the RFP.
 3. The Administration may initiate discussions with a responsive and responsible offeror to clarify and assure full understanding of an offeror's proposal. The Administration shall provide an offeror fair treatment with respect to discussion and revision of a proposal. The Administration shall not disclose information derived from a proposal submitted by a competing offeror.
 4. The Administration shall allow for the adjustment of covered services by expansion, deletion, segregation, or combination in order to secure the most financially advantageous proposals for the state.
 5. The Administration may conduct an investigation of a person or organization who has ownership or management interests in corporate offerors or affiliated corporate organizations of an offeror.
 6. The Administration may issue a written request for best and final offers. The Administration shall state in the request the date, time, and place for the submission of best and final offers.
 7. The Administration shall not request best and final offers more than once unless the Administration determines that it is advantageous to the state to request additional best

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and final offers. The Administration shall state in the written request for best and final offers that if the offeror does not submit a notice of withdrawal or a best and final offer, the Administration shall take the most recent offer as the offeror's best and final offer.

C. Proposal rejection.

1. The Administration may reject an offeror's proposal if the offeror fails to supply the information requested by the Administration.
2. The offeror shall not disclose information pertaining to its proposal to any other offeror prior to contract award. The offeror may disclose proposal information to a person other than another offeror if the recipient agrees to keep the information confidential until contract award. Disclosure in violation of this subsection may be grounds for rejecting a proposal.
3. The Administration shall provide written notification to an offeror whose proposal is rejected. The rejection notice shall be part of the contract file and a public record.
4. If the Administration determines that it is in the best interest of the state, the Administration may reject any and all proposals, in whole or in part, under the RFP. The reasons for rejection shall be part of the contract file. An offeror shall have no right to damages for any claims against the state, the state's employees, or agents if a proposal is rejected in whole or in part.

- D. Proposal cancellation.** If the Administration determines that it is in the best interest of the state, the Administration may cancel a RFP. The reasons for cancellation shall be part of the contract file. An offeror shall have no right to damages for any claims against the state, the state's employees, or agents if a RFP is cancelled.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-602 adopted as an emergency now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Repealed effective October 1, 1983 (Supp. 83-5). Adopted effective July 16, 1985 (Supp. 85-4). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 607, effective February 5, 1999 (Supp. 99-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1).

R9-22-603. Contract Award

The Administration shall award a contract to the responsible and responsive offeror whose proposal is determined most advantageous to the state under A.R.S. § 36-2906. If the Administration determines that multiple contracts are in the best interest of the state, the Administration may award multiple contracts. The contract file shall contain the basis on which the award is made.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-603 adopted as an emergency now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Repealed effective October 1, 1983 (Supp. 83-5). Adopted effective July 16, 1985 (Supp. 85-4). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 607, effective February 5, 1999 (Supp. 99-1). Section repealed; new Section made by

final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1).

R9-22-604. Contract or Proposal Protests; Appeals

- A.** Disputes related to contract performance. This Section does not apply to a dispute related to contract performance. A contract performance dispute is governed by 9 A.A.C. 34.
- B.** Resolution of a proposal protest. The procurement officer issuing a RFP shall have the authority to resolve proposal protests. An appeal from the decision of the procurement officer shall be made to the Director.
- C.** Filing of a protest.
1. A person may file a protest with the procurement officer regarding:
 - a. A RFP issued by the Administration,
 - b. A proposed award, or
 - c. An award of a contract.
 2. A protester shall submit a written protest and include the following information:
 - a. The name, address, and telephone number of the protester;
 - b. The signature of the protester or protester's representative;
 - c. Identification of a RFP or contract number;
 - d. A detailed statement of the legal and factual grounds of the protest including copies of any relevant documents; and
 - e. The relief requested.
- D.** Time for filing a protest.
1. A protester filing a protest alleging improprieties in an RFP or an amendment to an RFP shall file the protest at least 14 days before the due date of receipt of proposals.
 2. Any protest alleging improprieties in an amendment issued 14 or fewer days before the due date of the proposal shall be filed before the due date for receipt of proposals.
 3. In cases other than those covered in subsections (D)(1) and (2), a protester shall file a protest no later than 10 days after the procurement officer makes the procurement file available for public inspection.
- E.** Stay of procurement during the protest. If a protester files a protest before the contract award, the procurement officer may issue a written stay of the contract award. In considering whether to issue a written stay of contract, the procurement officer shall consider but is not limited to considering whether:
1. A reasonable probability exists that the protest will be sustained, and
 2. The stay of the contract award is in the best interest of the state.
- F.** Stay of contract award during an appeal to the Director. The Director shall automatically continue the stay of a contract award if:
1. An appeal is filed before a contract award, and
 2. The procurement officer issues a stay of the contract award under subsection (E), unless
 3. The Director issues a written determination that the contract award is necessary to protect the best interest of the state.
- G.** Decision by the procurement officer.
1. The procurement officer shall issue a written decision no later than 14 days after a protest has been filed. The decision shall contain an explanation of the basis of the decision.
 2. The procurement officer shall furnish a copy of the decision to the protester by:
 - a. Certified mail, return receipt requested; or

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- b. Any other method that provides evidence of receipt.
 - 3. The Administration may extend, for good cause, the time-limit for decisions in subsection (G)(1) for a time not to exceed 30 days. The procurement officer shall notify the protester in writing that the time for the issuance of a decision has been extended and the date by which a decision shall be issued.
 - 4. If the procurement officer fails to issue a decision within the time-limits in subsection (G)(1) or (G)(3), the protester may proceed as if the procurement officer issued an adverse decision.
- H. Remedies.**
- 1. If the procurement officer sustains the protest in whole or in part and determines that the RFP, proposed contract award, or contract award does not comply with applicable statutes and rules, the procurement officer shall order an appropriate remedy.
 - 2. In determining an appropriate remedy, the procurement officer shall consider all the circumstances of the procurement or proposed procurement, including:
 - a. Seriousness of the procurement deficiency,
 - b. Degree of prejudice to other interested parties or to the integrity of the RFP process,
 - c. Good faith of the parties,
 - d. Extent of performance,
 - e. Costs to the state, and
 - f. Urgency of the procurement.
 - g. Best interest of the state.
 - 3. An appropriate remedy may include one or more of the following:
 - a. Terminating the contract;
 - b. Reissuing the RFP;
 - c. Issuing a new RFP;
 - d. Awarding a contract consistent with statutes, rules, and the terms of the RFP; or
 - e. Any relief determined necessary to ensure compliance with applicable statutes and rules.
- I. Appeals to the Director.**
- 1. A person may file an appeal of a procurement officer's decision with both the Director and the procurement officer no later than five days from the date the decision is received. The date the decision is received shall be determined under subsection (G)(2).
 - 2. The appeal shall contain:
 - a. The information required in subsection (C)(2),
 - b. A copy of the procurement officer's decision,
 - c. The alleged factual or legal error in the decision of the procurement officer on which the appeal to the Director is based, and
 - d. A request for hearing unless the person requests that the Director's decision be based solely upon the procurement file.
- J. Dismissal.** The Director shall not schedule a hearing and shall dismiss an appeal with a written determination if:
- 1. The appeal does not state a basis for protest,
 - 2. The appeal is untimely under subsection (I)(1), or
 - 3. The appeal is moot.
- K. Hearing.** Hearings under this Section shall be conducted using the Arizona Administrative Procedure Act under A.R.S. Title 41, Ch. 6.

Historical Note

Adopted effective July 16, 1985 (Supp. 85-4). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 607, effective February 5, 1999 (Supp. 99-1). Amended by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). Amended by final

rulemaking at 18 A.A.R. 2340, effective November 11, 2012 (Supp. 12-3).

R9-22-605. Waiver of Contractor's Subcontract with Hospitals

If a contractor is unable to obtain a subcontract with a hospital as contractually required, the contractor may request in writing a waiver from the Administration as allowed by A.R.S. § 36-2906. The contractor shall state in the request the reasons a waiver is believed to be necessary and all efforts the contractor has made to secure a subcontract.

Historical Note

Adopted effective January 31, 1986 (Supp. 86-1). Amended effective December 13, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 607, effective February 5, 1999 (Supp. 99-1). New Section made by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 18 A.A.R. 2340, effective November 11, 2012 (Supp. 12-3).

R9-22-606. Contract Compliance Sanction

- A.** The Director may impose sanctions upon a contractor for violation of any provision of this Chapter or of a contract. Sanctions include but are not limited to:
 - 1. Suspension of any or all further member enrollment, by choice and/or assignment for a period of time.
 - 2. Imposition of a monetary sanction.
- B.** The Director shall consider the nature, severity, and length of the violation when determining a sanction.
- C.** The Director shall provide a contractor with written notice specifying grounds and terms for the sanction.
- D.** Nothing contained in this Section shall be construed to prevent the Administration from imposing sanctions as provided in contract under A.R.S. § 36-2903.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 18 A.A.R. 2340, effective November 11, 2012 (Supp. 12-3).

ARTICLE 7. STANDARDS FOR PAYMENTS**R9-22-701. Standard for Payments Related Definitions**

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

"Accommodation" means room and board services provided to a patient during an inpatient hospital stay and includes all staffing, supplies, and equipment. The accommodation is semi-private except when the member must be isolated for medical reasons. Types of accommodation include hospital routine medical/surgical units, intensive care units, and any other specialty care unit in which room and board are provided.

"Aggregate" means the combined amount of hospital payments for covered services provided within and outside the GSA.

"AHCCCS inpatient hospital day or days of care" means each day of an inpatient stay for a member beginning with the day of admission and including the day of death, if applicable, but excluding the day of discharge, provided that all eligibility, medical necessity, and medical review requirements are met.

"Ancillary service" means all hospital services for patient care other than room and board and nursing services, including but not limited to, laboratory, radiology, drugs, delivery room

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(including maternity labor room), operating room (including postanesthesia and postoperative recovery rooms), and therapy services (physical, speech, and occupational).

“APC” means the Ambulatory Payment Classification system under 42 CFR 419.31 used by Medicare for grouping clinically and resource-similar procedures and services.

“Billed charges” means charges for services provided to a member that a hospital includes on a claim consistent with the rates and charges filed by the hospital with Arizona Department of Health Services (ADHS).

“Business agent” means a company such as a billing service or accounting firm that renders billing statements and receives payment in the name of a provider.

“Capital costs” means costs as reported by the hospital to CMS as required by 42 CFR 413.20.

“Copayment” means a monetary amount, specified by the Director, that a member pays directly to a contractor or provider at the time covered services are rendered.

“Cost-to-charge ratio” (CCR) means a hospital’s costs for providing covered services divided by the hospital’s charges for the same services. The CCR is the percentage derived from the cost and charge data for each revenue code provided to AHCCCS by each hospital.

“Covered charges” means billed charges that represent medically necessary, reasonable, and customary items of expense for covered services that meet medical review criteria of AHCCCS or a contractor.

“CPT” means Current Procedural Terminology, published and updated by the American Medical Association. CPT is a nationally-accepted listing of descriptive terms and identifying codes for reporting medical services and procedures performed by physicians that provide a uniform language to accurately designate medical, surgical, and diagnostic services.

“Critical Access Hospital” is a hospital certified by Medicare under 42 CFR 485 Subpart F and 42 CFR 440.170(g). “Direct graduate medical education costs” or “direct program costs” means the costs that are incurred by a hospital for the education activities of an approved graduate medical education program that are the proximate result of training medical residents in the hospital, including resident salaries and fringe benefits, the portion of teaching physician salaries and fringe benefits that are related to the time spent in teaching and supervision of residents, and other related GME overhead costs.

“DRI inflation factor” means Global Insights Prospective Hospital Market Basket.

“Eligibility posting” means the date a member’s eligibility information is entered into the AHCCCS Pre-paid Medical Management Information System (PMMIS).

“Encounter” means a record of a medically-related service rendered by an AHCCCS-registered provider to a member enrolled with a contractor on the date of service.

“Existing outpatient service” means a service provided by a hospital before the hospital files an increase in its charge master as defined in R9-22-712(G), regardless of whether the service was explicitly described in the hospital charge master before filing the increase or how the service was described in the charge master before filing the increase.

“Expansion funds” means funds appropriated to support GME program expansions as described under A.R.S. § 36-2903.01(G)(9)(b) and (c)(i).

“Factor” means a person or an organization, such as a collection agency or service bureau, that advances money to a provider for accounts receivable that the provider has assigned, sold, or transferred to the organization for an added fee or a deduction of a portion of the accounts receivable. Factor does not include a business agent.

“Fiscal intermediary” means an organization authorized by CMS to make determinations and payments for Part A and Part B provider services for a given region.

“Freestanding Children’s Hospital” means a separately standing hospital with at least 120 pediatric beds that is dedicated to provide the majority of the hospital’s services to children.

“GME program approved by the Administration” or “approved GME program” means a graduate medical education program that has been approved by a national organization as described in 42 CFR 415.152.

“Graduate medical education (GME) program” means an approved residency program that prepares a physician for independent practice of medicine by providing didactic and clinical education in a medical environment to a medical student who has completed a recognized undergraduate medical education program.

“HCAC” means a health care acquired condition described under 42 CFR 447.26 but does not include Deep Vein Thrombosis (DVT)/Pulmonary Embolism (PE) as related to total knee replacement or hip replacement surgery in pediatric and obstetric patients.

“HCPCS” means the Health Care Procedure Coding System, published and updated by Center for Medicare and Medicaid Services (CMS). HCPCS is a listing of codes and descriptive terminology used for reporting the provision of physician services, other health care services, and substances, equipment, supplies or other items used in health care services.

“HIPAA” means the Health Insurance Portability and Accountability Act of 1996, as specified under 45 CFR 162, that establishes standards and requirements for the electronic transmission of certain health information by defining code sets used for encoding data elements, such as tables of terms, medical concepts, medical diagnostic codes, or medical procedure codes.

“ICU” means the intensive care unit of a hospital.

“Indirect program costs” means the marginal increase in operating costs that a hospital experiences as a result of having an approved graduate medical education program and that is not accounted for by the hospital’s direct program costs.

“Intern and Resident Information System” means a software program used by teaching hospitals and the provider community for collecting and reporting information on resident training in hospital and non-hospital settings.

“Medical education costs” means direct hospital costs for intern and resident salaries, fringe benefits, program costs, nursing school education, and paramedical education, as described in the Medicare Provider Reimbursement Manual.

“Medical review” means a clinical evaluation of documentation conducted by AHCCCS or a contractor for purposes of prior authorization, concurrent review, post-payment review,

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or determining medical necessity. The criteria for medical review are established by AHCCCS or a contractor based on medical practice standards that are updated periodically to reflect changes in medical care.

“Medicare Urban or Rural Cost-to-Charge Ratio (CCR)” means statewide average capital cost-to-charge ratio published annually by CMS added to the urban or rural statewide average operating cost-to-charge ratio published annually by CMS.

“National Standard code sets” means codes that are accepted nationally in accordance with federal requirements under 45 CFR 160 and 45 CFR 164.

“New hospital” means a hospital for which Medicare Cost Report claim and encounter data are not available for the fiscal year used for initial rate setting or rebasing.

“NICU” means the neonatal intensive care unit of a hospital that is classified as a Level II or Level III perinatal center by the Arizona Perinatal Trust.

“Non-IHS Acute Hospital” means a hospital that is not run by Indian Health Services, is not a free-standing psychiatric hospital, such as an IMD, and is paid under ADHS rates.

“Observation day” means a physician-ordered evaluation period of less than 24 hours to determine whether a person needs treatment or needs to be admitted as an inpatient. Each observation day consists of a period of 24 hours or less.

“Operating costs” means AHCCCS-allowable accommodation costs and ancillary department hospital costs excluding capital and medical education costs.

“OPPC” means an Other Provider Preventable Condition that is: (1) a wrong surgical or other invasive procedure performed on a patient, (2) a surgical or other invasive procedure performed on the wrong body part, or (3) a surgical or other invasive procedure performed on the wrong patient.

“Organized health care delivery system” means a public or private organization that delivers health services. It includes, but is not limited to, a clinic, a group practice prepaid capitation plan, and a health maintenance organization.

“Outlier” means a hospital claim or encounter in which the operating costs per day for an AHCCCS inpatient hospital stay meet the criteria described under this Article and A.R.S. § 36-2903.01(G).

“Outpatient hospital service” means a service provided in an outpatient hospital setting that does not result in an admission.

“Ownership change” means a change in a hospital’s owner, lessor, or operator under 42 CFR 489.18(a).

“Participating institution” means an institution at which portions of a graduate medical education program are regularly conducted and to which residents rotate for an educational experience for at least one month.

“Peer group” means hospitals that share a common, stable, and independently definable characteristic or feature that significantly influences the cost of providing hospital services, including specialty hospitals that limit the provision of services to specific patient populations, such as rehabilitative patients or children.

“PPC” means prior period coverage. PPC is the period of time, prior to the member’s enrollment, during which a member is eligible for covered services. The time-frame is the first day of the month of application or the first eligible month, whichever is later, until the day a member is enrolled with a contractor.

“PPS bed” means Medicare-approved Prospective Payment beds for inpatient services as reported in the Medicare cost reports for the most recent fiscal year for which the Administration has a complete set of Medicare cost reports for every rural hospital as determined as of the first of February of each year.

“Procedure code” means the numeric or alphanumeric code listed in the CPT or HCPCS manual by which a procedure or service is identified.

“Prospective rates” means inpatient or outpatient hospital rates set by AHCCCS in advance of a payment period and representing full payment for covered services excluding any quick-pay discounts, slow-pay penalties, and first-and third-party payments regardless of billed charges or individual hospital costs.

“Public hospital” means a hospital that is owned and operated by county, state, or hospital health care district.

“Qualifying health information exchange organization” means a non-profit health information organization as defined in A.R.S. § 36-3801 that provides the statewide exchange of patient health information among disparate health care organizations and providers not owned, operated, or controlled by the health information exchange. A qualifying health information exchange organization must include representation by the administration on its board of directors, and have a significant number of health care participants, including hospitals, laboratories, payers, community physicians and Federally Qualified Health Centers.

“Rebase” means the process by which the most currently available and complete Medicare Cost Report data for a year and AHCCCS claim and encounter data for the same year are collected and analyzed to reset the Inpatient Hospital Tiered per diem rates, or the Outpatient Hospital Capped Fee-For-Service Schedule.

“Reinsurance” means a risk-sharing program provided by AHCCCS to contractors for the reimbursement of specified contract service costs incurred by a member beyond a certain monetary threshold.

“Remittance advice” means an electronic or paper document submitted to an AHCCCS-registered provider by AHCCCS to explain the disposition of a claim.

“Resident” means a physician engaged in postdoctoral training in an accredited graduate medical education program, including an intern and a physician who has completed the requirements for the physician’s eligibility for board certification.

“Revenue code” means a numeric code, that identifies a specific accommodation, ancillary service, or billing calculation, as defined by the National Uniform Billing committee for UB-04 forms.

“Sub-acute services” means inpatient care for a patient with an acute illness, injury or exacerbation of a disease process when the patient does not require acute inpatient hospitalization. Sub-acute care is rendered immediately after, or instead of, acute inpatient hospitalization.

“Specialty facility” means a facility where the service provided is limited to a specific population, such as rehabilitative services for children.

“Sponsoring institution” means the institution or entity that is recognized by the GME accrediting organization and designated as having ultimate responsibility for the assurance of

academic quality and compliance with the terms of accreditation.

“Tier” means a grouping of inpatient hospital services into levels of care based on diagnosis, procedure, or revenue codes, peer group, NICU classification level, or any combination of these items.

“Tiered per diem” means an AHCCCS capped fee schedule in which payment is made on a per-day basis depending upon the tier (or tiers) into which an AHCCCS inpatient hospital day of care is assigned.

“Trip” means a one-way transport each time a taxi is called. If the taxi waits for the member then the transport continues to be part of the one-way trip. If the taxi leaves and is called to pick up the member, that is considered a new one-way trip.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-701 adopted as an emergency now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-701 repealed, new Section R9-22-701 adopted effective October 1, 1983 (Supp. 83-5). Amended effective October 1, 1985 (Supp. 85-5). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). Section repealed; new Section made by exempt rulemaking at 11 A.A.R. 2297, effective July 1, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 2188, effective June 6, 2006 (Supp. 06-2). Amended by final rulemaking at 13 A.A.R. 662, effective April 7, 2007 (Supp. 07-1). Amended by final rulemaking at 13 A.A.R. 1782, effective June 30, 2007 (Supp. 07-2). Amended by exempt rulemaking at 13 A.A.R. 3190, effective October 1, 2007 (Supp. 07-3). Amended by exempt rulemaking at 13 A.A.R. 4032, effective November 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 1956, effective September 6, 2014; amended by exempt rulemaking at 20 A.A.R. 2755, effective January 1, 2015 (Supp. 14-3). Amended by final rulemaking at 22 A.A.R. 2187, effective October 1, 2016 (Supp. 16-4).

R9-22-701.01. Reserved

R9-22-701.02. Reserved

R9-22-701.03. Reserved

R9-22-701.04. Reserved

R9-22-701.05. Reserved

R9-22-701.06. Reserved

R9-22-701.07. Reserved

R9-22-701.08. Reserved

R9-22-701.09. Reserved

R9-22-701.10 Scope of the Administration’s and Contractor’s Liability

The Administration shall bear no liability for providing covered services for any member beyond the date of termination of the member’s eligibility or during the member’s enrollment with a contractor. A contractor has no financial responsibility for services provided to a member beyond the last date of enrollment except as provided in Articles 2 and 5 of this Chapter and as specified in contract.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 662, effective April 7, 2007 (Supp. 07-1).

R9-22-702. Charges to Members

- A.** For purposes of this subsection, the term “member” includes the member’s financially responsible representative as described under A.R.S. § 36-2903.01.
- B.** Registered providers must accept payment from the Administration or a contractor as payment in full.
- C.** Except as provided in subsection (D) a registered provider shall not request or collect payment from, refer to a collection agency, or report to a credit reporting agency an eligible person or a person claiming to be an eligible person.
- D.** An AHCCCS registered provider may charge, submit a claim to, or demand or collect payment from a member:
 1. To collect the copayment described in R9-22-711;
 2. To recover from a member that portion of a payment made by a third party to the member for an AHCCCS covered service if the member has not transferred the payment to the Administration or the contractor as required by the statutory assignment of rights to AHCCCS;
 3. To obtain payment from a member for medical expenses incurred during a period when the member intentionally withheld information or intentionally provided inaccurate information pertaining to the member’s AHCCCS eligibility or enrollment that caused payment to the provider to be reduced or denied;
 4. For a service that is excluded by statute or rule, or provided in an amount that exceeds a limitation in statute or rule, if the member signs a document in advance of receiving the service stating that the member understands the service is excluded or is subject to a limit and that the member will be financially responsible for payment for the excluded service or for the services in excess of the limit;
 5. When the contractor or the Administration has denied authorization for a service if the member signs a document in advance of receiving the service stating that the member understands that authorization has been denied and that the member will be financially responsible for payment for the service;
 6. For services requested for a member enrolled with a contractor, and rendered by a noncontracting provider under circumstances where the member’s contractor is not responsible for payment of “out of network” services under R9-22-705(A), if the member signs a document in advance of receiving the service stating that the member understands the provider is out of network, that the member’s contractor is not responsible for payment, and that the member will be financially responsible for payment for the excluded service;
 7. For services rendered to a person eligible for the FESP if the provider submits a claim to the Administration in the reasonable belief that the service is for treatment of an emergency medical condition and the Administration denies the claim because the service does not meet the criteria of R9-22-217; or
 8. If the provider has received verification from the Administration that the person was not an eligible person on the date of service.
- E.** The signature requirement of subsections (D)(4), (D)(5), and (D)(6) do not apply if:
 1. The member is unable or incompetent to sign such a document, or

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2. When services are rendered for the purpose of treating an emergency medical condition as defined in R9-22-217 and a delay in providing treatment to obtain a signature would have a significant adverse affect on the member's health.
- F. Except as provided for in this Section, registered providers shall not bill a member when the provider could have received reimbursement from the Administration or a contractor but for the provider's failure to file a claim in accordance with the requirements of AHCCCS statutes, rules, the provider agreement, or contract, such as, but not limited to, requirements to request and obtain prior authorization, timely filing, and clean claim requirements.
3. Unless a shorter time period is specified in contract, the Administration shall not pay a clean claim for a covered service unless the claim is submitted within one of the following time limits, whichever is later:
 - a. Twelve months from the date of service or for an inpatient hospital claim, 12 months from the date of discharge; or
 - b. Twelve months from the date of eligibility posting.
4. Unless a shorter time period is specified in contract, the Administration shall not pay a claim submitted by an IHS or tribal facility for a covered service unless the claim is initially submitted within 12 months from the date of service, date of discharge, or eligibility posting, whichever is later.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-702 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended as an emergency effective February 23, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Amended as a permanent rule effective May 16, 1983; text identical to the emergency (Supp. 83-3). Former Section R9-22-702 repealed, new Section R9-22-702 adopted effective October 1, 1983 (Supp. 83-5). Amended by adding subsection (B) effective October 1, 1985 (Supp. 85-5). Amended by adding subsection (C) effective October 1, 1987 (Supp. 87-4). Amended effective April 13, 1990 (Supp. 90-2). Amended effective December 13, 1993 (Supp. 93-4). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 3317, effective July 15, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 3217, effective October 1, 2005 (Supp. 05-3). Amended by exempt rulemaking at 17 A.A.R. 1707, effective October 1, 2011 (Supp. 11-3). Amended by final rulemaking at 19 A.A.R. 2747, effective October 8, 2013 (Supp. 13-3).

R9-22-703. Payments by the Administration

- A. General requirements. A provider shall enter into a provider agreement with the Administration that meets the requirements of A.R.S. § 36-2904 and 42 CFR 431.107(b) as of October 1, 2012, which is incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.
- B. Timely submission of claims.
 1. Under A.R.S. § 36-2904, the Administration shall deem a paper or electronic claim to be submitted on the date that it is received by the Administration. The Administration shall do one or more of the following for each claim it receives:
 - a. Place a date stamp on the face of the claim,
 - b. Assign a system-generated claim reference number, or
 - c. Assign a system-generated date-specific number.
 2. Unless a shorter time period is specified in contract, the Administration shall not pay a claim for a covered service unless the claim is initially submitted within one of the following time limits, whichever is later:
 - a. Six months from the date of service or for an inpatient hospital claim, six months from the date of discharge; or
 - b. Six months from the date of eligibility posting.
- C. Claims processing.
 1. The Administration shall notify the AHCCCS-registered provider with a remittance advice when a claim is processed for payment.
 2. The Administration shall reimburse a hospital for inpatient hospital admissions and outpatient hospital services rendered on or after March 1, 1993, as follows and in the manner and at the rate described in A.R.S. § 36-2903.01:
 - a. If the hospital bill is paid within 30 days from the date of receipt, the claim is paid at 99 percent of the rate.
 - b. If the hospital bill is paid between 30 and 60 days from the date of receipt, the claim is paid at 100 percent of the rate.
 - c. If the hospital bill is paid after 60 days from the date of receipt, the claim is paid at 100 percent of the rate plus a fee of one percent per month for each month or portion of a month following the 60th day of receipt of the bill until date of payment.
 3. A claim is paid on the date indicated on the disbursement check.
 4. A claim is denied as of the date of the remittance advice.
 5. The Administration shall process a hospital claim under this Article.
- D. Prior authorization.
 1. An AHCCCS-registered provider shall:
 - a. Obtain prior authorization from the Administration for non-emergency hospital admissions, covered services as specified in Articles 2 and 12 of this Chapter, and for administrative days as described in R9-22-712.75,
 - b. Notify the Administration of hospital admissions under Article 2 of this Chapter, and
 - c. Make records available for review by the Administration upon request.
 2. The Administration may deny a claim if the provider fails to comply with subsection (D)(1).
 3. If the Administration issues prior authorization for an inpatient hospital admission, a specific service, or level of care but subsequent medical review indicates that the admission, the service, or level of care was not medically appropriate, the Administration shall adjust the claim payment.
- E. Review of claims and coverage for hospital supplies.
 1. The Administration may conduct prepayment and post-payment review of any claims, including but not limited to hospital claims.
 2. Personal care items supplied by a hospital, including but not limited to the following, are not covered services:
 - a. Patient care kit,
 - b. Toothbrush,
 - c. Toothpaste,

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- d. Petroleum jelly,
 - e. Deodorant,
 - f. Septi soap,
 - g. Razor or disposable razor,
 - h. Shaving cream,
 - i. Slippers,
 - j. Mouthwash,
 - k. Shampoo,
 - l. Powder,
 - m. Lotion,
 - n. Comb, and
 - o. Patient gown.
3. The following hospital supplies and equipment, if medically necessary and used by the member, are covered services:
- a. Arm board,
 - b. Diaper,
 - c. Underpad,
 - d. Special mattress and special bed,
 - e. Gloves,
 - f. Wrist restraint,
 - g. Limb holder,
 - h. Disposable item used instead of a durable item,
 - i. Universal precaution,
 - j. Stat charge, and
 - k. Portable charge.
4. The Administration shall determine in a hospital claims review whether services rendered were:
- a. Covered services as defined in Article 2;
 - b. Medically necessary;
 - c. Provided in the most appropriate, cost-effective, and least restrictive setting; and
 - d. For claims with dates of admission on and after March 1, 1993, substantiated by the minimum documentation specified in A.R.S. § 36-2903.01.
5. If the Administration adjudicates a claim, a person may file a claim dispute challenging the adjudication under 9 A.A.C. 34.
- F. Overpayment for AHCCCS services.**
- 1. An AHCCCS-registered provider shall notify the Administration when the provider discovers the Administration made an overpayment.
 - 2. The Administration shall recoup an overpayment from a future claim cycle if an AHCCCS-registered provider fails to return the overpaid amount to the Administration.
 - 3. The Administration shall document any recoupment of an overpayment on a remittance advice.
 - 4. An AHCCCS-registered provider may file a claim dispute under 9 A.A.C. 34 if the AHCCCS-registered provider disagrees with a recoupment action.
- G.** For services subject to limitations or exclusions such as the number of hours, days, or visits covered as described in Article 2 of this Chapter, once the limit is reached the Administration will not reimburse the services.
- H. Prior quarter reimbursement. A provider shall:**
- 1. Bill the Administration for services provided during a prior quarter eligibility period upon verification of eligibility or upon notification from a member of AHCCCS eligibility.
 - 2. Reimburse a member when payment has been received from the Administration for covered services during a prior quarter eligibility period. All funds paid by the member shall be reimbursed.
 - 3. Accept payment received by the Administration as payment in full.
- I.** Payment for in-state inpatient hospital services for claims with discharge dates on or before September 30, 2014. The Administration shall reimburse an in-state provider of inpatient hospital services rendered with a discharge date on or before September 30, 2014, the prospective tiered-per-diem amount in A.R.S. § 36-2903.01 and this Article.
- J.** Payment for out-of-state inpatient hospital services for claims with discharge dates on or before September 30, 2014. The Administration shall reimburse an out-of-state provider of inpatient hospital services rendered with a discharge date on or before September 30, 2014, for covered inpatient services by multiplying covered charges by the most recent statewide urban cost-to-charge ratio as determined in R9-22-712.01(6)(b).
- K.** Payment for inpatient hospital services for claims with discharge dates on and after October 1, 2014 regardless of admission date. The Administration shall reimburse an in-state or out-of-state provider of inpatient hospital services rendered with a discharge date on or after October 1, 2014, the DRG rate established by the Administration.
- L.** The Administration may enter into contracts for the provisions of transplant services.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R-22-703 adopted as an emergency now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-703 repealed, new Section R9-22-703 adopted effective October 1, 1983 (Supp. 83-5). Amended effective October 1, 1985 (Supp. 85-5). Amended effective October 1, 1986 (Supp. 86-5). Amended subsection (B), paragraph (1) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsection (A) effective September 16, 1987 (Supp. 87-3). Amended effective May 30, 1989 (Supp. 89-2). Amended effective September 29, 1992 (Supp. 92-3). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 3317, effective July 15, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 3222, effective October 1, 2005 (Supp. 05-3). Amended by final rulemaking at 13 A.A.R. 662, effective April 7, 2007 (Supp. 07-1). Amended by final rulemaking at 17 A.A.R. 1658, effective August 2, 2011 (Supp. 11-3). Amended by exempt rulemaking at 17 A.A.R. 1707, effective October 1, 2011 (Supp. 11-3). Amended by final rulemaking at 19 A.A.R. 2747, effective October 8, 2013 (Supp. 13-3). Amended by final rulemaking at 19 A.A.R. 3309, November 30, 2013 (Supp. 13-4). Amended by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).

R9-22-704. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-704 adopted as an emergency now adopted and amended as a permanent rule effective August 30 1982 (Supp. 82-4). Amended effective October 1, 1983 (Supp. 83-5). Amended subsection A., Paragraph 2. effective October 1, 1985 (Supp. 85-5). Amended by final rulemaking at 8 A.A.R. 3317, effective July 15, 2002 (Supp. 02-3). Section repealed by final rulemaking at 13 A.A.R. 662, effective April 7, 2007 (Supp. 07-1).

R9-22-705. Payments by Contractors

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- A.** General requirements. A contractor shall contract with providers to provide covered services to members enrolled with the contractor. The contractor is responsible for reimbursing providers and coordinating care for services provided to a member. Except as provided in subsection (A)(2), a contractor is not required to reimburse a noncontracting provider for services rendered to a member enrolled with the contractor.
- Providers. A provider shall enter into a provider agreement with the Administration that meets the requirements of A.R.S. § 36-2904 and 42 CFR 431.107(b) as of March 6, 1992, which is incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.
 - A contractor shall reimburse a noncontracting provider for services rendered to a member enrolled with the contractor as specified in this Article if:
 - The contractor referred the member to the provider or authorized the provider to render the services and the claim is otherwise payable under this Chapter, or
 - The service is emergent under Article 2 of this Chapter.
- B.** Timely submission of claims.
- Under A.R.S. § 36-2904, a contractor shall deem a paper or electronic claim as submitted on the date that the claim is received by the contractor. The contractor shall do one or more of the following for each claim the contractor receives:
 - Place a date stamp on the face of the claim,
 - Assign a system-generated claim reference number, or
 - Assign a system-generated date-specific number.
 - Unless a shorter time period is specified in subcontract, a contractor shall not pay a claim for a covered service unless the claim is initially submitted within one of the following time limits, whichever is later:
 - Six months from the date of service or for an inpatient hospital claim, six months from the date of discharge; or
 - Six months from the date of eligibility posting.
 - Unless a shorter time period is specified in subcontract, a contractor shall not pay a clean claim for a covered service unless the claim is submitted within one of the following time limits, whichever is later:
 - Twelve months from the date of service or for an inpatient hospital claim, 12 months from the date of discharge; or
 - Twelve months from the date of eligibility posting.
- C.** Date of claim.
- A contractor's date of receipt of an inpatient or an outpatient hospital claim is the date the claim is received by the contractor as indicated by the date stamp on the claim, the system-generated claim reference number, or the system-generated date-specific number assigned by the contractor.
 - A hospital claim is considered paid on the date indicated on the disbursement check.
 - A denied hospital claim is considered adjudicated on the date of the claim's denial.
 - For a claim that is pending for additional supporting documentation specified in A.R.S. § 36-2903.01 or 36-2904, the contractor shall assign a new date of receipt upon receipt of the additional documentation.
 - For a claim that is pending for documentation other than the minimum required documentation specified in either A.R.S. § 36-2903.01 or 36-2904, the contractor shall not assign a new date of receipt.
 - A contractor and a hospital may, through a contract approved as specified in R9-22-715, adopt a method for identifying, tracking, and adjudicating a claim that is different from the method described in this subsection.
- D.** Payment for in-state inpatient hospital services for claims with discharge dates on or before September 30, 2014. A contractor shall reimburse an in-state provider of inpatient hospital services rendered with a discharge date on or before September 30, 2014, at either a rate specified by subcontract or, in absence of the subcontract, the prospective tiered-per-diem amount in A.R.S. § 36-2903.01 and this Article. Subcontract rates, terms, and conditions are subject to review and approval or disapproval under A.R.S. § 36-2904 and R9-22-715. This subsection does not apply to an urban contractor as specified in R9-22-718 and A.R.S. § 36-2905.01.
- E.** Payment for Inpatient out-of-state hospital payments for claims with discharge dates on or before September 30, 2014. In the absence of a contract with an out-of-state hospital that specifies payment rates, a contractor shall reimburse out-of-state hospitals for covered inpatient services by multiplying covered charges by the most recent statewide urban cost-to-charge ratio as determined in R9-22-712.01(6)(b).
- F.** Payment for inpatient hospital services for claims with discharge dates on and after October 1, 2014 regardless of admission date. Subject to R9-22-718 and A.R.S. § 36-2905.01 regarding urban hospitals, a contractor shall reimburse an in-state or out-of-state provider of inpatient hospital services, at either a rate specified by subcontract or, in absence of a subcontract, the DRG rate established by the Administration and this Article. Subcontract rates, terms, and conditions are subject to review and approval or disapproval under A.R.S. § 36-2904 and R9-22-715.
- G.** Payment for in-state outpatient hospital services.
A contractor shall reimburse an in-state provider of outpatient hospital services rendered on or after July 1, 2005, at either a rate specified by a subcontract or, in absence of a subcontract, as provided under R9-22-712.10, A.R.S. § 36-2903.01 and other sections of this Article. The terms of the subcontract are subject to review and approval or disapproval under A.R.S. § 36-2904 and R9-22-715.
- H.** Outpatient out-of-state hospital payments. In the absence of a contract with an out-of-state hospital that specifies payment rates, a contractor shall reimburse out-of-state hospitals for covered outpatient services by applying the methodology described in R9-22-712.10 through R9-22-712.50. If the outpatient procedure is not assigned a fee schedule amount, the contractor shall pay the claim by multiplying the covered charges for the outpatient services by the statewide outpatient cost-to-charge ratio.
- I.** Payment for observation days. A contractor shall reimburse a provider and a noncontracting provider for the provision of observation days at either a rate specified by subcontract or, in the absence of a subcontract, as prescribed under R9-22-712, R9-22-712.10, and R9-22-712.45.
- J.** Review of claims and coverage for hospital supplies.
- A contractor may conduct a review of any claims submitted and recoup any payments made in error.
 - A hospital shall obtain prior authorization from the appropriate contractor for nonemergency admissions. When issuing prior authorization, a contractor shall consider the medical necessity of the service, and the availability and cost effectiveness of an alternative treatment.

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- Failure to obtain prior authorization when required is cause for nonpayment or denial of a claim. A contractor shall not require prior authorization for medically necessary services provided during any prior period for which the contractor is responsible. If a contractor and a hospital agree to a subcontract, the parties shall abide by the terms of the subcontract regarding utilization control activities. A hospital shall cooperate with a contractor's reasonable activities necessary to perform concurrent review and shall make the hospital's medical records pertaining to a member enrolled with a contractor available for review.
3. Regardless of prior authorization or concurrent review activities, a contractor may make prepayment or post-payment review of all claims, including but not limited to a hospital claim. A contractor may recoup an erroneously paid claim. If prior authorization was given for an inpatient hospital admission, a specific service, or level of care but subsequent medical review indicates that the admission, the service, or level of care was not medically appropriate, the contractor shall adjust the claim payment.
 4. A contractor and a hospital may enter into a subcontract that includes hospital claims review criteria and procedures if the subcontract meets the requirements of R9-22-715.
 5. Personal care items supplied by a hospital, including but not limited to the following, are not covered services:
 - a. Patient care kit,
 - b. Toothbrush,
 - c. Toothpaste,
 - d. Petroleum jelly,
 - e. Deodorant,
 - f. Septi soap,
 - g. Razor,
 - h. Shaving cream,
 - i. Slippers,
 - j. Mouthwash,
 - k. Disposable razor,
 - l. Shampoo,
 - m. Powder,
 - n. Lotion,
 - o. Comb, and
 - p. Patient gown.
 6. The following hospital supplies and equipment, if medically necessary and used by the member, are covered services:
 - a. Arm board,
 - b. Diaper,
 - c. Underpad,
 - d. Special mattress and special bed,
 - e. Gloves,
 - f. Wrist restraint,
 - g. Limb holder,
 - h. Disposable item used instead of a durable item,
 - i. Universal precaution,
 - j. Stat charge, and
 - k. Portable charge.
 7. The contractor shall determine in a hospital claims review whether services rendered were:
 - a. Covered services as defined in R9-22-201;
 - b. Medically necessary;
 - c. Provided in the most appropriate, cost-effective, and least restrictive setting; and
 - d. For claims with dates of admission on and after March 1, 1993, substantiated by the minimum documentation specified in A.R.S. § 36-2904.
 8. If a contractor adjudicates a claim or recoups payment for a claim, a person may file a claim dispute challenging the adjudication or recoupment as described under 9 A.A.C. 34.
 - K. Non-hospital claims. A contractor shall pay claims for non-hospital services in accordance with contract, or in the absence of a contract, at a rate not less than the Administration's capped fee-for-service schedule or at a lower rate if negotiated between the two parties.
 - L. Payments to hospitals. A contractor shall pay for inpatient hospital admissions and outpatient hospital services rendered on or after March 1, 1993, as follows and as described in A.R.S. § 36-2904:
 1. If the hospital bill is paid within 30 days from the date of receipt, the claim is paid at 99 percent of the rate.
 2. If the hospital bill is paid between 30 and 60 days from the date of receipt, the claim is paid at 100 percent of the rate.
 3. If the hospital bill is paid after 60 days from the date of receipt, the claim is paid at 100 percent of the rate plus a 1 percent penalty of the rate for each month or portion of the month following the 60th day of receipt of the bill until date of payment.
 - M. Interest payment. In addition to the requirements in subsection (L), a contractor shall pay interest for late claims as defined by contract.
 - N. For services subject to limitations or exclusions such as the number of hours, days, or visits covered as described in Article 2 of this Chapter, once the limit is reached the Administration will not reimburse the services.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-705 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended as an emergency effective February 23, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Amended as a permanent rule effective May 16, 1983; text of the amended rule identical to emergency (Supp. 83-3). Former Section R9-22-705 repealed, new Section R9-22-705 adopted effective October 1, 1983 (Supp. 83-5). Amended as an emergency effective October 25, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-5). Emergency expired. Permanent amendment adopted effective February 1, 1985 (Supp. 85-1). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (C) effective October 1, 1986 (Supp. 86-5). Amended subsection (C) effective October 1, 1987; amended subsection (C) effective December 22, 1987 (Supp. 87-4). Amended subsections (A) and (C) effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended under an exemption from the provisions of the Administrative Procedure Act, effective March 1, 1993 (Supp. 93-1). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 5 A.A.R. 867, effective March 4, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by final rulemaking at 11 A.A.R. 3222, effective October 1, 2005 (Supp. 05-3). Amended by final rulemaking at 13 A.A.R. 662, effective April 7, 2007 (Supp. 07-1). Amended by final rulemaking at 14 A.A.R.

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1439, effective May 31, 2008 (Supp. 08-2). Amended by exempt rulemaking at 17 A.A.R. 1707, effective October 1, 2011 (Supp. 11-3). Amended by final rulemaking at 19 A.A.R. 2747, effective October 8, 2013 (Supp. 13-3). Amended by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).

R9-22-706. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-706 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-706 repealed, new Section R9-22-706 adopted effective October 1, 1983 (Supp. 83-5). Adopted as an emergency effective May 18, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Amended as an emergency effective August 16, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Amended as an emergency effective October 25, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-5). Emergency expired. Permanent amendment adopted effective February 1, 1985 (Supp. 85-1). Amended effective October 1, 1985 (Supp. 85-5). Amended effective October 1, 1986 (Supp. 86-5). Amended subsections (A), (D), (E), (F), and (G) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsection (F) effective December 22, 1987 (Supp. 87-4). Amended subsections (A) and (F) effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Amended effective September 22, 1997 (Supp. 97-3). Section repealed by final rulemaking at 10 A.A.R. 4656, effective January 1, 2005 (Supp. 04-4).

R9-22-707. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-707 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Repealed as an emergency effective February 23, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Repealed as a permanent action effective May 16, 1983 (Supp. 83-3). New Section R9-22-707 adopted effective October 1, 1983 (Supp. 83-5). Adopted as an emergency effective May 18, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Adopted as an emergency effective August 16, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Former Section R9-22-707 repealed, new Section R9-22-707 adopted effective October 1, 1985 (Supp. 85-5). Former Section R9-22-707 repealed, new Section R9-22-707 adopted effective October 1, 1986 (Supp. 86-5). Amended subsection (A) effective October 1, 1987 (Supp. 87-4). Amended effective September 29, 1992 (Supp. 92-3). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 3317, effective July 15, 2002 (Supp. 02-3). Section repealed by final rulemaking at 13 A.A.R. 856, effective May 5, 2007 (Supp. 07-1).

R9-22-708. Payments for Services Provided to Eligible American Indians

- A. For purposes of this Article “IHS enrolled” or “enrolled with IHS” means an American Indian who has elected to receive covered services through IHS instead of a contractor.
- B. For an American Indian who is enrolled with IHS, AHCCCS shall pay IHS the most recent all-inclusive inpatient, outpatient or ambulatory surgery rates published by Health and Human Services (HHS) in the Federal Register, or a separately contracted rate with IHS, for AHCCCS-covered services provided in an IHS facility. AHCCCS shall reimburse providers for the Medicare coinsurance and deductible amounts required to be paid by the Administration or contractor in Chapter 29, Article 3 of this Title.
- C. When IHS refers an American Indian enrolled with IHS to a provider other than an IHS or tribal facility, the provider to whom the referral is made shall obtain prior authorization from AHCCCS for services as required under Articles 2, 7 or 12 of this Chapter.
- D. For an American Indian enrolled with a contractor, AHCCCS shall pay the contractor a monthly capitation payment.
- E. Once an American Indian enrolls with a contractor, AHCCCS shall not reimburse any provider other than IHS or a Tribal facility.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-708 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-708 repealed, new Section R9-22-708 adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-708 renumbered and amended as Section R9-22-709, new Section R9-22-708 adopted effective October 1, 1985 (Supp. 85-5). Amended effective October 1, 1986 (Supp. 86-5). Amended by final rulemaking at 10 A.A.R. 4656, effective January 1, 2005 (Supp. 04-4). Amended by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).

R9-22-709. Contractor’s Liability to Hospitals for the Provision of Emergency and Post-stabilization Care

A contractor is liable for emergency hospitalization and post-stabilization care as described in R9-22-210 and R9-22-210.01.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-709 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-709 repealed, new Section R9-22-709 adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-709 renumbered and amended as Section R9-22-713, former Section R9-22-708 renumbered and amended as Section R9-22-709 effective October 1, 1985 (Supp. 85-5). Amended under an exemption from the provisions of the Administrative Procedure Act, effective March 1, 1993 (Supp. 93-1). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 13 A.A.R. 856, effective May 5, 2007 (Supp. 07-1).

Editor’s Note: The following Section was amended under an exemption from the provisions of the Administrative Procedure Act which means that this rule was not reviewed by the Governor’s Regulatory Review Council; the agency did not submit notice of proposed rulemaking to the Secretary of State for publi-

cation in the Arizona Administrative Register; the agency was not required to hold public hearings on the rules; and the Attorney General did not certify this rule. This Section was subsequently amended through the regular rulemaking process.

R9-22-710. Payments for Non-hospital Services

A. Capped fee-for-service. The Administration shall provide notice of changes in methods and standards for setting payment rates for services in accordance with 42 CFR 447.205, December 19, 1983, incorporated by reference and on file with the Administration and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.

1. Non-contracted services. In the absence of a contract that specifies otherwise, a contractor shall reimburse a provider or noncontracting provider for non-hospital services according to the Administration's capped-fee-for-service schedule.
2. Procedure codes. The Administration shall maintain a current copy of the National Standard Code Sets mandated under 45 CFR 160 (October 1, 2004) and 45 CFR 162 (October 1, 2004), incorporated by reference and on file with the Administration and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.
 - a. A person shall submit an electronic claim consistent with 45 CFR 160 (October 1, 2004) and 45 CFR 162 (October 1, 2004).
 - b. A person shall submit a paper claim using the National Standard Code Sets as described under 45 CFR 160 (October 1, 2004) and 45 CFR 162 (October 1, 2004).
 - c. The Administration may deny a claim for failure to comply with subsection (A) (2) (a) or (b).
3. Fee schedule. The Administration shall pay providers, including noncontracting providers, at the lesser of billed charges or the capped fee-for-service rates specified in subsections (A)(3)(a) through (A)(3)(d) unless a different fee is specified in a contract between the Administration and the provider, or is otherwise required by law.
 - a. Physician services. Fee schedules for payment for physician services are on file at the central office of the Administration for reference use during customary business hours.
 - b. Dental services. Fee schedules for payment for dental services are on file at the central office of the Administration for reference use during customary business hours.
 - c. Transportation services. Fee schedules for payment for transportation services are on file at the central office of the Administration for reference use during customary business hours. For dates of service beginning:
 - i. October 1, 2012 through September 30, 2013, the Administration and its contractors shall reimburse ambulance services at 68.59 percent of the ADHS rates that are in effect as of August 2, 2012.
 - ii. October 1, 2013 through September 30, 2014, the Administration and its contractors shall reimburse ambulance services at 68.59 percent of the ADHS rates that are in effect as of August 2, 2013.

iii. October 1, 2014 through September 30, 2015, the Administration and its contractors shall reimburse ambulance services at 74.74 percent of the ADHS rates that are in effect as of August 2, 2014.

d. Medical supplies and durable medical equipment (DME). Fee schedules for payment for medical supplies and DME are on file at the central office of the Administration for reference use during customary business hours. The Administration shall reimburse a provider once for purchase of DME during any two-year period, unless the Administration determines that DME replacement within that period is medically necessary for the member. Unless prior authorized by the Administration, no more than one repair and adjustment of DME shall be reimbursed during any two-year period.

B. Pharmacy services. The Administration shall not reimburse pharmacy services unless the services are provided by a pharmacy having a subcontract with a Pharmacy Benefit Manager (PBM) contracted with AHCCCS. Except as specified in subsection (C), the Administration shall reimburse pharmacy services according to the terms of the contract.

C. FQHC Pharmacy reimbursement.

1. For purposes of this Section the following terms are defined:
 - a. "340B Drug Pricing Program" means the discount drug purchasing program described in 42 U.S.C. 256b.
 - b. "340B Ceiling Price" means the maximum price that drug manufacturers can charge covered entities participating in the 340B Drug Pricing Program as reported by the drug manufacturer to HRSA.
 - c. "340B entity" means a covered entity, eligible to participate in the 340B Drug Pricing Program, as defined by the Health Resources and Human Services Administration.
 - d. "Actual Acquisition Cost (AAC)" means the purchase price of a drug paid by a pharmacy net of discounts, rebates, chargebacks and other adjustments to the price of the drug. The AAC excludes dispensing fees.
 - e. "Contracted Pharmacy" means an arrangement through which a 340B entity may contract with an outside pharmacy to provide comprehensive pharmacy services utilizing medications subject to 340B pricing.
 - f. "Dispensing Fee" means the amount paid for the professional services provided by the pharmacist for dispensing a prescription. The Dispensing Fee does not include any payment for the drugs being dispensed.
 - g. "Federally Qualified Health Center" means a public or private non-profit health care organization that has been identified by HRSA and certified by CMS as meeting the criteria under sections 1861(aa)(4) and 1905(l)(2)(B) of the Social Security Act and receives funds under section 330 of the Public Health Service Act.
 - h. "Federally Qualified Health Center Look-Alike" means a public or private non-profit health care organization that has been identified by HRSA and certified by CMS as meeting the definition of "health center" under section 330 of the Public Health Service Act, but does not receive grant funding under section 330.

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- i. "FQHC or FQHC Look-Alike pharmacy" means a pharmacy that dispenses drugs to FQHC or FQHC-LA patients and that is owned and/or operated by an FQHC/FQHC-LA or by an entity that reports the costs of an FQHC/FQHC-LA on its Medicare Cost Report, whether or not collocated with an FQHC or an FQHC Look-Alike.
2. Effective the later of February 1, 2012, or CMS approval of a State Plan Amendment, an FQHC or FQHC Look-Alike shall:
 - a. Notify the AHCCCS provider registration unit of its status as a 340B covered entity no later than:
 - i. 30 days after the effective date of this Section;
 - ii. 30 days after registration with the Health Resources and Services Administration (HRSA) for participation in the 340B program, or
 - iii. The time of application to become an AHCCCS provider.
 - b. Provide the 340B pricing file to the AHCCCS Administration upon request. The 340B pricing file shall be provided in the file format as defined by AHCCCS.
 - c. Identify 340B drug claims submitted to the AHCCCS FFS PBM or the Managed Care Contractors' PBMs for reimbursement. The 340B drug claim identification and claims processing for a drug claim submission shall be consistent with claim instructions issued and required by AHCCCS to identify such claims.
3. The FQHC and the FQHC Look-Alike pharmacies shall submit claims for AHCCCS members for drugs that are identified in the 340B pricing file, whether or not purchased under the 340B pricing file, with the lesser of:
 - a. The actual acquisition cost, or
 - b. The 340B ceiling price.
4. The AHCCCS Fee-for-Service and Managed Care Contractors' PBMs shall reimburse claims for drugs which are identified in the 340B pricing file dispensed by FQHC and FQHC Look -Alike pharmacies, whether or not purchased under the 340B pricing file, at the amount submitted under subsection (C)(3) plus a dispensing fee listed in the AHCCCS Capped Fee-For-Service Schedule unless a contract between the 340B entity and a Managed Care Contractor's PBM specifies a different dispensing fee.
5. Contracted pharmacies shall not submit claims for drugs dispensed under an agreement with the 340B entity as part of the 340B drug pricing program, and the AHCCCS Administration and Managed Care Contractors shall not reimburse such claims.
6. The AHCCCS Administration and Managed Care Contractors shall reimburse contracted pharmacies for drugs not dispensed under an agreement with the 340B entity as part of the 340B program at the price and dispensing fee set forth in the contract between the contracted pharmacy and the AHCCCS or its Managed Care Contractors' PBMs. Neither the Administration nor its Managed Care Contractors will reimburse a contracted pharmacy that does not have a contract with the Administration or MCO's PBM.
7. The AHCCCS Administration and its Managed Care Contractors shall reimburse FQHC and FQHC Look-Alike pharmacies for drugs that are not eligible under the 340B Drug Pricing Program at the price and dispensing fee set forth in their contract with the AHCCCS or its Managed Care Contractors' PBMs.

8. AHCCCS may periodically conduct audits to ensure compliance with this Section.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-710 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended as an emergency effective February 23, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Amended as a permanent rule effective May 16, 1983; text of amended rule identical to emergency (Supp. 83-3). Former Section R9-22-710 repealed, new Section R9-22-710 adopted effective October 1, 1983 (Supp. 83-5). Amended effective October 1, 1985. The capped fee-for-service schedules, deleted from Section R9-22-710, are now on file at the central office of the Administration (Supp. 85-5). Amended subsections (B) through (D) effective October 1, 1986 (Supp. 86-5). Amended subsection (B) effective July 1, 1988 (Supp. 88-3). Amended subsection (B) effective April 27, 1989 (Supp. 89-2). Amended under an exemption from the provisions of the Administrative Procedure Act, effective March 1, 1993 (Supp. 93-1). Amended effective December 13, 1993 (Supp. 93-4). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 11 A.A.R. 3830, effective November 12, 2005 (Supp. 05-3). Amended by exempt rulemaking at 18 A.A.R. 212, effective February 1, 2012 (Supp. 12-1). Amended by exempt rulemaking at 18 A.A.R. 1971, effective August 1, 2012 (Supp. 12-3). Amended by exempt rulemaking at 18 A.A.R. 2630, effective October 1, 2012 (Supp. 12-4). Amended by final rulemaking at 19 A.A.R. 1681, effective August 9, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3525, effective October 18, 2013 (Supp. 13-4).

R9-22-711. Copayments**A.** For purposes of this Article:

1. A copayment is a monetary amount that a member pays directly to a provider at the time a covered service is rendered.
2. An eligible individual is assigned to a hierarchy established in subsections (B) through (E), for the purposes of establishing a copayment amount.
3. No refunds shall be made for a retroactive period if there is a change in an individual's status that alters the amount of a copayment.

B. The following services are exempt from AHCCCS copayments for all members:

1. Family planning services and supplies,
2. Services related to a pregnancy or any other medical condition that may complicate the pregnancy, including tobacco cessation treatment for a pregnant woman,
3. Emergency services as described in 42 CFR 447.56(2)(i),
4. All services paid on a fee-for-service basis,
5. Preventive services, such as well visits, immunizations, pap smears, colonoscopies, and mammograms,
6. Provider preventable services.

C. The following individuals are exempt from AHCCCS copayments:

1. An individual under age 19, including individuals eligible for the KidsCare Program in A.R.S. § 36-2982;
2. An individual determined to be Seriously Mentally Ill (SMI) by the Arizona Department of Health Services;
3. An individual eligible for the Arizona Long-Term Care Program in A.R.S. § 36-2931;

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4. An individual eligible for QMB under Chapter 29;
 5. An individual eligible for the Children's Rehabilitative Services program under A.R.S. § 36-2906(E);
 6. An individual receiving nursing facility or HCBS services under R9-22-216;
 7. An individual receiving hospice care as defined in 42 U.S.C. 1396d(o);
 8. An American Indian individual enrolled in a health plan and has received services through an IHS facility, tribal 638 facility or urban Indian health program;
 9. An individual eligible in the Breast and Cervical Cancer program as described under Article 20;
 10. An individual who is pregnant and through the postpartum period following the pregnancy;
 11. An individual with respect to whom child welfare services are made available under Part B of Title IV of the Social Security Act on the basis of being a child in foster care, without regard to age;
 12. An individual with respect to whom adoption or foster care assistance is made available under Part E of Title IV of the Social Security Act, without regard to age; and
 13. An adult eligible under R9-22-1427(E), with income at or below 106% of the FPL.
- D. Non-mandatory copayments.** Unless otherwise listed in subsection (B) or (C), individuals under subsections (D)(1) through (6) are subject to the copayments listed in this subsection. A provider shall not deny a service when a member states to the provider an inability to pay a copayment.
1. A caretaker relative eligible under R9-22-1427(A);
 2. An individual eligible for Young Adult Transitional Insurance (YATI) in A.R.S. § 36-2901(6)(a)(iii);
 3. An individual eligible for State Adoption Assistance in R9-22-1433;
 4. An individual eligible for Supplemental Security Income (SSI);
 5. An individual eligible for SSI Medical Assistance Only (SSI/MAO) in Article 15; and
 6. An individual eligible for the Freedom to Work program in A.R.S. § 36-2901(6)(g).
7. Copayment amount per service:
- a. \$2.30 per prescription drug.
 - b. \$3.40 per outpatient visit, excluding an emergency room visit, if any of the services rendered during the visit are coded as evaluation and management services or non-emergent surgical procedures according to the National Standard Code Sets. An outpatient visit includes any setting where these services are performed such as a physician's office, an Ambulatory Surgical Center (ASC), or a clinic.
 - c. \$2.30 per visit, if a copayment is not being imposed under subsection (D)(7)(b) and any of the services rendered during the visit are coded as physical, occupational or speech therapy services according to the National Standard Code Sets.
- E. Mandatory copayments.**
1. Copayments for individuals eligible for Transitional Medical Assistance (TMA) under R9-22-1427(B)(1)(c)(i). Unless otherwise listed in subsection (C), an individual is required to pay the following copayments for prescription drugs and outpatient services unless the service is provided during an emergency room visit or the service is otherwise exempt under subsection (B). An outpatient visit includes any setting where these outpatient services are performed such as, an outpatient hospital, a physician's provider's office, HCBS setting, an Ambulatory Surgical Center (ASC), or a clinic:
 - a. \$2.30 per prescription drug.
 - b. \$4.00 per outpatient visit, if any of the services rendered during the visit are coded as evaluation and management services according to the National Standard Code Sets.
 - c. If a copayment is not being imposed under subsection (E)(1)(b), \$3.00 per visit if any of the services rendered during the visit are coded as physical, occupational or speech therapy services according to the National Standard Code Sets.
 - d. If a copayment is not being imposed under subsection (E)(1)(b) or (c), \$3.00 per visit, if any of the services rendered during the visit are coded as non-emergent surgical procedures according to the National Standard Code Sets.
 2. Copayments for persons eligible under R9-22-1427(E) with income above 106% of the FPL and for persons eligible under A.R.S. §§ 36-2907.10 and 36-2907.11. Subject to CMS approval, unless otherwise listed in subsection (C), these individuals are required to pay the following copayments for prescription drugs and outpatient services unless the service is provided during an emergency room visit or the service is otherwise exempt under subsection (B). An outpatient visit includes any setting where these outpatient services are performed such as, an outpatient hospital, a physician's provider's office, HCBS setting, an Ambulatory Surgical Center (ASC), or a clinic:
 - a. \$4.00 per prescription drug.
 - b. \$5.00 per outpatient visit when the AHCCCS fee schedule for the visit code is a rate from \$50 to less than \$100, if any of the services rendered during the visit are coded as evaluation and management services according to the National Standard Code Sets.
 - c. \$10.00 per outpatient visit when the AHCCCS fee schedule for the visit code is a rate of \$100 or greater, if any of the services rendered during the visit are coded as evaluation and management services according to the National Standard Code Sets.
 - d. If a copayment is not being imposed under subsection (E)(2)(b) or (E)(2)(c), for services coded as physical, occupational or speech therapy services according to the National Standard Code Sets.
 - i. \$2.00 if the rate on the fee schedule is \$20 to \$39.99,
 - ii. \$4.00 if the rate on the fee schedule is \$40 to \$49.99, or
 - iii. \$5.00 if the rate on the fee schedule is \$50 and above per visit.
 - e. If a copayment is not being imposed under subsection (E)(2)(b) – (E)(2)(d), for services coded as non-emergent surgical procedures according to the National Standard Code Sets,
 - i. \$30.00 if the rate on the fee schedule is \$300 to \$499.99, or
 - ii. \$50.00 if the rate on the fee schedule is \$500 and above per visit.
 - f. Unless the individual is otherwise exempt in subsection (C) or the service is exempted under subsection (B) the individual is required to pay \$2.00 per trip for non-emergency transportation in an urban area.
 - g. Unless the individual is otherwise exempt in subsection (C) or the service is exempted under subsection (B) the individual is required to pay \$8.00 for non-emergency use of the emergency room.

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- h. Unless the individual is otherwise exempt in subsection (C) or the service is exempted under subsection (B) the individual is required to pay \$75 for an Inpatient stay.
- 3. The provider may deny a service if the member does not pay the copayment required by subsection (E), however, a provider may choose to reduce or waive copayments under this subsection on a case-by-case basis.
- F. A provider is responsible for collecting any copayment imposed under this Section.
- G. The total aggregate amount of copayments under subsections (D) or (E) may not exceed 5% of the family's income as applied on a quarterly basis. The member may establish that the aggregate limit has been met on a quarterly basis by providing the Administration with records of copayments incurred during the quarter. In addition, the Administration shall also use claims and encounters information available to the Administration to establish when a member's copayment obligation has reached 5% of the family's income.
- H. Reduction in payments to providers. The Administration and its contractors shall reduce the payment it makes to any provider by the amount of a member's copayment obligation under subsection (E), regardless of whether the provider successfully collects the copayments described in this Section.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Sections R9-22-711 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-711 repealed, new Section R9-22-711 adopted effective October 1, 1983 (Supp. 83-5). Amended effective October 1, 1985 (Supp. 85-5). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 26, 1993 (Supp. 93-4). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 3317, effective July 15, 2002 (Supp. 02-3). Amended by exempt rulemaking at 9 A.A.R. 4557, effective October 1, 2003 (Supp. 03-4). Amended by exempt rulemaking at 10 A.A.R. 2194, effective May 3, 2004 (Supp. 04-2). Amended by exempt rulemaking at 10 A.A.R. 4266, effective October 1, 2004 (Supp. 04-3). Amended by final rulemaking at 16 A.A.R. 1449, effective October 1, 2010 (Supp. 10-3). Section amended by exempt rulemaking at 18 A.A.R. 461, effective April 1, 2012 (Supp. 12-1). Section amended by final rulemaking at 19 A.A.R. 2954, effective November 11, 2013 (Supp. 13-3). Amended by exempt rulemaking at 20 A.A.R. 128, effective December 30, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 2755, effective January 1, 2015 (Supp. 14-3).

Editor's Note: The following Section was adopted and amended under an exemption from the provisions of the Administrative Procedure Act which means that this rule was not reviewed by the Governor's Regulatory Review Council; the agency did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the agency was not required to hold public hearings on the rules; and the Attorney General did not certify this rule. This Section was subse-

quently amended through the regular rulemaking process.

R9-22-712. Reimbursement: General

- A. Inpatient and outpatient discounts and penalties. If a claim is pending for additional documentation required under A.R.S. § 36-2903.01(G)(4), the period during which the claim is pending is not used in the calculation of the quick-pay discounts and slow-pay penalties under A.R.S. § 36-2903.01(G)(5).
- B. Inpatient and outpatient in-state or out-of-state hospital payments.
 - 1. Payment for inpatient out-of-state hospital services for claims with discharge dates on or before September 30, 2014. In the absence of a contract with an out-of-state hospital that specifies payment rates, AHCCCS shall reimburse out-of-state hospitals for covered inpatient services by multiplying covered charges by the most recent statewide urban cost-to-charge ratio as determined in R9-22-712.01(6)(d).
 - 2. Payment for inpatient in-state hospital services for claims with discharge dates on or before September 30, 2014. AHCCCS shall reimburse an in-state provider of inpatient hospital services rendered with a discharge date on or before September 30, 2014, at the prospective tiered-per-diem amount in A.R.S. § 36-2903.01 and this Article.
 - 3. Payment for inpatient in-state or out-of-state hospital services for claims with discharge dates on and after October 1, 2014 regardless of admission date. Subject to R9-22-718 and A.R.S. § 36-2905.01 regarding urban hospitals, a contractor shall reimburse an in-state or out-of-state provider of inpatient hospital services, at either a rate specified by subcontract or, in the absence of a subcontract, the DRG rate established by the Administration and this Article. Subcontract rates, terms, and conditions are subject to review and approval or disapproval under A.R.S. § 36-2904 and R9-22-715.
 - 4. Outpatient out-of-state hospital payments. In the absence of a contract with an out-of-state hospital that specifies payment rates, AHCCCS shall reimburse an out-of-state hospital for covered outpatient services by applying the methodology described in R9-22-712.10 through R9-22-712.50. If the outpatient procedure is not assigned a fee schedule amount, the Administration shall pay the claim by multiplying the covered charges for the outpatient services by the statewide outpatient cost-to-charge ratio.
 - 5. Outpatient in-state hospital payments. A contractor shall reimburse an in-state provider of outpatient hospital services rendered on or after July 1, 2005, at either a rate specified by a subcontract or, in absence of a subcontract, as provided under R9-22-712.10, A.R.S. § 36-2903.01 and other sections of this Article. The terms of the subcontract are subject to review and approval or disapproval under A.R.S. § 36-2904 and R9-22-715.
- C. Access to records. Subcontracting and noncontracting providers of outpatient or inpatient hospital services shall allow the Administration access to medical records regarding eligible persons and shall in all other ways fully cooperate with the Administration or the Administration's designated representative in performance of the Administration's utilization control activities. The Administration shall deny a claim for failure to cooperate.
- D. Prior authorization. The Administration or contractor may deny a claim if a provider fails to obtain prior authorization as required under R9-22-210.
- E. Review of claims. Regardless of prior authorization or concurrent review activities, the Administration may subject all hospital claims, including outliers, to prepayment medical review or post-payment review, or both. The Administration shall

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conduct post-payment reviews consistent with A.R.S. § 36-2903.01 and may recoup erroneously paid claims.

F. Claim receipt.

1. The Administration's date of receipt of inpatient or outpatient hospital claims is the date the claim is received by the Administration as indicated by the date stamp on the claim and the system-generated claim reference number or system-generated date-specific number.
2. Hospital claims are considered paid on the date indicated on disbursement checks.
3. A denied claim is considered adjudicated on the date the claim is denied.
4. Claims that are denied and are resubmitted are assigned new receipt dates.
5. For a claim that is pending for additional supporting documentation specified in A.R.S. § 36-2903.01 or 36-2904, the Administration shall assign a new date of receipt upon receipt of the additional documentation.
6. For a claim that is pending for documentation other than the minimum required documentation specified in either A.R.S. § 36-2903.01 or 36-2904, the Administration shall not assign a new date of receipt.

G. Outpatient hospital reimbursement. The Administration shall pay for covered outpatient hospital services provided to eligible persons with dates of service from March 1, 1993 through June 30, 2005, at the AHCCCS outpatient hospital cost-to-charge ratio, multiplied by the amount of the covered charges.

1. Computation of outpatient hospital reimbursement. The Administration shall compute the cost-to-charge ratio on a hospital-specific basis by determining the covered charges and costs associated with treating eligible persons in an outpatient setting at each hospital. Outpatient operating and capital costs are included in the computation but outpatient medical education costs that are included in the inpatient medical education component are excluded. To calculate the outpatient hospital cost-to-charge ratio annually for each hospital, the Administration shall use each hospital's Medicare Cost Reports and a database consisting of outpatient hospital claims paid and encounters processed by the Administration for each hospital, subjecting both to the data requirements specified in R9-22-712.01. The Administration shall use the following methodology to establish the outpatient hospital cost-to-charge ratios:

- a. Cost-to-charge ratios. The Administration shall calculate the costs of the claims and encounters for outpatient hospital services by multiplying the ancillary line item cost-to-charge ratios by the covered charges for corresponding revenue codes on the claims and encounters. Each hospital shall provide the Administration with information on how the revenue codes used by the hospital to categorize charges on claims and encounters correspond to the ancillary line items on the hospital's Medicare Cost Report. The Administration shall then compute the overall outpatient hospital cost-to-charge ratio for each hospital by taking the average of the ancillary line items cost-to-charge ratios for each revenue code weighted by the covered charges.
- b. Cost-to-charge limit. To comply with 42 CFR 447.325, the Administration may limit cost-to-charge ratios to 1.00 for each ancillary line item from the Medicare Cost Report. The Administration shall remove ancillary line items that are non-covered or not applicable to outpatient hospital services from the Medicare Cost Report data for purposes of

computing the overall outpatient hospital cost-to-charge ratio.

2. New hospitals. The Administration shall reimburse new hospitals at the weighted statewide average outpatient hospital cost-to-charge ratio multiplied by covered charges. The Administration shall continue to use the statewide average outpatient hospital cost-to-charge ratio for a new hospital until the Administration rebases the outpatient hospital cost-to-charge ratios and the new hospital has a Medicare Cost Report for the fiscal year being used in the rebasing.
3. Specialty outpatient services. The Administration may negotiate, at any time, reimbursement rates for outpatient hospital services in a specialty facility.
4. Reimbursement requirements. To receive payment from the Administration, a hospital shall submit claims that are legible, accurate, error free, and have a covered charge greater than zero. The Administration shall not reimburse hospitals for emergency room treatment, observation hours or days, or other outpatient hospital services performed on an outpatient basis, if the eligible person is admitted as an inpatient to the same hospital directly from the emergency room, observation area, or other outpatient department. Services provided in the emergency room, observation area, and other outpatient hospital services provided before the hospital admission are included in the tiered per diem payment.
5. Rebasing. The Administration shall rebase the outpatient hospital cost-to-charge ratios at least every four years but no more than once a year using updated Medicare Cost Reports and claim and encounter data.
6. If a hospital files an increase in its charge master for an existing outpatient service provided on or after July 1, 2004, and on or before June 30, 2005, which represents an aggregate increase in charges of more than 4.7%, the Administration shall adjust the hospital-specific cost-to-charge ratio as calculated under subsection (G)(1) through (5) by applying the following formula:

$$CCR * [1.047 / (1 + \% \text{ increase})]$$

Where "CCR" means the hospital-specific cost-to-charge ratio as calculated under subsection (G)(1) through (5) and "% increase" means the aggregate percentage increase in charges for outpatient services shown on the hospital charge master.

"Charge master" means the schedule of rates and charges as described under A.R.S. § 36-436 and the rules that relate to those rates and charges that are filed with the Director of the Arizona Department of Health Services.

Historical Note

Adopted as an emergency effective February 23, 1983 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Adopted as a permanent rule effective May 16, 1983; text of adopted rule identical to emergency (Supp. 83-3). Former Section R9-22-712 repealed, new Section R9-22-712 adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-712 renumbered and amended as Section R9-22-1001 effective October 1, 1985 (Supp. 85-5). New Section R9-22-712 adopted under an exemption from the provisions of the Administrative Procedure Act, effective March 1, 1993 (Supp. 93-1). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993

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(Supp. 93-3). Amended effective January 14, 1997 (Supp. 97-1). Amended by exempt rulemaking at 10 A.A.R. 3831, effective August 25, 2004 (Supp. 04-3). Amended by exempt rulemaking at 11 A.A.R. 2297, effective July 1, 2005 (Supp. 05-2). Amended by final rulemaking at 11 A.A.R. 3231, effective October 1, 2005 (Supp. 05-3). Amended by final rulemaking at 14 A.A.R. 1439, effective May 31, 2008 (Supp. 08-2). Amended by exempt rulemaking at 17 A.A.R. 1337, effective October 1, 2011 (Supp. 11-3). Amended by final rulemaking at 17 A.A.R. 1658, effective August 2, 2011 (Supp. 11-3). Amended by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).

R9-22-712.01. Inpatient Hospital Reimbursement for claims with admission dates and discharge dates from October 1, 1998 through September 30, 2014

Inpatient hospital reimbursement. The Administration shall pay for covered inpatient acute care hospital services provided to eligible persons for claims with admission dates and discharge dates from October 1, 1998 through September 30, 2014, on a prospective reimbursement basis. The prospective rates represent payment in full, excluding quick-pay discounts, slow-pay penalties, and third-party payments for both accommodation and ancillary department services. The rates include reimbursement for operating and capital costs. The Administration shall make reimbursement for direct graduate medical education as described in A.R.S. § 36-2903.01. For payment purposes, the Administration shall classify each AHCCCS inpatient hospital day of care into one of several tiers appropriate to the services rendered. The rate for a tier is referred to as the tiered per diem rate of reimbursement. The number of tiers is seven and the maximum number of tiers payable per continuous stay is two. Payment of outlier claims, transplant claims, or payment to out-of-state hospitals, freestanding psychiatric hospitals, and other specialty facilities may differ from the inpatient hospital tiered per diem rates of reimbursement described in this Section.

1. Tier rate data. The Administration shall base tiered per diem rates effective on and after October 1, 1998 on Medicare Cost Reports for Arizona hospitals for the fiscal year ending in 1996 and a database consisting of inpatient hospital claims and encounters for dates of service matching each hospital's 1996 fiscal year end.
 - a. Medicare Cost Report data. Because Medicare Cost Report years are not standard among hospitals and were not audited at the time of the rate calculation, the Administration shall inflate all the costs to a common point in time as described in subsection (2) for each component of the tiered per diem rates. The Administration shall not make any changes to the tiered per diem rates if the Medicare Cost Report data are subsequently updated or adjusted. If a single Medicare Cost Report is filed for more than one hospital, the Administration shall allocate the costs to each of the respective hospitals. A hospital shall submit information to assist the Administration in this allocation.
 - b. Claim and encounter data. For the database, the Administration shall use only those inpatient hospital claims paid by the Administration and encounters that were accepted and processed by the Administration at the time the database was developed for rates effective on and after October 1, 1998. The Administration shall subject the claim and encounter data to a series of data quality, reasonableness, and integrity edits and shall exclude from the database or adjust claims and encounters that fail these edits.

The Administration shall also exclude from the database the following claims and encounters:

- i. Those missing information necessary for the rate calculation,
 - ii. Medicare crossovers,
 - iii. Those submitted by freestanding psychiatric hospitals, and
 - iv. Those for transplant services or any other hospital service that the Administration would pay on a basis other than the tiered per diem rate.
2. Tier rate components. The Administration shall establish inpatient hospital prospective tiered per diem rates based on the sum of the operating and capital components. The rate for the operating component is a statewide rate for each tier except for the NICU and Routine tiers, which are based on peer groups. The rate for the capital component is a blend of statewide and hospital-specific values, as described in A.R.S. § 36-2903.01. The Administration shall use the following methodologies to establish the rates for each of these components.
 - a. Operating component. Using the Medicare Cost Reports and the claim and encounter database, the Administration shall compute the rate for the operating component as follows:
 - i. Data preparation. The Administration shall identify and group into department categories, the Medicare Cost Report data that provide ancillary department cost-to-charge ratios and accommodation costs per day. To comply with 42 CFR 447.271, the Administration shall limit cost-to-charge ratios to 1.00 for each ancillary department.
 - ii. Operating cost calculation. To calculate the rate for the operating component, the Administration shall derive the operating costs from claims and encounters by combining the Medicare Cost Report data and the claim and encounter database for all hospitals. In performing this calculation, the Administration shall match the revenue codes on the claims and encounters to the departments in which the line items on the Medicare Cost Reports are grouped. The ancillary department cost-to-charge ratios for a particular hospital are multiplied by the covered ancillary department charges on each of the hospital's claims and encounters. The AHCCCS inpatient days of care on the particular hospital's claims and encounters are multiplied by the corresponding accommodation costs per day from the hospital's Medicare Cost Report. The ancillary cost-to-charge ratios and accommodation costs per day do not include medical education and capital costs. The Administration shall inflate the resulting operating costs for the claims and encounters of each hospital to a common point in time, December 31, 1996, using the DRI inflation factor and shall reduce the operating costs for the hospital by an audit adjustment factor based on available national data and Arizona historical experience in adjustments to Medicare reimbursable costs. The Administration shall further inflate operating costs to the midpoint of the rate year (March 31, 1999).
 - iii. Operating cost tier assignment. After calculating the operating costs, the Administration

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- shall assign the claims and encounters used in the calculation to tiers based on diagnosis, procedure, or revenue codes, or NICU classification level, or a combination of these. For the NICU tier, the Administration shall further assign claims and encounters to NICU Level II or NICU Level III peer groups, based on the hospital's certification by the Arizona Perinatal Trust. For the Routine tier, the Administration shall further assign claims and encounters to the general acute care hospital or rehabilitation hospital peer groups, based on state licensure by the Department of Health Services. For claims and encounters assigned to more than one tier, the Administration shall allocate ancillary department costs to the tiers in the same proportion as the accommodation costs. Before calculating the rate for the operating component, the Administration shall identify and exclude any claims and encounters that are outliers as defined in subsection (6).
- iv. Operating rate calculation. The Administration shall set the rate for the operating component for each tier by dividing total statewide or peer group hospital costs identified in this subsection within the tier by the total number of AHCCCS inpatient hospital days of care reflected in the claim and encounter database for that tier.
 - b. Capital component. For rates effective October 1, 1999 the capital component is calculated as described in A.R.S. § 36-2903.01.
 - c. Statewide inpatient hospital cost-to-charge ratio. For dates of service prior to October 1, 2007, the statewide inpatient hospital cost-to-charge ratio is used for payment of outliers, as described in subsections (4), (5), and (6), and out-of-state hospitals, as described in R9-22-712(B). The Administration shall calculate the AHCCCS statewide inpatient hospital cost-to-charge ratio by using the Medicare Cost Report data and claim and encounter database described in subsection (1) and used to determine the tiered per diem rates. For each hospital, the covered inpatient days of care on the claims and encounters are multiplied by the corresponding accommodation costs per day from the Medicare Cost Report. Similarly, the covered ancillary department charges on the claims and encounters are multiplied by the ancillary department cost-to-charge ratios. The accommodation costs per day and the ancillary department cost-to-charge ratios for each hospital are determined in the same way described in subsection (2)(a) but include costs for operating and capital. The Administration shall then calculate the statewide inpatient hospital cost-to-charge ratio by summing the covered accommodation costs and ancillary department costs from the claims and encounters for all hospitals and dividing by the sum of the total covered charges for these services for all hospitals.
 - d. Unassigned tiered per diem rates. If a hospital has an insufficient number of claims to set a tiered per diem rate, the Administration shall pay that hospital the statewide average rate for that tier.
3. Tier assignment. The Administration shall assign AHCCCS inpatient hospital days of care to tiers based on information submitted on the inpatient hospital claim or encounter including diagnosis, procedure, or revenue codes, peer group, NICU classification level, or a combination of these.
 - a. Tier hierarchy. In assigning claims for AHCCCS inpatient hospital days of care to a tier, the Administration shall follow the Hierarchy for Tier Assignment through September 30, 2014 in R9-22-712.09. The Administration shall not pay a claim for inpatient hospital services unless the claim meets medical review criteria and the definition of a clean claim. The Administration shall not pay for a hospital stay on the basis of more than two tiers, regardless of the number of interim claims that are submitted by the hospital.
 - b. Tier exclusions. The Administration shall not assign to a tier or pay AHCCCS inpatient hospital days of care that do not occur during a period when the person is eligible. Except in the case of death, the Administration shall pay claims in which the day of admission and the day of discharge are the same, termed a same day admit and discharge, including same day transfers, as an outpatient hospital claim. The Administration shall pay same day admit and discharge claims that qualify for either the maternity or nursery tiers based on the lesser of the rate for the maternity or nursery tier, or the outpatient hospital fee schedule.
 - c. Seven tiers. The seven tiers are:
 - i. Maternity. The Administration shall identify the Maternity Tier by a primary diagnosis code. If a claim has an appropriate primary diagnosis, the Administration shall pay the AHCCCS inpatient hospital days of care on the claim at the maternity tiered per diem rate.
 - ii. NICU. The Administration shall identify the NICU Tier by a revenue code. A hospital does not qualify for the NICU tiered per diem rate unless the hospital is classified as either a NICU Level II or NICU Level III perinatal center by the Arizona Perinatal Trust. The Administration shall pay AHCCCS inpatient hospital days of care on the claim that meet the medical review criteria for the NICU tier and have a NICU revenue code at the NICU tiered per diem rate. The Administration shall pay any remaining AHCCCS inpatient hospital day on the claim that does not meet NICU Level II or NICU Level III medical review criteria at the nursery tiered per diem rate.
 - iii. ICU. The Administration shall identify the ICU Tier by a revenue code. The Administration shall pay AHCCCS inpatient hospital days of care on the claim that meets the medical review criteria for the ICU tier and has an ICU revenue code at the ICU tiered per diem rate. The Administration may classify any AHCCCS inpatient hospital days on the claim without an ICU revenue code, as surgery, psychiatric, or routine tiers.
 - iv. Surgery. The Administration shall identify the Surgery Tier by a revenue code and a valid surgical procedure code that is not on the AHCCCS excluded surgical procedure list. The excluded surgical procedure list identifies minor procedures such as sutures that do not require the same hospital resources as other

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- procedures. The Administration shall only split a surgery tier with an ICU tier. AHCCCS shall pay at the surgery tier rate only when the surgery occurs on a date during which the member is eligible.
- v. Psychiatric. The Administration shall identify the Psychiatric Tier by either a psychiatric revenue code and a psychiatric diagnosis or any routine revenue code if all diagnosis codes on the claim are psychiatric. The Administration shall not split a claim with AHCCCS inpatient hospital days of care in the psychiatric tier with any tier other than the ICU tier.
 - vi. Nursery. The Administration shall identify the Nursery Tier by a revenue code. The Administration shall not split a claim with AHCCCS inpatient hospital days of care in the nursery tier with any tier other than the NICU tier.
 - vii. Routine. The Administration shall identify the Routine Tier by revenue codes. The routine tier includes AHCCCS inpatient hospital days of care that are not classified in another tier or paid under any other provision of this Section. The Administration shall not split the routine tier with any tier other than the ICU tier.
4. Annual update. The Administration shall annually update the inpatient hospital tiered per diem rates through September 30, 2011.
 5. New hospitals. For rates effective on and after October 1, 1998, the Administration shall pay new hospitals the statewide average rate for each tier, as appropriate. The Administration shall update new hospital tiered per diem rates through September 30, 2011.
 6. Outliers. The Administration shall reimburse hospitals for AHCCCS inpatient hospital days of care identified as outliers under this Section by multiplying the covered charges on a claim by the Medicare Urban or Rural Cost-to-Charge Ratio. The Urban cost-to-charge ratio will be used for hospitals located in a county of 500,000 residents or more. The Rural cost-to-charge ratio will be used for hospitals located in a county of fewer than 500,000 residents.
 - a. Outlier criteria. For rates effective on and after October 1, 1998, the Administration set the statewide outlier cost threshold for each tier at the greater of three standard deviations from the statewide mean operating cost per day within the tier, or two standard deviations from the statewide mean operating cost per day across all the tiers. If the covered costs per day on a claim exceed the urban or rural cost threshold for a tier, the claim is considered an outlier. Outliers will be paid by multiplying the covered charges by the applicable Medicare Urban or Rural CCR. The resulting amount will be the outlier payment. If there are two tiers on a claim, the Administration shall determine whether the claim is an outlier by using a weighted threshold for the two tiers. The weighted threshold is calculated by multiplying each tier rate by the number of AHCCCS inpatient hospital days of care for that tier and dividing the product by the total tier days for that hospital. Routine maternity stays shall be excluded from outlier reimbursement. A routine maternity is any one-day stay with a delivery of one or two babies. A routine maternity stay will be paid at tier.
 - b. Update. The CCR is updated annually by the Administration for dates of service beginning October 1, using the most current Medicare cost-to-charge ratios published or placed on display by CMS by August 31 of that year. The Administration shall update the outlier cost thresholds for each hospital through September 30, 2011 as described under A.R.S. § 36-2903.01. For inpatient hospital admissions with begin dates of service on and after October 1, 2011, AHCCCS will increase the outlier cost thresholds by 5% of the thresholds that were effective on September 30, 2011.
 - c. Medicare Cost-to-Charge Ratio Phase-In. AHCCCS shall phase in the use of the Medicare Urban or Rural Cost-to-Charge Ratios for outlier determination, calculation and payment. The three-year phase-in does not apply to out-of-state or new hospitals.
 - i. Medicare Cost-to-Charge Ratio Phase-In outlier determination and threshold calculation. For outlier claims with dates of service on or after October 1, 2007 through September 30, 2008, AHCCCS shall adjust each hospital specific inpatient cost-to-charge ratio in effect on September 30, 2007 by subtracting one-third of the difference between the hospital specific inpatient cost-to-charge ratio and the effective Medicare Urban or Rural Cost-to-Charge Ratio. For outlier claims with dates of service on or after October 1, 2008 through September 30, 2009, AHCCCS shall adjust each hospital specific inpatient cost-to-charge ratio in effect on September 30, 2007 by subtracting two-thirds of the difference between the hospital specific inpatient cost-to-charge ratio and the effective Medicare Urban or Rural Cost-to-Charge Ratio. The adjusted hospital specific inpatient cost-to-charge ratios shall be used for all calculations using the Medicare Urban or Rural Cost-to-Charge Ratios, including outlier determination, and threshold calculation.
 - ii. Medicare Cost-to-Charge Ratio Phase-In calculation for payment. For payment of outlier claims with dates of service on or after October 1, 2007 through September 30, 2008, AHCCCS shall adjust the statewide inpatient hospital cost-to-charge ratio in effect on September 30, 2007 by subtracting one-third of the difference between the statewide inpatient hospital cost-to-charge ratio and the effective Medicare urban or rural cost-to-charge ratio. For payment of outlier claims with dates of service on or after October 1, 2008 through September 30, 2009, AHCCCS shall adjust the statewide inpatient hospital cost-to-charge ratio in effect on September 30, 2007 by subtracting two-thirds of the difference between the statewide inpatient hospital cost-to-charge ratio and the effective Medicare urban or rural cost-to-charge ratio.
 - iii. Medicare Cost-to-Charge Ratio for outlier determination, threshold calculation, and payment. For outlier claims with dates of service on or after October 1, 2009, the full Medicare Urban or Rural Cost-to-Charge Ratios shall be utilized for all outlier calculations.

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- d. Cost-to-Charge Ratio used for qualification and payment of outlier claims.
 - i. For qualification and payment of outlier claims with begin dates of service on or after April 1, 2011 through September 30, 2011, the CCR will be equal to 95% of the ratios in effect on October 1, 2010.
 - ii. For qualification and payment of outlier claims with begin dates of service on or after October 1, 2011, the CCR will be equal to 90.25% of the most recent published Urban or Rural Medicare CCR as described in subsection (6)(b).
 - iii. For qualification and payment of outlier claims with begin dates of service on or after October 1, 2011 through September 30, 2012, AHCCCS will reduce the cost-to-charge ratio determined under subsection (6)(d)(ii) for a hospital that filed a charge master with ADHS on or after April 1, 2011 by an additional percentage equal to the total percent increase reported on the charge master.
 - iv. Subject to approval by CMS, for qualification and payment of outlier claims with begin dates of service on or after October 1, 2012, AHCCCS will reduce the cost-to-charge ratio determined under subsection (6)(d)(ii) for a hospital that filed a charge master with ADHS on or after June 1, 2012 by an additional percentage equal to the total percent increase reported on the charge master.
7. Transplants. The Administration shall reimburse hospitals for an AHCCCS inpatient stay in which a covered transplant as described in R9-22-206 is performed through the terms of the relevant contract. If the Administration and a hospital that performs transplant surgery on an eligible person do not have a contract for the transplant surgery, the Administration shall not reimburse the hospital more than what would have been paid to the contracted hospital for that same surgery.
8. Ownership change. The Administration shall not change any of the components of a hospital's tiered per diem rates upon an ownership change.
9. Psychiatric hospitals. The Administration shall pay free-standing psychiatric hospitals an all-inclusive per diem rate based on the contracted rates used by the Department of Health Services.
10. Specialty facilities. The Administration may negotiate, at any time, reimbursement rates for inpatient specialty facilities or inpatient hospital services not otherwise addressed in this Section as provided by A.R.S. § 36-2903.01. For purposes of this subsection, "specialty facility" means a facility where the service provided is limited to a specific population, such as rehabilitative services for children.
11. Outliers for new hospitals. Outliers for new hospitals will be calculated using the Medicare Urban or Rural Cost-to-Charge Ratio times covered charges. If the resulting cost is equal to or above the cost threshold, the claim will be paid at the Medicare Urban or Rural Cost-to-Charge ratio.
12. Reductions to tiered per diem payment for inpatient hospital services. Inpatient hospital admissions with begin dates of service on or after October 1, 2011, shall be reimbursed at 95 percent of the tiered per diem rates in effect on September 30, 2011.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 3231, effective October 1, 2005 (Supp. 05-3). Amended by exempt rulemaking at 13 A.A.R. 3190, effective October 1, 2007 (Supp. 07-3). Amended by exempt rulemaking at 17 A.A.R. 1337, effective October 1, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 1914, effective July 18, 2012 (Supp. 12-3). Amended by final rulemaking at 19 A.A.R. 3315, effective November 30, 2013 (Supp. 13-4). Amended by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).

R9-22-712.02. Reserved

R9-22-712.03. Reserved

R9-22-712.04. Reserved

R9-22-712.05. Graduate Medical Education Fund Allocation

- A. Graduate medical education (GME) reimbursement as of September 30, 1997. Subject to legislative appropriation, the Administration shall make a distribution based on direct graduate medical education costs as described in A.R.S. § 36-2903.01(G)(9)(a).
- B. Subject to available funds and approval by CMS, the Administration shall annually distribute monies appropriated for the expansions of GME programs approved by the Administration to hospitals for direct program costs eligible for funding under A.R.S. § 36-2903.01(G)(9)(b). A GME program is deemed to be established as of the date of its original accreditation. All determinations that are necessary to make distributions described by this subsection shall be made using information possessed by the Administration as of the date of reporting under subsection (B)(3).
 1. Eligible health care facilities. A health care facility is eligible for distributions under subsection (B) if all of the following apply:
 - a. It is a hospital in Arizona that is the sponsoring institution of, or a participating institution in, one or more of the GME programs in Arizona;
 - b. It incurs direct costs for the training of residents in the GME programs, which costs are or will be reported on the hospital's Medicare Cost Report;
 - c. It is not administered by or does not receive its primary funding from an agency of the federal government.
 2. Eligible resident positions. For purposes of determining program allocation amounts under subsection (B)(4) the following resident positions are eligible for consideration to the extent that the resident training takes place in Arizona and not at a health care facility made ineligible under subsection (B)(1)(c):
 - a. Filled resident positions in approved programs established as of October 1, 1999 at hospitals that receive funding as described in A.R.S. § 36-2903.01(G)(9)(a) that are additional to the number of resident positions that were filled as of October 1, 1999; and
 - b. All filled resident positions in approved programs other than GME programs described in A.R.S. § 36-2903.01(G)(9)(a) that were established before July 1, 2006.
 3. Annual reporting. By April 1st of each year, each GME program and each hospital seeking a distribution under subsection (B) shall provide the applicable information listed in this subsection to the Administration:
 - a. A GME program shall provide all of the following:

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- i. The program name and number assigned by the accrediting organization;
 - ii. The original date of accreditation;
 - iii. The names of the sponsoring institution and all participating institutions current as of the date of reporting;
 - iv. The number of approved resident positions and the number of filled resident positions current as of the date of reporting;
 - v. For programs established as of October 1, 1999, the number of resident positions that were filled as of October 1, 1999, if the program has not already provided this information to the Administration;
 - b. A hospital seeking a distribution under subsection (B) shall provide all of the following that apply:
 - i. If the hospital uses the Intern and Resident Information System (IRIS) for tracking and reporting its resident activity to the fiscal intermediary, copies of the IRIS master and assignment files for the hospital's two most recently completed Medicare cost reporting years as filed with the fiscal intermediary;
 - ii. If the hospital does not use the IRIS or has less than two cost reporting years available in the form of the IRIS master and assignment files, the information normally contained in the IRIS master and assignment files in an alternative format for the hospital's two most recently completed Medicare cost reporting years;
 - iii. At the request of the Administration, a copy of the hospital's Medicare Cost Report or any part of the report for the most recently completed cost reporting year.
4. Allocation of expansion funds. Annually the Administration shall allocate available funds to each approved GME program in the following manner:
- a. Information provided by hospitals under subsection (B)(3)(b) shall be used to determine the program in which each eligible resident is enrolled and the number of days that each eligible resident worked in any area of the hospital complex or in a non-hospital setting under agreement with the reporting hospital during the period of assignment to that hospital. For this purpose, the Administration shall use data relating to the most recent 12-month period that is common to all information provided under subsections (B)(3)(b)(i) and (ii).
 - b. The number of eligible residents allocated to each participating institution within each approved GME program shall be determined as follows:
 - i. Total the number of days determined for each participating institution under subsection (B)(4)(a) and divide each total by 365.
 - ii. Proportionally adjust the result of subsection (B)(4)(b)(i) for each participating institution within each program according to the number of residents determined to be eligible under subsection (B)(2).
 - c. The number of allocated eligible residents determined under subsection (B)(4)(b)(ii) shall be adjusted for Arizona Medicaid utilization using the most recent Medicare Cost Report information on file with the Administration as of the date of reporting under subsection (B)(3) and the Administration's inpatient hospital claims and encounter data for the time period corresponding to the Medicare Cost Report information for each hospital. The Administration shall use only those inpatient hospital claims paid by the Administration and encounters that were adjudicated by the Administration as of the date of reporting under subsection (B)(3). The Medicaid-adjusted eligible residents shall be determined as follows:
 - i. For each hospital, the total AHCCCS inpatient hospital days of care shall be divided by the total Medicare Cost Report inpatient hospital days, multiplied by 100 and rounded up to the nearest multiple of 5 percent.
 - ii. The number of allocated eligible residents determined for each participating hospital under subsection (B)(4)(b)(ii) shall be multiplied by the percentage derived under subsection (B)(4)(c)(i) for that hospital. The number of allocated eligible residents determined under subsection (B)(4)(b)(ii) for a participating institution that is not a hospital and not a health care facility made ineligible under subsection (B)(1)(c) shall be multiplied by the percentage derived under subsection (B)(4)(c)(i) for the program's sponsoring institution or, if the sponsoring institution is not a hospital, the sponsoring institution's affiliated hospital. The number of allocated eligible residents determined under subsection (B)(4)(b)(ii) for a participating institution that is made ineligible under subsection (B)(1)(c) shall be multiplied by zero percent.
 - d. The total allocation for each approved program shall be determined by multiplying the Medicaid-adjusted eligible residents determined under subsection (B)(4)(c)(ii) by the per resident conversion factor determined below and totaling the resulting dollar amounts for all participating institutions in the program. The per resident conversion factor shall be determined as follows:
 - i. Calculate the total direct GME costs from the most recent Medicare Cost Reports on file with the Administration for all hospitals that have reported such costs.
 - ii. Calculate the total allocated residents determined under subsection (B)(4)(b)(i) for those hospitals described under subsection (B)(4)(d)(i).
 - iii. Divide the total GME costs calculated under subsection (B)(4)(d)(i) by the total allocated residents calculated under subsection (B)(4)(d)(ii).
5. Distribution of expansion funds. On an annual basis subject to available funds, the Administration shall distribute the allocated amounts determined under subsection (B)(4) in the following manner:
- a. The allocated amounts shall be distributed in the following order of priority:
 - i. To eligible hospitals that do not receive funding in accordance with A.R.S. § 36-2903.01(G)(9)(a) for the direct costs of programs established before July 1, 2006;
 - ii. To eligible hospitals that receive funding in accordance with A.R.S. § 36-2903.01(G)(9)(a) for the direct costs of programs established before July 1, 2006;

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- b. The allocated amounts shall be distributed to the eligible hospitals in each approved program in proportion to the number of Medicaid-adjusted eligible residents allocated to each hospital within that program under subsection (B)(4)(c)(ii).
 - c. If funds are insufficient to cover all distributions within any priority group described under subsection (B)(5)(a), the Administration shall adjust the distributions proportionally within that priority group.
- C. Subject to available funds and approval by CMS, the Administration shall annually distribute monies appropriated for the expansions of GME programs approved by the Administration to hospitals for direct program costs eligible for funding under A.R.S. § 36-2903.01(G)(9)(c)(i). A GME program is deemed to be established as of the date of its original accreditation. All determinations that are necessary to make distributions described by this subsection shall be made using information possessed by the Administration as of the date of reporting under subsection (C)(3).
 - 1. Eligible health care facilities. A health care facility is eligible for distributions under subsection (C) if it meets all the conditions of subsections (B)(1)(a) through (c).
 - 2. Eligible resident positions. For purposes of determining program allocation amounts under subsection (C)(4), the following resident positions are eligible for consideration to the extent that the resident training takes place in Arizona and not at a health care facility made ineligible under subsection (B)(1)(c):
 - a. All filled resident positions in approved programs established on or after July 1, 2006; and
 - b. For approved programs established on or after July 1, 2006 that have been established for less than one year as of the date of reporting under subsection (C)(3) and have not yet filled their first-year resident positions, all prospective residents reasonably expected by the program to be enrolled as a result of the most recently completed annual resident match.
 - 3. Annual reporting. By April 1st of each year, each GME program and each hospital seeking a distribution under subsection (C) shall provide to the Administration:
 - a. A GME program shall provide all of the following:
 - i. The requirements of subsections (B)(3)(a)(i) through (iv);
 - ii. The academic year rotation schedule on file with the program current as of the date of reporting; and
 - iii. For programs described under subsection (C)(2)(b), the number of residents expected to be enrolled as a result of the most recently completed annual resident match.
 - b. A hospital seeking a distribution under subsection (C) shall provide the requirements of subsection (B)(3)(b).
 - 4. Allocation of expansion funds. Annually the Administration shall allocate available funds to approved GME programs in the following manner:
 - a. Information provided by hospitals in accordance with subsection (B)(3)(b) shall be used to determine the program in which each eligible resident is enrolled and the number of days that each eligible resident worked in any area of the hospital complex or in a non-hospital setting under agreement with the reporting hospital during the period of assignment to that hospital. For this purpose, the Administration shall use data relating to the most recent 12-month period that is common to all information provided in accordance with subsections (B)(3)(b)(i) and (ii).
- b. For approved programs whose resident activity is not represented in the information provided in accordance with subsection (B)(3)(b), information provided by GME programs under subsection (C)(3)(a) shall be used to determine the number of days that each eligible resident is expected to work at each participating institution.
 - c. The number of eligible residents allocated to each participating institution for each approved GME program shall be determined by totaling the number of days determined under subsections (C)(4)(a) and (b) and dividing the totals by 365.
 - d. The number of allocated residents determined under subsection (C)(4)(c) shall be adjusted for Arizona Medicaid utilization in accordance with subsection (B)(4)(c).
 - e. The total allocation for each approved program shall be determined in accordance with subsection (B)(4)(d).
- 5. Distribution of expansion funds. On an annual basis subject to available funds, the Administration shall distribute the allocated amounts determined under subsection (C)(4) to the eligible hospitals in each approved program in proportion to the number of Medicaid-adjusted eligible residents allocated to each within that program under subsection (C)(4)(d).
- D. Subject to available funds and approval by CMS, the Administration shall annually distribute monies appropriated for GME programs approved by the Administration to hospitals for indirect program costs eligible for funding under A.R.S. § 36-2903.01(G)(9)(c)(ii). A GME program is deemed to be established as of the date of its original accreditation. All determinations that are necessary to make distributions described by this subsection shall be made using information possessed by the Administration as of the date of reporting under subsection (D)(3).
 - 1. Eligible health care facilities. A health care facility is eligible for distributions under subsection (D) if all of the following apply:
 - a. It is a hospital in Arizona that is the sponsoring institution of, or a participating institution in, one or more of the GME programs in Arizona or is the base hospital for one or more of the GME programs in Arizona whose sponsoring institutions are not hospitals;
 - b. It incurs indirect program costs for the training of residents in the GME programs, which are or will be calculated on the hospital's Medicare Cost Report or are reimbursable under the Children's Hospitals Graduate Medical Education Payment Program administered by HRSA;
 - c. It is not administered by or does not receive its primary funding from an agency of the federal government.
 - 2. Eligible resident positions. For purposes of determining program allocation amounts under subsection (D)(4) the following resident positions are eligible for consideration to the extent that the resident training takes place in Arizona and not at a health care facility made ineligible under subsection (D)(1)(c):
 - a. Any filled resident position in an approved program that includes a rotation of at least one month per year in a county other than Maricopa or Pima whose population was less than 500,000 persons at the time the

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- residency rotation was added to the academic year rotation schedule;
- b. For approved programs that have been established for less than one year as of the date of reporting under subsection (D)(3) and have not yet filled their first-year resident positions, all prospective residents reasonably expected by the program to be enrolled as a result of the most recently completed annual resident match who will perform rotations of at least one month per year in a county other than Maricopa or Pima whose population was less than 500,000 persons at the time the residency rotation was added to the academic year rotation schedule.
3. Annual reporting. By April 1st of each year, each GME program and each hospital seeking a distribution under subsection (D) shall provide to the Administration:
 - a. A GME program shall provide all of the following:
 - i. The requirements of subsections (B)(3)(a)(i) through (iv);
 - ii. The academic year rotation schedule on file with the program current as of the date of reporting;
 - iii. For programs described under subsection (D)(2)(c), the number of residents expected to be enrolled as a result of the most recently completed annual resident match.
 - b. A hospital seeking a distribution under subsection (D) shall provide the requirements of subsection (B)(3)(b)(iii).
 4. Allocation of funds for indirect program costs. Annually the Administration shall allocate available funds to approved GME programs in the following manner:
 - a. Using the information provided by programs under subsection (D)(3), the Administration shall determine for each program the number of residents in the program who are eligible under subsection (D)(2) and the number of months per year that each eligible resident will perform rotations in counties described by subsection (D)(2), multiply the number of eligible residents by the number of months and multiply the result by the per resident per month conversion factor determined under subsection (D)(4)(b).
 - b. Using the most recent Medicare Cost Reports on file with the Administration for all hospitals that have calculated a Medicare indirect medical education payment, the Administration shall determine a per resident per month conversion factor as follows:
 - i. Calculate each hospital's Medicaid share by dividing the AHCCCS inpatient hospital days of care by the total inpatient hospital days from the Medicare Cost Report. For this purpose, the Administration shall use the information described by subsection (B)(4)(c) for adjusting allocated residents for Arizona Medicaid utilization.
 - ii. Calculate each hospital's Medicare share by dividing the Medicare inpatient days on the Medicare Cost Report by the total inpatient hospital days on the Medicare Cost Report.
 - iii. Divide the Medicaid share by the Medicare share and multiply the resulting ratio by the indirect medical education payment calculated on the Medicare Cost Report.
 - iv. Total the results for all hospitals, divide the result by the total allocated residents determined under subsection (B)(4)(b)(ii) for these hospitals, and divide that result by 12.
 5. Distribution of funds for indirect program costs. On an annual basis subject to available funds, the Administration shall distribute to each eligible hospital the amount calculated for the hospital at subsection (D)(4)(a).
- E. Reallocation of funds. If funds appropriated for subsection (B) are not allocated by the Administration and funds appropriated for subsections (C) and (D) are insufficient to cover all distributions under subsections (C)(5) and (D)(5), the funds not allocated under subsection (B) shall be allocated under subsections (C) and (D) to the extent of the calculated distributions. If funds are insufficient to cover all distributions under subsections (C)(5) and (D)(5), the Administration shall adjust the distributions proportionally. If funds appropriated for subsections (C) and (D) are not allocated by the Administration and funds appropriated for subsection (B) are insufficient to cover all distributions under subsection (B)(5), the funds not allocated under subsections (C) and (D) shall be allocated under subsection (B) to the extent of the calculated distributions.
 - F. The Administration may enter into intergovernmental agreements with local, county, and tribal governments wherein local, county and tribal governments may transfer funds or certify public expenditures to the Administration. Such funds or certification, subject to approval by CMS, will be used to qualify for additional federal funds. Those funds will be used for the purposes of reimbursing hospitals that are eligible under subsection (D)(1) and specified by the local, county, or tribal government for indirect program costs other than those reimbursed under subsection (D). The Administration shall allocate available funds in accordance with subsection (D) except that reimbursement with such funds is not limited to resident positions or rotations in counties with populations of less than 500,000 persons. On an annual basis subject to available funds, the Administration shall distribute to each eligible hospital the greatest among the following amounts, less any amounts distributed under subsection (D)(5):
 1. The amount that results from multiplying the total number of eligible residents allocated to the hospital under subsection (B)(4)(b)(ii) by 12 by the per resident per month conversion factor determined under subsection (D)(4)(b);
 2. The amount calculated for the hospital at subsection (D)(4)(b)(iii); or
 3. The median of all amounts calculated at subsection (D)(4)(b)(iii) if the hospital does not have an indirect medical education payment calculated on the Medicare Cost Report.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 1782, effective June 30, 2007 (Supp. 07-2). Amended by exempt rulemaking at 13 A.A.R. 4032, effective November 1, 2007 (Supp. 07-4). Amended by final rulemaking at 21 A.A.R. 3469, effective January 30, 2016 (Supp. 15-4).

R9-22-712.06. Reserved**R9-22-712.07. Rural Hospital Inpatient Fund Allocation**

- A. For purposes of this Section, the following words and phrases have the following meanings unless the context specifically requires another meaning:
 1. "Calculated inpatient costs" means the sum of inpatient covered charges multiplied by the Milliman study's implied cost-to-charge ratio of .8959.
 2. "Claims paid amount" means the sum of all claims paid by the Administration and contractors, as reported by the

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contractor to the Administration, to a rural hospital for covered inpatient services rendered for dates of service during the previous state fiscal year.

3. "Fund" means any state funds appropriated by the Legislature for the purposes set forth in A.R.S. § 36-2905.02 and any federal funds that are available for matching the state funds.
 4. "Inpatient covered charges" means the sum of all covered charges billed by a hospital to the Administration or contractors, as reported by the contractors to the Administration, for inpatient services rendered during the previous state fiscal year.
 5. "Milliman study" means the report issued by Milliman USA on March 11, 2004, to the Arizona Hospital and Healthcare Association that updated a portion of a cost study entitled "Evaluation of the AHCCCS Inpatient Hospital Reimbursement System" prepared by Milliman USA for AHCCCS on November 15, 2002. A copy of each report is on file with the Administration.
 6. "Rural hospital" means a health care institution that is licensed as an acute care hospital by the Arizona Department of Health Services for the previous state fiscal year and is not an IHS hospital or a tribally owned or operated facility and:
 - a. Has 100 or fewer PPS beds, not including beds reported as sub provider beds on the hospital's Medicare Cost Report, and is located in a county with a population of less than 500,000 persons, or
 - b. Is designated as a critical access hospital for the majority of the previous state fiscal year.
- B.** Each February, the Administration shall allocate the Fund to the following three pools for the fiscal year:
1. Rural hospitals with 25 or fewer PPS beds not including sub provider beds and all Critical Access Hospitals, regardless of the number of beds in the Critical Access Hospital;
 2. Rural hospitals other than Critical Access Hospitals with 26 to 75 PPS beds not including sub provider beds; and
 3. Rural hospitals other than Critical Access Hospitals with 76 to 100 PPS beds not including sub provider beds.
- C.** The Administration shall allocate the Fund to each pool according to the ratio of claims paid amount for all hospitals

assigned to the pool to total claims paid amount for all rural hospitals.

- D.** The Administration shall determine each hospital's claims paid amount and allocate the funds in each pool to each hospital in the pool based on the ratio of each hospital's claims paid amount to the sum of the claims paid amount for all hospitals assigned to the pool.
- E.** The Administration shall not make a Fund payment to a hospital that will result in the hospital's claims paid amount plus that hospital's Fund payment being greater than that hospital's calculated inpatient costs.
 1. If a hospital's claims paid amount plus the hospital's Fund payment would be greater than the hospital's calculated inpatient costs, the Administration shall make a Fund payment to the hospital equal to the difference between the hospital's calculated inpatient costs and the hospital's claims paid amount.
 2. The Administration shall reallocate any portion of a hospital's Fund allocation that is not paid to the hospital due to the reason in subsection (E)(1) to the other eligible hospitals in the pool based upon the ratio of the claims paid amount for each hospital remaining in the pool to the sum of the claims paid amount for each hospital remaining in the pool.
- F.** If funds remain in a pool after allocations to each hospital in the pool under subsections (D) and (E), the Administration shall reallocate the remaining funds to the other pools based upon the ratio of each pool's original allocation of the Fund as determined under subsection (C) to the sum of the remaining pools' original Fund allocations under subsection (C). The Administration shall allocate remaining funds to the hospitals in the remaining pools under subsection (D) and (E). See Exhibit 1 for an example.
- G.** Subject to CMS approval of the method and distribution of the Fund, the administration or its contractors will distribute the Fund as a lump sum allocation to the rural hospitals in either one or two installments by the end of each state fiscal year.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 2188, effective June 6, 2006 (Supp. 06-2). Amended by final rulemaking at 22 A.A.R. 3476, effective January 30, 2016 (Supp. 15-4).

Exhibit 1. Pool Example

Pool A receives \$2,000,000. Pool B receives \$7,000,000. Pool C receives \$3,000,000.

If all of the funds in Pool B are paid to eligible hospitals and there is \$1,000,000 remaining, the remaining funds would be allocated to Pool A and Pool C based on the ratio of each pool's original allocation (original allocations of \$2,000,000 and \$3,000,000) to the total of their original allocation (\$2,000,000 + \$3,000,000 = \$5,000,000).

Pool A would receive 2/5 of the remaining funds (\$400,000) and Pool C would receive 3/5 of the remaining funds (\$600,000).

Historical Note

Exhibit 1 made by final rulemaking at 12 A.A.R. 2188, effective June 6, 2006 (Supp. 06-2).

R9-22-712.08. Reserved

R9-22-712.09. Hierarchy for Tier Assignment through September 30, 2014

TIER	IDENTIFICATION CRITERIA	ALLOWED SPLITS
MATERNITY	A primary diagnosis defined as maternity 640.xx - 643.xx, 644.2x - 676.xx, v22.xx - v24.xx or v27.xx.	None
NICU	Revenue Code of 174 and the provider has a Level II or Level III NICU.	Nursery

ICU	Revenue Codes of 200-204, 207-212, or 219.	Surgery Psychiatric Routine
SURGERY	Surgery is identified by a revenue code of 36x. To qualify in this tier, there must be a valid surgical procedure code that is not on the excluded procedure list.	ICU

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PSYCHIATRIC	Psychiatric Revenue Codes of 114, 124, 134, 144, or 154 AND primary Psychiatric Diagnosis = 290.xx - 316.xx. If a routine revenue code is present and all diagnoses codes on the claim are equal to 290.xx - 316.xx, classify as a psychiatric claim.	ICU
NURSERY	Revenue Code of 17x, not equal to 174.	NICU
ROUTINE	Revenue Codes of 100 - 101, 110-113, 116 - 123, 126 - 133, 136 - 143, 146 - 153, 156 - 159, 16x, 206, 213, or 214.	ICU

Historical Note

New Section made by final rulemaking at 11 A.A.R. 3231, effective October 1, 2005 (Supp. 05-3). Amended by exempt rulemaking at 17 A.A.R. 1707, effective October 1, 2011 (Supp. 11-3). Amended by final rulemaking at 19 A.A.R. 2747, effective October 8, 2013 (Supp. 13-3). Amended by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).

R9-22-712.10. Outpatient Hospital Reimbursement: General

- A. Effective rule. The outpatient hospital reimbursement rules apply to dates of service beginning July 1, 2005, subject to Laws 2004, Ch. 279, § 19.
- B. Basis For Payment. Except as provided under R9-22-712.30, AHCCCS shall pay for designated outpatient procedures provided to AHCCCS members according to the AHCCCS Outpatient Capped Fee-For-Service Schedule as defined in R9-22-712.20.
- C. Data. AHCCCS shall use Medicare Cost Report and adjudicated claim and encounter data from non-IHS acute care hospitals located in the state of Arizona to develop fees for the AHCCCS Outpatient Capped Fee-For-Service Schedule.
- D. Hospital Services Subject To Fees. AHCCCS shall reimburse services, in the following outpatient hospital categories under the AHCCCS Outpatient Capped Fee-For-Service Schedule:
 1. Surgery,
 2. Emergency Department,
 3. Laboratory,
 4. Radiology,
 5. Clinic, and
 6. Other services.
- E. Reimbursement. AHCCCS shall reimburse outpatient hospital services by procedure codes, in proper combination with revenue codes, as prescribed by AHCCCS.

Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 2297, effective July 1, 2005 (Supp. 05-2).

R9-22-712.11. Reserved**R9-22-712.12. Reserved****R9-22-712.13. Reserved****R9-22-712.14. Reserved****R9-22-712.15. Outpatient Hospital Reimbursement: Affected Hospitals**

Except as provided in R9-22-712(G), the AHCCCS Outpatient Capped Fee-For-Service Schedule shall apply to AHCCCS payments for outpatient services in all non-IHS acute hospitals.

Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 2297, effective July 1, 2005 (Supp. 05-2).

R9-22-712.16. Reserved**R9-22-712.17. Reserved****R9-22-712.18. Reserved****R9-22-712.19. Reserved****R9-22-712.20. Outpatient Hospital Reimbursement: Methodology for the AHCCCS Outpatient Capped Fee-For-Service Schedule**

- A. To establish the AHCCCS Outpatient Capped Fee-for-service Schedule for all claims with a begin date of service on or before September 30, 2011, AHCCCS shall:
 1. Define the dataset of claims and encounters that shall be used to establish the AHCCCS Outpatient Capped Fee-for-service Schedule.
 2. Identify all the claims and encounters from non-IHS acute hospitals located in Arizona for services to be paid under the AHCCCS Outpatient Capped Fee-for-service Schedule.
 3. Match the revenue code on each detail of each claim and encounter to the ancillary line item CCR as reported on hospital-specific mapping documents and hospital-specific Medicare Cost Report for those hospitals that have submitted Medicare Cost Reports FYE 2002.
 4. Multiply the line item CCR from subsection (A)(3) by the covered billed charge for that revenue code to establish the cost for the service.
 5. Inflate the cost for the service from subsection (A)(4) using Global Insight Health-care Cost Review inflation factors from date of service month to the midpoint of the rate year in which the fees are initially effective.
 6. Include associated costs under R9-22-712.25 to calculate the rates for emergency room and surgery services.
 7. Combine data from all Arizona hospitals identified in subsection (A)(3) for each procedure code to establish the statewide median cost for each procedure.
 8. Group procedure codes according to the Ambulatory Payment Classification (APC) System groups as listed in 69 FR 65682, November 15, 2004, and establish a statewide median cost for each APC. Multiply each statewide median APC cost by 116 percent to establish the AHCCCS-based fee for each procedure in that specific APC group. AHCCCS shall assign each procedure in the group the same fee.
 9. For those procedure codes that are not grouped into any APC, establish a procedure-specific fee using either:
 - a. The AHCCCS Non-hospital Capped Fee-for-service Fee Schedule,
 - b. 116 percent of the procedure-specific median cost AHCCCS-based fee, or
 - c. The Medicare Clinical Laboratory Fee Schedule for laboratory services.
 10. Compare the AHCCCS-based fee established in subsections (A)(8) and (9) against the comparable Medicare fee established for the Medicare APC group as listed in the 69 FR 65682, November 15, 2004. The fee for each procedure shall be the greater of the AHCCCS-based fee or the Medicare fee but no more than 150 percent of the AHCCCS-based fee; however, for those laboratory services for which a limit is established in the Medicare Clinical Laboratory Fee Schedule, the fee shall not exceed that limit.

11. Assign the 2005 Medicare fee in the AHCCCS Outpatient Capped Fee-for-service Schedule for those procedures for which there are fewer than 20 occurrences of the procedure code in the dataset, either independently, or, if applicable, for all procedure codes within an APC Group.
- B. For all claims with a begin date of service on or after October 1, 2011, the AHCCCS Outpatient Capped Fee-for-Service Schedule shall be derived from the CMS Medicare Outpatient Prospective Payment System (OPPS) fee schedule modified by an Arizona conversion factor determined annually.
 1. When clinic services are billed using 51X revenue codes, the reimbursement to the hospital is the difference between the facility and non-facility rates payable to the practitioner for the procedures listed in the Administration's Capped Fee-for-service Schedule under R9-22-710.
 2. Observation services, when not billed in conjunction with a service for which a single payment is made under R9-22-712.25, are reimbursed at an hourly rate published in the Outpatient Capped Fee-for-service Schedule. This hourly rate includes reimbursement for associated services.
- C. The AHCCCS Outpatient Capped Fee-for-service Schedule including the effective date of any changes to the listing are on file and posted on AHCCCS' web site.

Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 2297, effective July 1, 2005 (Supp. 05-2). Amended by final rulemaking at 17 A.A.R. 1460, effective October 1, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 1914, effective July 18, 2012 (Supp. 12-3). Amended by final rulemaking at 19 A.A.R. 3315, effective November 30, 2013 (Supp. 13-4).

- R9-22-712.21. Reserved**
- R9-22-712.22. Reserved**
- R9-22-712.23. Reserved**
- R9-22-712.24. Reserved**

R9-22-712.25. Outpatient Hospital Fee Schedule Calculations: Associated Service Costs

- A. AHCCCS shall include the costs of associated services, as defined by revenue codes and procedure codes, when determining the specific fees for the outpatient hospital procedures for emergency department and surgery services.
- B. Payment made under subsection (A) or R9-22-712.20(B)(2) is inclusive of all services on the claim regardless of whether the services are provided on one or more days.
- C. A complete listing of the revenue codes and procedure codes for associated costs included in the payment for emergency and surgery services including the effective date of any changes to the listing are on file and posted on AHCCCS' web site.

Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 2297, effective July 1, 2005 (Supp. 05-2). Amended by final rulemaking at 17 A.A.R. 1460, effective October 1, 2011 (Supp. 11-3).

- R9-22-712.26. Reserved**
- R9-22-712.27. Reserved**
- R9-22-712.28. Reserved**
- R9-22-712.29. Reserved**
- R9-22-712.30. Outpatient Hospital Reimbursement: Pay-**

ment for a Service Not Listed in the AHCCCS Outpatient Capped Fee-For-Service Schedule

- A. AHCCCS shall calculate a statewide CCR for a service where a specific fee cannot be determined under R9-22-712.20.
- B. For claims with a begin date of service on or before September 30, 2011, the statewide CCR shall be calculated based on the costs and covered charges associated with a service under subsection (A) for all Arizona hospitals, using the method specified in R9-22-712.20(A)(3).
- C. For all claims with a begin date of service on or after October 1, 2011, the statewide CCR calculation shall equal either the CMS Medicare Outpatient Urban Cost-to-charge Ratio or the CMS Medicare Outpatient Rural Cost-to-charge Ratio published by CMS for the state of Arizona. AHCCCS shall use the urban cost-to-charge ratio for hospitals located in a county of 500,000 residents or more and for out-of-state hospitals. AHCCCS shall use the rural cost-to-charge ratio for hospitals located in a county of fewer than 500,000 residents. On October 1st of each year, AHCCCS shall adjust urban and rural CCRs to the CCRs as published by CMS in the *Federal Register* on or before August 1st of that year.
- D. To determine the payment amount for procedures where a specific fee is not determined under R9-22-712.20, the statewide CCR is multiplied by the covered charges.
- E. Reductions to payments for outpatient hospital services not listed in the AHCCCS Outpatient Capped Fee-For-Service Schedule. Outpatient hospital services not listed in the AHCCCS Outpatient Capped Fee-For-Service Schedule with dates of service on or after October 1, 2011, shall be reimbursed at 95 percent of the rate published by CMS pursuant to subsection (C) of this Section.

Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 2297, effective July 1, 2005 (Supp. 05-2). Amended by final rulemaking at 17 A.A.R. 1460, effective October 1, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 1914, effective July 18, 2012 (Supp. 12-3). Amended by final rulemaking at 19 A.A.R. 3315, effective November 30, 2013 (Supp. 13-4).

- R9-22-712.31. Reserved**
- R9-22-712.32. Reserved**
- R9-22-712.33. Reserved**
- R9-22-712.34. Reserved**
- R9-22-712.35. Outpatient Hospital Reimbursement: Adjustments to Fees**
- A. For all claims with a begin date of service on or before September 30, 2011, AHCCCS shall increase the Outpatient Capped Fee-for-service Schedule established under R9-22-712.20 (except for laboratory services and out-of-state hospital services) for the following hospitals submitting any claims:
 1. By 48 percent for public hospitals on July 1, 2005, and hospitals that were public anytime during the calendar year 2004;
 2. By 45 percent for hospitals in counties other than Maricopa and Pima with more than 100 Medicare PPS beds during the contract year in which the Outpatient Capped Fee-for-service Schedule rates are effective;
 3. By 50 percent for hospitals in counties other than Maricopa and Pima with 100 or less Medicare PPS beds during the contract year in which the Outpatient Capped Fee-for-service Schedule rates are effective;
 4. By 115 percent for hospitals designated as Critical Access Hospitals or hospitals that have not been desig-

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nated as Critical Access Hospitals but meet the criteria during the contract year in which the Outpatient Capped Fee-for-service Schedule rates are effective;

5. By 113 percent for a Freestanding Children's Hospital with at least 110 pediatric beds during the contract year in which the Outpatient Capped Fee-for-service Schedule rates are effective; or
 6. By 14 percent for a University Affiliated Hospital which is a hospital that has a majority of the members of its board of directors appointed by the Board of Regents during the contract year in which the Outpatient Capped Fee-for-service Schedule rates are effective.
- B.** For all claims with a begin date of service on or after October 1, 2011, AHCCCS shall increase the Outpatient Capped Fee-for-service Schedule (except for laboratory services, and out-of-state hospital services) for the following hospitals. A hospital shall receive an increase from only one of the following categories:
1. By 73 percent for public hospitals;
 2. By 31 percent for hospitals in counties other than Maricopa and Pima with more than 100 licensed beds as of October 1 of that contract year;
 3. By 37 percent for hospitals in counties other than Maricopa and Pima with 100 or fewer licensed beds as of October 1 of that contract year;
 4. By 100 percent for hospitals designated as Critical Access Hospitals or hospitals that have not been designated as Critical Access Hospitals but meet the critical access criteria;
 5. By 78 percent for a Freestanding Children's Hospital with at least 110 pediatric beds as of October 1 of that contract year; or
 6. By 41 percent for a University Affiliated Hospital, this is a hospital that has a majority of the members of its board of directors appointed by the Arizona Board of Regents.
- C.** In addition to subsections (A) and (B), an Arizona Level 1 trauma center as defined by R9-22-2101 shall receive a 50 percent increase to the Outpatient Capped Fee-for-service Schedule (except for laboratory services and out-of-state hospital services) for Level 2 and 3 emergency department procedures.
- D.** Hospitals with greater than 100 pediatric beds not receiving an increase under subsection (B) shall receive an 18 percent increase to the Outpatient Capped Fee-for-service Schedule (except for laboratory services, and out-of-state hospital services).
- E.** For outpatient services with dates of service from October 1, 2017 through September 30, 2018, the payment otherwise required for outpatient hospital services provided by qualifying hospitals shall be increased by a percentage established by the administration. The percentage is published on the Administration's public website as part of its fee schedule subsequent to the public notice published no later than September 1, 2017. To qualify, by May 15, 2017, the hospital must have executed an agreement with and electronically submitted laboratory, radiology, transcription, and medication information, plus admission, discharge, and transfer information (including data from the hospital emergency department), to a qualifying health information exchange organization.
- F.** Fee adjustments made under subsection (A), (B), (C), (D), and (E) are on file with AHCCCS and current adjustments are posted on AHCCCS' web site.

Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 2297, effective July 1, 2005 (Supp. 05-2). Amended by final rulemaking at 13 A.A.R. 3584, effective October 1, 2007 (Supp. 07-4). Amended by final rulemaking at 14

A.A.R. 1439, effective May 31, 2008 (Supp. 08-2). Amended by final rulemaking at 17 A.A.R. 1460, effective October 1, 2011 (Supp. 11-3). Amended by final rulemaking at 22 A.A.R. 2187, effective October 1, 2016 (Supp. 16-4). Amended by final rulemaking at 23 A.A.R. 2338, effective October 1, 2017 (Supp. 17-3).

R9-22-712.36. Reserved

R9-22-712.37. Reserved

R9-22-712.38. Reserved

R9-22-712.39. Reserved

R9-22-712.40. Outpatient Hospital Reimbursement: Annual and Periodic Update

- A.** Procedure codes. When procedure codes are issued by CMS and added to the Current Procedural Terminology published by the American Medical Association, AHCCCS shall add to the Outpatient Capped Fee-for-Service Schedule the new procedure codes for covered outpatient services and shall either assign the default CCR under R9-22-712.40(F)(2), the Medicare rate, or calculate an appropriate fee.
- B.** APC changes. AHCCCS may reassign procedure codes to new or different APC groups when APC groups are revised by CMS. AHCCCS may reassign procedure codes to a different APC group than Medicare. If AHCCCS determines that utilization of a procedure code within the Medicare program is substantially different from utilization of the procedure code in the AHCCCS program, AHCCCS may choose not to assign the procedure code to any APC group. For procedure codes not grouped into an APC by Medicare, AHCCCS may assign the code to an APC group when AHCCCS determines that the cost and resources associated with the non-assigned code are substantially similar to those in the APC group.
- C.** Annual update for Outpatient Hospital Fee Schedule. Beginning October 1, 2006, through September 30, 2011, AHCCCS shall adjust outpatient fee schedule rates:
1. Annually by multiplying the rates effective during the prior year by the Global Insight Prospective Hospital Market Basket Inflation Index; or
 2. In a particular year the director may substitute the increases in subsection (C)(1) by calculating the dollar value associated with the inflation index in subsection (C)(1), and applying the dollar value to adjust rates at varying levels.
- D.** Reductions to the Outpatient Capped Fee-For-Service Schedule. Claims paid using the Outpatient Capped Fee-For-Service Schedule with dates of service on or after October 1, 2011, shall be reimbursed at 95 percent of the rates in effect on September 30, 2011, subject to the annual adjustments to procedure codes and APCs under this Section.
- E.** Rebase. AHCCCS shall rebase the outpatient fees every five years.
- F.** Statewide CCR:
1. For begin dates of service on or before September 30, 2011, the statewide CCR calculated in R9-22-712.30 shall be recalculated at the time of rebasing. When rebasing, AHCCCS may recalculate the statewide CCR based on the costs and charges for services excluded from the outpatient hospital fee schedule.
 2. For begin dates of service on or after October 1, 2011, the statewide CCR shall be set under R9-22-712.30(C).
- G.** Other Updates. In addition to the other updates provided for in this section, the Administration may adjust the Outpatient Capped Fee-For-Service Fee Schedule and the Statewide CCR to the extent necessary to assure that payments are consistent with efficiency, economy, and quality of care and are sufficient

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to enlist enough providers so that care and services are available at least to the extent that such care and services are available to the general population in the geographic area.

Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 2297, effective July 1, 2005 (Supp. 05-2). Amended by final rulemaking at 13 A.A.R. 3584, effective October 1, 2007 (Supp. 07-4). Amended by final rulemaking at 14 A.A.R. 1439, effective May 31, 2008 (Supp. 08-2). Amended by final rulemaking at 17 A.A.R. 1460, effective October 1, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 1914, effective July 18, 2012 (Supp. 12-3). Amended by final rulemaking at 19 A.A.R. 3315, effective November 30, 2013 (Supp. 13-4). Amended by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).

R9-22-712.41. Reserved

R9-22-712.42. Reserved

R9-22-712.43. Reserved

R9-22-712.44. Reserved

R9-22-712.45. Outpatient Hospital Reimbursement: Outpatient Payment Restrictions

- A. AHCCCS shall not reimburse hospitals for emergency room treatment, observation hours, or other outpatient hospital services performed on an outpatient basis if the member is admitted as an inpatient to the same hospital directly from the emergency room, observation, or other outpatient department.
- B. AHCCCS shall include payment for the emergency room, observation, and other outpatient hospital services provided to the member before the hospital admission in the AHCCCS Inpatient Tiered Per Diem Capped Fee-For-Service Schedule under Article 7 of this Chapter.
- C. Same day admit and discharge.
 1. For discharges before September 30, 2014. Same day admit and discharge claims that qualify for either the maternity or nursery tiers shall be paid based on the lesser of the rate for the maternity or nursery tier, or the outpatient hospital fee schedule.
 2. For discharge dates on and after October 1, 2014. Same day admit and discharge claims are paid for through the outpatient fee schedule.

Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 2297, effective July 1, 2005 (Supp. 05-2). Amended by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).

R9-22-712.46. Reserved

R9-22-712.47. Reserved

R9-22-712.48. Reserved

R9-22-712.49. Reserved

R9-22-712.50. Outpatient Hospital Reimbursement: Billing

To receive appropriate reimbursement, hospitals shall:

1. Bill outpatient hospital services on the CMS approved Uniform Billing Form or in electronic format using the appropriate HIPAA transaction.
2. Follow the UB Manual Guidelines, as published by the National Uniform Billing Committee, and use the appropriate revenue code and procedure code combination as prescribed by AHCCCS and on file and online with AHCCCS.

Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 2297, effective July 1, 2005 (Supp. 05-2).

R9-22-712.51. Reserved

R9-22-712.52. Reserved

R9-22-712.53. Reserved

R9-22-712.54. Reserved

R9-22-712.55. Reserved

R9-22-712.56. Reserved

R9-22-712.57. Reserved

R9-22-712.58. Reserved

R9-22-712.59. Reserved

R9-22-712.60. Diagnosis Related Group Payments

- A. Inpatient hospital services with discharge dates on or after October 1, 2014, shall be reimbursed using the diagnosis related group (DRG) payment methodology described in this section and sections R9-22-712.61 through R9-22-712.81.
- B. Payments made using the DRG methodology shall be the sole reimbursement to the hospital for all inpatient hospital services and related supplies provided by the hospital. Services provided in the emergency room, observation area, or other outpatient departments that are directly followed by an inpatient admission to the same hospital are not reimbursed separately. Are reimbursed through the DRG methodology and not reimbursed separately.
- C. Each claim for an inpatient hospital stay shall be assigned a DRG code and a DRG relative weight based on version 31 of the All Patient Refined Diagnosis Related Group (APR-DRG) classification system established by 3M Health Information Systems. If version 31 of the APR-DRG classification system will no longer support assigning DRG codes and relative weights to claims, and 3M Health Information Systems issues a newer version of the APR-DRG classification system using updated DRG codes and/or updated relative weights, then an updated version established by 3M Health Information Systems will be used; however, if the version employs updated relative weights, those weights will be adjusted using a single adjustment factor applied to all relative weights to ensure that the statewide weighted average of the updated relative weights does not increase or decrease from the statewide weighted average of the relative weights used under version 31.
- D. Payments for inpatient hospital services reimbursed using the DRG payment methodology are subject to quick pay discounts and slow pay penalties under A.R.S. 36-2904.
- E. Payments for inpatient hospital services reimbursed using the DRG payment methodology are subject to the Urban Hospital Reimbursement Program under R9-22-718.
- F. For purposes of this section and sections R9-22-712.61 through R9-22-712.81:
 1. "DRG National Average length of stay" means the national arithmetic mean length of stay published in version 31 of the All Patient Refined Diagnosis Related Group (APR-DRG) classification established by 3M Health Information Systems.
 2. "Length of stay" means the total number of calendar days of an inpatient stay beginning with the date of admission through discharge, but not including the date of discharge (including the date of a discharge to another hospital, i.e., a transfer) unless the member expires.
 3. "Medicare" means Title XVIII of the Social Security Act, 42 U.S.C. 1395 *et seq.*

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4. "Medicare labor share" means a hospital's labor costs as a percentage of its total costs as determined by CMS for purposes of the Medicare Inpatient Prospective Payment System.

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3). Amended by final rulemaking at 22 A.A.R. 2187, effective October 1, 2016 (Supp. 16-4).

R9-22-712.61. DRG Payments: Exceptions

- A. Notwithstanding section R9-22-712.60, claims for inpatient services from the following hospitals shall be paid on a per diem basis, including provisions for outlier payments, where rates and outlier thresholds are included in the capped fee schedule published by the Administration on its website and available for inspection during normal business hours at 701 E. Jefferson, Phoenix, Arizona. If the covered costs per day on a claim exceed the published threshold for a day, the claim is considered an outlier. Outliers will be paid by multiplying the covered charges by the outlier CCR. The outlier CCR will be the sum of the urban or rural default operating CCR appropriate to the location of the hospital and the statewide capital cost-to-charge ratio in the data file established as part of the Medicare Inpatient Prospective Payment System by CMS. The resulting amount will be the total reimbursement for the claim. There is no provision for outlier payments for hospitals described under subsection (A)(3).

1. Hospitals designated as type: hospital, subtype; rehabilitation in the Provider & Facility Database for Arizona Medical Facilities posted by the Arizona Department of Health Services Division of Licensing Services on its website in March of each year;
2. Hospitals designated as type: hospital, subtype: long term in the Provider & Facility Database for Arizona Medical Facilities posted by the Arizona Department of Health Services Division of Licensing Services on its website for March of each year;
3. Hospitals designated as type: hospital, subtype; psychiatric in the Provider & Facility Database for Arizona Medical Facilities posted by the Arizona Department of Health Services Division of Licensing Services on its website for March of each year;

- B. Notwithstanding section R9-22-712.60, claims for inpatient services that are covered by a RBHA or TRBHA, where the principal diagnosis on the claim is a behavioral health diagnosis, shall be reimbursed as prescribed by a per diem rate described by a fee schedule established by the Administration; however, if the principal diagnosis is a physical health diagnosis, the claim shall be processed under the DRG methodology described in this section, even if behavioral health services are provided during the inpatient stay.
- C. Notwithstanding section R9-22-712.60, claims for services associated with transplant services shall be paid in accordance with the contract between the AHCCCS administration and the transplant facility.
- D. Notwithstanding section R9-22-712.60, claims from an IHS facility or 638 Tribal provider shall be paid the all-inclusive rate on a per visit basis in accordance with the rates published annually by IHS in the federal register.
- E. For hospitals that have contracts with the Administration for the provision of transplant services, inpatient days associated with transplant services are paid in accordance with the terms of the contract.
- F. For inpatient services with a date of admission from January 1, 2018 through September 30, 2018, provided by a hospital in

subsection (A) that qualifies, the administration shall pay the hospital an Inpatient VBP Differential Adjusted Payment equal to the sum of the payment otherwise provided for in subsection (A) plus the product of the amount otherwise provided for in subsection (A) and a percentage published on the Administration's public website as part of its fee schedule, subsequent to a public notice published no later than December 1, 2017. To qualify for the Inpatient VBP Differential Adjusted Payment, the exempt hospital must have:

1. Executed an agreement with a qualifying health information exchange by May 15, 2017;
2. Been determined by a qualifying health information exchange organization, based on a readiness review conducted by the organization, capable of connecting with the exchange by October 1, 2017; and
3. Electronically submitted admission, discharge, and transfer information to a qualifying health information exchange organization by October 1, 2017, including information from the emergency department if the hospital operates an emergency department.

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3). Amended by final rulemaking at 22 A.A.R. 2187, effective October 1, 2016 (Supp. 16-4). Amended by final rulemaking at 23 A.A.R. 2338, effective October 1, 2017 (Supp. 17-3).

R9-22-712.62. DRG Base Payment

- A. The initial DRG base payment is the product of the DRG base rate, the DRG relative weight for the post-HCAC DRG code assigned to the claim, and any applicable provider and service policy adjusters.
- B. The DRG base rate for each hospital is the statewide standardized amount of which the hospital's labor-related share of that amount is adjusted by the hospital's wage index, where the standardized amount is \$5,295.40, and the hospital's labor share and the hospital's wage index are those used in the Medicare inpatient prospective payment system for the fiscal year beginning October 1, 2013.
- C. Claims shall be assigned both a DRG code derived from all diagnosis and surgical procedure codes included on the claim (the "pre-HCAC" DRG code) and a DRG code derived excluding diagnosis and surgical procedure codes associated with the health care acquired conditions that were not present on admission or any other provider-preventable conditions (the "post-HCAC" DRG code). The DRG code with the lower relative weight shall be used to process claims using the DRG methodology.

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).

R9-22-712.63. DRG Base Payments Not Based on the Statewide Standardized Amount

Notwithstanding section R9-22-712.62, the amount of \$3,436.08 shall be used in place of the statewide standardized amount in subsection R9-22-712.62(B) to calculate the DRG base rate for the following hospitals:

1. Hospitals located in a city with a population greater than one million, which on average have at least 15 percent of inpatient days for patients who reside outside of Arizona, and at least 50 percent of discharges as reported on the 2011 Medicare Cost Report are reimbursed by Medicare.
2. Hospitals designated as type: hospital, subtype: short-term that has a license number beginning "SH" in the Provider & Facility Database for Arizona Medical Facilities.

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ties posted by the ADHS Division of Licensing Services on its website for March of each year.

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).

R9-22-712.64. DRG Base Payments and Outlier CCR for Out-of-State Hospitals**A. DRG Base payment:**

1. For high volume out-of-state hospitals defined in subsection (C), the wage adjusted DRG base payment is determined as described in R9-22-712.62.
2. Notwithstanding subsection R9-22-712.62 the wage adjusted DRG base rate for out-of-state hospitals that are not high volume hospitals shall be \$5,184.75.

B. Outlier CCR:

1. Notwithstanding subsection R9-22-712.68, the CCR used for the outlier calculation for out-of-state hospitals that are not high volume hospitals shall be the sum of the statewide urban default operating cost-to-charge ratio and the statewide capital CCR in the data file established as part of the Medicare Inpatient Prospective Payment System by CMS.
2. The CCR used for the outlier calculation for high volume out-of-state hospitals is the same as in-state hospitals as described in R9-22-712.68.

C. A high volume out-of-state hospital is a hospital not otherwise excluded under R9-22-712.61, that is located in a county that borders the State of Arizona and had 500 or more AHCCCS covered inpatient days for the fiscal year beginning October 1, 2010.**D. Other than as required by this section, DRG reimbursement for out-of-state hospitals is determined under R9-22-712.60 through R9-22-712.81.****Historical Note**

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).

R9-22-712.65. DRG Provider Policy Adjustor**A. After calculating the DRG base payment as required in sections R9-22-712.62, R9-22-712.63, or R9-22-712.64, for claims from a high-utilization hospital, the product of the DRG base rate and the DRG relative weight for the post-HCAC DRG code shall be multiplied by a provider policy adjustor of 1.055.****B. A hospital is a high-utilization hospital if the hospital had:**

1. At least 46,112 AHCCCS-covered inpatient days using adjudicated claim and encounter data during the fiscal year beginning October 1, 2010, which is equal to at least four hundred percent of the statewide average number of AHCCCS-covered inpatient days at all hospitals of 11,528 days; and,
2. A Medicaid inpatient utilization rate greater than 30% calculated as the ratio of AHCCCS-covered inpatient days to total inpatient days as reported in the hospital's Medicare Cost Report for the fiscal year ending 2011.

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).

R9-22-712.66. DRG Service Policy Adjustor

In addition to subsection R9-22-712.65, for claims with DRG codes in the following categories, the product of the DRG base rate, the DRG relative weight for the post-HCAC DRG code, and the DRG provider policy adjustor shall be multiplied by the following service policy adjustors:

1. Normal newborn DRG codes: 1.55
2. Neonates DRG codes: 1.10
3. Obstetrics DRG codes: 1.55
4. Psychiatric DRG codes: 1.65
5. Rehabilitation DRG codes: 1.65
6. Claims for members under age 19 assigned DRG codes other than listed above:
 - a. 1.25 for dates of discharge occurring on or after October 1, 2014 and ending no later than December 31, 2015 regardless of severity of illness level,
 - b. 1.25 for dates of discharge on or after January 1, 2016 for severity of illness levels 1 and 2,
 - c. 1.60 for dates of discharge on or after January 1, 2016 for severity of illness levels 3 and 4.

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3). Amended by final rulemaking at 22 A.A.R. 2187, effective October 1, 2016 (Supp. 16-4).

R9-22-712.67. DRG Reimbursement: Transfers

- A.** For purposes of this Section a "transfer" means the transfer of a member from a hospital to a short-term general hospital for inpatient care, a designated cancer center, children's hospital, or a critical access hospital except when a member is moved for the purpose of receiving sub-acute services.
- B.** Designated cancer center or children's hospitals are those hospitals identified as such in the UB-04 billing manual published by the National Uniform Billing Committee.
- C.** The hospital the member is transferred from shall be reimbursed either the initial DRG base payment or the transfer DRG base payment, whichever is less.
- D.** The transfer DRG base payment is an amount equal to the initial DRG base payment, as determined after making any provider or service policy adjustors, divided by the DRG National Average length of stay for the DRG code multiplied by the sum of one plus the length of stay.
- E.** The hospital the member is transferred to shall be reimbursed under the DRG payment methodology without a reduction due to the transfer.
- F.** Unadjusted DRG base payment. The unadjusted DRG base payment is either the initial DRG base payment, as determined after making any provider or service policy adjustors, or the transfer DRG base payment, whichever is less.

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3). Amended by final rulemaking at 22 A.A.R. 2187, effective October 1, 2016 (Supp. 16-4).

R9-22-712.68. DRG Reimbursement: Unadjusted Outlier Add-on Payment

- A.** Claims for inpatient hospital services qualify for an outlier add-on payment if the claim cost exceeds the outlier cost threshold.
- B.** The claim cost is determined by multiplying covered charges by an outlier CCR as described by the following subsections:
 1. For hospitals designated as type: hospital, subtype: children's in the Provider & Facility Database for Arizona Medical Facilities posted by the ADHS Division of Licensing Services on its website for March of each year. The outlier CCR will be calculated by dividing the hospital total costs by the total charges using the most recent Medicare Cost Report available as of September 1 of that year.

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2. For Critical Access Hospitals the outlier CCR will be the sum of the statewide rural default operating cost-to-charge ratio and the statewide capital cost-to-charge ratio in the data file established as part of the Medicare Inpatient Prospective Payment System by CMS.
3. For all other hospitals the outlier CCR will be the sum of the operating cost-to-charge ratio and the capital cost-to-charge ratio established for each hospital in the impact file established as part of the Medicare Inpatient Prospective Payment System by CMS.

- C. AHCCCS shall update the CCRs described in subsection (B) to conform to the most recent CCRs established by CMS as of September 1 of each year, and the CCRs so updated shall be used For claims with dates of discharge on or after October 1 of that year.
- D. The outlier threshold is equal to the sum of the unadjusted DRG base payment plus the fixed loss amount. The fixed loss amount is \$5,000 for critical access hospitals and \$65,000 for all other hospitals.
- E. For those inpatient hospital claims that qualify for an outlier add-on payment, the payment is calculated by subtracting the outlier threshold from the claim cost and multiplying the result by the DRG marginal cost percentage. The DRG marginal cost percentage is 90% for claims assigned DRG codes associated with the treatment of burns and 80% for all other claims.

Historical Note

New Section made by final rulemaking at 20 A.A.R.
1956, September 6, 2014 (Supp. 14-3).

R9-22-712.69. DRG Reimbursement: Covered Day Adjusted DRG Base Payment and Covered Day Adjusted Outlier Add-on Payment

Adjustments to the payments are made to account for days not covered by AHCCCS as follows:

1. A covered day reduction factor unadjusted is determined if the member is not eligible on the first day of the inpatient stay but is eligible for subsequent days during the inpatient stay. In this case, a covered day reduction factor unadjusted is calculated by dividing the number of AHCCCS covered days by the DRG National Average length of stay. The number of AHCCCS covered days is equal to the number of days the member is eligible during the inpatient stay.
2. A covered day reduction factor unadjusted is also determined if the member is eligible on the first day of the inpatient stay but is determined ineligible for one or more days prior to the date of discharge. In this case, a covered day reduction factor unadjusted is calculated by adding one to the number of AHCCCS covered days and dividing the result by the DRG National Average length of stay. The number of AHCCCS covered days is equal to the number of days the member is eligible during the inpatient stay.
3. If the covered day reduction factor unadjusted is greater than one, then the covered day reduction factor final is one; otherwise, the covered day reduction factor final is equal to the covered day reduction factor unadjusted.
4. The covered day adjusted DRG base payment is an amount equal to the product of the unadjusted DRG base payment and the covered day reduction factor final.
5. The covered day adjusted DRG outlier add-on payment is an amount equal to the product of the unadjusted DRG outlier add-on payment and the covered day reduction factor final.

Historical Note

New Section made by final rulemaking at 20 A.A.R.
1956, September 6, 2014 (Supp. 14-3).

R9-22-712.70. Covered Day Adjusted DRG Base Payment and Covered Day Adjusted Outlier Add-on Payment for FES members

In addition to the covered day reduction factor in R9-22-712.69, a covered day reduction factor unadjusted is determined for an inpatient stay during which an FES member receives services for the treatment of an emergency medical condition and also receives services once the condition no longer meets the criteria as an emergency medical condition described in R9-22-217.

1. A covered day reduction factor unadjusted is calculated by adding one to the AHCCCS covered days and dividing the result by the DRG National Average length of stay. The number of AHCCCS covered days is equal to the number of inpatient days during which an FES member receives services for an emergency medical condition as described in R9-22-217. For purposes of this adjustment, any portion of a day during which the FES member receives treatment for an emergency medical condition is counted as an AHCCCS covered day.
2. If the covered day reduction factor unadjusted is greater than one, then the covered day reduction factor final is one; otherwise, the covered day reduction factor final is equal to the covered day reduction factor unadjusted.
3. The covered day adjusted DRG base payment is an amount equal to the product of the unadjusted DRG base payment and the covered day reduction factor final.
4. The covered day adjusted DRG outlier add-on payment is an amount equal to the product of the unadjusted DRG outlier add-on payment and the covered day reduction factor final.

Historical Note

New Section made by final rulemaking at 20 A.A.R.
1956, September 6, 2014 (Supp. 14-3).

R9-22-712.71. Final DRG Payment

The final DRG payment is the sum of the final DRG base payment, the final DRG outlier add-on payment, and the Inpatient Value Based Purchasing (VBP) Differential Adjusted Payment.

1. The final DRG base payment is an amount equal to the product of the covered day adjusted DRG base payment and a hospital-specific factor established to limit the financial impact to individual hospitals of the transition from the tiered per diem payment methodology and to account for improvements in documentation and coding that are expected as a result of the transition.
2. The final DRG outlier add-on payment is an amount equal to the product of the covered day adjusted DRG outlier add-on payment and a hospital-specific factor established to limit the financial impact to individual hospitals of the transition from the tiered per diem payment methodology and to account for improvements in documentation and coding that are expected as a result of the transition.
3. The factor for each hospital and for each federal fiscal year is published as part of the AHCCCS capped fee schedule and is available on the AHCCCS administration's website and is on file for public inspection at the AHCCCS administration located at 701 E. Jefferson Street, Phoenix, Arizona.
4. For inpatient services with a date of discharge from October 1, 2017 through September 30, 2018, the Inpatient VBP Differential Adjusted Payment is the sum of the final DRG base payment and the final DRG outlier add-

on payment multiplied by a percentage published on the Administration's public website as part of its fee schedule, subsequent to the public notice published no later than September 1, 2017. To qualify for the Inpatient VBP Differential Adjusted Payment, a hospital providing inpatient hospital services must by May 15, 2017, have executed an agreement with a qualifying health information exchange organization and electronically submitted laboratory, radiology, transcription, and medication information, plus admission, discharge, and transfer information (including data from the hospital emergency department), to a qualifying health information exchange organization.

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3). Amended by final rulemaking at 22 A.A.R. 2187, effective October 1, 2016 (Supp. 16-4). Amended by final rulemaking at 23 A.A.R. 2338, effective October 1, 2017 (Supp. 17-3).

R9-22-712.72. DRG Reimbursement: Enrollment Changes During an Inpatient Stay

- A. If a member's enrollment changes during an inpatient stay, including changing enrollment from fee-for-service to a contractor, or vice versa, or changing from one contractor to another contractor, the contractor with whom the member is enrolled on the date of discharge shall be responsible for reimbursing the hospital for the entire length of stay under the DRG payment rules in sections R9-22-712.60 through R9-22-712.81. If the member is eligible but not enrolled with a contractor on the date of discharge, then the AHCCCS administration shall be responsible for reimbursing the hospital for the entire length of stay under the DRG payment rules in sections R9-22-712.60 through R9-22-712.81.
- B. When a member's enrollment changes during an inpatient stay, the hospital shall use the date of enrollment with the payer responsible on the date of discharge as the "from" date of service on the claim regardless of the date of admission. The claim may include all surgical procedures performed during the entire inpatient stay, but the hospital shall only include revenue codes, service units, and charges for services performed on or after the date of enrollment.
- C. Interim claims submitted to a payer other than the payer responsible on the day of discharge shall be processed in the same manner as other interim claims as described in R9-22-712.76.

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).

R9-22-712.73. DRG Reimbursement: Inpatient Stays for Members Eligible for Medicare

If the hospital receives less than the full Medicare payment for a member eligible for benefits under Part A of Medicare because the member has exceeded the maximum benefit permitted under Part A of Medicare, the hospital shall submit a separate claim for services performed after the date the maximum Medicare Part A benefit is exceeded. The claim may include all diagnosis codes for the entire inpatient stay, but the hospital is only required to include revenue codes, surgical procedure codes, service units, and charges for services performed after the date the Medicare Part A benefit is exceeded. A claim so submitted shall be reimbursed using the DRG payment methodology.

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).

R9-22-712.74. DRG Reimbursement: Third Party Liability

DRG payments are subject to reduction based on cost avoidance under section R9-22-1003 and other rules regarding first-and third-party liability under Article 10 of this Chapter including cost avoidance for claims for ancillary services covered under Part B of Medicare.

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).

R9-22-712.75. DRG Reimbursement: Payment for Administrative Days

- A. Administrative days are days in which a member is admitted as an inpatient to an acute care hospital, does not meet the criteria for an acute inpatient stay, but is admitted or not discharged because (1) an appropriate placement outside the hospital is not available, (2) the member cannot be safely discharged or transferred, or (3) the Administration or the contractor failed to provide for the appropriate placement outside the hospital in a timely manner.
 1. Administrative days may occur prior to an acute care episode, for example, when a woman with a high-risk pregnancy is admitted to a hospital while awaiting delivery.
 2. Administrative days may also occur at the end of an acute care episode, for example, when a member is not discharged while awaiting placement in a nursing facility or other sub-acute or post-acute setting.
 3. Administrative days may also include days in a receiving hospital when the member has been discharged from one acute care hospital for the purpose of receiving sub-acute services at the receiving hospital.
- B. Administrative days do not include days when the member is awaiting appropriate placement or services that are currently available but the hospital has not transferred or discharged the member because of the hospital's administrative or operational delays.
- C. Prior authorization is required for administrative days.
- D. A hospital shall submit a claim for administrative days separate from any claim for reimbursement for the inpatient stay otherwise reimbursable under the DRG payment methodology.
- E. Administrative days are reimbursed at the rate the claim would have paid had the services not been provided in an inpatient hospital setting but had been provided at the appropriate level of care (e.g., as nursing facility days).

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3). Amended by final rulemaking at 22 A.A.R. 2187, effective October 1, 2016 (Supp. 16-4).

R9-22-712.76. DRG Reimbursement: Interim Claims

- A. For inpatient stays with a length of stay greater than 29 days, a hospital may submit interim claims for each 30 day period during the inpatient stay.
- B. Hospitals shall be reimbursed for interim claims at a per diem rate of \$500 per day.
- C. Following discharge, the hospital shall void all interim claims. In such circumstances, the hospital shall submit a claim to the payer with whom the member is enrolled on the date of discharge, whether the Administration or a contractor, for the entire inpatient stay for which the final claim shall be reim-

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bursed under the DRG payment methodology. Interim claims will be recouped.

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).

R9-22-712.77. DRG Reimbursement: Admissions and Discharges on the Same Day

- A. Except as provided for in subsection (B), for any claim for inpatient services with an admission date and discharge date that are the same calendar date, the contractor or the Administration shall process the claim as an outpatient claim and the hospital shall be reimbursed under R9-22-712.10 through R9-22-712.50.
- B. Claims with an admission date and discharge date that are the same calendar date that also indicate that the member expired on the date of discharge shall be reimbursed under the DRG methodology.

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).

R9-22-712.78. DRG Reimbursement: Readmissions

If a member is readmitted without prior authorization to the same hospital that the member was discharged from within 72 hours and the DRG code assigned to the claim for the prior admission has the same first three digits as the DRG code assigned to the claim for the readmission, then payment for the claim for the readmission will be disallowed only if the readmission could have been prevented by the hospital.

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).

R9-22-712.79. DRG Reimbursement: Change of Ownership

The administration shall not change any of the components of the calculation of reimbursement for inpatient services using the DRG methodology based upon a change in the hospital's ownership except to the extent those components would change under the methodology had the hospital not changed ownership (e.g., updating the hospital's cost-to-charge ratio as of September 1 of each year under R9-22-712.68).

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).

R9-22-712.80. DRG Reimbursement: New Hospitals

- A. DRG base payment for new hospitals. For any hospital that does not have a labor share or wage index published by CMS as described in section R9-22-712.62(B) because the hospital was not in operation, the DRG base rate described in section R9-22-712.62(B) shall be calculated as the statewide standardized amount of \$5,295.40 after adjusting that amount for the labor-related share and the wage index published by CMS as described in section R9-22-712.62(B) that is appropriate to the location of the hospital published by CMS as described in section R9-22-712.62(B).
- B. Outlier calculations for new hospitals. For any hospital that does not have an operating cost-to-charge ratio listed in the impact file described in section R9-22-712.68(B) because the hospital was not in operation prior to the publication of the impact file, the statewide urban or rural default operating cost-to-charge ratio appropriate to the location of the hospital and the statewide capital cost-to-charge ratio shall be used to determine the unadjusted outlier add-on payment. The statewide

urban or rural default operating cost-to-charge ratio and the statewide capital cost-to-charge ratio shall be based on the ratios published by CMS and updated by the Administration as described in section R9-22-712.68(C).

- C. In addition to the requirement of this section, DRG reimbursement for new hospitals is determined under R9-22-712.60 through R9-22-712.79.

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).

R9-22-712.81. DRG Reimbursement: Updates

In addition to the other updates provided for in sections R9-22-712.60 through R9-22-712.80, the Administration may adjust the statewide standardized amount in section R9-22-712.62, the base payments in sections R9-22-712.63 and R9-22-712.64, the provider policy adjustor in section R9-22-712.65, service policy adjustors section R9-22-712.66, and the fixed loss amounts and marginal cost percentages used to calculate the outlier threshold in section R9-22-712.68 to the extent necessary to assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available at least to the extent that such care and services are available to the general population in the geographic area.

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).

R9-22-712.90. Reimbursement of Hospital-based Freestanding Emergency Departments

- A. "Hospital-based freestanding emergency department" (hospital-based FSED) means an outpatient treatment center, as defined in R9-10-101, that: (1) provides emergency room services under R9-10-1019, (2) is subject to the requirements of 42 CFR 489.24, and (3) shares an ownership interest with a hospital, regardless of whether the outpatient treatment center operates under a hospital's single group license as described in A.R.S. § 36-422.
- B. A hospital-based FSED shall register with the Administration separately from the hospital with which an ownership interest is shared and shall obtain a separate provider identification number. The Administration shall not charge a separate provider enrollment fee for registration of a hospital-based FSED. The Administration shall accept a hospital's compliance with the provider screening and enrollment requirements of 42 CFR Part 455 as compliance by the hospital-based FSED.
- C. For dates of service on and after March 1, 2017, and except as provided in subsection (D), services provided by a hospital-based FSED for evaluation and management CPT codes 99281 through 99285 shall be reimbursed at the following percentages of the amounts otherwise reimbursable under sections R9-22-712.20 through R9-22-712.30. All other covered codes shall be reimbursed in accordance with sections R9-22-712.20 through R9-22-712.30 without a percentage reduction.
 1. 60% for a level 1 emergency department visit as indicated by CPT 99281.
 2. 80% for a level 2 emergency department visit as indicated by CPT 99282.
 3. 90% for a level 3 emergency department visit as indicated by CPT 99283.
 4. 100% for a level 4 or 5 emergency department visit as indicated by CPT codes 99284 and 99285.
- D. A hospital-based FSED located in a city or town in a county with less than 500,000 residents, where the only hospital in the city or town operating an emergency department closed on or after January 1, 2015, shall be reimbursed under sections R9-

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22-712.20 through R9-22-712.35 using the adjustment in R9-22-712.35 associated with the nearest hospital with which the freestanding emergency department shares an ownership interest.

- E. Services provided by an outpatient treatment center that provides emergency room services under R9-10-1019, but does not otherwise meet the criteria in subsection A, shall be reimbursed based on the non-hospital AHCCCS capped fee-for-service schedule under R9-22-710.
- F. The Administration shall not reimburse a hospital for services provided at a hospital-based FSED if the member is admitted directly from a hospital-based FSED to a hospital with an ownership interest in the hospital-based FSED. As provided in R9-22-712.60(B), payments made for the inpatient stay using the DRG methodology shall be the sole reimbursement.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 22, February 11, 2017 (Supp. 16-4).

R9-22-713. Overpayment and Recovery of Indebtedness

- A. If a contractor or a subcontracting provider receives an overpayment from the Administration or otherwise becomes indebted to the Administration, the contractor or subcontracting provider shall immediately remit the amount of the indebtedness or overpayment to the Administration for deposit in the AHCCCS fund.
- B. If the funds described in subsection (A) are not remitted, the Administration may recover the funds paid by the Administration to a contractor or subcontracting provider through:
 - 1. A repayment agreement executed with the Administration;
 - 2. Withholding or offsetting against current or future payments to be paid to the contractor or subcontracting provider; or
 - 3. Enforcement of, or collection against, the performance bond, financial reserve, or other financial security under A.R.S. § 36-2903.

Historical Note

Adopted as an emergency effective February 23, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Adopted as a permanent rule effective May 16, 1983; text of adopted rule identical to the emergency (Supp. 83-3). Former Section R9-22-713 repealed, new Section R9-22-713 adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-713 renumbered and amended as Section R9-22-714, former Section R9-22-709 renumbered and amended as Section R9-22-713 effective October 1, 1985 (Supp. 85-5). Amended by final rulemaking at 8 A.A.R. 3317, effective July 15, 2002 (Supp. 02-3). Amended by final rulemaking at 13 A.A.R. 856, effective May 5, 2007 (Supp. 07-1).

R9-22-714. Payments to Providers

- A. Provider agreement. The Administration or a contractor shall not reimburse a covered service provided to a member unless the provider has signed a provider agreement with the Administration that establishes the terms and conditions of participation and payment under A.R.S. § 36-2904.
- B. Provider reimbursement. The Administration or a contractor shall reimburse a provider for a service furnished to a member only if:
 - 1. The provider personally furnishes the service to a specific member. For purposes of this Section, services personally furnished by a provider include:
 - a. Services provided by medical residents or dental students in a teaching environment; or

- b. Services provided by a licensed or certified assistant under the general supervision of a licensed practitioner in accordance with 4 A.A.C. 24, 9 A.A.C. 16, 4 A.A.C. 43, or 4 A.A.C. 45;
 - 2. The provider verifies that individuals who have provided services described in subsection (B)(1) have not been placed on the List of Excluded Individuals/Entities (LEIE) maintained by the United States Department of Health and Human Services Office of the Inspector General (OIG), located at OIG's web site;
 - 3. The service contributes directly to the diagnosis or treatment of the member; and
 - 4. The service ordinarily requires performance by the type of provider seeking reimbursement.
- C. The Administration or a contractor may make a payment for covered services only:
 - 1. To the provider;
 - 2. To anyone specified in a reassignment from the provider to a government agency or reassignment by a court order;
 - 3. To a business agent, if the agent's compensation for the service is:
 - a. Related to the cost of processing the billing;
 - b. Not related on a percentage or other basis to the amount that is billed or collected; and
 - c. Not dependent upon collection of the payment;
 - 4. To the employer of the provider, if the provider is required as a condition of employment to turn over the provider's fees to the employer;
 - 5. To the inpatient facility in which the service is provided, if the provider has a contract under which the inpatient facility submits the claim; or
 - 6. To a foundation, plan, or similar organization operating an organized health care delivery system, if the provider has a contract under which the foundation, plan or similar organization submits the claim.
- D. The Administration or a contractor shall not make a payment to or through a factor, either directly or by power of attorney, for a covered service furnished to a member by a provider.
- E. Reimbursement for a pathology service. Unless otherwise specified in a contract, the Administration or a contractor shall reimburse a pathologist for a pathology service furnished to a member only if the other requirements in this Section are met and the service is:
 - 1. A surgical pathology service;
 - 2. A specific cytopathology, hematology, or blood banking pathology service that requires performance by a physician and is listed in the capped fee-for-service schedule;
 - 3. A clinical consultation service that:
 - a. Is requested by the member's attending physician or primary care physician,
 - b. Is related to a test result that is outside the clinically significant normal or expected range in view of the condition of the member,
 - c. Results in a written narrative report included in the member's medical record,
 - d. Requires the exercise of medical judgment by the consultant pathologist, and
 - e. Is listed in the capped fee-for-service schedule; or
 - 4. A clinical laboratory interpretative service that:
 - a. Is requested by the member's attending physician or primary care physician,
 - b. Results in a written narrative report included in the member's medical record,
 - c. Requires the exercise of medical judgment by the consultant pathologist, and
 - d. Is listed in the capped fee-for-service schedule.

Historical Note

Adopted as an emergency effective February 23, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Adopted as a permanent rule effective May 16, 1983; text of adopted rule is similar to the emergency (Supp. 83-3). Repealed effective October 1, 1983 (Supp. 83-5). Former Section R9-22-713 renumbered and amended as Section R9-22-714 effective October 1, 1985 (Supp. 85-5). Section repealed; new Section made by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 9 A.A.R. 3800, effective October 4, 2003 (Supp. 03-3). Amended by final rulemaking at 13 A.A.R. 662, effective April 7, 2007 (Supp. 07-1).

Editor's Note: The following Section was amended under an exemption from the provisions of the Administrative Procedure Act which means that this rule was not reviewed by the Governor's Regulatory Review Council; the agency did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the agency was not required to hold public hearings on the rules; and the Attorney General did not certify this rule. This Section was subsequently amended through the regular rulemaking process.

R9-22-715. Hospital Rate Negotiations

- A. A contractor that negotiates with hospitals for inpatient or outpatient services shall reimburse hospitals for services rendered on or after March 1, 1993, as described in A.R.S. § 36-2903.01 and this Article, or at the negotiated rate that, in the aggregate, does not exceed reimbursement levels that would have been paid under A.R.S. § 36-2903.01, and this Article. This subsection does not apply to urban hospitals described under R9-22-718. Contractors may engage in rate negotiations with a hospital at any time during the contract period.
- B. The Administration may negotiate or contract with a hospital on behalf of a contractor for discounted hospital rates and may require that the negotiated discounted rates be included in a subcontract between the contractor and hospital.

Historical Note

Adopted as an emergency effective February 23, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Adopted as a permanent rule effective May 16, 1983; text of adopted rule identical to the emergency (Supp. 83-3). Repealed effective October 1, 1983 (Supp. 83-5). New Section R9-22-715 adopted effective October 1, 1985 (Supp. 85-5). Amended under an exemption from the provisions of the Administrative Procedure Act, effective March 1, 1993 (Supp. 93-1). Amended effective January 14, 1997 (Supp. 97-1). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 11 A.A.R. 3222, effective October 1, 2005 (Supp. 05-3). Amended by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).

Editor's Note: The following Section was amended under an exemption from the provisions of the Administrative Procedure Act which means that this rule was not reviewed by the Governor's Regulatory Review Council; the agency did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the agency was not required to hold public hearings on the rules; and the Attorney General did not certify this rule. This Section was subsequently amended through the regular rulemaking process.

R9-22-716. Repealed**Historical Note**

Adopted effective October 1, 1985 (Supp. 85-5). Amended under an exemption from the provisions of the Administrative Procedure Act, effective March 1, 1993 (Supp. 93-1). Amended effective January 14, 1997 (Supp. 97-1). Amended by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). Section repealed by final rulemaking at 13 A.A.R. 662, effective April 7, 2007 (Supp. 07-1).

R9-22-717. Repealed**Historical Note**

Adopted effective July 30, 1993 (Supp. 93-3). Amended effective September 22, 1997 (Supp. 97-3). Section repealed by final rulemaking at 11 A.A.R. 3222, effective October 1, 2005 (Supp. 05-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act which means that this rule was not reviewed by the Governor's Regulatory Review Council. The agency was required to submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; and was required to hold a public hearing.

R9-22-718. Urban Hospital Inpatient Reimbursement Program

- A. Definitions. The following definitions apply to this Section:
1. "Noncontracted Hospital" means an urban hospital which does not have a contract under this Section with an urban contractor in the same county.
 2. "Rural Contractor" means a contractor or program contractor as defined in A.R.S. Title 36, Chapter 29 that does not provide services to members residing in either Maricopa or Pima County.
 3. "Urban Contractor" means a contractor or program contractor as defined in A.R.S. Title 36, Chapter 29, that provides services to members residing in Maricopa or Pima County and may also provide services to members who reside in other counties. An urban contractor does not include ADHS/BHS, or a TRBHA.
 4. "Rural Hospital" means a hospital, as defined in R9-22-712.07, that is physically located in Arizona but in a county other than Maricopa and Pima County.
 5. "Urban Hospital" means a hospital that is not a rural hospital and is physically located in Maricopa or Pima County.
- B. General Provisions.
1. This Section applies to an urban hospital who receives payment for inpatient hospital services under A.R.S. §§ 36-2903.01 and 36-2904.
 2. AHCCCS shall operate an inpatient hospital reimbursement program under A.R.S. § 36-2905.01 and this Section.
 3. Residency of the member receiving inpatient AHCCCS covered services is not a factor in determining which hospitals are required to contract with which contractors.
 4. An urban contractor shall enter into a contract for reimbursement for inpatient AHCCCS covered services with one or more urban hospitals located in the same county as the urban contractor.
 5. A noncontracted urban hospital shall be reimbursed for inpatient services by an urban contractor at 95% of the amount calculated as defined in A.R.S. § 36-2903.01 and this Article, unless otherwise negotiated by both parties.

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- C. Contract Begin Date. A contract under this Article shall cover inpatient acute care hospital services for members with hospital admissions on and after October 1, 2003.
- D. Outpatient urban hospital services. Outpatient urban hospital services, including observation days and emergency room treatments that do not result in an admission, shall be reimbursed either through an urban hospital contract negotiated between a contractor and an urban hospital, or the reimbursement rates set forth in A.R.S. § 36-2903.01. Outpatient services in an urban hospital that result in an admission shall be paid as inpatient services in accordance with this Section.
- E. Urban Hospital Contract.
1. Provisions of an urban hospital contracts. The urban hospital contract shall contain but is not limited to the following provisions:
 - a. Required provisions as described in the Request for Proposals (RFP);
 - b. Dispute settlement procedures. If the AHCCCS Grievance System prescribed in A.R.S. § 36-2903.01(B) and rule is not used, then arbitration shall be used;
 - c. Arbitration procedure. If arbitration is used, the urban hospital contract shall identify:
 - i. The parties' agreement on arbitrating claims arising from the contract,
 - ii. Whether arbitration is nonbinding or binding,
 - iii. Timeliness of arbitration,
 - iv. What contract provisions may be appealed,
 - v. What rules will govern arbitrations,
 - vi. The number of arbitrators that shall be used,
 - vii. How arbitrators shall be selected, and
 - viii. How arbitrators shall be compensated.
 - d. Timeliness of claims submission and payment;
 - e. Prior authorization;
 - f. Concurrent review;
 - g. Electronic submission of claims;
 - h. Claims review criteria;
 - i. Payment of discounts or penalties such as quick-pay and slow-pay provisions;
 - j. Payment of outliers;
 - k. Claim documentation specifications under A.R.S. § 36-2904.
 - l. Treatment and payment of emergency room services; and
 - m. Provisions for rate changes and adjustments.
 2. AHCCCS review and approval of urban hospital contracts:
 - a. AHCCCS may review, approve, or disapprove the hospital contract rates, terms, conditions, and amendments to the contract;
 - b. The AHCCCS evaluation of each urban hospital contract shall include but not be limited to the following areas:
 - i. Availability and accessibility of services to members,
 - ii. Related party interests,
 - iii. Inclusion of required terms pursuant to this Section, and
 - iv. Reasonableness of the rates.
- F. Quick-Pay/Slow-Pay. A payment made by urban contractor to a noncontracted hospital shall be subject to quick-pay discounts and slow-pay penalties under A.R.S. § 36-2904.

Historical Note

Adopted under an exemption from the provisions of the Administrative Procedure Act, effective January 29,

1997; pursuant to Laws 1996, Ch. 288, § 24 (Supp. 97-1). Amended by exempt rulemaking at 10 A.A.R. 500, effective February 1, 2004 (Supp. 04-1). Amended by exempt rulemaking at 13 A.A.R. 3190, effective October 1, 2007 (Supp. 07-3). Amended by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).

R9-22-719. Contractor Performance Measure Outcomes

The Administration may retain a specified percentage of capitation reimbursement to distribute to contractors based on their performance measure outcomes under A.R.S. § 36-2904. The Administration shall notify contractors 60 days prior to a new contract year if this methodology is implemented. The Administration shall specify the details of the reimbursement methodology in contract.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1).

R9-22-720. Reinsurance

- A. Reinsurance is a stop-loss program provided by the Administration to a contractor for partial reimbursement of the cost of covered services for a member with an acute medical condition when the cost of covered services exceeds a pre-determined deductible level amount within a contract year. The Administration self-insures the reinsurance program through a reduction to capitation rates. The reinsurance program also includes a catastrophic reinsurance program for members diagnosed with specific medical conditions.
- B. The Administration shall specify in contract guidelines for claims submission, processing, payment, and the types of care and services that are provided to a member whose care is covered by reinsurance.
- C. When the Administration determines that a contractor does not follow the specified guidelines for care or services and the care or services could have been provided at a lower cost according to the guidelines, the Administration shall reimburse the contractor as if the care or services had been provided as specified in the guidelines.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3317, effective July 15, 2002 (Supp. 02-3). Amended by final rulemaking at 13 A.A.R. 856, effective May 5, 2007 (Supp. 07-1).

R9-22-721.	Reserved
R9-22-722.	Reserved
R9-22-723.	Reserved
R9-22-724.	Reserved
R9-22-725.	Reserved
R9-22-726.	Reserved
R9-22-727.	Reserved
R9-22-728.	Reserved
R9-22-729.	Reserved

Editor's Note: Amendments to Section R9-22-730 were filed as a final exempt rulemaking. AHCCCS provided an opportunity for public comment on the amended rules under Laws 2013, 1st Special Session, Ch. 10. A proposed exempt rulemaking was published in the Arizona Administrative Register at 21 A.A.R. 1041 (Supp. 15-3).

Editor's Note: Amendments to Section R9-22-730 were filed as a final exempt rulemaking. AHCCCS provided an opportunity

for public comment on the amended rules under Laws 2013, 1st Special Session, Ch. 10. A proposed exempt rulemaking was published in the Arizona Administrative Register at 21 A.A.R. 491 (Supp. 15-2).

R9-22-730. Hospital Assessment

- A.** For purposes of this Section, the following terms are defined as provided below unless the context specifically requires another meaning:
1. "2011 Medicare Cost Report" means:
 - a. The Medicare Cost Report for the hospital fiscal year ending in calendar year 2011 as reported in the CMS Healthcare Provider Cost Reporting Information System (HCRIS) release dated December 31, 2012; or
 - b. For hospitals not included in that CMS HCRIS report, the "as filed" Medicare Cost Report for the hospital fiscal year ending in calendar year 2011 submitted by the hospital to the Administration.
 2. "2011 Uniform Accounting Report" means the Uniform Accounting Report submitted to the Arizona Department of Health Services as of December 19, 2012.
 3. "2012 Uniform Accounting Report" means the Uniform Accounting Report submitted to the Arizona Department of Health Services as of August 2, 2013.
 4. "Quarter" means the three month period beginning January 1, April 1, July 1, and October 1 of each year.
- B.** Beginning January 1, 2014, each Arizona licensed hospital not excluded under subsection (I) shall be subject to an assessment payable on a quarterly basis. The assessment shall be levied against the legal owner of each hospital as of the first day of the quarter, and except as otherwise required by subsections (D), (E) and (F). For the period beginning July 1, 2017, the assessment shall be calculated by multiplying the number of discharges reported on the hospital's 2011 Medicare Cost Report, excluding discharges reported on the Medicare Cost Report as "Other Long Term Care Discharges" by the following rates based on the hospital's peer group:
1. \$483.00 per discharge for hospitals located in a county with a population less than 500,000 that are designated as type: hospital, subtype: short-term.
 2. \$483.00 per discharge for hospitals designated as type: hospital, subtype: critical access hospital.
 3. \$120.75 per discharge for hospitals designated as type: hospital, subtype: long term.
 4. \$120.75 per discharge for hospitals designated as type: hospital, subtype: psychiatric, that reported 2,500 or more discharges on the 2011 Medicare Cost Report.
 5. \$386.50 per discharge for hospitals designated as type: hospital, subtype: short-term with 20% of total licensed beds licensed as pediatric, pediatric intensive care and neonatal intensive care as reported in the hospital's 2012 Uniform Accounting Report.
 6. \$434.75 per discharge for hospitals designated as type: hospital, subtype: short-term with at least 10% but less than 20% of total licensed beds licensed as pediatric, pediatric intensive care and neonatal intensive care as reported in the hospital's 2012 Uniform Accounting Report.
 7. \$483.00 per discharge for hospitals designated as type: hospital, subtype: short-term not included in another peer group.
- C.** Peer groups for the four quarters beginning July 1 of each year are established based on hospital license type and subtype designated in the Provider & Facility Database for Arizona Medical Facilities posted by the Arizona Department of Health Services Division of Licensing Services on its website April 1, 2017.
- D.** Notwithstanding subsection (B), psychiatric discharges from a hospital that reported having a psychiatric sub-provider in the hospital's 2011 Medicare Cost Report, are assessed a rate of \$120.75 for each discharge from the psychiatric sub-provider as reported in the 2011 Medicare Cost Report. All discharges other than those reported as discharges from the psychiatric sub-provider are assessed at the rate required by subsection (B).
- E.** Notwithstanding subsection (B), rehabilitative discharges from a hospital that reported having a rehabilitative sub-provider in the hospital's 2011 Medicare Cost Report, are assessed a rate of \$0 for each discharge from the rehabilitative sub-provider as reported in the 2011 Medicare Cost Report. All discharges other than those reported as discharges from the rehabilitative sub-provider are assessed at the rate required by subsection (B).
- F.** Notwithstanding subsection (B), for any hospital that reported more than 28,200 discharges on the hospital's 2011 Medicare Cost Report, discharges in excess of 28,200 are assessed a rate of \$48.25 for each discharge in excess of 28,200. The initial 28,200 discharges are assessed at the rate required by subsection (B).
- G.** Assessment notice. On or before the 15th day of the first month of the quarter or upon CMS approval, whichever is later, the Administration shall send to each hospital a notification that the assessment invoice is available to be viewed on a secure website. The invoice shall include the hospital's peer group assignment and the assessment due for the quarter.
- H.** Assessment due date. The assessment must be received by the Administration no later than:
1. The 15th day of the second month of the quarter or
 2. In the event CMS approves the assessment after the 15th day of the first month of the quarter, 30 days after notification by the Administration that the assessment invoice is available.
- I.** Excluded hospitals. The following hospitals are excluded from the assessment based on the hospital's 2011 Medicare Cost Report and Provider & Facility Database for Arizona Medical Facilities posted by the Arizona Department of Health Services Division of Licensing Services on its website for April 1, 2017:
1. Hospitals owned and operated by the state, the United States, or an Indian tribe.
 2. Hospitals designated as type: hospital, subtype: short-term that have a license number beginning "SH".
 3. Hospitals designated as type: hospital, subtype: psychiatric that reported fewer than 2,500 discharges on the 2011 Medicare Cost Report.
 4. Hospitals designated as type: hospital, subtype; rehabilitation.
 5. Hospitals designated as type: hospital, subtype: children's.
 6. Hospitals designated as type: med-hospital, subtype: special hospitals.
 7. Hospitals designated as type: hospital, subtype: short-term located in a city with a population greater than one million, which on average have at least 15 percent of inpatient days for patients who reside outside of Arizona, and at least 50 percent of discharges as reported on the 2011 Medicare Cost Report are reimbursed by Medicare.
- J.** New hospitals. For hospitals that did not file a 2011 Medicare Cost Report because of the date the hospital began operations:

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1. If the hospital was open on the April 1 preceding the July assessment start date, the hospital assessment will begin on July 1 following the date the hospital began operating.
2. If the hospital began operating between April 2 and June 30, the assessment will begin on July 1 of the following calendar year.
3. A hospital is not considered a new hospital based on a change in ownership.
4. Until the first full year of data is available, the assessment will be based on the annualized number of discharges from the date hospital operations began through April 30 preceding the July assessment start date. The hospital shall submit the discharge data and all other data requested by the Administration necessary to determine the appropriate assessment to the Administration no later than May 15 preceding the assessment start date for the new hospitals. Thereafter, the assessment will be based on the discharges reported in the hospital's first Medicare Cost Report and Uniform Accounting Report which includes 12 months worth of data; however, when a new hospital shares a Medicare Identification Number with an existing hospital, the assessment amount will be based on self reported data from the new hospital instead of the Medicare Cost Report. The data shall include the number of discharges and all other data requested by the Administration necessary to determine the appropriate assessment. No later than August 15, 2017, new hospitals shall also submit to the Administration discharge data and all other data requested by the Administration necessary to determine the appropriate assessment beginning July 1, 2018.
5. For hospitals providing self-reported data:
 - a. Psychiatric discharges will be annualized to determine if subsections (B)(4) or (I)(3) apply to the assessment amount.
 - b. Discharges will be annualized to determine if subsection (F) applies to the assessment amount.
- K. Changes of ownership. The parties to a change of ownership shall promptly provide written notice to the Administration of a change of ownership and any agreement regarding the payment of the assessment. The assessed amount will continue at the same amount applied to the prior owner. Assessments are the responsibility of the owner of record as of the first day of the quarter; however, this rule is not intended to prohibit the parties to a change of ownership from entering into an agreement for a new owner to assume the assessment responsibility of the owner of record as of the first day of the prior quarter.
- L. Hospital closures. Hospitals that close shall pay a proportion of the quarterly assessment equal to that portion of the quarter during which the hospital operated.
- M. Required information. For any hospital that has not filed a 2011 Medicare Cost report, or if the 2011 Medicare Cost report does not include the reliable information sufficient for the Administration to calculate the assessment, the Administration shall use data reported on the 2011 Uniform Accounting Report filed by the hospital in place of the 2011 Medicare Cost report to calculate the assessment. If the 2011 Uniform Accounting Report filed by the hospital does not include reliable information sufficient for the Administration to calculate the assessment amounts, the hospital shall provide the Administration with data specified by the Administration necessary in place of the 2011 Medicare Cost report to calculate the assessment.
- N. The Administration will review and update as necessary rates and peer groups periodically to ensure the assessment is suffi-

cient to fund the state match obligation to cover the cost of the populations as specified in A.R.S. § 36-2901.08.

- O. Enforcement. If a hospital does not comply with this section, the director may suspend or revoke the hospital's provider agreement. If the hospital does not comply within 180 days after the hospital's provider agreement is suspended or revoked, the director shall notify the director of the Department of Health Services who shall suspend or revoke the hospital's license.

Historical Note

New Section R9-22-730 made by exempt rulemaking at 20 A.A.R. 281, effective January 15, 2014 (Supp. 14-1).

Amended by exempt rulemaking at 20 A.A.R. 1833, effective July 1, 2014 (Supp. 14-2). Amended by final exempt rulemaking at 21 A.A.R. 637, effective April 15, 2015 (Supp. 15-2). Amended by final exempt rulemaking at 21 A.A.R. 1486, effective July 16, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 22 A.A.R. 2050, effective July 14, 2016 (Supp. 16-4). Amended by final exempt rulemaking at 23 A.A.R. 1945, effective July 1, 2017 (Supp. 17-2).

ARTICLE 8. REPEALED

Article 8, consisting of Sections R9-22-801 through R9-22-804 and Exhibit A, repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004. The subject matter of Article 8 is now in 9 A.A.C. 34 (Supp. 04-1).

R9-22-801. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-801 adopted as an emergency adoption now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-801 repealed, new Section R9-22-801 adopted effective October 29, 1985 (Supp. 85-5). Amended subsections (C), (F), (H), (I), and (K) effective October 1, 1986 (Supp. 86-5). Change of heading only effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsection (H) effective May 30, 1989 (Supp. 89-2). Amended effective September 29, 1992 (Supp. 92-3). Section heading amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 26, 1993 (Supp. 93-4). Amended effective December 13, 1993 (Supp. 93-4). Former Section R9-22-801 repealed, new Section R9-22-801 adopted January 14, 1997 (Supp. 97-1). Amended by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1).

R9-22-802. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-802 adopted as an emergency adoption now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective October 29, 1985 (Supp. 85-5). Amended subsections (A), (B), (C) and (D) effective October 14, 1988 (Supp. 88-4). Amended effective September 29, 1992 (Supp. 92-3). Amended effective December 13, 1993 (Supp. 93-4).

Former Section R9-22-802 repealed, new Section R9-22-802 adopted effective January 14, 1997 (Supp. 97-1). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1).

R9-22-803. Repealed

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-803 adopted as an emergency now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-803 repealed, new Section R9-22-803 adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-803 renumbered and amended as Section R9-22-804. Adopted effective January 31, 1986 (Supp. 86-1). Amended effective September 29, 1992 (Supp. 92-3). Former Section R9-22-803 repealed, new Section R9-22-803 adopted January 14, 1997 (Supp. 97-1). Amended by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1).

R9-22-804. Repealed

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-804 adopted as an emergency adoption now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1983 (Supp. 83-5). Former Section R9-22-804 repealed, former Section R9-22-803 renumbered and amended as Section R9-22-804 effective October 29, 1985 (Supp. 85-5). Amended effective October 14, 1988 (Supp. 88-4). Amended subsections (B) and (C) effective May 30, 1989 (Supp. 89-2). Amended effective September 29, 1992 (Supp. 92-3). Amended effective December 13, 1993 (Supp. 93-4). Former Section R9-22-804 repealed, new Section R9-22-804 adopted effective January 14, 1997 (Supp. 97-1). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1).

Exhibit A. Repealed

Historical Note

New Exhibit adopted by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Exhibit repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1).

R9-22-805. Repealed

Historical Note

Former Section R9-22-805 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Repealed effective January 31, 1986 (Supp. 86-1).

ARTICLE 9. REPEALED

R9-22-901. Repealed

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-901 adopted as an emergency adoption now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Repealed effective October 1, 1983 (Supp. 83-5). Adopted effective August 29, 1985 (Supp. 85-4). Amended effective October 1, 1986 (Supp. 86-5). Amended effective May 30, 1989 (Supp. 89-2). Amended effective September 29, 1992 (Supp. 92-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 26, 1993 (Supp. 93-4). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 4061, effective October 8, 1999 (Supp. 99-4). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 4484, effective January 6, 2007 (Supp. 06-4).

R9-22-902. Repealed

Historical Note

Adopted effective August 29, 1985 (Supp. 85-4). Former Section R9-22-902 renumbered and amended as Section R9-22-904, former Section R9-22-903 renumbered and amended as Section R9-22-902 effective October 1, 1986 (Supp. 86-5). Former Section R9-22-902 repealed, new Section R9-22-902 adopted effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 26, 1993 (Supp. 93-4). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 4061, effective October 8, 1999 (Supp. 99-4). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 4484, effective January 6, 2007 (Supp. 06-4).

R9-22-903. Repealed

Historical Note

Adopted effective August 29, 1985 (Supp. 85-4). Former Section R9-22-903 renumbered and amended as Section R9-22-902, former Section R9-22-904 renumbered and amended as Section R9-22-903 effective October 1, 1986 (Supp. 86-5). Former Section R9-22-903 repealed, new Section R9-22-903 adopted effective May 30, 1989 (Supp. 89-2). Section repealed by final rulemaking at 5 A.A.R. 4061, effective October 8, 1999 (Supp. 99-4). New Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 4484, effective January 6, 2007 (Supp. 06-4).

R9-22-904. Repealed

Historical Note

Adopted effective August 29, 1985 (Supp. 85-4). Former Section R9-22-904 renumbered and amended as Section R9-22-903, former Section R9-22-902 renumbered and amended as Section R9-22-904 effective October 1, 1986 (Supp. 86-5). Amended effective May 30, 1989 (Supp. 89-2).

89-2). Section repealed by final rulemaking at 5 A.A.R. 4061, effective October 8, 1999 (Supp. 99-4). New Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 4484, effective January 6, 2007 (Supp. 06-4).

R9-22-905. Repealed

Historical Note

Adopted effective August 29, 1985 (Supp. 85-4). Former Section R9-22-905 renumbered without change as Section R9-22-908, former Section R9-22-907 renumbered and amended as Section R9-22-905 effective October 1, 1986 (Supp. 86-5). Amended effective May 30, 1989 (Supp. 89-2). Section repealed by final rulemaking at 5 A.A.R. 4061, effective October 8, 1999 (Supp. 99-4). New Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 4484, effective January 6, 2007 (Supp. 06-4).

R9-22-906. Repealed

Historical Note

Adopted effective August 29, 1985 (Supp. 85-4). Amended effective October 1, 1986 (Supp. 86-5). Amended effective October 1, 1987 (Supp. 87-4). Amended effective May 30, 1989 (Supp. 89-2). Amended effective September 22, 1997 (Supp. 97-3). Section repealed by final rulemaking at 5 A.A.R. 4061, effective October 8, 1999 (Supp. 99-4). New Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 4484, effective January 6, 2007 (Supp. 06-4).

R9-22-907. Repealed

Historical Note

Adopted effective August 29, 1985 (Supp. 85-4). Former Section R9-22-907 renumbered and amended as Section R9-22-905, former Section R9-22-908 renumbered and amended as Section R9-22-907 effective October 1, 1986 (Supp. 86-5). Amended effective May 30, 1989 (Supp. 89-2). Section repealed by final rulemaking at 5 A.A.R. 4061, effective October 8, 1999 (Supp. 99-4). New Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 4484, effective January 6, 2007 (Supp. 06-4).

R9-22-908. Repealed

Historical Note

Adopted effective August 29, 1985 (Supp. 85-4). Former Section R9-22-908 renumbered and amended as Section R9-22-907, former Section R9-22-905 renumbered without change as Section R9-22-908 effective October 1, 1986 (Supp. 86-5). Former R9-22-908 repealed effective May 30, 1989 (Supp. 89-2). New Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 4484, effective January 6, 2007 (Supp. 06-4).

R9-22-909. Repealed

Historical Note

New Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 4484, effective January 6, 2007 (Supp. 06-4).

ARTICLE 10. FIRST- AND THIRD-PARTY LIABILITY AND RECOVERIES

R9-22-1001. Definitions

In addition to the definitions in A.R.S. §§ 36-2901, 36-2923 and 9 A.A.C. 22, Article 1, the following definitions apply to this Article:

“Absent parent” means an individual who is absent from the home and is legally responsible for providing financial and/or medical support for a dependent child.

“Cost avoid” means to deny a claim and return the claim to the provider for a determination of the amount of first- or third-party liability.

“First-party liability” means the obligation of any insurance plan or other coverage obtained directly or indirectly by a member that provides benefits directly to the member to pay all or part of the expenses for medical services incurred by AHCCCS or a member.

“Third-party” means a person, entity, or program that is, or may be, liable to pay all or part of the medical cost of injury, disease, or disability of an applicant or member.

“Third-party liability” means any individual, entity, or program that is or may be liable to pay all or part of the expenditures for medical assistance furnished to a member under a state plan.

Historical Note

Former Section R9-22-712 renumbered and amended as Section R9-22-1001 effective October 1, 1985 (Supp. 85-5). Amended subsections (E) through (H) effective October 1, 1986 (Supp. 86-5). Amended subsections (B), (C), (E), and (F) effective December 22, 1987 (Supp. 87-4). Section repealed; new Section adopted effective November 7, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 10 A.A.R. 1146, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 15 A.A.R. 179, effective March 7, 2009 (Supp. 09-1). Amended by final rulemaking at 21 A.A.R. 1237, effective July 7, 2015 (Supp. 15-3).

R9-22-1002. General Provisions

AHCCCS is the payor of last resort unless specifically prohibited by applicable state or federal law. AHCCCS is not the payor of last resort when the following entities are the third-party:

1. Indian Health Services (IHS/638), contract health,
2. Title IV-E,
3. Arizona Early Intervention Program (AZEIP),
4. Local educational agencies providing services under the Individuals with Disabilities Education Act under 34 CFR Part 300,
5. Entities and contractors of entities providing services under grants awarded as part of the HIV Health Care Services Program under 42 USC 300ff et seq., and
6. The Arizona Refugee Resettlement Program operated under 45 CFR Part 400, Subpart (G).

Historical Note

Section R9-22-529 adopted effective October 1, 1985, then renumbered as Section R9-22-1002 effective October 1, 1985 (Supp. 85-5). Amended subsections (C) and (D) effective October 1, 1986 (Supp. 86-5). Amended

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effective December 22, 1987 (Supp. 87-4). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Section repealed; new Section adopted effective November 7, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 10 A.A.R. 1146, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 15 A.A.R. 179, effective March 7, 2009 (Supp. 09-1). Amended by final rulemaking at 21 A.A.R. 1237, effective July 7, 2015 (Supp. 15-3).

R9-22-1003. Cost Avoidance

- A.** The Administration's reimbursement responsibility.
 - 1. The Administration shall pay no more than the difference between the Capped Fee-For-Service schedule and the amount of the third-party liability, unless Medicare is the third-party.
 - 2. If Medicare is the third-party that is liable, the Administration shall pay the Medicare copayment, coinsurance, and deductible regardless of the Capped Fee-For-Service Schedule, as described under 9 A.A.C. 29, Article 3.
- B.** The Contractor's reimbursement responsibility.
 - 1. If the contract between the contractor and the provider does not state otherwise, a contractor shall pay no more than the difference between the contracted rate and the amount of the third-party liability.
 - 2. If the provider does not have a contract with the contractor, a contractor shall pay no more than the difference between the Capped Fee-For-Service rate and the amount of the third-party liability.
- C.** The following parties shall take reasonable measures to identify potentially legally liable first- or third-party sources:
 - 1. AHCCCS, the Administration, or a contractor;
 - 2. A provider;
 - 3. A noncontracting provider; and
 - 4. A member.
- D.** Except as specified under subsection (E), the Administration or a contractor shall cost avoid a claim for AHCCCS covered services under Article 2 if the Administration or a contractor has established the probable existence of a liable party at the time the claim is filed. Establishing liability takes place when the Administration or the contractor receives confirmation that another party is legally responsible for payment of a health care service under Article 2.
- E.** The Administration or contractor shall pay the full amount of the claim according to the Capped-Fee-For-Service Schedule or the contracted rate as described under subsection (B), and then seek reimbursement from any liable parties if the claim is for:
 - 1. Prenatal care for pregnant women,
 - 2. Preventive pediatric services, including E.P.S.D.T. and administration of vaccines to children under the Vaccines for Children (VFC) program; or
 - 3. Services covered by third-party liability that is derived from an absent parent whose obligation to pay support is being enforced by the Division of Child Support Enforcement.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1146, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 10 A.A.R. 3012, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 15 A.A.R. 179, effective March 7, 2009 (Supp. 09-1). Amended by final rulemaking at 21 A.A.R. 1237, effective July 7, 2015 (Supp. 15-3).

R9-22-1004. Member Participation

A member shall cooperate in identifying potentially legally liable first- or third-parties and timely assist the Administration and a contractor, provider, or noncontracting provider in pursuing any first- or third-party who may be liable to pay for covered services.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1146, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 15 A.A.R. 179, effective March 7, 2009 (Supp. 09-1).

R9-22-1005. Collections

- A.** Parties that notify AHCCCS. A provider or noncontracting provider shall cooperate with AHCCCS by identifying all potential sources of first- or third-party liability and notify AHCCCS of these sources.
- B.** Parties that pursue collection or reimbursement. AHCCCS, a provider, or noncontracting provider shall pursue collection or reimbursement from all potential sources of first- or third-party liability.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1146, effective May 1, 2004 (Supp. 04-1).

R9-22-1006. AHCCCS Monitoring Responsibilities

AHCCCS shall monitor first- or third-party liability payments to a provider or noncontracting provider, which include but are not limited to payments by or for:

- 1. Private health insurance;
- 2. Employment-related disability and health insurance;
- 3. Long-term care insurance;
- 4. Other federal programs not excluded by statute from recovery;
- 5. Court ordered or non-court ordered medical support from an absent parent;
- 6. State worker's compensation;
- 7. Automobile insurance, including underinsured and uninsured motorists insurance;
- 8. Court judgment or settlement from a liability insurer including settlement proceeds placed in a trust;
- 9. First-party probate estate recovery;
- 10. Adoption-related payment; or
- 11. A tortfeasor.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1146, effective May 1, 2004 (Supp. 04-1).

R9-22-1007. Notification for Perfection, Recording, and Assignment of AHCCCS Liens

- A.** Hospital requirements. A hospital providing medical services to a member for an injury or condition resulting from circumstances reflecting the probable liability of a first- or third-party shall within 30 days after a member's discharge:
 - 1. Notify AHCCCS via facsimile or mail under R9-22-1008, or
 - 2. Mail AHCCCS a copy of the lien the hospital proposes to record or has recorded under A.R.S. § 33-932.
- B.** Provider and noncontracting provider requirements. A provider or noncontracting provider, other than a hospital, rendering medical services to a member for an injury or condition resulting from circumstances reflecting the probable liability of a first- or third-party shall notify AHCCCS via facsimile or mail under R9-22-1008 within 30 days after providing the service.

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Historical Note

New Section made by final rulemaking at 10 A.A.R. 1146, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 15 A.A.R. 179, effective March 7, 2009 (Supp. 09-1).

R9-22-1008. Notification Information for Liens

- A. Except as provided in subsection (B), a hospital, provider, and noncontracting provider identified in R9-22-1007 shall provide the following information to AHCCCS in writing:
1. Name of the hospital, provider or noncontracting provider;
 2. Address of the hospital, provider or noncontracting provider;
 3. Name of member;
 4. Member's Social Security Number or AHCCCS identification number;
 5. Address of member;
 6. Date of member's admission or date service is provided;
 7. Amount estimated to be due for care of member;
 8. Date of discharge, if member has been discharged;
 9. Name of county in which injuries were sustained; and
 10. Name and address of all persons, firms, and corporations and their insurance carriers identified by the member or legal representative as being liable for damages.
- B. If the date of discharge is not known at the time the information in subsection (A) is provided, a party identified in subsection (A) shall notify AHCCCS of the date of discharge within 30 days after the member has been discharged.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1146, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 15 A.A.R. 179, effective March 7, 2009 (Supp. 09-1).

R9-22-1009. Notification of Health Insurance Information

A provider or noncontracting provider shall notify AHCCCS, in writing, of the following health insurance information within 10 days of receipt of the health insurance information:

1. Name of member,
2. Member's Social Security Number or AHCCCS identification number,
3. Insurance carrier name,
4. Insurance carrier address,
5. Policy number or insurance holder's Social Security Number,
6. Policy begin and end dates, and
7. Insurance holder's name.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1146, effective May 1, 2004 (Supp. 04-1).

ARTICLE 11. CIVIL MONETARY PENALTIES AND ASSESSMENTS**R9-22-1101. Basis for Civil Monetary Penalties and Assessments for Fraudulent Claims; Definitions**

- A. Scope. This Article applies to prohibited acts as described under A.R.S. § 36-2918(A), and submissions of encounters to the Administration. The Administration considers a person who aids and abets a prohibited act affecting any of the AHCCCS programs or Health Care Group to be engaging in a prohibited act under A.R.S. § 36-2918(A).
- B. Purpose. This Article describes the circumstances AHCCCS considers and the process that AHCCCS uses to determine the amount of a penalty, assessment, or penalty and assessment as required under A.R.S. § 36-2918. This Article includes the

process and time-frames used by a person to request a State Fair Hearing.

C. Definitions. The following definitions apply to this Article:

1. "Assessment" means a monetary amount that does not exceed twice the dollar amount claimed by the person for each service.
2. "Claim" means a request for payment submitted by a person for payment for a service or line item of service, including a submission of an encounter.
3. "Day" means calendar day unless otherwise specified.
4. "File" means the date that AHCCCS receives a written acceptance, request for compromise, request for a counter proposal, or a request for a State Fair Hearing as established by a date stamp on the written document or other record of receipt.
5. "Penalty" means a monetary amount, based on the number of items of service claimed or reported, that does not exceed \$2,000 times the number of line items of service.
6. "Person" means an individual or entity as described under A.R.S. § 1-215.
7. "Reason to know" or "had reason to know" means that a person, acts in deliberate ignorance of the truth or falsity of, or with reckless disregard of the truth or falsity of information. No proof of specific intent to defraud is required.

Historical Note

Adopted effective October 1, 1986 (Supp. 86-5).
Amended subsection A. effective May 30, 1989 (Supp. 89-2). Amended effective September 29, 1992 (Supp. 92-3). Amended effective June 9, 1998 (Supp. 98-2).
Amended by final rulemaking at 10 A.A.R. 3056, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 17 A.A.R. 2615, effective February 4, 2012 (Supp. 11-4).

R9-22-1102. Determining the Amount of a Penalty and an Assessment

- A. AHCCCS shall determine the amount of a penalty and assessment according to A.R.S. § 36-2918(B) and (C), R9-22-1104, and R9-22-1105.
- B. AHCCCS shall include in the amount of the penalty and assessment the cost incurred by AHCCCS for conducting the following:
1. An investigation,
 2. Audit, or
 3. Inquiry.

Historical Note

Adopted effective October 1, 1986 (Supp. 86-5).
Amended effective December 13, 1993 (Supp. 93-4).
Amended effective June 9, 1998 (Supp. 98-2). Section repealed; new Section made by final rulemaking at 10 A.A.R. 3056, effective September 11, 2004 (Supp. 04-3).
Amended by final rulemaking at 17 A.A.R. 2615, effective February 4, 2012 (Supp. 11-4).

R9-22-1103. Repealed**Historical Note**

Adopted effective October 1, 1986 (Supp. 86-5).
Amended effective December 13, 1993 (Supp. 93-4).
Amended effective June 9, 1998 (Supp. 98-2). Section repealed; new Section made by final rulemaking at 10 A.A.R. 3056, effective September 11, 2004 (Supp. 04-3).
Section repealed by final rulemaking at 17 A.A.R. 2615, effective February 4, 2012 (Supp. 11-4).

R9-22-1104. Mitigating Circumstances

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AHCCCS shall consider any of the following to be mitigating circumstances when determining the amount of a penalty, assessment, or penalty and assessment.

1. Nature and circumstances of a claim. The following are mitigating circumstances:
 - a. All the services are of the same type,
 - b. All the dates of services occurred within six months or less,
 - c. The number of claims submitted is less than 25,
 - d. The nature and circumstances do not indicate a pattern of inappropriate claims for the services, and
 - e. The total amount claimed for the services is less than \$1,000.
2. Degree of culpability. The degree of culpability of a person who presents or causes to present a claim is a mitigating circumstance if:
 - a. Each service is the result of an unintentional and unrecognized error in the process that the person followed in presenting or in causing to present the service,
 - b. Corrective steps were taken promptly by the person after the error was discovered, and
 - c. The person had a fraud and abuse control plan that was operating effectively at the time each claim was presented or caused to be presented.
3. Financial condition. The financial condition of a person who presents or causes to present a claim is a mitigating circumstance if the imposition of a penalty, assessment, or penalty and assessment without reduction will render the provider incapable to continue providing services. AHCCCS shall consider the resources available to the person when determining the amount of the penalty, assessment, or penalty and assessment.
4. Other matters as justice may require. AHCCCS shall take into account other circumstances of a mitigating nature, if in the interest of justice, the circumstances require a reduction of the penalty, assessment, or penalty and assessment.

Historical Note

Adopted effective October 1, 1986 (Supp. 86-5).
Amended effective June 9, 1998 (Supp. 98-2). Section repealed; new Section made by final rulemaking at 10 A.A.R. 3056, effective September 11, 2004 (Supp. 04-3).
Amended by final rulemaking at 17 A.A.R. 2615, effective February 4, 2012 (Supp. 11-4).

R9-22-1105. Aggravating Circumstances

AHCCCS shall consider any of the following to be aggravating circumstances when determining the amount of a penalty, assessment, or penalty and assessment.

1. Nature and circumstances of each claim. The nature and circumstances of each claim and the circumstances under which the claim is presented or caused to be presented are aggravating circumstances if:
 - a. A person has forged, altered, recreated, or destroyed records;
 - b. The person refuses to provide pertinent documentation to AHCCCS for a claim or refuses to cooperate with investigators;
 - c. The services are of several types;
 - d. All the dates of services did not occur within six months or less;
 - e. The number of claims submitted is greater than 25;
 - f. The nature and circumstances indicate a pattern of inappropriate claims for the services; and

- g. The total amount claimed for the services is \$5,000 or greater.
2. Degree of culpability. The degree of culpability of a person who presents or causes to present each claim is an aggravating circumstance if:
 - a. The person knows or had reason to know that each service was not provided as claimed,
 - b. The person knows or had reason to know that no payment could be made because the person had been excluded from reimbursement by AHCCCS, or
 - c. The person knows or had reason to know that the payment would violate the terms of an agreement between the person and AHCCCS system.
3. Prior offenses. The prior offenses of a person who presents or causes to present each claim are an aggravating circumstance if:
 - a. At any time before the submittal of the claim the person was held criminally or civilly liable for any act, or
 - b. The person had received an administrative sanction in connection with:
 - i. A Medicaid program,
 - ii. A Medicare program, or
 - iii. Any other public or private program of reimbursement for medical services.
4. Effect on patient care. The adverse effect on patient care that resulted, or could have resulted, from the failure to provide medically necessary care by a person in connection with a claim.
5. Other matters as justice may require. AHCCCS shall take into account other circumstances of an aggravating nature, if in the interest of justice, the circumstances require an increase of the penalty, assessment, or penalty and assessment.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 3056, effective September 11, 2004 (Supp. 04-3).
Amended by final rulemaking at 17 A.A.R. 2615, effective February 4, 2012 (Supp. 11-4).

R9-22-1106. Notice of Intent

If AHCCCS imposes a penalty, assessment, or a penalty and assessment, AHCCCS shall hand deliver or send by certified mail return receipt requested or Federal Express to the person, a written Notice of Intent to impose a penalty, assessment, or a penalty and assessment. The Notice of Intent shall include:

1. The statutory basis for the penalty, assessment, or the penalty and assessment;
2. Identification of the state or federal regulation and state or federal law that AHCCCS alleges has been violated;
3. The factual basis for AHCCCS' determination that the penalty, assessment, or the penalty and assessment should be imposed;
4. The amount of the penalty, assessment, or penalty and assessment;
5. The process for the person to accept or request a compromise of the penalty, assessment, or penalty and assessment; and
6. The process for requesting a State Fair Hearing.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 3056, effective September 11, 2004 (Supp. 04-3).
Amended by final rulemaking at 17 A.A.R. 2615, effective February 4, 2012 (Supp. 11-4).

R9-22-1107. Reserved**R9-22-1108. Request for a Compromise**

- A. To request a compromise, the person shall file a written request with AHCCCS within 30 days from the date of receipt of the Notice of Intent. The written request for compromise shall contain the person's reasons for the reduction or modification of the penalty, assessment, or penalty and assessment.
- B. Within 30 days from the date of receipt of the request for compromise from the person, AHCCCS shall send a Notice of Compromise Decision that accepts, denies, or offers a counter proposal to the person's request for compromise. If AHCCCS offers a counter proposal the amount of the counter proposal shall represent the penalty, assessment, or penalty and assessment.
1. If AHCCCS does not withdraw the Notice of Intent under R9-22-1112 or denies the request for compromise the original penalty, assessment, or penalty and assessment is upheld.
 2. To dispute the Compromise Decision, the person shall file a request for a State Fair Hearing under R9-22-1110 within 30 days from the date of receipt of the Notice of Compromise Decision.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 3056, effective September 11, 2004 (Supp. 04-3).

Amended by final rulemaking at 17 A.A.R. 2615, effective February 4, 2012 (Supp. 11-4).

R9-22-1109. Failure to Respond to the Notice of Intent

If a person fails to respond timely to the Notice of Intent, AHCCCS shall uphold the original penalty, assessment, or penalty and assessment.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 3056, effective September 11, 2004 (Supp. 04-3).

Amended by final rulemaking at 17 A.A.R. 2615, effective February 4, 2012 (Supp. 11-4).

R9-22-1110. Request for State Fair Hearing

- A. To request a State Fair Hearing regarding a dispute concerning a penalty, assessment, or penalty and assessment, the person shall file a written request for a State Fair Hearing with AHCCCS within 60 days from the date of the receipt of the Notice of Intent under R9-22-1106 or within 30 days from the date of receipt of the Notice of Compromise Decision under R9-22-1108, if applicable.
- B. AHCCCS shall mail a Notice of Hearing under A.R.S. § 41-1092.05 if AHCCCS receives a timely request for a State Fair Hearing from the person.
- C. AHCCCS shall mail a Director's Decision to the person no later than 30 days after the date the Administrative Law Judge sends the decision of the Office of Administrative Hearings (OAH) to AHCCCS.
- D. AHCCCS shall accept a written request for withdrawal of a hearing request if the written request for withdrawal is received from the person before AHCCCS mails a Notice of Hearing under A.R.S. § 41-1092 et seq. If AHCCCS mailed a Notice of Hearing under A.R.S. § 41-1092 et seq., a person may withdraw the hearing request only by sending a written request for withdrawal to OAH.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 3056, effective September 11, 2004 (Supp. 04-3).

Amended by final rulemaking at 17 A.A.R. 2615, effective February 4, 2012 (Supp. 11-4).

R9-22-1111. Issues and Burden of Proof

- A. Preponderance of evidence. In any State Fair Hearing conducted under R9-22-1110, AHCCCS shall prove by a preponderance of the evidence that a person presented or caused to be presented each claim in violation of this Article and any aggravating circumstances under R9-22-1105. A person shall bear the burden of producing and proving by a preponderance of the evidence any circumstance that would justify reducing the amount of the penalty, assessment, or penalty and assessment.
- B. Statistical sampling.
1. In meeting the burden of proof described in subsection (A), AHCCCS may introduce the results of a statistical sampling study as evidence of the number and amount of claims that were presented or caused to be presented by the person. A statistical sampling study constitutes prima facie evidence of the number and amount of claims if computed by valid statistical methods.
 2. The burden of proof shall shift to the person to produce evidence reasonably calculated to rebut the findings of the statistical sampling study once AHCCCS has made a prima facie case as described in subsection (B)(1). AHCCCS shall be given the opportunity to rebut this evidence.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 3056, effective September 11, 2004 (Supp. 04-3).

Amended by final rulemaking at 17 A.A.R. 2615, effective February 4, 2012 (Supp. 11-4).

R9-22-1112. Withdrawal and Continuances

AHCCCS may withdraw the Notice of Intent at any time. Prior to referring a matter to the Office of Administrative Hearings the parties may mutually agree to a continuance.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 3056, effective September 11, 2004 (Supp. 04-3).

ARTICLE 12. BEHAVIORAL HEALTH SERVICES**R9-22-1201. Definitions**

Definitions. The following definitions apply to this Article:

"Adult behavioral health therapeutic home" as defined in 9 A.A.C. 10, Article 1.

"Agency" for the purposes of this Article means a behavioral health facility, a classification of a health care institution, including a mental health treatment agency defined in A.R.S. § 36-501, that is licensed to provide behavioral health services according to A.R.S. Title 36, Chapter 4.

"Assessment" means an analysis of a patient's need for physical health services or behavioral health services to determine which services a health care institution will provide to the patient.

"Behavior management services" means services that assist the member in carrying out daily living tasks and other activities essential for living in the community, including personal care services.

"Behavioral health therapeutic home care services" means interactions that teach the client living, social, and communication skills to maximize the client's ability to live and participate in the community and to function independently, including assistance in the self-administration of medication and any ancillary services indicated by the client's treatment plan, as appropriate.

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“Behavioral health services” means medical services, nursing services, health-related services, or ancillary services provided to an individual to address the individual’s behavioral health issue.

“Behavioral health technician” means an individual who is not a behavioral health professional who provides behavioral health services at or for a health care institution according to the health care institution’s policies and procedures that:

If the behavioral health services were provided in a setting other than a licensed health care institution, the individual would be required to be licensed as a behavioral professional under A.R.S. Title 32, Chapter 33; and

Are provided with clinical oversight by a behavioral health professional.

“Case management” for the purposes of this Article, means services and activities that enhance treatment, compliance, and effectiveness of treatment.

“Certified psychiatric nurse practitioner” means a registered nurse practitioner who meets the psychiatric specialty area requirements under A.A.C. R4-19-505(C).

“Clinical oversight” means as described under 9 A.A.C. 10.

“Cost avoid” means to avoid payment of a third-party liability claim when the probable existence of third-party liability has been established under 42 CFR 433.139(b).

“Court-ordered evaluation” has the same meaning as “evaluation” in A.R.S. § 36-501.

“Court-ordered pre-petition screening” has the same meaning as “pre-petition screening” in A.R.S. § 36-501.

“Court-ordered treatment” means treatment provided according to A.R.S. Title 36, Chapter 5.

“Crisis services” means immediate and unscheduled behavioral health services provided to a patient to address an acute behavioral health issue affecting the patient.

“Direct supervision” has the same meaning as “supervision” in A.R.S. § 36-401.

“Emergency medical services provider” has the same meaning as in A.R.S. § 36-2201.

“Health care institution” has the same meaning as defined in A.R.S. § 36-401.

“Health care practitioner” means a:

Physician;

Physician assistant;

Nurse practitioner; or

Other individual licensed and authorized by law to use and prescribe medication and devices, as defined in A.R.S. § 32-1901.

“Licensee” means the same as in 9 A.A.C. 10, Article 1.

“Medical practitioner” means a physician, physician assistant, or nurse practitioner.

“Partial care” means a day program of services provided to individual members or groups that is designed to improve the ability of a person to function in a community, and includes basic, therapeutic, and medical day programs.

“Physician assistant” means the same as in A.R.S. § 32-2501 except that when providing a behavioral health service, the

physician assistant shall be supervised by an AHCCCS-registered psychiatrist.

“Psychiatrist” means a physician who meets the licensing requirements under A.R.S. § 32-1401 or a doctor of osteopathy who meets the licensing requirements under A.R.S. § 32-1800, and meets the additional requirements of a psychiatrist under A.R.S. § 36-501.

“Psychologist” means a person who meets the licensing requirements under A.R.S. §§ 32-2061 and 36-501.

“Qualified behavioral health service provider” means a behavioral health service provider that meets the requirements of R9-22-1206.

“Respite” means a period of care and supervision of a member to provide rest or relief to a family member or other person caring for the member. Respite provides activities and services to meet the social, emotional, and physical needs of the member during respite.

“TRBHA” or “Tribal Regional Behavioral Health Authority” means a Native American tribe under contract with ADHS/DBHS to coordinate the delivery of behavioral health services to eligible and enrolled members of the federally-recognized tribal nation.

Historical Note

Adopted under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective November 1, 1992; received in the Office of the Secretary of State November 25, 1992 (Supp. 92-4). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective September 30, 1993 (Supp. 93-3). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1995, Ch. 204, § 11, effective October 1, 1995; filed with the Secretary of State September 29, 1995 (Supp. 95-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 13 A.A.R. 836, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 20 A.A.R. 3098, effective January 4, 2015 (Supp. 14-4).

R9-22-1202. ADHS, Contractor, Administration and CRS Responsibilities

- A. ADHS responsibilities. ADHS is responsible for payment of behavioral health services provided to members, except as specified under subsection (D). ADHS’ responsibility for payment of behavioral health services includes claims for inpatient hospital services, which may include physical health services, when the principal diagnosis on the hospital claim is a behavioral health diagnosis. Behavioral health diagnoses are identified as “mental disorders” in the latest International Classification of Diseases (ICD) code set as required by AHCCCS claims and encounters.
- B. ADHS/DBHS may contract with a TRBHA for the provision of behavioral health services for American Indian members. American Indian members may receive covered behavioral health services:
 1. From an IHS or tribally operated 638 facility,
 2. From a TRBHA, or
 3. From a RBHA.
- C. Contractor responsibilities. A contractor shall:
 1. Refer a member to a RBHA under the contract terms;
 2. Provide EPSDT developmental and behavioral health screening as specified in R9-22-213;

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3. Coordinate a member's transition of care and medical records; and
4. Be responsible for providing covered inpatient hospital services, which may include behavioral health inpatient hospital services, when the principal diagnosis on the hospital claim is not a behavioral health diagnosis.

D. Administration and CRS responsibilities.

1. The Administration shall be responsible for payment of behavioral health services provided to an ALTCS FFS or an FES member and for behavioral health services provided by IHS and tribally operated 638 facilities. The Administration is also responsible for payment of behavioral health services provided to these members during prior quarter coverage.
2. CRS shall be responsible for payment of behavioral health services provided to members enrolled with CRS.

Historical Note

Adopted under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective November 1, 1992; received in the Office of the Secretary of State November 25, 1992 (Supp. 92-4). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective September 30, 1993 (Supp. 93-3). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1995, Ch. 204, § 11, effective October 1, 1995; filed with the Secretary of State September 29, 1995 (Supp. 95-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended to correct typographical errors, filed in the Office of the Secretary of State October 30, 2001 (Supp. 01-4). Amended by final rulemaking at 13 A.A.R. 836, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 20 A.A.R. 3098, effective January 4, 2015 (Supp. 14-4). Amended by final rulemaking at 21 A.A.R. 1225, effective July 7, 2015 (Supp. 15-3).

R9-22-1203. Eligibility for Covered Services

Title XIX members. A member determined eligible under A.R.S. § 36-2901(6)(a) or (g) except for the failure to meet U.S. citizenship or qualified alien status requirements, shall receive medically necessary covered services under Article 12 and Article 2.

Historical Note

Adopted under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective November 1, 1992; received in the Office of the Secretary of State November 25, 1992 (Supp. 92-4). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective September 30, 1993 (Supp. 93-3). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1995, Ch. 204, § 11, effective October 1, 1995; filed with the Secretary of State September 29, 1995 (Supp. 95-4). Section repealed, new Section adopted by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 13 A.A.R. 836, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 20 A.A.R. 3098, effective January 4, 2015 (Supp. 14-4).

R9-22-1204. General Service Requirements

- A. Services.** Behavioral health services include mental health, substance abuse, and physical services. Medically necessary

services shall be covered and service requirements met as described under Article 2 and Article 5.

- B.** Notification to Administration for American Indians enrolled with a tribal contractor. A provider shall notify the Administration no later than 72 hours after an American Indian member enrolled with a tribal contractor presents to a behavioral health hospital for inpatient emergency behavioral health services.
- C.** Restrictions and limitations. Room and board is not a covered service unless provided in a behavioral health inpatient facility under R9-22-1205.

Historical Note

Adopted under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective November 1, 1992; received in the Office of the Secretary of State November 25, 1992 (Supp. 92-4). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective September 30, 1993 (Supp. 93-3). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1995, Ch. 204, § 11, effective October 1, 1995; filed with the Secretary of State September 29, 1995 (Supp. 95-4). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1995, Ch. 204, § 11, effective January 1, 1996; filed with the Secretary of State December 22, 1995 (Supp. 95-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 13 A.A.R. 836, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 20 A.A.R. 3098, effective January 4, 2015 (Supp. 14-4).

R9-22-1205. Scope and Coverage of Behavioral Health Services

- A.** Inpatient behavioral health services. The following inpatient services are covered subject to the limitations and exclusions in this Article and Article 2.
1. Covered inpatient behavioral health services include all behavioral health services, medical detoxification, accommodations and staffing, supplies, and equipment, if the service is provided under the direction of a physician in a Medicare-certified:
 - a. General acute care hospital,
 - b. Inpatient psychiatric unit in a general acute care hospital, or
 - c. Behavioral health hospital.
 2. Inpatient service limitations:
 - a. Inpatient services, other than emergency services specified in this Section, are not covered unless prior authorization is obtained.
 - b. Inpatient services and room and board are reimbursed on a per diem basis. The per diem rate includes all services, except the following licensed or certified providers may bill independently for services:
 - i. A licensed psychiatrist,
 - ii. A certified psychiatric nurse practitioner,
 - iii. A licensed physician assistant,
 - iv. A licensed psychologist,
 - v. A licensed clinical social worker,
 - vi. A licensed marriage and family therapist,
 - vii. A licensed professional counselor,
 - viii. A licensed independent substance abuse counselor, and

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- ix. A medical practitioner.
- B.** Behavioral Health Inpatient facility for children. Services provided in a Behavioral Health Inpatient facility for children as defined in 9 A.A.C. 10, Article 3 are covered subject to the limitations and exclusions under this Article.
 - 1. Behavioral Health Inpatient facility for children services are not covered unless provided under the direction of a licensed physician in a licensed Behavioral Health Inpatient facility for children accredited by an AHCCCS-approved accrediting body as specified in contract.
 - 2. Covered Behavioral Health Inpatient facility for children services include room and board and treatment services for behavioral health and substance abuse conditions.
 - 3. Inpatient Behavioral Health Inpatient facility for children service limitations.
 - a. Services are not covered unless prior authorized, except for emergency services as specified in this Section.
 - b. Services are reimbursed on a per diem basis. The per diem rate includes all services, except the following licensed or certified providers may bill independently for services:
 - i. A licensed psychiatrist,
 - ii. A certified psychiatric nurse practitioner,
 - iii. A licensed physician assistant,
 - iv. A licensed psychologist,
 - v. A licensed clinical social worker,
 - vi. A licensed marriage and family therapist,
 - vii. A licensed professional counselor,
 - viii. A licensed independent substance abuse counselor, and
 - ix. A medical practitioner.
 - 4. The following may be billed independently if prescribed by a provider as specified in this Section who is operating within the scope of practice:
 - a. Laboratory services, and
 - b. Radiology services.
- C.** Covered Inpatient sub-acute agency services. Services provided in an inpatient sub-acute facility as defined in 9 A.A.C. 10, Article 1 are covered subject to the limitations and exclusions under this Article.
 - 1. Inpatient sub-acute facility services are not covered unless provided under the direction of a licensed physician in a licensed inpatient sub-acute facility that is accredited by an AHCCCS-approved accrediting body.
 - 2. Covered Inpatient sub-acute facility services include room and board and treatment services for behavioral health and substance abuse conditions.
 - 3. Services are reimbursed on a per diem basis. The per diem rate includes all services, except the following licensed or certified providers may bill independently for services:
 - a. A licensed psychiatrist,
 - b. A certified psychiatric nurse practitioner,
 - c. A licensed physician assistant,
 - d. A licensed psychologist,
 - e. A licensed clinical social worker,
 - f. A licensed marriage and family therapist,
 - g. A licensed professional counselor,
 - h. A licensed independent substance abuse counselor, and
 - i. A medical practitioner.
 - 4. The following may be billed independently if prescribed by a provider specified in this Section who is operating within the scope of practice:
 - a. Laboratory services, and
 - b. Radiology services.
- D.** Behavioral health residential facility services. Services provided in a licensed behavioral health residential facility as defined in 9 A.A.C. 10, Article 1 are covered subject to the limitations and exclusions under this Article.
 - 1. Behavioral health residential facility services are not covered unless provided by a licensed behavioral health residential facility.
 - 2. Covered services include all non-prescription drugs as defined in A.R.S. § 32-1901, non-customized medical supplies, and clinical oversight or direct supervision of the behavioral health residential facility staff, whichever is applicable. Room and board are not covered services.
 - 3. The following licensed and certified providers may bill independently for services:
 - a. A licensed psychiatrist,
 - b. A certified psychiatric nurse practitioner,
 - c. A licensed physician assistant,
 - d. A licensed psychologist,
 - e. A licensed clinical social worker,
 - f. A licensed marriage and family therapist,
 - g. A licensed professional counselor,
 - h. A licensed independent substance abuse counselor, and
- E.** Partial care. Partial care services are covered subject to the limitations and exclusions in this Article.
 - 1. Partial care services are not covered unless provided by a licensed and AHCCCS-registered behavioral health agency that provides a regularly scheduled day program of individual member, group, or family activities that are designed to improve the ability of the member to function in the community. Partial care services include basic, therapeutic, and medical day programs.
 - 2. Partial care services. Educational services that are therapeutic and are included in the member's behavioral health treatment plan are included in per diem reimbursement for partial care services.
- F.** Outpatient services. Outpatient services are covered subject to the limitations and exclusions in this Article and Article 2.
 - 1. Outpatient services include the following:
 - a. Screening provided by a behavioral health professional or a behavioral health technician as defined in R9-22-1201;
 - b. A behavioral health assessment provided by a behavioral health professional or a behavioral health technician;
 - c. Counseling including individual therapy, group therapy, and family therapy provided by a behavioral health professional or a behavioral health technician;
 - d. Behavior management services as defined in R9-22-1201; and
 - e. Psychosocial rehabilitation services as defined in R9-22-201.
 - 2. Outpatient service limitations.
 - a. The following licensed or certified providers may bill independently for outpatient services:
 - i. A licensed psychiatrist;
 - ii. A certified psychiatric nurse practitioner;
 - iii. A licensed physician assistant as defined in R9-22-1201;
 - iv. A licensed psychologist;
 - v. A licensed clinical social worker;
 - vi. A licensed professional counselor;
 - vii. A licensed marriage and family therapist;
 - viii. A licensed independent substance abuse counselor;

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- ix. A medical practitioner; and
 - x. An outpatient treatment center or substance abuse transitional facility licensed under 9 A.A.C. 10, Article 14, that is an AHCCCS-registered provider.
 - b. A behavioral health practitioner not specified in subsections (F)(2)(a)(i) through (x), who is contracted with or employed by an AHCCCS-registered behavioral health agency shall not bill independently.
- G.** Emergency behavioral health services are covered subject to the limitations and exclusions under this Article. In order to be covered, behavioral health services shall be provided by qualified service providers under R9-22-1206. ADHS/DBHS shall ensure that emergency behavioral health services are available 24 hours per day, seven days per week in each GSA for an emergency behavioral health condition for a non-FES member as defined in R9-22-201.
- H.** Other covered behavioral health services. Other covered behavioral health services include:
- 1. Case management as defined in 9 A.A.C. 10, Article 1;
 - 2. Laboratory and radiology services for behavioral health diagnosis and medication management;
 - 3. Medication;
 - 4. Monitoring, administration, and adjustment for psychotropic medication and related medications;
 - 5. Respite care as described within subsection (J);
 - 6. Behavioral health therapeutic home care services provided by a RBHA in a professional foster home defined in 6 A.A.C. 5, Article 58 or in an adult behavioral health therapeutic home as defined in 9 A.A.C. 10, Article 1;
 - 8. Other support services to maintain or increase the member's self-sufficiency and ability to live outside an institution.
- I.** Transportation services. Transportation services are covered under R9-22-211.
- J.** Limited Behavioral Health services. Respite services are limited to no more than 600 hours per benefit year.

Historical Note

Adopted under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective November 1, 1992; received in the Office of the Secretary of State November 25, 1992 (Supp. 92-4). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective September 30, 1993 (Supp. 93-3). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1995, Ch. 204, § 11, effective October 1, 1995; filed with the Secretary of State September 29, 1995 (Supp. 95-4). Section repealed, new Section adopted by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 11 A.A.R. 5480, effective December 6, 2005 (Supp. 05-4). Amended by final rulemaking at 13 A.A.R. 836, effective May 5, 2007 (Supp. 07-1). Amended by exempt rulemaking at 17 A.A.R. 1870, effective October 1, 2011 (Supp. 11-3). Amended by final rulemaking at 19 A.A.R. 2747, effective October 8, 2013 (Supp. 13-3). Amended by final rulemaking at 20 A.A.R. 3098, effective January 4, 2015 (Supp. 14-4).

R9-22-1206. Repealed**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective November

1, 1992; received in the Office of the Secretary of State November 25, 1992 (Supp. 92-4). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective September 30, 1993 (Supp. 93-3). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1995, Ch. 204, § 11, effective October 1, 1995; filed with the Secretary of State September 29, 1995 (Supp. 95-4). Section repealed, new Section adopted by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 13 A.A.R. 836, effective May 5, 2007 (Supp. 07-1). Repealed by final rulemaking at 20 A.A.R. 3098, effective January 4, 2015 (Supp. 14-4).

R9-22-1207. General Provisions for Payment**A. Claims submissions.**

- 1. A provider of behavioral health services shall submit a claim for non-emergency behavioral health services provided to a member to the appropriate RBHA.
- 2. A provider of behavioral health services shall submit a claim for non-inpatient emergency behavioral health services provided to a member to the appropriate RBHA.
- 3. A provider of behavioral health services shall submit a claim for non-inpatient emergency behavioral health services provided to a member enrolled in a TRBHA to the Administration.
- 4. A provider of behavioral health services shall submit a claim for non-emergency behavioral health services provided to a member enrolled in a TRBHA to the Administration.
- 5. A provider of emergency behavioral health services, that are the responsibility of ADHS/DBHS or a contractor, shall submit a claim to the entity responsible for emergency behavioral health services under R9-22-210.01(A).
- 6. A provider shall comply with the time-frames and other payment procedures in Article 7 of this Chapter, if applicable, and A.R.S. § 36-2904.
- 7. ADHS/DBHS or a contractor, whichever entity is responsible for covering behavioral health services, shall cost avoid any behavioral health service claims if it establishes the existence or probable existence of first-party liability or third-party liability.

- B.** Prior authorization. Payment to a provider for behavioral health services or items requiring prior authorization may be denied if a provider does not obtain prior authorization from a RBHA, ADHS/DBHS, a TRBHA, the Administration or a contractor.

Historical Note

Adopted under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective November 1, 1992; received in the Office of the Secretary of State November 25, 1992 (Supp. 92-4). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1995, Ch. 204, § 11, effective October 1, 1995; filed with the Secretary of State September 29, 1995 (Supp. 95-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by final rulemaking at 13 A.A.R. 836, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 20 A.A.R. 3098, effective January 4, 2015 (Supp. 14-4).

R9-22-1208. Repealed

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4).
Amended by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 11 A.A.R. 5480, effective December 6, 2005 (Supp. 05-4).

ARTICLE 13. CHILDREN'S REHABILITATIVE SERVICES (CRS)

Article 13, consisting of Sections R9-22-1301 through R9-22-1306, made by final rulemaking at 19 A.A.R. 2954, effective November 10, 2013 (Supp. 13-3).

Article 13, consisting of Sections R9-22-1301 through R9-22-1306, made by exempt rulemaking at 18 A.A.R. 2074, effective August 1, 2012 (Supp. 12-3). Exemption to promulgate rules repealed under Laws 2012, Chapter 299, Section 7 (Supp. 13-3).

Article 13, consisting of Sections R9-22-1301 through R9-22-1309, repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004. The subject matter of Article 13 is now in 9 A.A.C. 34 (Supp. 04-1).

R9-22-1301. Children's Rehabilitative Services (CRS) related Definitions

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

"Active treatment" means there is a current need for treatment of the CRS qualifying condition(s) or it is anticipated that treatment or evaluation for continuing treatment of the CRS qualifying condition(s) will be needed within the next 18 months from the last date of service for treatment of any CRS qualifying condition.

"CRS application" means a submitted form with any additional documentation required by the Administration to determine whether an individual is medically eligible for CRS.

"CRS condition" means a list of medical condition(s) in R9-22-1303 and which are referred to as covered conditions in A.R.S. § 36-2912.

"Functionally limiting" means a restriction having a significant effect on an individual's ability to perform an activity of daily living as determined by a provider.

"Medically eligible" means meeting the medical eligibility requirements of R9-22-1303.

"Redetermination" means a decision made by the Administration regarding whether a member continues to meet the requirements in R9-22-1302.

Historical Note

Adopted effective September 9, 1998 (Supp. 98-3).
Amended by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1). Section made by exempt rulemaking at 18 A.A.R. 2074, effective August 1, 2012 (Supp. 12-3). Rulemaking exemption repealed by Laws, 2012, Ch. 299, Section 7; therefore a new Section was made by final rulemaking at 19 A.A.R. 2954, effective November 10, 2013 (Supp. 13-3). Amended by final rulemaking at 21 A.A.R. 2022, effective October 1, 2015 (Supp. 15-3).

R9-22-1302. Children's Rehabilitative Services (CRS) Eligibility Requirements

Beginning October 1, 2013, an AHCCCS member who needs active treatment for one or more of the qualifying medical condition(s) in R9-22-1303 shall be enrolled with the CRS contractor. An American Indian member shall obtain CRS services through the CRS contractor. A member enrolled in CMDP shall also obtain CRS services through the CRS contractor. Initial enrollment with the CRS contractor is limited to individuals under the age of 21. The CRS contractor shall provide covered services necessary to treat the CRS condition(s) and other services described within the CRS contract. The effective date of enrollment in CRS shall be as specified in contract.

Historical Note

Adopted effective September 9, 1998 (Supp. 98-3).
Amended by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1). Section made by exempt rulemaking at 18 A.A.R. 2074, effective August 1, 2012 (Supp. 12-3). Rulemaking exemption repealed by Laws, 2012, Ch. 299, Section 7; therefore a new Section was made by final rulemaking at 19 A.A.R. 2954, effective November 10, 2013 (Supp. 13-3).

R9-22-1303. Medical Eligibility

The following lists identify those medical condition(s) that do qualify for the CRS program as well as those that do not qualify for the CRS program. The list of condition(s) that qualify for CRS medical eligibility is all inclusive. The list of condition(s) that do not qualify for CRS medical eligibility is not an all-inclusive list.

1. Cardiovascular System
 - a. CRS condition(s) that qualify for CRS medical eligibility:
 - i. Arrhythmia,
 - ii. Arteriovenous fistula,
 - iii. Cardiomyopathy,
 - iv. Conduction defect,
 - v. Congenital heart defect other than isolated small Ventricular Septal Defects (VSD), Patent Ductus Arteriosus (PDA), Atrial Septal Defects (ASD),
 - vi. Coronary artery and aortic aneurysm,
 - vii. Renal vascular hypertension,
 - viii. Rheumatic heart disease, and
 - ix. Valvular disorder.
 - b. Condition(s) not medically eligible for CRS:
 - i. Arteriovenous fistula that is not expected to cause cardiac failure or threaten loss of function;
 - ii. Benign heart murmur;
 - iii. Branch artery pulmonary stenosis;
 - iv. Essential hypertension;
 - v. Patent foramen ovale (PFO);
 - vi. Peripheral pulmonary stenosis;
 - vii. Postural orthopedic tachycardia; and
 - viii. Premature atrial, nodal or ventricular contractions that are of no hemodynamic significance.
2. Endocrine system:
 - a. CRS condition(s) that qualify for CRS medical eligibility:
 - i. Addison's disease,
 - ii. Adrenogenital syndrome,
 - iii. Cystic fibrosis (including atypical cystic fibrosis),
 - iv. Diabetes insipidus,
 - v. Hyperparathyroidism,
 - vi. Hyperthyroidism,

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- vii. Hypoparathyroidism, and
 - viii. Panhypopituitarism.
- b. Condition(s) not medically eligible for CRS:
 - i. Diabetes mellitus,
 - ii. Hypopituitarism associated with a malignancy and requiring treatment of less than 90 days,
 - iii. Isolated growth hormone deficiency, and
 - iv. Precocious puberty.
- 3. Genitourinary system medical condition(s):
 - a. CRS condition(s) that qualify for CRS medical eligibility:
 - i. Ambiguous genitalia,
 - ii. Bladder extrophy,
 - iii. Deformity and dysfunction of the genitourinary system secondary to trauma 90 days or more after the trauma occurred,
 - iv. Ectopic ureter,
 - v. Hydronephrosis, that is not resolved with antibiotics,
 - vi. Polycystic and multicystic kidneys,
 - vii. Pyelonephritis when treatment with drugs or biologicals has failed to cure or ameliorate and surgical intervention is required,
 - viii. Ureteral stricture, and
 - ix. Vesicoureteral reflux, at a grade 3 or higher.
 - b. Condition(s) not medically eligible for CRS:
 - i. Enuresis,
 - ii. Hydrocele,
 - iii. Hypospadias,
 - iv. Meatal stenosis,
 - v. Nephritis, infectious or noninfectious,
 - vi. Nephrosis,
 - vii. Phimosis, and
 - viii. Undescended testicle.
- 4. Ear, nose, or throat medical condition(s):
 - a. CRS condition(s) that qualify for CRS medical eligibility:
 - i. Cholesteatoma,
 - ii. Congenital/Craniofacial anomaly that is functionally limiting,
 - iii. Deformity and dysfunction of the ear, nose, or throat secondary to trauma, 90 days or more after the trauma occurred,
 - iv. Mastoiditis that continues 90 days or more after the first diagnosis of the condition,
 - v. Microtia that requires multiple surgical interventions,
 - vi. Neurosensory hearing loss, and
 - vii. Significant conductive hearing loss due to an anomaly in one ear or both ears equal to or greater than a pure tone average of 30 decibels that despite medical treatment, requires a hearing aid.
 - b. Condition(s) not medically eligible for CRS:
 - i. A craniofacial anomaly that is not functionally limiting,
 - ii. Adenoiditis,
 - iii. Cranial or temporal mandibular joint syndrome,
 - iv. Hypertrophic lingual frenum,
 - v. Isolated preauricular tag or pit,
 - vi. Nasal polyp,
 - vii. Obstructive apnea,
 - viii. Perforation of the tympanic membrane,
 - ix. Recurrent otitis media,
 - x. Simple deviated nasal septum,
 - xi. Sinusitis,
 - xii. Tonsillitis, and
 - xiii. Uncontrolled salivation.
- 5. Musculoskeletal system medical condition(s):
 - a. CRS condition(s) that qualify for CRS medical eligibility:
 - i. Achondroplasia,
 - ii. Arthrogryposis (multiple joint contractures),
 - iii. Bone infection that continues 90 days or more after the initial diagnosis,
 - iv. Chondrodysplasia,
 - v. Chondroectodermal dysplasia,
 - vi. Clubfoot,
 - vii. Collagen vascular disease, including but not limited to, ankylosis spondylitis, polymyositis, dermatomyositis, polyarteritis nodosa, psoriatic arthritis, scleroderma, rheumatoid arthritis and lupus,
 - viii. Congenital or developmental cervical spine abnormality,
 - ix. Congenital spinal deformity,
 - x. Diastrophic dysplasia,
 - xi. Enchondromatosis,
 - xii. Femoral anteversion and tibial torsion,
 - xiii. Fibrous dysplasia,
 - xiv. Hip dysplasia,
 - xv. Hypochondroplasia,
 - xvi. Joint infection that continues 90 days or more after the initial diagnosis,
 - xvii. Juvenile rheumatoid arthritis,
 - xviii. Kyphosis (Scheurmann's Kyphosis) 50 degrees or over,
 - xix. Larsen syndrome,
 - xx. Leg length discrepancy of two centimeters or more,
 - xxi. Legg-Calve-Perthes disease,
 - xxii. Limb amputation or limb malformation,
 - xxiii. Metaphyseal and epiphyseal dysplasia,
 - xxiv. Metatarsus adductus,
 - xxv. Muscular dystrophy,
 - xxvi. Orthopedic complications of hemophilia,
 - xxvii. Osgood Schlatter's disease that requires surgical intervention,
 - xxviii. Osteogenesis imperfecta,
 - xxix. Rickets,
 - xxx. Scoliosis when 25 degrees or greater, or when there is a need for bracing or surgery,
 - xxxi. Seronegative spondyloarthropathy such as Reiters, psoriatic arthritis, and ankylosing spondylitis,
 - xxxii. Slipped capital femoral epiphysis,
 - xxxiii. Spinal muscle atrophy,
 - xxxiv. Spondyloepiphyseal dysplasia, and
 - xxxv. Syndactyly.
 - b. Condition(s) not medically eligible for CRS:
 - i. Back pain with no structural abnormality,
 - ii. Benign bone tumor,
 - iii. Bunion,
 - iv. Carpal tunnel syndrome,
 - v. Deformity and dysfunction secondary to trauma or injury,
 - vi. Ehlers Danlos,
 - vii. Flat foot,
 - viii. Fracture,
 - ix. Ganglion cyst,
 - x. Ingrown toenail,

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- xi. Kyphosis under 50 degrees,
 - xii. Leg length discrepancy of less than two centimeters at skeletal maturity,
 - xiii. Polydactyly without bone involvement,
 - xiv. Popliteal cyst,
 - xv. Trigger finger, and
 - xvi. Varus and valgus deformities.
6. Gastrointestinal system medical condition(s):
- a. CRS condition(s) that qualify for CRS medical eligibility:
 - i. Anorectal atresia,
 - ii. Biliary atresia,
 - iii. Cleft lip,
 - iv. Cleft palate,
 - v. Congenital atresia, stenosis, fistula, or rotational abnormalities of the gastrointestinal tract,
 - vi. Deformity and dysfunction of the gastrointestinal system secondary to trauma, 90 days or more after the trauma occurred,
 - vii. Diaphragmatic hernia,
 - viii. Gastroschisis,
 - ix. Hirschsprung's disease,
 - x. Omphalocele, and
 - xi. Tracheoesophageal fistula.
 - b. Condition(s) not medically eligible for CRS:
 - i. Celiac disease,
 - ii. Crohn's disease,
 - iii. Hernia other than a diaphragmatic hernia,
 - iv. Intestinal polyp,
 - v. Malabsorption syndrome, also known as short bowel syndrome,
 - vi. Pyloric stenosis,
 - vii. Ulcer disease, and
 - viii. Ulcerative colitis.
7. Nervous system medical condition(s):
- a. CRS condition(s) that qualify for CRS medical eligibility:
 - i. Benign intracranial tumor,
 - ii. Benign intraspinal tumor,
 - iii. Central nervous system degenerative disease,
 - iv. Central nervous system malformation or structural abnormality,
 - v. Cerebral palsy,
 - vi. Craniosynostosis requiring surgery,
 - vii. Deformity and dysfunction secondary to trauma in an individual that continues 90 days or more after the incident,
 - viii. Hydrocephalus,
 - ix. Muscular dystrophy or other myopathy,
 - x. Myelomeningocele, also known as spina bifida,
 - xi. Myoneural disorder, including but not limited to, amyotrophic Lateral Sclerosis or ALS, myasthenia gravis, Eaton-Lambert syndrome, muscular dystrophy, troyer sclerosis, polymyositis, dermamyositis, progressive bulbar palsy, polio,
 - xii. Neurofibromatosis,
 - xiii. Neuropathy/polyneuropathy, hereditary or idiopathic,
 - xiv. Residual dysfunction that continues 90 days or more after a vascular accident, inflammatory condition, or infection of the central nervous system,
 - xv. Residual dysfunction that continues 90 days or more after near drowning,
 - xvi. Residual dysfunction that continues 90 days or more after the spinal cord injury, and
 - xvii. Uncontrolled seizure disorder, in which there have been more than two seizures with documented compliance of one or more medications.
 - b. Condition(s) not medically eligible for CRS:
 - i. Central apnea secondary to prematurity,
 - ii. Febrile seizures,
 - iii. Headaches,
 - iv. Near sudden infant death syndrome,
 - v. Plagiocephaly, and
 - vi. Spina bifida occulta.
8. Ophthalmology:
- a. CRS condition(s) that qualify for CRS medical eligibility:
 - i. Cataracts,
 - ii. Disorder of the iris, ciliary bodies, retina, lens, or cornea,
 - iii. Disorder of the optic nerve,
 - iv. Glaucoma,
 - v. Non-malignant enucleation and post-enucleation reconstruction, and
 - vi. Retinopathy of prematurity.
 - b. Condition(s) not medically eligible for CRS:
 - i. Astigmatism,
 - ii. Ptosis,
 - iii. Simple refraction error, and
 - iv. Strabismus.
9. Respiratory system medical condition(s):
- a. CRS condition(s) that qualify for CRS medical eligibility:
 - i. Anomaly of the larynx, trachea, or bronchi that requires surgery, and
 - ii. Nonmalignant obstructive lesion of the larynx, trachea, or bronchi.
 - b. Condition(s) not medically eligible for CRS:
 - i. Allergies,
 - ii. Asthma,
 - iii. Bronchopulmonary dysplasia,
 - iv. Chronic obstructive pulmonary disease,
 - v. Emphysema, and
 - vi. Respiratory distress syndrome.
10. Dermatological system medical condition(s):
- a. CRS condition(s) that qualify for CRS medical eligibility:
 - i. A burn scar that is functionally limiting,
 - ii. A hemangioma that is functionally limiting that requires laser or surgery,
 - iii. Complicated nevi requiring multiple procedures,
 - iv. Cystic hygroma such as lymphangioma, and
 - v. Malocclusion that is functionally limiting.
 - b. Condition(s) not medically eligible for CRS:
 - i. A deformity that is not functionally limiting,
 - ii. Ectodermal dysplasia,
 - iii. Isolated malocclusion that is not functionally limiting,
 - iv. Pilonidal cyst,
 - v. Port wine stain,
 - vi. Sebaceous cyst,
 - vii. Simple nevi, and
 - viii. Skin tag.
11. Metabolic CRS condition(s) that qualify for CRS medical eligibility:
- i. Amino acid or organic acidopathy,

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- ii. Biotinidase deficiency,
 - iii. Homocystinuria,
 - iv. Inborn error of metabolism,
 - v. Maple syrup urine disease,
 - vi. Phenylketonuria, and
 - vii. Storage disease.
- 12. Hemoglobinopathies CRS condition(s) that qualify for CRS medical eligibility:
 - a. Sickle cell anemia, and
 - b. Thalassemia.
- 13. Additional medical/behavioral condition(s) which are not medically eligible for CRS:
 - a. Allergies,
 - b. Anorexia nervosa or obesity,
 - c. Attention deficit disorder,
 - d. Autism,
 - e. Cancer,
 - f. Depression or other mental illness,
 - g. Developmental delay,
 - h. Dyslexia or other learning disabilities,
 - i. Failure to thrive,
 - j. Hyperactivity, and
 - k. Immunodeficiency, such as AIDS and HIV.

Historical Note

Adopted effective September 9, 1998 (Supp. 98-3).
 Amended by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1). Section made by exempt rulemaking at 18 A.A.R. 2074, effective August 1, 2012 (Supp. 12-3). Rulemaking exemption repealed by Laws, 2012, Ch. 299, Section 7; therefore a new Section was made by final rulemaking at 19 A.A.R. 2954, effective November 10, 2013 (Supp. 13-3). Amended by final rulemaking at 21 A.A.R. 2022, effective October 1, 2015 (Supp. 15-3).

R9-22-1304. Referral and Disposition of CRS Medical Eligibility Determination

- A. To refer an individual for a CRS medical eligibility determination a person shall submit to the Administration the following information:
 - 1. CRS application;
 - 2. Documentation from a specialist who diagnosed the individual, stating the individual's diagnosis;
 - 3. Diagnostic test results that support the individual's diagnosis; and
 - 4. Documentation of the individual's need for specialized treatment of the CRS condition through medical, surgical, or therapy modalities.
- B. The Administration shall notify the CRS applicant, member or authorized representative of the outcome of the determination within 60 days of receipt of information required under subsection (A). The member may appeal the determination under Chapter 34.

Historical Note

Adopted effective September 9, 1998 (Supp. 98-3).
 Amended by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1). Section made by exempt rulemaking at 18 A.A.R. 2074, effective August 1, 2012 (Supp. 12-3). Rulemaking exemption repealed by Laws, 2012, Ch. 299, Section 7; therefore a new Section was made by final rulemaking at 19 A.A.R. 2954, effective November 10,

2013 (Supp. 13-3). Amended by final rulemaking at 21 A.A.R. 2022, effective October 1, 2015 (Supp. 15-3).

R9-22-1305. CRS Redetermination

- A. Continued eligibility for the CRS program shall be redetermined by verifying active treatment status of the CRS qualifying medical condition(s) as follows:
 - 1. The CRS Contractor is responsible for notifying the AHCCCS Administration of the date when a CRS member is no longer in active treatment for the CRS qualifying condition(s).
 - 2. The Administration may request, at any time, that the CRS contractor submit the medical documentation requested in the CRS medical redetermination form within the specified time-frames in contract.
 - 3. The Administration shall notify the CRS member or authorized representative of the redetermination process.
- B. If the Administration determines that a CRS member is no longer medically eligible for CRS, the Administration shall provide the CRS member or authorized representative a written notice that informs the CRS member that the Administration is transitioning the CRS member's enrollment according to R9-22-1306. The member may appeal the redetermination under Chapter 34.
- C. Upon reaching his or her 21st birthday, the CRS member will be enrolled with a non-CRS contractor unless the member requests to continue enrollment with the CRS contractor.

Historical Note

Adopted effective September 9, 1998 (Supp. 98-3).
 Amended by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1). Section made by exempt rulemaking at 18 A.A.R. 2074, effective August 1, 2012 (Supp. 12-3). Rulemaking exemption repealed by Laws, 2012, Ch. 299, Section 7; therefore a new Section was made by final rulemaking at 19 A.A.R. 2954, effective November 10, 2013 (Supp. 13-3).

R9-22-1306. Transition or Termination

- A. The Administration shall transition a CRS member from the CRS contractor when the Administration determines the CRS member does not meet the medical eligibility requirements under this Article.
- B. The Administration shall terminate a CRS member from the CRS contractor and the AHCCCS program when the Administration determines the CRS member does not meet the AHCCCS eligibility requirements. The member may appeal the termination under Chapter 34.
- C. If the Administration transitions a CRS member from the CRS contractor, the Administration shall provide the CRS member, or authorized representative a written notice of transition. The member may appeal the transition under Chapter 34.

Historical Note

Adopted effective September 9, 1998 (Supp. 98-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1). Section made by exempt rulemaking at 18 A.A.R. 2074, effective August 1, 2012 (Supp. 12-3). Rulemaking exemption repealed by Laws, 2012, Ch. 299, Section 7; therefore a new Section was made by final rulemaking at 19 A.A.R. 2954, effective November 10, 2013 (Supp. 13-3).

R9-22-1307. Covered Services

The Administration will cover medically necessary services as described within Article 2 unless otherwise specified in contract.

Historical Note

Adopted effective September 9, 1998 (Supp. 98-3).
Amended by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1). Section made by exempt rulemaking at 18 A.A.R. 2074, effective August 1, 2012 (Supp. 12-3). Rulemaking exemption repealed by Laws, 2012, Ch. 299, Section 7; therefore a new Section was made by final rulemaking at 19 A.A.R. 2954, effective November 10, 2013 (Supp. 13-3).

R9-22-1308. Repealed**Historical Note**

Adopted effective September 9, 1998 (Supp. 98-3).
Amended by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1).

R9-22-1309. Repealed**Historical Note**

Adopted effective September 9, 1998 (Supp. 98-3).
Amended by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1).

ARTICLE 14. AHCCCS MEDICAL COVERAGE FOR HOUSEHOLDS**R9-22-1401. General Information**

- A.** Scope. This Article contains eligibility criteria to determine whether a household or individual is eligible for AHCCCS medical coverage. Eligibility criteria described under Article 3 applies to this Article.
- B.** Definitions. In addition to definitions contained in R9-22-101 and A.R.S. § 36-2901, the words and phrases in this Article, Article 3 and Article 15 have the following meanings unless the context explicitly requires another meaning:

“Burial plot” means a space reserved in a cemetery, crypt, vault, or mausoleum for the remains of a deceased person.

Caretaker relative” means:

A parent of a dependent child with whom the child is living;

When the dependent child does not live with a parent or the parent in the home is incapacitated, another relative of the child by blood, adoption, or marriage in the home who assumes primary responsibility for the child’s care; or

A woman in her third trimester of pregnancy with no other dependent children.

“Cash assistance” means a program administered by the Department that provides assistance to needy families with dependent children under 42 U.S.C. 601 et seq.

“Dependent child” means a child under the age of 18, or if age 18 is a full-time student in secondary school or equivalent vocational or technical training, if reasonably expected to complete such school or training before turning age 19.

“MAGI – based income” means Modified Adjusted Gross Income as defined under 42 CFR 435.603(e).

“Medical expense deduction” or “MED” means the cost of the following expenses if incurred in the United States:

A medical service or supply that would be covered if provided to an AHCCCS member of any age under Articles 2 and 12 of this Chapter;

A medical service or supply that would be covered if provided to an Arizona Long-term Care System member under 9 A.A.C. 28, Articles 2 and 11;

Other necessary medical services provided by a licensed practitioner or physician;

Assistance with daily living if the assistance is documented in an individual plan of care by a nurse, social service worker, registered therapist, or dietitian under the supervision of a physician except when provided by the spouse of an applicant or the parent of a minor child;

Medical services provided in a licensed nursing home or in an alternative HCBS setting under R9-28-101;

Purchasing and maintaining an animal guide or service animal for the assistance of a member of the MED family unit under R9-22-1436; and

Health insurance premiums, deductibles, and coinsurance, if the insured is a member of the MED family unit.

“Monthly income” means the gross countable income received or projected to be received during the month or the monthly equivalent.

“Monthly equivalent” means a monthly countable income amount established by averaging, prorating, or converting a person’s income.

“Spendthrift restriction” means a legal restriction on the use of a resource that prevents a payee or beneficiary from alienating the resource.

“Tax dependent” is described under 42 CFR 435.4.

“Taxpayer” means a person who expects to file a tax return, and does not expect to be claimed as a tax dependent by another person.

“Title IV-D” means Title IV-D of the Social Security Act, 42 U.S.C. 651-669, the statutes establishing the child support enforcement and paternity program.

“Title IV-E” means Title IV-E of the Social Security Act 42 U.S.C. 670-679, the statutes establishing the foster care and adoption assistance programs.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-1402. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 11 A.A.R. 4942, effective

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tive December 31, 2005 (Supp. 05-4). Repealed by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-1403. Agency Responsible for Determining Eligibility

The Administration or its designee shall determine eligibility under the provisions of this Article. The Administration or its designee shall not discriminate against an applicant or member because of race, color, creed, religion, ancestry, national origin, age, sex, or physical or mental disability.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-1404. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Repealed by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-1405. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 9 A.A.R. 5123, effective January 3, 2004 (Supp. 03-4). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Repealed by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-1406. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2). Repealed by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-1407. Deceased Applicants

- A. If an applicant dies while an application is pending, the Administration or Administration's designee shall complete an eligibility determination for all applicants listed on the application, including the deceased applicant.
- B. The Administration or Administration's designee shall complete an eligibility determination on an application filed on behalf of a deceased applicant.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Repealed by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1). Amended by final rulemaking at 19 A.A.R. 3309, November 30, 2013 (Supp. 13-4).

R9-22-1408. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2). Repealed by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-1409. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Repealed by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-1410. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Section repealed; new Section made by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2). Repealed by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-1411. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Repealed by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-1412. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7

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A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by exempt rulemaking at 10 A.A.R. 23, effective December 9, 2003 (Supp. 03-4). Amended by exempt rulemaking at 10 A.A.R. 4588, effective October 12, 2004 (Supp. 04-4). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Repealed by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-1413. Time-frames, Reinstatement of an Application

- A.** The Administration or its designee shall complete an eligibility determination under R9-22-306(A)(1) unless:
1. The applicant is pregnant. The Administration or its designee shall complete an eligibility determination for a pregnant woman within 20 days after the application date unless additional information is required to determine eligibility; or
 2. The applicant is in a hospital as an inpatient at the time of application. Within seven days of the Administration or its designee's receipt of a signed application the Administration or its designee shall complete an eligibility determination if the Administration or its designee does not need additional information or verification to determine eligibility.
- B.** The Administration or its designee shall reopen or reinstate eligibility of an individual who is discontinued for failure to submit the renewal form or necessary information, without requiring a new application, if the individual submits the renewal form or necessary information within 90 days after the date of discontinuance.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2). Amended by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-1414. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Repealed by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-1415. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Repealed by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-1416. Effective Date of Eligibility

- A.** Except as provided in R9-22-303 and subsections (B), (C) and (D), the effective date of eligibility is the first day of the month that the applicant files an application if the applicant is eligible that month, or the first day of the first eligible month following the application month except for:
1. The MED program under R9-22-1439, and
 2. Eligibility for a newborn under R9-22-1429.
- B.** The effective date of eligibility for an applicant who moves into Arizona is no sooner than the date Arizona residency is established.
- C.** The effective date of eligibility for an inmate applying for medical coverage is the date the applicant no longer meets the definition of an inmate of a public institution.
- D.** The effective date of eligibility for a newborn is no sooner than the date of birth.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-1417. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Repealed by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-1418. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Repealed by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-1419. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 9 A.A.R. 5123, effective January 3, 2004 (Supp. 03-4). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Repealed by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-1419.01. Repealed**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5123, effective January 3, 2004 (Supp. 03-4). Section repealed

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by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

R9-22-1419.02. Repealed**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5123, effective January 3, 2004 (Supp. 03-4). Section repealed by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

R9-22-1419.03. Repealed**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5123, effective January 3, 2004 (Supp. 03-4). Section repealed by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

R9-22-1419.04. Repealed**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5123, effective January 3, 2004 (Supp. 03-4). Section repealed by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

R9-22-1420. Income Eligibility Criteria

A. Evaluation of income. In determining eligibility, the Administration or its designee shall evaluate the following types of income received by a person identified in subsection (B):

1. Earned income, including in-kind income, before any deductions. For purposes of this Section, in-kind income means room, board, or provision for other needs in exchange for work performed. The person identified in subsection (B) shall ensure that the provider of the in-kind income establishes and verifies the monetary value of the item provided. The provider may be, but is not limited to:
 - a. A landlord who provides all or a portion of rent or utilities in exchange for services;
 - b. A store owner who gives goods such as groceries, clothes, or furniture in exchange for services; or
 - c. An individual who trades goods such as a car, tools, trailer, building material, or gasoline in exchange for services;
2. Self-employment income under R9-22-1424, including gross business receipts minus business expenses; and
3. Unearned income, including deemed income under R9-22-317 from the sponsor of a non-citizen applicant.

B. MAGI income group. The Administration or its designee shall include the following persons in the MAGI income group:

1. When the applicant is a taxpayer include:
 - a. The applicant,
 - b. Everyone the applicant expects to claim as a tax dependent for the current year, and
 - c. The applicant's spouse, when living with the applicant.
2. Except as provided in subsection (B)(3), when the applicant expects to be claimed as a tax dependent for the current year include:
 - a. The taxpayer claiming the applicant,
 - b. Everyone else the taxpayer expects to claim as a tax dependent,
 - c. The taxpayer's spouse when living with the taxpayer, and
 - d. The applicant's spouse, when living with the applicant.

3. When any of the following apply, determine the persons whose income is included as described in subsection (4)(a) or (4)(b) based on the applicant's age:
 - a. The applicant expects to be claimed as a tax dependent by someone other than a spouse or natural, adopted or step-parent;
 - b. The applicant is under age 19, expects to be claimed as a tax dependent by a natural, adopted or step-parent, lives with more than one such parent and the parents do not expect to file a joint tax return; or
 - c. The applicant is under age 19 and expects to be claimed as a tax dependent by a non-custodial parent.
4. When the applicant is not a taxpayer, does not expect to be claimed as a tax dependent and is:
 - a. Under age 19. Include the income of the applicant and when living with the applicant, the applicant's:
 - i. Spouse;
 - ii. Natural, adopted and step-children;
 - iii. Natural, adopted and step-parents;
 - iv. Natural, adopted and step-siblings; and
 - b. Age 19 or older. Include the income of the applicant and when living with the applicant, the applicant's:
 - i. Spouse;
 - ii. Natural, adopted and step-children under age 19.
5. When the applicant is a pregnant woman, the Administration or its designee shall also include the number of expected babies only for the pregnant woman's income group.
6. When the taxpayer cannot reasonably establish that a person is the taxpayer's tax dependent, inclusion of the person in the taxpayer's MAGI income group is determined as provided in subsection (B)(4).

C. A person whose income is counted. The Administration or its designee shall count the MAGI-based income of all members of an applicant's MAGI income group with the following exceptions:

1. The income of an individual who is included in the MAGI income group of his or her natural, adoptive or step parent and is not expected to be required to file a tax return for the year in which eligibility for Medicaid is being determined, is not counted whether or not the individual files a tax return.
2. The income of a tax dependent other than the taxpayer's spouse or biological, adopted or stepchild who is not expected to be required to file a tax return for the year in which eligibility for Medicaid is being determined is not counted when the tax dependent is included in the taxpayer's MAGI income group, whether or not the tax dependent files a tax return.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-1421. MAGI based Income Eligibility

A. In determining eligibility, if an individual would otherwise be ineligible under this Article due to excess income, the Administration or its designee shall subtract an amount equivalent to

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five percentage points of the Federal Poverty Level (FPL) from the household income.

- B.** A person is eligible under this Article when:
1. Subject to subsection (A), the monthly household income does not exceed the appropriate FPL;
 2. If ineligible under (B)(1), the household income determined in accordance with 26 CFR 1.36B-1(e) is below 100 percent FPL; or
 3. For eligibility under R9-22-1437, the person's income during the period defined in R9-22-1437(C) does not exceed the FPL under R9-22-1437(B).
- C.** The Administration or its designee shall consider the following factors when determining the income period to use to determine monthly income:
1. Type of income,
 2. Frequency of income,
 3. If source of income is new or terminated, or
 4. Income fluctuation.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-1422. Methods for Calculating Monthly Income

- A.** Projecting income.
1. Description. Projecting income is a method of determining the amount of income that a person will receive.
 2. Calculation. The Administration or its designee shall project income by:
 - a. Converting income to a monthly equivalent,
 - b. Using unconverted income, or
 - c. Prorating income to determine a monthly equivalent.
 3. Exclusion. When calculating projected monthly income, the Administration or its designee shall exclude an unusual variation in income under R9-22-1424(E), except for a month in which the variation is anticipated to occur.
- B.** Averaged income.
1. Description. Averaging income proportionally distributes the person's income received on a regular basis.
 2. Calculation. To average income, the Administration or its designee shall add the amount of the income and divide by the total number of pay periods. If the amount of income received per pay period fluctuates, and the fluctuation is expected to continue, the Administration or its designee shall:
 - a. Use the averaged weekly or bi-weekly amounts to convert weekly or bi-weekly income to a monthly equivalent;
 - b. Use the averaged monthly or semi-monthly amounts to project monthly income; and
 - c. Use the averaged hours worked and multiply the average by the current rate of pay. If there is a change in the rate of pay, use the new rate of pay when calculating projected income under subsection (A).
- C.** Prorated income.
1. Description. Prorated income evenly distributes a person's income over the period the income is intended to cover to calculate a monthly equivalent.
 2. Calculation. To prorate income, the Administration or its designee shall divide the total amount of the person's

income received during the period by the number of months that the income is intended to cover.

- D.** Converted income.
1. Description. Converted income is income received weekly or biweekly that is changed to a monthly equivalent.
 2. Calculation.
 - a. The Administration or its designee shall average the weekly or bi-weekly income amounts before converting to the monthly equivalent if the person's past income fluctuates and the fluctuation is expected to recur.
 - b. To convert income paid weekly to a monthly equivalent, the Administration or its designee shall multiply the weekly average by 4.3 weeks.
 - c. To convert income paid bi-weekly to a monthly equivalent, the Administration or its designee shall multiply the bi-weekly average by 2.15 weeks.
- E.** Unconverted income.
1. Description. Unconverted income is the actual amount of income received or projected to be received during a month.
 2. Calculation. The Administration or its designee shall sum the actual amount of income received or projected to be received during a month.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-1423. Calculations and Use of Methods Listed in R9-22-1422 Based on Frequency of Income

- A.** Monthly income. If otherwise countable income is received monthly or in a lump sum, the Administration or its designee shall use the unconverted method for calculating monthly income.
1. Lump sum means a nonrecurring payment that serves as a complete payment.
 2. Lump sum payments include but are not limited to: rebates or credits; inheritances; insurance settlements; and payments for prior months from such sources as Social Security, Railroad Retirement, or other benefits.
 3. A lump sum payment may include a portion intended for the current month.
- B.** Weekly income. If income is received weekly, the Administration or its designee shall convert the income to a monthly equivalent under R9-22-1422(D).
- C.** Bi-weekly income. If income is received bi-weekly, the Administration or its designee shall convert the income to a monthly equivalent under R9-22-1422(D).
- D.** Semi-monthly or daily income. If income is received semi-monthly or daily, the Administration or its designee shall use the unconverted method for calculating monthly income under R9-22-1422(E).
- E.** Bimonthly, quarterly, semi-annual, or annual income. If income is received bimonthly, quarterly, semi-annually, or annually, the Administration or its designee shall prorate the income received or projected to be received under R9-22-1422(C).

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-1424. Use of Methods Listed in R9-22-1423 Based on Type of Income**A. New income.**

1. Description. New income is income received from a new source during the first calendar month that the income is received from the source.
2. Calculating monthly income.
 - a. If a full month's income is received, the Administration or its designee shall use the appropriate method described in R9-22-1423 to calculate the monthly income.
 - b. If less than a full month's income is received, the Administration or its designee shall use the unconverted method to calculate the monthly income.

B. Terminated income.

1. Terminated income is income received during the last calendar month when no more income is expected to be received from that source.
2. Calculating monthly income.
 - a. If a full month's income is received, the Administration or its designee shall use the appropriate method described in R9-22-1423 to calculate the monthly income.
 - b. If less than a full month's income is received, the Administration or its designee shall use the unconverted method to calculate the monthly income.

C. Break in income.

1. Description. A break in income is a break in established frequency of income of one calendar month or more.
2. Calculating monthly income.
 - a. If a full month's income is received, the Administration or its designee shall use the appropriate method described in R9-22-1423 to calculate the monthly income.
 - b. If less than a full month's income is received, the Administration or its designee shall use the unconverted method to calculate the monthly income.

D. Contract or regular seasonal income.

1. Descriptions.
 - a. Contract income is income a person earns under a contract that specifies a length of time the contract covers, the amount of income to be paid, and the frequency of payment.
 - b. Regular seasonal income is income that fluctuates based on season or is only received during a certain season, and can reasonably be anticipated based on history or other verification.
2. Calculating monthly income.
 - a. When the contract or regular seasonal income will not fluctuate over the 12-month period beginning with the month the application or renewal is submitted, the Administration or its designee shall use the appropriate income calculation method in R9-22-1423 for the frequency of receipt.
 - b. When the contract or regular seasonal income is anticipated to fluctuate over the 12-month period

beginning with the month the application or renewal is submitted, the Administration or its designee shall calculate the monthly income as follows:

- i. For a one-time contract that ends between the month the application or renewal is submitted and the end of the calendar year, divide the income that will be received from the application or renewal month through the end of the calendar year by the number of months in that period to get a monthly equivalent;
- ii. For contracts that extend into the next calendar year, contracts that are anticipated to be renewed and regular seasonal income, the Administration or its designee shall divide the income that will be received in the 12-month period beginning with the application or renewal month by 12 to get the monthly equivalent.

E. Unusual variation in the amount of income.

1. Description. Unusual variation is an amount of income that is different from the established amount received and is not projected to continue or recur.
2. Calculating monthly income.
 - a. When calculating income for the month in which an unusual variation in income occurs, the Administration or its designee shall include the unusual variation in the income calculation.
 - b. When an unusual variation in income occurs during the month, the Administration or its designee shall use the converted method for calculating monthly income if income is received weekly or bi-weekly.
 - c. When projecting income for the months following the month in which the unusual variation occurs, the Administration or its designee shall exclude the unusual variation in income from the income calculation.

F. Self-employment income.

1. Description. Self-employment income is income a person earns from the person's own trade or business less allowable expenses.
2. Calculating monthly income. The Administration or its designee shall prorate the income under R9-22-1422.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-1425. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Repealed by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-1426. Repealed

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Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Repealed by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-1427. Eligibility Under MAGI

- A. Caretaker Relatives.** An individual is eligible for AHCCCS medical coverage as a Caretaker Relative when the individual meets the following requirements:
1. Is a caretaker relative as defined in R9-22-1401.
 2. The total countable income under R9-22-1420(B) does not exceed 106 percent of the FPL for the number of people in the MAGI income group.
- B. Continued medical coverage.**
1. A caretaker relative eligible under subsection (A) and all dependent children eligible under subsection (D) in the caretaker relative's MAGI income group are entitled to continued AHCCCS coverage for up to 12 months if eligible under subsection (B)(1)(c)(i) and up to four months if eligible under subsection (B)(1)(c)(ii) if the MAGI income group's income exceeds the limit for the income group's size and the following conditions are met:
 - a. The caretaker relative still lives with a dependent child;
 - b. A caretaker relative in the income group received AHCCCS medical coverage under this Section for three calendar months out of the most recent six months; and
 - c. The loss of AHCCCS coverage under this Section is due to:
 - i. Increased earned income of a caretaker relative, or
 - ii. Increased spousal support.
 2. An applicant may be added to the continued medical coverage under subsection (B)(1), if the applicant did not reside in the household at the time continued medical coverage under this Section was determined and the applicant is:
 - a. The spouse or dependent child of a caretaker relative receiving continued medical coverage, or
 - b. The parent of a dependent child who is receiving continued medical coverage.
- C. Pregnant Women.** A pregnant woman is eligible for AHCCCS medical coverage when the total countable income under R9-22-1420(B) does not exceed 156 percent of the FPL for the number of people in the MAGI income group. A pregnant woman who applies for AHCCCS medical coverage during the pregnancy or postpartum period and is determined eligible, remains eligible throughout the postpartum period. The postpartum period begins the day the pregnancy terminates and ends the last day of the month in which the 60th day following pregnancy termination occurs.
- D. Children.** A child less than 19 years of age is eligible for AHCCCS medical coverage when the total countable income under R9-22-1420(B) does not exceed the following percentage of the FPL for the number of people in the MAGI income group:
1. 147 percent for a child under one year of age,
 2. 141 percent for a child age one through five years of age, or
 3. 133 percent for all other persons.

- E. Adults.** An individual is eligible for AHCCCS medical coverage when the individual meets the following eligibility requirements:
1. Is 19 years of age or older but less than 65 years of age;
 2. Is not pregnant;
 3. Is not eligible for AHCCCS Medical Coverage under any other coverage group listed in 42 U.S.C. 1396a(a)(10)(A)(i);
 4. Is not entitled to or enrolled for Medicare benefits under Part A or Part B;
 5. The total countable income under R9-22-1420(B) does not exceed 133 percent of the FPL for the number of people in the MAGI income group; and
 6. When the individual is a caretaker relative, but has income exceeding the limit in subsection (A)(2), each child under age 19 living with the individual is receiving AHCCCS medical coverage or KidsCare, or is enrolled in minimum essential coverage as defined in 42 CFR 435.4.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Section R9-22-1427 repealed; new Section R9-22-1427 made by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-1428. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2). Repealed by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-1429. Eligibility for a Newborn

A child born to a mother eligible for and receiving medical coverage under this Article, Article 15 of the Chapter, or 9 A.A.C. 28, is automatically eligible for AHCCCS medical coverage for a period not to exceed 12 months. Automatic eligibility begins on the child's date of birth and ends with the last day of the month in which the child turns age one.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1). Amended by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-1430. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section

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repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Repealed by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-1431. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 13 A.A.R. 2633, effective July 10, 2007 (Supp. 07-3). Amended by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2). Amended by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1). Repealed by final rulemaking at 21 A.A.R. 1241, effective September 5, 2015 (Supp. 15-3).

R9-22-1432. Young Adult Transitional Insurance

An individual is eligible for AHCCCS medical coverage when the individual meets all of the following eligibility requirements:

1. Is 18 through 25 years of age;
2. Was in the custody of the Department of Economic Security under A.R.S. Title 8, Chapter 5 or Chapter 10 on the individual's 18th birthday;
3. Was eligible for and receiving AHCCCS Medical Coverage on the individual's 18th birthday; and
4. Is not eligible for AHCCCS Medical Coverage under 42 U.S.C. 1396a(a)(10)(A)(i)(I) - (VII).

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-1433. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Repealed by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-1434. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by exempt rulemaking at 7 A.A.R. 5701, effective December 1, 2001 (Supp. 01-4). Section repealed by exempt

rulemaking at 10 A.A.R. 4588, effective October 12, 2004 (Supp. 04-4).

R9-22-1435. Eligibility for a Person With Medical Expenses Whose Income is Over 100 Percent FPL

An applicant who is not eligible for AHCCCS medical coverage due to excess income may become AHCCCS eligible by deducting medical expenses from the applicant's income. This coverage is called Medical Expense Deduction (MED).

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

R9-22-1436. MED Family Unit

- A. For the purpose of this Section, a child is an unmarried person under age 18.
- B. The Department shall consider each of the following to be a family when living together:
 1. A parent and the parent's children;
 2. A married couple without children;
 3. A married couple and the children of either or both spouses;
 4. Unmarried parents who live with at least one child in common, and the parents' other children, whether in common or not; and
 5. A person without children.
- C. If an applicant is pregnant, the family unit includes the number of unborn children.
- D. A child of the children included in subsections (B)(1), (B)(3), or (B)(4) is considered part of the family unit when living together.
- E. The Department shall not include a SSI-cash recipient in the MED family unit even if the SSI-cash recipient is a parent, spouse, or child.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

R9-22-1437. MED Income Eligibility Requirements

- A. Income exclusions. The exclusions in R9-22-1420(C) apply to the MED family unit.
- B. Income standard.
 1. The Department shall divide the annual FPL for the MED family unit that is in effect during each month of the income period by 12 to determine the monthly FPL.
 2. The Department shall add the monthly FPLs for the income period and multiply the resulting amount by 40 percent.
 3. Changes to the annual FPL are implemented in April of each year.
- C. Income period. The income period is the month of application and the next two months. The Department shall add together the three months' income to establish the MED family unit's income amount.
- D. Medical expense deduction period. The medical expense deduction period is a three-month period consisting of:

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1. For a new application, the month before the application month, the month of application, and month following the application month; or
 2. For a MED eligibility review, the last month of the prior MED eligibility period and the following two months.
- E.** The Department shall calculate the amount of countable monthly income as follows:
1. Subtract a \$90 cost of employment allowance from the gross amount of earned income for each person whose earned income is counted;
 2. Disregard from the remaining earned income an amount billed by the provider for the care of each dependent child under age 18 or incapacitated adult member of the MED family unit if the care is for the purpose of allowing the person to work. If more than one person in the household is responsible for and billed for the care of a dependent child, the disregard may be split between the wage earners if splitting the disregard is to the benefit of the family, but shall not exceed the maximum disregards as follows:
 - a. A maximum of \$200 for a child under age two and \$175 for other dependents for a wage-earner employed full-time (86 or more hours per month); and
 - b. A maximum of \$100 for a child under age two, and \$88 for other dependents for a wage earner employed part-time (less than 86 hours a month);
 3. Add the remaining earned income for each MED family member to the unearned income of all MED family members;
 4. Compare the MED family's unit countable income amount to the income standard in subsection (B). The difference is the amount of medical expenses the family shall incur during the medical expense deduction period to become eligible;
 5. Subtract allowable medical expense deductions that were incurred by:
 - a. A member of the MED family unit;
 - b. A deceased spouse or minor child of a MED family unit if this person would have been a member of the MED unit during the MED expense deduction period;
 - c. A person who was a minor child of a MED family unit member when the expense was incurred but who is no longer a minor child; or
 - d. A minor child, including a child who is a runaway, who left home before the date of application to live with someone other than a parent; and
 6. Compare the net MED family income to the income standard listed in subsection (B).
- F.** The family is eligible if the net income in subsection (E)(6) does not exceed the income standard in subsection (B).
- Historical Note**
- New Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).
- R9-22-1438. MED Resource Eligibility Requirements**
- A.** Including countable resources. The Department shall include the resources not excluded that belong to and are available to members of the family of a qualified alien under A.R.S. § 36-2903.03 and the sponsor and sponsor's spouse of a person who is a qualified alien.
- B.** Ownership and availability. The Department shall evaluate the ownership of resources to determine the availability of resources to a person listed in subsection (A).
1. Jointly owned resources with ownership records containing the words "and" or "and/or" between the owners' names are available to each owner except if one of the owners refuses to sell. A consent to sale is not required if all owners are members of the MED family unit.
 2. Jointly owned resources with ownership records containing the word "or" between the owners' names are presumed to be available in full to each owner. The applicant or member may rebut the presumption by providing clear and convincing evidence of intent to establish a different type of ownership. If the presumption is rebutted, the resource is available to the owners:
 - a. Consistent with the intent of the owners, or
 - b. Based on each owner's proportionate net contribution if there is not clear and convincing evidence of a different allocation.
 3. The Department shall establish availability of a trust under 42 U.S.C. 1396p(d)(4)(A) or (C).
- C.** Unavailability. The Department shall consider the following resources unavailable:
1. Property subject to spendthrift restriction, such as:
 - a. Accounts established by the SSA, Veteran's Administration, or similar sources that mandate that the funds in the account be used for the benefit of a person not residing with the MED family unit; or
 - b. Trusts established by a will or funded solely by the income and resources of someone other than a member of the MED family unit.
 2. A resource being disputed in a divorce proceeding or probate matter;
 3. Real property located on a Native American reservation;
 4. A resource held by a conservator to the extent court-imposed restrictions make the resource unavailable to the applicant, member, or member of the family unit for:
 - a. Medical care,
 - b. Food,
 - c. Clothing, or
 - d. Shelter.
- D.** Resource exclusion. The Department shall exclude the following resources from the calculation of resources under subsection (E):
1. One burial plot for each person listed in R9-22-1436;
 2. Household furnishings and personal items that are necessary for day-to-day living;
 3. Up to \$1500 of the value of one prepaid funeral plan for each person listed in R9-22-1436 that specifically covers only funeral-related expenses as evidenced by a written contract;
 4. The value of one motor vehicle regularly used for transportation. If the MED family unit owns more than one vehicle, the exclusion is applied to the vehicle with the highest equity value;
 5. The value of a vehicle used to earn income and not used simply for transportation to and from employment;
 6. The value of a vehicle in which a SSI-cash recipient has an ownership interest; and
 7. The value of any vehicle used for medical treatment, employment, or transportation of a SSI-cash disabled child, and that is excluded by SSI for that reason.
 8. Funds set aside in an Individual Development Account under 6 A.A.C. 12, Article 4; and
 9. Any other resource specifically excluded by federal law.
- E.** Calculation of resources. The Department shall determine the value of all household resources as follows:
1. Calculate the total amount of countable liquid resources;
 2. Calculate the equity value of each countable non-liquid resource. The Department shall determine the equity

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value of a countable non-liquid resource by subtracting the amount of valid encumbrances on that resource from:

- a. The market value of real property if there is no assessor's evaluation of the property,
 - b. The market value of real property if the assessor's value of the real property does not include the value of permanent structures on that property,
 - c. The assessor's full cash value if subsections (E)(2)(a) and (E)(2)(b) do not apply, and
 - d. The market value of a non-liquid resource that is not real property;
3. Not assign an equity value to a resource that is less than zero; and
 4. Determine the MED family unit's resources by adding the totals determined in subsections (1) and (2).
- F.** Resource standard to be eligible for MED. A person is not eligible for MED if the resources determined in subsection (E) exceed \$100,000 or if more than \$5,000 are liquid resources.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

R9-22-1439. MED Effective Date of Eligibility

- A.** A MED family unit is eligible on the day the income and resource eligibility requirements are met but no earlier than the first day of the month of application. If the family unit meets the income requirements in the application month but does not meet the resource limit until the following month, the family unit's effective date of eligibility is the first day of the month following the month of application.
- B.** The Department shall adjust the effective date of eligibility under subsection (A) to an earlier date if:
1. A member presents verification of additional allowable medical expenses incurred on an earlier date during the medical expense deduction period that allow the member to meet the income requirements, and
 2. The member presents the verification within 60 days of approval of eligibility under this Section.
- C.** The Department shall not adjust an effective date of eligibility more than one time per application.
- D.** The Department shall adjust the effective date no later than 30 days after the end of the 60-day period under subsection (B)(2).
- E.** The Department shall deny an application and provide the applicant a denial notice when the applicant does not meet the MED requirements under this Article during the month of application or the month following the month of application.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

R9-22-1440. MED Eligibility Period

The Department shall approve eligibility for six months. Changes in circumstances do not affect eligibility for the first three months.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

R9-22-1441. Eligibility Appeals

- A.** Adverse actions. An applicant or member may appeal by requesting a hearing from the Department concerning any of the following adverse actions:
1. Complete or partial denial of eligibility under R9-22-1413;
 2. Suspension, termination, or reduction of AHCCCS medical coverage under R9-22-1415;

3. Delay in the eligibility determination beyond the timeframes under this Article;
4. The imposition of or increase in a premium or copayment; or
5. The effective date of eligibility.

- B.** Notice of Adverse Action. The Department shall personally deliver or send, by regular mail, a Notice of Adverse Action to the person affected by the action. For the purpose of this Section, the date of the Notice of Adverse Action shall be the date of personal delivery to the applicant or the postmark date, if mailed.

- C.** Automatic change and hearing rights.

1. An applicant or a member is not entitled to a hearing if the sole issue is a federal or state law requiring an automatic change adversely affecting some or all recipients.
2. An applicant or a member is entitled to a hearing if a federal or state law requires an automatic change and the applicant or member timely files an appeal that alleges a misapplication of the facts to the law.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

R9-22-1442. Cessation of MED Coverage

The Department shall not approve any individual or family who has applied on or after May 1, 2011 as eligible for MED coverage. With respect to any applications that are pending as of May 1, 2011, the Department shall not approve any individual or family as eligible for MED coverage who has not met all eligibility requirements prior to May 1, 2011.

Historical Note

New Section made by exempt rulemaking at 17 A.A.R. 1028, effective May 1, 2011 (Supp. 11-2).

R9-22-1443. Closing New Eligibility for Persons Not Covered under the State Plan

- A.** Definition. For purposes of this Section, "AHCCCS Care" refers to the eligibility category that includes individuals encompassed within the expanded definition of "eligible person" under A.R.S. § 36-2901.01 and R9-22-1428(4), but who do not meet eligibility criteria for an optional or mandatory Title XIX coverage group described in the Arizona State Plan for Medicaid.
- B.** General Rule. Except as provided by this Section, neither the Department nor the Administration shall approve an individual for AHCCCS Care with an effective date of eligibility on or after July 8, 2011.
- C.** Exception for pending applications. With respect to any applications that are pending as of July 8, 2011, the Department and the Administration shall approve any individual as eligible for AHCCCS Care who has met all eligibility requirements for AHCCCS Care during or after the month of application but prior to July 8, 2011, and has continuously met all eligibility requirements for AHCCCS Care since that date.
- D.** Exception for children. The Department and the Administration shall approve an individual as eligible for AHCCCS Care on or after July 8, 2011 who:
1. Was determined eligible under the Arizona State Plan for Medicaid based on being under the age of 19;
 2. Would otherwise be discontinued due to reaching the age of 19 on or after July 8, 2011, under subsection (B) of this Section; and
 3. Meets all eligibility requirements for AHCCCS Care on and after reaching age 19.

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- E. Exception for KidsCare. The Department and the Administration shall approve an individual as eligible for AHCCCS Care on or after July 8, 2011 who:
 1. Was determined eligible under 9 A.A.C. 31 based on being under the age of 19;
 2. Would otherwise be discontinued due to reaching the age of 19 on or after July 8, 2011, under subsection (B) of this Section; and
 3. Meets all eligibility requirements for AHCCCS Care on and after reaching age 19.
- F. Exception for Young Adult Transitional Insurance (YATI). The Department and the Administration shall approve an individual as eligible for AHCCCS Care on or after July 8, 2011 who:
 1. Was determined eligible for YATI under R9-22-1432;
 2. Would otherwise be discontinued due to reaching the age of 21 on or after July 8, 2011 under subsection (A) of this Section; and
 3. Meets all eligibility requirements for AHCCCS Care on and after reaching age 21.
- G. Exception for certain SSI-MAO. The Department and the Administration shall approve as eligible for AHCCCS Care, on or after July 8, 2011, an individual who:
 1. Was determined eligible for AHCCCS Care; and
 2. Whose eligibility category is changed on or after June 28, 2011, from AHCCCS Care to eligibility based on R9-22-1501(A)(1) (SSI Medical Assistance Only) because the individual, at the time of the change in eligibility category, is age 65 or over, under the age of 65 with Medicare coverage, or who has been determined by ADHS to have a Serious Mental Illness; but who
 3. Subsequent to the change in eligibility category, is determined not to meet eligibility requirements under Article 15; but only if
 4. The individual meets all eligibility requirements for AHCCCS Care on and after the date the individual is determined not to meet eligibility requirements under Article 15.
- H. Exception for redeterminations. This Section does not prohibit the redetermination of an individual as eligible for AHCCCS Care on or after July 8, 2011, if the individual was determined eligible for AHCCCS Care prior to July 8, 2011 and has remained continuously eligible for AHCCCS Care since July 8, 2011 or the date on which the individual was determined eligible for AHCCCS Care under subsections (C), (D), and (E) of this Section.
- I. Discontinuance for other reasons. Nothing in this Section prohibits or restricts the Department or the Administration from discontinuing AHCCCS Care for an individual who does not meet any other eligibility criteria set forth elsewhere in this Chapter including but not limited to discontinuance based on the individual's failure to verify eligibility information upon an application or redetermination.
- J. Review of anticipated expenditures. At least monthly, the Director shall review the most recent estimate of the anticipated expenditures for the remainder of the state fiscal year as compared to funds remaining in the appropriations made to the agency for the state fiscal year as well as any other known or reasonably anticipated sources of other funding. Based on that review the Director may, subject to approval by the Center for Medicare and Medicaid Services, re-open the AHCCCS Care program to new enrollment otherwise prohibited by this Section.
- K. At least 30 days prior to the effective date of any changes to eligibility for the AHCCCS Care program as described in this Section, public notice shall be provided via publication on the AHCCCS web site unless shorter notice is necessary to main-

tain a program that is reasonably anticipated to remain within available funding.

Historical Note

New Section made by exempt rulemaking at 17 A.A.R. 1345, effective July 8, 2011 (Supp. 11-3). Amended by exempt rulemaking at 17 A.A.R. 2624, effective July 8, 2011 (Supp. 11-4).

ARTICLE 15. AHCCCS MEDICAL COVERAGE FOR PEOPLE WHO ARE AGED, BLIND, OR DISABLED**R9-22-1501. General Information**

- A. General. The Administration shall determine eligibility for AHCCCS medical coverage for the following applicants or members using the eligibility criteria and requirements in this Article:
 1. A person who is aged, blind, or disabled and does not receive SSI cash; and
 2. A person terminated from the SSI cash program under R9-22-1505.
- B. Definitions. In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:
 - "Aged" means a person who is 65 years of age or older as specified in 42 U.S.C. 1382c(a)(1)(A).
 - "Blind" means a person who has been determined blind by the Department of Economic Security, Disability Determination Services Administration, under 42 U.S.C. 1382c(a)(2).
 - "Disabled" means a person who has been determined disabled by the Department of Economic Security, Disability Determination Services Administration, under 42 U.S.C. 1382c(a)(3)(A) through (E).
- C. Confidentiality. The Administration shall maintain the confidentiality of an applicant's or member's records and limit the release of safeguarded information under R9-22-512.
- D. Application process.
 1. A person may apply for AHCCCS medical coverage by submitting a signed application to any Administration office or outstation location under R9-22-1406.
 2. The provisions in R9-22-1406(B), (C), and (E) apply to this Section.
 3. The application date is the date a signed application is received at any Administration office or outstation location approved by the Director.
 4. An applicant who files an application may withdraw the application, either orally or in writing. If an applicant withdraws an application, the Administration shall send the applicant a denial notice under subsection (G).
 5. Except as provided in 42 CFR 435.911, the Administration shall determine eligibility within 90 days for an applicant applying on the basis of disability and 45 days for all other applicants.
 6. If an applicant dies while an application is pending, the Administration shall complete an eligibility determination for the deceased applicant.
 7. The Administration shall complete an eligibility determination on an application filed on behalf of a deceased applicant, if the application is filed in the month of the applicant's death.
- E. Redetermination of eligibility for a person terminated from the SSI cash program.
 1. Continuation of AHCCCS medical coverage. The Administration shall continue AHCCCS medical coverage for a person terminated from the SSI cash program

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- until a redetermination of eligibility under subsection (E)(2) is completed.
2. Coverage group screening. The Administration shall screen a person for eligibility under any coverage group under A.R.S. §§ 36-2901(6)(a)(i), (ii), (iii), (iv), and (v) and 36-2934.
 - a. If a person files an application for Arizona Long-Term Care System (ALTCs) coverage, the Administration shall determine eligibility under 9 A.A.C. 28, Article 4.
 - b. If an applicant or member is aged, blind, or disabled, but not in need of long-term care services, the Administration shall determine eligibility under this Article.
 - c. For all other persons, the Administration shall refer the applicant's case to the Department for an eligibility decision under Article 14.
 3. Eligibility decision.
 - a. If a person is eligible under this Article or 9 A.A.C. 28, Article 4, the Administration shall send a notice as under subsection (G) informing the applicant that AHCCCS medical coverage is approved.
 - b. If a person is ineligible, the Administration shall send a notice as under subsection (G) to deny AHCCCS medical coverage.
- F.** Eligibility effective date. Eligibility is effective on the first day of the month that all eligibility requirements are met, including the period described under R9-22-303.
- G.** Notice for approval or denial. The Administration shall send an applicant a written notice of the decision regarding the application. This notice shall include a statement of the intended action, and:
1. If approved, the notice shall contain the effective date of eligibility.
 2. If approved under FESP, the notice shall also contain:
 - a. The emergency services certification end date,
 - b. A statement detailing the reason for the denial of full services,
 - c. The legal authority supporting the decision,
 - d. Where the legal authority supporting the decision can be found,
 - e. An explanation of the right to request a hearing, and
 - f. The date by which a request for hearing shall be received by the Administration.
 3. If denied, the notice shall contain:
 - a. The effective date of the denial;
 - b. The reason for the denial, including specific financial calculations and the financial eligibility standard, if applicable;
 - c. Legal authority supporting the decision;
 - d. Where the legal authority supporting the decision can be found;
 - e. An explanation of the right to request a hearing; and
 - f. The date by which a request for hearing shall be received by the Administration.
- H.** Reporting and verifying changes.
1. An applicant or a member shall report to the Administration the following changes for the applicant or member, the applicant's or member's spouse, and the applicant or member's dependent children:
 - a. Change of address;
 - b. Change in the household's members;
 - c. Change in income;
 - d. Death;
 - e. Change in marital status;
 - f. Change in school attendance;
 - g. Change in Arizona state residency; and
 - h. Any other change that may affect the member's or applicant's eligibility.
 2. A member shall report to the Administration the following changes:
 - a. Admission to a penal institution,
 - b. Change in U.S. citizenship or immigrant status,
 - c. Receipt of a Social Security number, and
 - d. Change in first- or third-party liability that may contribute to the payment of all or a portion of the person's medical costs.
 3. A person other than a member or an applicant who reports a change to the Administration either orally or in writing shall include the:
 - a. Name of the affected applicant or member;
 - b. Description of the change;
 - c. Date the change occurred;
 - d. Name of the person reporting the change; and
 - e. Social Security or case number of the applicant or member, if known.
 4. An applicant or a member shall provide verification of changes if requested by the Administration.
 5. An applicant or a member shall report anticipated changes in eligibility to the Administration as soon as the person knows that the change will occur.
 6. An applicant or a member shall report an unanticipated change to the Administration within 10 days following the date the change occurred.
- I.** Processing of changes and redeterminations. If a member receives AHCCCS medical coverage under subsection (A), the Administration shall redetermine the member's eligibility at least once every 12 months or more frequently when changes occur that may affect eligibility.
- J.** Actions that may result from a redetermination or change. In processing a redetermination or change, the Administration shall determine whether there should be:
1. No change in eligibility,
 2. Discontinuance of eligibility if a condition of eligibility is no longer met, or
 3. A change in the program under which a person receives AHCCCS medical coverage.
- K.** Notice of discontinuance.
1. Contents of notice. The Administration shall issue a notice when it takes action to discontinue a member's eligibility. The notice shall contain the following information:
 - a. A statement of the action that is being taken;
 - b. The effective date of the action;
 - c. The reason for the discontinuance, including specific financial calculations and the financial eligibility standard if applicable;
 - d. The legal authority that supports the action proposed by the Administration;
 - e. Where the legal authority supporting the decision can be found;
 - f. An explanation of the right to request a hearing; and
 - g. The date by which a hearing request shall be received by the Administration and the right to continue medical coverage pending appeal.
 2. Advance notice of changes in eligibility. Advance notice means a notice of proposed action that is issued to the member at least 10 days before the effective date of the proposed action. Except under subsection (K)(3), the Administration shall issue an advance notice when an adverse action is taken to suspend, reduce or discontinue eligibility.

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3. Exceptions from advance notice. The Administration shall issue a notice to a member to discontinue eligibility no later than the effective date of the action if:
 - a. The member provides to the Administration a clearly written statement, signed by that member, that:
 - i. Services are no longer wanted; or
 - ii. Gives information that requires a discontinuance or reduction of services and indicates that the member understands that this is the result of supplying the information;
 - b. The member provides information to the Administration that requires a discontinuance of eligibility and a member signs a written statement waiving advance notice;
 - c. The member cannot be located and mail sent to the member's last known address has been returned as undeliverable under 42 CFR 431.213(d) subject to reinstatement of discontinued eligibility;
 - d. The member has been admitted to a public institution where a member is ineligible for coverage;
 - e. The member has been approved for Medicaid in another state; or
 - f. The Administration receives information confirming the death of the member.
- L. Request for hearing. An applicant or member may request a hearing under Chapter 34 for any of the following adverse actions:
 1. Complete or partial denial of eligibility,
 2. Discontinuance or reduction of AHCCCS medical coverage, or
 3. Delay in the eligibility determination beyond the timeframes listed in R9-22-1501(D).
- M. Assignment of rights. A person determined eligible assigns rights to all types of medical benefits to which the person is entitled under operation of law under A.R.S. § 36-2903.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 9 A.A.R. 5123, effective January 3, 2004 (Supp. 03-4). Amended by exempt rulemaking at 10 A.A.R. 23, effective December 9, 2003 (Supp. 03-4). Amended by exempt rulemaking at 10 A.A.R. 4588, effective October 12, 2004 (Supp. 04-4). Amended by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1). Amended by final rulemaking at 19 A.A.R. 3309, effective November 30, 2013 (Supp. 13-4).

R9-22-1502. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Repealed by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-1503. Financial Eligibility Criteria

- A. General income eligibility. Except as provided under subsection (B) of this rule, the Administration or its designee shall

count the identified income under 42 U.S.C. 1382a and 20 CFR 416 Subpart K.

B. Exceptions.

1. In-kind support and maintenance under 42 U.S.C. 1382a(a)(2)(A) is excluded.
2. For a person living with a spouse, the Administration or its designee calculates net income for an eligible couple under 20 CFR 416.1160 as of April 1, 2013, which is incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments, even if the spouse is not eligible for or applying for SSI or coverage under this Article.
3. In determining the net income of a married couple living with a child or the net income of a person who is not living with a spouse but living with a child, a child allocation is allowed as a deduction from the combined net income of the couple for each child regardless of whether the child is ineligible or eligible. For the purposes of this Section, a child means a person who is unmarried, natural or adopted, and under age 18 or under age 22 if a full-time student. Each child's allocation deduction is reduced by that child's income, including public income maintenance payments, using the methodology under 20 CFR 416.1163(b)(1) and (2) as of April 1, 2013, which is incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.
4. In determining the income deemed available to an applicant who is a child from an ineligible parent or parents, an allocation for each eligible or ineligible child of the parent is allowed as a deduction from the parent's income under 20 CFR 416.1165(b). The child's allocation is reduced by that child's income, including public income maintenance payments.
5. In determining the income of a person who receives an annual Title II Cost of Living Allowance (COLA) increase, the COLA amount is disregarded from January until the Administration applies the effective income limits under R9-22-1504 based on the FPL for the calendar year.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-1504. Eligibility For A Person Who is Aged, Blind, or Disabled

- A. To be eligible for AHCCCS medical coverage, an applicant shall meet the conditions of eligibility and requirements in this Article and:
 1. Meet one of the income tests described in subsection (B) or (C), or
 2. The special requirements in R9-22-1505.
- B. The Administration shall determine whether the applicant's countable income, as described in R9-22-1503, is less than or equal to 100 percent of the SSI FBR, as adjusted annually.

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- C. The Administration shall determine whether the applicant's countable income, as described in R9-22-1503, without deducting the amount from earned income under 42 U.S.C. 1382a(b)(4)(B)(iii), is less than or equal to 100 percent FPL as adjusted annually.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

R9-22-1505. Eligibility for Special Groups

- A. The following are considered special groups:

1. A person meeting the requirements in A.R.S. § 36-2903.03 who:
 - a. Is aged, blind, or disabled under 42 CFR 435.520, 42 CFR 435.530, or 42 CFR 435.540 as of October 1, 2012, which are incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.
 - b. Received SSI cash or AHCCCS medical coverage under this subsection, or subsections (A)(2), (A)(3), or (A)(4) on or before August 21, 1996;
 - c. Was residing in the United States under color of law on or before August 21, 1996; and
 - d. Meets the requirements under this Article;
2. A disabled child (DC) under 42 U.S.C. 1396a(a)(10)(A)(i)(II). A disabled child is a child who:
 - a. Was receiving SSI cash benefits as a disabled child on August 22, 1996;
 - b. Lost SSI cash benefits effective July 1, 1997, or later, due to a disability determination under Section 211(d) of Subtitle B of P.L. 104-193;
 - c. Continues to meet the disability requirements for a child that were in effect on August 21, 1996; and
 - d. Meets the requirements under this Article;
3. A disabled adult child (DAC), under 42 U.S.C. 1383c(c) who:
 - a. Was determined disabled by the Social Security Administration before attaining the age of 22 years;
 - b. Became entitled to or received an increase in child's insurance benefits under Title II of the Act on the basis of blindness or disability;
 - c. Was terminated from SSI cash benefits due to entitlement to or an increase in income under Title II of the Act;
 - d. Meets the requirements under this Article, and
 - e. Is 18 years of age or older;
4. A disabled widow or widower (DWW) under 42 U.S.C. 1383c(b) and (d) who:
 - a. Is blind or disabled,
 - b. Is ineligible for Medicare Part A benefits,
 - c. Received SSI cash benefits the month before Title II of the Act benefit payments began,
 - d. Meets the requirements under this Article;
 - e. Is at least 50 years of age but under age 65; and
 - f. Is unmarried.
5. Under 42 CFR 435.135, a person who:
 - a. Is aged, blind, or disabled;
 - b. Receives benefits under Title II of the Act;
 - c. Received SSI cash benefits in the past;

- d. Received SSI cash benefits and Title II of the Social Security Act benefits concurrently for at least one month anytime after April 1977;
- e. Became ineligible for SSI cash benefits while receiving SSI and benefits under Title II of the Act concurrently; and
- f. Meets the requirements under this Article.

- B. Income for special groups.

1. Except as provided in subsection (B)(2), income eligibility is determined using the income criteria in R9-22-1503.
2. Exceptions to income for special groups.
 - a. For a person in the DAC coverage group under subsection (A)(3), the applicant's Title II of the Social Security Act benefits are disregarded in determining income eligibility under 42 U.S.C. 1383c(c).
 - b. For a person in the DWW coverage group, under subsection (A)(4), the applicant's Title II of the Social Security Act benefits are disregarded in determining income eligibility under 42 U.S.C. 1383c(b) and (d).
 - c. For an applicant or member in the coverage group under subsection (A)(5), the portion of the applicant's or member's Title II of the Social Security Act benefits attributed to cost-of-living adjustments received by the applicant since the effective date of SSI ineligibility is disregarded in determining income eligibility under 42 CFR 435.135.

- C. 100 percent FBR. As a condition of eligibility for all special groups, countable income shall be equal to or less than 100 percent of the SSI FBR, as adjusted annually.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

R9-22-1506. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

R9-22-1507. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

R9-22-1508. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

ARTICLE 16. HOSPITAL PRESUMPTIVE ELIGIBILITY**R9-22-1601. General Eligibility Requirements**

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- A.** Notwithstanding Article 3, a qualified hospital may determine Hospital Presumptive Eligibility (HPE), on the basis of preliminary information, that an individual is eligible for AHCCCS medical coverage during the presumptive eligibility period described in this section, if the individual is a United States citizen or eligible qualified alien, and the individual is:
1. Pregnant with gross household income that does not exceed 156% of the FPL;
 2. An adult who meets the requirements of R9-22-1427(E);
 3. A caretaker relative as defined in R9-22-1401(B) with gross household income that does not exceed 106% of the FPL;
 4. Under age 19 with gross household income that does not exceed the limit set in R9-22-1427(D) for the child's age;
 5. A woman screened for breast or cervical cancer by an Arizona program of the National Breast and Cervical Cancer Early Detection Program who meets the requirements of R9-22-2003(A); or
 6. A former foster care child who meets the requirements of R9-22-1432.
- B.** Definitions. In addition to definitions contained in R9-22-101 and A.R.S. § 36-2901, the words and phrases in this Article have the following meanings unless the context explicitly requires another meaning: "Qualified hospital" means a hospital that has signed an agreement with the Administration to process HPE applications and has not been disqualified.
- C.** Application Process:
1. Right to apply. A person may apply for presumptive eligibility for AHCCCS medical coverage by submitting an Administration-approved application to the qualified hospital.
 2. Application. To initiate the application process, the qualified hospital will accept an application from the applicant, an adult who is in the applicant's household, as defined in 42 CFR 435.603(f), or family, as defined in section 36B(d)(1) of the Internal Revenue Service (IRS) Code, an authorized representative, or if the applicant is a minor or incapacitated, someone acting responsibly for the applicant by submitting a written or online application under 42 CFR 435.907.
- D.** To establish presumptive eligibility, an applicant must complete and submit an AHCCCS-approved presumptive eligibility application signed under penalty of perjury to a qualified hospital. The applicant must attest to the name(s), relationship(s), and income of all persons in the household. In addition, the applicant must provide and attest to the following information regarding each household member on whose behalf AHCCCS medical coverage is sought:
1. The individual's date of birth;
 2. Whether the individual is pregnant;
 3. Whether the individual has been determined eligible for Breast and Cervical Cancer Treatment Program, described under Article 20;
 4. Whether the individual is a former foster child, described under R9-22-1432;
 5. The U.S. citizenship status or eligible qualified alien status under A.R.S. 36-2903.03 of the individual; and
 6. The individual's permanent and mailing addresses;
 7. The individual's Arizona residency status; and
 8. Whether the individual has Medicare coverage.
- E.** Presumptive eligibility begins on the date the hospital determines an individual's presumptive eligibility and ends with the earlier of:
1. In the case of an individual on whose behalf an application has been submitted to AHCCCS or its designee under Article 3, the day on which AHCCCS or its designee makes a determination on that application; or
 2. In the case of an individual on whose behalf an application has not been submitted to AHCCCS or its designee under Article 3, on the last day of the following month in which the determination of presumptive eligibility was made by the qualified hospital.
- F.** An individual may not be determined presumptively eligible more often than once every two years.
- G.** Coverage and reimbursement of services.
1. The Administration shall provide coverage of medically necessary services described under Article 2 to persons determined eligible for HPE on a fee-for-service basis.
 2. Providers shall submit claims for services provided to persons determined eligible for HPE to the Administration as described under Article 7.
- H.** A member may withdraw from HPE coverage by notifying the Administration or its designee.
- I.** Upon determining an individual presumptively eligible, the qualified hospital shall:
1. Notify the applicant at the time a determination regarding presumptive eligibility is made, in writing and orally if appropriate, of the determination for each individual on whose behalf presumptive eligibility was requested and the effective date of the presumptive eligibility;
 2. Provide the applicant with a regular AHCCCS-approved application form and inform the applicant that the applicant may file an application for Medicaid with the Administration or its designee;
 3. Notify AHCCCS of the presumptive eligibility determination;
 4. Notify the applicant at the time the determination is made that presumptive eligibility ends with the earlier of:
 - a. In the case of an individual on whose behalf an application has been submitted to AHCCCS or its designee under Article 3, the day on which AHCCCS or its designee makes a determination on that application; or
 - b. In the case of an individual on whose behalf an application has not been submitted to AHCCCS or its designee under Article 3, on the last day of the following month in which the determination of presumptive eligibility was made by the qualified hospital.
- J.** A determination by a qualified hospital that an individual is not presumptively eligible is not appealable under Chapter 34. If a qualified hospital denies an individual presumptive eligibility, the individual may apply for coverage by submitting an application to the Administration or its designee.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by exempt rulemaking at 12 A.A.R. 3892, effective October 1, 2006 (Supp. 06-3). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 2384, effective October 31, 2011 (Supp. 11-4). New Section made by final rulemaking at 20 A.A.R. 3436, effective January 1, 2015 (Supp. 14-4).

R9-22-1602. Expired**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by

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expired under A.R.S. § 41-1056(E) at 17 A.A.R. 2384, effective October 31, 2011 (Supp. 11-4).

R9-22-1615. Expired**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by exempt rulemaking at 12 A.A.R. 3892, effective October 1, 2006 (Supp. 06-3). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 2384, effective October 31, 2011 (Supp. 11-4).

R9-22-1616. Expired**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by exempt rulemaking at 12 A.A.R. 3892, effective October 1, 2006 (Supp. 06-3). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 2384, effective October 31, 2011 (Supp. 11-4).

R9-22-1617. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

R9-22-1618. Expired**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by exempt rulemaking at 12 A.A.R. 3892, effective October 1, 2006 (Supp. 06-3). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 2384, effective October 31, 2011 (Supp. 11-4).

R9-22-1619. Expired**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by exempt rulemaking at 12 A.A.R. 3892, effective October 1, 2006 (Supp. 06-3). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 2384, effective October 31, 2011 (Supp. 11-4).

R9-22-1620. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

R9-22-1621. Reserved**R9-22-1622. Repealed****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

R9-22-1623. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

R9-22-1624. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

R9-22-1625. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

R9-22-1626. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

R9-22-1627. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

R9-22-1628. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

R9-22-1629. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

R9-22-1630. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

R9-22-1631. Repealed

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

R9-22-1632. Reserved**R9-22-1633. Repealed****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

R9-22-1634. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

R9-22-1635. Reserved**R9-22-1636. Repealed****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

ARTICLE 17. ENROLLMENT**R9-22-1701. Enrollment-Related Definitions**

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

“Annual enrollment choice” means the annual opportunity for a person to change contractors.

“Auto-assignment algorithm” or “Algorithm” means a formula used by the Administration to assign to a contractor a member who did not make a timely choice under R9-22-1702.

“CMDP” means Comprehensive Medical and Dental Program.

“Disenrollment” means the discontinuance of a person’s entitlement to receive covered services from a contractor of record.

“Enrollment” means the process by which an eligible person becomes a member of a contractor’s plan.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended to correct a typographical error, filed in the Office of the Secretary of State October 30, 2001 (Supp. 01-4). Amended by exempt rulemaking at 7 A.A.R. 5701, effective December 1, 2001 (Supp. 01-4). Amended by exempt rulemaking at 10 A.A.R. 4588, effective October 12, 2004 (Supp. 04-4). Section repealed; new Section made by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2).

R9-22-1702. Enrollment of a Member with an AHCCCS Contractor

A. General enrollment requirements. The Administration shall enroll a member with a contractor as described in this Section, unless the member has pre-selected a contractor on the application:

1. Except as provided in subsections (A)(3), (A)(5), and (C), a member who is determined to be eligible under this Chapter and resides in an area served by more than one contractor, may choose an available contractor serving the member’s GSA within 30 days from the date of notice of enrollment. A Native American member may select IHS or another available contractor.
2. If the member does not make a choice under subsection (A)(1), the Administration shall immediately auto-assign the member to:
 - a. IHS if the member is a Native American living on a reservation,
 - b. A contractor based on family continuity, or
 - c. A contractor by using the auto-assignment algorithm.
3. If the member’s period of ineligibility and disenrollment from the contractor of record is for a period of less than 90 days, the Administration shall enroll the member with the member’s most recent contractor of record, if available, except if:
 - a. The member no longer resides in the contractor’s GSA;
 - b. The contractor’s contract is suspended or terminated;
 - c. The member was previously enrolled with CMDP but at the time of re-enrollment the member is not a foster care child;
 - d. The member chooses another contractor or chooses IHS, if available to the member, during the annual enrollment choice period; or
 - e. The member was previously enrolled with a contractor but at the time of re-enrollment the member is a foster care child.
4. When the member’s disenrollment period is more than 90 days, the member may select a contractor as described in subsection (A)(1).
5. The Administration shall not enroll a member with a contractor if a member:
 - a. Is eligible for the FESP under R9-22-1419;
 - b. Is eligible for less than 30 days from the date the Administration receives notification of a member’s eligibility, except for a member who is enrolled with CMDP or IHS;
 - c. Is eligible only for a retroactive period of eligibility, except for a member who is enrolled with CMDP or IHS; or
 - d. Resides in an area not served by a contractor.
- B. Fee-for-service coverage. A member not enrolled with a contractor under subsection (A)(5) shall obtain covered medical services from an AHCCCS-registered provider on a fee-for-service basis under Article 7.
- C. Foster care child. The Administration shall enroll a member with CMDP if the member is a foster care child under A.R.S. § 8-512.
- D. Family Planning Services Extension Program. A member eligible for the Family Planning Services Extension Program under R9-22-1431, shall remain enrolled with the member’s contractor of record or IHS.
- E. Contractor or IHS enrollment change for a member.
 1. The Administration shall change a member’s enrollment if the member requests a change to an available contractor or IHS during an annual enrollment period. A Native

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- American may change from an available contractor to IHS or from IHS to an available contractor at any time.
2. The Administration shall approve a change in enrollment for any member if the change is a result of the final outcome of a grievance under 9 A.A.C. 34.
 3. A member may choose a different contractor if the member moves into a GSA not served by the current contractor or if the contractor is no longer available. If the member does not select a contractor, the Administration shall auto-assign the member as provided in subsection (A)(2).
 4. The Administration shall provide the member 60-day advance notice of the member's option to change plans by the member's annual enrollment date.
 5. A member may disenroll from a plan if:
 - a. The member moves out of the GSA;
 - b. The plan does not, because of moral or religious objections, cover the service a member seeks; or
 - c. The member needs related services to be performed at the same time; not all related services are available within the network; and the member's primary care provider or another provider determines that receiving the services separately would subject the member to unnecessary risk.
 6. For exceptions to this Article, the Administration shall approve a change for an enrolled member as determined by the Director.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2).

R9-22-1703. Effective Date of Enrollment with a Contractor

- A. Effective date of enrollment. A member's date of enrollment is the date enrollment action is taken by the Administration. However, if a plan change occurs for an annual enrollment choice, the effective date is the month of the member's enrollment anniversary date.
- B. Financial liability of the contractor. The contractor shall be financially liable for an enrolled member's care as specified in contract.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2).

R9-22-1704. Newborn Enrollment

- A. General.
 1. The Administration shall enroll a newborn child of an eligible mother with an available contractor or IHS, based on the mother's enrollment.
 2. The Administration shall auto-assign a newborn child of an eligible mother who is not enrolled with a contractor or IHS or who is enrolled with CMDP. When a mother enrolled in CMDP has a newborn and the newborn is surrendered to Administration on Children, Youth and Families (ACYF), the newborn is then enrolled with CMDP.
 3. The Administration shall notify the mother of the right to choose a different contractor for her newborn child. The

mother may make her choice within 30 days from the date of notice of enrollment.

- B. Financial liability for newborns. The contractor shall be financially liable for the medical care of a newborn as specified in contract.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended to correct a typographical error, filed in the Office of the Secretary of State October 30, 2001 (Supp. 01-4). Section repealed; new Section made by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2).

R9-22-1705. Guaranteed Enrollment Period

- A. General. Except for members enrolled with IHS or CMDP, the Administration shall provide a guaranteed enrollment period for a one-time period that begins on the effective date of the member's initial enrollment with a contractor and ends on the last day of the fifth full calendar month after the date of the member's initial enrollment.
- B. Exceptions to guaranteed period. The Administration shall not grant a guaranteed enrollment period or shall terminate a guaranteed enrollment period as provided in subsection (C), if the member:
 1. Did not meet the conditions of eligibility when initially enrolled with the contractor;
 2. Except as provided in 9 A.A.C. 22, Article 12, is an inmate of a public institution as defined in 42 CFR 435.1010;
 3. Dies;
 4. Moves out-of-state;
 5. Voluntarily withdraws from the AHCCCS program;
 6. Is adopted; or
 7. Has whereabouts that are unknown.
- C. Disenrollment effective date. The Administration shall terminate any guaranteed enrollment period to which the member is not entitled effective on:
 1. The date the member is admitted to a public institution under subsection (B);
 2. The member's date of death;
 3. The last day of the month in which the Administration receives notification that a member moved out-of-state;
 4. The date the Administration receives written notification of the member's voluntary withdrawal from the AHCCCS program;
 5. The last day of the month in which the Administration receives notification that a member's adoption proceedings are finalized; or
 6. The last day of the month in which the Administration receives notification that a member's whereabouts are unknown.
- D. Retroactive adjustments. The Administration shall adjust the member's eligibility and enrollment retroactively under subsection (C).

Historical Note

New Section made by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2).

ARTICLE 18. RESERVED**ARTICLE 19. FREEDOM TO WORK**

Article 19, consisting of Sections R9-22-1901 through R9-22-1922, made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4).

R9-22-1901. General Freedom to Work Requirements

Under 42 U.S.C. 1396a(a)(10)(A)(ii)(XV) and (XVI), the Administration shall determine eligibility for AHCCCS medical services, under Article 2 of this Chapter, using the eligibility criteria and requirements under this Article for an applicant or member who is:

1. At least 16 years of age, but less than 65 years of age,
2. Employed, and
3. Not income eligible under A.R.S. § 36-2901(6)(a).

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4).

R9-22-1902. General Administration Requirements

The Administration shall comply with the confidentiality rule under R9-22-512(C).

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Amended by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

R9-22-1903. Application for Coverage

- A. A person may apply by submitting an application to an Administration office.
- B. The application date is the date the application is received at an Administration office or outstation location approved by the Director as described under R9-22-1406(A).
- C. The provisions in R9-22-1406(B) and (D) apply to this Section.
- D. The applicant or representative who files the application may withdraw the application for coverage either orally or in writing. An applicant withdrawing an application shall receive a denial notice under R9-22-1904.
- E. Except as provided in 42 CFR 435.911, the Administration shall determine eligibility within 45 days.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Amended by final rulemaking at 9 A.A.R. 5123, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

R9-22-1904. Notice of Approval or Denial

The Administration shall send an applicant a written notice of the decision regarding the application. This notice shall include a statement of the action, and:

1. If approved, the notice shall contain:
 - a. The effective date of eligibility,
 - b. The amount the person shall pay, and
 - c. An explanation of the person's hearing rights specified in 9 A.A.C. 34.
2. If denied, R9-22-1501(G)(3) applies.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Amended by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

R9-22-1905. Reporting and Verifying Changes

An applicant or member shall report and verify changes, as described under R9-22-1501(H), to the Administration.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Amended by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

R9-22-1906. Actions that Result from a Redetermination or Change

The processing of a redetermination or change shall result in one of the following actions:

1. No change in eligibility or premium,
2. Discontinuance of eligibility if a condition of eligibility is no longer met,
3. A change in premium amount, or
4. A change in the coverage group under which a person receives AHCCCS medical coverage.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4).

R9-22-1907. Notice of Adverse Action Requirements

- A. The requirements under R9-22-1501(K)(1) apply.
- B. Advance notice of a change in eligibility or premium amount. Advance notice means a notice of proposed action that is issued to the member at least 10 days before the effective date of the proposed action. Except under subsection (C), advance notice shall be issued whenever an adverse action is taken to discontinue eligibility, or increase the premium amount.
- C. Exceptions from advance notice. A notice shall be issued to the member to discontinue eligibility no later than the effective date of action if:
 1. A member provides a clearly written statement, signed by that member, that services are no longer wanted.
 2. A member provides information that requires termination of eligibility or reduction of services, indicates that the member understands that this must be the result of supplying that information, and the member signs a written statement waiving advance notice;
 3. A member cannot be located and mail sent to the member's last known address has been returned as undeliverable subject to reinstatement of discontinued services under 42 CFR 431.231(d);
 4. A member has been admitted to a public institution where a person is ineligible for coverage;
 5. A member has been approved for Medicaid in another state; or
 6. The Administration receives information confirming the death of a member.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Amended by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

R9-22-1908. Request for Hearing

An applicant or member may request a hearing under 9 A.A.C. 34.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Amended by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

R9-22-1909. Conditions of Eligibility

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An applicant or member shall meet the following conditions to qualify for the Freedom to Work program:

1. Furnish a valid Social Security Number (SSN);
2. Be a resident of Arizona;
3. Be a citizen of the United States, or meet requirements for a qualified alien under A.R.S. § 36-2903.03(B);
4. Be at least 16 years of age, but less than 65 years of age;
5. Have countable income that does not exceed 250 percent of FPL. The Administration shall count the income under 42 U.S.C. 1382a and 20 CFR 416 Subpart K with the following exceptions:
 - a. The unearned income of the applicant or member shall be disregarded,
 - b. The income of a spouse or other family member shall be disregarded, and
 - c. The deduction for a minor child shall not apply;
6. Comply with the member responsibility provisions under R9-22-1502(D) and (F).

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Amended by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1). Section repealed; new Section made by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

R9-22-1910. Prior Quarter Eligibility

A person may be made eligible during a prior quarter period when applying for the Freedom to Work program, as described under Article 3.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1). New Section made by final rulemaking at 19 A.A.R. 3309, effective November 30, 2013 (Supp. 13-4).

R9-22-1911. Repealed**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

R9-22-1912. Repealed**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

R9-22-1913. Premium Requirements

- A. As a condition of eligibility, an applicant or member shall:
 1. Pay the premium required under subsection (B).
 2. Not have any unpaid premiums for more than one month's premium amount.
- B. The Administration shall process premiums under 9 A.A.C. 31, Article 14 with the following exceptions:
 1. A member who has countable income:
 - a. Under \$500, the monthly premium payment shall be \$0.
 - b. Over \$500 but not greater than \$750, the monthly premium payment shall be \$10.
 2. The premium for a member shall be increased by \$5 for each \$250 increase in countable income above \$750.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Amended by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

R9-22-1914. Repealed**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

R9-22-1915. Institutionalized Person

A person is not eligible for AHCCCS medical coverage if the person is:

1. An inmate of a public institution if federal financial participation (FFP) is not available, or
2. Age 21 through age 64 and is residing in an Institution for Mental Disease under 42 CFR 435.1009 except when allowed under the Administration's Section 1115 IMD waiver or allowed under a managed care contract approved by CMS.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Amended by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

R9-22-1916. Repealed**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

R9-22-1917. Repealed**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

R9-22-1918. Additional Eligibility Criteria for the Basic Coverage Group

An applicant or member shall meet the following eligibility criteria:

1. Disabled. As a condition of eligibility, an applicant or member shall be disabled. Disabled means a person who has been determined disabled by the Department of Economic Security, Disability Determination Services Administration, under 42 U.S.C. 1382c(a)(3)(A) through (E), except employment activity, earnings, and substantial gainful activity shall not be considered in determining whether the individual meets the definition of disability.
2. Employed. As a condition of eligibility, an applicant or member shall be employed. Employed means that an applicant or member is paid for working and Social Security or Medicare taxes are paid on the applicant or member's work.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4).

R9-22-1919. Additional Eligibility Criteria for the Medically Improved Group

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As a condition of eligibility for the Medically Improved Group, a member shall:

1. Be employed. Under this Section, employed means an individual who:
 - a. Earns at least the minimum wage and works at least 40 hours per month, or
 - b. Has gross monthly earnings at least equal to those earned by an individual who is earning the minimum wage working 40 hours per month.
2. Cease to be eligible for medical coverage under R9-22-1918 or a similar Basic Coverage Group program administered by another state because the member, by reason of medical improvement, is determined at the time of a regularly scheduled continuing disability review to no longer be disabled; and
3. Continues to have a severe medically determinable impairment, as determined under Social Security Act section 1902(a)(10)(A)(ii)(XVI).

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Amended by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

R9-22-1920. Repealed**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

R9-22-1921. Enrollment

The Administration shall enroll members under Article 17 of this Chapter. If a member has not paid a required premium, the Administration shall not grant a guaranteed enrollment period.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4).

R9-22-1922. Redetermination of Eligibility

- A. Redetermination. Except as provided in subsection (B), the Administration shall complete a redetermination of eligibility at least once a year.
- B. Change in circumstance. The Administration may complete a redetermination of eligibility if there is a change in the member's circumstances, including a change in disability or employment that may affect eligibility.
- C. Medical Improvement. If a member is no longer disabled under R9-22-1918, the Administration shall determine if the member is eligible under other coverage groups including the medically improved group.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4).

ARTICLE 20. BREAST AND CERVICAL CANCER TREATMENT PROGRAM**R9-22-2001. Breast and Cervical Cancer Treatment Program Related Definitions**

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

"AZ-NBCCEDP" means the Arizona programs of the National Breast and Cervical Cancer Early Detection Program. AZ-

NBCCEDP provides breast and cervical cancer screening and diagnosis in Arizona.

"Cryotherapy" means the destruction of abnormal tissue using an extremely cold temperature.

"LEEP" means the loop electrosurgical excision procedure that passes an electric current through a thin wire loop.

"Peer-reviewed study" means that, prior to publication, a medical study has been subjected to the review of medical experts who:

- Have expertise in the subject matter of the study,
- Evaluate the science and methodology of the study,
- Are selected by the editorial staff of the publication, and
- Review the study without knowledge of the identity or qualifications of the author.

"WWHP" means the Well Women Healthcheck Program administered by the Arizona Department of Health Services. The WWHP is one of the programs within AZ-NBCCEDP that provides breast and cervical cancer screening and diagnosis.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5814, effective December 6, 2001 (Supp. 01-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4488, effective January 6, 2007 (Supp. 06-4).

R9-22-2002. General Requirements

- A. Confidentiality. The Administration shall maintain the confidentiality of a woman's records and shall not disclose a woman's financial, medical, or other confidential information except as allowed under R9-22-512.
- B. Covered services. A woman who is eligible under this Article receives all medically necessary services under Articles 2 and 12 of this Chapter.
- C. Choice of health plan. A woman who is eligible under this Article shall be enrolled with a contractor under Article 17 of this Chapter.
- D. A Native American woman who receives services through Indian Health Service (IHS) or through a tribal health program qualifies for services provided under this Article if all eligibility requirements are met.
- E. A woman qualified under this Article shall pay co-pays as described in R9-22-711.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5814, effective December 6, 2001 (Supp. 01-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4488, effective January 6, 2007 (Supp. 06-4).

R9-22-2003. Eligibility Criteria

- A. General. To be eligible under this Article, a woman shall meet the requirements of this Article and:
 1. Be screened for breast and cervical cancer through AZ-NBCCEDP;
 2. Be less than 65 years of age;
 3. Be ineligible for Title XIX under Articles 14 and 15 in this Chapter;
 4. Receive a positive screen under subsection (A)(1), a confirmed diagnosis through AZ-NBCCEDP, and need treatment for breast cancer or cervical cancer, including a pre-cancerous cervical lesion, as specified in R9-22-2004;
 5. Not be covered under creditable coverage as specified in Section 2701(c) of the Public Health Services Act, 42 U.S.C. 300gg(c). For purposes of this Article, IHS or Tribal health coverage is not considered creditable coverage as specified in 42 U.S.C. 1396a(a)(10)(A)(ii), as amended by the Native American Breast and Cervical

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- Cancer Treatment Technical Amendment Act of 2002; and
6. Meet the requirements under R9-22-1417 and R9-22-1418.

B. Ineligible woman. A woman is ineligible under this Article if the woman:

1. Is an inmate of a public institution and federal financial participation (FFP) is not available,
2. Is at least age 21 but less than age 65 and resides in an Institution for Mental Disease (IMD) as defined in R9-22-112, except if allowed under the Administration's Section 1115 waiver, or
3. No longer meets an eligibility requirement under this Article.

C. Metastasized cancer. The AHCCCS Chief Medical Officer may continue a woman's eligibility under this Article if a metastasized cancer is found in another part of the woman's body and that metastasized cancer is a known or a presumed complication of the breast or cervical cancer as determined by the treating physician.

D. Reoccurrence of cancer. A woman shall have eligibility reestablished after eligibility under this Article ends if the woman is screened under the AZ-NBCCEDP program and additional breast cancer or cervical cancer, including a pre-cancerous cervical lesion, is found.

E. Ineligible male. A male is precluded from receiving screening and diagnostic services under the AZ-NBCCEDP program and is ineligible under this Article.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5814, effective December 6, 2001 (Supp. 01-4). Amended by final rulemaking at 12 A.A.R. 4488, effective January 6, 2007 (Supp. 06-4).

R9-22-2004. Treatment

- A. Breast cancer.** Coverage for treatment for breast cancer under this Article shall conclude on the last provider visit for the specific treatment of the cancer or at the end of hormonal therapy for the cancer, whichever is later. For purposes of this subsection treatment means:
1. Lumpectomy or surgical removal of breast cancer;
 2. Chemotherapy;
 3. Radiation therapy; and
 4. A treatment for breast cancer that, as determined by the AHCCCS Chief Medical Officer, is considered the standard of care as supported by a peer-reviewed study published in a medical journal.
- B. Pre-cancerous cervical lesion.** Coverage for treatment for a pre-cancerous cervical lesion under this Article, including moderate or severe cervical dysplasia or carcinoma in situ, shall conclude on the last provider visit for specific treatment for the pre-cancerous lesion. For purposes of this subsection treatment means:
1. Conization;
 2. LEEP;
 3. Cryotherapy; and
 4. A treatment for pre-cancerous cervical lesion that, as determined by the AHCCCS Chief Medical Officer, is considered the standard of care as supported by a peer-reviewed study published in a medical journal.
- C. Cervical cancer.** Coverage for treatment for cervical cancer under this Article shall conclude on the last provider visit for the specific treatment for the cancer. For purposes of this subsection treatment means:
1. Surgery;
 2. Radiation therapy;

3. Chemotherapy; and
4. A treatment for cervical cancer that, as determined by the AHCCCS Chief Medical Officer, is considered the standard of care as supported by a peer-reviewed study published in a medical journal.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5814, effective December 6, 2001 (Supp. 01-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4488, effective January 6, 2007 (Supp. 06-4).

R9-22-2005. Application Process

- A. Application.** A woman may apply for eligibility under this Article by submitting a complete application as specified in R9-22-1406.
- B. Submitting the application.** The woman may complete and submit an application at the time of the AZ-NBCCEDP screening. The AZ-NBCCEDP staff may mail or fax the application directly to the Administration.
- C. Date of application.** The date of the application is the date of the diagnostic procedure that results in a positive diagnosis for breast cancer or cervical cancer, including a pre-cancerous cervical lesion.
- D. Responsibility of a woman who is applying or who is a member.** A woman who is applying or who is a member shall:
1. Provide medical insurance information, including any changes in medical insurance; and
 2. Inform the Administration about a change in address, residence, and alienage status.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5814, effective December 6, 2001 (Supp. 01-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4488, effective January 6, 2007 (Supp. 06-4).

R9-22-2006. Approval, Denial, or Discontinuance of Eligibility

- A. Eligibility determination.** The Administration shall determine eligibility under this Article and send the notice under subsection (B) or (C) within seven days of receiving a complete application.
- B. Approval.** If a woman meets all the eligibility requirements in this Article, the Administration shall provide the woman with an approval notice. The approval notice shall contain:
1. The name of the eligible woman, and
 2. The effective date of eligibility.
- C. Denial.** If the Administration denies eligibility, the Administration shall provide the woman with a denial notice. The denial notice shall contain:
1. The name of the ineligible woman,
 2. The specific reason why the woman is ineligible,
 3. The legal citations supporting the reason for the denial,
 4. The location where the woman can review the legal citations, and
 5. Information regarding the woman's appeal and request for hearing rights.
- D. Discontinuance.**
1. Except as specified in subsection (D)(2), if a woman no longer meets an eligibility requirement under this Article, the Administration shall provide the woman a Notice of Action no later than 10 days before the effective date of the discontinuance.
 2. The Administration may mail the Notice of Action no later than the effective date of the discontinuance if the Administration:
 - a. Receives a written statement from the woman voluntarily withdrawing from AHCCCS,

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- b. Receives information confirming the death of the woman,
 - c. Receives returned mail with no forwarding address from the post office and the woman's whereabouts are unknown, or
 - d. Receives information confirming that the woman has been approved for Title XIX services outside the state of Arizona.
3. The Notice of Action shall contain the:
- a. Name of the ineligible woman,
 - b. Effective date of the discontinuance,
 - c. Specific reason why the woman is discontinued,
 - d. Legal citations supporting the reason for the discontinuance,
 - e. Location where the woman can review the legal citations, and
 - f. Information regarding the woman's appeal and request for hearing rights.
- E. Request for hearing. A woman who is denied, or discontinued for the Breast and Cervical Cancer Treatment Program may request a hearing under Chapter 34.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5814, effective December 6, 2001 (Supp. 01-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4488, effective January 6, 2007 (Supp. 06-4).

R9-22-2007. Effective and End Date of Eligibility

- A. Eligibility is effective on the first day of the month that all eligibility requirements are met, including the period described under R9-22-303.
- B. The end date of eligibility:
 - 1. For breast cancer, is 12 months after the last provider visit for a treatment specified in R9-22-2004 for the cancer or at the end of hormonal therapy for the cancer, whichever is later.
 - 2. For pre-cancerous cervical lesion, is four months after the last provider visit for a treatment specified in R9-22-2004 for the pre-cancerous lesion.
 - 3. For cervical cancer, is 12 months after the last provider visit for a treatment specified in R9-22-2004 for the cancer.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5814, effective December 6, 2001 (Supp. 01-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4488, effective January 6, 2007 (Supp. 06-4). Section amended by final rulemaking at 19 A.A.R. 3309, effective November 30, 2013 (Supp. 13-4).

R9-22-2008. Redetermination of Eligibility

- A. Redetermination. Except as provided in subsection (B), the Administration shall redetermine eligibility at least once a year. If a woman continues to meet the requirements of eligibility for the Breast and Cervical Cancer Treatment Program under this Article, the Administration shall notify the woman of continued eligibility. A woman is not required to be screened for breast and cervical cancer through AZ-NBC-CEDP at redetermination.
- B. Change in circumstance. The Administration shall complete a redetermination of eligibility if there is a change in the woman's circumstances that may affect eligibility, including a change in treatment.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4488, effective January 6, 2007 (Supp. 06-4).

ARTICLE 21. TRAUMA AND EMERGENCY SERVICES FUND

Article 21, consisting of Sections R9-22-2101 through R9-22-2103, made by exempt rulemaking at 9 A.A.R. 4001, effective October 19, 2003 (Supp. 03-3).

R9-22-2101. General Provisions

- A. A.R.S. § 36-2903.07 establishes the Administration as the authority to administer the Trauma and Emergency Services Fund.
- B. The Administration shall distribute 90% of monies from the trauma and emergency services fund to a level I trauma center, as defined in subsection (F) of this Section, for unrecovered trauma center readiness costs as defined in subsection (F) of this Section. Reimbursement is limited to no more than the amount of unrecovered trauma center readiness costs as determined in subsections (D) and (E) of this Section. Unexpended funds may be used to reimburse unrecovered emergency room costs under subsection (C) of this Section.
- C. The Administration shall distribute 10% of monies from the trauma and emergency services fund, for unrecovered emergency services costs, to a hospital having an emergency department, using criteria under R9-22-2103. Reimbursement is limited to no more than the amount of unrecovered emergency services costs as determined in R9-22-2103. The Administration may distribute more than 10% of the monies for unrecovered emergency room costs when there are unexpended monies under subsection (B) of this Section.
- D. The Administration shall distribute a reporting tool and guidelines to level I trauma centers to determine, on an annual basis, the unrecovered trauma center readiness costs for level I trauma centers as defined in subsection (F) of this Section. The reporting time-frame is July 1 of the prior year through June 30 of the reporting year. A level I trauma center shall submit the requested data and a copy of the most recently completed uniform accounting report under A.R.S. § 36-125.04 to the Administration no later than October 31 of each reporting year.
- E. When a level I trauma center closes in a county where there are one or more level I trauma center(s) remaining in operation, the following shall occur:
 - 1. The closing level I trauma center shall submit the requested data under subsection (D) of this Section for the months of the reporting time-frame in which it met the definition of a level I trauma center, and
 - 2. The data under subsection (D) of this Section, which is submitted by the closing level I trauma center, shall be added to the remaining level I trauma center(s) in that county for the current reporting time-frame only.
- F. In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:
 - 1. "Level I trauma center" means any acute care hospital that:
 - a. Provides in-house 24-hour daily dedicated trauma surgical services as defined in A.R.S. § 36-2201(26) pertaining to a trauma center, or
 - b. Is recognized as a rural regional trauma center that was providing formal organized trauma services on or before January 1, 2003.
 - 2. On or after January 1, 2005, "level I trauma center" means any acute care hospital designated by the Arizona Department of Health Services as a level I trauma center.

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3. "Unrecovered trauma center readiness costs" means losses incurred treating trauma patients:
 - a. Determined in accordance with Generally Accepted Accounting Principles,
 - b. Based on both clinical and professional costs incurred by a level I trauma center necessary for the provision of level I trauma care, and
 - c. Based on administrative and overhead costs directly associated with providing level I trauma care.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 4001, effective October 19, 2003 (Supp. 03-3).

R9-22-2102. Distribution of Trauma and Emergency Services Fund: Level I Trauma Centers

- A. On or after November 1, 2003, the Administration shall distribute monies, under R9-22-2101(B), to level I trauma centers using monies available in the trauma and emergency services fund at the time of payment. The Administration shall take into consideration the proportion of those hospitals' trauma case volume. The Administration shall:
 1. Recalculate the November 2003 payments in July 2004 using the formula in subsection (B) of this Section;
 2. Recoup November 2003 overpayments by reducing the July 2004 distributions under subsection (C) as appropriate; and
 3. Redistribute recouped funds, with the July 2004 payment, to level I trauma centers underpaid in November 2003.
- B. On or after January 31 of each year, the Administration shall distribute monies, under R9-22-2101(B), to level I trauma centers using monies available in the trauma and emergency services fund at the time of payment. The Administration shall determine each hospital's unrecovered trauma center readiness costs for the current fiscal year using data from the most recent reporting year as provided under R9-22-2101(D) and (E). The proportion of each hospital's share of the fund for unrecovered trauma center readiness costs is determined after considering:
 1. The professional, clinical, administrative, and overhead costs directly associated with providing level I trauma care, and
 2. The volume and acuity of trauma care provided by each hospital.
- C. On or after July 31 of each year, the Administration shall distribute monies to level I trauma centers using monies, under R9-22-2101(B), available in the trauma and emergency services fund at the time of payment according to the proportions calculated and used for the January payments in the same year, under subsection (B) of this Section.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 4001, effective October 19, 2003 (Supp. 03-3).

R9-22-2103. Distribution of Trauma and Emergency Services Fund: Emergency Services

On or after June 30 of each year, the Administration shall distribute monies available in the trauma and emergency services fund at the time of payment as follows:

1. As allocated under R9-22-2101(C),
2. To hospitals that had an emergency department from July 1 through June 30 of the prior year, and
3. On a pro rata share of each hospital's cost of uncompensated emergency care as a percentage of the total statewide cost of uncompensated emergency care provided by hospitals under subsection (2) as reported in the uniform accounting reports to the Arizona Department of Health Services under A.R.S. § 36-125.04.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 4001, effective October 19, 2003 (Supp. 03-3). Amended by exempt rulemaking at 18 A.A.R. 1748, effective July 1, 2012 (Supp. 12-2).

R9-22-2104. Additional Trauma and Emergency Services Payments under the Section 1115 Waiver

- A. Notwithstanding R9-22-2101(D), for the reporting years ending June 30, 2011 and June 30, 2012, the Administration shall distribute an amount equal to the balance of the Trauma and Emergency Services fund in the following manner:
 1. Ninety percent of the amount shall be distributed to Level I trauma centers based upon each center's pro rata share of each center's acuity-adjusted volume as a percentage of the total acuity-adjusted volume for all centers in the state. The acuity-adjusted volume is calculated by multiplying the Injury Severity Score employed by trauma.org by the number of trauma cases at that level treated at the center during the reporting year. Hospitals shall report trauma scores and case volume on a worksheet prescribed by the Administration.
 2. Ten percent of the amount shall be distributed proportionately to hospitals that had an emergency department from July 1 through June 30 of the reporting year based the pro rata share of each hospital's cost of emergency care as a percentage of the total statewide cost of emergency care provided by hospitals as reported on the Worksheet B, column 27, line 61 of the hospital's most current Medicare Cost Report as of January 31 following the end of each reporting year.
- B. For the reporting years ending June 30, 2011 and June 30, 2012, the Administration shall distribute an amount equal to the federal financial participation made available under the section 1115 waiver for the purpose of making payments for unrecovered trauma and emergency services as follows:
 1. Thirty percent of such funds to a Level I trauma center, in amounts calculated in the same manner as described in subsection (A)(1) of this Section, for any unrecovered trauma center readiness costs not reimbursed under subsection (A) of this Section;
 2. Thirty percent of such funds to a hospital having an emergency department from July 1 through June 30 of the reporting year, in amounts calculated in the same manner as described in subsection (A)(2) of this Section, for any unrecovered emergency services costs not reimbursed under subsection (A) of this Section; and
 3. Forty percent of such funds to rural hospitals, as defined in R9-22-718 that are not Level I trauma centers as defined in R9-22-2101(F), having an emergency department from July 1 through June 30 of the reporting year, in amounts calculated in the same manner as described in subsection (A)(2) of this Section, for any unrecovered emergency services costs not reimbursed under subsections (A) and (B)(2) of this Section.
- C. For the reporting years ending June 30, 2011 and June 30, 2012, payments made under this Article shall not be made in an amount that results in aggregate payments to the hospital by the Administration and contractors exceeding of the upper payment limit for the hospital services as calculated in accordance with 42 CFR 447.
- D. For the reporting years ending June 30, 2011 and June 30, 2012, to ensure compliance with subsection (C), payments under this Article shall be reconciled to the federal fiscal year that is two years subsequent to the payment.
- E. Any payments that are determined under subsection (D) to exceed the limit in subsection (C) shall be distributed as

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described in this Article to hospitals that have not received payments in excess of the limit in subsection (C).

Historical Note

New Section made by exempt rulemaking at 18 A.A.R. 1748, effective July 1, 2012 (Supp. 12-2).

Supplement Separator Page



Supplement to the
Arizona Administrative Code
 The official compilation of Arizona Rules
Replacement Check List

For rules filed in the third quarter between
 July 1 - September 30
 2017

Within the stated calendar quarter, this Title contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information. Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

TITLE 09. Health Services

Chapter 25. Department of Health Services - Emergency Medical Services

Sections, Parts, Exhibits, Tables or Appendices modified

Article 13, R9-25-1301 through R9-25-1313, R9-25-1315, Table 1, Exhibit 1, Table 13.1; Article 14, R9-25-1401 through R9-25-1402, Table 1, R9-25-1403, R9-25-1405 through R9-25-1406

☐ REMOVE Supp. 17-2
 Pages: 1 - 115

☐ REPLACE with Supp. 17-3
 Pages: 1 - 117

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PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the Administrative Code. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION
September 30, 2017

RULES

A.R.S. § 41-1001(17) states: “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions. Virtually everything in your life is affected in some way by rules published in the Arizona Administrative Code, from the quality of air you breathe to the licensing of your dentist. This chapter is one of more than 230 in the Code compiled in 21 Titles.

ADMINISTRATIVE CODE SUPPLEMENTS

Rules filed by an agency to be published in the Administrative Code are updated quarterly. Supplement release dates are printed on the footers of each chapter:

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2017 is cited as Supp. 17-1.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the Arizona Administrative Register for recent updates to rule Sections.

ARTICLES AND SECTIONS

Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering system separated into subsections.

HISTORICAL NOTES AND EFFECTIVE DATES

Historical notes inform the user when the last time a Section was updated in the Administrative Code. Be aware, since the Office publishes each quarter by entire chapters, not all Sections are updated by an agency in a supplement release. Many times just one Section or a few Sections may be updated in the entire chapter.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in the introduction of a chapter can be found at the Secretary of State’s website, www.azsos.gov/services/legislative-filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the Arizona Administrative Register online at www.azsos.gov/rules, click on the Administrative Register link.

In the Administrative Code the Office includes editor’s notes at the beginning of a chapter indicating that certain rulemaking Sections were made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR

If you are researching rules and come across rescinded chapters on a different paper color, this is because the agency filed a Notice of Exempt Rulemaking. At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

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Public Services managing rules editor, Rhonda Paschal, assisted with the editing of this chapter.

TITLE 9. HEALTH SERVICES**CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES**

Authority: A.R.S. §§ 36-136(F) and 36-2209(A) et seq.

Editor's Note: Article 5 consisting of Sections R9-25-501 through R9-25-508 were recodified from Sections in Article 8 effective September 21, 2004 (Supp. 04-3). The Sections recodified from Article 8 were originally made or amended under an exemption from the provisions of the Administrative Procedure Act (A.R.S. Title 41, Chapter 6).

Editor's Note: The Office of the Secretary of State publishes all Chapters on white paper.

Editor's Note: This Chapter contains rules which were adopted, amended, and repealed under an exemption from the provisions of the Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to A.R.S. § 36-2205(C). Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Governor's Regulatory Review Council for review; the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; and the Department was not required to hold public hearings on these rules. Because this Chapter contains rules which are exempt from the regular rulemaking process, the Chapter is printed on blue paper.

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Article 3 repealed; new Article 3 made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Article 3, consisting of Sections R9-25-301 through R9-25-311 and Exhibits C through F and H, adopted effective October 15, 1996 (Supp. 96-4).

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Article 4 repealed; new Article 4 made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Article 4, consisting of Sections R9-25-401 through R9-25-411 and Exhibits I through K, adopted effective October 15, 1996 (Supp. 96-4).

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Article 5, consisting of R9-25-501 through R9-25-508, recodified from Article 8 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

Article 5 repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Article 5, consisting of Sections R9-25-501 through R9-25-515 and Exhibit P, adopted effective October 15, 1996 (Supp. 96-4).

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Article 6 repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Article 6, consisting of Sections R9-25-601 through R9-25-616 and Exhibits L through O and Q through S, adopted effective October 15, 1996 (Supp. 96-4).

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Article 8, consisting of R9-25-801 through R9-25-808, recodified to Article 5 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

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Article 8, consisting of Section R9-25-805 and Exhibits 1 through 3, adopted effective May 19, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6; filed in the Office of the Secretary of State May 21, 1997 (Supp. 97-2).

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ARTICLE 1. DEFINITIONS**R9-25-101. Definitions (Authorized by A.R.S. §§ 36-2201, 36-2202, 36-2204, and 36-2205)**

In addition to the definitions in A.R.S. § 36-2201, the following definitions apply in this Chapter, unless otherwise specified:

1. "Administer" or "administration" means to directly apply or the direct application of an agent to the body of a patient by injection, inhalation, ingestion, or any other means and includes adjusting the administration rate of an agent.
2. "AEMT" has the same meaning as "advanced emergency medical technician" in A.R.S. § 36-2201.
3. "Agent" means a chemical or biological substance that is administered to a patient to treat or prevent a medical condition.
4. "ALS" has the same meaning as "advanced life support" in A.R.S. § 36-2201.
5. "ALS base hospital" has the same meaning as "advanced life support base hospital" in A.R.S. § 36-2201.
6. "Applicant" means a person requesting certification, licensure, approval, or designation from the Department under this Chapter.
7. "Chain of custody" means the transfer of physical control of and accountability for an item from one individual to another individual, documented to indicate the:
 - a. Date and time of the transfer,
 - b. Integrity of the item transferred, and
 - c. Signatures of the individual relinquishing and the individual accepting physical control of and accountability for the item.
8. "Chief administrative officer" means:
 - a. For a hospital, the same as in A.A.C. R9-10-101; and
 - b. For a training program, an individual assigned to act on behalf of the training program by the body organized to govern and manage the training program.
9. "Clinical training" means experience and instruction in providing direct patient care in a health care institution.
10. "Controlled substance" has the same meaning as in A.R.S. § 32-1901.
11. "Course" means didactic instruction and, if applicable, hands-on practical skills training, clinical training, or field training provided by a training program to prepare an individual to become or remain an EMCT.
12. "Course session" means an offering of a course, during a period of time designated by a training program certificate holder, for a specific group of students.
13. "Current" means up-to-date and extending to the present time.
14. "Day" means a calendar day.
15. "Document" or "documentation" means signed and dated information in written, photographic, electronic, or other permanent form.
16. "Drug" has the same meaning as in A.R.S. § 32-1901.
17. "Electronic signature" has the same meaning as in A.R.S. § 44-7002.
18. "EMCT" has the same meaning as "emergency medical care technician" in A.R.S. § 36-2201.
19. "EMT" has the same meaning as "emergency medical technician" in A.R.S. § 36-2201.
20. "EMT-I(99)" means an individual, other than a Paramedic, who:
 - a. Was certified as an EMCT by the Department before January 28, 2013 to perform ALS, and
 - b. Has continuously maintained the certification.
21. "EMS" has the same meaning as "emergency medical services" subsections (17)(a) through (d) in A.R.S. § 36-2201.
22. "Field training" means emergency medical services experience and training outside of a health care institution or a training program facility.
23. "General hospital" has the same meaning as in A.A.C. R9-10-101.
24. "Health care institution" has the same meaning as in A.R.S. § 36-401.
25. "Hospital" has the same meaning as in A.A.C. R9-10-101.
26. "In use" means in the immediate physical possession of an EMCT and readily accessible for potential imminent administration to a patient.
27. "Infusion pump" means a device approved by the U.S. Food and Drug Administration that, when operated mechanically, electrically, or osmotically, releases a measured amount of an agent into a patient's circulatory system in a specific period of time.
28. "Interfacility transport" means an ambulance transport of a patient from one health care institution to another health care institution.
29. "IV" means intravenous.
30. "Locked" means secured with a key, including a magnetic, electronic, or remote key, or combination so that opening is not possible except by using the key or entering the combination.
31. "Medical direction" means administrative medical direction or on-line medical direction.
32. "Medical record" has the same meaning as in A.R.S. § 36-2201.
33. "Minor" means an individual younger than 18 years of age who is not emancipated.
34. "Monitor" means to observe the administration rate of an agent and the patient's response to the agent and may include discontinuing administration of the agent.
35. "On-line medical direction" means emergency medical services guidance or information provided to an EMCT by a physician through two-way voice communication.
36. "Patient" means an individual who is sick, injured, or wounded and who requires medical monitoring, medical treatment, or transport.
37. "Pediatric" means pertaining to a child.
38. "Person" has the same meaning as in A.R.S. § 1-215 and includes governmental agencies.
39. "Physician assistant" has the same meaning as in A.R.S. § 32-2501.
40. "Practical nurse" has the same meaning as in A.R.S. § 32-1601.
41. "Practicing emergency medicine" means acting as an emergency medicine physician in a hospital emergency department.
42. "Prehospital incident history report" has the same meaning as in A.R.S. § 36-2220.
43. "Refresher challenge examination" means a test given to an individual to assess the individual's knowledge, skills, and competencies compared with the national education standards established for the applicable EMCT classification level.
44. "Refresher course" means a course intended to reinforce and update the knowledge, skills, and competencies of an individual who has previously met the national educational standards for a specific level of EMS personnel.
45. "Registered nurse" has the same meaning as in A.R.S. § 32-1601.
46. "Registered nurse practitioner" has the same meaning as in A.R.S. § 32-1601.
47. "Scene" means the location of the patient to be transported or the closest point to the patient at which an ambulance can arrive.
48. "Special hospital" has the same meaning as in A.A.C. R9-10-101.
49. "STR skill" means "Specialty Training Requirement skill," a medical treatment, procedure, or technique or administration of a medication for which an EMCT needs specific training beyond the training required in 9 A.A.C. 25, Article 4 in order to perform or administer.
50. "Transfer of care" means to relinquish to the control of another person the ongoing medical treatment of a patient.

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51. "Transport agent" means an agent that an EMCT at a specified level of certification is authorized to administer only during interfacility transport of a patient for whom the agent's administration was started at the sending health care institution.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4).
Amended by exempt rulemaking at 7 A.A.R. 4888, effective November 1, 2001 (Supp. 01-4). Amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-102. Individuals to Act for a Person Regulated Under This Chapter (Authorized by A.R.S. § 36-2202)

When a person regulated under this Chapter is required by this Chapter to provide information on or sign an application form or other document, the following individual shall satisfy the requirement on behalf of the person regulated under this Chapter:

1. If the person regulated under this Chapter is an individual, the individual; or
2. If the person regulated under this Chapter is a business organization, political subdivision, government agency, or tribal government, the individual who the business organization, political subdivision, government agency, or tribal government has designated to act on behalf of the business organization, political subdivision, government agency, or tribal government and who:
 - a. Is a U.S. citizen or legal resident, and
 - b. Has an Arizona address.

Historical Note

New Section made by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

ARTICLE 2. MEDICAL DIRECTION; ALS BASE HOSPITAL CERTIFICATION**R9-25-201. Administrative Medical Direction (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), 36-2204(5), (6), and (7), 36-2204.01, and 36-2205(A) and (D))**

A. An emergency medical services provider or ambulance service shall:

1. Except as specified in subsection (B) or (C), designate a physician as administrative medical director who meets one of the following:
 - a. Has emergency medicine certification issued by a member board of the American Board of Medical Specialties;
 - b. Has emergency medical services certification issued by the American Board of Emergency Medicine;
 - c. Has completed an emergency medicine residency training program accredited by the Accreditation Council for Graduate Medical Education or approved by the American Osteopathic Association; or
 - d. Is an emergency medicine physician in an emergency department located in Arizona and has current certification in:
 - i. Advanced emergency cardiac life support that includes didactic instruction and a practical skills test, consistent with training recognized by the American Heart Association, in:
 - (1) Airway management during respiratory arrest;
 - (2) Recognition of tachycardia, bradycardia, pulseless ventricular tachycardia, ventricular fibrillation, pulseless electrical activity, and asystole;

- (3) Pharmacologic, mechanical, and electrical arrhythmia interventions; and
- (4) Immediate post-cardiac arrest care;
- ii. Advanced trauma life support recognized by the American College of Surgeons; and
- iii. Pediatric advanced life support that includes didactic instruction and a practical skills test, consistent with training recognized by the American Heart Association, in:
 - (1) Pediatric rhythm interpretation;
 - (2) Oral, tracheal, and nasal airway management;
 - (3) Peripheral and central intravenous lines;
 - (4) Intraosseous infusion;
 - (5) Needle thoracostomy; and
 - (6) Pharmacologic, mechanical, and electrical arrhythmia interventions;

2. If the emergency medical services provider or ambulance service designates a physician as administrative director according to subsection (A)(1), notify the Department in writing:

- a. Of the identity and qualifications of the designated physician within 10 days after designating the physician as administrative medical director; and
- b. Within 10 days after learning that a physician designated as administrative director is no longer qualified to be an administrative director; and

3. Maintain for Department review:

- a. A copy of the policies, procedures, protocols, and documentation required in subsection (E); and
- b. Either:
 - i. The name, e-mail address, telephone number, and qualifications of the physician providing administrative medical direction on behalf of the emergency medical services provider or ambulance service; or
 - ii. If the emergency medical services provider or ambulance service provides administrative medical direction through an ALS base hospital or a centralized medical direction communications center, a copy of a written agreement with the ALS base hospital or centralized medical direction communications center documenting that the administrative medical director is qualified under subsection (A)(1).

- B. Except as provided in R9-25-502(A)(3), if an emergency medical services provider or ambulance service provides only BLS, the emergency medical services provider or ambulance service is not required to have an administrative medical director.

- C. If an emergency medical services provider or ambulance service provides administrative medical direction through an ALS base hospital or a centralized medical direction communications center, the emergency medical services provider or ambulance service shall ensure that the ALS base hospital or centralized medical direction communications center designates a physician as administrative medical director who meets one of the requirements in subsections (A)(1)(a) through (d).

- D. An emergency medical services provider or ambulance service may provide administrative medical direction through an ALS base hospital that is a special hospital, if the emergency medical services provider or ambulance service:

1. Uses the ALS base hospital that is a special hospital for administrative medical direction only for patients who are children, and
2. Has a written agreement with an ALS base hospital that meets the requirements in R9-25-203(B)(1) or a centralized medical direction communications center for the provision of administrative medical direction.

- E. An emergency medical services provider or an ambulance service shall ensure that:

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1. An EMCT receives administrative medical direction as required by A.R.S. Title 36, Chapter 21.1 and this Chapter;
 2. Protocols are established, documented, and implemented by an administrative medical director, consistent with A.R.S. Title 36, Chapter 21.1 and this Chapter, that include:
 - a. A communication protocol for:
 - i. How an EMCT requests and receives on-line medical direction,
 - ii. When and how an EMCT notifies a health care institution of the EMCT's intent to transport a patient to the health care institution, and
 - iii. What procedures an EMCT follows in the event of a communications equipment failure;
 - b. A triage protocol for:
 - i. How an EMCT assesses and prioritizes the medical condition of a patient,
 - ii. How an EMCT selects a health care institution to which a patient may be transported,
 - iii. How a patient is transported to the health care institution, and
 - iv. When on-line medical direction is required;
 - c. A treatment protocol for:
 - i. How an EMCT performs a medical treatment on a patient or administers an agent to a patient, and
 - ii. When on-line medical direction is required while an EMCT is providing treatment; and
 - d. A protocol for the transfer of information to the emergency receiving facility, including:
 - i. The information required to be communicated to emergency receiving facility staff upon transfer of care, including the condition of the patient, the treatment provided to the patient, and the patient's response to the treatment;
 - ii. The information required to be documented on a prehospital incident history report; and
 - iii. The time-frame, which is associated with the transfer of care, for completion of a prehospital incident history report;
 3. Policies and procedures are established, documented, and implemented by an administrative medical director, consistent with A.R.S. Title 36, Chapter 21.1 and this Chapter, that:
 - a. Are consistent with an EMCT's scope of practice, as specified in Table 5.1;
 - b. Cover:
 - i. Medical recordkeeping;
 - ii. Medical reporting;
 - iii. Processing of prehospital incident history reports;
 - iv. Obtaining, storing, transferring, and disposing of agents to which an EMCT has access including methods to:
 - (1) Identify individuals authorized by the administrative medical director to have access to agents,
 - (2) Maintain chain of custody for controlled substances, and
 - (3) Minimize potential degradation of agents due to temperature extremes;
 - v. Administration, monitoring, or assisting in patient self-administration of an agent;
 - vi. Monitoring and evaluating an EMCT's compliance with treatment protocols, triage protocols, and communications protocols specified in subsection (E)(2);
 - vii. Monitoring and evaluating an EMCT's compliance with medical recordkeeping, medical reporting, and prehospital incident history report requirements;
 - viii. Monitoring and evaluating an EMCT's compliance with policies and procedures for agents to which the EMCT has access;
 - ix. Monitoring and evaluating an EMCT's competency in performing skills authorized for the EMCT by the EMCT's administrative medical director and within the EMCT's scope of practice, as specified in Table 5.1;
 - x. Ongoing education, training, or remediation necessary to maintain or enhance an EMCT's competency in performing skills within the EMCT's scope of practice, as specified in Table 5.1;
 - xi. The process by which administrative medical direction is withdrawn from an EMCT; and
 - xii. The process for reinstating an EMCT's administrative medical direction; and
 - c. Include a quality assurance process to evaluate the effectiveness of the administrative medical direction provided to EMCTs;
 4. Protocols in subsection (E)(2) and policies and procedures in subsection (E)(3) are reviewed annually by the administrative medical director and updated as necessary;
 5. Requirements in A.R.S. Title 36, Chapter 21.1 and this Chapter are reviewed annually by the administrative medical director; and
 6. The Department is notified in writing no later than ten days after the date:
 - a. Administrative medical direction is withdrawn from an EMCT; or
 - b. An EMCT's administrative medical direction is reinstated.
- F. An administrative medical director for an emergency medical services provider or ambulance service shall ensure that:
1. An EMCT for whom the administrative medical director provides administrative medical direction:
 - a. Has access to at least the minimum supply of agents required for the highest level of service to be provided by the EMCT;
 - b. Administers, monitors, or assists in patient self-administration of an agent according to the requirements in policies and procedures; and
 - c. Has access to a copy of the policies and procedures required in subsection (F)(2) while on duty for the emergency medical services provider or ambulance service;
 2. Policies and procedures for agents to which an EMCT has access:
 - a. Specify that an agent is obtained only from a person:
 - i. Authorized by law to prescribe the agent, or
 - ii. Licensed under A.R.S. Title 36, Chapter 27; A.R.S. Title 32, Chapter 18; and 4 A.A.C. 23 to dispense or distribute the agent;
 - b. Cover chain of custody and transfer procedures for each supply of agents, requiring an EMCT for whom the administrative medical director provides administrative medical direction to:
 - i. Document the name and the EMCT certification number or employee identification number of each individual who takes physical control of the supply of agents;
 - ii. Document the time and date that each individual takes physical control of the supply of agents;
 - iii. Inspect the supply of agents for expired agents, deteriorated agents, damaged or altered agent containers or labels, and depleted, visibly adulterated, or missing agents upon taking physical control of the supply of agents;
 - iv. Document any of the conditions in subsection (F)(2)(b)(iii);
 - v. Notify the administrative medical director of a depleted, visibly adulterated, or missing controlled substance;

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- vi. Obtain a replacement for each affected agent in subsection (F)(2)(b)(iii) for which the minimum supply is not present; and
 - vii. Record each administration of an agent on a prehospital incident history report;
 - c. Cover mechanisms for controlling inventory of agents and preventing diversion of controlled substances; and
 - d. Include that an agent is kept inaccessible to all individuals who are not authorized access to the agent by policies and procedures required under subsection (E)(3)(b)(iv)(1) and, when not being administered, is:
 - i. Secured in a dry, clean, washable receptacle;
 - ii. While on a motor vehicle or aircraft, secured in a manner that restricts movement of the agent and the receptacle specified in subsection (F)(2)(d)(i); and
 - iii. If a controlled substance, in the receptacle specified in subsection (F)(2)(d)(i) and locked in an ambulance in a hard-shelled container that is difficult to breach without the use of a power cutting tool;
 - 3. The Department is notified in writing within 10 days after the administrative medical director receives notice, as required subsection (F)(2)(b)(v), that any quantity of a controlled substance is depleted, visibly adulterated, or missing; and
 - 4. Except when the emergency medical services provider or ambulance service obtains all agents from an ALS base hospital pharmacy, which retains ownership of the agents, agents to which an EMCT has access are obtained, stored, transferred, and disposed of according to policies and procedures; A.R.S. Title 36, Chapter 27; A.R.S. Title 32, Chapter 18; 4 A.A.C. 23; and requirements of the U.S. Drug Enforcement Administration.
- G.** An administrative medical director may delegate responsibilities to an individual as necessary to fulfill the requirements in this Section, if the individual is:
- 1. Another physician,
 - 2. A physician assistant,
 - 3. A registered nurse practitioner,
 - 4. A registered nurse,
 - 5. A Paramedic, or
 - 6. An EMT-I(99).
- Historical Note**
- Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-201 renumbered to R9-25-207; new R9-25-201 made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section repealed; new Section R9-25-201 renumbered from R9-25-202 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).
- R9-25-202. On-line Medical Direction (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), 36-2204(5), (6), and (7), 36-2204.01, and 36-2205(A) and (D))**
- A.** An emergency medical services provider or ambulance service shall:
- 1. Ensure that a physician provides on-line medical direction to EMCTs on behalf of the emergency medical services provider or ambulance service only if the physician meets one of the following:
 - a. Has emergency medicine certification issued by a member board of the American Board of Medical Specialties;
 - b. Has emergency medical services certification issued by the American Board of Emergency Medicine;
 - c. Has completed an emergency medicine residency training program accredited by the Accreditation Council for Graduate Medical Education or approved by the American Osteopathic Association; or
 - d. Is an emergency medicine physician in an emergency department located in Arizona and has current certification that meets the requirements in R9-25-201(A)(1)(d)(i) through (iii);
- 2.** For each physician providing on-line medical direction on behalf of the emergency medical services provider or ambulance service, maintain for Department review either:
- a. The name, e-mail address, telephone number, and qualifications of the physician providing on-line medical direction on behalf of the emergency medical services provider or ambulance service; or
 - b. If the emergency medical services provider or ambulance service provides on-line medical direction through an ALS base hospital or a centralized medical direction communications center, a copy of a written agreement with the ALS base hospital or centralized medical direction communications center documenting that the physician providing on-line medical direction is qualified under subsection (A)(1);
- 3.** Ensure that the on-line medical direction provided to an EMCT on behalf of the emergency medical services provider or ambulance service is consistent with:
- a. The EMCT's scope of practice, as specified in Table 5.1; and
 - b. Communication protocols, triage protocols, treatment protocols, and protocols for prehospital incident history reports, specified in R9-25-201(E)(2); and
- 4.** Ensures that a physician providing on-line medical direction on behalf of the emergency medical services provider or ambulance service relays on-line medical direction only through one of the following individuals, under the supervision of the physician and consistent with the individual's scope of practice:
- a. Another physician,
 - b. A physician assistant,
 - c. A registered nurse practitioner,
 - d. A registered nurse,
 - e. A Paramedic, or
 - f. An EMT-I(99).
- B.** An emergency medical services provider or ambulance service may provide on-line medical direction through an ALS base hospital that is a special hospital, if the emergency medical services provider or ambulance service:
- 1. Uses the ALS base hospital that is a special hospital for on-line medical direction only for patients who are children, and
 - 2. Has a written agreement with an ALS base hospital that meets the requirements in R9-25-203(B)(1) or a centralized medical direction communications center for the provision of on-line medical direction.
- C.** An emergency medical services provider or ambulance service shall ensure that the emergency medical services provider or ambulance service, or an ALS base hospital or a centralized medical direction communications center providing on-line medical direction on behalf of the emergency medical services provider or ambulance service, has:
- 1. Operational and accessible communication equipment that will allow on-line medical direction to be given to an EMCT;
 - 2. A written plan for alternative communications with an EMCT in the event of a disaster, communication equipment breakdown or repair, power outage, or malfunction; and
 - 3. A physician qualified under subsection (A)(1) available to give on-line medical direction to an EMCT 24 hours a day, seven days a week.
- Historical Note**
- Adopted effective October 15, 1996 (Supp. 96-4). Former

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R9-25-202 renumbered to R9-25-208; new R9-25-202 made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-202 renumbered to Section R9-25-201; new Section R9-25-202 renumbered from R9-25-203 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit A. Repealed**Historical Note**

Exhibit A adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-203. ALS Base Hospital General Requirements (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), and 36-2204(5), (6), and (7))

- A. A person shall not operate as an ALS base hospital without certification from the Department.
- B. The Department shall certify an ALS base hospital if the applicant:
 1. Is:
 - a. Licensed as a general hospital under 9 A.A.C. 10, Article 2; or
 - b. A facility operated as a hospital in this state by the United States federal government or by a sovereign tribal nation;
 2. Maintains at least one current written agreement described in A.R.S. § 36-2201(4);
 3. Has not been decertified as an ALS base hospital by the Department within five years before submitting the application;
 4. Submits an application that is complete and compliant with the requirements in this Article; and
 5. Has not knowingly provided false information on or with an application required by this Article.
- C. The Department may certify as an ALS base hospital a special hospital, which is licensed under 9 A.A.C. 10, Article 2 and provides surgical services and emergency services only to children, if the applicant:
 1. Meets the requirements in subsection (B)(2) through (5), and
 2. Provides administrative medical direction or on-line medical direction only for patients who are children.
- D. An ALS base hospital certificate is valid only for the name and address listed by the Department on the certificate.
- E. At least every 24 months after certification, the Department shall inspect, according to A.R.S. § 41-1009, an ALS base hospital to determine ongoing compliance with the requirements of this Article.
- F. The Department may inspect an ALS base hospital according to A.R.S. § 41-1009:
 1. As part of the substantive review time-frame required in A.R.S. §§ 41-1072 through 41-1079; or
 2. As necessary to determine compliance with the requirements of this Article.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-203 renumbered to Section R9-25-202; new Section R9-25-203 renumbered from R9-25-207 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-204. Application Requirements for ALS Base Hospital Certification (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), and 36-2204(5))

- A. An applicant for ALS base hospital certification shall submit to the Department an application, in a Department-provided format, including:

1. A form containing:
 - a. The applicant's name, address, and telephone number;
 - b. The name, email address, and telephone number of the applicant's chief administrative officer;
 - c. The name, email address, and telephone number of the applicant's chief administrative officer's designee if the chief administrative officer will not be the liaison between the ALS base hospital and the Department;
 - d. Whether the applicant is applying for certification of a:
 - i. General hospital licensed under 9 A.A.C. 10, Article 2;
 - ii. Special hospital licensed under 9 A.A.C. 10, Article 2, that provides surgical services and emergency services only to children; or
 - iii. Facility operating as a federal or tribal hospital;
 - e. The name of each emergency medical services provider or ambulance service for which the applicant has a current written agreement described in A.R.S. § 36-2201(4);
 - f. The name, address, email address, and telephone number of each administrative medical director;
 - g. The name of each physician providing on-line medical direction;
 - h. Attestation that the applicant meets the requirements in R9-25-202(C);
 - i. Attestation that the applicant will comply with all requirements in A.R.S. Title 36, Chapter 21.1 and this Chapter;
 - j. Attestation that all information required as part of the application has been submitted and is true and accurate; and
 - k. The signature or electronic signature of the applicant's chief administrative officer or the chief administrative officer's designated representative and date of signature or electronic signature;
2. A copy of the applicant's current hospital license issued under 9 A.A.C. 10, Article 2, if applicable; and
3. A copy of each executed written agreement described in A.R.S. § 36-2201(4), including all attachments and exhibits.

- B. The Department shall approve or deny an application under this Section according to Article 12 of this Chapter.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-204 renumbered to R9-25-209; new R9-25-204 made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section R9-25-204 repealed; new Section R9-25-204 renumbered from R9-25-208 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-205. Changes Affecting an ALS Base Hospital Certificate (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), and 36-2204(5) and (6))

- A. No later than 10 days after the date of a change in the name listed on the ALS base hospital certificate, an ALS base hospital certificate holder shall notify the Department of the change, in a Department-provided format, including:
 1. The current name of the ALS base hospital;
 2. The ALS base hospital's certificate number;
 3. The new name and the effective date of the name change;
 4. Documentation supporting the name change;
 5. Documentation of compliance with the requirements in A.A.C. R9-10-109(A), if applicable;
 6. Attestation that all information submitted to the Department is true and correct; and

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7. The signature or electronic signature of the applicant's chief administrative officer or the chief administrative officer's designated representative and date of signature or electronic signature.
- B. No later than 10 days after the date of a change in the address listed on an ALS base hospital certificate or a change in ownership, as defined in A.A.C. R9-10-101, an ALS base hospital certificate holder shall submit to the Department an application required in R9-25-204(A).

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 13 A.A.R. 3014, effective October 6, 2007 (Supp. 07-3). Section R9-25-205 repealed; new Section R9-25-205 renumbered from R9-25-209 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-206. ALS Base Hospital Authority and Responsibilities (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), 36-2204(5) and (6), 36-2208(A), and 36-2209(A)(2))

- A. An ALS base hospital certificate holder shall:
 1. Have the capability of providing both administrative medical direction and on-line medical direction;
 2. Provide administrative medical direction and on-line medical direction to an EMCT according to:
 - a. A written agreement described in A.R.S. § 36-2201(4);
 - b. Except as provided in subsection (D), the requirements in R9-25-201 for administrative medical direction; and
 - c. The requirements in R9-25-202 for on-line medical direction; and
 3. Ensure that personnel are available to provide administrative medical direction and on-line medical direction.
- B. No later than 10 days after the date of a change in an administrative medical director listed on the ALS base hospital's application, as required in R9-25-204(A)(1)(f), an ALS base hospital certificate holder shall notify the Department of the change, in a Department-provided format, including:
 1. The name of the ALS base hospital,
 2. The ALS base hospital's certificate number,
 3. The name of the new administrative medical director and the effective date of the change,
 4. Attestation that the new administrative medical director meets the requirements in R9-25-201(A)(1),
 5. Attestation that all information submitted to the Department is true and correct, and
 6. The signature or electronic signature of the applicant's chief administrative officer or the chief administrative officer's designated representative and date of signature or electronic signature.
- C. An ALS base hospital certificate holder shall:
 1. Notify the Department in writing no later than 24 hours after ceasing to meet the requirement in:
 - a. R9-25-203(B)(1) or (2); or
 - b. For a special hospital, R9-25-203(B)(2) or (C); and
 2. No later than 48 hours after terminating, adding, or amending a written agreement required in R9-25-203(B)(2), notify the Department in writing and, if applicable, submit to the Department a copy of the new or amended written agreement described in A.R.S. § 36-2201(4).
- D. An ALS base hospital may act as a training program without training program certification from the Department, if the ALS base hospital:
 1. Is eligible for training program certification as provided in R9-25-301(C); and

2. Complies with the requirements in R9-25-301(D), R9-25-302, R9-25-303(B), (C), and (F), and R9-25-304 through R9-25-306.
- E. If an ALS base hospital's pharmacy provides all of the agents for an emergency medical services provider or ambulance service, and the ALS base hospital owns the agents provided, the ALS base hospital's certificate holder shall ensure that:
 1. Except as stated in subsections (E)(2) and (3), the policies and procedures for agents to which an EMCT has access that are established by the administrative medical director for the emergency medical services provider or ambulance service comply with requirements in R9-25-201(F)(2);
 2. The emergency medical services provider or ambulance service requires an EMCT for the emergency medical services provider or ambulance service to notify the pharmacist in charge of the hospital pharmacy of a missing, visibly adulterated, or depleted controlled substance; and
 3. The pharmacist in charge of the hospital pharmacy notifies the Department, as specified in R9-25-201(F)(3), of a missing, visibly adulterated, or depleted controlled substance.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Amended effective November 30, 1998; filed in the Office of the Secretary of State November 24, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) (Supp. 98-4). Amended by exempt rulemaking at 7 A.A.R. 4888, effective November 1, 2001 (Supp. 01-4). Former R9-25-206 renumbered to R9-25-210; new R9-25-206 made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-206 repealed; new Section R9-25-206 renumbered from R9-25-210 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

The following Exhibit was repealed under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to A.R.S. § 36-2205(C). Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit this change to the Secretary of State's Office for publication in the Arizona Administrative Register as proposed rules; the Department did not submit the change to the Governor's Regulatory Review Council for review; and the Department was not required to hold public hearings on the repealing of this Exhibit (Supp. 98-4).

Exhibit B. Repealed**Historical Note**

Exhibit B adopted effective October 15, 1996 (Supp. 96-4). Repealed effective November 30, 1998; filed in the Office of the Secretary of State November 24, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) (Supp. 98-4).

R9-25-207. ALS Base Hospital Enforcement Actions (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), and 36-2204(7))

- A. The Department may take an action listed in subsection (B) against an ALS base hospital certificate holder who:
 1. Does not meet the certification requirements in R9-25-203(B)(1) or (2) or (C);
 2. Violates the requirements in A.R.S. Title 36, Chapter 21.1 or 9 A.A.C. 25; or
 3. Knowingly or negligently provides false documentation or information to the Department.
- B. The Department may take the following action against an ALS base hospital certificate holder:

1. After notice is provided according to A.R.S. Title 41, Chapter 6, Article 10, issue a letter of censure,
2. After notice is provided according to A.R.S. Title 41, Chapter 6, Article 10, issue an order of probation,
3. After notice and an opportunity to be heard is provided according to A.R.S. Title 41, Chapter 6, Article 10, suspend the ALS base hospital certificate, or
4. After notice and an opportunity to be heard is provided according to A.R.S. Title 41, Chapter 6, Article 10, decertify the ALS base hospital.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-207 repealed; new R9-25-207 renumbered from R9-25-201 and amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-207 renumbered to Section R9-25-203; new Section R9-25-207 renumbered from Section R9-25-211 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-208. Renumbered**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-208 repealed; new R9-25-208 renumbered from R9-25-202 and amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-208 renumbered to Section R9-25-204 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-209. Renumbered**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-209 repealed; new R9-25-209 renumbered from R9-25-204 and amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-209 renumbered to Section R9-25-205 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-210. Renumbered**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-210 repealed; new R9-25-210 renumbered from R9-25-206 and amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section R9-25-210 renumbered to Section R9-25-206 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-211. Renumbered**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-211 repealed; new R9-25-211 renumbered from R9-25-213 and amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-211 renumbered to Section R9-25-207 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-212. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective

January 3, 2004 (Supp. 03-4).

R9-25-213. Renumbered**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section renumbered to R9-25-211 by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

ARTICLE 3. TRAINING PROGRAMS

Article 3 repealed; new Article 3 made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-301. Definitions; Application for Certification (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))

- A. To apply for certification as a training program, an applicant shall submit an application to the Department, in a Department-provided format, including:
 1. The applicant's name, address, and telephone number;
 2. The name, telephone number, and e-mail address of the applicant's chief administrative officer;
 3. The name of each course the applicant plans to provide;
 4. Attestation that the applicant has the equipment and facilities that meet the requirements established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov for the courses specified in subsection (A)(3);
 5. The name, telephone number, and e-mail address of the training program medical director;
 6. The name, telephone number, and e-mail address of the training program director;
 7. Attestation that the applicant will comply with all requirements in A.R.S. Title 36, Chapter 21.1 and 9 A.A.C. 25;
 8. Attestation that all information required as part of the application has been submitted and is true and accurate; and
 9. The signature or electronic signature of the applicant's chief administrative officer or the chief administrative officer's designated representative and date of signature or electronic signature.
- B. An applicant may submit to the Department a copy of an accreditation report if the applicant is currently accredited by a national accrediting organization.
- C. The Department shall certify a training program if the applicant:
 1. Has not operated a training program that has been decertified by the Department within five years before submitting the application,
 2. Submits an application that is complete and compliant with requirements in this Article, and
 3. Has not knowingly provided false information on or with an application required by this Article.
- D. The Department, according to A.R.S. § 41-1009:
 1. Shall assess a training program at least once every 24 months after certification to determine ongoing compliance with the requirements of this Article; and
 2. May inspect a training program:
 - a. As part of the substantive review time-frame required in A.R.S. §§ 41-1072 through 41-1079, or
 - b. As necessary to determine compliance with the requirements of this Article.
- E. The Department shall approve or deny an application under this Article according to Article 12 of this Chapter.
- F. A training program certificate is valid only for the name of the training program certificate holder and the courses listed by the Department on the certificate and may not be transferred to another person.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9

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A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-302. Administration (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))

- A.** A training program certificate holder shall ensure that a training program medical director:
1. Is a physician or exempt from physician licensing requirements under A.R.S. §§ 32-1421(A)(7) or 32-1821(3);
 2. Meets one of the following:
 - a. Has emergency medicine certification issued by a member board of the American Board of Medical Specialties,
 - b. Has emergency medical services certification issued by the American Board of Emergency Medicine,
 - c. Has completed an emergency medicine residency training program accredited by the Accreditation Council for Graduate Medical Education or approved by the American Osteopathic Association, or
 - d. Is an emergency medicine physician in an emergency department located in Arizona and has current certification that meets the requirements in R9-25-201(A)(1)(d)(i) through (iii); and
 3. Before the start date of a course session, reviews the course content outline and final examinations to ensure consistency with the national educational standards for the applicable EMCT classification level.
- B.** A training program certificate holder shall ensure that a training program director:
1. Is one of the following:
 - a. A physician with at least two years of experience providing emergency medical services as a physician;
 - b. A doctor of allopathic medicine or osteopathic medicine licensed in another state or jurisdiction with at least two years of experience providing emergency medical services as a doctor of allopathic medicine or osteopathic medicine;
 - c. An individual who meets the definition of registered nurse in A.R.S. § 32-1601 with at least two years of experience providing emergency medical services as a registered nurse;
 - d. A physician assistant with at least two years of experience providing emergency medical services as a physician assistant; or
 - e. An EMCT with at least two years of experience at that classification of EMCT, only for courses to prepare an individual for certification or recertification at the same or lower level of EMCT;
 2. Has completed 24 hours of training related to instructional methodology including:
 - a. Organizing and preparing materials for didactic instruction, clinical training, field training, and skills practice;
 - b. Preparing and administering tests and practical examinations;
 - c. Using equipment and supplies;
 - d. Measuring student performance;
 - e. Evaluating student performance;
 - f. Providing corrective feedback; and
 - g. Evaluating course effectiveness;
 3. Supervises the day-to-day operation of the courses offered by the training program;
 4. Supervises and evaluates the lead instructor for a course session;
 5. Monitors the training provided by all preceptors providing clinical training or field training; and

6. Does not participate as a student in a course session, take a refresher challenge examination, or receive a certificate of completion for a course given by the training program.
- C.** A training program certificate holder shall:
1. Maintain with an insurance company authorized to transact business in this state:
 - a. A minimum single claim professional liability insurance coverage of \$500,000, and
 - b. A minimum single claim general liability insurance coverage of \$500,000 for the operation of the training program; or
 2. Be self-insured for the amounts in subsection (C)(1).
- D.** A training program certificate holder shall ensure that policies and procedures are:
1. Established, documented, and implemented covering:
 - a. Student enrollment, including verification that a student has proficiency in reading at the 9th grade level and meets all course admission requirements;
 - b. Maintenance of student records and medical records, including compliance with all applicable state and federal laws governing confidentiality, privacy, and security; and
 - c. For each course offered:
 - i. Student attendance requirements, including leave, absences, make-up work, tardiness, and causes for suspending or expelling a student for unsatisfactory attendance;
 - ii. Grading criteria, including the minimum grade average considered satisfactory for continued enrollment and standards for suspending or expelling a student for unsatisfactory grades;
 - iii. Administration of final examinations; and
 - iv. Student conduct, including causes for suspending or expelling a student for unsatisfactory conduct;
 2. Reviewed annually and updated as necessary; and
 3. Maintained on the premises and provided to the Department at the Department's request.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-303. Changes Affecting a Training Program Certificate (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))

- A.** No later than 10 days after a change in the name, address, or e-mail address of the training program certificate holder listed on a training program certificate, the training program certificate holder shall notify the Department of the change, in a Department-provided format, including:
1. The current name, address, and e-mail address of the training program certificate holder;
 2. The certificate number for the training program;
 3. The new name, new address, or new e-mail address and the date of the name, address, or e-mail address change;
 4. If applicable, attestation that the training program certificate holder has insurance required in R9-25-302(C) that is valid for the new name or new address;
 5. Attestation that all information submitted to the Department is true and correct; and
 6. The signature or electronic signature of the applicant's chief administrative officer or the chief administrative officer's designated representative and date of signature or electronic signature.
- B.** No later than 10 days after a change in the training program medical director or training program director, a training pro-

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gram certificate holder shall notify the Department, in a Department-provided format, including:

1. The name and address of the training program certificate holder;
 2. The certificate number for the training program;
 3. The name, telephone number, and e-mail address of the new training program medical director or training program director and the date of the change; and
 4. The signature or electronic signature of the applicant's chief administrative officer or the chief administrative officer's designated representative and date of signature or electronic signature.
- C. A training program certificate holder that intends to add a course shall submit to the Department a request for approval, in a Department-provided format, including:
1. The name and address of the training program certificate holder;
 2. The certificate number for the training program;
 3. The name, telephone number, and e-mail address of the applicant's chief administrative officer;
 4. The name of each course the training program certificate holder plans to add;
 5. Attestation that the training program certificate holder has the equipment and facilities that meet the requirements established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov for the courses specified in subsection (C)(4);
 6. Attestation that all information required as part of the request is true and accurate; and
 7. The signature or electronic signature of the applicant's chief administrative officer or the chief administrative officer's designated representative and date of signature or electronic signature.
- D. For notification made under subsection (A) of a change in the name or address of a certificate holder, the Department shall issue an amended certificate to the training program certificate holder that incorporates the new name or address but retains the date on the current certificate.
- E. The Department shall approve or deny a request for the addition of a course in subsection (C) according to Article 12 of this Chapter.
- F. A training program certificate holder shall not conduct a course until an amended certificate is issued by the Department.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-304. Course and Examination Requirements (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1), (2), and (3))

- A. For each course provided, a training program director shall ensure that:
1. The required equipment and facilities established for the course are available for use;
 2. The following are prepared and provided to course applicants before the start date of a course session:
 - a. A description of requirements for admission, course content, course hours, course fees, and course completion, including whether the course prepares a student for:
 - i. A national certification organization examination for the specific EMCT classification level,
 - ii. A statewide standardized certification test under the state certification process, or
 - iii. Recertification at a specific EMCT classification level;

- b. A list of books, equipment, and supplies that a student is required to purchase for the course;
 - c. Notification of eligibility for the course as specified in R9-25-305(B), (D)(1) and (2), or (F)(1) and (2), as applicable;
 - d. Notification of any specific requirements for a student to begin any component of the course, including, as applicable:
 - i. Prerequisite knowledge, skill, and abilities;
 - ii. Physical examinations;
 - iii. Immunizations;
 - iv. Documentation of freedom from infectious tuberculosis;
 - v. Drug screening; and
 - vi. The ability to perform certain physical activities; and
 - e. The policies for the course on student attendance, grading, student conduct, and administration of final examinations, required in R9-25-302(D)(1)(c)(i) through (iv);
3. Information is provided to assist a student to:
- a. Register for and take an applicable national certification organization examination;
 - b. Complete application forms for registration in a national certification organization; and
 - c. Complete application forms for certification under 9 A.A.C. 25, Article 4;
4. A lead instructor is assigned to each course session who:
- a. Is one of the following:
 - i. A physician with at least two years of experience providing emergency medical services;
 - ii. A doctor of allopathic medicine or osteopathic medicine licensed in another state or jurisdiction with at least two years of experience providing emergency medical services;
 - iii. An individual who meets the definition of registered nurse in A.R.S. § 32-1601 with at least two years of experience providing emergency medical services;
 - iv. A physician assistant with at least two years of experience providing emergency medical services; or
 - v. An EMCT with at least two years of experience at that classification of EMCT, only for courses to prepare an individual for certification or recertification at the same or lower EMCT classification level;
 - b. Has completed training related to instructional methodology specified in R9-25-302(B)(2);
 - c. Except as provided in subsection (A)(4)(d), is available for student-instructor interaction during all course hours established for the course session; and
 - d. Designates an individual who meets the requirements in subsections (A)(4)(a) and (b) to be present and act as the lead instructor when the lead instructor is not present; and
5. Clinical training and field training are provided:
- a. Under the supervision of a preceptor who has at least two years of experience providing emergency medical services and is one of the following:
 - i. An individual licensed in this or another state or jurisdiction as a doctor of allopathic medicine or osteopathic medicine;
 - ii. An individual licensed in this or another state or jurisdiction as a registered nurse;
 - iii. An individual licensed in this or another state or jurisdiction as a physician assistant; or
 - iv. An EMCT, only for courses to prepare an individual for certification or recertification at the same or lower EMCT classification level;
 - b. Consistent with the clinical training and field training requirements established for the course; and
 - c. If clinical training or field training are provided by a person other than the training program certificate

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holder, under a written agreement with the person providing the clinical training or field training that includes a termination clause that provides sufficient time for a student to complete the training upon termination of the written agreement.

- B. A training program director may combine the students from more than one course session for didactic instruction.
- C. For a final examination or refresher challenge examination for each course offered, a training program director shall ensure that:
 - 1. The final examination or refresher challenge examination for the course is completed onsite at the training program or at a facility used for course instruction;
 - 2. Except as provided in subsection (D), the final examination or refresher challenge examination for a course includes a:
 - a. Written test:
 - i. With one absolutely correct answer, two incorrect answers, and one distractor, none of which is "all of the above" or "none of the above";
 - ii. With 150 multiple-choice questions for the:
 - (1) Final examination for a refresher course, or
 - (2) Refresher challenge examination for a course;
 - iii. That covers the learning objectives of the course with representation from all topics covered by the course; and
 - iv. That requires a passing score of 75% or higher in no more than three attempts for a final examination and no more than one attempt for a refresher challenge examination; and
 - b. Comprehensive practical skills test:
 - i. Evaluating the student's technical proficiency in skills consistent with the national education standards for the applicable EMCT classification level, and
 - ii. Reflecting the skills necessary to pass a national certification organization examination at the applicable EMCT classification level;
 - 3. The identity of each student taking the final examination or refresher challenge examination is verified;
 - 4. A student does not receive verbal or written assistance from any other individual or use notes, books, or documents of any kind as an aid in taking the examination;
 - 5. A student who violates subsection (C)(4) is not permitted to complete the examination or to receive a certificate of completion for the course or refresher challenge examination; and
 - 6. An instructor who allows a student to violate subsection (C)(4) or assists a student in violating subsection (C)(4) is no longer permitted to serve as an instructor.
- D. A training program director shall ensure that a standardized certification test for a student under the state certification process includes:
 - 1. A written test that meets the requirements in subsection (C)(2)(a); and
 - 2. Either:
 - a. A comprehensive practical skills test that meets the requirements in subsection (C)(2)(b), or
 - b. An attestation of practical skills proficiency on a Department-provided form.
- E. A training program director shall ensure that:
 - 1. A student is allowed no longer than six months after the date of the last day of classroom instruction for a course session to complete all course requirements,
 - 2. There is a maximum ratio of four students to one preceptor for the clinical training portion of a course, and
 - 3. There is a maximum ratio of one student to one preceptor for the field training portion of a course.
- F. A training program director shall:
 - 1. For a student who completes a course, issue a certificate of completion containing:

- a. Identification of the training program,
 - b. Identification of the course completed,
 - c. The name of the student who completed the course,
 - d. The date the student completed all course requirements,
 - e. Attestation that the student has met all course requirements, and
 - f. The signature or electronic signature of the training program director and the date of signature or electronic signature; and
- 2. For an individual who passes a refresher challenge examination, issue a certificate of completion containing:
 - a. Identification of the training program,
 - b. Identification of the refresher challenge examination administered,
 - c. The name of the individual who passed the refresher challenge examination,
 - d. The date or dates the individual took the refresher challenge examination,
 - e. Attestation that the individual has passed the refresher challenge examination, and
 - f. The signature or electronic signature of the training program director and the date of signature or electronic signature.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-305. Supplemental Requirements for Specific Courses (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))

- A. Except as specified in subsection (B), a training program certificate holder shall ensure that a certification course offered by the training program:
 - 1. Covers knowledge, skills, and competencies comparable to the national education standards established for a specific EMCT classification level;
 - 2. Prepares a student for:
 - a. A national certification organization examination for the specific EMCT classification level, or
 - b. A standardized certification test under the state certification process;
 - 3. Has no more than 24 students enrolled in each session of the course; and
 - 4. Has a minimum course length of:
 - a. For an EMT certification course, 130 hours;
 - b. For an AEMT certification course, 244 hours, including:
 - i. A minimum of 100 contact hours of didactic instruction and practical skills training, and
 - ii. A minimum of 144 contact hours of clinical training and field training; and
 - c. For a Paramedic certification course, 1000 hours, including:
 - i. A minimum of 500 contact hours of didactic instruction and practical skills training, and
 - ii. A minimum of 500 contact hours of clinical training and field training.
- B. A training program director shall ensure that, for an AEMT certification course or a Paramedic certification course, a student has one of the following:
 - 1. Current certification from the Department as an EMT or higher EMCT classification level,
 - 2. Documentation of completion of prior training in an EMT course or a course for a higher EMCT classification level

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- provided by a training program certified by the Department or an equivalent training program, or
3. Documentation of current registration in a national certification organization at the EMT classification level or higher EMCT classification level.
- C. A training program director shall ensure that for a course to prepare an EMT-I(99) for Paramedic certification:
1. A student has current certification from the Department as an EMT-I(99);
 2. The course covers the knowledge, skills, and competencies established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov;
 3. No more than 24 students are enrolled in each session of the course;
 4. The minimum course length is 600 hours, including:
 - a. A minimum of 220 contact hours of didactic instruction and practical skills training, and
 - b. A minimum of 380 contact hours of clinical training and field training; and
 5. A minimum of 60 contact hours of training in anatomy and physiology are completed by the student:
 - a. As a prerequisite to the course,
 - b. As preliminary instruction completed at the beginning of the course session before the didactic instruction required in subsection (C)(4)(a) begins, or
 - c. Through integration of the anatomy and physiology material with the units of instruction required in subsection (C)(4).
- D. A training program director shall ensure that for an EMT refresher course:
1. A student has one of the following:
 - a. Current certification from the Department as an EMT or higher EMCT classification level,
 - b. Documentation of completion of prior training in an EMT course or a course for a higher EMCT classification level provided by a training program certified by the Department or an equivalent training program,
 - c. Documentation of current registration in a national certification organization at the EMT classification level or higher EMCT classification level, or
 - d. Documentation from a national certification organization requiring the student to complete the EMT refresher course to be eligible to apply for registration in the national certification organization;
 2. A student has documentation of current certification in adult, pediatric, and infant cardiopulmonary resuscitation through instruction consistent with American Heart Association recommendations for emergency cardiovascular care by EMCTs;
 3. The EMT refresher course covers:
 - a. The knowledge, skills, and competencies in the national education standards established at the EMT classification level; or
 - b. Until the following dates, the knowledge, skills, and competencies established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov:
 - i. March 31, 2015, for a student who has documentation from a national certification organization of registration at the EMT classification level or higher EMCT classification level that expired on or before March 31, 2011; ii. March 31, 2016, for a student who has documentation from a national certification organization of registration at the EMT classification level or higher EMCT classification level that expired between April 1, 2011 and March 31, 2012; and
 - iii. December 31, 2017, for a student who is not registered by a national certification organization;
 4. No more than 32 students are enrolled in each session of the course; and
5. The minimum course length is 24 contact hours.
- E. A training program authorized to provide an EMT refresher course may administer a refresher challenge examination covering materials included in the EMT refresher course to an individual eligible for admission into the EMT refresher course.
- F. A training program director shall ensure that for an ALS refresher course:
1. A student has one of the following:
 - a. Current certification from the Department as an AEMT, EMT-I(99), or Paramedic;
 - b. Documentation of completion of a prior training course, at the AEMT classification level or higher, provided by a training program certified by the Department or an equivalent training program;
 - c. Documentation of current registration in a national certification organization at the AEMT or Paramedic classification level; or
 - d. Documentation from a national certification organization requiring the student to complete the ALS refresher course to be eligible to apply for registration in the national certification organization;
 2. A student has documentation of current certification in:
 - a. Adult, pediatric, and infant cardiopulmonary resuscitation through instruction consistent with American Heart Association recommendations for emergency cardiovascular care by EMCTs, and
 - b. For a student who has current certification as an EMT-I(99) or higher level of EMCT classification, advanced emergency cardiac life support;
 3. The ALS refresher course covers:
 - a. For a student who has current certification as an AEMT or documentation of completion of prior training at an AEMT classification level, the knowledge, skills, and competencies in the national education standards established for an AEMT;
 - b. For a student who has current certification as an EMT-I(99), the knowledge, skills, and competencies established according to A.R.S. § 36-2204 for an EMT-I(99) as of the effective date of this Section and available through the Department at www.azdhs.gov;
 - c. For a student who has current certification as a Paramedic or documentation of completion of prior training at a Paramedic classification level, the knowledge, skills, and competencies in the national education standards established for a Paramedic; and
 - d. Until the following dates, the knowledge, skills, and competencies established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov:
 - i. March 31, 2015, for a student who has documentation of completion of prior training at a level between EMT-I(99) and Paramedic and registration from a national certification organization that expired on or before March 31, 2011;
 - ii. March 31, 2016, for a student who has documentation of completion of prior training at a level between EMT-I(99) and Paramedic and registration from a national certification organization that expired between April 1, 2011 and March 31, 2012; iii. March 31, 2017, for a student who has documentation of completion of prior training at a level between EMT-I(99) and Paramedic and registration from a national certification organization that expired between April 1, 2012 and March 31, 2013; and
 - iv. December 31, 2017, for a student who has documentation of completion of prior training at a level between EMT-I(99) and Paramedic and is not registered by a national certification organization;

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4. No more than 32 students are enrolled in each session of the course; and
 5. The minimum course length is 48 contact hours.
- G.** A training program authorized to provide an ALS refresher course may administer a refresher challenge examination covering materials included in the ALS refresher course to an individual eligible for admission into the ALS refresher course.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 3014, effective October 6, 2007 (Supp. 07-3). Amended by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit F. Repealed**Historical Note**

Exhibit F adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-306. Training Program Notification and Recordkeeping (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))

- A.** At least 10 days before the start date of a course session, a training program certificate holder shall submit to the Department the following information in a Department-provided format:
1. Identification of the training program;
 2. Identification of the course;
 3. The name of the training program medical director;
 4. The name of the training program director;
 5. The name of the course session's lead instructor;
 6. The course session start date and end date;
 7. The physical location at which didactic training and practical skills training will be provided;
 8. The days of the week and times of each day during which didactic training and practical skills training will be provided;
 9. The number of clock hours of didactic training and practical skills training;
 10. If applicable, the number of hours of clinical training and field training included in the course session;
 11. The date, start time, and location of the final examination for the course;
 12. Attestation that the lead instructor is qualified under R9-25-304(A)(4)(a); and
 13. The name and signature of the chief administrative officer or program director and the date signed.
- B.** The Department shall review the information submitted according to subsection (A) and, within five days after receiving the information:
1. Approve a course session, issue an identifying number to the course session, and notify the training program certificate holder of the approval and identifying number; or
 2. Disapprove a course session that does not comply with requirements in this Article and notify the training program certificate holder of the disapproval.
- C.** A training program certificate holder shall ensure that:
1. No later than 10 days after the date a student completes all course requirements, the training program director submits to the Department the following information in a Department-provided format:
 - a. Identification of the training program;
 - b. The name of the training program director;
 - c. Identification of the course and the start date and end date of the course session completed by the student;
 - d. The name, date of birth, and mailing address of the student who completed the course;
 - e. The date the student completed all course requirements;
 - f. The score the student received on the final examination;
 - g. Attestation that the student has met all course requirements;
 - h. Attestation that all information submitted is true and accurate; and
 - i. The signature of the training program director and the date signed; and
 2. No later than 10 days after the date an individual passes a refresher challenge examination administered by the training program, the training program director submits to the Department the following information in a Department-provided format:
 - a. Identification of the training program;
 - b. Identification of the:
 - i. Refresher challenge examination administered, and
 - ii. Course for which the refresher challenge examination substitutes;
 - c. The name of the training program medical director;
 - d. The name of the training program director;
 - e. The name, date of birth, and mailing address of the individual who passed the refresher challenge examination;
 - f. The date and location at which the refresher challenge examination was administered;
 - g. The score the individual received on the refresher challenge examination;
 - h. Attestation that the individual:
 - i. Met the requirements for taking the refresher challenge examination, and
 - ii. Passed the refresher challenge examination;
 - i. Attestation that all information submitted is true and accurate; and
 - j. The name and signature of the training program director and the date signed.
- D.** A training program certificate holder shall ensure that:
1. A record is established for each student enrolled in a course session, including:
 - a. The student's name and date of birth;
 - b. A copy of the student's enrollment agreement or contract;
 - c. Identification of the course in which the student is enrolled;
 - d. The start date and end date for the course session;
 - e. Documentation supporting the student's eligibility to enroll in the course;
 - f. Documentation that the student meets prerequisites for the course, established as specified in R9-25-304(A)(2)(c)(i);
 - g. The student's attendance records;
 - h. The student's clinical training records, if applicable;
 - i. The student's field training records, if applicable;
 - j. The student's grades;
 - k. Documentation of the final examination for the course, including:
 - i. A copy of each scored written test attempted or completed by the student, and
 - ii. All forms used as part of the comprehensive practical skills test attempted or completed by the student; and
 1. A copy of the student's certificate of completion required in R9-25-304(F)(1);
 2. A student record required in subsection (D)(1) is maintained for three years after the end date of a student's course session and provided to the Department at the Department's request;

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3. A record is established for each individual to whom a refresher challenge examination is administered, including:
 - a. The individual's name and date of birth;
 - b. Identification of the refresher challenge examination administered to the individual;
 - c. Documentation supporting the individual's eligibility for a refresher challenge examination;
 - d. The date the refresher challenge examination was administered;
 - e. Documentation of the refresher challenge examination, including:
 - i. A copy of the scored written test attempted or completed by the individual, and
 - ii. All forms used as part of the comprehensive practical skills test attempted or completed by the individual; and
 - f. A copy of the individual's certificate of completion required in R9-25-304(F)(2); and
4. A record required in subsection (D)(3) is maintained for three years after the date the refresher challenge examination was administered and provided to the Department at the Department's request.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 11 A.A.R. 553, effective March 5, 2005 (Supp. 05-1). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 3014, effective October 6, 2007 (Supp. 07-3). R9-25-306 repealed; new Section R9-25-306 renumbered from R9-25-316 and amended by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-307. Training Program Enforcement Actions (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))

- A. The Department may take an action listed in subsection (B) against a training program certificate holder who:
 1. Violates the requirements in A.R.S. Title 36, Chapter 21.1 or 9 A.A.C. 25; or
 2. Knowingly or negligently provides false documentation or information to the Department.
- B. The Department may take the following action against a training program certificate holder:
 1. After notice is provided according to A.R.S. Title 41, Chapter 6, Article 10, issue:
 - a. A letter of censure, or
 - b. An order of probation; or
 2. After notice and opportunity to be heard is provided according to A.R.S. Title 41, Chapter 6, Article 10:
 - a. Suspend the training program certificate, or
 - b. Decertify the training program.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 3014, effective October 6, 2007 (Supp. 07-3). Section expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (12-3). New Section R9-25-307 renumbered from R9-25-317 and amended by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt

rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit H. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-308. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 3014, effective October 6, 2007 (Supp. 07-3). Section repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

R9-25-309. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 11 A.A.R. 553, effective March 5, 2005 (Supp. 05-1). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 3014, effective October 6, 2007 (Supp. 07-3). Section repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

R9-25-310. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

R9-25-311. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

Exhibit D. Repealed**Historical Note**

Exhibit D adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit C. Repealed**Historical Note**

Exhibit C adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit E. Repealed

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Historical Note

Exhibit E adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-312. Repealed**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

R9-25-313. Repealed**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

R9-25-314. Repealed**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

R9-25-315. Repealed**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

R9-25-316. Renumbered**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). R9-25-316 renumbered to R9-25-306 by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

R9-25-317. Renumbered**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). R9-25-317 renumbered to R9-25-307 by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

R9-25-318. Repealed**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

Exhibit A. Repealed**Historical Note**

New Exhibit made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final

rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Exhibit A repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

Exhibit B. Expired**Historical Note**

New Exhibit made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Exhibit B expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (12-3).

Exhibit C. Repealed**Historical Note**

New Exhibit made by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 3014, effective October 6, 2007 (Supp. 07-3). Exhibit C repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

ARTICLE 4. EMCT CERTIFICATION

Article 4 repealed; new Article 4 made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-401. EMCT General Requirements (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and (G) and 36-2204(1), (6), and (7))

- A. Except as provided in R9-25-404(E) and R9-25-405, an individual shall not act as an EMCT unless the individual has current certification or recertification from the Department.
- B. An EMCT shall act as an EMCT only:
 1. As authorized under the EMCT's scope of practice as specified in Article 5 of this Chapter; and
 2. For an EMCT required to have medical direction according to A.R.S. Title 36, Chapter 21.1 and R9-25-502, as authorized by the EMCT's administrative medical director under:
 - a. Treatment protocols, triage protocols, and communication protocols approved by the EMCT's administrative medical director as specified in R9-25-201(E)(2); and
 - b. Medical recordkeeping, medical reporting, and pre-hospital incident history report requirements approved by the EMCT's administrative medical director as specified in R9-25-201(E)(3)(b).
- C. Except as provided in A.R.S. § 36-2211, the Department shall certify or re-certify an individual as an EMCT for a period of two years.
- D. An individual whose EMCT certificate is expired shall not apply for recertification, except as provided in R9-25-404(A).
- E. The Department shall comply with the confidentiality requirements in A.R.S. §§ 36-2220(E) and 36-2245(M).

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 13 A.A.R. 1713, effective June 30, 2007 (Supp. 07-2). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-402. EMCT Certification and Recertification Requirements (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and (G) and 36-2204(1), (6), and (7))

- A. The Department shall not certify an EMCT if the applicant:
 1. Is currently:
 - a. Incarcerated for a criminal conviction,

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- b. On parole for a criminal conviction,
 - c. On supervised release for a criminal conviction, or
 - d. On probation for a criminal conviction;
 - 2. Within 10 years before the date of filing an application for certification required by this Article, has been convicted of any of the following crimes, or any similarly defined crimes in this state or in any other state or jurisdiction, unless the conviction has been absolutely discharged, expunged, or vacated:
 - a. 1st or 2nd degree murder;
 - b. Attempted 1st or 2nd degree murder;
 - c. Sexual assault;
 - d. Attempted sexual assault;
 - e. Sexual abuse of a minor;
 - f. Attempted sexual abuse of a minor;
 - g. Sexual exploitation of a minor;
 - h. Attempted sexual exploitation of a minor;
 - i. Commercial sexual exploitation of a minor;
 - j. Attempted commercial sexual exploitation of a minor;
 - k. Molestation of a child;
 - l. Attempted molestation of a child; or
 - m. A dangerous crime against children as defined in A.R.S. § 13-705;
 - 3. Within five years before the date of filing an application for certification required by this Article, has been convicted of a misdemeanor involving moral turpitude or a felony in this state or any other state or jurisdiction, other than a misdemeanor involving moral turpitude or a felony listed in subsection (A)(2), unless the conviction has been absolutely discharged, expunged, or vacated;
 - 4. Within five years before the date of filing an application for certification required by this Article, has had EMCT certification or recertification revoked in this state or certification, recertification, or licensure at an EMCT classification level revoked in any other state or jurisdiction; or
 - 5. Knowingly provides false information in connection with an application required by this Article.
- B.** The Department shall not re-certify an EMCT, if:
- 1. While certified, the applicant has been convicted of a crime listed in subsection (A)(2), or any similarly defined crimes in this state or in any other state or jurisdiction, unless the conviction has been absolutely discharged, expunged, or vacated; or
 - 2. The applicant knowingly provides false information in connection with an application required by this Article.
- C.** The Department shall make probation a condition of EMCT certification if, within two years before the date of filing an application under R9-25-403, an applicant has been convicted of a misdemeanor in this state or in any other state or jurisdiction, involving:
- 1. Possession, use, administration, acquisition, sale, manufacture, or transportation of an intoxicating liquor, dangerous drug, or narcotic drug, as defined in A.R.S. § 13-3401, unless the conviction has been absolutely discharged, expunged, or vacated; or
 - 2. Driving or being in physical control of a vehicle while under the influence of an intoxicating liquor, a dangerous drug, or a narcotic drug, as defined in A.R.S. § 13-3401, unless the conviction has been absolutely discharged, expunged, or vacated.
- D.** Except as provided in subsection (E), the Department shall make probation a condition of EMCT recertification if an applicant:
- 1. Is currently:
 - a. Incarcerated for a criminal conviction,
 - b. On parole for a criminal conviction,
 - c. On supervised release for a criminal conviction, or
 - d. On probation for a criminal conviction; or
 - 2. Within five years before the date of filing an application under R9-25-404, has been convicted of a misdemeanor involving moral turpitude or a felony in this state or any other state or jurisdiction, other than those listed in subsection (A)(2), unless the conviction has been absolutely discharged, expunged, or vacated.
- E.** As specified in R9-25-409, the Department may make probation a condition of EMCT recertification if an applicant, within two years before the date of filing an application under R9-25-404, has been convicted of a misdemeanor in this state or in any other state or jurisdiction, involving:
- 1. Possession, use, administration, acquisition, sale, manufacture, or transportation of an intoxicating liquor, dangerous drug, or narcotic drug, as defined in A.R.S. § 13-3401, unless the conviction has been absolutely discharged, expunged, or vacated; or
 - 2. Driving or being in physical control of a vehicle while under the influence of an intoxicating liquor, a dangerous drug, or a narcotic drug, as defined in A.R.S. § 13-3401, unless the conviction has been absolutely discharged, expunged, or vacated.
- F.** If the Department makes probation a condition of EMCT certification or recertification, the Department shall fix the period and terms of probation that will:
- 1. Protect the public health and safety, and
 - 2. Rehabilitate and educate the applicant.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-403. Application Requirements for EMCT Certification (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), and (G) and 36-2204(1) and (6))

- A.** An individual may apply for initial EMCT certification if:
- 1. The individual is at least 18 years of age;
 - 2. The individual complies with the requirements in A.R.S. § 41-1080;
 - 3. The individual is not ineligible under R9-25-402; and
 - 4. One of the following applies to the individual:
 - a. The individual has not previously applied for certification from the Department or has withdrawn an application for certification;
 - b. An application for certification submitted by the individual was denied by the Department two or more years before the present date;
 - c. Except as provided in R9-25-404(A)(2) or (3), the individual's certification as an EMCT is expired;
 - d. The individual's certification as an EMCT was revoked by the Department five or more years before the present date; or
 - e. The individual has current certification as an EMCT and is applying for certification at a different classification level of EMCT.
- B.** An applicant for initial EMCT certification shall submit to the Department an application in a Department-provided format, including:
- 1. A form containing:
 - a. The applicant's name, address, telephone number, email address, date of birth, gender, and Social Security number;
 - b. The level of EMCT certification being requested;
 - c. Responses to questions addressing the applicant's criminal history according to R9-25-402(A)(1) through (3) and (C);
 - d. Whether the applicant has within the five years before the date of the application had:
 - i. EMCT certification or recertification revoked in Arizona; or
 - ii. Certification, recertification, or licensure at an EMCT classification level revoked in another state or jurisdiction;

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- e. Attestation that all information required as part of the application has been submitted and is true and accurate; and
- f. The applicant's signature or electronic signature and date of signature;
- 2. For each affirmative response to a question addressing the applicant's criminal history required in subsection (B)(1)(c), a detailed explanation on a Department-provided form and supporting documentation;
- 3. For each affirmative response to subsection (B)(1)(d), a detailed explanation on a Department-provided form and supporting documentation;
- 4. If applicable, a copy of certification, recertification, or licensure at an EMCT classification level issued to the applicant in another state or jurisdiction;
- 5. A copy of one of the following for the applicant:
 - a. U.S. passport, current or expired;
 - b. Birth certificate;
 - c. Naturalization documents; or
 - d. Documentation of legal resident alien status; and
- 6. One of the following:
 - a. Either:
 - i. A certificate of completion showing that within two years before the date of the application, the applicant completed statewide standardized training; and
 - ii. A statewide standardized certification test; or
 - b. Documentation of current registration in a national certification organization at the applicable or higher level of EMCT classification.
- B. The Department shall approve or deny an application for initial EMCT certification according to Article 12 of this Chapter.
- C. If the Department denies an application for initial EMCT certification, the applicant may request a hearing according to A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-403 repealed; new Section R9-25-403 renumbered from Section R9-25-404 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-404. Application Requirements for EMCT Recertification (Authorized by A.R.S. §§ 36-2202(A)(2), (3), (4), and (6), (B), and (H) and 36-2204(1), (4), and (6))

- A. An individual may apply for recertification at the same level of EMCT certification held or at a lower level of EMCT certification:
 - 1. Within 90 days before the expiration date of the individual's current EMCT certification;
 - 2. Within the 30-day period after the expiration date of the individual's EMCT certification, as provided in subsection (E); or
 - 3. Within the extension time period granted under R9-25-405.
- B. To apply for recertification, an applicant shall submit to the Department an application, in a Department-provided format, including:
 - 1. A form containing:
 - a. The applicant's name, address, telephone number, email address, date of birth, and Social Security number;
 - b. The applicant's current certification number;
 - c. Responses to questions addressing the applicant's criminal history according to R9-25-402(B), (D), and (E);
 - d. Whether the applicant has within the five years before the date of the application had:
 - i. EMCT certification or recertification revoked in Arizona; or
 - ii. Certification, recertification, or licensure at an EMCT classification level revoked in another state or jurisdiction;
 - e. An indication of the level of EMCT certification held currently or within the past 30 days and of the level of EMCT certification for which recertification is requested;
 - f. Attestation that all information required as part of the application has been submitted and is true and accurate; and
 - g. The applicant's signature or electronic signature and date of signature;
- 2. For each affirmative response to a question addressing the applicant's criminal history required in subsection (B)(1)(c), a detailed explanation on a Department-provided form and supporting documentation;
- 3. For an affirmative response to subsection (B)(1)(d), a detailed explanation on a Department-provided form; and
- 4. For an application submitted within 30 days after the expiration date of EMCT certification, a nonrefundable certification extension fee of \$150.
- C. In addition to the application in subsection (B), an applicant for EMCT recertification shall submit one of the following to the Department:
 - 1. A certificate of course completion issued by the training program director under R9-25-304(F) showing that within two years before the date of the application, the applicant completed either the applicable refresher course or applicable refresher challenge examination;
 - 2. Documentation of current registration in a national certification organization at the applicable or higher level of EMCT classification; or
 - 3. Attestation on a Department-provided form that the applicant:
 - a. Has documentation of current certification in adult, pediatric, and infant cardiopulmonary resuscitation through instruction consistent with American Heart Association recommendations for emergency cardiovascular care by EMCTs;
 - b. For EMT-I(99) recertification or Paramedic recertification, has documentation of current certification in advanced emergency cardiac life support;
 - c. Has documentation of having completed within the previous two years the following number of hours of continuing education in topics that are consistent with the content of the applicable refresher course:
 - i. For EMT recertification, a minimum of 24 hours;
 - ii. For AEMT recertification, EMT-I(99) recertification, or Paramedic recertification, a minimum of 48 hours; and
 - iii. Included in the hours required in subsections (C)(3)(c)(i) or (ii), as applicable, a minimum of 5 hours in pediatric emergency care; and
 - d. For EMT recertification, has functioned in the capacity of an EMT for at least 240 hours during the previous two years.
- D. An applicant who submits an attestation under subsection (C)(3) shall maintain the applicable documentation for at least three years after the date of the application.
- E. If an individual submits an application for recertification, with a certification extension fee, within 30 days after the expiration date of the individual's EMCT certification, the individual:
 - 1. Was authorized to act as an EMCT during the period between the expiration date of the individual's EMCT certification and the date the application was submitted, and
 - 2. Is authorized to act as an EMCT until the Department makes a final determination on the individual's application for recertification.

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- F. If an individual does not submit an application for recertification before the expiration date of the individual's EMCT certification or, with a certification extension fee, within 30 days after the expiration date of the individual's EMCT certification, the individual:
 1. Is not an EMCT,
 2. Was not authorized to act as an EMCT during the 30-day period after the expiration date of the individual's EMCT certification, and
 3. May submit an application to the Department for initial EMCT certification according to R9-25-403.
- G. The Department shall approve or deny an application for recertification according to Article 12 of this Chapter.
- H. If the Department denies an application for recertification, the applicant may request a hearing according to A.R.S. Title 41, Chapter 6, Article 10.
- I. The Department may deny, based on failure to meet the standards for recertification in A.R.S. Title 36, Chapter 21.1 and this Article, an application submitted with a certification extension fee.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section R9-25-404 renumbered to R9-25-403; new Section R9-25-404 renumbered from Section R9-25-406 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-405. Extension to File an Application for EMCT Recertification (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and (G) and 36-2204(1), (4), (5), and (7))

- A. Before the expiration of a current certificate, an EMCT who is unable to meet the recertification requirements in R9-25-404 because of personal or family illness, military service, or authorized federal or state emergency response deployment may apply to the Department in writing for an extension of time to file for recertification by submitting:
 1. The following information in a Department-provided format:
 - a. The EMCT's name, address, telephone number, and email address;
 - b. The EMCT's current certification number;
 - c. The reason for requesting the extension; and
 - d. The EMCT's signature or electronic signature and date of signature; and
 2. For an exemption based on military service or authorized federal or state emergency response deployment, a copy of the EMCT's military orders or documentation of authorized federal or state emergency response deployment.
- B. The Department may grant an extension of time to file for recertification:
 1. For personal or family illness, for no more than 180 days; or
 2. For each military service or authorized federal or state emergency response deployment, for the term of service or deployment plus 180 days.
- C. An individual applying for or granted an extension of time to file for recertification:
 1. Remains certified according to A.R.S. § 41-1092.11 during the extension period, and
 2. Shall submit an application for recertification according to R9-25-404.
- D. An individual who does not meet the recertification requirements in R9-25-404 within the extension period or has the application for recertification denied by the Department:
 1. Is not an EMCT, and
 2. May submit an application to the Department for initial EMCT certification according to R9-25-403.

- E. The Department shall approve or deny a request for an extension to file for EMCT recertification according to Article 12 of this Chapter.
- F. If the Department denies a request for an extension to file for EMCT recertification, the applicant may request a hearing according to A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-405 repealed; new Section R9-25-405 renumbered from Section R9-25-407 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-406. Requirements for Downgrading of Certification (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), and (G) and 36-2204(1) and (6))

An individual who holds current EMCT certification at a classification level higher than EMT and who is not under investigation according to A.R.S. § 36-2211 may apply for:

1. Continued certification at a lower EMCT classification level for the remainder of the certification period by submitting to the Department:
 - a. A written request containing:
 - i. The EMCT's name, address, email address, telephone number, date of birth, and Social Security number;
 - ii. The lower EMCT classification level requested;
 - iii. Attestation that the applicant has not committed an act or engaged in conduct that would warrant revocation of a certificate under A.R.S. § 36-2211;
 - iv. Attestation that all information submitted is true and accurate; and
 - v. The applicant's signature or electronic signature and date of signature; and
 - b. Either:
 - i. A written statement from the EMCT's administrative medical director attesting that the EMCT is able to perform at the lower EMCT classification level requested; or
 - ii. If applying for continued certification as an EMT, an Arizona EMT refresher certificate of completion or an Arizona EMT refresher challenge examination certificate of completion signed by the training program director designated for the Arizona EMT refresher course; or
2. Recertification at a lower EMCT classification level according to R9-25-404.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 1713, effective June 30, 2007 (Supp. 07-2). Amended by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Section R9-25-406 renumbered to Section R9-25-404; new Section R9-25-406 renumbered from Section R9-25-408 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-407. Notification Requirements (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), and (A)(4), 36-2204(1) and (6), and 36-2211)

- A. No later than 30 days after the date an EMCT's name legally changes, the EMCT shall submit to the Department:

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1. A completed form provided by the Department containing:
 - a. The name under which the EMCT is currently certified by the Department;
 - b. The EMCT's address, telephone number, and Social Security number; and
 - c. The EMCT's new name; and
 2. Documentation showing that the name has been legally changed.
- B.** No later than 30 days after the date an EMCT's address changes, the EMCT shall submit to the Department a completed form provided by the Department containing:
1. The EMCT's name, telephone number, and Social Security number; and
 2. The EMCT's new address.
- C.** An EMCT shall notify the Department in writing no later than 10 days after the date the EMCT:
1. Is incarcerated or is placed on parole, supervised release, or probation for any criminal conviction;
 2. Is convicted of:
 - a. A crime specified in R9-25-402(A)(2),
 - b. A misdemeanor involving moral turpitude,
 - c. A felony in this state or any other state or jurisdiction, or
 - d. A misdemeanor specified in R9-25-402(E);
 3. Has registration revoked or suspended by a national certification organization; or
 4. Has certification, recertification, or licensure at an EMCT classification level revoked or suspended in another state or jurisdiction.
- recertification contained in this Article, including the requirements established for:
- a. Completing and passing a course provided by a training program; and
 - b. The national certification organization examination process and national certification organization registration process;
10. Providing false information or making fraudulent or untrue statements to the Department or about the Department during an investigation conducted by the Department;
 11. Being incarcerated or being placed on parole, supervised release, or probation for any criminal conviction;
 12. Being convicted of a misdemeanor identified in R9-25-402(E), which has not been absolutely discharged, expunged, or vacated;
 13. Having national certification organization registration revoked or suspended by the national certification organization for material noncompliance with national certification organization rules or standards; and
 14. Having certification, recertification, or licensure at an EMCT classification level revoked or suspended in another state or jurisdiction.
- B.** Under A.R.S. § 36-2211, physical or mental incompetence of an EMCT is the EMCT's lack of physical or mental ability to provide emergency medical services as required under this Chapter.
- C.** Under A.R.S. § 36-2211 gross incompetence or gross negligence is an EMCT's willful act or willful omission of an act that is made in disregard of an individual's life, health, or safety and that may cause death or injury.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-407 renumbered to Section R9-25-405; new Section R9-25-407 renumbered from Section R9-25-409 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-408. Unprofessional Conduct; Physical or Mental Incompetence; Gross Incompetence; Gross Negligence (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and (G), 36-2204(1), (6), and (7), and 36-2211)

- A.** For purposes of A.R.S. § 36-2211(A)(1), unprofessional conduct is an act or omission made by an EMCT that is contrary to the recognized standards or ethics of the Emergency Medical Technician profession or that may constitute a danger to the health, welfare, or safety of a patient or the public, including:
1. Impersonating an EMCT of a higher level of certification or impersonating a health professional as defined in A.R.S. § 32-3201;
 2. Permitting or allowing another individual to use the EMCT's certification for any purpose;
 3. Aiding or abetting an individual who is not certified according to this Chapter in acting as an EMCT or in representing that the individual is certified as an EMCT;
 4. Engaging in or soliciting sexual relationships, whether consensual or non-consensual, with a patient while acting as an EMCT;
 5. Physically or verbally harassing, abusing, threatening, or intimidating a patient or another individual while acting as an EMCT;
 6. Making false or materially incorrect entries in a medical record or willful destruction of a medical record;
 7. Failing or refusing to maintain adequate records on a patient;
 8. Soliciting or obtaining monies or goods from a patient by fraud, deceit, or misrepresentation;
 9. Aiding or abetting an individual in fraud, deceit, or misrepresentation in meeting or attempting to meet the application requirements for EMCT certification or EMCT

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section R9-25-408 renumbered to Section R9-25-406; new Section R9-25-408 renumbered from Section R9-25-410 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-409. Enforcement Actions (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and (G), 36-2204(1), (6), and (7), and 36-2211)

- A.** If the Department determines that an applicant or EMCT is not in substantial compliance with applicable laws and rules, under A.R.S. §§ 36-2204 or 36-2211, the Department may:
1. Take the following action against an applicant or EMCT:
 - a. After notice is provided according to A.R.S. § 36-2211 and, if applicable, A.R.S. Title 41, Chapter 6, Article 10, issue:
 - i. A decree of censure to the EMCT, or
 - ii. An order of probation to the EMCT; or
 - b. After notice and opportunity to be heard is provided according to A.R.S. Title 41, Chapter 6, Article 10:
 - i. Deny an application,
 - ii. Suspend the EMCT's certificate, or
 - iii. Revoke the EMCT's certificate; and
 2. Assess civil penalties against the EMCT.
- B.** In determining which action in subsection (A) is appropriate, the Department shall consider:
1. Prior disciplinary actions;
 2. The time interval since a prior disciplinary action, if applicable;
 3. The applicant's or EMCT's motive;
 4. The applicant's or EMCT's pattern of conduct;
 5. The number of offenses;
 6. Whether the applicant or EMCT failed to comply with instructions from the Department;
 7. Whether interim rehabilitation efforts were made by the applicant or EMCT;

8. Whether the applicant or EMCT refused to acknowledge the wrongful nature of the misconduct;
9. Whether the applicant or EMCT made timely and good-faith efforts to rectify the consequences of the misconduct;
10. The submission of false evidence, false statements, or other deceptive practices during an investigation or disciplinary process;
11. The vulnerability of a patient or other victim of the applicant's or EMCT's conduct, if applicable; and
12. How much control the applicant or EMCT had over the processes or situation leading to the misconduct.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-409 renumbered to Section R9-25-407; new Section R9-25-409 renumbered from Section R9-25-411 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-410. Renumbered**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-410 renumbered to Section R9-25-408 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-411. Renumbered**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-411 renumbered to Section R9-25-409 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit I. Repealed**Historical Note**

Exhibit I adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit J. Repealed**Historical Note**

Exhibit J adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit K. Repealed**Historical Note**

Exhibit K adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-412. Expired**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (12-3).

ARTICLE 5. MEDICAL DIRECTION PROTOCOLS FOR EMERGENCY MEDICAL CARE TECHNICIANS

Article 5, consisting of R9-25-501 through R9-25-508, recodified from Article 8 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

Article 5 repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-501. Definitions

In addition to the definitions in A.R.S. § 36-2201 and R9-25-101, the following definitions apply in this Article, unless otherwise specified:

1. "ALS skill" means a medical treatment, procedure, or technique or administration of a medication that is indicated by a check mark in Table 5.1 under AEMT, EMT-I(99), or Paramedic, but not under EMT.
2. "Immunizing agent" means an immunobiologic recommended by the Advisory Committee on Immunization Practices of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-501 recodified from R9-25-801 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Amended by exempt rulemaking 14 A.A.R. 3491, effective August 14, 2008 (Supp. 08-3). Section R9-25-501 repealed; new Section R9-25-501 made by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-502. Scope of Practice for EMCTs

- A. An EMCT shall perform a medical treatment, procedure, or technique or administer a medication only:
 1. If the skill is within the EMCT's scope of practice skills, as specified in Table 5.1;
 2. For an ALS skill:
 - a. If authorized for the EMCT by the EMCT's administrative medical director; and
 - b. If the EMCT is able to receive on-line medical direction;
 3. For a STR skill:
 - a. If the EMCT has documentation of having completed training specific to the skill that is consistent with the knowledge, skills, and competencies established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov;
 - b. If authorized for the EMCT by the EMCT's administrative medical director; and
 - c. If the EMCT is able to receive on-line medical direction;
 4. If the medication is listed as an agent in Table 5.2, Table 5.3, or Table 5.4 under the classification for which the EMCT is certified;
 5. If the EMCT is authorized to administer the medication by the:
 - a. EMCT's administrative medical director, if applicable; or
 - b. If the EMCT is an EMT with no administrative medical director, emergency medical services provider or ambulance service by which the EMCT is employed or for which the EMCT volunteers; and
 6. In a manner consistent with standards described in R9-25-408 and, if applicable, with the training in 9 A.A.C. 25, Article 3.
- B. An administrative medical director:
 1. Shall:
 - a. Ensure that an EMCT has completed training in administration or monitoring of an agent before

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- authorizing the EMCT to administer or monitor the agent;
- b. Ensure that an EMCT has competency in an ALS skill before authorizing the EMCT to perform the ALS skill;
 - c. Before authorizing an EMCT to perform a STR skill, ensure that the EMCT has:
 - i. Completed training specific to the skill, consistent with the knowledge, skills, and competencies established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov; and
 - ii. Demonstrated competency in the skill;
 - d. Periodically thereafter assess an EMCT's competency in an authorized ALS skill and STR skill, according to policies and procedures required in R9-25-201(C)(3)(b)(viii), to ensure continued competency; e.Document the EMCT's:
 - i. Completion of training in administration or monitoring of an agent required in subsection (B)(1)(a),
 - ii. Competency in performing an ALS skill required in subsection (B)(1)(b),
 - iii. Specific training required in subsection (B)(1)(c)(i) and competency required in subsection (B)(1)(c)(ii), and
 - iv. Periodic reassessment required in subsection (B)(1)(d); and
 - f. Maintain documentation of an EMCT's completion of training in administration or monitoring of an agent and competency in performing an authorized ALS skill or STR skill; and
2. May authorize an EMCT to perform all of the ALS skills in Table 5.1 for the applicable level of EMCT or restrict

the EMCT to a subset of the ALS skills in Table 5.1 for the applicable level of EMCT.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-502 recodified from R9-25-802 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Amended by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Table 1. Repealed**Historical Note**

Table 1 adopted by exempt rulemaking at 13 A.A.R. 27, effective January 6, 2007 (Supp. 06-4). Amended by exempt rulemaking at 13 A.A.R. 578, effective January 31, 2007 (Supp. 07-1). Historical note added to Table 1; amended by exempt rulemaking 14 A.A.R. 3491, effective August 14, 2008 (Supp. 08-3). Amended by exempt rulemaking at 15 A.A.R. 234, effective January 2, 2009 (Supp. 09-1). Amended by exempt rulemaking at 14 A.A.R. 3491, effective August 14, 2008 (Supp. 08-3). Amended by exempt rulemaking at 15 A.A.R. 234, effective January 2, 2009 (Supp. 09-1). Amended by exempt rulemaking at 16 A.A.R. 2116, effective October 15, 2010 (Supp. 10-4). Amended by exempt rulemaking at 18 A.A.R. 102, effective January 1, 2012 (Supp. 11-4). Table 1 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Table 5.1. Arizona Scope of Practice Skills**KEY:**

✓ = Arizona Scope of Practice skill

STR = STR skill

* = Already intubated

Airway/Ventilation/Oxygenation	EMT	AEMT	EMT-I(99)	Paramedic
Airway - esophageal	STR	✓	✓	✓
Airway - supraglottic	STR	✓	✓	✓
Airway - nasal	✓	✓	✓	✓
Airway - oral	✓	✓	✓	✓
Automated transport ventilator	STR	STR	✓	✓
Bag-valve-mask (BVM)	✓	✓	✓	✓
BiPAP/CPAP				✓
Chest decompression - needle			✓	✓
Chest tube placement - assist only				STR
Chest tube monitoring and management				STR
Cricoid pressure (Sellick's maneuver)	✓	✓	✓	✓
Cricothyrotomy- needle			STR	✓
Cricothyrotomy- percutaneous			STR	✓
Cricothyrotomy- surgical			STR	STR
Demand valve- manually triggered ventilation	✓	✓	✓	✓
End tidal CO2 monitoring/capnography			✓	✓
Gastric decompression - NG tube			✓	✓
Gastric decompression - OG tube			✓	✓
Head-tilt chin lift	✓	✓	✓	✓
Intubation - nasotracheal			STR	✓
Intubation - orotracheal	STR	STR	✓	✓
Jaw-thrust	✓	✓	✓	✓
Jaw-thrust – modified (trauma)	✓	✓	✓	✓
Medication Assisted Intubation (paralytics)				STR
Mouth-to-barrier	✓	✓	✓	✓
Mouth-to-mask	✓	✓	✓	✓

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	Mouth-to-mouth	✓	✓	✓	✓
	Mouth-to-nose	✓	✓	✓	✓
	Mouth-to-stoma	✓	✓	✓	✓
	Obstruction - direct laryngoscopy			✓	✓
	Obstruction - manual	✓	✓	✓	✓
	Oxygen therapy - humidifiers	✓	✓	✓	✓
	Oxygen therapy - nasal cannula	✓	✓	✓	✓
	Oxygen therapy - non-rebreather mask	✓	✓	✓	✓
	Oxygen therapy - partial rebreather mask	✓	✓	✓	✓
	Oxygen therapy - simple face mask	✓	✓	✓	✓
	Oxygen therapy - venturi mask	✓	✓	✓	✓
	PEEP - therapeutic			✓	✓
	Pulse oximetry	✓	✓	✓	✓
	Suctioning - upper airway	✓	✓	✓	✓
	Suctioning - tracheobronchial		✓*	✓	✓
Cardiovascular/Circulation		EMT	AEMT	EMT-I (99)	Paramedic
	Cardiac monitoring - multiple lead (interpretive)			✓	✓
	Cardiac monitoring - single lead (interpretive)			✓	✓
	Cardiac - multiple lead acquisition (non-interpretive)	STR	STR	✓	✓
	Cardiopulmonary resuscitation	✓	✓	✓	✓
	Cardioversion - electrical			✓	✓
	Carotid massage – (≤17 years)			STR	STR
	Defibrillation - automatic/semi-automatic	✓	✓	✓	✓
	Defibrillation - manual			✓	✓
	Hemorrhage control - direct pressure	✓	✓	✓	✓
	Hemorrhage control - tourniquet	✓	✓	✓	✓
	Internal; cardiac pacing - monitoring only			✓	✓
	Mechanical CPR device	STR	STR	STR	STR
	Transcutaneous pacing - manual			✓	✓
Immobilization		EMT	AEMT	EMT-I (99)	Paramedic
	Spinal immobilization - cervical collar	✓	✓	✓	✓
	Spinal immobilization - long board	✓	✓	✓	✓
	Spinal immobilization - manual	✓	✓	✓	✓
	Spinal immobilization - seated patient (KED, etc.)	✓	✓	✓	✓
	Spinal immobilization - rapid manual extrication	✓	✓	✓	✓
	Extremity stabilization - manual	✓	✓	✓	✓
	Extremity splinting	✓	✓	✓	✓
	Splint- traction	✓	✓	✓	✓
	Mechanical patient restraint	✓	✓	✓	✓
	Emergency moves for endangered patients	✓	✓	✓	✓
Medication administration - routes		EMT	AEMT	EMT-I (99)	Paramedic
	Aerosolized/nebulized (beta agonist)	STR	✓	✓	✓
	Assisting patient with his/her own prescribed medications (aerosolized/nebulized)	✓	✓	✓	✓
	Assisting patient with his/her own prescribed medications (Aspirin or Nitroglycerin)	✓	✓	✓	✓
	Assisting patient with his/her own prescribed medications (auto-injector)	✓	✓	✓	✓
	Assisting patient with his/her own prescribed medications (hydrocortisone sodium succinate)		✓	✓	✓
	Auto-injector	STR	✓	✓	✓
	Buccal	STR	✓	✓	✓
	Endotracheal tube			✓	✓
	Inhaled self-administered (nitrous oxide)		✓	✓	✓
	Intradermal			STR	STR
	Intramuscular (including patient-assisted hydrocortisone)		✓	✓	✓
	Intranasal	STR	✓	✓	✓
	Intravenous push		✓	✓	✓
	Intravenous piggyback			✓	✓
	Intraosseous		STR	✓	✓
	Nasogastric				✓
	Oral	✓	✓	✓	✓

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	Rectal		STR	✓	✓
	Small volume nebulizer	STR	✓	✓	✓
	Subcutaneous		✓	✓	✓
	Sublingual		✓	✓	✓
IV initiation/maintenance fluids		EMT	AEMT	EMT-I (99)	Paramedic
	Access indwelling catheters and implanted central IV ports				✓
	Central line - monitoring				✓
	Intraosseous - initiation		✓	✓	✓
	Intravenous access		✓	✓	✓
	Intravenous initiation - peripheral	STR	✓	✓	✓
	Intravenous- maintenance of non-medicated IV fluids or capped access	✓	✓	✓	✓
	Intravenous- maintenance of medicated IV fluids			✓	✓
	Umbilical initiation				STR
Miscellaneous		EMT	AEMT	EMT-I (99)	Paramedic
	Assisted delivery (childbirth)	✓	✓	✓	✓
	Assisted complicated delivery (childbirth)	✓	✓	✓	✓
	Blood glucose monitoring	✓	✓	✓	✓
	Blood pressure- automated	✓	✓	✓	✓
	Blood pressure- manual	✓	✓	✓	✓
	Eye irrigation	✓	✓	✓	✓
	Eye irrigation (Morgan lens)				STR
	Thrombolytic therapy- initiation				STR
	Urinary catheterization				STR
	Venous blood sampling			✓	✓
	Blood chemistry analysis				STR
	Use/monitoring of agents specified in Table 5.4 during interfacility transports			STR	STR
	Use/monitoring of infusion pump for agent administration during inter-facility transports			STR	STR

Historical Note

Table 5.1 made by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final exempt rulemaking, pursuant to Laws 2014, Ch. 233, § 5 at 20 A.A.R. 3554, effective January 1, 2015 (Supp. 14-4). Amended by final exempt rulemaking, pursuant to Laws 2015, Ch. 222, § 3, at 21 A.A.R. 3241, effective November 24, 2015 (Supp. 15-4). Amended by final exempt rulemaking at 23 A.A.R. 1161, effective April 19, 2017 (Supp. 17-2).

Table 5.2. Eligibility for Authorization to Administer, Monitor, and Assist in Patient Self-administration of Agents by EMCT Classification; Administration Requirements; and Minimum Supply Requirements for Agents

KEY:

A = Authorized to administer the agent

SVN = Agent shall be administered by small volume nebulizer

MDI = Agent shall be administered by metered dose inhaler

* = Authorized to assist in patient self-administration

[] = Minimum supply required if an EMS provider chooses to make the optional agent available for EMCT administration

AGENT	MINIMUM SUPPLY	EMT	AEMT	EMT-I (99)	Paramedic
Adenosine	18 mg	-	-	A	A
Albuterol Sulfate SVN or MDI (sulfite free)	10 mg	A	A	A	A
Amiodarone or Lidocaine	300 mg or 3 prefilled syringes, total of 300 mg and 1 g vials or premixed infusion, total of 2 g	- -	- -	- A	A A
Aspirin	324 mg	A	A	A	A
Atropine Sulfate	1 prefilled syringe, total of 1 mg	-	-	A	A
Atropine Sulfate	Optional [8 mg multidose vial (1)]	-	-	A	A
Atropine Sulfate Auto-Injector	None	A	A	A	A
Atropine Sulfate and Pralidoxime Chloride (Combined) Auto-Injector	None	A	A	A	A
Calcium Chloride	1 g	-	-	-	A
Calcium Gluconate, 2.5% topical gel	Optional [50 g]	A	A	A	A
Charcoal, Activated (without sorbitol)	Optional [50 g]	A	A	A	A
Cyanokit	Optional [5 g]	-	-	-	A

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Dexamethasone	Optional [8 mg]	-	-	A	A
Dextrose	50 g	-	A	A	A
Dextrose, 5% in H ₂ O	Optional [250 mL bag (1)]	A	A	A	A
Diazepam	20 mg	-	-	A	A
or Lorazepam	8 mg	-	-	A	A
or Midazolam	10 mg	-	-	A	A
Diazepam Rectal Delivery Gel	Optional [20 mg]	-	-	A	A
Diltiazem	25 mg	-	-	-	A
or Verapamil HCl	10 mg	-	-	-	A
Diphenhydramine HCl	50 mg	-	-	A	A
Dopamine HCl	400 mg	-	-	-	A
Epinephrine Auto-Injector	Optional [1 adult auto-injector and 1 pediatric auto-injector]	A	A	A	A
Epinephrine HCl, 1 mg/mL (formerly 1:1,000)	2 mg	-	A	A	A
Epinephrine HCl, 1 mg/mL (formerly 1:1,000)	Optional [30 mg multidose vial (1)]	-	A	A	A
Epinephrine HCl, 0.1 mg/mL (formerly 1:10,000)	5 mg	-	-	A	A
Etomidate	Optional [40 mg]	-	-	-	A
Furosemide	Optional [100 mg]	-	-	A	A
or Bumetanide	Optional [4 mg]	-	-	A	A
Glucagon	1 mg	-	A	A	A
Glucose, oral	Optional [30 gm]	A	A	A	A
Hemostatic Agents	Optional	A	A	A	A
Hydrocortisone Sodium Succinate	Optional	-	*	*	*
Immunizing Agent	Optional	-	-	A	A
Ipratropium Bromide 0.02% SVN or MDI	5 mL	-	-	A	A
Ketamine	Optional [200 mg]	-	-	-	A
Lactated Ringers	1 L bag (2)	A	A	A	A
Lidocaine 2%, Preservative-free (IO Insertion)	Optional [100 mg]	-	A	A	A
Magnesium Sulfate	5 g	-	-	-	A
Methylprednisolone Sodium Succinate	250 mg	-	-	A	A
Morphine Sulfate	20 mg	-	A	A	A
or Fentanyl	200 mcg	-	-	A	A
Nalmefene HCl	Optional [4 mg]	-	A	A	A
Naloxone HCl	10 mg	-	A	A	A
Naloxone HCl	Optional [Prefilled atomizers or auto- injectors; 2 doses]	A	A	A	A
Nitroglycerin Sublingual Spray	1 bottle	*	A	A	A
or Nitroglycerin Tablets	1 bottle	*	A	A	A
Normal Saline	1 L bag (2) Optional [250 mL bag (1)] Optional [50 mL bag (2)]	A	A	A	A
Ondansetron HCl	Optional [4 mg]	-	-	A	A
Oxygen	13 cubic feet	A	A	A	A
Oxytocin	Optional [10 units]	-	-	A	A
Phenylephrine Nasal Spray 0.5%	Optional [1 bottle]	-	-	A	A
Pralidoxime Chloride Auto-Injector	None	A	A	A	A
Proparacaine Ophthalmic	Optional [1 bottle]	-	-	A	A
Rocuronium	Optional [100 mg]	-	-	-	A
Sodium Bicarbonate 8.4%	Optional [100 mEq]	-	-	A	A
Succinylcholine	Optional [400 mg]	-	-	-	A
Thiamine HCl	Optional [100 mg]	-	-	A	A
Tuberculin PPD	Optional [5 mL]	-	-	A	A
Vasopressin	Optional [40 units]	-	-	-	A

Historical Note

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Table 5.2 made by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final exempt rulemaking, pursuant to Laws 2014, Ch. 233, § 5 at 20 A.A.R. 3554, effective January 1, 2015 (Supp. 14-4). Amended by final exempt rulemaking, pursuant to Laws 2015, Ch. 222, § 3, at 21 A.A.R. 3241, effective November 24, 2015 (Supp. 15-4). Amended by final exempt rulemaking at 23 A.A.R. 1161, effective April 19, 2017 (Supp. 17-2).

Table 5.3. Agents Eligible for Authorization for Administration During a Hazardous Material Incident**KEY:**

[] = Minimum supply required if an EMS provider chooses to make the optional agent available for Paramedic administration

Drug Preparation	Minimum Supply
Activated Charcoal	Optional [as determined by administrative medical director]
Albuterol	Optional [as determined by administrative medical director]
Amyl Nitrite Inhalants	Optional [as determined by administrative medical director]
Atropine	Optional [as determined by administrative medical director]
Atrovent	Optional [as determined by administrative medical director]
Calcium Carbonate	Optional [as determined by administrative medical director]
Calcium Gluconate	Optional [as determined by administrative medical director]
CyanoKit (Hydroxocobalamin)	Optional [as determined by administrative medical director]
Dextrose 50%	Optional [as determined by administrative medical director]
Diazepam	Optional [as determined by administrative medical director]
DuoDote Auto Injector	Optional [as determined by administrative medical director]
Glucagon	Optional [as determined by administrative medical director]
Methylene Blue	Optional [as determined by administrative medical director]
Neosynephrine	Optional [as determined by administrative medical director]
Propanolol	Optional [as determined by administrative medical director]
Protopam Chloride (pralidoxime)	Optional [as determined by administrative medical director]
Pyridoxine	Optional [as determined by administrative medical director]
Sodium Chloride .95	Optional [as determined by administrative medical director]
Sterile Water	Optional [as determined by administrative medical director]
Tetracaine	Optional [as determined by administrative medical director]

Historical Note

Table 5.3 made by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Table 5.4. Eligibility for Authorization to Administer and Monitor Transport Agents During Interfacility Transports, by EMCT Classification; Administration Requirements**KEY:**

TA = Transport agent for an EMCT with the specified certification
 IP = Agent shall be administered by infusion pump
 SVN = Agent shall be administered by small volume nebulizer

AGENT	MINIMUM SUPPLY	EMT	AEMT	EMT-I (99)	Paramedic
Amiodarone IP	None	-	-	-	TA
Antibiotics	None	-	-	TA	TA
Blood	None	-	-	-	TA
Calcium Chloride	None	-	-	-	TA
Colloids	None	-	-	TA	TA
Corticosteroids IP	None	-	-	TA	TA
Diltiazem IP	None	-	-	-	TA
Diuretics	None	-	-	TA	TA
Dopamine HCl IP	None	-	-	-	TA
Electrolytes/Crystalloids (Commercial Preparations)	None	TA	TA	TA	TA
Epinephrine IP	None	-	-	TA	TA
Fentanyl IP	None	-	-	TA	TA

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Fosphenytoin Na IP or Phenytoin Na IP	None	-	-	-	TA
Glucagon	None	-	-	TA	TA
Glycoprotein IIb/IIIa Inhibitors	None	-	-	-	TA
H2 Blockers	None	-	-	TA	TA
Heparin Na IP	None	-	-	-	TA
Insulin IP	None	-	-	-	TA
Levophed IP	None	-	-	-	TA
Lidocaine IP	None	-	-	TA	TA
Magnesium Sulfate IP	None	-	-	-	TA
Midazolam IP	None	-	-	TA	TA
Morphine IP	None	-	-	TA	TA
Nitroglycerin IV Solution IP	None	-	-	-	TA
Phenobarbital Na IP	None	-	-	-	TA
Potassium Salts IP	None	-	-	-	TA
Procainamide HCl IP	None	-	-	-	TA
Propofol IP	None	-	-	-	TA
Racemic Epinephrine SVN	None	-	-	-	TA
Total Parenteral Nutrition, with or without lipids IP	None	-	-	-	TA
Vitamins	None	-	-	TA	TA

Historical Note

Table 5.4 made by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-503. Testing of Medical Treatments, Procedures, Medications, and Techniques that May Be Administered or Performed by an EMCT

- A. Under A.R.S. § 36-2205, the Department may authorize the testing and evaluation of a medical treatment, procedure, technique, practice, medication, or piece of equipment for possible use by an EMCT or an emergency medical services provider.
- B. Before authorizing any test and evaluation according to subsection (A), the Department director shall approve the test and evaluation according to subsections (C), (D), (E).
- C. The Department director shall consider approval of a test and evaluation conducted according to subsection (A), only if a written request for testing and evaluation:
 1. Is submitted to the Department director from:
 - a. The Department,
 - b. A state agency other than the Department,
 - c. A political subdivision of this state,
 - d. An EMCT,
 - e. An emergency medical services provider,
 - f. An ambulance service, or
 - g. A member of the public; and
 2. Includes:
 - a. A cover letter, signed and dated by the individual making the request;
 - b. An identification of the person conducting the test and evaluation;
 - c. An identification of the medical treatment, procedure, technique, practice, medication, or piece of equipment to be tested and evaluated;
 - d. An explanation of the reasons for and the benefits of the test and evaluation;
 - e. The scope of the test and evaluation, including the:
 - i. Projected number of individuals, EMCTs, emergency medical services providers, or ambulance services involved; and
 - ii. Proposed length of time required to complete the test and evaluation; and
 - f. The methodology to be used to evaluate the test's and evaluation's findings.
- D. The Department director shall approve a test and evaluation if:
 1. The test and evaluation does not pose a threat to the public health, safety, or welfare;

2. The test is necessary to evaluate the safest and most current advances in medical treatments, procedures, techniques, practices, medications, or equipment; and
3. The medical treatment, procedure, technique, practice, medication, or piece of equipment being tested and evaluated may:
 - a. Reduce or eliminate the use of outdated or obsolete medical treatments, procedures, techniques, practices, medications, or equipment;
 - b. Improve patient care; or
 - c. Benefit the public's health, safety, or welfare.
- E. Within 180 days after receiving a written request for testing and evaluation that contains all of the information in subsection (C), the Department director shall send written notification of approval or denial of the test and evaluation to the individual making the request.
- F. Upon completion of a test and evaluation authorized by the Department director, the person conducting the test and evaluation shall submit a written report to the Department director that includes:
 1. An identification of the test and evaluation;
 2. A detailed evaluation of the test; and
 3. A recommendation regarding future use of the medical treatment, procedure, technique, practice, medication, or piece of equipment tested and evaluated.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-503 recodified from R9-25-803 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Amended by exempt rulemaking at 13 A.A.R. 27, effective January 6, 2007 (Supp. 06-4). Amended by exempt rulemaking at 13 A.A.R. 578, effective January 31, 2007 (Supp. 07-1). Amended by exempt rulemaking at 14 A.A.R. 3491, effective August 14, 2008 (Supp. 08-3). Section R9-25-503 renumbered to R9-25-505; new Section R9-25-503 renumbered from R9-25-506 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit 1. Repealed

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Historical Note

New Exhibit 1 recodified from Article 8, Exhibit 1 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Amended by exempt rulemaking at 11 A.A.R. 1438, effective March 25, 2005 (Supp. 05-1). Amended by exempt rulemaking at 11 A.A.R. 2379, effective June 8, 2005 (Supp. 05-2). Amended by exempt rulemaking at 11 A.A.R. 3177, effective September 1, 2005 (Supp. 05-3). Exhibit 1 repealed by exempt rulemaking at 13 A.A.R. 27, effective January 6, 2007 (Supp. 06-4).

Exhibit 2. Repealed**Historical Note**

New Exhibit 2 recodified from Article 8, Exhibit 2 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Amended by exempt rulemaking at 11 A.A.R. 1438, effective March 25, 2005 (Supp. 05-1). Exhibit 2 repealed by exempt rulemaking at 13 A.A.R. 27, effective January 6, 2007 (Supp. 06-4).

Exhibit 3. Repealed**Historical Note**

Exhibit made by exempt rulemaking at 11 A.A.R. 1438, effective March 25, 2005 (Supp. 05-1). Exhibit 3 repealed by exempt rulemaking at 13 A.A.R. 27, effective January 6, 2007 (Supp. 06-4).

R9-25-504. Protocol for Selection of a Health Care Institution for Transport

- A. Except as provided in subsection (B), an EMCT shall transport a patient accessing emergency medical services through a call to 9-1-1 or a similar public emergency dispatch number to:
 1. An emergency receiving facility, or
 2. A special hospital that is physically connected to an emergency receiving facility.
- B. Under A.R.S. §§ 36-2205(D) and 36-2232(F), an EMCT who responds to a call made to 9-1-1 or a similar public emergency dispatch number may refer, advise, or transport the patient at the scene to a health care institution other than a health care institution specified in subsection (A), if the EMCT determines that:
 1. The patient's condition does not pose an immediate threat to life or limb, based on medical direction; and
 2. The health care institution is the most appropriate for the patient, based on the following:
 - a. The patient's:
 - i. Medical condition,
 - ii. Choice of health care institution, and
 - iii. Health care provider;
 - b. The location of the health care institution and the emergency medical resources available at the health care institution; and
 - c. A determination by the administrative medical director that the health care institution is able to accept and capable of treating the patient.
- C. Before initiating transport of a patient accessing emergency medical services through a call to 9-1-1 or a similar public emergency dispatch number, an EMCT, emergency medical services provider, or ambulance service shall:
 1. Notify, by radio or telephone communication, a health care institution that is not an emergency receiving facility of the EMCT's intent to transport the patient to the health care institution; and
 2. Receive confirmation of the willingness of the health care institution to accept the patient.

- D. An EMCT transporting a patient accessing emergency medical services through a call to 9-1-1 or a similar public emergency dispatch number to a health care institution that is not an emergency receiving facility shall transfer care of the patient to a designee authorized by:
 1. A physician,
 2. A registered nurse practitioner,
 3. A physician assistant, or
 4. A registered nurse.
- E. An emergency medical services provider or an ambulance service that implements this rule shall make available for Department review and inspection written records relating to the transport of a patient under subsections (B), (C), and (D).

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-504 recodified from R9-25-804 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Amended by exempt rulemaking at 14 A.A.R. 3124, effective July 9, 2008 (Supp. 08-3). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final exempt rulemaking, pursuant to Laws 2014, Ch. 233, § 5 at 20 A.A.R. 3554, effective January 1, 2015 (Supp. 14-4).

R9-25-505. Protocol for an EMT-I(99) or a Paramedic to Become Eligible to Administer an Immunizing Agent

- A. An EMT-I(99) or a Paramedic may be authorized by the EMT-I(99)'s or Paramedic's administrative medical director to administer an immunizing agent if the EMT-I(99) or Paramedic completes training that:
 1. Includes:
 - a. Basic immunology and the human immune response;
 - b. Mechanics of immunity, adverse effects, dose, and administration schedule of available immunizing agents;
 - c. Response to an emergency situation, such as an allergic reaction, resulting from the administration of an immunization;
 - d. Routes of administration for available immunizing agents;
 - e. A description of the individuals to whom an EMCT may administer an immunizing agent; and
 - f. The requirements in 9 A.A.C. 6, Article 7 related to:
 - i. Obtaining written consent for administration of an immunizing agent,
 - ii. Providing immunization information and written immunization records, and
 - iii. Recordkeeping and reporting;
 2. Requires the EMT-I(99) or Paramedic to demonstrate competency in the subject matter listed in subsection (A)(1); and
 3. Is approved by the EMT-I(99)'s or Paramedic's administrative medical director based upon a determination that the training meets the requirements in subsections (A)(1) and (A)(2).
- B. An administrative medical director of an EMT-I(99) or a Paramedic who completes the training required in subsection (A) shall maintain for Department review and inspection written evidence that the EMT-I(99) or Paramedic has completed the training required in subsection (A), including at least:
 1. The name of the training,
 2. The date the training was completed, and
 3. A signed and dated attestation from the administrative medical director that the training is approved.
- C. Before administering an immunizing agent to an individual, an EMT-I(99) or a Paramedic shall:

1. Receive written consent consistent with the requirements in 9 A.A.C. 6, Article 7;
2. Provide immunization information and written immunization records consistent with the requirements in 9 A.A.C. 6, Article 7; and
3. Provide documentary proof of immunity to the individual consistent with the requirements in 9 A.A.C. 6, Article 7.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-505 recodified from R9-25-805 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Section R9-25-505 repealed; new Section R9-25-505 renumbered from R9-25-503 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit 1. Repealed**Historical Note**

New Exhibit 1 recodified from Article 8, Exhibit 1 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Exhibit 1 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit 2. Repealed**Historical Note**

New Exhibit 2 recodified from Article 8, Exhibit 2 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Exhibit 2 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-506. Renumbered**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-506 recodified from R9-25-806 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Section R9-25-506 renumbered to R9-25-503 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-507. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-507 recodified from R9-25-807 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Section R9-25-507 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-508. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Subsection (A)(2) corrected to reflect adopted rules on file with the Office of the Secretary of State, effective October 15, 1996 (Supp. 97-1). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-508 recodified from R9-25-808 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Section R9-25-508 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-509. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New Section made by exempt rulemaking at 11 A.A.R. 2379, effective June 8, 2005 (Supp. 05-2). Section repealed by exempt rulemaking at 13 A.A.R. 3038, effective October 6, 2007 (Supp. 07-3).

R9-25-510. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New Section made by exempt rulemaking at 11 A.A.R. 1502, effective April 1, 2005 (Supp. 05-1). Amended by exempt rulemaking at 11 A.A.R. 2379, effective June 8, 2005 (Supp. 05-2). Section R9-25-510 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit P. Repealed**Historical Note**

Exhibit P adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-511. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Subsection (C) corrected to reflect adopted rules on file with the Office of the Secretary of State, effective October 15, 1996 (Supp. 97-3). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New Section made by exempt rulemaking at 11 A.A.R. 4982, effective November 1, 2005 (Supp. 05-4). Section R9-25-511 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-512. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Subsection (A) corrected to reflect adopted rules on file with the Office of the Secretary of State, effective October 15, 1996 (Supp. 97-1). Subsection (A) corrected again to reflect adopted rules on file with the Office of the Secretary of State, effective October 15, 1996 (Supp. 97-3). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New Section made by exempt rulemaking at 13 A.A.R. 27, effective January 6, 2007 (Supp. 06-4). Section repealed by exempt rulemaking at 16 A.A.R. 2116, effective October 15, 2010 (Supp. 10-4).

R9-25-513. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New Section made by exempt rulemaking at 13 A.A.R. 3038, effective October 6, 2007 (Supp. 07-3). R9-25-513 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-514. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4).

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Amended by exempt rulemaking at 7 A.A.R. 4888, effective November 1, 2001 (Supp. 01-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-515. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

ARTICLE 6. STROKE CARE

Article 6, consisting of new Sections R9-25-601 and R9-25-602, made by exempt rulemaking effective April 5, 2013 (Supp. 13-1).

Article 6 repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-601. Definitions (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))

In addition to the definitions in A.R.S. § 36-2201 and R9-25-101, the following definitions apply in this Article, unless otherwise specified:

1. "Acute stroke-ready hospital" means a hospital that is certified by a national stroke center certification organization as meeting national stroke care standards for the initial assessment, diagnosis, stabilization, and either:
 - a. Transfer of a stroke patient to a primary stroke center or comprehensive stroke center, or
 - b. Care of a stroke patient with input from the staff of a primary stroke center or comprehensive stroke center.
2. "Comprehensive stroke center" means a hospital that is certified by a national stroke center certification organization as meeting national stroke care standards for the assessment, diagnosis using advanced imaging devices, and treatment of stroke patients with complex cases of ischemic stroke, caused by the loss of the blood supply to a part of the brain, or hemorrhagic stroke, caused by bleeding into a part of the brain.
3. "Council" means the emergency medical services council established under A.R.S. § 36-2203.
4. "Health care provider" means an individual licensed according to A.R.S. Title 32, Chapter 13, 15, 17, 19, 25, or 34.
5. "Local EMS coordinating system" means the same as in A.R.S. § 36-2210.
6. "National stroke care standards" means criteria for the assessment and treatment of stroke that are consistent with guidelines established by the American Heart Association/American Stroke Association, an organization that focuses on reducing the impact of stroke.
7. "National stroke center certification organization" means an entity:
 - a. Such as:
 - i. The Joint Commission;
 - ii. The Healthcare Facilities Accreditation Program;
 - iii. Det Norske Veritas Healthcare, Inc.; or
 - iv. The American Heart Association/American Stroke Association;
 - b. That assesses the compliance of a hospital with national stroke care standards; and
 - c. That documents hospitals that meet national stroke care standards.

8. "Primary stroke center" means a hospital that is certified by a national stroke center certification organization as meeting national stroke care standards for the assessment, diagnosis, and treatment of stroke patients.
9. "Stroke patient" means an individual who has signs or symptoms of a stroke and is receiving assessment or treatment for a stroke.
10. "Transport" means the same as in A.A.C. R9-10-101.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New Section made by exempt rulemaking at 19 A.A.R. 643, effective April 5, 2013 (Supp. 13-1). Amended by final rulemaking at 23 A.A.R. 1728, effective July 1, 2017 (Supp. 17-2).

R9-25-602. Emergency Stroke Care Protocols (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))

- A. The council shall:
 1. Establish emergency stroke care protocols, and
 2. Support the adoption of emergency stroke care protocols by emergency medical services providers through local EMS coordinating systems.
- B. The council shall ensure that emergency stroke care protocols:
 1. Are developed and implemented in coordination with:
 - a. Local EMS coordinating systems,
 - b. National organizations that focus on heart disease and stroke,
 - c. Emergency medical services providers, and
 - d. Health care providers;
 2. Include procedures for the pre-hospital assessment and treatment of stroke patients, which may include education about identifying stroke patients who may have an emergent large vessel occlusion, the blockage of a large blood vessel that causes an individual to have an ischemic stroke;
 3. Provide for transport of stroke patients to the most appropriate emergency receiving facility, consistent with A.R.S. § 36-2205(E), taking into account the:
 - a. Needs of a stroke patient;
 - b. Availability of resources in urban areas, suburban areas, rural areas, and wilderness areas;
 - c. Capability of an emergency receiving facility to practice telemedicine, as defined in A.R.S. § 36-3601, with specialists in stroke care;
 - d. Location of emergency receiving facilities that:
 - i. Are:
 - (1) Acute stroke-ready hospitals,
 - (2) Primary stroke centers, or
 - (3) Comprehensive stroke centers; and
 - ii. Participate in quality improvement activities, including the submission of data on stroke care provided by the emergency receiving facility that may be compiled on a statewide basis;
 - e. Capability of an emergency receiving facility that is not a primary stroke center or comprehensive stroke center to stabilize a stroke patient before initiating a transfer to a primary stroke center or comprehensive stroke center;
 - f. Capability of an emergency receiving facility that is not a primary stroke center or comprehensive stroke center to stabilize and admit a stroke patient; and
 - g. Distance and duration of transport;
 4. Are consistent with national stroke care standards; and
 5. Are based on data on stroke care from:

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- a. National organizations that focus on heart disease and stroke;
 - b. U.S. Department of Transportation, National Highway Traffic Safety Administration; and
 - c. Statewide data on stroke care, as available.
- C. The council shall review and update, as necessary, the emergency stroke care protocols in subsection (A) after seeking input from:
- 1. Local EMS coordinating systems,
 - 2. National organizations that focus on heart disease and stroke,
 - 3. Nonprofit organizations that focus on the development of stroke systems of care,
 - 4. Emergency medical services providers, and
 - 5. Health care providers.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New Section made by exempt rulemaking at 19 A.A.R. 643, effective April 5, 2013 (Supp. 13-1). Amended by final rulemaking at 23 A.A.R. 1728, effective July 1, 2017 (Supp. 17-2).

R9-25-603. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-604. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-605. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-606. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-607. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-608. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-609. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective

January 3, 2004 (Supp. 03-4).

Exhibit R. Repealed**Historical Note**

Exhibit R adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-610. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-611. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-612. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-613. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-614. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-615. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Amended by exempt rulemaking at 7 A.A.R. 4888, effective November 1, 2001 (Supp. 01-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-616. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit S. Repealed**Historical Note**

Exhibit S adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit G. Repealed**Historical Note**

Exhibit G adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit L. Repealed

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Historical Note

Exhibit L adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit M. Repealed**Historical Note**

Exhibit M adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit N. Repealed**Historical Note**

Exhibit N adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit O. Repealed**Historical Note**

Exhibit O adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit Q. Repealed**Historical Note**

Exhibit Q adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

ARTICLE 7. AIR AMBULANCE SERVICE LICENSING**R9-25-701. Definitions (Authorized by A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, and 36-2215)**

In addition to the definitions in A.R.S. § 36-2201 and R9-25-101, the following definitions apply in this Article and in Article 8 of this Chapter, unless otherwise specified:

1. "Air ambulance" means an aircraft that is an "ambulance" as defined in A.R.S. § 36-2201.
2. "Air ambulance service" means an ambulance service that operates an air ambulance.
3. "Base location" means a physical location at which a person houses an air ambulance or equipment and supplies used for the operation of an air ambulance service or provides administrative or other support for the operation of an air ambulance service.
4. "Business organization" means an entity such as an association, cooperative, corporation, limited liability company, or partnership.
5. "Call number" means a unique identifier used by an air ambulance service to identify a specific mission.
6. "CAMTS" means the Commission on Accreditation of Medical Transport Systems, formerly known as the Commission on Accreditation of Air Medical Services.
7. "Change of ownership" means a transfer of controlling legal or controlling equitable interest and authority in an air ambulance service.
8. "Critical care" means pertaining to a patient whose condition requires care commensurate with the scope of practice of a physician or registered nurse.
9. "Estimated time of arrival" means the number of minutes from the time that an air ambulance service agrees to perform a mission to the time that an air ambulance arrives at the scene.
10. "Holds itself out" means advertises through print media, broadcast media, the Internet, or other means.
11. "Interfacility" means between two health care institutions.
12. "Licensed respiratory care practitioner" has the same meaning as in A.R.S. § 32-3501.
13. "Maternal" means pertaining to a woman whose pregnancy is considered by a physician to be high risk, who is in need of critical care services related to the pregnancy, and who is being transferred to a medical facility that has the specialized perinatal and neonatal resources and capabilities necessary to provide an appropriate level of care.
14. "Medical team" means personnel whose main function on a mission is the medical care of the patient being transported.
15. "Mission" means a transport job that involves an air ambulance service's sending an air ambulance to a patient's location to provide transport of the patient from one location to another, whether or not transport of the patient is actually provided.
16. "Neonatal" means pertaining to an infant who is 28 days of age or younger and who is in need of critical care services.
17. "On-line medical guidance" means emergency medical services direction or information provided to a non-EMCT medical team member by a physician through two-way voice communication.
18. "Operate an air ambulance in this state" means:
 - a. Transporting a patient via air ambulance from a location in this state to another location in this state,
 - b. Operating an air ambulance from a base location in this state, or
 - c. Transporting a patient via air ambulance from a location in this state to a location outside of this state more than once per month.
19. "Owner" means a person that holds a controlling legal or equitable interest and authority in a business enterprise.
20. "Patient reference number" means a unique identifier used by an air ambulance service to identify an individual patient.
21. "Personnel" means individuals who work for an air ambulance service, with or without compensation, whether as employees, contractors, or volunteers.
22. "Premises" means each physical location of air ambulance service operations and includes all equipment and records at each location.
23. "Proficiency in neonatal resuscitation" means current and valid certification in neonatal resuscitation obtained through completing a nationally recognized training program such as the American Academy of Pediatrics and American Heart Association NRP: Neonatal Resuscitation Program.
24. "Publicizes" means makes a good faith effort to communicate information to the general public through print media, broadcast media, the Internet, or other means.
25. "Regularly" means at recurring, fixed, or uniform intervals.
26. "Rescue situation" means an incident in which:
 - a. An individual's life, limb, or health is imminently threatened; and
 - b. The threat may be reduced or eliminated by removing the individual from the situation and providing medical services.
27. "Subspecialization" means:
 - a. For a physician board certified by a specialty board approved by the American Board of Medical Specialties, subspecialty certification;
 - b. For a physician board certified by a specialty board approved by the American Osteopathic Association, attainment of either a certification of special qualifications or a certification of added qualifications; and
 - c. For a physician who has completed an accredited residency program, completion of at least one year of training pertaining to the specified area of medicine.
28. "Two-way voice communication" means that two individuals are able to convey information back and forth to each other orally, either directly or through a third-party relay.

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29. "Valid" means that a license, certification, or other form of authorization is in full force and effect and not suspended.
30. "Working day" means the period between 8:00 a.m. and 5:00 p.m. on a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-702. Applicability (A.R.S. §§ 36-2202(A)(4) and 36-2217)

This Article and Article 8 of this Chapter do not apply to persons and vehicles exempted from the provisions of A.R.S. Title 36, Chapter 21.1 as provided in A.R.S. § 36-2217(A).

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

R9-25-703. Requirement and Eligibility for a License (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, and 36-2215)

- A. A person shall not operate an air ambulance in this state unless the person has a current and valid air ambulance service license and, except as provided in A.R.S. § 36-2212(C), a current and valid certificate of registration for the air ambulance as required under Article 8 of this Chapter.
- B. To be eligible to obtain an air ambulance service license, an applicant shall:
 1. Hold current and valid Registration and Exemption under 14 CFR 298, as evidenced by a current and valid OST Form 4507 showing the effective date of registration;
 2. Hold the following issued by the Federal Aviation Administration:
 - a. A current and valid Air Carrier Certificate authorizing common carriage under 14 CFR 135;
 - b. If operating a rotor-wing air ambulance, current and valid Operations Specifications authorizing aero-medical helicopter operations;
 - c. If operating a fixed-wing air ambulance, current and valid Operations Specifications authorizing airplane air ambulance operations;
 - d. A current and valid Certificate of Registration for each air ambulance to be operated; and
 - e. A current and valid Airworthiness Certificate for each air ambulance to be operated;
 3. Have applied for a certificate of registration, issued by the Department under Article 8 of this Chapter, for each air ambulance to be operated by the air ambulance service;
 4. Hold a current and valid registration, issued by the Arizona Department of Transportation under A.R.S. Title 28, Chapter 25, Article 4, for each air ambulance to be operated by the air ambulance service;
 5. Have current and valid liability insurance coverage for the air ambulance service that complies with A.R.S. § 36-2215 and that has at least the following maximum liability limits:
 - a. \$1 million for injuries to or death of any one person arising out of any one incident or accident;
 - b. \$3 million for injuries to or death of more than one person in any one incident or accident; and
 - c. \$500,000 for damage to property arising from any one incident or accident;

6. Have current and valid malpractice insurance coverage for the air ambulance service that complies with A.R.S. § 36-2215 and that has a maximum liability limit of at least \$1 million per occurrence; and
 7. Comply with all applicable requirements of this Article, Articles 2 and 8 of this Chapter, and A.R.S. Title 36, Chapter 21.1.
- C. To maintain eligibility for an air ambulance service license, an air ambulance service shall meet the requirements of subsections (B)(1)-(2) and (4)-(7) and hold a current and valid certificate of registration, issued by the Department under Article 8 of this Chapter, for each air ambulance operated by the air ambulance service.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

R9-25-704. Initial Application and Licensing Process (Authorized by A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2213, 36-2214, and 36-2215)

- A. An applicant for an initial license shall submit an application to the Department, in a Department-provided format, including:
 1. The applicant's name; mailing address; e-mail address; fax number, if any; and telephone number;
 2. Each business name to be used for the air ambulance service;
 3. The physical and mailing addresses to be used for the air ambulance service, if different from the applicant's mailing address;
 4. The name, title, address, e-mail address, and telephone number of the applicant's statutory agent or the individual designated by the applicant to accept service of process and subpoenas for the air ambulance service;
 5. If the applicant is a business organization:
 - a. The type of business organization;
 - b. The following information about the individual who is to serve as the primary contact for information regarding the application:
 - i. Name;
 - ii. Address;
 - iii. E-mail address;
 - iv. Telephone number; and
 - v. Fax number, if any;
 - c. The name, title, and address of each officer and board member or trustee; and
 - d. A copy of the business organization's articles of incorporation, articles of organization, or partnership or joint venture documents, if applicable;
 6. The name and Arizona license number for the physician who is to serve as the administrative medical director for the air ambulance service;
 7. The intended hours of operation for the air ambulance service;
 8. The intended schedule of rates for the air ambulance service;
 9. Which of the following mission types is to be provided:
 - a. Emergency medical services transports,
 - b. Interfacility transports,
 - c. Interfacility maternal transports, and
 - d. Interfacility neonatal transports;
 10. The signature of the applicant and the date signed;
 11. A copy of a current and valid OST Form 4507 showing the effective date of Federal Aviation Administration registration and exemption under 14 CFR 298;
 12. A copy of the following issued by the Federal Aviation Administration:
 - a. A current and valid Air Carrier Certificate authorizing common carriage under 14 CFR 135;

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- b. If intending to operate a rotor-wing air ambulance, current and valid Operations Specifications authorizing aeromedical helicopter operations;
 - c. If intending to operate a fixed-wing air ambulance, current and valid Operations Specifications authorizing airplane air ambulance operations;
 - d. A current and valid Certificate of Registration for each air ambulance to be operated; and
 - e. A current and valid Airworthiness Certificate for each air ambulance to be operated;
13. For each air ambulance to be operated for the air ambulance service:
- a. An application for registration that includes all of the information and items required under R9-25-802(C); and
 - b. A copy of a current and valid registration, issued by the Arizona Department of Transportation under A.R.S. Title 28, Chapter 25, Article 4;
14. A certificate of insurance establishing that the applicant has current and valid liability insurance coverage for the air ambulance service as required under R9-25-703(B)(5);
15. A certificate of insurance establishing that the applicant has current and valid malpractice insurance coverage for the air ambulance service as required under R9-25-703(B)(6);
16. If the applicant holds current CAMTS accreditation for the air ambulance service, a copy of the current CAMTS accreditation report;
17. Attestation that the applicant will comply with all applicable requirements in this Article, Articles 2 and 8 of this Chapter, and A.R.S. Title 36, Chapter 21.1; and
18. Attestation that the information provided in the application, including the information in the documents accompanying the application form, is accurate and complete.
- B.** Unless an applicant establishes that it holds current CAMTS accreditation as provided in subsection (A)(16) or is applying for an initial license because of a change of ownership as described in R9-25-706(D), the Department shall conduct an inspection, as required under A.R.S. § 36-2214(B) and R9-25-708, during the substantive review period for the application for an initial license.
- C.** The Department shall review and approve or deny each application as described in Article 12 of this Chapter.
- D.** The Department may deny an application if an applicant:
- 1. Fails to meet the eligibility requirements of R9-25-703(B);
 - 2. Fails or has failed to comply with any provision in A.R.S. Title 36, Chapter 21.1;
 - 3. Fails or has failed to comply with any provision in this Article or Article 2 or 8 of this Chapter;
 - 4. Knowingly or negligently provides false documentation or false or misleading information to the Department; or
 - 5. Fails to submit to the Department documents or information requested under R9-25-1201(B)(1) or (C)(3), as required under R9-25-1201(D), and requests a denial as permitted under R9-25-1201(E).

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-705. Renewal Application and Licensing Process (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2213, 36-2214, and 36-2215)

- A.** Before the expiration date of its current license, an air ambulance service shall submit to the Department a renewal application completed using a Department-provided form and including:

- 1. The information and items listed in R9-25-704(A)(1)-(11), (12)(b), and (13)-(18); and
 - 2. For each air ambulance operated or to be operated by the air ambulance service:
 - a. A copy of a current and valid certificate of registration issued by the Department under Article 8 of this Chapter; or
 - b. An application for registration that includes all of the information and items required under R9-25-802(C).
- B.** Unless an air ambulance service establishes that it holds current CAMTS accreditation as provided in subsection (C), the Department shall conduct an inspection, as required under A.R.S. § 36-2214(B) and R9-25-708, during the substantive review period for the renewal application.
- C.** To establish current CAMTS accreditation, an air ambulance service shall submit to the Department, as part of the application submitted under subsection (A), a copy of the air ambulance service's current CAMTS accreditation report.
- D.** The Department shall review and approve or deny each application as described in Article 12 of this Chapter.
- E.** The Department may deny an application if an applicant:
- 1. Fails to meet the eligibility requirements of R9-25-703(C);
 - 2. Fails or has failed to comply with any provision in A.R.S. Title 36, Chapter 21.1;
 - 3. Fails or has failed to comply with any provision in this Article or Article 2 or 8 of this Chapter;
 - 4. Knowingly or negligently provides false documentation or false or misleading information to the Department; or
 - 5. Fails to submit to the Department documents or information requested under R9-25-1201(B)(1) or (C)(3), as required under R9-25-1201(D), and requests a denial as permitted under R9-25-1201(E).

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

R9-25-706. Term and Transferability of License (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), 36-2213, 36-2214, and 41-1092.11)

- A.** The Department shall issue an initial license:
- 1. When based on current CAMTS accreditation, with a term beginning on the date of issuance and ending on the expiration date of the CAMTS accreditation upon which licensure is based; and
 - 2. When based on Department inspection, with a term beginning on the date of issuance and ending three years later.
- B.** The Department shall issue a renewal license with a term beginning on the day after the expiration date shown on the previous license and ending:
- 1. When based on current CAMTS accreditation, on the expiration date of the CAMTS accreditation upon which licensure is based; and
 - 2. When based on Department inspection, three years after the effective date.
- C.** If an applicant submits an application for renewal as described in R9-25-705 before the expiration date of the current license, the current license does not expire until the Department has made a final determination on the application for renewal, as provided in A.R.S. § 41-1092.11.
- D.** A person wanting to transfer an air ambulance service license shall submit to the Department before the anticipated change of ownership:
- 1. A letter that contains:

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- a. A request that the air ambulance service license be transferred,
 - b. The name and license number of the currently licensed air ambulance service, and
 - c. The name of the person to whom the air ambulance service license is to be transferred; and
- 2. An application that complies with R9-25-704(A) completed by the person to whom the license is to be transferred.
- E. A new owner shall not operate an air ambulance in this state until the Department has transferred an air ambulance service license to the new owner.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

R9-25-707. Changes Affecting a License (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2213)

- A. At least 30 days before the date of a change in an air ambulance service's name, the air ambulance service shall send the Department written notice of the name change.
- B. At least 90 days before an air ambulance service ceases to operate, the air ambulance service shall send the Department written notice of the intention to cease operating, effective on a specific date, and the desire to relinquish its license as of that date.
- C. Within 30 days after the date of receipt of a notice described in subsection (A) or (B), the Department shall:
 - 1. For a notice described in subsection (A), issue an amended license that incorporates the name change but retains the expiration date of the current license; and
 - 2. For a notice described in subsection (B), send the air ambulance service written confirmation of the voluntary relinquishment of its license, with an effective date consistent with the written notice.
- D. An air ambulance service shall notify the Department in writing within one working day after:
 - 1. A change in its eligibility for licensure under R9-25-703(B) or (C);
 - 2. A change in the business organization information most recently submitted to the Department under R9-25-704(A)(5) or R9-25-705(A);
 - 3. A change in its CAMTS accreditation status, including a copy of its new CAMTS accreditation report, if applicable;
 - 4. A change in its hours of operation or schedule of rates; or
 - 5. A change in the scope of the mission types provided.
- E. Before the date of an anticipated change of ownership, a person wanting to transfer an air ambulance service license shall submit to the Department the documents required under R9-25-706(D).

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

R9-25-708. Inspections and Investigations (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), 36-2213, and 36-2214)

- A. Except as provided in subsections (D) and (F), the Department shall inspect an air ambulance service before issuing an initial or renewal license, as required under A.R.S. § 36-2214(B), and as often as necessary to determine compliance with this Article, Articles 2 and 8 of this Chapter, and A.R.S. Title 36, Chapter 21.1.
- B. A Department inspection may include the premises and each air ambulance operated or to be operated for the air ambulance service.

- C. If the Department receives written or verbal information alleging a violation of this Article, Article 2 or 8 of this Chapter, or A.R.S. Title 36, Chapter 21.1, the Department shall conduct an investigation.
 - 1. The Department may conduct an inspection as part of an investigation.
 - 2. An air ambulance service shall allow the Department to inspect the premises and each air ambulance and to interview personnel as part of an investigation.
- D. As required under A.R.S. § 36-2213(8), the Department shall accept proof of current CAMTS accreditation in lieu of the licensing inspections otherwise required before initial and renewal licensure under subsection (A) and A.R.S. § 36-2214(B).
- E. To establish current CAMTS accreditation, an applicant or air ambulance service shall submit to the Department a copy of its current CAMTS accreditation report as required under R9-25-704(C), R9-25-705(C), or R9-25-707(D).
- F. When an application for an air ambulance service license is submitted along with a transfer request due to a change of ownership, the Department shall determine whether an inspection is necessary based upon the potential impact to public health, safety, and welfare.
- G. The Department shall conduct each inspection in compliance with A.R.S. § 41-1009.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

R9-25-709. Enforcement Actions (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), 36-2213, 36-2214, 36-2215, 41-1092.03, and 41-1092.11(B))

- A. The Department may take an action listed in subsection (B) against an air ambulance service that:
 - 1. Fails to meet the eligibility requirements of R9-25-703(B) or (C);
 - 2. Fails or has failed to comply with any provision in A.R.S. Title 36, Chapter 21.1;
 - 3. Fails or has failed to comply with any provision in this Article or Article 2 or 8 of this Chapter; or
 - 4. Knowingly or negligently provides false documentation or false or misleading information to the Department.
- B. The Department may take the following actions against an air ambulance service:
 - 1. Except as provided in subsection (B)(3), after notice and an opportunity to be heard is provided under A.R.S. Title 41, Chapter 6, Article 10, suspend the air ambulance service license;
 - 2. After notice and an opportunity to be heard is provided under A.R.S. Title 41, Chapter 6, Article 10, revoke the air ambulance service license; and
 - 3. If the Department determines that the public health, safety, or welfare imperatively requires emergency action and incorporates a finding to that effect in its order, summarily suspend the air ambulance service license pending proceedings for revocation or other action, as permitted under A.R.S. § 41-1092.11(B).
- C. In determining whether to take action under subsection (B), the Department shall consider:
 - 1. The severity of each violation relative to public health and safety;
 - 2. The number of violations relative to the transport volume of the air ambulance service;
 - 3. The nature and circumstances of each violation;
 - 4. Whether each violation was corrected and, if so, the manner of correction; and

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5. The duration of each violation.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

R9-25-710. Minimum Standards for Operations (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)**A.** An air ambulance service shall ensure that:

1. The air ambulance service maintains eligibility for licensure as required under R9-25-703(C);
2. The air ambulance service publicizes its hours of operation;
3. The air ambulance service makes its schedule of rates available to any individual upon request and, if requested, in writing;
4. The air ambulance service provides an accurate estimated time of arrival to the person requesting transport at the time that transport is requested and provides an amended estimated time of arrival to the person requesting transport if the estimated time of arrival changes;
5. The air ambulance service transports only patients for whom it has the resources to provide appropriate medical care, unless subsection (B) or (D) applies;
6. The air ambulance service does not perform interfacility transport of a patient unless:
 - a. The transport is requested by:
 - i. A physician; or
 - ii. A qualified medical person, as determined by the sending health care institution's bylaws or policies, after consultation with and approval by a physician; and
 - b. The destination health care institution confirms that a bed is available for the patient;
7. The air ambulance service creates a prehospital incident history report, as defined in A.R.S. § 36-2220, for each patient;
8. The air ambulance service creates a record for each mission that includes:
 - a. Mission date;
 - b. Mission level—basic life support, advanced life support, or critical care;
 - c. Mission type—emergency medical services transport, interfacility transport, interfacility maternal transport, interfacility neonatal transport, or convalescent transport;
 - d. Aircraft type—fixed-wing aircraft or rotor-wing aircraft;
 - e. Name of the person requesting the transport;
 - f. Time of receipt of the transport request;
 - g. Departure time to the patient's location;
 - h. Address of the patient's location;
 - i. Arrival time at the patient's location;
 - j. Departure time to the destination health care institution;
 - k. Name and address of the destination health care institution;
 - l. Arrival time at the destination health care institution;
 - m. Patient reference number or call number; and
 - n. Aircraft tail number for the air ambulance used on the mission; and
9. The air ambulance service submits to the Department by the 15th day of each month, either in an electronic format approved by the Department or in hard copy, a run log of the previous month's missions that includes the information required under subsections (A)(8)(a)-(d), (f), (g), (i), (j), (l), and (m) in a cumulative tabular format.

- B.** In a rescue situation, when no other practical means of transport, including another air ambulance service, is available, an air ambulance service may deviate from subsection (A)(5) to the extent necessary to meet the rescue situation.
- C.** An air ambulance service that completes a mission under subsection (B) shall create a record within five working days after the mission, including the information required under subsection (A)(8), the manner in which the air ambulance service deviated from subsection (A)(5), and the justification for operating under subsection (B).
- D.** An air ambulance service may provide interfacility transport of a patient for whom it does not have the resources to provide appropriate medical care if the sending health care institution provides medically appropriate life support measures, staff, and equipment to sustain the patient during the interfacility transport.
- E.** An air ambulance service shall ensure that each staff member provided by a sending health care institution under subsection (D) has completed training in the subject areas listed in R9-25-713(A) before serving on a mission.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

R9-25-711. Minimum Standards for Mission Staffing (Authorized by A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)**A.** An air ambulance service shall ensure that, except as provided in subsection (B):

1. Each critical care mission is staffed by a medical team of at least two individuals with at least the following qualifications:
 - a. A physician or registered nurse, and
 - b. A Paramedic or licensed respiratory care practitioner;
2. Each advanced life support mission is staffed by a medical team of at least two individuals with at least the following qualifications:
 - a. A Paramedic, and
 - b. Another Paramedic or a licensed respiratory care practitioner; and
3. Each basic life support mission is staffed by a medical team of at least two individuals, each of whom has at least the qualifications of an EMT.

B. If the pilot on a mission using a rotor-wing air ambulance determines, in accordance with the air ambulance service's written guidelines required under subsection (C), that the weight of a second medical team member could potentially compromise the performance of the rotor-wing air ambulance and the safety of the mission, and the use of a single-member medical team is consistent with the on-line medical direction or on-line medical guidance received as required under subsection (C), an air ambulance service may use a single-member medical team consisting of an individual with at least the following qualification:

1. For a critical care mission, a physician or registered nurse;
2. For an advanced life support mission, a Paramedic; and
3. For a basic life support mission, an EMT.

C. An air ambulance service shall ensure that:

1. Each air ambulance service rotor-wing pilot is provided written guidelines to use in determining when the weight of a second medical team member could potentially compromise the performance of a rotor-wing air ambulance and the safety of a mission, including the conditions of density altitude and weight that warrant the use of a single-member medical team;
2. The following are done, without delay, after an air ambulance service rotor-wing pilot determines that the weight of a second medical team member could potentially com-

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promise the performance of a rotor-wing air ambulance and the safety of a mission:

- a. The pilot communicates that information to the medical team;
 - b. The medical team obtains on-line medical direction or on-line medical guidance regarding the use of a single-member medical team; and
 - c. The medical team proceeds in compliance with the on-line medical direction or on-line medical guidance;
3. A single-member medical team has the knowledge and medical equipment to perform one-person cardiopulmonary resuscitation;
 4. The air ambulance service has a quality management process to review regularly the patient care provided by each single-member medical team, including consideration of each patient's status upon arrival at the destination health care institution; and
 5. A single-member medical team is used only when no other transport team is available that would be more appropriate for delivering the level of care that a patient requires.
- D.** An air ambulance service that uses a single-member medical team as authorized under subsection (B) shall create a record within five working days after the mission, including the information required under R9-25-710(A)(8), the name and qualifications of the individual comprising the single-member medical team, and the justification for using a single-member medical team.
- E.** An air ambulance service shall create and maintain for each personnel member a file containing documentation of the personnel member's qualifications, including, as applicable, licenses, certifications, and training records.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-712. Expired**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Section expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (12-3).

R9-25-713. Minimum Standards for Training (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2213)

- A.** An air ambulance service shall ensure that each medical team member completes training in the following subjects before serving on a mission:
1. Aviation terminology;
 2. Physiological aspects of flight;
 3. Patient loading and unloading;
 4. Safety in and around the aircraft;
 5. In-flight communications;
 6. Use, removal, replacement, and storage of the medical equipment installed on the aircraft;
 7. In-flight emergency procedures;
 8. Emergency landing procedures; and
 9. Emergency evacuation procedures.
- B.** An air ambulance service shall document each medical team member's completion of the training required under subsection (A), including the name of the medical team member, each training component completed, and the date of completion.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656,

effective April 8, 2006 (Supp. 06-1).

R9-25-714. Minimum Standards for Communications (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)

An air ambulance service shall ensure that, while on a mission, two-way voice communication is available:

1. Between and among personnel on the air ambulance, including the pilot; and
2. Between personnel on the air ambulance and the following persons on the ground:
 - a. Personnel;
 - b. Physicians providing on-line medical direction or on-line medical guidance to medical team members; and
 - c. For a rotor-wing air ambulance mission:
 - i. Emergency medical services providers, and
 - ii. Law enforcement agencies.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

R9-25-715. Minimum Standards for Medical Control (Authorized by A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)

- A.** An air ambulance service shall ensure that:
1. The air ambulance service has a medical director who:
 - a. Meets the qualifications in subsection (B);
 - b. Supervises and evaluates the quality of medical care provided by medical team members;
 - c. Ensures the competency and current qualifications of all medical team members;
 - d. Ensures that each EMCT medical team member receives medical direction as required under Article 2 of this Chapter;
 - e. Ensures that each non-EMCT medical team member receives medical guidance through:
 - i. Written treatment protocols; and
 - ii. On-line medical guidance provided by:
 - (1) The medical director;
 - (2) Another physician designated by the medical director; or
 - (3) If the medical guidance needed exceeds the medical director's area of expertise, a consulting specialty physician; and
 - f. Approves, ensures implementation of, and annually reviews treatment protocols to be followed by medical team members;
 2. The air ambulance service has a quality management program through which:
 - a. Data related to patient care and transport services provided and patient status upon arrival at destination are:
 - i. Collected continuously; and
 - ii. Examined regularly, on at least a quarterly basis; and
 - b. Appropriate corrective action is taken when concerns are identified; and
 3. The air ambulance service documents each concern identified through the quality management program and the corrective action taken to resolve each concern and provides this information, along with the supporting data, to the Department upon request.
- B.** A medical director shall:
1. Be a physician, as defined in A.R.S. § 36-2201; and
 2. Comply with one of the following:
 - a. If the air ambulance service provides emergency medical services transports, meet the qualifications of R9-25-201(A)(1); or
 - b. If the air ambulance service does not provide emergency medical services transports, meet the qualifications of R9-25-201(A)(1) or one of the following:

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- i. If the air ambulance service provides only interfacility maternal missions, have board certification or have completed an accredited residency program in one of the following specialty areas:
 - (1) Obstetrics and gynecology, with subspecialization in critical care medicine or maternal and fetal medicine; or
 - (2) Pediatrics, with subspecialization in neonatal-perinatal medicine;
- ii. If the air ambulance service provides only interfacility neonatal missions, have board certification or have completed an accredited residency program in one of the following specialty areas:
 - (1) Obstetrics and gynecology, with subspecialization in maternal and fetal medicine; or
 - (2) Pediatrics, with subspecialization in neonatal-perinatal medicine, neonatology, pediatric critical care medicine, or pediatric intensive care; or
- iii. If neither subsection (B)(2)(b)(i) or (ii) applies, have board certification or have completed an accredited residency program in one of the following specialty areas:
 - (1) Anesthesiology, with subspecialization in critical care medicine;
 - (2) Internal medicine, with subspecialization in critical care medicine;
 - (3) If the air ambulance service transports only pediatric patients, pediatrics, with subspecialization in pediatric critical care medicine or pediatric emergency medicine; or
 - (4) If the air ambulance service transports only surgical patients, surgery, with subspecialization in surgical critical care.
2. Each interfacility neonatal mission is conducted using an air ambulance that has the equipment and supplies required for a critical care mission in Table 1 of Article 8 of this Chapter and the following:
 - a. A transport incubator with:
 - i. Battery and inverter capabilities,
 - ii. An infant safety restraint system, and
 - iii. An integrated neonatal-capable pressure ventilator with oxygen-air supply and blender;
 - b. An invasive automatic blood pressure monitor;
 - c. A neonatal monitor or monitors with heart rate, respiratory rate, temperature, non-invasive blood pressure, and pulse oximetry capabilities;
 - d. Neonatal-specific drug concentrations and doses;
 - e. Umbilical catheter insertion equipment and supplies;
 - f. Thoracostomy supplies;
 - g. Neonatal resuscitation equipment and supplies;
 - h. A neonatal size cuff (size 2, 3, or 4) for use with an automatic blood pressure monitor; and
 - i. A neonatal probe for use with a pulse oximeter;
3. On-line medical direction or on-line medical guidance provided to an interfacility neonatal mission medical team member is provided by a physician who meets the qualifications of R9-25-715(B)(2)(b)(ii); and
4. An individual does not serve on an interfacility neonatal mission medical team unless the air ambulance service's medical director has verified and attested in writing to the individual's having the proficiencies described in subsections (1)(a) and (b).

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

R9-25-718. Minimum Standards for an Interfacility Maternal Mission (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)

- A. This Section applies to an air ambulance service that holds itself out as providing interfacility maternal missions.
- B. An air ambulance service shall ensure that:
 1. Each interfacility maternal mission is staffed by a medical team that complies with the requirements for a critical care mission medical team in R9-25-711(A)(1) and that has the following additional qualifications:
 - a. Proficiency in advanced emergency cardiac life support, as defined in R9-25-101;
 - b. Proficiency in neonatal resuscitation; and
 - c. Proficiency in stabilization and transport of the maternal patient;
 2. Each interfacility maternal mission is conducted using an air ambulance that has the equipment and supplies required for a critical care mission in Table 1 of Article 8 of this Chapter and the following:
 - a. A Doppler fetal heart monitor;
 - b. Unless use is not indicated for the patient as determined through on-line medical direction or on-line medical guidance provided as described in subsection (B)(3), an external fetal heart and tocographic monitor with printer capability;
 - c. Tocolytic and anti-hypertensive medications;
 - d. Advanced emergency cardiac life support equipment and supplies; and
 - e. Neonatal resuscitation equipment and supplies;
 3. On-line medical direction or on-line medical guidance provided to an interfacility maternal mission medical team member is provided by a physician who meets the qualifications of R9-25-715(B)(2)(b)(i); and

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-716. Minimum Standards for Recordkeeping (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2213)

An air ambulance service shall retain each document required to be created or maintained under this Article or Article 2 or 8 of this Chapter for at least three years after the last event recorded in the document and shall produce each document for Department review upon request.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

R9-25-717. Minimum Standards for an Interfacility Neonatal Mission (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)

An air ambulance service shall ensure that:

1. Each interfacility neonatal mission is staffed by a medical team that complies with the requirements for a critical care mission medical team in R9-25-711(A)(1) and that has the following additional qualifications:
 - a. Proficiency in pediatric emergency care, as defined in R9-25-101; and
 - b. Proficiency in neonatal resuscitation and stabilization of the neonatal patient;

4. An individual does not serve on an interfacility maternal mission medical team unless the air ambulance service's medical director has verified and attested in writing to the individual's having the proficiencies described in subsections (B)(1)(a), (b), and (c).

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

ARTICLE 8. AIR AMBULANCE REGISTRATION

Article 8, consisting of R9-25-801 through R9-25-808, recodified to Article 5 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

Editor's Note: *Article 8, consisting of Sections R9-25-801 through R9-25-803 and Exhibits, was recodified from A.A.C. R9-13-1501 through R9-13-1503. These recodified Sections were originally filed under an exemption from A.R.S. Title 41, Chapter 6. Refer to the historical notes in 9 A.A.C. 13 for adoption dates (Supp. 98-1).*

Article 8, consisting of Section R9-25-805 and Exhibits 1 through 3, was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to A.R.S. § 36-2205(C). Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; and the Department was not required to hold public hearings on this Section. Under A.R.S. § 36-2205(D) a person may petition the Director to amend an adopted protocol pursuant to A.R.S. § 41-1033 (Supp. 97-2).

R9-25-801. Definitions (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2212)

In addition to the definitions in R9-25-701, the following definitions apply in this Article, unless otherwise specified:

1. "Certificate holder" means a person who holds a current and valid certificate of registration for an air ambulance.
2. "Drug" has the same meaning as in A.R.S. § 32-1901.

Historical Note

R9-25-801 recodified from A.A.C. R9-13-1501 (Supp. 98-1). Amended by exempt rulemaking at 7 A.A.R. 4895, effective October 5, 2001 (Supp. 01-4). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-501 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

R9-25-802. Requirement, Eligibility, and Application for an Initial or Renewal Certificate of Registration for an Air Ambulance (A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, and 36-2240(4))

- A. A person shall not operate an air ambulance in this state unless the person has a current and valid air ambulance service license as required under Article 7 of this Chapter and, except as provided in A.R.S. § 36-2212(C), a current and valid certificate of registration for the air ambulance as required under this Article.
- B. To be eligible to obtain a certificate of registration for an air ambulance, an applicant shall:
 1. Hold a current and valid air ambulance service license issued under Article 7 of this Chapter;
 2. Hold the following issued by the Federal Aviation Administration for the air ambulance:
 - a. A current and valid Certificate of Registration, and

- b. A current and valid Airworthiness Certificate;
3. Hold a current and valid registration for the air ambulance, issued by the Arizona Department of Transportation under A.R.S. Title 28, Chapter 25, Article 4; and
4. Comply with all applicable requirements of this Article, Articles 2 and 7 of this Chapter, and A.R.S. Title 36, Chapter 21.1.
- C. To obtain an initial or renewal certificate of registration for an air ambulance, an applicant shall submit to the Department an application completed using a Department-provided form and including:
 1. The applicant's name, mailing address, fax number, and telephone number;
 2. All other business names used by the applicant;
 3. The applicant's physical business address, if different from the mailing address;
 4. The following information about the air ambulance for which registration is sought:
 - a. Each mission level for which the air ambulance will be used:
 - i. Basic life support,
 - ii. Advanced life support, or
 - iii. Critical care;
 - b. Whether a fixed-wing or rotor-wing aircraft;
 - c. Number of engines;
 - d. Manufacturer name;
 - e. Model name;
 - f. Year manufactured;
 - g. Serial number;
 - h. Aircraft tail number;
 - i. Aircraft colors, including fuselage, stripe, and lettering; and
 - j. A description of any insignia, monogram, or other distinguishing characteristics of the aircraft's appearance;
 5. A copy of the following issued to the applicant, for the air ambulance, by the Federal Aviation Administration:
 - a. A current and valid Certificate of Registration, and
 - b. A current and valid Airworthiness Certificate;
 6. A copy of a current and valid registration issued to the applicant, for the air ambulance, by the Arizona Department of Transportation under A.R.S. Title 28, Chapter 25, Article 4;
 7. The location in Arizona at which the air ambulance will be available for inspection;
 8. The name and telephone number of the individual to contact to arrange for inspection, if the inspection is preannounced;
 9. Attestation that the applicant knows all applicable requirements in A.R.S. Title 36, Chapter 21.1; this Article; and Articles 2 and 7 of this Chapter;
 10. Attestation that the information provided in the application, including the information in the documents accompanying the application form, is accurate and complete;
 11. The dated signature of:
 - a. If the applicant is an individual, the individual;
 - b. If the applicant is a corporation, an officer of the corporation;
 - c. If the applicant is a partnership, one of the partners;
 - d. If the applicant is a limited liability company, a manager or, if the limited liability company does not have a manager, a member of the limited liability company;
 - e. If the applicant is an association or cooperative, a member of the governing board of the association or cooperative;

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- f. If the applicant is a joint venture, one of the individuals signing the joint venture agreement;
 - g. If the applicant is a governmental agency, the individual in the senior leadership position with the agency or an individual designated in writing by that individual; and
 - h. If the applicant is a business organization type other than those described in subsections (C)(11)(b) through (f), an individual who is a member of the business organization; and
12. Unless the applicant operates or intends to operate the air ambulance only as a volunteer not-for-profit service, a certified check, business check, or money order made payable to the Arizona Department of Health Services for the following fees:
- a. A \$50 registration fee, as required under A.R.S. § 36-2212(D); and
 - b. A \$200 annual regulatory fee, as required under A.R.S. § 36-2240(4).
- D.** The Department requires submission of a separate application and fees for each air ambulance.
- E.** Except as provided under R9-25-805(C), the Department shall inspect each air ambulance to determine compliance with the provisions of A.R.S. Title 36, Chapter 21.1 and this Article before issuing an initial certificate of registration and at least every 12 months thereafter before issuing a renewal certificate of registration.
- F.** The Department shall review and approve or deny each application as described in Article 12 of this Chapter.
- G.** The Department may deny a certificate of registration for an air ambulance if the applicant:
- 1. Fails to meet the eligibility requirements of R9-25-802(B);
 - 2. Fails or has failed to comply with any provision in A.R.S. Title 36, Chapter 21.1;
 - 3. Fails or has failed to comply with any provision in this Article or Article 2 or 7 of this Chapter;
 - 4. Knowingly or negligently provides false documentation or false or misleading information to the Department; or
 - 5. Fails to submit to the Department documents or information requested under R9-25-1201(B)(1) or (C)(3), as required under R9-25-1201(D), and requests a denial as permitted under R9-25-1201(E).

Historical Note

R9-25-802 recodified from A.A.C. R9-13-1502 (Supp. 98-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4092, effective September 1, 2001 (Supp. 01-3). Amended by exempt rulemaking at 8 A.A.R. 931, effective February 15, 2002 (Supp. 02-1). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-502 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

Exhibit 1. Repealed**Historical Note**

Section R9-25-802, Exhibit 1 recodified from A.A.C. R9-13-1502, Exhibit 1 (Supp. 98-1). Exhibit 1 repealed by exempt rulemaking at 7 A.A.R. 4895, effective October 5, 2001 (Supp. 01-4).

Exhibit 2. Repealed**Historical Note**

Section R9-25-802, Exhibit 2 recodified from A.A.C. R9-

13-1502, Exhibit 2 (Supp. 98-1). Exhibit 2 repealed by exempt rulemaking at 7 A.A.R. 4895, effective October 5, 2001 (Supp. 01-4).

Exhibit 3. Repealed**Historical Note**

Section R9-25-802, Exhibit 3 recodified from A.A.C. R9-13-1502, Exhibit 3 (Supp. 98-1). Exhibit 3 repealed by exempt rulemaking at 7 A.A.R. 4895, effective October 5, 2001 (Supp. 01-4).

Exhibit 4. Repealed**Historical Note**

Section R9-25-802, Exhibit 4 recodified from A.A.C. R9-13-1502, Exhibit 4 (Supp. 98-1). Exhibit 4 repealed by exempt rulemaking at 7 A.A.R. 4895, effective October 5, 2001 (Supp. 01-4).

R9-25-803. Term and Transferability of Certificate of Registration (A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, and 41-1092.11)

- A.** The Department shall issue an initial certificate of registration:
 - 1. With a term of one year from date of issuance; or
 - 2. If requested by the applicant, with a term shorter than one year that allows for the Department to conduct annual inspections of all of the applicant's air ambulances at one time.
- B.** The Department shall issue a renewal certificate of registration with a term of one year.
- C.** If an applicant submits an application for renewal as described in R9-25-802 before the expiration date of the current certificate of registration, the current certificate of registration does not expire until the Department has made a final determination on the application for renewal, as provided in A.R.S. § 41-1092.11.
- D.** A certificate of registration is not transferable from one person to another.
- E.** If there is a change in the ownership of an air ambulance, the new owner shall apply for and obtain a new certificate of registration before operating the air ambulance in this state.

Historical Note

Section R9-25-803 recodified from A.A.C. R9-13-1503, (Supp. 98-1). Section repealed; new Section adopted effective November 30, 1998; filed in the Office of the Secretary of State November 24, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) (Supp. 98-4). Amended by exempt rulemaking at 7 A.A.R. 4888, effective November 1, 2001 (Supp. 01-4). Amended by exempt rulemaking at 8 A.A.R. 2625, effective June 1, 2002 (Supp. 02-2). Section recodified to R9-25-503 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

Exhibit 1. Recodified**Historical Note**

Section R9-25-803, Exhibit 1 "EMT-P Drug List" and "EMT-I Drug List" recodified from A.A.C. R9-13-1503, Exhibit 1 "EMT-P Drug List" and "EMT-I Drug List" (Supp. 98-1). Exhibit 1 repealed; new Exhibit 1 adopted effective November 30, 1998; filed in the Office of the Secretary of State November 24, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) (Supp. 98-4). Amended under an exemption from the provisions of the

Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) at 6 A.A.R. 1507, effective May 1, 2000 (Supp. 00-1). Amended under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) at 6 A.A.R. 3762, effective October 1, 2000 (Supp. 00-3). Amended by exempt rulemaking at 7 A.A.R. 1654, effective March 30, 2001 (Supp. 01-1). Amended by exempt rulemaking at 8 A.A.R. 2625, effective June 1, 2002 (Supp. 02-2). Amended by exempt rulemaking at 9 A.A.R. 1703, effective May 15, 2003 (Supp. 03-2). Exhibit 1 recodified to Article 5, Exhibit 1 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

Exhibit 2. Recodified

Historical Note

Exhibit 2 adopted effective November 30, 1998; filed in the Office of the Secretary of State November 24, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) (Supp. 98-4). Amended under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) at 6 A.A.R. 1507, effective May 1, 2000 (Supp. 00-1). Amended under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) at 6 A.A.R. 3762, effective October 1, 2000 (Supp. 00-3). Amended by exempt rulemaking at 7 A.A.R. 1199, effective February 13, 2001 (Supp. 01-1). Amended by exempt rulemaking at 8 A.A.R. 2625, effective June 1, 2002 (Supp. 02-2). Exhibit 2 recodified to Article 5, Exhibit 2 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

R9-25-804. Changes Affecting Registration (A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), and 36-2212)

- A. At least 30 days before the date of a change in a certificate holder's name, the certificate holder shall send the Department written notice of the name change.
- B. No later than 10 days after a certificate holder ceases to operate an air ambulance, the certificate holder shall send the Department written notice of the date that the certificate holder ceased to operate the air ambulance and of the desire to relinquish the certificate of registration for the air ambulance as of that date.
- C. Within 30 days after the date of receipt of a notice described in subsection (A) or (B), the Department shall:
 1. For a notice described in subsection (A), issue an amended certificate of registration that incorporates the name change but retains the expiration date of the current certificate of registration; and
 2. For a notice described in subsection (B), send the certificate holder written confirmation of the voluntary relinquishment of the certificate of registration, with an effective date that corresponds to the written notice.
- D. A certificate holder shall notify the Department in writing within one working day after a change in its eligibility to obtain a certificate of registration for an air ambulance under R9-25-802(B).

Historical Note

New Section made by exempt rulemaking at 7 A.A.R. 4888, effective November 1, 2001 (Supp. 01-4). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-504 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-

1).

R9-25-805. Inspections (A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, and 36-2232(A)(11))

- A. An applicant or certificate holder shall make an air ambulance available for inspection within Arizona at the request of the Department.
- B. The Department shall conduct each inspection in compliance with A.R.S. § 41-1009.
- C. As permitted under A.R.S. § 36-2232(A)(11), upon certificate holder request and at certificate holder expense, the annual inspection of an air ambulance required for renewal of a certificate of registration may be conducted by a Department-approved inspection facility.

Historical Note

Adopted under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C), effective May 19, 1997; filed in the Office of the Secretary of State May 21, 1997 (Supp. 97-2). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-505 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

Exhibit 1. Recodified

Historical Note

Adopted under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C), effective May 19, 1997; filed in the Office of the Secretary of State May 21, 1997 (Supp. 97-2). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Exhibit 1 recodified to Article 5, Exhibit 1 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

Exhibit 2. Recodified

Historical Note

Adopted under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C), effective May 19, 1997; filed in the Office of the Secretary of State May 21, 1997 (Supp. 97-2). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Exhibit 2 recodified to Article 5, Exhibit 2 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

Exhibit 3. Repealed

Historical Note

Adopted under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C), effective May 19, 1997; filed in the Office of the Secretary of State May 21, 1997 (Supp. 97-2). Exhibit repealed by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4).

R9-25-806. Enforcement Actions (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), 36-2212, 36-2234(L), 41-1092.03, and 41-1092.11(B))

- A. The Department may take an action listed in subsection (B) against a certificate holder's certificate of registration if the certificate holder:
 1. Fails or has failed to meet the eligibility requirements of R9-25-802(B);
 2. Fails or has failed to comply with any provision in A.R.S. Title 36, Chapter 21.1;

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3. Fails or has failed to comply with any provision in this Article or Article 2 or 7 of this Chapter; or
 4. Knowingly or negligently provides false documentation or false or misleading information to the Department.
- B.** The Department may take the following actions against a certificate holder's certificate of registration:
1. After notice and an opportunity to be heard is provided under A.R.S. Title 41, Chapter 6, Article 10, revoke the certificate of registration; and
 2. In case of emergency, if the Department determines that a potential threat to the public health and safety exists and incorporates a finding to that effect in its order, immediately suspend the certificate of registration as authorized under A.R.S. § 36-2234(L).
- C.** In determining whether to take action under subsection (B), the Department shall consider:
1. The severity of each violation relative to public health and safety;
 2. The number of violations relative to the transport volume of the air ambulance service;
 3. The nature and circumstances of each violation;
 4. Whether each violation was corrected and, if so, the manner of correction; and
 5. The duration of each violation.

Historical Note

New Section made by exempt rulemaking at 7 A.A.R. 4895, effective October 5, 2001 (Supp. 01-4). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-506 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

R9-25-807. Minimum Standards for an Air Ambulance (A.R.S. §§ 36-2202(A)(3), (4), and (5); 36-2209(A)(2); and 36-2212)

- A.** An applicant or certificate holder shall ensure that an air ambulance has:
1. A climate control system to prevent temperature extremes that would adversely affect patient care;
 2. If a fixed-wing air ambulance, pressurization capability;
 3. Interior lighting that allows for patient care and monitoring without interfering with the pilot's vision;
 4. For each place where a patient may be positioned, at least one electrical power outlet or other power source that is capable of operating all electrically powered medical equipment without compromising the operation of any electrical aircraft equipment;
 5. A back-up source of electrical power or batteries capable of operating all electrically powered life-support equipment for at least one hour;
 6. An entry that allows for patient loading and unloading without rotating a patient and stretcher more than 30 degrees about the longitudinal axis or 45 degrees about the lateral axis and without compromising the operation of monitoring systems, intravenous lines, or manual or mechanical ventilation;
 7. A configuration that allows each medical team member sufficient access to each patient to begin and maintain treatment modalities, including complete access to the patient's head and upper body for effective airway management;
 8. A configuration that allows for rapid exit of personnel and patients, without obstruction from stretchers and medical equipment;
 9. A configuration that protects the aircraft's flight controls, throttles, and communications equipment from any intentional or accidental interference from a patient or equipment and supplies;
 10. A padded interior or an interior that is clear of objects or projections in the head strike envelope;
 11. An installed self-activating emergency locator transmitter;
 12. A voice communications system that:
 - a. Is capable of air-to-ground communication, and
 - b. Allows the flight crew and medical team members to communicate with each other during flight;
 13. Interior patient compartment wall and floor coverings that are:
 - a. Free of cuts or tears,
 - b. Capable of being disinfected, and
 - c. Maintained in a sanitary manner; and
 14. If a rotor-wing air ambulance, the following:
 - a. A searchlight that:
 - i. Has a range of motion of at least 90 degrees vertically and 180 degrees horizontally,
 - ii. Is capable of illuminating a landing site, and
 - iii. Is located so that the pilot can operate the searchlight without removing the pilot's hands from the aircraft's flight controls;
 - b. Restraining devices that can be used to prevent a patient from interfering with the pilot or the aircraft's flight controls; and
 - c. A light to illuminate the tail rotor.
- B.** An applicant or certificate holder shall ensure that:
1. Except as provided in subsection (C), each air ambulance has the equipment and supplies required in Table 1 for each mission level for which the air ambulance is used; and
 2. The equipment and supplies on an air ambulance are secured, stored, and maintained in a manner that prevents hazards to personnel and patients.
- C.** A certificate holder may conduct an interfacility critical care mission using an air ambulance that does not have all of the equipment and supplies required in Table 1 for the mission level if:
1. Care of the patient to be transported necessitates use of life-support equipment that because of its size or weight or both makes it unsafe or impossible for the air ambulance to carry all of the equipment and supplies required in Table 1 for the mission level, as determined by the certificate holder based upon:
 - a. The individual aircraft's capabilities,
 - b. The size and weight of the equipment and supplies required in Table 1 and of the additional life-support equipment,
 - c. The composition of the required medical team, and
 - d. Environmental factors such as density altitude;
 2. The certificate holder ensures that, during the mission, the air ambulance has the equipment and supplies necessary to provide an appropriate level of medical care for the patient and to protect the health and safety of the personnel on the mission;
 3. The certificate holder ensures that, during the mission, the air ambulance is not directed by the air ambulance service or another person to conduct another mission before returning to a base location;
 4. The certificate holder ensures that the air ambulance is not used for another mission until the air ambulance has all of the equipment and supplies required in Table 1 for the mission level; and

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5. Within five working days after each interfacility critical care mission conducted as permitted under subsection (C), the certificate holder creates a record that includes the information required under R9-25-710(A)(8), a description of the life-support equipment used on the mission, a list of the equipment and supplies required in Table 1 that were removed from the air ambulance for the mission, and the justification for conducting the mission as permitted under subsection (C).

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 2633, effective June 1, 2002 (Supp. 02-2). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-507 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

Table 8.1. Minimum Equipment and Supplies Required on Air Ambulances, By Mission Level and Aircraft Type (Authorized by A.R.S. §§ 36-2202(A)(3), (4), and (5); 36-2209(A)(2); and 36-2212)

X = Required

ALS = Advanced Life Support Mission

BLS = Basic Life Support Mission

CC = Critical Care Mission

FW = Fixed-Wing Aircraft

RW = Rotor-Wing Aircraft

MINIMUM EQUIPMENT AND SUPPLIES	FW	RW	BLS	ALS	CC
A. Ventilation and Airway Equipment					
1. Portable and fixed suction apparatus, with wide-bore tubing, rigid pharyngeal curved suction tip, tonsillar and flexible suction catheters, 5F-14F	X	X	X	X	X
2. Portable and fixed oxygen equipment, with variable flow regulators	X	X	X	X	X
3. Oxygen administration equipment, including tubing; non-rebreathing masks (adult and pediatric sizes); and nasal cannulas (adult and pediatric sizes)	X	X	X	X	X
4. Bag-valve mask, with hand-operated, self-reexpanding bag (adult size), with oxygen reservoir/accumulator; mask (adult, pediatric, infant, and neonate sizes); and valve	X	X	X	X	X
5. Airways, oropharyngeal (adult, pediatric, and infant sizes)	X	X	X	X	X
6. Laryngoscope handle with extra batteries and bulbs, adult and pediatric	X	X	-	X	X
7. Laryngoscope blades, sizes 0, 1, and 2, straight; sizes 3 and 4, straight and curved	X	X	-	X	X
8. Endotracheal tubes, sizes 2.5-5.0 mm cuffed or uncuffed and 6.0-8.0 mm cuffed	X	X	-	X	X
9. Meconium aspirator	X	X	-	X	X
10. 10 mL straight-tip syringes	X	X	-	X	X
11. Stylettes for Endotracheal tubes, adult and pediatric	X	X	-	X	X
12. Magill forceps, adult and pediatric	X	X	-	X	X
13. Nasogastric tubes, sizes 5F and 8F, Salem sump sizes 14F and 18F	X	X	-	X	X
14. End-tidal CO ₂ detectors, colorimetric or quantitative	X	X	-	X	X
15. Portable automatic ventilator with positive end expiratory pressure	X	X	-	X	X
B. Monitoring and Defibrillation					
1. Automatic external defibrillator	X	X	X	-	-
2. Portable, battery-operated monitor/defibrillator, with tape write-out/recorder, defibrillator pads, adult and pediatric paddles or hands-free patches, ECG leads, adult and pediatric chest attachment electrodes, and capability to provide electrical discharge below 25 watt-seconds	X	X	-	X	X
3. Transcutaneous cardiac pacemaker, either stand-alone unit or integrated into monitor/defibrillator	X	X	-	X	X
C. Immobilization Devices					
1. Cervical collars, rigid, adjustable or in an assortment of adult and pediatric sizes	-	X	X	X	X
2. Head immobilization device, either firm padding or another commercial device	-	X	X	X	X
3. Lower extremity (femur) traction device, including lower extremity, limb support slings, padded ankle hitch, padded pelvic support, and traction strap	-	X	X	X	X
4. Upper and lower extremity immobilization splints	-	X	X	X	X
D. Bandages					
1. Burn pack, including standard package, clean burn sheets	X	X	X	X	X
2. Dressings, including sterile multi-trauma dressings (various large and small sizes); abdominal pads, 10" x 12" or larger; and 4" x 4" gauze sponges	X	X	X	X	X
3. Gauze rolls, sterile (4" or larger)	X	X	X	X	X

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4. Elastic bandages, non-sterile (4" or larger)	X	X	X	X	X
5. Occlusive dressing, sterile, 3" x 8" or larger	X	X	X	X	X
6. Adhesive tape, including various sizes (1" or larger) hypoallergenic and various sizes (1" or larger) adhesive	X	X	X	X	X
E. Obstetrical					
1. Obstetrical kit (separate sterile kit), including towels, 4" x 4" dressing, umbilical tape, sterile scissors or other cutting utensil, bulb suction, clamps for cord, sterile gloves, at least 4 blankets, and a head cover	X	X	X	X	X
2. An alternate portable patient heat source or 2 heat packs	X	X	X	X	X
F. Miscellaneous					
1. Sphygmomanometer (infant, pediatric, and adult regular and large sizes)	X	X	X	X	X
2. Stethoscope	X	X	X	X	X
3. Pediatric equipment sizing reference guide	X	X	X	X	X
4. Thermometer with low temperature capability	X	X	X	X	X
5. Heavy bandage or paramedic scissors for cutting clothing, belts, and boots	X	X	X	X	X
6. Cold packs	X	X	X	X	X
7. Flashlight (1) with extra batteries	X	X	X	X	X
8. Blankets	X	X	X	X	X
9. Sheets	X	X	X	X	X
10. Disposable emesis bags or basins	X	X	X	X	X
11. Disposable bedpan	X	X	X	X	X
12. Disposable urinal	X	X	X	X	X
13. Properly secured patient transport system	X	X	X	X	X
14. Lubricating jelly (water soluble)	X	X	X	X	X
15. Small volume nebulizer	X	X	-	X	X
16. Glucometer or blood glucose measuring device with reagent strips	X	X	X	X	X
17. Pulse oximeter with pediatric and adult probes	X	X	X	X	X
18. Automatic blood pressure monitor	X	X	X	X	X
G. Infection Control (Latex-free equipment shall be available)					
1. Eye protection (full peripheral glasses or goggles, face shield)	X	X	X	X	X
2. Masks	X	X	X	X	X
3. Gloves, non-sterile	X	X	X	X	X
4. Jumpsuits or gowns	X	X	X	X	X
5. Shoe covers	X	X	X	X	X
6. Disinfectant hand wash, commercial antimicrobial (towelette, spray, or liquid)	X	X	X	X	X
7. Disinfectant solution for cleaning equipment	X	X	X	X	X
8. Standard sharps containers	X	X	X	X	X
9. Disposable red trash bags	X	X	X	X	X
10. High-efficiency particulate air mask	X	X	X	X	X
H. Injury Prevention Equipment					
1. Appropriate restraints (such as seat belts) for patient, personnel, and family members	X	X	X	X	X
2. Child safety restraints	X	X	X	X	X
3. Safety vest or other garment with reflective material for each personnel member	-	X	X	X	X
4. Fire extinguisher	X	X	X	X	X
5. Hazardous material reference guide	X	X	X	X	X
6. Hearing protection for patient and personnel	X	X	X	X	X
I. Vascular Access					
1. Intravenous administration equipment, with fluid in bags	X	X	-	X	X
2. Antiseptic solution (alcohol wipes and povidone-iodine wipes)	X	X	-	X	X
3. Intravenous pole or roof hook	X	X	-	X	X
4. Intravenous catheters 14G-24G	X	X	-	X	X
5. Intraosseous needles	X	X	-	X	X
6. Venous tourniquet	X	X	-	X	X
7. One of each of the following types of intravenous solution administration sets: a. A set with blood tubing, b. A set capable of delivering 60 drops per cc, and c. A set capable of delivering 10 or 15 drops per cc	X	X	-	X	X
8. Intravenous arm boards, adult and pediatric	X	X	-	X	X

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9. IV pump or pumps (minimum of 3 infusion lines)	X	X	-	X	X
10. IV pressure bag	X	X	-	X	X
J. Medications					
1. Agents required in Tables 5.2 and, if applicable, 5.3 for the EMCT classification	X	X	X	X	X

Historical Note

New Table 8.1 renumbered from Table 1 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Table 1. Renumbered**Historical Note**

New Table 1 made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Table 1 renumbered to Table 8.1 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-808. Recodified**Historical Note**

New Section made by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-508 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

ARTICLE 9. GROUND AMBULANCE CERTIFICATE OF NECESSITY**R9-25-901. Definitions (Authorized by A.R.S. § 36-2202 (A))**

In addition to the definitions in A.R.S. § 36-2201 and R9-25-101, the following definitions apply in Articles 9, 10, 11, and 12 unless otherwise specified:

1. "Adjustment" means a modification, correction, or alteration to a rate or charge.
2. "ALS base rate" means the monetary amount assessed to a patient according to A.R.S. § 36-2239(F).
3. "Ambulance Revenue and Cost Report" means Exhibit A or Exhibit B, which records and reports the financial activities of an applicant or a certificate holder.
4. "Application packet" means the fee, documents, forms, and additional information the Department requires to be submitted by an applicant or on an applicant's behalf.
5. "Back-up agreement" means a written arrangement between a certificate holder and a neighboring certificate holder for temporary coverage during limited times when the neighboring certificate holder's ambulances are not available for service in its service area.
6. "BLS base rate" means the monetary amount assessed to a patient according to A.R.S. § 36-2239(G).
7. "Certificate holder" means a person to whom the Department issues a certificate of necessity.
8. "Certificate of registration" means an authorization issued by the Department to a certificate holder to operate a ground ambulance vehicle.
9. "Change of ownership" means:
 - a. In the case of ownership by a sole proprietor, 20% or more interest or a beneficial interest is sold or transferred;
 - b. In the case of ownership by a partnership or a private corporation, 20% or more of the stock, interest, or beneficial interest is sold or transferred; or
 - c. The controlling influence changes to the extent that the management and control of the ground ambulance service is significantly altered.
10. "Charge" means the monetary amount assessed to a patient for disposable supplies, medical supplies, medication, and oxygen-related costs.
11. "Chassis" means the part of a ground ambulance vehicle consisting of all base components, including front and rear suspension, exhaust system, brakes, engine, engine hood or cover, transmission, front and rear axles, front fenders, drive train and shaft, fuel system, engine air intake and filter, accelerator pedal, steering wheel, tires, heating and cooling system, battery, and operating controls and instruments.
12. "Convalescent transport" means a scheduled transport other than an interfacility transport.
13. "Dispatch" means the direction to a ground ambulance service or vehicle to respond to a call for EMS or transport.
14. "Driver's compartment" means the part of a ground ambulance vehicle that contains the controls and instruments for operation of the ground ambulance vehicle.
15. "Financial statements" means an applicant's balance sheet, annual income statement, and annual cash flow statement.
16. "Frame" means the structural foundation on which a ground ambulance vehicle chassis is constructed.
17. "General public rate" means the monetary amount assessed to a patient by a ground ambulance service for ALS, BLS, mileage, standby waiting, or according to a subscription service contract.
18. "Generally accepted accounting principles" means the conventions, and rules and procedures for accounting, including broad and specific guidelines, established by the Financial Accounting Standards Board.
19. "Goodwill" means the difference between the purchase price of a ground ambulance service and the fair market value of the ground ambulance service's identifiable net assets.
20. "Gross revenue" means:
 - a. The sum of revenues reported in the Ambulance Revenue and Cost Report Exhibit A, page 2, lines 1, 9, and 20; or
 - b. The sum of revenues reported in the Ambulance Revenue and Cost Report Exhibit B, page 3, lines 1, 24, 25, and 26.
21. "Ground ambulance service" means an ambulance service that operates on land.
22. "Ground ambulance service contract" means a written agreement between a certificate holder and a person for the provision of ground ambulance service.
23. "Ground ambulance vehicle" means a motor vehicle, defined in A.R.S. § 28-101, specifically designed to transport ambulance attendants and patients on land.
24. "Indirect costs" means the cost of providing ground ambulance service that does not include the costs of equipment.
25. "Interfacility transport" means a scheduled transport between two health care institutions.
26. "Level of service" means ALS or BLS ground ambulance service, including the type of ambulance attendants used by the ground ambulance service.
27. "Major defect" means a condition that exists on a ground ambulance vehicle that requires the Department or the certificate holder to place the ground ambulance vehicle out-of-service.
28. "Mileage rate" means the monetary amount assessed to a patient for each mile traveled from the point of patient pick-up to the patient's destination point.
29. "Minor defect" means a condition that exists on a ground ambulance vehicle that is not a major defect.
30. "Needs assessment" means a study or statistical analysis that examines the need for ground ambulance service within a service area or proposed service area that takes

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- into account the current or proposed service area's medical, fire, and police services.
31. "Out-of-service" means a ground ambulance vehicle cannot be operated to transport patients.
 32. "Patient compartment" means the ground ambulance vehicle body part that holds a patient.
 33. "Public necessity" means an identified population needs or requires all or part of the services of a ground ambulance service.
 34. "Response code" means the priority assigned to a request for immediate dispatch by a ground ambulance service on the basis of the information available to the certificate holder or the certificate holder's dispatch authority.
 35. "Response time" means the difference between the time a certificate holder is notified that a need exists for immediate dispatch and the time the certificate holder's first ground ambulance vehicle arrives at the scene. Response time does not include the time required to identify the patient's need, the scene, and the resources necessary to meet the patient's need.
 36. "Response-time tolerance" means the percentage of actual response times for a response code and scene locality that are compliant with the response time approved by the Department for the response code and scene locality, for any 12-month period.
 37. "Rural area" means a geographic region with a population of less than 40,000 residents that is not a suburban area.
 38. "Scene locality" means an urban, suburban, rural, or wilderness area.
 39. "Scheduled transport" means to convey a patient at a prearranged time by a ground ambulance vehicle for which an immediate dispatch and response is not necessary.
 40. "Service area" means the geographical boundary designated in a certificate of necessity using the criteria in A.R.S. § 36-2233(E).
 41. "Settlement" means the difference between the monetary amount Medicare establishes or AHCCCS pays as an allowable rate and the general public rate a ground ambulance service assesses a patient.
 42. "Standby waiting rate" means the monetary amount assessed to a patient by a certificate holder when a ground ambulance vehicle is required to wait in excess of 15 minutes to load or unload the patient, unless the excess delay is caused by the ground ambulance vehicle or the ambulance attendants on the ground ambulance vehicle.
 43. "Subscription service" means the provision of EMS or transport by a certificate holder to a group of individuals within the certificate holder's service area and the allocation of annual costs among the group of individuals.
 44. "Subscription service contract" means a written agreement for subscription service.
 45. "Subscription service rate" means the monetary amount assessed to a person under a subscription service contract.
 46. "Substandard performance" means a certificate holder's:
 - a. Noncompliance with A.R.S. Title 36, Chapter 21.1, Articles 1 and 2, or 9 A.A.C. 25, or the terms of the certificate holder's certificate of necessity, including all decisions and orders issued by the Director to the certificate holder;
 - b. Failure to ensure that an ambulance attendant complies with A.R.S. Title 36, Chapter 21.1, Articles 1 and 2, or 9 A.A.C. 25, for the level of ground ambulance service provided by the certificate holder; or
 - c. Failure to meet the requirements in 9 A.A.C. 25, Article 10.
 47. "Suburban area" means a geographic region within a 10-mile radius of an urban area that has a population density equal to or greater than 1,000 residents per square mile.
 48. "Third-party payor" means a person, other than a patient, who is financially responsible for the payment of a patient's assessed general public rates and charges for EMS or transport provided to the patient by a ground ambulance service.
 49. "Transfer" means:
 - a. A change of ownership or type of business entity; or
 - b. To move a patient from a ground ambulance vehicle to an air ambulance.
 50. "Transport" means the conveyance of one or more patients in a ground ambulance vehicle from the point of patient pick-up to the patient's initial destination.
 51. "Type of ground ambulance service" means an interfacility transport, a convalescent transport, or a transport that requires an immediate response.
 52. "Urban area" means a geographic region delineated as an urbanized area by the United States Department of Commerce, Bureau of the Census.
 53. "Wilderness area" means a geographic region that has a population density of less than one resident per square mile.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.

1098, effective February 13, 2001 (Supp. 01-1).

Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-902. Application for an Initial Certificate of Necessity; Provision of ALS Services; Transfer of a Certificate of Necessity (Authorized by A.R.S. §§ 36-2204, 36-2232, 36-2233(B), 36-2236(A) and (B), 36-2240)

- A. An applicant for an initial certificate of necessity shall submit to the Department an application packet, in a Department-provided format, that includes:
1. An application form that contains:
 - a. The legal business or corporate name, address, telephone number, and facsimile number of the ground ambulance service;
 - b. The name, title, address, e-mail address, and telephone number of the following:
 - i. Each applicant and individual responsible for managing the ground ambulance service;
 - ii. The business representative or designated manager;
 - iii. The individual to contact to access the ground ambulance service's records required in R9-25-910; and
 - iv. The statutory agent for the ground ambulance service, if applicable;
 - c. The name, address, and telephone number of the base hospital or centralized medical direction communications center for the ground ambulance service;
 - d. The address and telephone number of the ground ambulance service's dispatch center;
 - e. The address and telephone number of each suboperation station located within the proposed service area;
 - f. Whether the ground ambulance service is a corporation, partnership, sole proprietorship, limited liability corporation, or other;
 - g. Whether the business entity is proprietary, non-profit, or governmental;
 - h. A description of the communication equipment to be used in each ground ambulance vehicle and suboperation station;
 - i. The make and year of each ground ambulance vehicle to be used by the ground ambulance service;
 - j. The number of ambulance attendants and the type of licensure, certification, or registration for each attendant;
 - k. The proposed hours of operation for the ground ambulance service;
 - l. The type of ground ambulance service;
 - m. The level of ground ambulance service;
 - n. Acknowledgment that the applicant:

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- i. Is requesting to operate ground ambulance vehicles and a ground ambulance service in this state;
 - ii. Has received a copy of 9 A.A.C. 25 and A.R.S. Title 36, Chapter 21.1; and
 - iii. Will comply with the Department's statutes and rules in any matter relating to or affecting the ground ambulance service;
- o. A statement that any information or documents submitted to the Department are true and correct; and
- p. The signature of the applicant or the applicant's designated representative and the date signed;
- 2. The following information:
 - a. Where the ground ambulance vehicles in subsection (A)(1)(i) are located within the applicant's proposed service area;
 - b. A statement of the proposed general public rates;
 - c. A statement of the proposed charges;
 - d. The applicant's proposed response times, response codes, and response-time tolerances for each scene locality in the proposed service area, based on the following:
 - i. The population demographics within the proposed service area;
 - ii. The square miles within the proposed service area;
 - iii. The medical needs of the population within the proposed service area;
 - iv. The number of anticipated requests for each type and level of ground ambulance service in the proposed service area;
 - v. The available routes of travel within the proposed service area;
 - vi. The geographic features and environmental conditions within the proposed service area; and
 - vii. The available medical and emergency medical resources within the proposed service area;
 - e. A plan to provide temporary ground ambulance service to the proposed service area for a limited time when the applicant is unable to provide ground ambulance service to the proposed service area;
 - f. Whether a ground ambulance service currently operates in all or part of the proposed service area and if so, where; and
 - g. Whether an applicant or a designated manager:
 - i. Has ever been convicted of a felony or a misdemeanor involving moral turpitude,
 - ii. Has ever had a license or certificate of necessity for a ground ambulance service suspended or revoked by any state or political subdivision, or
 - iii. Has ever operated a ground ambulance service without the required certification or licensure in this or any other state;
- 3. The following documents:
 - a. A description of the proposed service area by any method specified in A.R.S. § 36-2233(E) and a map that illustrates the proposed service area;
 - b. A projected Ambulance Revenue and Cost Report;
 - c. The financing agreement for all capital acquisitions exceeding \$5,000;
 - d. The source and amount of funding for cash flow from the date the ground ambulance service commences operation until the date cash flow covers monthly expenses;
 - e. Any proposed ground ambulance service contract under A.R.S. §§ 36-2232(A)(1) and 36-2234(K);
 - f. The information and documents specified in R9-25-1101, if the applicant is requesting to establish general public rates;
 - g. Any subscription service contract under A.R.S. §§ 36-2232(A)(1) and 36-2237(B);
 - h. A certificate of insurance or documentation of self-insurance required in A.R.S. § 36-2237(A) and R9-25-909;
 - i. A surety bond if required under A.R.S. § 36-2237(B); and
 - j. The applicant's and designated manager's resume or other description of experience and qualification to operate a ground ambulance service; and
- 4. Any documents, exhibits, or statements that may assist the Director in evaluating the application or any other information or documents needed by the Director to clarify incomplete or ambiguous information or documents.
- B. Before an applicant provides ALS, the applicant shall submit to the Department the application packet required in subsection (A) and the following:
 - 1. A current written contract for ALS medical direction; and
 - 2. Proof of professional liability insurance for ALS personnel required in R9-25-909(A)(1)(b).
- C. When requesting a transfer of a certificate of necessity:
 - 1. The person wanting to transfer the certificate of necessity shall submit a letter to the Department that contains:
 - a. A request that the certificate of necessity be transferred, and
 - b. The name of the person to whom the certificate of necessity is to be transferred; and
 - 2. The person identified in subsection (C)(1)(b) shall submit:
 - a. The application packet in subsection (A); and
 - b. The information in subsection (B), if ALS is provided.
- D. An applicant shall submit the following fees:
 - 1. \$100 application filing fee for an initial certificate of necessity, or
 - 2. \$50 application filing fee for a transfer of a certificate of necessity.
- E. The Department shall approve or deny an application under this Section according to 9 A.A.C. 25, Article 12.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.

1098, effective February 13, 2001 (Supp. 01-1).

Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-903. Determining Public Necessity (A.R.S. § 36-2233(B)(2))

- A. In determining public necessity for an initial or amended certificate of necessity, the Director shall consider the following:
 - 1. The response times, response codes, and response-time tolerances proposed by the applicant for the service area;
 - 2. The population demographics within the proposed service area;
 - 3. The geographic distribution of health care institutions within and surrounding the service area;
 - 4. Whether issuing a certificate of necessity to more than one ambulance service within the same service area is in the public's best interest, based on:
 - a. The existence of ground ambulance service to all or part of the service area;
 - b. The response times of and response-time tolerances for ground ambulance service to all or part of the service area;
 - c. The availability of certificate holders in all or part of the service area; and
 - d. The availability of emergency medical services in all or part of the service area;
 - 5. The information in R9-25-902(A)(1) and (A)(2); and
 - 6. Other matters determined by the Director or the applicant to be relevant to the determination of public necessity.

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- B.** In deciding whether to issue a certificate of necessity to more than one ground ambulance service for convalescent or inter-facility transport for the same service area or overlapping service areas, the Director shall consider the following:
1. The factors in subsections (A)(2), (A)(3), (A)(4)(a), (A)(4)(c), (A)(4)(d), (A)(5), and (A)(6);
 2. The financial impact on certificate holders whose service area includes all or part of the service area in the requested certificate of necessity;
 3. The need for additional convalescent or interfacility transport; and
 4. Whether a certificate holder for the service area has demonstrated substandard performance.
- C.** In deciding whether to issue a certificate of necessity to more than one ground ambulance service for a 9-1-1 or similarly dispatched transport within the same service area or overlapping service areas, the Director shall consider the following:
1. The factors in subsections (A), (B)(2), and (B)(4);
 2. The difference between the response times in the service area and proposed response times by the applicant;
 3. A needs assessment adopted by a political subdivision, if any; and
 4. A needs assessment, referenced in A.R.S. § 36-2210, adopted by a local emergency medical services coordinating system, if any.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-904. Application for Renewal of a Certificate of Necessity (A.R.S. §§ 36-2233, 36-2235, 36-2240)

- A.** An applicant for a renewal of a certificate of necessity shall submit to the Department, not less than 60 days before the expiration date of the certificate of necessity, an application packet that includes:
1. An application form that contains the information in R9-25-902(A)(1)(a) through (A)(1)(m) and the signature of the applicant;
 2. Proof of continuous insurance coverage or a statement of continuing self-insurance, including a copy of the current certificate of insurance or current statement of self-insurance required in R9-25-909;
 3. Proof of continued coverage by a surety bond if required under A.R.S. §§ 36-2237(B);
 4. A copy of the list of current charges required in R9-25-1109;
 5. An affirmation that the certificate holder has and is continuing to meet the conditions of the certificate of necessity, including assessing only those rates and charges approved and set by the Director; and
 6. \$50 application filing fee.
- B.** A certificate holder who fails to file a timely application for renewal of the certificate of necessity according to A.R.S. § 36-2235 and this Section, shall cease operations at 12:01 a.m. on the date the certificate of necessity expires.
- C.** To commence operations after failing to file a timely renewal application, a person shall file an initial certificate of necessity application according to R9-25-902 and meet all the requirements for an initial certificate of necessity.
- D.** The Department shall approve or deny an application under this Section according to 9 A.A.C. 25, Article 12.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-905. Application for Amendment of a Certificate of**Necessity (A.R.S. §§ 36-2232(A)(4), 36-2240)**

- A.** A certificate holder that wants to amend its certificate of necessity shall submit to the Department the application form in R9-25-902(A)(1) and an application filing fee of \$50 for changes in:
1. The legal name of the ground ambulance service;
 2. The legal address of the ground ambulance service;
 3. The level of ground ambulance service;
 4. The type of ground ambulance service;
 5. The service area; or
 6. The response times, response codes, or response-time tolerances.
- B.** In addition to the application form in subsection (A), an amending certificate holder shall submit:
1. For the addition of ALS ground ambulance service, the information required in R9-25-902(B)(1) and (B)(2).
 2. For a change in the service area, the information required in R9-25-902(A)(3)(a);
 3. For a change in response times, the information required in subsection R9-25-902(A)(2)(d);
 4. A statement explaining the financial impact and impact on patient care anticipated by the proposed amendment;
 5. Any other information or documents requested by the Director to clarify incomplete or ambiguous information or documents; and
 6. Any documents, exhibits, or statements that the amending certificate holder wishes to submit to assist the Director in evaluating the proposed amendment.
- C.** The Department shall approve or deny an application under this Section according to 9 A.A.C. 25, Article 12.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-906. Determining Response Times, Response Codes, and Response-Time Tolerances for Certificates of Necessity and Provision of ALS Services (A.R.S. §§ 36-2232, 36-2233)

In determining response times, response codes, and response-time tolerances for all or part of a service area, the Director may consider the following:

1. Differences in scene locality, if applicable;
2. Requirements of a 9-1-1 or similar dispatch system for all or part of the service area;
3. Requirements in a contract approved by the Department between a ground ambulance service and a political subdivision;
4. Medical prioritization for the dispatch of a ground ambulance vehicle according to procedures established by the certificate holder's medical direction authority; and
5. Other matters determined by the Director to be relevant to the measurement of response times, response codes, and response-time tolerances.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-907. Observance of Service Area; Exceptions (A.R.S. § 36-2232)

A certificate holder shall not provide EMS or transport within an area other than the service area identified in the certificate holder's certificate of necessity except:

1. When authorized by a service area's dispatch, before the service area's ground ambulance vehicle arrives at the scene; or
2. According to a back-up agreement.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-908. Transport Requirements; Exceptions (A.R.S. §§ 36-2224, 36-2232)

A certificate holder shall transport a patient except:

1. As limited by A.R.S. § 36-2224;
2. If the patient is in a health care institution and the patient's medical condition requires a level of care or monitoring during transport that exceeds the scope of practice of the ambulance attendants' certification;
3. If the transport may result in an immediate threat to the ambulance attendant's safety, as determined by the ambulance attendant, certificate holder, or medical direction authority;
4. If the patient is more than 17 years old and refuses to be transported; or
5. If the patient is in a health care institution and does not meet the federal requirements for medically necessary ground vehicle ambulance transport as identified in 42 CFR 410.40.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-909. Certificate of Insurance or Self-Insurance (A.R.S. §§ 36-2232, 36-2233, 36-2237)

A. A certificate holder shall:

1. Maintain with an insurance company authorized to transact business in this state:
 - a. A minimum single occurrence automobile liability insurance coverage of \$500,000 for ground ambulance vehicles; and
 - b. A minimum single occurrence malpractice or professional liability insurance coverage of \$500,000; or
2. Be self-insured for the amounts in subsection (A)(1).

B. A certificate holder shall submit to the Department:

1. A copy of the certificate of insurance; or
2. Documentation of self-insurance.

C. A certificate holder shall submit a copy of the certificate of insurance to the Department no later than five days after the date of issuance of:

1. A renewal of the insurance policy; or
2. A change in insurance coverage or insurance company.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-910. Record and Reporting Requirements (A.R.S. §§ 36-2232, 36-2241, 36-2246)

A. A certificate holder shall submit to the Department, no later than 180 days after the certificate holder's fiscal year end, the appropriate Ambulance Revenue and Cost Report.

B. According to A.R.S. § 36-2241, a certificate holder shall maintain the following records for the Department's review and inspection:

1. The certificate holder's financial statements;
2. All federal and state income tax records;
3. All employee-related expense reports and payroll records;
4. All bank statements and documents verifying reconciliation;
5. All documents establishing the depreciation of assets, such as schedules or accounting records on ground ambulance vehicles, equipment, office furniture, and other plant and equipment assets subject to depreciation;

6. All first care forms required in R9-25-514 and R9-25-615;
7. All patient billing and reimbursement records;
8. All dispatch records, including the following:
 - a. The name of the ground ambulance service;
 - b. The month of the record;
 - c. The date of each transport;
 - d. The number assigned to the ground ambulance vehicle by the certificate holder;
 - e. Names of the ambulance attendants;
 - f. The scene;
 - g. The actual response time;
 - h. The response code;
 - i. The scene locality;
 - j. Whether the scene to which the ground ambulance vehicle is dispatched is outside of the certificate holder's service area; and
 - k. Whether the dispatch is a scheduled transport;
9. All ground ambulance service back-up agreements, contracts, grants, and financial assistance records related to ground ambulance vehicles, EMS, and transport;
10. All written ground ambulance service complaints; and
11. Information about destroyed or otherwise irretrievable records in a file including:
 - a. A list of each record destroyed or otherwise irretrievable;
 - b. A description of the circumstances under which each record became destroyed or otherwise irretrievable; and
 - c. The date each record was destroyed or became otherwise irretrievable.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-911. Ground Ambulance Service Advertising (A.R.S. § 36-2232)

- A. A certificate holder shall not advertise that it provides a type or level of ground ambulance service or operates in a service area different from that granted in the certificate of necessity.
- B. When advertising, a certificate holder shall not direct the circumvention of the use of 9-1-1 or another similarly designated emergency telephone number.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-912. Disciplinary Action (A.R.S. §§ 36-2244, 36-2245)

- A. After notice and opportunity to be heard is given according to the procedures in A.R.S. Title 41, Chapter 6, Article 10, a certificate of necessity may be suspended, revoked, or other disciplinary action taken for the following reasons:
 1. The certificate holder has:
 - a. Demonstrated substandard performance; or
 - b. Been determined not to be fit and proper by the Director;
 2. The certificate holder has provided false information or documents:
 - a. On an application for a certificate of necessity;
 - b. Regarding any matter relating to its ground ambulance vehicles or ground ambulance service; or
 - c. To a patient, third-party payor, or other person billed for service; or
 3. The certificate holder has failed to:

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- a. Comply with the applicable requirements of A.R.S. Title 36, Chapter 21.1, Articles 1 and 2 or 9 A.A.C. 25; or
 - b. Comply with any term of its certificate of necessity or any rates and charges schedule filed by the certificate holder and approved by the Department.
- B.** In determining the type of disciplinary action to impose under A.R.S. § 36-2245, the Director shall consider:
1. The severity of the violation relative to public health and safety;
 2. The number of violations relative to the annual transport volume of the certificate holder;
 3. The nature and circumstances of the violation;
 4. Whether the violation was corrected, the manner of correction, and the time-frame involved; and
 5. The impact of the penalty or assessment on the provision of ground ambulance service in the certificate holder's service area.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

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Exhibit 9A. Ambulance Revenue and Cost Report, General Information and Certification

Legal Name of Company: _____ CON No. _____
 D.B.A. (Doing Business As): _____ Business Phone: () _____
 Financial Records Address: _____ City: _____ Zip Code _____
 Mailing Address (If Different): _____ City: _____ Zip Code _____
 Owner/Manager: _____
 Report Contact Person: _____ Phone: () _____ Ext. _____
 Report for Period From: _____ To: _____
 Method of Valuing Inventory: LIFO: () FIFO: () Other (Explain): _____

Please attach a list of all affiliated organizations (parents/subsidiaries) that exhibit at least 5% ownership/ vesting.

CERTIFICATION

I hereby certify that I have directed the preparation of the Arizona Ambulance Revenue and Cost Report for the facility listed above in accordance with the reporting requirements of the State of Arizona.

I have read this report and hereby certify that the information provided is true and correct to the best of my knowledge.

This report has been prepared using the accrual basis of accounting.

Authorized Signature: _____

Title: _____ *Date:* _____

Mail to:

Department of Health Services
 Bureau of Emergency Medical Services and Trauma System
 Certificate of Necessity and Rates Section
 150 North 18th Avenue, Suite 540, Phoenix, AZ 85007
 Telephone: (602) 364-3150; Fax: (602) 364-3567

Revised December 2013

Department of Health Services - Emergency Medical Services

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

STATISTICAL SUPPORT DATA

Line No.	DESCRIPTION	(1) SUBSCRIPTION SERVICE TRANSPORTS	(2)** TRANSPORTS UNDER CONTRACT	(3) TRANSPORTS NOT UNDER CONTRACT	(4) TOTALS
01	Number of ALS Billable Runs	_____	_____	_____	_____
02	Number of BLS Billable Runs	_____	_____	_____	_____
03	Number of Loaded Billable Miles	_____	_____	_____	_____
04	Waiting Time (Hr. & Min.)	_____	_____	_____	_____
05	Total Canceled (Non-Billable) Runs	_____	_____	_____	_____
					Number
	Volunteer Services: (OPTIONAL)				Donated Hours
06	Paramedic and IEMT				_____
07	Emergency Medical Technician - B				_____
08	Other Ambulance Attendants				_____
09	Total Volunteer Hours				_____

**This column reports only those runs where a contracted discount rate was applied. See Page 7 to provide additional information regarding discounted contract runs.

Department of Health Services - Emergency Medical Services

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

STATISTICAL SUPPORT DATA

Line No.	TYPE OF SERVICE	(1) SUBSIDIZED PATIENTS	(2) NON- SUBSIDIZED PATIENTS	(3) TOTALS
01	Number of Advanced Life Support Billable Runs	_____	_____	_____
02	Number of Basic Life Support Billable Runs	_____	_____	_____
03	Number of Loaded Billable Miles	_____	_____	_____
04	Waiting Time (Hours and Minutes)	_____	_____	_____
05	Total Canceled (Non-Billable) Runs	_____	_____	_____
				Number
	Volunteer Services: (OPTIONAL)			Donated Hours
06	Paramedic, EMT-I(99), and AEMT			_____
07	Emergency Medical Technician (EMT)			_____
08	Other Ambulance Attendants			_____
09	Total Volunteer Hours			_____

Note: This page and page 3.1, Routine Operating Revenue, are only for those governmental agencies that apply subsidy to patient billings.

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AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

STATEMENT OF INCOME

<u>Line</u> <u>No.</u>	<u>DESCRIPTION</u>	<u>FROM</u>	
	Operating Revenue:		
01	Ambulance Service Routine Operating Revenue	Page 3 Line 10	\$ _____
	Less:		
02	AHCCCS Settlement		_____
03	Medicare Settlement		_____
04	Contractual Discounts	Page 7 Line 22	_____
05	Subscription Service Settlement	Page 8 Line 4	_____
06	Other (Attach Schedule)		_____
07	Total		_____
08	Net Revenue from Ambulance Runs		\$ _____
09	Sales of Subscription Service Contracts	Page 8 Line 8	_____
10	Total Operating Revenue		\$ _____
	Ambulance Operating Expenses:		
11	Bad Debt (Includes Subscription Services Bad Debt) . . .		\$ _____
12	Wages, Payroll Taxes, and Employee Benefits	Page 4 Line 22	_____
13	General and Administrative Expenses	Page 5 Line 20	_____
14	Cost of Goods Sold	Page 3 Line 15	_____
15	Other Operating Expenses	Page 6 Line 28	_____
16	Interest Expense (Attach Schedule IV)	Page 14 CI 4 & 5 Line 28	_____
17	Subscription Service Direct Selling	Page 8 Line 23	_____
18	Total Operating Expenses		_____
19	Ambulance Service Income (Loss) (Line 10 minus Line 18)		\$ _____
	Other Revenue/Expenses:		
20	Other Operating Revenue and Expenses	Page 9 Line 17	\$ _____
21	Non-Operating Revenue and Expense		_____
22	Non-Deductible Expenses (Attach Schedule)		_____
23	Total Other Revenues/Expenses		_____
24	Ambulance Service Income (Loss) - Before Income Taxes		\$ _____
	Provision for Income Taxes:		
25	Federal Income Tax		\$ _____
26	State Income Tax		_____
27	Total Income Tax		_____
28	Ambulance Service - Net Income (Loss)		\$ _____

Department of Health Services - Emergency Medical Services

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

ROUTINE OPERATING REVENUE

Line

No. DESCRIPTION

Ambulance Service Routine Operating Revenue:		
01	ALS Base Rate.	\$ _____
02	BLS Base Rate.	_____
03	Mileage Charge.	_____
04	Waiting Charge.	_____
05	Medical Supplies (Gross Charges).	_____
06	Nurses Charges.	_____
07	Total.	\$ _____
08	Standby Revenue (Attach Schedule)	_____
09	Other Ambulance Service Revenue (Attach Schedule)	_____
10	Total Ambulance Service Routine Operating Revenue (To Page 2, Line 01) . . .	\$ _____

COST OF GOODS SOLD: (MEDICAL SUPPLIES)

11	Inventory at Beginning of Year	_____
12	Plus Purchases.	_____
13	Plus Other Costs.	_____
14	Less Inventory at End of Year. ()	
15	Cost of Goods Sold (To Page 2, Line 14).	\$ _____

Department of Health Services - Emergency Medical Services

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

ROUTINE OPERATING REVENUE

Line No.	TYPE OF SERVICE	(1) SUBSIDIZED PATIENTS	(2) NON- SUBSIDIZED PATIENTS	(3) TOTALS
AMBULANCE SERVICE OPERATING REVENUE				
01	ALS Base Rate	\$ _____	\$ _____	\$ _____
02	BLS Base Rate	_____	_____	_____
03	Mileage Charge	_____	_____	_____
04	Waiting Charge	_____	_____	_____
05	Medical Supplies (Gross Charges)	_____	_____	_____
06	Nurses' Charges	_____	_____	_____
07	Total	\$ _____	\$ _____	\$ _____
08	Standby Revenue (Attach Schedule)			_____
09	Other Ambulance Service Revenue (Attach Schedule)			_____
10	Total Ambulance Service Routine Operating Revenue (Column 3 to Page 2, Line 01)			\$ _____
Less:				
11	AHCCCS Settlement	\$ _____	\$ _____	\$ _____
12	Medicare Settlement	_____	_____	_____
13	Subsidy	_____	XXXXXXXXXXXXXX	_____
14	Other (Attach Schedule)	_____	_____	_____
15	Total Settlements (Column 3 to Page 2, Line 06)	\$ _____	\$ _____	\$ _____
Cost of Goods Sold:				
16	Inventory at Beginning of Year			\$ _____
17	Plus Purchases			_____
18	Plus Other Costs			_____
19	Less Inventory at End of Year			(_____)
20	Cost of Goods Sold (Column 3 to Page 2, Line 14)			\$ _____

Department of Health Services - Emergency Medical Services

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

WAGES, PAYROLL TAXES, AND EMPLOYEE BENEFITS

Line No.	DESCRIPTION	No. of *F.T.E.s	AMOUNT
01	Gross Wages - OFFICERS/OWNERS (Attach Schedule1, Page 10, Line 7)	_____	\$ _____
02	Payroll Taxes	_____	_____
03	Employee Fringe Benefits	_____	_____
04	Total	_____	\$ _____
05	Gross Wages - MANAGEMENT (Attach Schedule II)	_____	\$ _____
06	Payroll Taxes	_____	_____
07	Employee Fringe Benefits	_____	_____
08	Total	_____	\$ _____
Gross Wages - AMBULANCE PERSONNEL (Attach Schedule II)			
	**Casual Labor	Wages	
09	Paramedic, EMT-I(99) and AEMT	_____	\$ _____
10	Emergency Medical Technician (EMT). _____	_____	_____
11	Nurses.	_____	_____
12	Payroll Taxes.	_____	_____
13	Employee Fringe Benefits	_____	_____
14	Total.	_____	\$ _____
Gross Wages - OTHER PERSONNEL (Attach Schedule II)			
15	Dispatch.	_____	\$ _____
16	Mechanics	_____	_____
17	Office and Clerical	_____	_____
18	Other	_____	_____
19	Payroll Taxes.	_____	_____
20	Employee Fringe Benefits	_____	_____
21	Total.	_____	\$ _____
22	Total F.T.E.s' Wages, Payroll Taxes, & Employee Benefits (To Page 2, Line 12)	_____	\$ _____

* Full-time equivalents (F.T.E.) is the sum of all hours for which employee wages were paid during the year divided by 2,080.

** The sum of Casual Labor (wages paid on a per run basis) plus Wages paid is entered in Column 2 by line item. However, when calculating F.T.E.s, do not include casual labor hours worked or expenses incurred.

Department of Health Services - Emergency Medical Services

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

WAGES, PAYROLL TAXES, AND EMPLOYEE BENEFITS

Line No.	DESCRIPTION	(1) No. of *F.T.E.s	(2) Total Expenditure	(3) Allocation Percentage	(4) Ambulance Amount
01	Gross Wages - Management (Attach Schedule II)	_____	\$ _____	_____	_____
02	Payroll Taxes.	_____	_____	_____	_____
03	Employee Fringe Benefits.	_____	_____	_____	_____
04	Total	_____	\$ _____	_____	_____
Gross Wages - Ambulance Personnel (Attach Schedule I):					
	**Contractual Wages				
05	Paramedic, EMT-I(99) and AEMT	_____	\$ _____	_____	_____
06	Emergency Medical Technician (EMT)	_____	_____	_____	_____
07	Nurses.	_____	_____	_____	_____
08	Drivers.	_____	_____	_____	_____
09	Payroll Taxes.	_____	_____	_____	_____
10	Employee Fringe Benefits.	_____	_____	_____	_____
11	Total.	_____	\$ _____	_____	_____
Gross Wages - Other Personnel (Attach Schedule II):					
12	Dispatch.	_____	\$ _____	_____	_____
13	Mechanics	_____	_____	_____	_____
14	Office and Clerical	_____	_____	_____	_____
15	Other	_____	_____	_____	_____
16	Payroll Taxes.	_____	_____	_____	_____
17	Employee Fringe Benefits.	_____	_____	_____	_____
18	Total.	_____	\$ _____	_____	_____
19	Total F.T.E.s' Wages, Payroll Taxes, and Employee Benefits (To Page 2, Line 12)	_____	\$ _____	_____	_____

* Full-Time Equivalents (F.T.E.) is the sum of all hours for which employee wages were paid during the year divided by 2,080.

** The sum of Contractual + Wages paid is entered in Column 2 by line item. However, when calculating F.T.E.s, do not include contractual hours worked or expenses incurred.

Department of Health Services - Emergency Medical Services

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

WAGES, PAYROLL TAXES, AND EMPLOYEE BENEFITS

Line No.	<u>DESCRIPTION</u>	<u>Basis of Allocations</u>	
01	Gross Wages - Management	_____	
02	Payroll Taxes	_____	
03	Employee Fringe Benefits	_____	
04	Total	_____	
 Gross Wages - Ambulance Personnel:			
		<u>Contractual</u>	<u>Wages</u>
05	Paramedic, EMT-I(99) and AEMT	_____	_____
06	Emergency Medical Technician (EMT)	_____	_____
06	Emergency Medical Technician (EMT)	_____	_____
07	Nurses	_____	_____
08	Drivers	_____	_____
09	Payroll Taxes	_____	_____
10	Employee Fringe Benefits	_____	_____
11	Total	_____	_____
 Gross Wages - Other Personnel:			
12	Dispatch	_____	
13	Mechanics	_____	
14	Office and Clerical	_____	
15	Other	_____	
16	Payroll Taxes	_____	
17	Employee Fringe Benefits	_____	
18	Total	_____	

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AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

GENERAL AND ADMINISTRATIVE EXPENSES

Line

No. DESCRIPTION**Professional Services:**

01	Legal Fees	\$ _____
02	Collection Fees	_____
03	Accounting and Auditing	_____
04	Data Processing Fees	_____
05	Other (Attach Schedule)	_____
06	Total	\$ _____

Travel and Entertainment:

07	Meals and Entertainment	\$ _____
08	Transportation - Other Company Vehicles	_____
09	Travel	_____
10	Other (Attach Schedule)	_____
11	Total	\$ _____

Other General and Administrative:

12	Office Supplies	\$ _____
13	Postage	_____
14	Telephone	_____
15	Advertising	_____
16	Professional Liability Insurance	_____
17	Dues and Subscriptions	_____
18	Other (Attach Schedule)	_____
19	Total	\$ _____
20	Total General and Administrative Expenses (To Page 2, Line 13)	\$ _____

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AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

GENERAL AND ADMINISTRATIVE EXPENSES

Line No.	DESCRIPTION	(1) Total Expenditure	(2) Allocation Percentage	(3) Ambulance Amount
Professional Services:				
01	Legal Fees	\$ _____	_____	\$ _____
02	Collection Fees	_____	_____	_____
03	Accounting and Auditing	_____	_____	_____
04	Data Processing Fees	_____	_____	_____
05	Other (Attach Schedule)	_____	_____	_____
06	Total	\$ _____		\$ _____
Travel and Entertainment:				
07	Meals and Entertainment	\$ _____	_____	\$ _____
08	Transportation - Other Company Vehicles	_____	_____	_____
09	Travel	_____	_____	_____
10	Other (Attach Schedule)	_____	_____	_____
11	Total	\$ _____		\$ _____
Other General and Administrative:				
12	Office Supplies	\$ _____	_____	\$ _____
13	Postage	_____	_____	_____
14	Telephone	_____	_____	_____
15	Advertising	_____	_____	_____
16	Professional Liability Insurance	_____	_____	_____
17	Dues and Subscriptions	_____	_____	_____
18	Other (Attach Schedule)	_____	_____	_____
19	Total	\$ _____		\$ _____
20	Total General & Administrative Expenses (to Page 2, Line 13)	\$ _____		\$ _____

Department of Health Services - Emergency Medical Services

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

GENERAL AND ADMINISTRATIVE EXPENSES (cont.)

<u>Line No.</u>	<u>DESCRIPTION</u>	<u>Basis of Allocations</u>
Professional Services:		
01	Legal Fees	_____
02	Collection Fees	_____
03	Accounting and Auditing	_____
04	Data Processing Fees	_____
05	Other (Attach Schedule)	_____
06	Total	_____
Travel and Entertainment:		
07	Meals and Entertainment	_____
08	Transportation - Other Company Vehicles	_____
09	Travel	_____
10	Other (Attach Schedule)	_____
11	Total	_____
Other General and Administrative:		
12	Office Supplies	_____
13	Postage	_____
14	Telephone	_____
15	Advertising	_____
16	Professional Liability Insurance	_____
17	Dues and Subscriptions	_____
18	Other (Attach Schedule)	_____
19	Total	_____

Department of Health Services - Emergency Medical Services

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

OTHER OPERATING EXPENSES

Line

No. OTHER OPERATING EXPENSES**Depreciation and Amortization:**

01	Depreciation (Attach Schedule III) (From Line 20, Col I, Page 13)	\$ _____	
02	Amortization	_____	
03	Total		\$ _____
04	Rent/Lease (Attach Schedule III) (From Line 20, Col K, Page 13)		\$ _____

Building/Station Expense:

05	Building and Cleaning Supplies	\$ _____	
06	Utilities	_____	
07	Property Taxes	_____	
08	Property Insurance	_____	
09	Repairs and Maintenance	_____	
10	Other (Attach Schedule)	_____	
11	Total		\$ _____

Vehicle Expense - Ambulance Units:

12	License/Registration	\$ _____	
13	Fuel.	_____	
14	General Vehicle Service and Maintenance.	_____	
15	Major Repairs	_____	
16	Insurance - Service Vehicles.	_____	
17	Other (Attach Schedule).	_____	
18	Total		\$ _____

Other Expenses:

19	Dispatch	_____	
20	Education/Training	_____	
21	Uniforms and Uniform Cleaning	_____	
22	Meals and Travel for Ambulance Personnel	_____	
23	Maintenance Contracts	_____	
24	Minor Equipment - Not Capitalized	_____	
25	Ambulance Supplies - Nonchargeable	_____	
26	Other (Attach Schedule)	_____	
27	Total		\$ _____
28	Total Other Operating Expenses (To Page 2, Line 15)		\$ _____

Department of Health Services - Emergency Medical Services

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

OTHER OPERATING EXPENSES

<u>OTHER OPERATING EXPENSES</u>	<u>(1) Total Expenditure</u>	<u>(2) Allocation Percentage</u>	<u>(3) Ambulance Amount</u>
Depreciation and Amortization:			
Depreciation (Attach Schedule III) (From Line 20, Col I, Page 12) .	\$ _____	_____	_____
Amortization	_____	_____	_____
Total	\$ _____	_____	_____
Rent/Lease (Attach Schedule III) Line 20, Col K, Page 12	\$ _____	_____	_____
Building/Station Expense:			
Building and Cleaning Supplies	\$ _____	_____	_____
Utilities	_____	_____	_____
Property Taxes	_____	_____	_____
Property Insurance	_____	_____	_____
Repairs and Maintenance	_____	_____	_____
Other (Attach Schedule)	_____	_____	_____
Total	\$ _____	_____	_____
Vehicle Expense - Ambulance Units:			
License/Registration	\$ _____	_____	_____
Fuel.	_____	_____	_____
General Vehicle Service and Maintenance.	_____	_____	_____
Major Repairs	_____	_____	_____
Insurance - Service Vehicles.	_____	_____	_____
Other (Attach Schedule).	_____	_____	_____
Total	\$ _____	_____	_____
Other Expenses:			
Dispatch	\$ _____	_____	_____
Education/Training	_____	_____	_____
Uniforms and Uniform Cleaning	_____	_____	_____
Meals and Travel for Ambulance Personnel	_____	_____	_____
Maintenance Contracts.	_____	_____	_____
Minor Equipment - Not Capitalized.	_____	_____	_____
Ambulance Supplies - Nonchargeable	_____	_____	_____
Other (Attach Schedule).	_____	_____	_____
Total.	\$ _____	_____	_____
Total Other Operating Expenses (To Page 2, Line 15)	\$ _____	_____	_____

Department of Health Services - Emergency Medical Services

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

OTHER OPERATING EXPENSES

Line

No. OTHER OPERATING EXPENSES**Basis of Allocations****Depreciation and Amortization:**

01	Depreciation	_____
02	Amortization	_____
03	Total	_____
04	Rent/Lease	_____

Building/Station Expense:

05	Building and Cleaning Supplies	_____
06	Utilities	_____
07	Property Taxes	_____
08	Property Insurance	_____
09	Repairs and Maintenance	_____
10	Other (Attach Schedule)	_____
11	Total	_____

Vehicle Expense - Ambulance Units:

12	License/Registration	_____
13	Fuel	_____
14	General Vehicle Service and Maintenance	_____
15	Major Repairs	_____
16	Insurance - Service Vehicles	_____
17	Other (Attach Schedule)	_____
18	Total	_____

Other Expenses:

19	Dispatch	_____
20	Education/Training	_____
21	Uniforms and Uniform Cleaning	_____
22	Meals and Travel for Ambulance Personnel	_____
23	Maintenance Contracts	_____
24	Minor Equipment - Not Capitalized	_____
25	Ambulance Supplies - Nonchargeable	_____
26	Other (Attach Schedule)	_____
27	Total	_____

Page 6.1.a

Department of Health Services - Emergency Medical Services

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

DETAIL OF CONTRACTUAL ALLOWANCES

Line No.	Name of Contracting Entity	Total Billable Runs	Gross Billing	Percent Discount	Allowance
01	_____	_____	_____	_____	_____
02	_____	_____	_____	_____	_____
03	_____	_____	_____	_____	_____
04	_____	_____	_____	_____	_____
05	_____	_____	_____	_____	_____
06	_____	_____	_____	_____	_____
07	_____	_____	_____	_____	_____
08	_____	_____	_____	_____	_____
09	_____	_____	_____	_____	_____
10	_____	_____	_____	_____	_____
11	_____	_____	_____	_____	_____
12	_____	_____	_____	_____	_____
13	_____	_____	_____	_____	_____
14	_____	_____	_____	_____	_____
15	_____	_____	_____	_____	_____
16	_____	_____	_____	_____	_____
17	_____	_____	_____	_____	_____
18	_____	_____	_____	_____	_____
19	_____	_____	_____	_____	_____
20	_____	_____	_____	_____	_____
21	_____	_____	_____	_____	_____
22	Total (To Page 2, Line 4)				_____

Department of Health Services - Emergency Medical Services

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

SUBSCRIPTION SERVICE REVENUE AND
DIRECT SELLING EXPENSES

Line No.	Description	To	
01	Billings at Fully Established Rate		\$ _____
	Less:		
02	AHCCCS Settlement	_____	
03	Medicare Settlement	_____	
04	Subscription Service Settlements (To Page 2, Line 5)	_____	
05	Subscription Service Bad Debt	_____	
06	Total		\$ _____
07	Net Revenue from Subscription Service Runs		_____
08	Sales of Subscription Service (To Page 2, Line 9)		_____
09	Other Revenue (Attach Schedule)		_____
10	Total Subscription Service Revenue		\$ _____
Direct Expenses Incurred Selling Subscription Contracts:			
11	Salaries/Wages		\$ _____
12	Payroll Taxes	_____	
13	Employee Fringe Benefits	_____	
14	Professional Services	_____	
15	Contract Labor	_____	
16	Travel	_____	
17	Other General and Administrative Expenses	_____	
18	Depreciation/Amortization	_____	
19	Rent/Lease	_____	
20	Building/Station Expense	_____	
21	Transportation/Vehicles	_____	
22	Other (Attach Schedule)	_____	
23	Total Subscription Service Expenses (To Page 2, Line 17).		\$ _____

Department of Health Services - Emergency Medical Services

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

OTHER OPERATING REVENUES AND EXPENSES

Line

No. DESCRIPTION**Other Operating Revenues:**

01	Supportive Funding - Local (Attach Schedule)	\$ _____	
02	Grant Funds - State (Attach Schedule)	_____	
03	Grant Funds - Federal (Attach Schedule)	_____	
04	Grant Funds - Other (Attach Schedule)	_____	
05	Patient Finance Charges	_____	
06	Patient Late Payment Charges	_____	
07	Interest Earned - Related Person/Organization	_____	
08	Interest Earned - Other	_____	
09	Gain on Sale of Operating Property	_____	
10	Other: _____	_____	
11	Other: _____	_____	
12	Total Operating Revenue		\$ _____

Other Operating Expenses:

13	Loss on Sale of Operating Property	\$ _____	
14	Other: _____	_____	
15	Other: _____	_____	
16	Total Other Operating Expenses		\$ _____
17	Net Other Operating Revenues and Expenses (To Page 2, Line 20)		\$ _____

Department of Health Services - Emergency Medical Services

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

DETAIL OF SALARIES/WAGES
OFFICERS/OWNERS
SCHEDULE 1

Wages Paid by Category

Line No.	Name	Title	% of Ownership	Management	*FTE	EMCT	*FTE	Office	*FTE	Other	*FTE	<u>Totals</u>	
												Wages Paid To Owners	*FTE
01	_____	_____	_____	\$_____	_____	\$_____	_____	\$_____	_____	\$_____	_____	\$_____	_____
02	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
03	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
04	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
05	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
06	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____1	_____
07	TOTAL	=====	=====	\$=====	=====	\$=====	=====	\$=====	=====	\$=====	=====	\$=====	=====

*Full-time equivalents (F.T.E.) Is the sum of all hours for which employee wages were paid during the year divided by 2080.

1 Total wages paid to owners to Page 4 Col 2 Line 01

2 Total FTEs to Page 4 Col 1 Line 01

Department of Health Services - Emergency Medical Services

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

OPERATING EXPENSES
DETAIL OF SALARIES/WAGES
SCHEDULE II
_____LineNo. Detail of Salaries/Wages - Other Than Officers/Owners**01 MANAGEMENT:****METHOD OF COMPENSATION:**

Certification and/or Title	Scheduled Shifts (I.e. 40 or 60 hours a week)	Hourly Wage	Annual Salary	\$s Per Run or Shift
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

02 AMBULANCE PERSONNEL:

_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

03 OTHER PERSONNEL:

_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Department of Health Services - Emergency Medical Services

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

DEPRECIATION AND/OR RENT/LEASE EXPENSE
SCHEDULE IIIAMBULANCE VEHICLES AND
ACCESSORIAL EQUIPMENT ONLY

	A	B	C	D	E	F	G	H	I	J	K
Line No.	Description of Property	Date Placed in Service	Cost or Other Basis	Business Use Percent	Basis for Depreciation	Method	Recovery Period	Depreciation Prior Years	Current Year Depreciation	Remaining Basis	Rent/Lease Amount*
01											
02											
03											
04											
05											
06											
07											
08											
09											
10											
11											
12											
13											
14											
15											
16											
17											
18											
19											
20	SUBTOTAL	XXX	XXX	XXX	XXX	XXX	XXX	XXX	1	XXX	2

* Complete Description of property, date placed in service, and rent/lease amount only.

1 To Page 13, Line 19, Column I

2 To Page 13, Line 19, Column K

Department of Health Services - Emergency Medical Services

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

**DEPRECIATION AND/OR RENT/LEASE EXPENSE
SCHEDULE III****ALL OTHER ITEMS**

	A	B	C	D	E	F	G	H	I	J	K
Line No.	Description of Property	Date Placed in Service	Cost or Other Basis	Business Use Percent	Basis for Depreciation	Method	Recovery Period	Depreciation Prior Years	Current Year Depreciation	Remaining Basis	Rent/Lease Amount*
01											
02											
03											
04											
05											
06											
07											
08											
09											
10											
11											
12											
13											
14											
15											
16											
17											
18	SUBTOTAL	XXX	XXX	XXX	XXX	XXX	XXX	XXX		XXX	
19	SUBTOTAL from Page 12, Line 20	XXX	XXX	XXX	XXX	XXX	XXX	XXX		XXX	
20	SUM of Line 18 and 19	XXX	XXX	XXX	XXX	XXX	XXX	XXX	3	XXX	4

* Complete Description of property, date placed in service, and rent/lease amount only.

3 To Page 6, Line 01

4 To Page 6, Line 04

Department of Health Services - Emergency Medical Services

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

DETAIL OF INTEREST - Schedule IV

Line No.	Description	(1) Interest Rate	(2) Principal Balance Beginning of Period	(3) End of Period	(4) Interest Expense Related Persons or Organizations	(5) Other
	Service Vehicles & Accessorial Equipment					
	Name of Payee:					
01	_____	_____ %	\$ _____	\$ _____	\$ _____	\$ _____
02	_____	_____	_____	_____	_____	_____
03	_____	_____	_____	_____	_____	_____
04	_____	_____	_____	_____	_____	_____
	Communication Equipment					
	Name of Payee:					
05	_____	_____ %	\$ _____	\$ _____	\$ _____	\$ _____
06	_____	_____	_____	_____	_____	_____
07	_____	_____	_____	_____	_____	_____
	Other Property and Equipment					
	Name of Payee:					
08	_____	_____ %	\$ _____	\$ _____	\$ _____	\$ _____
09	_____	_____	_____	_____	_____	_____
10	_____	_____	_____	_____	_____	_____
	Working Capital					
	Name of Payee:					
11	_____	_____ %	\$ _____	\$ _____	\$ _____	\$ _____
12	_____	_____	_____	_____	_____	_____
13	_____	_____	_____	_____	_____	_____
	Other					
	Name of Payee:					
14	_____	_____ %	\$ _____	\$ _____	\$ _____	\$ _____
15	TOTAL		\$ _____	\$ _____	\$ _____	\$ _____

------(To Page 2, Column 2, Line 16)-----

Department of Health Services - Emergency Medical Services

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

BALANCE SHEET

ASSETS

CURRENT ASSETS

01	Cash	\$ _____	
02	Accounts Receivable	_____	
03	Less: Allowance for Doubtful Accounts	_____	
04	Inventory	_____	
05	Prepaid Expenses	_____	
06	Other Current Assets	_____	
07	TOTAL CURRENT ASSETS		\$ _____
PROPERTY & EQUIPMENT			
08	Less: Accumulated Depreciation		\$ _____
09	OTHER NONCURRENT ASSETS		\$ _____
10	TOTAL ASSETS		\$ _____

LIABILITIES AND EQUITY

CURRENT LIABILITIES

11	Accounts Payable	\$ _____	
12	Current Portion of Notes Payable	_____	
13	Current Portion of Long Term Debt	_____	
14	Deferred Subscription Income	_____	
15	Accrued Expenses and Other	_____	
16	_____	_____	
17	_____	_____	
18	TOTAL CURRENT LIABILITIES		\$ _____
19	NOTES PAYABLE	_____	
20	LONG TERM DEBT OTHER	_____	
21	TOTAL LONG-TERM DEBT		\$ _____

EQUITY AND OTHER CREDITS

Paid-in Capital:

22	Common Stock	\$ _____	
23	Paid-In Capital in Excess of Par Value	_____	
24	Contributed Capital	_____	
25	Retained Earnings	_____	
26	Fund Balances	_____	
27	TOTAL EQUITY		\$ _____
28	TOTAL LIABILITIES & EQUITY		\$ _____

Department of Health Services - Emergency Medical Services

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

STATEMENT OF CASH FLOWS

OPERATING ACTIVITIES:		
01	Net (loss) Income	\$ _____
	Adjustments to reconcile net income to net cash provided by operating activities:	
02	Depreciation Expense	_____
03	Deferred Income Tax	_____
04	Loss (gain) on Disposal of Property and Equipment	_____
	(Increase) Decrease in:	
05	Accounts Receivable	_____
06	Inventories	_____
07	Prepaid Expenses	_____
	(Increase) Decrease in:	
08	Accounts Payable	_____
09	Accrued Expenses	_____
10	Deferred Subscription Income	_____
11	Net Cash Provided (Used) by Operating Activities	\$ _____
INVESTING ACTIVITIES:		
12	Purchases of Property and Equipment	\$ _____
13	Proceeds from Disposal of Property and Equipment	_____
14	Purchases of Investments	_____
15	Proceeds from Disposal of Investments	_____
16	Loans Made	_____
17	Collections on Loans	_____
18	Other _____	_____
19	Net Cash Provided (Used) by Investing Activities	\$ _____
FINANCING ACTIVITIES:		
	New Borrowings:	
20	Long-Term	\$ _____
21	Short-Term	_____
	Debt Reduction:	
22	Long-Term	_____
23	Short-Term	_____
24	Capital Contributions	_____
25	Dividends paid	_____
26	Net Cash Provided (Used) by Financing Activities	\$ _____
27	Net Increase (Decrease) in Cash	\$ _____
28	Cash at Beginning of Year	\$ _____
29	Cash at End of Year	\$ _____
30	SUPPLEMENTAL DISCLOSURES:	
	Non-cash Investing and Financing Transactions:	
31	_____	\$ _____
32	_____	_____
33	Interest Paid (Net of Amounts Capitalized)	_____
34	Income Taxes Paid	_____

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Historical Note

Exhibit 9A renumbered from Exhibit A and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit A. Renumbered

Historical Note

New Exhibit adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). New

Exhibit A recodified from Article 12 at 12 A.A.R. 2243, effective June 2, 2006 (Supp. 06-2). Exhibit A renumbered to Exhibit 9A by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Department of Health Services - Emergency Medical Services

Exhibit 9B. Ambulance Revenue and Cost Report, Fire District and Small Rural Company

Department of Health Services

Annual Ambulance Financial Report

Reporting Ambulance Service

Report Fiscal Year
From: / / **To:** / /
 Mo. Day Year Mo. Day Year

CERTIFICATION

I hereby certify that I have directed the preparation of the enclosed annual report in accordance with the reporting requirements of the State of Arizona.

I have read this report and hereby certify that the information provided is true and correct to the best of my knowledge.

This report has been prepared using the accrual basis of accounting.

Authorized Signature: _____ *Date:* _____

Print Name and Title: _____

I to:

Department of Health Services
 Bureau of Emergency Medical Services and Trauma System
 Certificate of Necessity and Rates Section
 150 North 18th Avenue, Suite 540
 Phoenix, AZ 85007
 Telephone: (602) 364-3150
 Fax: (602) 364-3567

Revised December 2013

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Department of Health Services - Emergency Medical Services

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

STATISTICAL SUPPORT DATA

Line No.	DESCRIPTION	(1) SUBSCRIPTION SERVICE TRANSPORTS	*(2) TRANSPORTS UNDER CONTRACT	(3) TRANSPORTS NOT UNDER CONTRACT	(4) TOTALS
01	Number of ALS Billable Transports:	_____	_____	_____	_____
02	Number of BLS Billable Transports:	_____	_____	_____	_____
03	Number of Loaded Billable Miles:	_____	_____	_____	_____
04	Waiting Time (Hr. & Min.):	_____	_____	_____	_____
05	Canceled (Non-Billable) Runs:	_____	_____	_____	_____

AMBULANCE SERVICE ROUTINE OPERATING REVENUE

06	ALS Base Rate Revenue				\$ _____
07	BLS Base Rate Revenue				_____
08	Mileage Charge Revenue				_____
09	Waiting Charge Revenue				_____
10	Medical Supplies Charge Revenue				_____
11	Nurses Charge Revenue				_____
12	Standby Charge Revenue (Attach Schedule)				_____
13	TOTAL AMBULANCE SERVICE ROUTINE OPERATING REVENUE				\$ _____

SALARY AND WAGE EXPENSE DETAIL

GROSS WAGES:

**No. of F.T.E.s

14	Management	\$ _____	\$ _____
15	Paramedics, EMT-I(99)s, and AEMTs.	\$ _____	\$ _____
16	Emergency Medical Technician (EMT).	\$ _____	\$ _____
17	Other Personnel	\$ _____	\$ _____
18	Payroll Taxes and Fringe Benefits - All Personnel.	\$ _____	\$ _____

*This column reports only those runs where a contracted discount rate was applied.

**Full-time equivalents (F.T.E.) is the sum of all hours for which employees' wages were paid during the year divided by 2080.

Department of Health Services - Emergency Medical Services

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

SCHEDULE OF REVENUES AND EXPENSES

Line

No. DESCRIPTIONFROM**Operating Revenues:**

01 Total Ambulance Service Operating Revenue Page 2, Line 13 \$ _____

Settlement Amounts:

02 AHCCCS ()

03 Medicare ()

04 Subscription Service ()

05 Contractual ()

06 Other ()

07 Total (Sum of Lines 02 through 06) ()

08 Total Operating Revenue (Line 01 minus Line 07) \$ _____

Operating Expenses:

09 Bad Debt

10 Total Salaries, Wages, and Employee- Related Expenses \$ _____

11 Professional Services _____

12 Travel and Entertainment _____

13 Other General Administrative _____

14 Depreciation _____

15 Rent/Leasing _____

16 Building/Station _____

17 Vehicle Expense _____

18 Other Operating Expense _____

19 Cost of Medical Supplies Charged to Patients _____

20 Interest _____

21 Subscription Service Sales Expense _____

22 Total Operating Expense (Sum of Lines 09 through 21) _____

23 Total Operating Income or Loss (Line 08 minus Line 22). \$ _____

24 Subscription Contract Sales _____

25 Other Operating Revenue _____

26 Local Supportive Funding _____

27 Other Non-Operating Income (Attach Schedule). _____

28 Other Non-Operating Expense (Attach Schedule). _____

29 NET INCOME/(LOSS) (Line 23 plus Sum of Lines 24 through 28). \$ _____

Department of Health Services - Emergency Medical Services

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

BALANCE SHEET

ASSETS

CURRENT ASSETS

01	Cash	\$ _____	
02	Accounts Receivable	_____	
03	Less: Allowance for Doubtful Accounts	_____	
04	Inventory	_____	
05	Prepaid Expenses	_____	
06	Other Current Assets	_____	
07	TOTAL CURRENT ASSETS		\$ _____
	PROPERTY & EQUIPMENT		
08	Less: Accumulated Depreciation		\$ _____
09	OTHER NONCURRENT ASSETS		\$ _____
10	TOTAL ASSETS		\$ _____

LIABILITIES AND EQUITY

CURRENT LIABILITIES

11	Accounts Payable	\$ _____	
12	Current Portion of Notes Payable	_____	
13	Current Portion of Long term Debt	_____	
14	Deferred Subscription Income	_____	
15	Accrued Expenses and Other	_____	
16	_____	_____	
17	_____	_____	
18	TOTAL CURRENT LIABILITIES		\$ _____
19	NOTES PAYABLE	_____	
20	LONG TERM DEBT OTHER	_____	
21	TOTAL LONG-TERM DEBT		\$ _____

EQUITY AND OTHER CREDITS

Paid-in Capital:

22	Common Stock	\$ _____	
23	Paid-In Capital in Excess of Par Value	_____	
24	Contributed Capital	_____	
25	Retained Earnings	_____	
26	Fund Balances	_____	
27	TOTAL EQUITY		\$ _____
28	TOTAL LIABILITIES & EQUITY		\$ _____

Department of Health Services - Emergency Medical Services

AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: _____

FOR THE PERIOD FROM: _____ TO: _____

STATEMENT OF CASH FLOWS

OPERATING ACTIVITIES:		
01	Net (loss) Income	\$ _____
	Adjustments to reconcile net income to net cash provided by operating activities:	
02	Depreciation Expense	_____
03	Deferred Income Tax	_____
04	Loss (gain) on Disposal of Property and Equipment	_____
	(Increase) Decrease in:	
05	Accounts Receivable	_____
06	Inventories	_____
07	Prepaid Expenses	_____
	(Increase) Decrease in:	
08	Accounts Payable	_____
09	Accrued Expenses	_____
10	Deferred Subscription Income	_____
11	Net Cash Provided (Used) by Operating Activities	\$ _____
INVESTING ACTIVITIES:		
12	Purchases of Property and Equipment	_____
13	Proceeds from Disposal of Property and Equipment	_____
14	Purchases of Investments	_____
15	Proceeds from Disposal of Investments	_____
16	Loans Made	_____
17	Collections on Loans	_____
18	Other _____	_____
19	Net Cash Provided (Used) by Investing Activities	\$ _____
FINANCING ACTIVITIES:		
	New Borrowings:	
20	Long-Term	_____
21	Short-Term	_____
	Debt Reduction:	
22	Long-Term	_____
23	Short-Term	_____
24	Capital Contributions	_____
25	Dividends paid	_____
26	Net Cash Provided (Used) by Financing Activities	\$ _____
27	Net Increase (Decrease) in Cash	\$ _____
28	Cash at Beginning of Year	\$ _____
29	Cash at End of Year	\$ _____
30 SUPPLEMENTAL DISCLOSURES:		
	Non-cash Investing and Financing Transactions:	
31	_____	\$ _____
32	_____	_____
33	Interest Paid (Net of Amounts Capitalized)	_____
34	Income Taxes Paid	_____

INSTRUCTIONS

Page 1: COVER

1. Enter the name of the ambulance service on the line "Reporting Ambulance Service."
2. Print the name and title of the ambulance service's authorized representative on the lines indicated; enter the date of signature; authorized representative must sign the report.

Page 2: STATISTICAL SUPPORT DATA and ROUTINE OPERATING REVENUE

Enter the ambulance service's business name and the appropriate reporting period.

Statistical Support Data:

- Lines 01-02: Enter the number of billable ALS and BLS transports for each of the three categories. Subscription Service Transports should not be included with Transports Under Contract.
- Lines 03-04: Enter the total of patient loaded transport miles and waiting times for each of the transport categories.
- Line 05: List TOTAL of canceled/non-billable runs.

Ambulance Service Routine Operating Revenue:

- Line 06: Enter the total amount of all ALS Base Rate gross billings.
- Line 07: Enter the total amount of all BLS Base Rate gross billings.
- Line 08: Enter the total of Mileage Charge gross billings.
- Line 09: Enter the total Waiting Time gross billings.
- Line 10: Enter the total of all gross billings of Medical Supplies to patients.
- Line 11: RESERVED FOR FUTURE USE - Charges for Nurses currently are not allowed.
- Line 12: Enter the total of all Standby Time charges. (Attach a schedule showing sources.)
- Line 13: Add the totals from Line 06 through Line 12. Enter sum on Line 13.

Salary and Wage Expense Detail:

- Line 14: Enter the total salary amount allocated and paid to Management of the ambulance service.
- Line 15: Enter the total salary amount allocated and paid to Paramedics, EMT-I(99)s, and AEMTs.
- Line 16: Enter the total salary amount allocated and paid to Emergency Medical Technicians (EMTs).
- Line 17: Enter the total salary amount allocated and paid to Other Personnel involved with the ambulance service. (Examples: Dispatch, Mechanics, Office)
- Line 18: Enter the total allocated amount of Payroll Taxes and Fringe Benefits paid to employees included in lines 14 through 17.

ANNUAL AMBULANCE FINANCIAL REPORT

EXPENSE CATEGORIES FOR USE ON PAGE 3

- Line 09 Bad Debt
- Line 10 Total Salaries, Wages, and Employee-Related Expenses
 - Salaries, Wages, Payroll Taxes, and Employee Benefits
- Line 11 Professional Services
 - Legal/Management Fees
 - Collection Fees
 - Accounting/Auditing
 - Data Processing Fees
- Line 12 Travel and Entertainment (Administrative)
 - Meals and Entertainment
 - Travel/Transportation
- Line 13 Other General and Administrative
 - Office Related (Supplies, Phone, Postage, Advertising)
 - Professional Liability Insurance
 - Dues, Subscriptions, Miscellaneous
- Line 14 Depreciation
- Line 15 Rent/Leasing
- Line 16 Building/Station
 - Utilities, Property Taxes/Insurance, Cleaning/Maintenance
- Line 17 Vehicle Expenses
 - License/Registration
 - Repairs/Maintenance
 - Insurance
- Line 18 Other Operating Expenses
 - Dispatch Contracts
 - Employee Education/Training, Uniforms, Travel/Meals
 - Maintenance Contracts
 - Minor Equipment, Non-Chargeable Ambulance Supplies
- Line 19 Cost of Medical Supplies Charged to Patients
- Line 20 Interest Expense
 - Interest on: Bank Loans/Lines of Credit
- Line 21 Subscription Service Sales Expenses
 - Sales Commissions, Printing

INSTRUCTIONS (cont'd)

Page 3: SCHEDULE OF REVENUES AND EXPENSES**Operating Revenues:**

- Line 01: Transfer appropriate total from Page 2 as indicated.
 Line 02: Enter settlement amounts from AHCCCS transports. (DO NOT include settlement amounts resulting from a transport made under a SUBSCRIPTION SERVICE CONTRACT)
 Line 03: Enter settlement amounts from Medicare transports. (DO NOT include settlement amounts resulting from a transport made under a SUBSCRIPTION SERVICE CONTRACT)
 Line 04: Enter total of ALL settlement amounts from Subscription Service Contract transports.
 Line 05: Enter total of ALL settlement amounts from Contractual transports only.
 Line 06: Enter total from any other settlement sources.
 Line 07: Enter sum of lines 02 through 06.
 Line 08: Total Operating Revenue (The amount from Line 01 minus Line 07).

Operating Expenses:

- Lines 09-21: Report as either actual or allocated from expenses shared with Fire or other departments.
 Line 22: Enter the total sum of lines 09 through 21.
 Line 23: Enter the difference of line 08 minus line 22.
 Line 24: Enter the gross amount of sales from Subscription Service Contracts.
 Line 25: Enter the amount of Other Operating Revenues.
 Ex: Federal, State or Local Grants, Interest Earned, Patient Finance Charges.
 Line 26: Enter the total of Local Supportive Funding.
 Line 27: List other non-operating revenues (Ex: Donations, sales of assets, fund raisers).
 Line 28: List other non-operating expenses (Ex: Civil fines or penalties, loss on sale of assets).
 Line 29: Net Income (Line 23 plus Lines 24 through 27, minus Line 28).

Page 4: BALANCE SHEET

Current audited financial statements may be submitted in lieu of this page.

Page 5: STATEMENT OF CASH FLOWS

Current audited financial statements may be submitted in lieu of this page.

Questions regarding this reporting form can be submitted to:

Arizona Department of Health Services
 Bureau of Emergency Medical Services and Trauma System
 Certificate of Necessity and Rates Section

150 North 18th Avenue, Suite 540
 Phoenix, AZ 85007
 Telephone: (602) 364-3150
 Fax: (602) 364-3567

Page 8**Historical Note**

Exhibit 9B renumbered from Exhibit B and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit B. Renumbered**Historical Note**

New Table adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). New Exhibit B recodified from Article 12 at 12 A.A.R. 2243, effective June 2, 2006 (Supp. 06-2). Exhibit B renumbered to Exhibit 9B by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

ARTICLE 10. GROUND AMBULANCE VEHICLE REGISTRATION**R9-25-1001. Initial and Renewal Application for a Certificate of Registration (A.R.S. §§ 36-2212, 36-2232, 36-2240)**

- A. A person applying for an initial or renewal certificate of registration of a ground ambulance vehicle shall submit an application form to the Department that contains:
1. The applicant's legal business or corporate name;

Department of Health Services - Emergency Medical Services

2. The applicant's mailing address, physical address of the business, and business, facsimile, and emergency telephone numbers;
 3. The identifying information of the ground ambulance vehicle, including:
 - a. The make of the ground ambulance vehicle;
 - b. The ground ambulance vehicle manufacture year;
 - c. The ground ambulance vehicle identification number;
 - d. The unit number of the ground ambulance vehicle;
 - e. The ground ambulance vehicle's state license number; and
 - f. The location at which the ground ambulance vehicle will be available for inspection;
 4. The identification number of the certificate of necessity to which the ground ambulance vehicle is registered;
 5. The name and telephone number of the person to contact to arrange for inspection, if the inspection is pre-announced; and
 6. The signature of the applicant or applicant's designated representative.
- B.** Under A.R.S. § 36-2232(A)(11), the Department shall inspect each ambulance before an initial certificate of registration is issued by the Department.
- C.** Under A.R.S. § 36-2232(A)(11), the Department shall either inspect an ambulance or receive an inspection report that meets the requirements in this Article by a Department-approved inspection facility before a renewal certificate of registration is issued by the Department.
- D.** An applicant shall submit the following fees:
1. \$50 application filing fee for an initial certificate of registration;
 2. \$200 annual regulatory fee for each ground ambulance vehicle issued a certificate of registration; and
 3. \$50 application filing fee for the renewal of a certificate of registration.
- E.** The Department shall approve or deny an application under this Section according to 9 A.A.C. 25, Article 12.
- Historical Note**
- New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).
- R9-25-1002. Minimum Standards for Ground Ambulance Vehicles (Authorized by A.R.S. § 36-2202(A)(5))**
- An applicant for a certificate of registration or certificate holder shall ensure a ground ambulance vehicle is equipped with the following:
1. An engine intake air cleaner that meets the ground ambulance vehicle manufacturer's engine specifications;
 2. A brake system that meets the requirements in A.R.S. § 28-952;
 3. A cooling system in the engine compartment that maintains the engine temperature operating range required to prevent damage to the ground ambulance vehicle engine;
 4. A battery:
 - a. With no leaks, corrosion, or other visible defects; and
 - b. As measured by a voltage meter, capable of generating:
 - i. 12.6 volts at rest, and
 - ii. 13.2 to 14.2 volts on high idle with all electrical equipment turned on;
 5. A wiring system in the engine compartment designed to prevent the wire from being cut by or tangled in the engine or hood;
 6. Hoses, belts, and wiring with no visible defects;
 7. An electrical system capable of maintaining a positive amperage charge while the ground ambulance vehicle is stationary and operating at high idle with headlights, running lights, patient compartment lights, environmental systems, and all warning devices turned on;
 8. An exhaust pipe, muffler, and tailpipe under the ground ambulance vehicle and securely attached to the chassis;
 9. A frame capable of supporting the gross vehicle weight of the ground ambulance vehicle;
 10. A horn that meets the requirements in A.R.S. § 28-954(A);
 11. A siren that meets the requirements in A.R.S. § 28-954(E);
 12. A front bumper that is positioned at the forward-most part of the ground ambulance vehicle extending to the ground ambulance vehicle's outer edges;
 13. A fuel cap of a type specified by the manufacturer for each fuel tank;
 14. A steering system to include:
 - a. Power-steering belts free from frays, cracks, or slippage;
 - b. Power-steering that is free from leaks;
 - c. Fluid in the power-steering system that fills the reservoir between the full level and the add level indicator on the dipstick; and
 - d. Bracing extending from the center of the steering wheel to the steering wheel ring that is not cracked;
 15. Front and rear shock absorbers that are free from leaks;
 16. Tires on each axle that:
 - a. Are properly inflated;
 - b. Are of equal size, equal ply ratings, and equal type;
 - c. Are free of bumps, knots, or bulges;
 - d. Have no exposed ply or belting; and
 - e. Have tread groove depth equal to or more than 4/32 inch;
 17. An air cooling system capable of achieving and maintaining a 20° F difference between the air intake and the cool air outlet;
 18. Air cooling and heater hoses secured in all areas of the ground ambulance vehicle and chassis to prevent wear due to vibration;
 19. Body free of damage or rust that interferes with the physical operation of the ground ambulance vehicle or creates a hole in the driver's compartment or the patient compartment;
 20. Windshield defrosting and defogging equipment;
 21. Emergency warning lights that provide 360° conspicuity;
 22. At least one 5-lb. ABC dry, chemical, multi-purpose fire extinguisher in a quick release bracket with a current inspection tag;
 23. A heating system capable of achieving and maintaining a temperature of not less than 68° F in the patient compartment within 30 minutes;
 24. Sides of the ground ambulance vehicle insulated and sealed to prevent dust, dirt, water, carbon monoxide, and gas fumes from entering the interior of the patient compartment and to reduce noise;
 25. Interior patient compartment wall and floor coverings that are:
 - a. In good repair and capable of being disinfected, and
 - b. Maintained in a sanitary manner;
 26. Padding over exit areas from the patient compartment and over sharp edges in the patient compartment;
 27. Secured interior equipment and other objects;
 28. When present, hangers or supports for equipment mounted not to protrude more than 2 inches when not in use;
 29. Functional lamps and signals, including:
 - a. Bright and dim headlights,
 - b. Brake lamps,
 - c. Parking lamps,
 - d. Backup lamps,
 - e. Tail lamps,
 - f. Turn signal lamps,
 - g. Side marker lamps,
 - h. Hazard lamps,
 - i. Patient loading door lamps and side spot lamps,

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- j. Spot lamp in the driver's compartment and within reach of the ambulance attendant, and
- k. Patient compartment interior lamps;
- 30. Side-mounted rear vision mirrors and wide vision mirror mounted on, or attached to, the side-mounted rear vision mirrors;
- 31. A patient loading door that permits the safe loading and unloading of a patient occupying a stretcher in a supine position;
- 32. At least two means of egress from the patient compartment to the outside through a window or door;
- 33. Functional open door securing devices on a patient loading door;
- 34. Patient compartment upholstery free of cuts or tears and capable of being disinfected;
- 35. A seat belt installed for each seat in the driver's compartment;
- 36. Belts or devices installed on a stretcher to be used to secure a patient;
- 37. A seat belt installed for each seat in the patient compartment;
- 38. A crash stable side or center mounting fastener of the quick release type to secure a stretcher to a ground ambulance vehicle;
- 39. Windshield and windows free of obstruction;
- 40. A windshield free from unrepaired starred cracks and line cracks that extend more than 1 inch from the bottom and sides of the windshield or that extend more than 2 inches from the top of the windshield;
- 41. A windshield-washer system that applies enough cleaning solution to clear the windshield;
- 42. Operable windshield wipers with a minimum of two speeds;
- 43. Functional hood latch for the engine compartment;
- 44. Fuel system with fuel tanks and lines that meets manufacturer's specifications;
- 45. Suspension system that meets the ground ambulance vehicle manufacturer's specifications;
- 46. Instrument panel that meets the ground ambulance vehicle manufacturer's specifications; and
- 47. Wheels that meet and are mounted according to manufacturer's specifications.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).
Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-1003. Minimum Equipment and Supplies for Ground Ambulance Vehicles (Authorized by A.R.S. § 36-2202(A)(5))

- A. A ground ambulance vehicle used for either BLS or ALS level of service shall contain the following operational equipment and supplies:
 - 1. A portable and a fixed suction apparatus;
 - 2. Wide-bore tubing, a rigid pharyngeal curved suction tip, and a flexible suction catheter in the following French sizes:
 - a. Two in 6, 8, or 10; and
 - b. Two in 12, 14, or 16;
 - 3. One fixed oxygen cylinder or equivalent with a minimum capacity of 106 cubic feet, a minimum pressure of 500 p.s.i., and a variable flow regulator;
 - 4. One portable oxygen cylinder with a minimum capacity of 13 cubic feet, a minimum pressure of 500 p.s.i., and a variable flow regulator;
 - 5. Oxygen administration equipment including: tubing, two adult-size and two pediatric-size non-rebreather masks, and two adult-size and two pediatric-size nasal cannula;
 - 6. One adult-size, one child-size, one infant-size, and one neonate-size hand-operated, disposable, self-expanding bag-valve with one of each size bag-valve mask;
 - 7. Nasal airways in the following French sizes:

- a. One in 16, 18, 20, 22, or 24; and
- b. One in 26, 28, 30, 32, or 34;
- 8. Two adult-size, two child-size, and two infant-size oropharyngeal airways;
- 9. Two large-size, two medium-size, and two small-size cervical immobilization devices;
- 10. Two small-size, two medium-size, and two large size upper extremities splints;
- 11. Two small-size, two medium-size, and two large size lower extremities splints;
- 12. One child-size and one adult-size lower extremity traction splints;
- 13. Two full-length spine boards;
- 14. Supplies to secure a patient to a spine board;
- 15. One cervical-thoracic spinal immobilization device for extrication;
- 16. Two sterile burn sheets;
- 17. Two triangular bandages;
- 18. Three sterile multi-trauma dressings, 10" x 30" or larger;
- 19. Fifty non-sterile 4" x 4" gauze sponges;
- 20. Ten non-sterile soft roller bandages, 4" or larger;
- 21. Four sterile occlusive dressings, 3" x 8" or larger;
- 22. Two 2" or 3" adhesive tape rolls;
- 23. Containers for biohazardous medical waste that comply with requirements in 18 A.A.C. 13, Article 14;
- 24. A sterile obstetrical kit containing towels, 4" x 4" dressing, scissors, bulb suction, and clamps or tape for cord;
- 25. One blood glucose testing kit;
- 26. A meconium aspirator adapter;
- 27. A length/weight-based pediatric reference guide to determine the appropriate size of medical equipment and drug dosing;
- 28. A pulse oximeter with both pediatric and adult probes;
- 29. One child-size, one adult-size, and one large adult-size sphygmomanometer;
- 30. One stethoscope;
- 31. One heavy duty scissors capable of cutting clothing, belts, or boots;
- 32. Two blankets;
- 33. One thermal absorbent blanket with head cover or blanket of other appropriate heat-reflective material;
- 34. Two sheets;
- 35. Body substance isolation equipment, including:
 - a. Two pairs of non-sterile disposable gloves;
 - b. Two gowns;
 - c. Two masks that are at least as protective as a National Institute for Occupational Safety and Health-approved N-95 respirator, which may be of universal size;
 - d. Two pairs of shoe coverings; and
 - e. Two sets of protective eye wear;
- 36. At least three pairs of non-latex gloves; and
- 37. A wheeled, multi-level stretcher that is:
 - a. Suitable for supporting a patient at each level,
 - b. At least 69 inches long and 20 inches wide,
 - c. Rated for use with a patient weighing up to or more than 350 pounds,
 - d. Adjustable to allow a patient to recline and to elevate the patient's head and upper torso to an angle at least 70° from the horizontal plane,
 - e. Equipped with a mattress that has a protective cover,
 - f. Equipped with at least two attached straps to secure a patient during transport, and
 - g. Equipped to secure the stretcher to the interior of the vehicle during transport using the fastener required under R9-25-1002(38).
- B. In addition to the equipment and supplies in subsection (A), a ground ambulance vehicle equipped to provide BLS shall contain at least:
 - 1. The minimum supply of agents required in Table 5.2 for an EMT;
 - 2. By January 1, 2016, the capability of providing automated external defibrillation;
 - 3. Two 3 mL syringes; and

Department of Health Services - Emergency Medical Services

4. Two 10-12 mL syringes.
- C. In addition to the equipment and supplies in subsection (A), a ground ambulance vehicle equipped to provide ALS shall contain at least the minimum supply of agents required in Table 5.2 for the highest level of service to be provided by the ambulance's crew and at least the following:
1. Four intravenous solution administration sets capable of delivering 10 drops per cc;
 2. Four intravenous solution administration sets capable of delivering 60 drops per cc;
 3. Intravenous catheters in:
 - a. Three different sizes from 14 gauge to 20 gauge, and
 - b. Either 22 or 24 gauge;
 4. One child-size and one adult-size intraosseous needle;
 5. Venous tourniquet;
 6. Two endotracheal tubes in each of the following sizes: 2.5 mm, 3.0 mm, 3.5 mm, 4.0 mm, 4.5 mm, 5.0 mm, 5.5 mm, 6.0 mm, 7.0 mm, 8.0 mm, and 9.0 mm;
 7. One pediatric-size and one adult-size stylette for endotracheal tubes;
 8. End tidal CO₂ monitoring/capnography equipment with capability for pediatric and adult patients;
 9. One laryngoscope with blades in sizes 0-4, straight or curved or both;
 10. One pediatric-size and one adult-size Magill forceps;
 11. One scalpel;
 12. One portable, battery-operated cardiac monitor-defibrillator with strip chart recorder and adult and pediatric EKG electrodes and defibrillation capabilities;
 13. Electrocardiogram leads;
 14. The following syringes:
 - a. Two 1 mL tuberculin,
 - b. Four 3 mL,
 - c. Four 5 mL,
 - d. Four 10-12 mL,
 - e. Two 20 mL, and
 - f. Two 50-60 mL;
 15. Three 5 micron filter needles; and
 16. Assorted sizes of non-filter needles.
- D. A ground ambulance vehicle shall be equipped to provide, and capable of providing, voice communication between:
1. The ambulance attendant and the dispatch center;
 2. The ambulance attendant and the ground ambulance service's assigned medical direction authority, if any; and

3. The ambulance attendant in the patient compartment and the ground ambulance service's assigned medical direction authority, if any.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.

1098, effective February 13, 2001 (Supp. 01-1).

Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-1004. Minimum Staffing Requirements for Ground Ambulance Vehicles (Authorized by A.R.S. §§ 36-2201(4), 36-2202(A)(5))

When transporting a patient, a ground ambulance service shall staff a ground ambulance vehicle according to A.R.S. § 36-2202(J).

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.

1098, effective February 13, 2001 (Supp. 01-1).

Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-1005. Ground Ambulance Vehicle Inspection; Major and Minor Defects (A.R.S. §§ 36-2202(A)(5), 36-2212, 36-2232, 36-2234)

- A. A certificate holder shall make the ground ambulance vehicle, equipment, and supplies available for inspection at the request of the Director or the Director's authorized representative.
- B. If inspected by the Department, a certificate holder shall allow the Director or the Director's authorized representative to ride in or operate the ground ambulance vehicle being inspected.
- C. A certificate holder may request the Department to inspect all of the certificate holder's ground ambulance vehicles at the same date and location.
- D. A Department-approved inspection facility may inspect a ground ambulance vehicle under A.R.S. § 36-2232(A)(11).
- E. The Department classifies defects on a ground ambulance vehicle as major or minor as follows:

INSPECTION ITEM	MAJOR DEFECT	MINOR DEFECT
LAMPS:		
Emergency warning lights	Lack of 360° of conspicuity	Cracked, broken, or missing lens Inoperative lamps
Back-up lamps		Inoperative Cracked, broken, or missing lens
Brake lamps	Both inoperative	1 inoperative
Hazard lamps		Inoperative
Head lamps	Inoperative	High beam inoperative Low beam inoperative Inoperative dimmer switch
Loading lamps		Inoperative Cracked, broken, or missing lens
Parking lamps		Inoperative
Patient Compartment interior lamps	All lamps inoperative	Inoperative individual lamps Missing lens
Side marker lamps		Inoperative Cracked, broken, or missing lens
Spot lamp in driver's compartment		Inoperative
Tail lamps	Both inoperative	1 inoperative Cracked, broken, or missing lens
Turn signal lamps		Any turn signal lamp inoperative Cracked, broken, or missing lens

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MECHANICAL, STRUCTURAL, ELECTRICAL:		
Bumpers		Loose or missing bumper
Defroster		Inoperative Ventilation system openings partially blocked
Electrical system	Does not comply with R9-25-1002(6)	
Engine compartment		Inoperative hood latch Deterioration of hoses, belts, or wiring Deterioration of battery hold-down clamps Corrosive acid buildup on battery terminals Incapable of generating voltage in compliance with R9-25-1002(4)(b)
Engine compartment wiring system		Does not comply with R9-25-1002(5)
Engine cooling system	Does not comply with R9-25-1002(3)	Leaks in system
Engine intake air cleaner		Does not comply with R9-25-1002(1)
Exhaust	Exhaust fumes in the patient or driver compartment	Exhaust pipe brackets not securely attached to the chassis and tailpipe End of tailpipe pinched or bent
Frame	Cracks in frame	
Fuel system	Fuel tank not mounted according to manufacturer's specifications Fuel tank brackets cracked or broken Leaking fuel tanks or fuel lines Fuel caps missing or of a type not specified by the manufacturer	
Ground ambulance vehicle body	Damage or rust to the exterior of the ground ambulance vehicle, which interferes with the operation of the ground ambulance vehicle Damage resulting in a hole in the driver's compartment or the patient compartment Holes that may allow exhaust or dust to enter the patient compartment Bolts attaching body to chassis loose, broken, or missing	Damage resulting in cuts or rips to the exterior of the ground ambulance vehicle
Heating and air conditioning systems		Unsecured hoses Does not maintain minimum temperature required in R9-25-1002(23) and 1002(17)
Horn		Inoperative
Parking brake		Inoperative
Siren	Inoperative	
Steering	Steering wheel bracing cracked Inoperative	Power steering belts slipping Power steering belts cracked or frayed Fluid leaks Fluid does not fill the reservoir between the full level and the add level indicator on the dipstick
Suspension	Broken suspension parts U-bolts loose or missing	Bent suspension parts Leaking shock absorbers Cracks or breaks in shock absorber mounting brackets
Vehicle brakes	Inoperative	Fluid leaks
INTERIOR:		
Communication equipment	Lack of operative communication equipment	Inoperative communication equipment in the patient compartment
Edges		Presence of exposed sharp edges
Equipment	Inability to secure oxygen tanks	Inability to secure other equipment
Fire extinguisher	Absent	Not at full charge Expired inspection tag

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Hangers		Supports or hangers protruding more than 2" when not in use
Instrument panel		Inoperative gauges, switches, or illumination
Padding		Missing padding over exits in the patient compartment
Patient compartment	Visible blood, body fluids, or tissue	Unrepaired cuts or holes in seats Missing pieces of floor covering
Seat belts and securing belts	Absence of seat belt or inoperative seat belt in the driver's compartment More than one inoperative seat belt in the patient compartment Absence of securing belts on a stretcher	Frayed seat belt or securing belt material One inoperative seat belt in the patient compartment
Stretcher fastener	Does not comply with R9-25-1002(36)	
EXTERIOR:		
Patient compartment doors	Completely or partially missing window panel	Inoperative open door securing devices Cracked window panels
Marking		Missing company identification Incorrect size or location
Mirrors	Exterior rear vision or wide vision mirrors missing	Cracked mirror glass Loose mounting bracket bolts or screws Broken mirrors Loose or broken mounting brackets Missing mounting bracket bolts or screws
Tires	Tires on each axle are not of equal size, equal ply ratings, and equal type Bumps, knots, or bulges on any tire Exposed ply or belting on any tire Flat tire on any wheel	Tread groove depth less than 4/32" measured in a tread groove on any tire
Wheels	Loose or missing lug nuts Broken lugs Cracked or bent rims	
Windows		Placement of nontransparent materials which obstruct view Cracked or broken
Windshield	Windshield that is obstructed Placement of nontransparent materials which obstruct view	Unrepaired starred cracks or line cracks extending more than 1 inch from the bottom or side of the windshield Unrepaired starred cracks or line cracks extending more than 2 inches from the top of the windshield
Windshield- washer system		Does not comply with R9-25-1002(39)
Windshield wipers	Inoperative wiper on driver's side	Inoperative speed control Split or cracked wiper blade Inoperative wiper on passenger's side

F. If the Department determines that there is a major defect on the ground ambulance vehicle after inspection, the certificate holder shall take the ground ambulance vehicle out-of-service until the defect is corrected.

G. If the Department finds a minor defect on the ground ambulance vehicle after inspection, the ground ambulance vehicle may be operated to transport patients for up to 15 days until the minor defect is corrected.

1. The Department may grant an extension of time to repair the minor defect upon a written request from the certificate holder detailing the reasons for the need of an extension of time.
2. If the minor defect is not repaired within the time prescribed by the Department, and an extension has not been granted, the certificate holder shall take the ground ambulance vehicle out-of-service until the minor defect is corrected.

H. Within 15 days of the date of repair of the major or minor defect, the certificate holder shall submit written notice of the repair to the Department.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-1006. Ground Ambulance Vehicle Identification (A.R.S. §§ 36-2212, 36-2232)

- A.** A ground ambulance vehicle shall be marked on its sides with the certificate of registration applicant's legal business or corporate name with letters not less than 6 inches in height.
- B.** A ground ambulance vehicle marked with a level of ground ambulance service shall be equipped and staffed to provide the level of ground ambulance service identified while in service.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.

1098, effective February 13, 2001 (Supp. 01-1).

ARTICLE 11. GROUND AMBULANCE SERVICE RATES AND CHARGES; CONTRACTS

R9-25-1101. Application for Establishment of Initial General Public Rates (A.R.S. §§ 36-2232, 36-2239)

- A.** An applicant for a certificate of necessity or a certificate holder applying for initial general public rates shall submit an application packet to the Department that includes:
1. The applicant's name;
 2. The requested general public rates;
 3. A copy of the applicant's most recent financial statements or an Ambulance Revenue and Cost Report;
 4. For a consecutive 12-month period:
 - a. A projected income statement; and
 - b. A projected cash-flow statement;
 5. A list of all purchase agreements or lease agreements for real estate, ground ambulance vehicles, and equipment exceeding \$5,000 used in connection with the ground ambulance service, that includes the monetary amount and duration of each agreement;
 6. The identification of:
 - a. Each of the applicant's affiliations, such as a parent company or subsidiary owned or operated by the applicant; and
 - b. The methodology and calculations used in allocating costs among the applicant and government entities or profit or not-for-profit businesses;
 7. A copy of the applicant's contract with each federal or tribal entity for ground ambulance service, if applicable;
 8. Other documents, exhibits, or statements that may assist the Department in setting the general public rates;
 9. An attestation signed by the applicant that the information and documents provided by the applicant are true and correct; and
 10. Any other information or documents requested by the Director to clarify or complete the application.
- B.** The Department shall approve or deny an application under this Section according to 9 A.A.C. 25, Article 12.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-1102. Application for Adjustment of General Public Rates (A.R.S. §§ 36-2234, 36-2239)

- A.** A certificate of necessity holder applying for an adjustment of general public rates not exceeding the monetary amount calculated according to A.R.S. § 36-2234(E) shall submit an application form to the Department that includes:
1. The name of the applicant;
 2. A statement that the applicant is making the request according to A.R.S. § 36-2234(E);
 3. A statement that the applicant has not applied for an adjustment to its general public rates within the last six months;
 4. The effective date of the proposed general public rate adjustment; and
 5. An attestation signed by the applicant that the information and documents provided by the applicant are true and correct.
- B.** An applicant requesting an adjustment of general public rates exceeding the monetary amount calculated according to A.R.S. § 36-2234(E) shall submit an application packet to the Department that includes:
1. The name of the applicant;

2. A statement that the applicant is making the request according to A.R.S. § 36-2234(A);
 3. The reason for the general public rate adjustment request;
 4. A statement that the applicant has not applied for an adjustment to its general public rates within the last six months;
 5. The effective date of the proposed general public rate adjustment;
 6. A copy of the applicant's most recent financial statements;
 7. A copy of the Ambulance Revenue and Cost Report;
 8. For a consecutive 12-month period:
 - a. A projected income statement; and
 - b. A projected cash-flow statement;
 9. A list of all purchase agreements or lease agreements for real estate, ground ambulance vehicle, and equipment exceeding \$5,000 used in connection with the ground ambulance service, that includes the monetary amount and duration of each agreement;
 10. The identification of:
 - a. Each of the applicant's affiliations, such as a parent company or subsidiary owned or operated by the applicant; and
 - b. The methodology and calculations used in allocating costs among the applicant and government entities or profit or not for profit businesses;
 11. A copy of the applicant's contract with each federal or tribal entity for a ground ambulance service, if applicable;
 12. Other documents, exhibits, or statements that may assist the Department in setting the general public rates;
 13. An attestation signed by the applicant that the information and documents provided by the applicant are true and correct; and
 14. Any other information or documents requested by the Director to clarify or complete the application.
- C.** The Department shall approve or deny an application under this Section according to 9 A.A.C. 25, Article 12.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-1103. Application for a Contract Rate or Range of Rates Less than General Public Rates (A.R.S. §§ 36-2234(G) and (I), 36-2239)

- A.** Before providing interfacility transports or convalescent transports, a certificate holder shall apply to the Department for approval of a contract rate or range of contract rates under A.R.S. § 36-2234(G).
1. For a contract rate or range of rates under A.R.S. § 36-2234(G), the certificate holder shall submit an application form to the Department that contains:
 - a. The name of the certificate holder;
 - b. A statement that the certificate holder is making the request under A.R.S. § 36-2234(G);
 - c. The contract rate or range of rates being requested; and
 - d. Information demonstrating the cost and economics of providing the transports for the requested contract rate or range of rates.
 2. For a contract rate or range of rates under A.R.S. § 36-2234(I), the certificate holder shall submit the information required in R9-25-1102(B)(1) and (B)(6) through (B)(14).
- B.** The Department shall approve or deny an application under this Section according to 9 A.A.C. 25, Article 12.

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Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-1104. Ground Ambulance Service Contracts (A.R.S. §§ 36-2232, 36-2234(K))

- A. Before implementing a ground ambulance service contract, a certificate holder shall submit to the Department for approval a copy of the contract with a cover letter that indicates the total number of pages in the contract. The contract shall:
1. Include the certificate holder's legal name and any other name listed on the certificate holder's initial application required in R9-25-902(A)(1)(a);
 2. List the contract rate or range of rates approved by the Director according to R9-25-1101, R9-25-1102, or R9-25-1103;
 3. Comply with A.R.S. §§ 36-2201 through 36-2246 and 9 A.A.C. 25; and
 4. Not preclude use of the 9-1-1 system or a similarly designated emergency telephone number.
- B. The Department shall approve or deny an application under this Section according to 9 A.A.C. 25, Article 12.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-1105. Application for Provision of Subscription Service or to Establish a Subscription Service Rate (A.R.S. § 36-2232(A)(1))

- A. A certificate holder applying to provide subscription service, establish a subscription service rate, or request approval of a subscription service contract shall submit an application packet to the Department that includes:
1. The following information:
 - a. The number of estimated subscription service contracts and documents supporting the estimate, such as a survey of the service area;
 - b. An estimate of the number of annual subscription service transports for the service area;
 - c. The proposed subscription service rate;
 - d. An estimate of the cost of providing subscription service to the service area; and
 - e. Any other information or documents that the certificate holder believes may assist the Department in setting a subscription service rate; and
 2. A copy of the proposed subscription service contract.
- B. The Department shall approve or deny a subscription service rate under this Section according to 9 A.A.C. 25, Article 12.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Section heading corrected at request of the Department, Office File No. M11-313, filed September 12, 2011 (Supp. 10-4).

R9-25-1106. Rate of Return Setting Considerations (A.R.S. §§ 36-2232, 36-2239)

- A. In determining the rate of return on gross revenue in A.R.S. § 36-2239(I)(4), the Director shall consider a ground ambulance service's:
1. Direct and indirect costs for operating the ground ambulance service within its service area;
 2. Balance sheet;
 3. Income statement;
 4. Cash flow statement;
 5. Ratio between variable and fixed costs on the financial statements;

6. Method of indirect costs allocation to specific cost-center areas;
 7. Return on equity;
 8. Reimbursable and non-reimbursable charges;
 9. Type of business entity;
 10. Monetary amount and type of debt financing;
 11. Replacement and expansion costs;
 12. Number of calls, transports, and billable miles;
 13. Costs associated with rules, inspections, and audits;
 14. Substantiated prior reported losses;
 15. Medicare and AHCCCS settlements; and
 16. Any other information or documents needed by the Director to clarify incomplete or ambiguous information or documents.
- B. In determining the rate of return on gross revenue in A.R.S. § 36-2239(I)(4), the Director shall not consider:
1. Depreciation of the portion of ground ambulance vehicles and equipment obtained through Department funding;
 2. The certificate holder's travel and entertainment expenses that do not directly relate to providing the ground ambulance service;
 3. The monetary value of any goodwill accumulated by the certificate holder;
 4. Any penalties or fines imposed on the certificate holder by a court or government agency; and
 5. Any financial contributions received by the certificate holder.
- C. In determining just, reasonable, and sufficient rates in A.R.S. § 36-2232(A)(1) the director shall establish rates to provide for a rate of return that is at least 7% of gross revenue, calculated using the accrual method of accounting according to generally accepted accounting principles, unless the certificate holder requests a lower rate of return.
- D. Rate of return on gross revenue is calculated by dividing Ambulance Revenue and Cost Report Exhibit A or Exhibit B net income or loss by gross revenue.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

R9-25-1107. Rate Calculation Factors (A.R.S. § 36-2232)

- A. When evaluating a proposed mileage rate, the Department shall consider the following factors:
1. The cost of licensure and registration of each ground ambulance vehicle;
 2. The cost of fuel;
 3. The cost of ground ambulance vehicle maintenance;
 4. The cost of ground ambulance vehicle repair;
 5. The cost of tires;
 6. The cost of ground ambulance vehicle insurance;
 7. The cost of mechanic wages, benefits, and payroll taxes;
 8. The cost of loan interest related to the ground ambulance vehicles;
 9. The cost of the weighted allocation of overhead;
 10. The cost of ground ambulance vehicle depreciation;
 11. The cost of reserves for replacement of ground ambulance vehicles and equipment; and
 12. Mileage reimbursement as established by Medicare guidelines for ground ambulance service.
- B. When evaluating a proposed BLS base rate, the Department shall consider the costs associated with providing EMS and transport.
- C. When evaluating a proposed ALS base rate, the Department shall consider the factors in subsection (B) and the additional costs of ALS ambulance equipment and ALS personnel.

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- D. In evaluating rates, the Director shall make adjustments to a certificate holder's rates to maximize Medicare reimbursements.
- E. The Department shall determine the standby waiting rate by dividing the BLS base rate by 4.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.
1098, effective February 13, 2001 (Supp. 01-1).

R9-25-1108. Implementation of Rates and Charges (A.R.S. §§ 36-2232, 36-2239)

- A. A certificate holder shall assess rates and charges as follows:
 1. When calculating a rate or charge, the certificate holder shall:
 - a. Omit fractions of less than 1/2 of 1 cent; or
 - b. Increase to the next whole cent, fractions of 1/2 of 1 cent or greater.
 2. The certificate holder shall calculate the number of miles for a transport by using:
 - a. The ground ambulance vehicle's odometer reading; or
 - b. A regional map.
 3. The certificate holder shall calculate the reimbursement amount for mileage of a transport by multiplying the number of miles for the transport by the mileage rate.
 4. When transporting two or more patients in the same ground ambulance vehicle, the certificate holder shall assess each patient:
 - a. Fifty percent of the mileage rate and one hundred percent of the ALS or BLS base rate; and
 - b. One hundred percent of:
 - i. The charge for each disposable supply, medical supply, medication, and oxygen-related cost used on the patient; and
 - ii. Waiting time assessed according to subsection (C).
 5. When agreed upon by prior arrangement to transport a patient to one destination and return to the point of pick-up or to one destination and then to a subsequent destination, assess only the ALS or BLS base rate, mileage rate, and standby waiting rate for the transport.
- B. When a certificate holder transfers a patient to an air ambulance, the certificate holder shall assess the patient the rates and charges for EMS and transport provided to the patient before the transfer.
- C. A certificate holder shall assess a standby waiting rate in quarter-hour increments, except for:
 1. The first 15 minutes after arrival to load the patient at the point of pick-up;
 2. The time, exceeding the first 15 minutes, required by ambulance attendants to provide necessary medical treatment and stabilization of the patient at the point of pick-up; and
 3. The first 15 minutes to unload the patient at the point of destination.
- D. When a certificate holder responds to a request outside the certificate holder's service area, the certificate holder shall assess its own rates and charges for EMS or transport provided to the patient.
- E. When the Department or the certificate holder determines that a refund of a rate or a charge is required, the certificate holder shall refund the rate or charge within 90 days from the date of the determination.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.

1098, effective February 13, 2001 (Supp. 01-1).

R9-25-1109. Charges (A.R.S. §§ 36-2232, 36-2239(D))

- A. A certificate holder that charges patients for disposable supplies, medical supplies, medications, and oxygen-related costs shall submit to the Department a list of the items and the proposed charges. The list shall include a non-retroactive effective date.
- B. A certificate holder shall submit to the Department a new list each time the certificate holder proposes a change in the items or the amount charged. The list shall contain the information required in subsection (A), including a non-retroactive effective date.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.
1098, effective February 13, 2001 (Supp. 01-1).

R9-25-1110. Invoices (A.R.S. §§ 36-2234, 36-2239)

- A. Each invoice for rates and charges shall contain the following:
 1. The patient's name;
 2. The certificate holder's name, address, and telephone number;
 3. The date of service;
 4. An itemized list of the rates and charges assessed;
 5. The total monetary amount owed the certificate holder; and
 6. The payment due date.
- B. Any subsequent invoice to the same patient for the same EMS or transport shall contain all the information in subsection (A) except the information in subsection (A)(4).
- C. Charges may be combined into one line item if the supplies are used for a specific purpose and the name of the combined item is included in the certificate holder's disposable medical supply listing provided to the Department under R9-25-1109.
- D. A certificate holder may combine rates and charges into one line item if required by a third-party payor.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.
1098, effective February 13, 2001 (Supp. 01-1).

ARTICLE 12. TIME-FRAMES FOR DEPARTMENT APPROVALS**R9-25-1201. Time-frames (Authorized by A.R.S. §§ 41-1072 through 41-1079)**

- A. The overall time-frame described in A.R.S. § 41-1072 for each type of approval granted by the Department is listed in Table 12.1. The applicant and the Director may agree in writing to extend the overall time-frame. The substantive review time-frame shall not be extended by more than 25% of the overall time-frame.
- B. The administrative completeness review time-frame described in A.R.S. § 41-1072 for each type of approval granted by the Department is listed in Table 12.1. The administrative completeness review time-frame begins on the date that the Department receives an application form or an application packet.
 1. If the application packet is incomplete, the Department shall send to the applicant a written notice specifying the missing document or incomplete information. The administrative completeness review time-frame and the overall time-frame are suspended from the postmark date of the written request until the date the Department receives a complete application packet from the applicant.
 2. When an application packet is complete, the Department shall send a written notice of administrative completeness.
 3. If the Department grants an approval during the time provided to assess administrative completeness, the Department

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- ment shall not issue a separate written notice of administrative completeness.
- C. The substantive review time-frame described in A.R.S. § 41-1072 is listed in Table 12.1 and begins on the postmark date of the notice of administrative completeness.
- As part of the substantive review time-frame for an application for an approval other than renewal of an ambulance registration, the Department shall conduct inspections, conduct investigations, or hold hearings required by law.
 - If required under R9-25-402, the Department shall fix the period and terms of probation as part of the substantive review.
 - During the substantive review time-frame, the Department may make one comprehensive written request for additional documents or information and may make supplemental requests for additional information with the applicant's written consent.
 - The substantive review time-frame and the overall time-frame are suspended from the postmark date of the written request for additional information or documents until the Department receives the additional information or documents.
 - The Department shall send a written notice of approval to an applicant who meets the qualifications in A.R.S. Title 36, Chapter 21.1 and this Chapter for the type of application submitted.
- The Department shall send a written notice of denial to an applicant who fails to meet the qualifications in A.R.S. Title 36, Chapter 21.1, and this Chapter for the type of application submitted.
- D. If an applicant fails to supply the documents or information under subsections (B)(1) and (C)(3) within the number of days specified in Table 12.1 from the postmark date of the written notice or comprehensive written request, the Department shall consider the application withdrawn.
- E. An applicant that does not wish an application to be considered withdrawn may request a denial in writing within the number of days specified in Table 12.1 from the postmark date of the written notice or comprehensive written request for documents or information under subsections (B)(1) and (C)(3).
- F. If a time-frame's last day falls on a Saturday, Sunday, or an official state holiday, the Department shall consider the next business day as the time-frame's last day.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).
 Amended by final rulemaking at 8 A.A.R. 2352, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).
 Amended by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Table 12.1. Time-frames (in days)

Type of Application	Statutory Authority	Overall Time-frame	Administrative Completeness Time-frame	Time to Respond to Written Notice	Substantive Review Time-frame	Time to Respond to Comprehensive Written Request
ALS Base Hospital Certification (R9-25-204)	A.R.S. §§ 36-2201, 36-2202(A)(3), and 36-2204(5)	45	15	60	30	60
Training Program Certification (R9-25-301)	A.R.S. §§ 36-2202(A)(3) and 36-2204(1) and (3)	120	30	60	90	60
Addition of a Course (R9-25-303)	A.R.S. §§ 36-2202(A)(3) and 36-2204(1) and (3)	90	30	60	60	60
EMCT Certification (R9-25-403)	A.R.S. §§ 36-2202(A)(2), (3), and (4), 36-2202(G), and 36-2204(1)	120	30	90	90	270
EMCT Recertification (R9-25-404)	A.R.S. §§ 36-2202(A)(2), (3), (4), and (6), 36-2202(G), and 36-2204(1) and (4)	120	30	60	90	60
Extension to File for EMCT Recertification (R9-25-405)	A.R.S. §§ 36-2202(A)(2), (3), (4), and (6), 36-2202(G), and 36-2204(1) and (7)	30	15	60	15	60
Downgrading of Certification (R9-25-406)	A.R.S. §§ 36-2202(A)(2), (3), and (4), 36-2202(G), and 36-2204(1) and (6)	30	15	60	15	60
Initial Air Ambulance Service License (R9-25-704)	A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2213, 36-2214, and 36-2215	150	30	60	120	60
Renewal of an Air Ambulance Service License (R9-25-705)	A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2213, 36-2214, and 36-2215	90	30	60	60	60
Initial Certificate of Registration for an Air Ambulance (R9-25-802)	A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, and 36-2240(4)	90	30	60	60	60
Renewal of a Certificate of Registration for an Air Ambulance (R9-25-802)	A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, and 36-2240(4)	90	30	60	60	60

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Initial Certificate of Necessity (R9-25-902)	A.R.S. §§ 36-2204, 36-2232, 36-2233, 36-2240	450	30	60	420	60
Provision of ALS Services (R9-25-902)	A.R.S. §§ 36-2232, 36-2233, 36-2240	450	30	60	420	60
Transfer of a Certificate of Necessity (R9-25-902)	A.R.S. §§ 36-2236(A) and (B), 36-2240	450	30	60	420	60
Renewal of a Certificate of Necessity (R9-25-904)	A.R.S. §§ 36-2233, 36-2235, 36-2240	90	30	60	60	60
Amendment of a Certificate of Necessity (R9-25-905)	A.R.S. §§ 36-2232(A)(4), 36-2240	450	30	60	420	60
Initial Registration of a Ground Ambulance Vehicle (R9-25-1001)	A.R.S. §§ 36-2212, 36-2232, 36-2240	90	30	60	60	60
Renewal of a Ground Ambulance Vehicle Registration (R9-25-1001)	A.R.S. §§ 36-2212, 36-2232, 36-2240	90	30	60	60	60
Establishment of Initial General Public Rates (R9-25-1101)	A.R.S. §§ 36-2232, 36-2239	450	30	60	420	60
Adjustment of General Public Rates (R9-25-1102)	A.R.S. §§ 36-2234, 36-2239	450	30	60	420	60
Contract Rate or Range of Rates Less than General Public Rates (R9-25-1103)	A.R.S. §§ 36-2234, 36-2239	450	30	60	420	60
Ground Ambulance Service Contracts (R9-25-1104)	A.R.S. § 36-2232	450	30	60	420	60
Ground Ambulance Service Contracts with Political Subdivisions (R9-25-1104)	A.R.S. §§ 36-2232, 36-2234(K)	30	15	15	15	Not Applicable
Subscription Service Rate (R9-25-1105)	A.R.S. § 36-2232(A)(1)	450	30	60	420	60

Historical Note

Table 12.1 renumbered from Table 1 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Table 1. Renumbered**Historical Note**

New Table adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 2352, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Table 1 renumbered to Table 12.1 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit A. Recodified**Historical Note**

New Exhibit adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Exhibit A recodified to Article 9 at 12 A.A.R. 2243, effective June 2, 2006 (Supp. 06-2).

Exhibit B. Recodified**Historical Note**

New Table adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Exhibit B recodified to Article 9 at 12 A.A.R. 2243, effective June 2, 2006 (Supp. 06-2).

ARTICLE 13. TRAUMA CENTERS AND TRAUMA REGISTRIES**R9-25-1301. Definitions (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**

In addition to the definitions in A.R.S. § 36-2201 and R9-25-101, the following definitions apply in this Article, unless otherwise specified:

1. "Admitted" means when a patient is either:
 - a. Held for observation of a trauma-related injury; or
 - b. Considered an inpatient, as defined in A.A.C. R9-10-201.
2. "Business day" means a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday.
3. "Designation" means a formal determination by the Department that a health care institution complies with requirements in A.R.S. § 36-2225 and this Article for providing a particular Level of trauma service.
4. "Emergency department" means a designated area of a hospital that provides emergency services, as defined in A.A.C. R9-10-201, as an organized service, 24 hours per day, seven days per week, to individuals who present for immediate medical services.
5. "ICD-code" means an International Classification of Diseases code, a set of numbers or letters or a combination of letters and numbers that specify a disease, condition, or injury; the location of the disease, condition, or injury; or the circumstances under which a patient may have

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- incurred the disease, condition, or injury, which is used by a health care institution for billing purposes.
6. "Level I Pediatric trauma center" means a Level I trauma center that has a trauma service specifically intended to meet the needs of children requiring trauma care.
 7. "Level II Pediatric trauma center" means a Level II trauma center that has a trauma service specifically intended to meet the needs of children requiring trauma care.
 8. "Medical services" means the services pertaining to the "practice of medicine," as defined in A.R.S. § 32-1401, or "medicine," as defined in A.R.S. § 32-1800, performed at the direction of a physician.
 9. "National verification organization" has the same meaning as in A.R.S. § 36-2225.
 10. "Nursing services" means services that pertain to the curative, restorative, and preventive aspects of "registered nursing," as defined in A.R.S. § 32-1601, performed:
 - a. At the direction of a physician; and
 - b. By or under the supervision of a registered nurse licensed:
 - i. According to Title 32, Chapter 15; or
 - ii. When performed in a health care institution operating under federal or tribal law as an administrative unit of the U.S. government or a sovereign tribal nation, by a similar licensing board in another state.
 11. "On-call" means assigned to respond and, if necessary, come to a health care institution when notified by a personnel member of the health care institution.
 12. "Organized service" has the same meaning as in A.A.C. R9-10-201.
 13. "Owner" means one of the following:
 - a. For a health care institution licensed under 9 A.A.C. 10, the licensee;
 - b. For a health care institution operated under federal or tribal laws, the administrative unit of the U.S. government or sovereign tribal nation operating the health care institution.
 14. "Personnel member" means an individual providing medical services, nursing services, or health-related services, as defined in A.R.S. § 36-401, to a patient.
 15. "Physician" means an individual licensed:
 - a. According to A.R.S. Title 32, Chapter 13 or 17; or
 - b. When working in a health care institution operating under federal or tribal law as an administrative unit of the U.S. government or a sovereign tribal nation, by a similar licensing board in another state.
 16. "Signature" means:
 - a. A handwritten or stamped representation of an individual's name or a symbol intended to represent an individual's name, or
 - b. An "electronic signature" as defined in A.R.S. § 44-7002.
 17. "Substantial compliance" has the same meaning as in A.R.S. § 36-401.
 18. "Transport" means the conveyance of a patient by ground ambulance or air ambulance from one location to another location.
 19. "Trauma care" means medical services and nursing services provided to a patient suffering from a sudden physical injury.
 20. "Trauma center" has the same meaning as in A.R.S. § 36-2225.
 21. "Trauma critical care course" means a multidisciplinary class or series of classes consisting of interactive tutorials, skills teaching, and simulated patient management scenarios of trauma care, consistent with training recognized by the American College of Surgeons.
 22. "Trauma facility" means a health care institution that provides trauma care to a patient as an organized trauma service.
 23. "Trauma service" means designated personnel members, equipment, and area within a health care institution and the associated policies and procedures for the personnel members to follow when providing trauma care to a patient.
 24. "Trauma team" means a group of personnel members with defined roles and responsibilities in providing trauma care to a patient.
 25. "Trauma team activation" means a notification to respond that is sent to trauma team personnel members in reaction to triage information received concerning a patient with injury or suspected injury.
 26. "Verification" means formal confirmation by a national verification organization that a health care institution meets the national verification organization's standards for providing trauma care at a specific Level of trauma service.

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Amended by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1302. Eligibility for Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

A. A health care institution is eligible for designation as a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, Level II Pediatric trauma center, or Level III trauma center if the health care institution:

1. Is either:
 - a. Licensed by the Department under 9 A.A.C. 10 to operate as a hospital; or
 - b. Operating as a hospital under federal or tribal law as an administrative unit of the U.S. government or a sovereign tribal nation; and
2. For designation as a:
 - a. Level I trauma center:
 - i. Holds verification, issued within the six months before the date of designation, as a Level I trauma facility;
 - ii. Has documentation issued by a national verification organization, within the six months before the date of designation, stating that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for a Level I trauma center; or
 - iii. Meets the requirements in subsection (C);
 - b. Level I Pediatric trauma center:
 - i. Holds verification, issued within the six months before the date of designation, as a Level I Pediatric trauma facility;
 - ii. Has documentation issued by a national verification organization, within the six months before the date of designation, stating that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for a Level I Pediatric trauma center; or
 - iii. Meets the requirements in subsection (C);

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- c. Level II trauma center:
 - i. Holds verification, issued within the six months before the date of designation, as a Level II trauma facility; or
 - ii. Has documentation issued by a national verification organization, within the six months before the date of designation, stating that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for a Level II trauma center; or
 - iii. Meets the requirements in subsection (C);
 - d. Level II Pediatric trauma center:
 - i. Holds verification, issued within the six months before the date of designation, as a Level II Pediatric trauma facility;
 - ii. Has documentation issued by a national verification organization, within the six months before the date of designation, stating that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for a Level II Pediatric trauma center; or
 - iii. Meets the requirements in subsection (C); or
 - e. Level III trauma center:
 - i. Holds verification, issued within the six months before the date of designation, as a Level III trauma facility; or
 - ii. Has documentation issued by a national verification organization or the Department, within the six months before the date of designation, stating that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for a Level III trauma center.
- B.** A health care institution is eligible for designation as a Level IV trauma center if the health care institution:
- 1. Is either:
 - a. Licensed by the Department under 9 A.A.C. 10 to operate as:
 - i. A hospital; or
 - ii. An outpatient treatment center authorized to provide emergency room services, as defined in A.A.C. R9-10-1001, according to A.A.C. R9-10-1019; or
 - b. Operating as a hospital or an outpatient treatment center providing emergency services under federal or tribal law as an administrative unit of the U.S. government or a sovereign tribal nation; and
 - 2. Either:
 - a. Holds verification, issued within the six months before the date of designation, as a Level IV trauma facility; or
 - b. Has documentation issued by a national verification organization or the Department, within the six months before the date of designation, stating that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for a Level IV trauma center.
- C.** A health care institution is eligible for designation as a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center based on assessment by the Department that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for the Level of trauma center for which designation is requested if the health care institution:
- 1. Applies for verification from a national verification organization;
 - 2. Informs the Department, at least 30 calendar days before, of the dates the national verification organization will be on the premises of the health care institution to assess the health care institution for compliance with the national verification organization's standards for verification;
 - 3. Invites the Department to review the facility and documentation of capabilities of the health care institution during the national verification organization's assessment in subsection (C)(2);
 - 4. Is not issued verification from the national verification organization at the Level of designation sought;
 - 5. Does not receive the documentation required in subsection (A)(2)(a)(ii), (b)(ii), (c)(ii), or (d)(ii), as applicable; and
 - 6. Receives the documentation specified in R9-25-1306(G) and, if applicable, submits to the Department a written plan in R9-25-1306(H), acceptable to the Department, to correct instances of non-compliance.
- D.** A health care institution is eligible to retain designation as a specific Level of trauma center if the health care institution complies with the applicable requirements in this Article for the specific Level of trauma center.

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Amended by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1303. Application and Designation Process (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

- A.** An owner applying for initial designation or to renew designation for a health care institution shall submit to the Department an application including:
- 1. The following information, in a Department-provided format:
 - a. The name, address, and telephone number of the health care institution for which the owner is requesting designation;
 - b. The owner's name, address, e-mail address, telephone number, and, if available, fax number;
 - c. The name, e-mail address, telephone number, and, if available, fax number of the chief administrative officer, as defined in A.A.C. R9-10-101, for the health care institution for which the owner is requesting designation;
 - d. The designation Level for which the owner is applying;
 - e. Whether the owner is requesting designation for the health care institution based on:
 - i. Verification, or
 - ii. Meeting the applicable standards specified in R9-25-1308 and Table 13.1;
 - f. If the owner is requesting designation for the health care institution based on verification:
 - i. The name of the national verification organization;
 - ii. The name, telephone number, and e-mail address for a representative of the national verification organization;
 - iii. The Level of verification held;
 - iv. The effective date of the verification, and
 - v. The expiration date of the verification;
 - g. If the owner is requesting designation for the health care institution based on the health care institution meeting the applicable standards specified in R9-25-1308 and Table 13.1:

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- i. Whether:
 - (1) A national verification organization has assessed the health care institution, or
 - (2) The Department will be assessing the health care institution;
 - ii. If a national verification organization has assessed the health care institution:
 - (1) The name of the national verification organization;
 - (2) The name, telephone number, and e-mail address for a representative of the national verification organization; and
 - (3) The date the national verification organization assessed the health care institution;
 - iii. If the Department will be assessing the health care institution, the date the health care institution will be ready for the Department to assess the health care institution;
 - h. Unless the owner is an administrative unit of the U.S. government or a sovereign tribal nation, the license number, issued by the Department, for the health care institution for which designation is being requested;
 - i. The name, e-mail address, telephone number, and, if available, fax number of the health care institution's trauma program manager;
 - j. Whether the health care institution's trauma registry will be located at the health care institution or be part of a centralized trauma registry;
 - k. The name, e-mail address, telephone number, and, if available, fax number of the health care institution's trauma registrar;
 - l. If applying for designation as a Level IV trauma center, whether the health care institution plans to submit, in addition to the information required in R9-25-1309(A), the information specified in R9-25-1309(B);
 - m. If not already submitting trauma registry information to the Department, the time period for which the health care institution plans to begin submitting trauma registry information;
 - n. Except for a health care institution applying for designation as a Level IV trauma center, the name, e-mail address, telephone number, and, if available, fax number of the health care institution's trauma medical director;
 - o. The name, title, address, and telephone number of the owner's statutory agent or the individual designated by the owner to accept service of process and subpoenas;
 - p. Attestation that:
 - i. The owner will comply with all applicable requirements in A.R.S. Title 36, Chapter 21.1 and this Article; and
 - ii. The information and documents provided as part of the application are accurate and complete; and
 - q. The dated signature of the applicable individual according to R9-25-102;
2. If applicable, documentation demonstrating that the health care institution is operating as a hospital or an outpatient treatment center providing emergency services under federal or tribal law as an administrative unit of the U.S. government or a sovereign tribal nation; and
 3. One of the following:
 - a. Documentation from the national verification organization, identified according to subsection (A)(1)(f)(i), establishing that the owner holds verification for the health care institution at the Level of designation being requested and showing the effective date and expiration date of the verification;
 - b. Documentation from the national verification organization, identified according to subsection (A)(1)(g)(ii)(1), demonstrating that the health care institution meets the applicable standards specified in R9-25-1308 and Table 13.1; or
 - c. The information and documents required in R9-25-1307(C), (D), or (F), as applicable.
- B.** An owner applying to renew designation for a health care institution shall submit the application in subsection (A) to the Department at least 60 calendar days and no more than 90 calendar days before the expiration of the current designation.
- C.** Within 30 calendar days after receiving an application submitted according to subsection (A), the Department shall review the application submitted for completeness, and, if the application is:
1. Incomplete, provide to the owner a written notice listing each missing item and the information or items needed to complete the application; and
 2. Complete and based on:
 - a. Verification, comply with R9-25-1307(A);
 - b. A national verification organization assessing the health care institution's meeting the applicable standards specified in R9-25-1308 and Table 13.1, comply with R9-25-1307(B); or
 - c. The Department assessing the health care institution's meeting the applicable standards specified in R9-25-1308 and Table 13.1, assess compliance with applicable requirements in A.R.S. Title 36, Chapter 21.1 and this Article according to R9-25-1307(E) or (G).
- D.** The Department shall consider an application withdrawn if an owner:
1. Fails to submit to the Department all of the information or items listed in a notice of missing items within 60 calendar days after the date on the notice of missing items, unless the Department and the owner agree to an extension of this time; or
 2. Submits a written request withdrawing the application.
- E.** If an owner submits an application for renewal of designation for a health care institution according to subsection (A) before the expiration date of the current designation, the designation of the health care institution remains in effect until the:
1. Department has determined whether or not to issue a renewal of the designation, or
 2. Application is withdrawn.

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (Supp. 12-3). New Section R9-25-1303 renumbered from R9-25-1304 and amended by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1303.01. Health Care Institutions with Provisional Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

- A.** A health care institution that held provisional designation before the effective date of the rules in this Article may retain

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the provisional designation until the expiration date of the provisional designation.

- B. At least 60 calendar days and no more than 90 calendar days before the expiration of a provisional designation, an owner of a health care institution with a provisional designation shall submit to the Department an application for initial designation according to R9-25-1303(A).
- C. If an owner of a health care institution with a provisional designation does not submit an application for initial designation according to subsection (B), the health care institution is no longer designated as a trauma center, as of the expiration date of the provisional designation.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1304. Changes Affecting Designation Status (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

- A. An owner of a trauma center shall:
 - 1. Notify the Department, in writing or in a Department-provided format, no later than 60 calendar days after the date of a change in the health care institution's:
 - a. Name,
 - b. Trauma program manager, or
 - c. If applicable, trauma medical director; and
 - 2. Provide the effective date of the change and, as applicable, the:
 - a. Current and new name of the health care institution, or
 - b. Name of the new trauma program manager or trauma medical director.
- B. An owner of a trauma center shall notify the Department in writing within three business days after:
 - 1. The trauma center's health care institution license expires or is suspended or revoked;
 - 2. The trauma center's health care institution license is changed to a provisional license under A.R.S. § 36-425;
 - 3. The trauma center no longer holds verification; or
 - 4. A change, which is expected to last for more than seven consecutive calendar days, in the trauma center's ability to meet:
 - a. The applicable standards specified in R9-25-1308 and Table 13.1, or
 - b. If designation is based on verification, the national verification organization's standards for verification.
- C. At least 90 calendar days before a trauma center ceases to provide a trauma service, the owner of the trauma center shall notify the Department, in writing or in a Department-provided format, of the owner's intention to cease providing the trauma service and to relinquish designation, including the effective date.
- D. The Department shall, upon receiving a notice described in:
 - 1. Subsection (A), issue an amended designation that incorporates the name change but retains the expiration date of the current designation;
 - 2. Subsection (B)(1), send the owner a written notice stating that the health care institution no longer meets the definition of a trauma center and that the Department intends to dedesignate the health care institution, according to R9-25-1307(J)(2);
 - 3. Subsection (B)(2), evaluate the restrictions on the provisional license to determine if the trauma service was affected and may send the owner a written notice of the Department's intention to:
 - a. Dedesignate the health care institution, according to R9-25-1307(J) through (M);

- b. Require a modification of the health care institution's designation within 15 calendar days after the date of the notice, according to R9-25-1305; or
 - c. Require a corrective action plan to address issues of compliance with the applicable standards specified in R9-25-1308 and Table 13.1, according to R9-25-1306(E);
- 4. Subsection (B)(3), send the owner written notice that the owner is required, within 15 calendar days after the date of the notice, to submit to the Department:
 - a. An application for designation at a specific Level of trauma center, according to R9-25-1303, based on meeting the applicable standards specified in R9-25-1308 and Table 13.1; or
 - b. Written notification of the owner's intention to relinquish designation;
 - 5. Subsection (B)(4), send the owner written notice that the owner is required, within 15 calendar days after the date of the notice, to submit to the Department:
 - a. An application for modification of the health care institution's designation, according to R9-25-1305;
 - b. A corrective action plan to address issues of compliance with the applicable standards specified in R9-25-1308 and Table 13.1, according to R9-25-1306(E); or
 - c. Written notification of the owner's intention to relinquish designation; or
 - 6. Subsection (C), (D)(4)(b), or (D)(5)(c), send the owner written confirmation of the voluntary relinquishment of designation.
- E. An owner of a trauma center, who obtains verification for the trauma center during a term of designation that was based on the trauma center meeting the applicable standards specified in R9-25-1308 and Table 13.1, may obtain a new initial designation based on verification, with a designation term based on the dates of the verification, by submitting an application according to R9-25-1303.

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1304 renumbered to R9-25-1303; new Section R9-25-1304 renumbered from R9-25-1308 and amended by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1305. Modification of Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

- A. Except as provided in R9-25-1304(D)(3)(b) and (5)(a), at least 30 calendar days before ceasing to provide a trauma service consistent with a trauma center's current designation, an owner of a trauma center may request a designation that requires fewer resources and capabilities than the trauma center's current designation by submitting to the Department an application for modification of the trauma center's designation, in a Department-provided format, that includes:
 - 1. The name and address of the trauma center for which the owner is requesting modification of designation;
 - 2. A list of the criteria for the current designation with which the owner no longer intends to comply;
 - 3. An explanation of the changes being made in the trauma center's resources or operations, related to each criterion specified according to subsection (A)(2), to ensure the health and safety of a patient;
 - 4. The Level of designation being requested;
 - 5. An attestation that:

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- a. The owner will be in compliance with all applicable requirements in A.R.S. Title 36, Chapter 21.1 and this Article for the Level of designation requested if modified designation is issued; and
 - b. The information provided in the application is accurate and complete; and
 6. The dated signature of the applicable individual according to R9-25-102.
- B.** The Department shall review the application submitted according to R9-25-1307(I) to determine whether, with the changes being made in the trauma center's resources and operations, the trauma center will be in substantial compliance based the applicable standards specified in R9-25-1308 and Table 13.1 for the Level of designation requested.
- C.** To retain trauma center designation for a health care institution, an owner who holds modified designation shall, before the expiration date of the modified designation:
1. Apply for renewal of designation according to R9-25-1303, based on the health care institution's meeting the applicable standards specified in R9-25-1308 and Table 13.1, for the Level of the modified designation; or
 2. Apply for initial designation according to R9-25-1303, based on the health care institution meeting the applicable standards specified in R9-25-1308 and Table 13.1, for a Level other than the Level of the modified designation.
- Historical Note**
- New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1305 repealed; new Section R9-25-1305 renumbered from R9-25-1309 and amended by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).
- R9-25-1306. Inspections (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**
- A.** When the Department inspects a health care institution applying for a trauma center designation or a health care institution designated as a trauma center to determine compliance with the applicable requirements in this Article, the Department:
1. Shall use criteria for assessing compliance developed using recommendations from the State Trauma Advisory Board, according to A.R.S. § 36-2222(E)(1); and
 2. May:
 - a. Evaluate the health care institution's equipment and physical plant;
 - b. Interview the health care institution's personnel members, including any individuals providing trauma care; and
 - c. Review any of the following:
 - i. Medical records;
 - ii. Patient discharge summaries;
 - iii. Patient care logs;
 - iv. Rosters and schedules of personnel members and individuals who provide trauma care as part of the trauma service;
 - v. Performance-improvement-related documents, including quality management program documents required in A.A.C. R9-10-204 or R9-10-1004 as applicable; and
 - vi. Other documents relevant to the provision of trauma care as part of the trauma service.
- B.** The Department shall determine whether there is a need for an inspection of a health care institution and which components in subsection (A)(2) to include in an inspection, based on the health care institution's application; previous inspections, if applicable; and the operating history of the health care institution and may conduct an announced inspection of the identified components:
1. Before issuing an initial, renewal, or modified designation to an owner applying for designation of a health care institution as a trauma center;
 2. If an owner of a health care institution designated as a trauma center has submitted a corrective action plan under subsection (E); or
 3. A health care institution designated as a trauma center is randomly selected to receive an inspection.
- C.** If the Department has reason to believe that a trauma center is not complying with applicable requirements in A.R.S. Title 36, Chapter 21.1 and this Article, the Department may conduct an announced or unannounced inspection of the trauma center according to subsection (A).
- D.** Within 30 calendar days after completing an inspection, the Department shall send to an owner a written report of the Department's findings, including, if applicable, a list of any instances of non-compliance identified during the inspection and a request for a written corrective action plan.
- E.** Within 15 calendar days after receiving a request for a written corrective action plan, an owner shall submit to the Department a written corrective action plan that includes for each identified instance of non-compliance:
1. A description of how the instance of non-compliance will be corrected and reoccurrence prevented, and
 2. A date of correction for the instance of non-compliance.
- F.** The Department shall accept a written corrective action plan if the corrective action plan:
1. Describes how each identified instance of non-compliance will be corrected and reoccurrence prevented, and
 2. Includes a date for correcting each instance of non-compliance that is appropriate to the actions necessary to correct the instance of non-compliance.
- G.** If the Department reviews a health care institution's facility and documentation of capabilities during a national verification organization's assessment according to R9-25-1302(C)(3) and the health care institution is not issued verification from the national verification organization at the Level of designation sought, the Department shall send to an owner of the health care institution, within 30 calendar days after the review, a written report of the Department's findings, including, if applicable, a list of any instances of non-compliance with requirements in R9-25-1308 and Table 13.1 identified during the review.
- H.** A health care institution receiving a written report in subsection (G) containing a list of instances of non-compliance with requirements in R9-25-1308 and Table 13.1 identified during a review of the health care institution's facility and documentation of capabilities may submit to the Department a written plan to correct instances of non-compliance that includes:
1. A description of how the health care institution will correct each instance of non-compliance and prevent the reoccurrence, and
 2. A date by which the health care institution plans to correct each instance of non-compliance.
- Historical Note**
- New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1306 repealed; new Section R9-25-1306 made by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).
- R9-25-1307. Designation and Dedications (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**

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- A. For designation of a health care institution based on verification, the Department shall, within 45 calendar days after receiving a complete application from an owner:
 - 1. If the application complies with the applicable requirements in this Article, issue a designation for the health care institution that is valid for the duration of the verification; or
 - 2. If the application does not comply with the applicable requirements in this Article, provide a written notice that complies with A.R.S. Title 41, Chapter 6, Article 10 that the Department intends to decline to issue a designation for the health care institution.
 - B. Except as provided in subsection (F), for designation of a health care institution based on an assessment by a national verification organization, the Department shall, within 60 calendar days after receiving a complete application from an owner, review the application and, if the Department determines that:
 - 1. The application and the health care institution comply with the applicable requirements in this Article, issue a designation for the health care institution that is valid for three years from the issue date;
 - 2. The application complies with the applicable requirements in this Article, the health care institution is in substantial compliance with the applicable requirements in this Article, and the Department has accepted a written corrective action plan submitted according to R9-25-1306(E), issue a designation for the health care institution that is valid for one year from the issue date; or
 - 3. The application or the health care institution does not comply with the applicable requirements in this Article, provide a written notice that complies with A.R.S. Title 41, Chapter 6, Article 10 that the Department intends to decline to issue a designation for the health care institution.
 - C. Except as provided in subsection (F) for renewal of a one-year designation, for designation of a health care institution as a Level III trauma center or a Level IV trauma center based on an assessment by the Department, an owner shall include as part of the application required in R9-25-1303(A):
 - 1. The following information in a Department-provided format:
 - a. The name of the health care institution for which the owner is requesting designation;
 - b. The services the health care institution is providing or plans to provide as part of the trauma service;
 - c. The name and title of the liaison to the trauma service from each of the services listed according to subsection (C)(1)(b);
 - d. If applicable, the name, e-mail address, telephone number, and, if available, fax number of the health care institution's emergency department physician director;
 - e. If applicable, the name, e-mail address, telephone number, and, if available, fax number of the health care institution's surgical director or co-director;
 - f. If a multidisciplinary peer review committee is required according to Table 13.1 for the Level of the trauma center, the name and title of each member of the multidisciplinary peer review committee;
 - g. If the health care institution's trauma registry will be part of a centralized trauma registry, a description of the training provided to the trauma program manager to enable the trauma program manager to comply with R9-25-1308(D)(2);
 - h. If applicable, for an application for initial designation, a description of the health care institution's plans for the continuing education activities related to trauma care, required in R9-25-1308(G)(4);
 - i. For renewal of designation, a description of the continuing education activities conducted during the term of the designation;
 - j. If applicable, the name, e-mail address, telephone number, and, if available, fax number of the health care institution's injury prevention coordinator;
 - k. A description of the methods by which trauma team personnel members communicate with EMS personnel;
 - l. A description of the trauma-related training received by registered nurses in the intensive care unit;
 - m. An attestation that the owner of the health care institution will prohibit:
 - i. The trauma medical director from serving as trauma medical director for another health care institution; and
 - ii. A physician on-call for general surgery, neurosurgery, or orthopedic surgery to be on-call or on a back-up call list at another health care institution; and
 - n. The dated signature of the applicable individual according to R9-25-102;
- 2. A copy of the policies and procedures required in R9-25-1308(B)(6) for the health care institution's trauma registry;
 - 3. A copy of the policies and procedures required in R9-25-1308(B)(7) for the health care institution's performance improvement program;
 - 4. A copy of the policies and procedures required in R9-25-1308(F)(2) for the health care institution's trauma service;
 - 5. If applicable, a copy of the policies and procedures required in R9-25-1308(F)(9) for operating rooms;
 - 6. A copy of the applicable policies and procedures required in R9-25-1308(H)(4);
 - 7. A copy of the health care institution's clinical practice guidelines, describing the health care institution's capability to resuscitate, stabilize, and transfer pediatric patients;
 - 8. If applicable, a copy of the bylaws of the health care institution's multidisciplinary peer review committee;
 - 9. Copies of the job descriptions for the health care institution's:
 - a. Trauma program manager;
 - b. Trauma registrar; and
 - c. If applicable, injury prevention coordinator;
 - 10. A list of the trauma care parameters the health care institution is or will be monitoring as part of the performance improvement program;
 - 11. A list of trauma team members, including:
 - a. Name,
 - b. Title, and
 - c. Role on the trauma team;
 - 12. If required for an individual listed according to subsection (C)(11), a copy of documentation of the individual's:
 - a. Board certification or board eligibility,
 - b. Most recent certification in a trauma critical care course,
 - c. Pediatric-specific credentials, and
 - d. Other trauma-related training; and

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13. If the trauma medical director is not a member of the trauma team, the applicable documentation required in subsection (C)(12) for the trauma medical director.
- D.** Except as provided in subsection (F) for renewal of a one-year designation, for designation of a health care institution as a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center based on an assessment by the Department under R9-25-1302(C), an owner shall include as part of the application required in R9-25-1303(A):
1. A copy of the documentation submitted to the national verification organization as part of an application for verification;
 2. If not included in the documentation in subsection (D)(1):
 - a. Any information or documents required in subsection (C);
 - b. For an application for initial designation, a description of the health care institution's plans for:
 - i. Injury prevention activities, required in R9-25-1308(G)(5)(a); and
 - ii. Educational outreach activities, required in R9-25-1308(G)(5)(b); and
 - c. For an application for renewal of designation, a description of the injury prevention activities and educational outreach activities conducted during the term of the designation;
 3. A copy of the national verification organization's written report to the health care institution describing the results of the national verification organization's assessment of the health care organization;
 4. A copy of the written report in R9-25-1306(G); and
 5. If applicable, the written plan to correct instances of non-compliance in R9-25-1306(H).
- E.** Except as provided in subsection (G) for renewal of a one-year designation, for designation of a health care institution based on an assessment by the Department, the Department shall, within 90 calendar days after receiving a complete application from an owner, review the application, inspect the health care institution, if applicable, and, if the Department determines that:
1. The application and the health care institution comply with the applicable requirements in this Article, issue a designation for the health care institution that is valid for three years from the issue date;
 2. The application complies with the applicable requirements in this Article, the health care institution is in substantial compliance with the applicable requirements in this Article, and the Department has accepted the document submitted according to R9-25-1306(E) or subsection (D)(5), issue a designation for the health care institution that is valid for one year from the issue date; or
 3. The application or the health care institution does not comply with the applicable requirements in this Article, provide a written notice that complies with A.R.S. Title 41, Chapter 6, Article 10 that the Department intends to decline to issue a designation for the health care institution.
- F.** For renewal, at the same Level of trauma center, of a one-year designation issued according to subsection (B)(2) or (E)(2), an owner shall include, as part of the application required in R9-25-1303(A), documentation related to the completion of the plan specified in the document accepted by the Department in subsection (B)(2) or (E)(2).
- G.** Except as specified in subsection (H), the Department shall, within 60 calendar days after receiving from an owner an application submitted according to subsection (F), review the information and documentation, inspect the health care institution if applicable, and:
1. Issue a designation for the health care institution that is valid for two years from the issue date if the Department determines that:
 - a. The application and the health care institution comply with the applicable requirements in this Article; and
 - b. The owner has completed the plan specified in the document accepted by the Department in subsection (B)(2) or (E)(2), as applicable; or
 2. Provide a written notice that complies with A.R.S. Title 41, Chapter 6, Article 10 that the Department intends to decline to issue a designation for the health care institution if the Department determines that:
 - a. The application or the health care institution do not comply with the applicable requirements in this Article; or
 - b. The owner has not completed all of the components of the plan specified in the document accepted by the Department in subsection (B)(2) or (E)(2), as applicable.
- H.** The Department shall review according to R9-25-1303(C) and subsection (A), (B), or (E), as applicable, an application for renewal of designation submitted by the owner of a trauma center that:
1. Had been issued a one-year designation according to subsection (B)(2) or (E)(2); and
 2. Has not completed all of the components of the plan specified in the document accepted by the Department in subsection (B)(2) or (E)(2), as applicable.
- I.** For modification of a designation according to R9-25-1305, the Department shall, within 30 calendar days after receiving a complete application for modification in R9-25-1305(A) from an owner, review the application, inspect the health care institution, if applicable, and:
1. Issue a modified designation for the Level of designation requested for the health care institution that is valid for the duration of the original designation or one year from the issue date, whichever is longer, if the Department determines that:
 - a. The application and the health care institution comply with the applicable requirements in this Article for the Level of designation requested; or
 - b. The application complies with the applicable requirements in this Article, the health care institution is in substantial compliance with the applicable requirements in this Article for the Level of designation requested, and the Department has accepted a written corrective action plan submitted according to R9-25-1306(E);
 2. Issue a modified designation for a lower Level of designation than the Level of designation requested for the health care institution that is valid for the duration of the original designation or one year from the issue date, whichever is longer, if the Department determines that:
 - a. The application and the health care institution comply with the applicable requirements in this Article for the lower Level of designation and the health care institution:
 - i. Does not comply with the applicable requirements in this Article for the Level of designation requested; or
 - ii. Is in substantial compliance with the applicable requirements in this Article for the Level of designation requested, and the Department has

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- not accepted a written corrective action plan submitted according to R9-25-1306(E); or
- b. The application complies with the applicable requirements in this Article, the health care institution is in substantial compliance with the applicable requirements in this Article for the lower Level of designation, and the Department has accepted a written corrective action plan according to R9-25-1306(E); or
3. Provide a written notice that complies with A.R.S. Title 41, Chapter 6, Article 10 that the Department intends to decline to issue a modified designation for the health care institution if the Department determines that the application or the health care institution does not comply with the applicable requirements in this Article.
- J.** The Department may dedesignate a health care institution as a trauma center if an owner:
1. Has provided false or misleading information to the Department;
 2. Is not eligible for designation under R9-25-1302(A) or (B); or
 3. Fails to comply with an applicable requirement in A.R.S. Title 36, Chapter 21.1 or this Article.
- K.** In determining whether to dedesignate a health care institution as a trauma center, the Department shall consider:
1. The severity of each instance relative to public health and safety;
 2. The number of instances;
 3. The nature and circumstances of each instance;
 4. Whether each instance was corrected, the manner of correction, and the duration of the instance; and
 5. Whether the instances indicate a lack of commitment to having the trauma center meet the verification standards of a national verification organization or, if applicable, the standards specified in R9-25-1308 and Table 13.1.
- L.** If the Department intends to dedesignate a health care institution, the Department shall send to the owner a written notice that complies with A.R.S. Title 41, Chapter 6, Article 10.
- M.** An owner who receives a written notice in subsection (A)(2), (B)(3), (E)(3), (G)(2), (I)(3), or (J) may file a written notice of appeal with the Department that complies with A.R.S. Title 41, Chapter 6, Article 10.
- Historical Note**
- New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1307 repealed; new Section R9-25-1307 renumbered from R9-25-1312 and amended by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).
- R9-25-1308. Trauma Center Responsibilities (A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(4), (5), and (6))**
- A.** The owner of a trauma center shall ensure that:
1. If designation is based on:
 - a. Verification, the trauma center meets the applicable standards of the verifying national verification organization; or
 - b. Meeting the applicable standards specified in this Section and Table 13.1, the trauma center meets the applicable standards for the Level of trauma center for which designation has been issued;
 2. The trauma center complies with a written corrective action plan accepted by the Department according to R9-25-1306(F); and
 3. The Department has access to:
 - a. The trauma center and to personnel members present in the trauma center; and
 - b. Documents that are requested by the Department and not confidential under A.R.S. Title 36, Chapter 4, Article 4 or 5, within two hours after the Department's request.
- B.** The owner of a trauma center shall ensure that the trauma center:
1. Except as provided in subsection (D), establishes a trauma registry of patients receiving trauma care who meet the criteria specified in subsection (C)(1) that contains the information required in R9-25-1309, as applicable for the specific Level of the trauma center;
 2. Appoint an individual to act as trauma registrar to coordinate trauma registry activities;
 3. If necessary to comply with subsections (C)(2) and (3), provides sufficient additional individuals to assist with trauma registry activities;
 4. Establishes a performance improvement program for the trauma service to develop and implement processes to improve trauma care parameters;
 5. If required according to Table 13.1 for the Level of the trauma center, establishes as part of the performance improvement program, established according to subsection (B)(4), a multidisciplinary peer review committee to review the quality of trauma care provided by the trauma center, including information from the trauma registry, and suggest methods to improve the quality of trauma care;
 6. Establishes, documents, and implements policies and procedures for the trauma registry established according to subsection (B)(1) that include:
 - a. Ensuring that individuals responsible for collecting, entering, or reviewing information in the trauma registry have received training in gaining access to, and retrieving information from, the trauma registry;
 - b. Collection of the information required in R9-25-1309 about the patients specified in subsection (C)(1) receiving trauma care;
 - c. Submission to the Department of the information required in subsection (C)(2);
 - d. Review of information in the trauma center's trauma registry; and
 - e. Performance improvement activities required in R9-25-1310; and
 7. Establishes, documents, and implements policies and procedures for the performance improvement program established according to subsection (B)(4), including:
 - a. A list of the positions of personnel members who have defined roles in the performance improvement program and, if applicable, a list of positions that are dedicated to performance improvement activities for patients receiving trauma care from the trauma center;
 - b. The qualifications, skills, and knowledge required of the personnel members in the positions specified according to subsection (B)(6)(a);
 - c. The role each personnel member specified according to subsection (B)(6)(a) plays in the performance improvement program;
 - d. The trauma care parameters to be reviewed as part of the performance improvement program;
 - e. The frequency of review of trauma care parameters;
 - f. If an issue related to trauma care or to trauma care parameters is identified:

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- i. How a plan to address the issue is developed to reduce the chance of the issue recurring in the future;
 - ii. How the plan is documented;
 - iii. The mechanism and criteria by which the plan is reviewed and approved;
 - iv. How the plan is implemented; and
 - v. How implementation of the plan and future recurrences are monitored;
 - g. If applicable, the composition, duties, responsibilities, and frequency of meetings of the multidisciplinary peer review committee established according to subsection (B)(5);
 - h. If applicable, how the multidisciplinary peer review committee collaborates with the trauma center's quality management program; and
 - i. How changes proposed by the performance improvement program are reviewed by the trauma center's quality management program.
- C. The owner of a trauma center shall ensure that:
 - 1. The trauma registry, established according to subsection (B)(1), includes the information required in R9-25-1309 for each patient with whom the trauma center had contact who meets one or more of the following criteria:
 - a. A patient with injury or suspected injury who is:
 - i. Transported from a scene to a trauma center or an emergency department based on the responding emergency medical services provider's or ambulance service's triage protocol required in R9-25-201(E)(2)(b), or
 - ii. Transferred from one health care institution to another health care institution by an emergency medical services provider or ambulance service;
 - b. A patient with injury or suspected injury for whom a trauma team activation occurs; or
 - c. A patient with injury, who is admitted as a result of the injury or who dies as a result of the injury, and whose medical record includes one or more of specific ICD-codes indicating that:
 - i. At the initial encounter with the patient, the patient had:
 - (1) An injury or injuries to specific body parts,
 - (2) Unspecified multiple injuries,
 - (3) Injury of an unspecified body region,
 - (4) A burn or burns to specific body parts,
 - (5) Burns assessed through Total Body Surface Area percentages, or
 - (6) Traumatic Compartment Syndrome; and
 - ii. The patient's injuries or burns were not only:
 - (1) An isolated distal extremity fracture from a same-level fall,
 - (2) An isolated femoral neck fracture from a same-level fall,
 - (3) Effects resulting from an injury or burn that developed after the initial encounter,
 - (4) A superficial injury or contusion, or
 - (5) A foreign body entering through an orifice;
 - 2. The following information is submitted to the Department, in a Department-provided format, according to subsection (C)(3):
 - a. The name and physical address of the trauma center;
 - b. The date the trauma registry information is being submitted to the Department;
 - c. The total number of patients whose trauma registry information is being submitted;
 - d. The quarter and year for which the trauma registry information is being submitted;
 - e. The range of emergency department or hospital arrival dates for the patients for whom trauma registry information is being submitted;
 - f. The name, title, e-mail address, telephone number, and, if available, fax number of the trauma center's point of contact for the trauma registry information;
 - g. Any special instructions or comments to the Department from the trauma center's point of contact;
 - h. The information from the trauma registry for patients identified during the quarter specified according to subsection (C)(2)(d); and
 - i. Updated information for any patients identified during the previous quarter, including the patient's name, medical record number, and admission date; and
 - 3. The information required in subsection (C)(2) is submitted:
 - a. For patients identified between January 1 and March 31, so that the information in subsections (C)(2)(a) through (h) is received by the Department by July 1 of the same calendar year;
 - b. For patients identified between April 1 and June 30, so that the information in subsections (C)(2)(a) through (h) is received by the Department by October 1 of the same calendar year;
 - c. For patients identified between July 1 and September 30, so that the information in subsections (C)(2)(a) through (h) is received by the Department by January 2 of the following calendar year; and
 - d. For patients identified between October 1 and December 31, so that the information in subsections (C)(2)(a) through (h) is received by the Department by April 1 of the following calendar year.
 - D. Trauma centers under the same governing authority, as defined in A.R.S. § 36-401, may establish a single, centralized trauma registry and submit to the Department consolidated information from the trauma registry, according to subsections (C)(2) and (3), if:
 - 1. The information submitted to the Department specifies for each patient in the trauma registry the trauma center that had contact with the patient, and
 - 2. Each trauma center contributing information to the centralized trauma registry is able to:
 - a. Access, edit, and update the information contributed by the trauma center to the centralized trauma registry; and
 - b. Use the information contributed by the trauma center to the centralized trauma registry when complying with performance improvement program requirements in this Section.
 - E. As part of the performance improvement program, the owner of a trauma center shall ensure that the trauma program manager and, if applicable, trauma medical director periodically, according to policies and procedures:
 - 1. Review the information in the trauma center's trauma registry; and
 - 2. Monitor at least the following trauma care parameters, as applicable, for patients in the trauma registry:
 - a. EMS received by a patient;
 - b. Length of stay longer than two hours in the emergency department before transfer;

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- c. Instances of trauma team activation to determine if trauma team activation was timely and appropriate;
 - d. Instances where trauma care was provided to a patient but trauma team activation did not occur;
 - e. Time from notification of a surgeon on the trauma team that a patient described in subsection (H)(6)(b)(i) is in the emergency department to when the surgeon arrives in the emergency department;
 - f. Documentation of the nursing services provided to a patient;
 - g. Instances and reasons for transfer of a patient;
 - h. Instances and reasons for transfer to a hospital not designated as a trauma center;
 - i. For a hospital designated as a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center, instances and reasons for diversion, as defined in A.A.C. R9-10-201, of a patient requiring trauma care;
 - j. Instances of and circumstances related to the death of a patient;
 - k. Other patient outcomes;
 - l. Trauma care parameters for pediatric patients, including pediatric-specific measures; and
 - m. The completeness and timeliness of trauma data submission.
- F.** In addition to the requirements in subsections (A) through (E), the owner of a trauma center designated based on meeting the applicable standards specified in this Section and Table 13.1 shall:
1. Ensure that a trauma service is established if required by Table 13.1;
 2. Ensure that policies and procedures for the trauma service are established, documented, and implemented that include:
 - a. The composition of the trauma team;
 - b. The qualifications, skills, and knowledge required of each personnel member of the trauma team;
 - c. Continuing education or continuing medical education requirements for each personnel member of the trauma team;
 - d. The roles and responsibilities of each personnel member of the trauma team;
 - e. Under what circumstances the trauma team is activated; and
 - f. How the trauma team is activated;
 3. Ensure that the personnel members on the trauma team have the qualifications, skills, and knowledge required in the policies and procedures;
 4. If the trauma center is required according to Table 13.1 to have a trauma medical director, appoint a board-certified or board-eligible surgeon as trauma medical director;
 5. Prohibit a physician from serving as trauma medical director for the trauma center if the physician is serving as trauma medical director for another health care institution;
 6. Ensure that the trauma medical director completes:
 - a. If the trauma center's designation is for a three-year period, at least 48 hours of external trauma-related continuing medical education during the term of the designation;
 - b. If the trauma center's designation is for a one-year period, at least 16 hours of external trauma-related continuing medical education during the term of the designation; and
 - c. If the trauma center is designated as a Level I Pediatric trauma center or Level II Pediatric trauma center, at least 12 of the 48 hours required in subsection (F)(6)(a) or four of the 16 hours required in subsection (F)(6)(b) in pediatric trauma-related continuing medical education;
 7. Appoint an individual to act as trauma program manager to coordinate trauma service activities;
 8. If the trauma center is required by Table 13.1 to have a multidisciplinary peer review committee, ensure that each surgeon on the trauma team designated according to subsection (F)(3) attends at least 50% of the meetings of the multidisciplinary peer review committee;
 9. If the trauma center provides surgical services, ensure that policies and procedures for operating rooms and an operating room team are established, documented, and implemented that include:
 - a. The availability of an operating room for trauma care;
 - b. The composition of an operating room team;
 - c. The qualifications, skills, and knowledge required of each personnel member of an operating room team;
 - d. The roles and responsibilities of each personnel member of an operating room team;
 - e. If an operating room team is not on the premises of the health care institution 24 hours a day, under what circumstances the operating room team is notified to come to the trauma center; and
 - f. How the operating room team is notified;
 10. Ensure that the following personnel members on the trauma team:
 - a. Hold current certification in a trauma critical care course:
 - i. Trauma medical director, if applicable;
 - ii. Each emergency medicine physician who is not board-certified or board-eligible; and
 - iii. Each physician assistant or registered nurse practitioner who is responsible for patients in an emergency department in the absence of an emergency physician; or
 - b. Have held certification in a trauma critical care course:
 - i. Each general surgeon other than the trauma medical director, and
 - ii. Each emergency medicine physician who is board-certified or board-eligible;
 11. If the trauma center is designated as a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center, ensure that each of the trauma team personnel members required in Table 13.1(C)(2) and (C)(3)(a) through (f) are board-certified or board-eligible;
 12. If the trauma center is designated as a Level I Pediatric trauma center, ensure that the following trauma team members are fellowship-trained:
 - a. The surgeon credentialed for pediatric trauma care required in Table 13.1(C)(2)(a)(iii),
 - b. The pediatric emergency medicine physician required in Table 13.1(C)(2)(c),
 - c. The pediatric-credentialed orthopedic surgeon required in Table 13.1(C)(3)(b),
 - d. The pediatric-credentialed neurosurgeon required in Table 13.1(C)(3)(d), and
 - e. The pediatric-credentialed critical care medicine physician required in (C)(3)(f);
 13. If the trauma center is designated as a Level II Pediatric trauma center, ensure that:

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- a. The pediatric-credentialed critical care medicine physician required in (C)(3)(f) is fellowship-trained, and
 - b. A fellowship-trained pediatric emergency medicine physician provides supervision for pediatric emergency trauma care and is appointed as a liaison to the multidisciplinary peer review committee established according to subsection (B)(5); and
14. If the trauma center is not designated as a Level I Pediatric trauma center or Level II Pediatric trauma center and annually provides trauma care to 100 or more injured children younger than 15 years of age, ensure that the trauma center:
 - a. Complies with subsection (F)(13) and Table 13.1(C)(2)(a)(iii), (3)(b), (3)(d), and (3)(f) and (F)(2); and
 - b. Has a:
 - i. Pediatric emergency department area,
 - ii. Pediatric intensive care area, and
 - iii. Pediatric-specific trauma performance improvement program.
- G. In addition to the requirements in subsections (A) through (E), the owner of a trauma center designated based on meeting the applicable standards specified in this Section and Table 13.1 shall ensure that the trauma center:
 1. Establishes, documents, and implements a patient transfer plan, consistent with A.A.C. R9-10-211, that include:
 - a. The criteria for transferring a patient,
 - b. The health care institution to which a patient meeting specific criteria will be transferred,
 - c. The personnel members who are responsible for coordinating the transfer of a patient, and
 - d. The process for transferring a patient;
 2. Participates in state, local, or regional trauma-related activities such as:
 - a. The State Trauma Advisory Board, established by A.R.S. § 36-2222;
 - b. A regional emergency medical services coordinating council described in A.R.S. § 36-2222(A)(3);
 - c. Trauma Registry Users Group, established by the Department;
 - d. Trauma Managers Workgroup, established by the Department; or
 - e. Injury Prevention Council;
 3. Participates in injury prevention programs specific to the trauma center's patient population at the national, regional, state, or local levels;
 4. Except for a Level IV trauma center, conducts trauma care continuing education activities for physicians, trauma center personnel members, and EMCTs;
 5. If the trauma center holds a designation as a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center, establishes and maintains:
 - a. An injury prevention program:
 - i. Independently or in collaboration with other health care institutions, health advocacy groups, or the Department; and
 - ii. That includes:
 - (1) Designating a prevention coordinator who serves as the trauma center's representative for injury prevention and injury control activities;
 - (2) Carrying out injury prevention and injury control activities, including activities specific to the patient population;
 - (3) Conducting injury control studies;
 - (4) Monitoring the progress and effect of the injury prevention program; and
 - (5) Providing injury prevention and injury control information resources for the public; and
 - b. An educational outreach program:
 - i. Independently or in collaboration with other health care institutions, health advocacy groups, or the Department;
 - ii. That includes providing education to physicians, trauma center personnel members, EMCTs, and the general public; and
 - iii. That may include education about:
 - (1) Injury prevention,
 - (2) Trauma care,
 - (3) Other topics specific to the patient population,
 - (4) Criteria for assessing a patient who may require trauma care,
 - (5) Criteria for the transfer of a patient requiring trauma care; and
6. If the trauma center holds a designation as a Level I trauma center or Level I Pediatric trauma center:
 - a. Establishes and maintains, either independently or in collaboration with other hospitals, a residency program or fellowship program that provides advanced medical training in emergency medicine, general surgery, orthopedic surgery, or neurosurgery;
 - b. Participates in the provision of a trauma critical care course;
 - c. Conducts or participates in research related to trauma and trauma care; and
 - d. Maintains an Institutional Review Board, established consistent with 45 CFR Part 46, to review biomedical and behavioral research related to trauma and trauma care involving human subjects, conducted, funded, or sponsored by the trauma center, in order to protect the rights of the human subjects of such research.
- H. In addition to the requirements in subsections (A) through (E), the owner of a trauma center designated based on meeting the applicable standards specified in this Section and Table 13.1 shall:
 1. Ensure the presence of a surgeon at all operative procedures;
 2. If the trauma center provides emergency medicine, neurosurgery, orthopedic surgery, anesthesiology, critical care, or radiology as an organized service, ensure that:
 - a. A physician from the organized service is appointed to act as a liaison between the organized service and the trauma center's trauma service;
 - b. The physician in subsection (H)(2)(a) completes:
 - i. If the trauma center's designation is for a three-year period, at least 48 hours of trauma-related continuing medical education during the term of the designation;
 - ii. If the trauma center's designation is for a one-year period, at least 16 hours of trauma-related continuing medical education during the term of the designation; and
 - iii. If the trauma center is designated as a Level I Pediatric trauma center or Level II Pediatric trauma center, at least 12 of the 48 hours required in subsection (H)(2)(b)(i) or four of the 16 hours required in subsection

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- (H)(2)(b)(ii) in pediatric trauma-related continuing medical education; and
- c. If the trauma center is required by Table 13.1 to have a multidisciplinary peer review committee, ensure the physician in subsection (H)(2)(a) attends at least 50% of the meetings of the multidisciplinary peer review committee;
3. Ensure that, when a physician is on-call for general surgery, neurosurgery, or orthopedic surgery, the physician is not on-call or on a back-up call list at another health care institution;
 4. Ensure that policies and procedures are established, documented, and implemented for:
 - a. Except for a Level IV trauma center, the formulation of blood products to be available during an event requiring multiple blood transfusions for a patient or patients; and
 - b. For a Level IV trauma center, the expedited release of blood products during an event requiring multiple blood transfusions for a patient or patients;
 5. Ensure that the patient transfer plan required in subsection (G)(1) includes processes for transferring a patient needing:
 - a. Acute hemodialysis or pediatric trauma care to a hospital providing the required service if the trauma center is designated as a:
 - i. Level III or Level IV trauma center; or
 - ii. Level II trauma center and does not provide, as applicable, acute hemodialysis or pediatric trauma care;
 - b. Burn care as an organized service, acute spinal cord management, microvascular surgery, or replant surgery to a hospital providing the required service if the trauma center is designated as a:
 - i. Level III or Level IV trauma center; or
 - ii. Level I or Level II trauma center and does not provide, as applicable, burn care as an organized service, acute spinal cord management, microvascular surgery, or replant surgery; or
 - c. Another service that the trauma center is not authorized or not able to provide to a hospital providing the required service;
 6. Except for a Level IV trauma center or as provided in subsection (I), require that:
 - a. An emergency medicine physician is present in the emergency department at all times;
 - b. A surgeon on the trauma team is present in the emergency department:
 - i. For a patient:
 - (1) If an adult, with a systolic blood pressure less than 90 mm Hg or, if a child, with confirmed age-specific hypotension;
 - (2) With respiratory compromise, respiratory obstruction, or intubation;
 - (3) Who is transferred from another hospital and is receiving blood to maintain vital signs;
 - (4) Who has a gunshot wound to the abdomen, neck, or chest;
 - (5) Who has a Glasgow Coma Scale score less than 8 associated with an injury attributed to trauma; or
 - (6) Who is determined by an emergency department physician to have an injury that has the potential to cause prolonged disability or death; and
 - ii. No later than the following times:
 - (1) For a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center, within 15 minutes after notification or at the time the patient arrives in the emergency department, whichever is later; or
 - (2) For a Level III trauma center, within 30 minutes after notification or at the time the patient arrives in the emergency department, whichever is later; and
 - c. One of the following anesthesia personnel members is available for an operative procedure on a patient at the indicated time point:
 - i. For a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center, an anesthesiologist, anesthesiology chief resident, or certified registered nurse anesthetist is present in the emergency department or in an operating room area awaiting the patient no later than 15 minutes after patient arrival in the emergency department; and
 - ii. For a Level III trauma center, an anesthesiologist, anesthesiology chief resident, or certified registered nurse anesthetist is present in the emergency department or in an operating room area awaiting the patient no later than 30 minutes after patient arrival in the emergency department;
 7. For a clinical capability required for the trauma center according to Table 13.1(C)(3), require that the on-call radiologist, critical care medicine physician, or surgical specialist is available to provide medical services, as applicable to the specialist, for a patient requiring trauma care within 45 minutes after notification; and
 8. For personnel members assigned to an operating room team according to subsection (F)(9), require that the personnel members on the operating room team are on the premises of the trauma center while on duty or:
 - a. For a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, Level II Pediatric trauma center:
 - i. Are available to provide operative services for a patient requiring trauma care within 15 minutes after notification or patient arrival at the trauma center, whichever is later; and
 - ii. Have response times and patient outcomes monitored through the performance improvement program; and
 - b. For a Level III trauma center or Level IV trauma center, if the Level IV trauma center provides surgical services:
 - i. Are available to provide operative services for a patient requiring trauma care within 30 minutes after notification or patient arrival at the trauma center, whichever is later; and
 - ii. Have response times and patient outcomes monitored through the performance improvement program.
- I. The Department shall consider a trauma center designated based on meeting the applicable standards specified in this Section and Table 13.1 to be in compliance with subsection (H)(6)(a), (b), or (c), as applicable, if the trauma center has documentation showing that:

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1. The individual required to be present at the indicated location and within the indicated time period was present 80% or more of the time, and
 2. The trauma center monitors the rate of compliance with subsection (H)(6) and patient outcomes through the performance improvement program.
- J.** The requirement in subsection (H)(6)(b) applies whether or not the owner of a trauma center allows a surgery resident in the fourth or fifth year of residency training to begin treating a patient described in subsection (H)(6)(b)(i) while awaiting the arrival of the surgeon on the trauma team, as required in subsection (H)(6)(b)(ii)(1) or (2).
- K.** An ALS base hospital certificate holder that chooses to submit trauma registry information to the Department, as allowed by A.R.S. § 36-2221(A), shall:
1. Include in the ALS base hospital's trauma registry at least the information required in R9-25-1309(A) for each patient who meets one or more of the criteria in subsections (C)(1)(a) through (c), and
 2. Comply with the submission requirements in subsections (C)(2) and (3).
- Historical Note**
- New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1308 renumbered to R9-25-1304; new Section R9-25-1308 renumbered from R9-25-1313 and amended by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).
- R9-25-1309. Trauma Registry Data (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(5) and (6))**
- A.** A trauma registry established according to R9-25-1308(B)(1) includes the following in the record of a patient's episode of care, as defined in A.A.C. R9-11-101, for each patient meeting the criteria in R9-25-1308(C)(1):
1. An identification code specific to the health care institution that had contact with the patient during the episode of care;
 2. Demographic information about the patient:
 - a. The unique number assigned by the health care institution to the patient;
 - b. A code indicating whether the patient's record will be submitted to the Department as required in R9-25-1308(C)(2);
 - c. The unique number assigned by the health care institution for the episode of care;
 - d. The date the patient arrived at the health care institution for the episode of care;
 - e. For the episode of care, a code indicating whether the patient:
 - i. Was directly admitted to the health care institution,
 - ii. Was admitted to the health care institution through the emergency department,
 - iii. Was seen in the emergency department then transferred to another health care institution by an ambulance service or emergency medical services provider,
 - iv. Was seen in the emergency department and discharged, or
 - v. Died in the emergency department or was dead on arrival;
 - f. The patient's first name, middle initial, and last name;
 - g. The patient's Social Security Number;
 - h. The patient's date of birth and age;
 - i. Codes indicating the patient's gender, race, and ethnicity;
 - j. The zip code of the patient's residence or, if applicable, an indication of why no zip code was reported; and
 - k. The city, state, and county of the patient's residence;
3. Information about the occurrence of the patient's injury:
 - a. The date and time the injury occurred;
 - b. The ICD-code describing the type of location where the injury occurred;
 - c. The zip code of the location where the injury occurred;
 - d. The city, state, and county where the injury occurred;
 - e. A code indicating whether the patient's injury resulted from blunt force trauma, a penetrating wound, or a burn;
 - f. The ICD-code indicating the primary mechanism or cause of the patient's injury resulting in the episode of care and the manner or intent through which the injury occurred;
 - g. A description of the cause and circumstances leading to the patient's injury;
 - h. Whether the patient was using a protective device or safety equipment at the time of the injury and, if so, the type or types of protective device or safety equipment being used;
 - i. If the patient was subject to the requirements in A.R.S. § 28-907 at the time of the injury, whether the patient was using a child restraint system, as defined in A.R.S. § 28-907, at the time of the injury and, if so, the type of child restraint system being used; and
 - j. If the patient's injury resulted from a motor vehicle crash, a code describing the status of airbag deployment;
 4. Information about the patient's arrival at the health care institution:
 - a. A code identifying the mode of transportation by which the patient arrived at the health care institution; and
 - b. If applicable:
 - i. The ambulance service or emergency medical services provider that transported the patient to the health care institution;
 - ii. The unique identifier given by the ambulance service or emergency medical services provider to the incident during which the patient received EMS;
 - iii. The date the ambulance service or emergency medical services provider transported the patient to the trauma center; and
 - iv. If the patient was transferred from another health care institution, the name of the other health care institution;
 5. Information about the health care institution's assessment or treatment of the patient in the emergency department:
 - a. A code indicating which of the criteria in R9-25-1308(C)(1) the patient met;
 - b. A code indicating whether an ambulance service or emergency medical services provider transported the patient to the health care institution and, if so, the criteria used by the transporting ambulance service or emergency medical services provider for transporting the patient to the health care institution;

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- c. The date and time the patient arrived at the emergency department of the health care institution for the episode of care;
 - d. The date and time the patient died or left the emergency department of the health care institution for the episode of care;
 - e. The length of time in hours and in minutes that the patient remained in the emergency department of the health care institution during the episode of care;
 - f. If trauma team activation occurred, the time when the last trauma team personnel member arrived at their assigned location in the health care institution;
 - g. Whether the patient showed signs of life when the patient arrived at the health care institution;
 - h. The values of the following for the patient at the time of their first assessment at the health care institution:
 - i. Pulse rate;
 - ii. Respiratory rate;
 - iii. Oxygen saturation;
 - iv. Systolic blood pressure; and
 - v. Temperature, including the units of temperature and the route used to measure the patient's temperature;
 - i. A code indicating whether the patient was receiving respiratory assistance at the time the patient's respiratory rate was assessed;
 - j. A code indicating whether the patient was receiving supplemental oxygen at the time the patient's oxygen saturation was assessed;
 - k. Codes indicating the Glasgow Coma Score for:
 - i. Eye opening,
 - ii. Verbal response to stimulus, and
 - iii. Motor response to stimulus;
 - l. The patient's total Glasgow Coma Score;
 - m. Whether the patient was intubated at the time of the patient's assessments in subsections (A)(5)(h)(ii), (k)(ii), and (l);
 - n. A code indicating whether a paralytic agent or sedative had been administered to the patient at the time the patient's Glasgow Coma Score was measured;
 - o. A code indicating another factor that may have affected the patient's Glasgow Coma Score;
 - p. A revised trauma score for the patient, auto-calculated based on the patient's systolic blood pressure, respiratory rate, and Glasgow Coma Score;
 - q. A code indicating the status of alcohol use by the patient and, if applicable, the blood alcohol concentration in the patient's blood;
 - r. A code indicating the status of drug use by the patient and, if applicable, the code for each drug class detected in the patient's blood;
 - s. A code indicating the disposition of the patient at the time the patient was discharged from the emergency department; and
 - t. If the patient was transferred to another health care institution upon discharge from the emergency department:
 - i. The name of the health care institution to which the patient was transferred;
 - ii. The name of the ambulance service or emergency medical services provider providing the interfacility transport;
 - iii. A code indicating the reason for transfer; and
 - iv. If there was a delay in transferring the patient to another health care institution, a code indicating the reason for the delay;
6. Information about the patient's discharge from the health care institution:
- a. The date and time the patient was discharged from the health care institution;
 - b. The length of time the patient remained as an inpatient, as defined in A.A.C. R9-10-201, in the health care institution;
 - c. The length of time the patient remained in the health care institution's intensive care unit;
 - d. A code indicating whether the patient was alive or dead at the time of discharge from the health care institution;
 - e. The ICD-code for each injury identified in the patient, including an indication of whether the ICD-code is for:
 - i. The principle diagnosis, the reason believed by the health care institution to be chiefly responsible for the patient's need for the episode of care; or
 - ii. A secondary diagnosis, another reason believed by the health care institution to have contributed to the patient's need for the episode of care;
 - f. The patient's Injury Severity Score;
 - g. A code indicating the disposition of the patient at the time the patient was discharged from the health care institution;
 - h. Whether a report of suspected physical abuse was reported to law enforcement or as required by A.R.S. § 13-3620 or 46-454, if applicable, and, if so:
 - i. Whether an investigation into the suspected physical abuse was initiated by an entity to which the suspected physical abuse was reported; and
 - ii. If the patient is a child, whether the patient was discharged in the care of a person other than the person responsible for the care of the patient at the time the patient arrived at the health care institution; and
 - i. If the patient was transferred to a hospital upon discharge from the health care institution:
 - i. The name of the hospital to which the patient was transferred,
 - ii. The name of the ambulance service or emergency medical services provider providing the interfacility transport, and
 - iii. A code indicating the reason for transfer; and
7. Financial information about the episode of care:
- a. A code for the primary source of payment for the episode of care;
 - b. A code for a secondary source of payment for the episode of care, if applicable;
 - c. The total amount of charges for the episode of care; and
 - d. The total amount collected by the health care institution for the episode of care.
- B.** In addition to the information required in subsection (A), a trauma registry established according to R9-25-1308(B)(1) by a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, Level II Pediatric trauma center, or Level III trauma center includes the following in the record of a patient's episode of care, as defined in A.A.C. R9-11-101, for each patient meeting the criteria in R9-25-1308(C)(1):

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1. Demographic information about the patient:
 - a. The country of the patient's residence;
 - b. The country where the patient was found or from which an ambulance service or emergency medical services provider transported the patient; and
 - c. Any pre-existing medical conditions diagnosed for the patient, unrelated to the reason for the episode of care;
2. Information about the occurrence of the patient's injury:
 - a. Whether the time specified according to subsection (A)(3)(a) is the actual time of occurrence or an estimate;
 - b. The street address of the location where the injury occurred or, if the location at which the injury occurred does not have a street address, another indicator of the location at which the injury occurred;
 - c. Any additional ICD-code describing the mechanism or cause of the patient's injury resulting in the episode of care and the manner or intent through which the injury occurred;
 - d. The ICD-code indicating the activity the patient was engaged in that resulted in the patient's injury;
 - e. If the patient's injury resulted from a crash involving a means of transportation, including a motor vehicle, other motorized means of transportation, watercraft, bicycle, or aircraft, a code describing the type of vehicle in use at the time of the injury and the patient's location in the vehicle;
 - f. A description of any issues related to a protective device or safety equipment in use at the time of the patient's injury; and
 - g. Whether the patient's injury occurred during the patient's paid employment and, if so, a code indicating:
 - i. The type of occupation associated with the patient's employment, and
 - ii. The patient's occupation;
3. A code indicating whether EMS was provided to the patient and, if applicable, the type of transport provided to the patient;
4. If EMS was provided to the patient, whether a prehospital incident history report was provided to the trauma center and, if so:
 - a. The date on the prehospital incident history report;
 - b. The identifying number on the prehospital incident history report assigned by the ambulance service or emergency medical services provider;
 - c. The date and time the ambulance service or emergency medical services provider was dispatched, as defined in R9-25-901, to the scene;
 - d. The date and time the ambulance service or emergency medical services provider responded to the dispatch;
 - e. The date and time the ambulance service or emergency medical services provider arrived at the scene;
 - f. The date and time the ambulance service or emergency medical services provider established contact with the patient;
 - g. The date and time the ambulance service or emergency medical services provider left the scene;
 - h. The date and time the ambulance service or emergency medical services provider arrived at the health care institution that was the transport destination;
- i. The date and time the patient's pulse, respiration, oxygen saturation, and systolic blood pressure were first measured;
- j. At the date and time the patient's pulse, respiration, oxygen saturation, and systolic blood pressure were first measured, the patient's:
 - i. Pulse rate,
 - ii. Respiratory rate,
 - iii. Oxygen saturation, and
 - iv. Systolic blood pressure;
- k. Whether the patient was intubated at the date and time the patient's pulse, respiration, and oxygen saturation were first measured;
- l. Codes indicating the Glasgow Coma Score for:
 - i. Eye opening,
 - ii. Verbal response to stimulus, and
 - iii. Motor response to stimulus;
- m. The patient's total Glasgow Coma Score;
- n. A code indicating whether a paralytic agent or sedative had been administered to the patient at the date and time the patient's Glasgow Coma Score was measured;
- o. A revised trauma score for the patient, auto-calculated based on the patient's systolic blood pressure, respiratory rate, and Glasgow Coma Score;
- p. Codes indicating all airway management procedures performed on the patient by an ambulance service or emergency medical services provider before the patient's arrival at the first health care institution; and
- q. Whether the patient experienced cardiac arrest subsequent to the injury before the patient's arrival at the first health care institution;
5. The amount of time that elapsed from the date and time the ambulance service or emergency medical services provider:
 - a. Was dispatched and the date and time the ambulance service or emergency medical services provider arrived at the scene,
 - b. Arrived at the scene and the date and time the ambulance service or emergency medical services provider left the scene,
 - c. Left the scene and the date and time the ambulance service or emergency medical services provider arrived at the transport destination, and
 - d. Was dispatched and the date and time the ambulance service or emergency medical services provider arrived at the transport destination;
6. Whether the patient arrived at the trauma center for treatment of the injury resulting in the episode of care through an interfacility transport;
7. If the patient arrived at the trauma center through an interfacility transport, the following information about the health care institution at which the patient was seen immediately before arriving at the trauma center:
 - a. The name of the health care institution;
 - b. The date and time the patient arrived at the health care institution in subsection (B)(7)(a); and
 - c. The date and time the patient left the health care institution in subsection (B)(7)(a);
8. If the patient arrived at the health care institution in subsection (B)(7)(a) through an interfacility transport, the information in subsections (B)(7)(a) through (c) about each health care institution at which the patient was seen for the injury resulting in the episode of care before arriving at the health care institution in subsection (B)(7)(a);

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9. If the patient arrived at the trauma center through an interfacility transport, for each health care institution at which the patient was seen for the injury resulting in the episode of care before arriving at the trauma center, information for the first instance of assessing the patient's:
 - a. Respiratory rate,
 - b. Systolic blood pressure,
 - c. The patient's total Glasgow Coma Score, and
 - d. Revised trauma score; and
 10. Information about the patient's episode of care at the trauma center and the patient's discharge from the trauma center:
 - a. The patient's height and weight when the patient arrived at the trauma center;
 - b. The number of days the patient spent on a mechanical ventilator;
 - c. If applicable, the identification number assigned by a medical examiner or alternate medical examiner, as defined in A.R.S. § 11-591, to the documentation of the patient's autopsy;
 - d. The total length of time the patient remained at the trauma center before discharge;
 - e. For each ICD-code identified according to subsection (A)(6)(e), a code that reflects the severity of the injury to which the ICD-code refers;
 - f. For each ICD-code identified according to subsection (A)(6)(e) that does not include an indication of the part of the patient's body that was injured, a code supplementing the ICD-code that indicates the part of the body that was injured;
 - g. For each procedure performed on the patient:
 - i. The ICD-code for the procedure,
 - ii. The health care institution at which the procedure was performed,
 - iii. A code indicating the organized service unit within the health care institution in which the procedure was performed, and
 - iv. The date and time the procedure was begun;
 - h. Any complications experienced by the patient while the patient remained at the trauma center;
 - i. The Abbreviated Injury Scale code indicating the severity of each of the patient's injuries;
 - j. The Abbreviated Injury Scale code indicating the body region affected by each of the patient's injuries;
 - k. If the trauma center is designated as a Level I trauma center or Level I Pediatric trauma center, the six-digit Abbreviated Injury Scale code and the software version used to calculate the six-digit Abbreviated Injury Scale code; and
 - l. The patient's probability of survival.
 1. The health care institution's trauma registry or other database containing trauma registry information;
 2. Patient medical records; and
 3. Any record, other than those specified in subsections (A)(1) and (2), that may contain information about diagnostic evaluation or treatment provided to a patient receiving trauma care.
- B.** Upon prior notice from the Department of at least five business days, a health care institution submitting trauma registry information to the Department shall provide the Department with all patient medical records for a time period specified by the Department, to allow the Department to determine the accuracy and completeness of the information submitted to the trauma registry for patients receiving trauma care during the period.
- C.** For purposes of subsection (B), the Department considers a health care institution to be in compliance with R9-25-1308(C)(2) if the health care institution submitted to the Department trauma registry information for 97% of the patients receiving trauma care during the period.
- D.** If trauma registry information submitted to the Department by a health care institution according to R9-25-1308(C)(2) and (3) is not in compliance with requirements in R9-25-1308 or R9-25-1309, the Department shall:
1. Notify the health care institution that the trauma registry information submitted to the Department is not in compliance with requirements in R9-25-1308 or R9-25-1309, and
 2. Identify the revisions or actions that are needed to bring the data into compliance with R9-25-1308 and R9-25-1309.
- E.** A health care institution that has trauma registry information returned, as provided in subsection (D), shall:
1. Revise the trauma registry information as identified by the Department, and
 2. Submit the revised data to the Department within 15 business days after the date the Department notified the health care institution according to subsection (D)(1) or within a longer period agreed upon between the Department and the health care institution.
- F.** Within 15 business days after receiving a written request from the Department that includes a simulated patient medical record, a health care institution submitting trauma registry information to the Department shall prepare and submit to the Department the information required in R9-25-1309, applicable to the Level of health care institution, for the patient described in the simulated patient medical record.

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1310 repealed; new Section R9-25-1310 renumbered from R9-25-1406 and amended by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1311. Repealed**Historical Note**

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1311 repealed by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1312. Renumbered**Historical Note**

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1312 renumbered to R9-25-1307 by final rulemaking at

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1309 renumbered to R9-25-1305; new Section R9-25-1309 made by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1310. Trauma Registry Data Quality Assurance (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2220(A), 36-2221, and 36-2225(A)(5) and (6))

- A.** To ensure the completeness and accuracy of trauma registry reporting, a health care institution submitting trauma registry information to the Department shall allow the Department to review the following, upon prior notice from the Department of at least five business days:

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23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1313. Renumbered**Historical Note**

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1313 renumbered to R9-25-1308 by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1314. Expired**Historical Note**

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (12-3).

R9-25-1315. Repealed**Historical Note**

New Section made by final rulemaking 11 A.A.R. 4363,

effective October 6, 2005 (Supp. 05-4). Section repealed by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

Table 1. Repealed**Historical Note**

New Table made by final rulemaking at 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Table 1 Application Processing Time Periods repealed by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

Exhibit I. Repealed**Historical Note**

New Exhibit made by final rulemaking at 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Exhibit 1 Arizona Trauma Center Standards repealed by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

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Table 13.1. Arizona Trauma Center Standards (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**Key:**

- E = Essential and required
 I(P) = Level I Pediatric trauma center
 II(P) = Level II Pediatric trauma center
 ICU = Intensive care unit
 In-house = On the premises of the health care institution
 ISS = Injury severity score, the sum of the squares of the abbreviated injury scale scores of the three most severely injured body regions
 Child life = A program of support to injured children and their families to reduce stress and anxiety by:
 a. Explaining medical equipment and procedures to children in a non-threatening and age-appropriate manner,
 b. Explaining a diagnosis to a child in an age-appropriate manner, and
 c. Helping children and their families develop strategies to cope with the diagnosis and expected outcome

Trauma Facilities Criteria	Levels					
	I	I(P)	II	II(P)	III	IV
A. Institutional Organization						
1. Trauma service	E	E	E	E	E	-
2. Trauma program medical director	E	E	E	E	E	-
3. Trauma multidisciplinary peer review committee	E	E	E	E	E	-
B. Hospital Departments/Divisions/Sections						
1. Surgery	E	E	E	E	E	-
2. Neurosurgery	E	E	E	E	-	-
3. Orthopedic surgery	E	E	E	E	E	-
4. Emergency medicine	E	E	E	E	E	-
5. Pediatric emergency department area	-	E	-	E	-	-
6. Anesthesia	E	E	E	E	E	-
C. Clinical Capabilities						
1. Written on-call schedule for each component of the trauma service if a team member is not in-house	E	E	E	E	E	E
2. Physician specialist available 24 hours/day						
a. General surgeon	E	E	E	E	E	-
i. Published back-up schedule	E	E	E	E	-	-
ii. Dedicated to single hospital when on-call	E	E	E	E	-	-
iii. Surgeon credentialed for pediatric trauma care	-	E	-	E	-	-
b. Emergency medicine physician	E	E	E	E	E	-
c. Pediatric emergency medicine physician	-	E	-	-	-	-
3. Specialist on-call and available 24 hours/day						
a. Orthopedic surgeon	E	E	E	E	E	-
b. Pediatric-credentialed orthopedic surgeon	-	E	-	E	-	-
c. Neurosurgeon	E	E	E	E	-	-
d. Pediatric-credentialed neurosurgeon	-	E	-	E	-	-
e. Critical care medicine physician	E	E	E	E	-	-
f. Pediatric-credentialed critical care medicine physician	-	E	-	E	-	-
g. Radiologist	E	E	E	E	E	
h. Hand surgeon	E	E	E	E	-	-
i. Ophthalmic surgeon	E	E	E	E	-	-
j. Plastic surgeon	E	E	E	E	-	-
k. Thoracic surgeon	E	E	E	E	-	-
l. Cardiac surgeon	E	E	-	-	-	-
m. Obstetrics/gynecologic surgeon	E	E	-	-	-	-
n. Oral/maxillofacial surgeon (plastic surgeon, otolaryngologist, or oral/maxillofacial surgeon)	E	E	E	E	-	-

Table 13.1 Continued, Arizona Trauma Center Standards (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

Trauma Facilities Criteria	Levels					
	I	I(P)	II	II(P)	III	IV
n. Oral/maxillofacial surgeon (plastic surgeon, otolaryngologist, or oral/maxillofacial surgeon)	E	E	E	E	-	-
4. Qualified anesthesia personnel member on-call and available 24 hours/day						
a. Physician or certified nurse anesthetist	E	E	E	E	E	-
b. Physician or certified nurse anesthetist with a pediatric credential	-	E	-	E	-	-
5. Volume performance standards:						
a. 1200 trauma admissions per year,	E	-	-	-	-	-
b. 240 admissions with ISS > 15 per year, or						
c. Average of 35 patients with ISS > 15 for each trauma team surgeon per year						
d. 200 trauma admissions < 15 years of age per year,	-	E	-	-	-	-
D. Facilities/Resources/Capabilities						
1. Emergency department						
a. Designated physician director	E	E	E	E	E	-
b. Personnel members with pediatric-specific trauma-related training	-	E	-	E	-	-
c. Resuscitation equipment for patients of all sizes						
i. Airway control and ventilation equipment	E	E	E	E	E	E
ii. Pulse oximetry	E	E	E	E	E	E
iii. Suction devices	E	E	E	E	E	E
iv. Electrocardiograph-oscilloscope-defibrillator	E	E	E	E	E	E
v. Color-coded, length-based tool to assist with medication dosing and equipment selection for children	E	E	E	E	E	E
vi. Central venous pressure monitoring equipment	E	E	E	E	E	-
vii. Standard intravenous fluids and administration sets	E	E	E	E	E	E
viii. Large-bore intravenous catheters	E	E	E	E	E	E
ix. Sterile surgical sets for:						
(1) Airway control/cricothyrotomy	E	E	E	E	E	E
(2) Thoracostomy	E	E	E	E	E	E
(3) Central line insertion	E	E	E	E	E	-
(4) Thoracotomy	E	E	E	E	E	-
x. Arterial catheters	E	E	E	E	-	-
xi. X-ray availability 24 hours/day	E	E	E	E	E	-
xii. Thermal control equipment						
(1) For patient	E	E	E	E	E	E
(2) For fluids and blood	E	E	E	E	E	E
xiii. Rapid infusion system/capability	E	E	E	E	E	E
xiv. Qualitative end-tidal CO2 monitoring	E	E	E	E	E	E
d. Communication with EMS personnel	E	E	E	E	E	E
e. Capability to resuscitate, stabilize, and transfer pediatric patients	E	E	E	E	E	E
2. Operating room						
a. Immediately available 24 hours/day	E	E	E	E	-	-
b. Size-specific equipment						
i. Cardiopulmonary bypass	E	E	-	-	-	-
ii. Operating microscope	E	E	-	-	-	-
c. Thermal control equipment						
i. For patient	E	E	E	E	E	E
ii. For fluids and blood	E	E	E	E	E	E
d. X-ray capability including C-arm image intensifier	E	E	E	E	E	-

Table 13.1 Continued, Arizona Trauma Center Standards (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

Trauma Facilities Criteria	Levels					
	I	I(P)	II	II(P)	III	IV
e. Endoscopes, bronchoscope	E	E	E	E	E	-
g. Craniotomy instruments	E	E	E	E	-	-
h. Equipment for long bone and pelvic fixation	E	E	E	E	E	-
i. Rapid infusion system/capability	E	E	E	E	E	E
3. Postanesthesia recovery room or surgical ICU						
a. Registered nurses available 24 hours/day	E	E	E	E	E	E
b. Equipment for monitoring and resuscitation	E	E	E	E	E	E
c. Intracranial pressure monitoring equipment	E	E	E	E	-	-
d. Pulse oximetry	E	E	E	E	E	E
e. Thermal control equipment						
i. For patient	E	E	E	E	E	E
ii. For fluids and blood	E	E	E	E	E	E
4. ICU or critical care unit for injured patients						
a. Pediatric ICU	-	E	-	E	-	-
b. Registered nurses with trauma-related training	E	E	E	E	E	-
c. Registered nurses with pediatric-specific trauma-related training	-	E	-	E	-	-
d. Designated surgical director or surgical co-director	E	E	E	E	E	-
e. Physician (fourth year of residency training or higher) assigned to surgical ICU service and in-house 24 hours/day	E	E	-	-	-	-
f. Physician (fourth year of residency training or higher) with a pediatric credential assigned to surgical ICU service and in-house 24 hours/day	-	E	-	-	-	-
g. Surgically directed and staffed ICU service	E	E	E	E	-	-
h. Equipment for monitoring and resuscitation	E	E	E	E	E	-
i. Intracranial pressure monitoring equipment	E	E	E	E	-	-
5. Respiratory therapy services (Available 24 hours/day)						
a. Available in-house	E	E	E	E	-	-
b. On-call and available within 45 minutes after notification	-	-	-	-	E	-
6. Radiological services (Available 24 hours/day)						
a. In-house radiology technologist	E	E	E	E	-E	-
b. Radiology technologist on-call and available within 45 minutes after notification	-	-	-	-	-	E
c. Resuscitation equipment for patients of all sizes, as specified in subsection (D)(1)(c)(i) to (v)	E	E	E	E	E	E
d. Angiography	E	E	E	E	-	-
e. Sonography	E	E	E	E	E	-
f. Computed tomography (CT)	E	E	E	E	E	-
i. In-house CT technician	E	E	E	E	-	-
ii. CT technician on-call and available within 45 minutes after notification	-	-	-	-	E	-
f. Magnetic resonance imaging	E	E	E	E	-	-
7. Clinical laboratory service (Available 24 hours/day)						
a. Standard analyses of blood, urine, and other body fluids	E	E	E	E	E	E
b. Blood typing and cross-matching	E	E	E	E	E	-
c. Coagulation studies	E	E	E	E	E	E
d. Comprehensive blood bank or access to a community central blood bank and adequate storage facilities	E	E	E	E	E	-
e. Blood gases and pH determinations	E	E	E	E	E	E
f. Microbiology	E	E	E	E	E	-
8. Child maltreatment assessment capability	E	E	E	E	E	E

Table 13.1 Continued, Arizona Trauma Center Standards (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

Trauma Facilities Criteria	Levels					
	I	I(P)	II	II(P)	III	IV
E. Rehabilitation Services Specific to the Patient Population						
1. Physical therapy	E	E	E	E	E	-
2. Occupational therapy	E	E	E	E	-	-
3. Speech therapy	E	E	E	E	-	-
F. Social Services Specific to the Patient Population						
1. Social services	E	E	E	E	E	-
2. Child life program	-	E	-	E	-	-
G. Performance Improvement						
1. Multidisciplinary peer review committee	E	E	E	E	E	-
2. Performance improvement personnel dedicated to the trauma service	E	E	E	E	-	-

Historical Note

Table 13.1, Arizona Trauma Center Standards, made by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

ARTICLE 14. REPEALED**R9-25-1401. Repealed****Historical Note**

New Section made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4). Section repealed by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1402. Repealed**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4). Section repealed by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

Table 1. Repealed**Historical Note**

New Table 1 made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4). Table 1 Trauma Registry Data Set, repealed by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1403. Repealed**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4). Section

repealed by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1404. Expired**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4). Section expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (12-3).

R9-25-1405. Repealed**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4). Section heading corrected at request of the Department, Office File No. M12-82, filed March 5, 2012 (Supp. 11-4). Section repealed by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1406. Renumbered**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4). Section R9-25-1406 renumbered to R9-25-1310, effective January 1, 2018 (Supp. 17-3).

Supplement Separator Page



Supplement to the
Arizona Administrative Code
 The official compilation of Arizona Rules
Replacement Check List

For rules filed in the third quarter between
 July 1 - September 30
 2017

Within the stated calendar quarter, this Title contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information. Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

TITLE 12. Natural Resources

Chapter 04. Game and Fish Commission

Sections, Parts, Exhibits, Tables or Appendices modified
 R12-4-414

☐ REMOVE Supp. 17-2
 Pages: 1 - 138

☐ REPLACE with Supp. 17-3
 Pages: 1 - 138

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Disclaimer: Please be advised the person listed is the contact of record as submitted in the rulemaking package for this supplement. The contact and other information may change and is provided as a public courtesy.

PUBLISHER
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PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the Administrative Code. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION
September 30, 2017

RULES

A.R.S. § 41-1001(17) states: “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions. Virtually everything in your life is affected in some way by rules published in the Arizona Administrative Code, from the quality of air you breathe to the licensing of your dentist. This chapter is one of more than 230 in the Code compiled in 21 Titles.

ADMINISTRATIVE CODE SUPPLEMENTS

Rules filed by an agency to be published in the Administrative Code are updated quarterly. Supplement release dates are printed on the footers of each chapter:

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2017 is cited as Supp. 17-1.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the Arizona Administrative Register for recent updates to rule Sections.

ARTICLES AND SECTIONS

Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering system separated into subsections.

HISTORICAL NOTES AND EFFECTIVE DATES

Historical notes inform the user when the last time a Section was updated in the Administrative Code. Be aware, since the Office publishes each quarter by entire chapters, not all Sections are updated by an agency in a supplement release. Many times just one Section or a few Sections may be updated in the entire chapter.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in the introduction of a chapter can be found at the Secretary of State’s website, www.azsos.gov/services/legislative-filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the Arizona Administrative Register online at www.azsos.gov/rules, click on the Administrative Register link.

In the Administrative Code the Office includes editor’s notes at the beginning of a chapter indicating that certain rulemaking Sections were made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR

If you are researching rules and come across rescinded chapters on a different paper color, this is because the agency filed a Notice of Exempt Rulemaking. At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

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Public Services managing rules editor, Rhonda Paschal, assisted with the editing of this chapter.

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

Authority: A.R.S. § 17-201 et seq.

Editor's Note: The Office of the Secretary of State publishes all Chapters on white paper (Supp. 01-2).

Editor's Note: This Chapter contains rules which were adopted or amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6), pursuant to A.R.S. § 41-1005(A)(1). Exemption from A.R.S. Title 41, Chapter 6 means that the Game and Fish Commission did not submit notice of this rulemaking to the Secretary of State's Office for publication in the Arizona Administrative Register; the Governor's Regulatory Review Council did not review these rules; the Commission was not required to hold public hearings on these rules; and the Attorney General did not certify these rules. Because this Chapter contains rules which are exempt from the regular rulemaking process, the Chapter is printed on blue paper.

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Game and Fish Commission

Former Article 4, Commission Orders, consisting of Sections R12-4-401 through R12-4-424, R12-4-429 through R12-4-431, R12-4-440 through R12-4-443 expired. See R12-4-118.

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ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS**R12-4-101. Definitions**

- A. In addition to the definitions provided under A.R.S. § 17-101, R12-4-301, R12-4-401, and R12-4-501, the following definitions apply to this Chapter, unless otherwise specified:

“Bobcat seal” means the tag a person is required to attach to the raw pelt or unskinned carcass of any bobcat taken by trapping in Arizona or exported out of Arizona regardless of the method of take.

“Bonus point” means a credit that authorizes the Department to issue an applicant an additional computer-generated random number.

“Certificate of insurance” means an official document issued by the sponsor’s and sponsor’s vendors or subcontractors insurance carrier providing insurance against claims for injury to persons or damage to property which may arise from or in connection with the solicitation or event as determined by the Department.

“Commission Order” means a document adopted by the Commission that does one or more of the following:

- Open, close, or alter seasons,
- Open areas for taking wildlife,
- Set bag or possession limits for wildlife,
- Set the number of permits available for limited hunts, or
- Specify wildlife that may or may not be taken.

“Day-long” means the 24-hour period from one midnight to the following midnight.

“Department property” means those buildings or real property and wildlife areas under the jurisdiction of the Arizona Game and Fish Commission.

“Firearm” means any loaded or unloaded handgun, pistol, revolver, rifle, shotgun, or other weapon that will discharge, is designed to discharge, or may readily be converted to discharge a projectile by the action of an explosion caused by the burning of smokeless powder, black powder, or black powder substitute.

“Hunt area” means a management unit, portion of a management unit, or group of management units, or any portion of Arizona described in a Commission Order and not included in a management unit, opened to hunting.

“Hunt number” means the number assigned by Commission Order to any hunt area where a limited number of hunt permits are available.

“Hunt permits” means the number of hunt permit-tags made available to the public as a result of a Commission Order.

“Hunt permit-tag” means a tag for a hunt for which a Commission Order has assigned a hunt number.

“Identification number” means the number assigned to each applicant or license holder by the Department, as established under R12-4-111.

“License dealer” means a business authorized to sell hunting, fishing, and other licenses as established under R12-4-105.

“Live baitfish” means any species of live freshwater fish designated by Commission Order as lawful for use in taking aquatic wildlife under R12-4-317.

“Management unit” means an area established by the Commission for management purposes.

“Nonpermit-tag” means a tag for a hunt for which a Commission Order does not assign a hunt number and the number of tags is not limited.

“Person” has the meaning as provided under A.R.S. § 1-215.

“Proof of purchase,” for the purposes of A.R.S. § 17-331, means an original, or any authentic and verifiable form of the original, of any Department-issued license, permit, or stamp that establishes proof of actual purchase.

“Restricted nonpermit-tag” means a tag issued for a supplemental hunt as established under R12-4-115.

“Solicitation” means any activity that may be considered or interpreted as promoting, selling, or transferring products, services, memberships, or causes, or participation in an event or activity of any kind, including organizational, educational, public affairs, or protest activities, including the distribution or posting of advertising, handbills, leaflets, circulars, posters, or other printed materials for these purposes.

“Solicitation material” means advertising, circulars, flyers, handbills, leaflets, posters, or other printed information.

“Sponsor” means the person or persons conducting a solicitation or event.

“Stamp” means a form of authorization in addition to a license that authorizes the license holder to take wildlife specified by the stamp.

“Tag” means the Department authorization a person is required to obtain before taking certain wildlife as established under A.R.S. Title 17 and 12 A.A.C. 4.

“Waterdog” means the larval or metamorphosing stage of a salamander.

“Wildlife area” means an area established under 12 A.A.C. 4, Article 8.

- B. If the following terms are used in a Commission Order, the following definitions apply:

“Antlered” means having an antler fully erupted through the skin and capable of being shed.

“Antlerless” means not having an antler, antlers, or any part of an antler erupted through the skin.

“Bearded turkey” means a turkey with a beard that extends beyond the contour feathers of the breast.

“Buck antelope” means a male pronghorn antelope.

“Adult bull buffalo” means a male buffalo any age or any buffalo designated by a Department employee during an adult bull buffalo hunt.

“Adult cow buffalo” means a female buffalo any age or any buffalo designated by a Department employee during an adult cow buffalo hunt.

“Bull elk” means an antlered elk.

“Designated” means the gender, age, or species of an animal or the specifically identified animal the Department authorizes to be taken and possessed with a valid tag.

“Ram” means any male bighorn sheep.

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“Rooster” means a male pheasant.

“Yearling buffalo” means any buffalo less than three years of age or any buffalo designated by a Department employee during a yearling buffalo hunt.

Historical Note

Amended effective May 3, 1976 (Supp. 76-3). Amended effective October 22, 1976 (Supp. 76-5). Amended effective June 29, 1978 (Supp. 78-3). Amended effective April 22, 1980 (Supp. 80-2). Former Section R12-4-01 renumbered as Section R12-4-101 without change effective August 13, 1981 (Supp. 81-4). Amended effective April 22, 1982 (Supp. 82-2). Amended subsection (A), paragraph (10) effective April 7, 1983 (Supp. 83-2). Amended effective June 4, 1987 (Supp. 87-2). Amended subsection (A) effective December 30, 1988 (Supp. 88-4). Correction, former Historical Note should read “Amended subsection (A) effective January 1, 1989, filed December 30, 1988” (Supp. 89-2). Amended effective May 27, 1992 (Supp. 92-2). Amended effective January 1, 1993; filed December 18, 1992 (Supp. 92-4). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended effective January 1, 1996; filed in the Office of the Secretary of State December 18, 1995 (Supp. 95-4). Amended by final rulemaking at 6 A.A.R. 211, effective January 1, 2000 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 610, effective April 6, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 845, effective April 3, 2004 (Supp. 04-1). Amended by final rulemaking at 11 A.A.R. 991, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 19 A.A.R. 826, effective July 1, 2013 (Supp. 13-2). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).

R12-4-102. License, Permit, Stamp, and Tag Fees

- A. A person who purchases a license, tag, stamp, or permit listed in this Section shall pay at the time of purchase all applicable fees prescribed under this Section or the fees the Director authorizes under R12-4-115.
- B. A person who applies to purchase a hunt permit-tag shall submit with the application all applicable fees using acceptable forms of payment as required under R12-4-104(F) and (G).
- C. As authorized under A.R.S. § 17-345, the license fees in this section include a \$3 surcharge, except Youth and High Achievement Scout licenses.

Hunting and Fishing License Fees	Resident	Nonresident
General Fishing License	\$37	\$55
Community Fishing License	\$24	\$24
General Hunting License	\$37	Not available
Combination Hunting and Fishing License	\$57	\$160
Youth Combination Hunting and Fishing License, fee applies until the applicant's 18th birthday.	\$5	\$5
High Achievement Scout License, as authorized under A.R.S. § 17-336(B). Fee applies until the applicant's 21st birthday.	\$5	Not available
Short-term Combination Hunting and Fishing License	\$15	\$20

Youth Group Two-day Fishing License	\$25	Not available
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Hunt Permit-tag Fees	Resident	Nonresident
Antelope	\$90	\$550
Bear	\$25	\$150
Bighorn Sheep	\$300	\$1,800
Buffalo		
Adult Bulls or Any Buffalo	\$1,100	\$5,400
Adult Cows	\$650	\$3,250
Yearling	\$350	\$1,750
Cow or Yearling	\$650	\$3,250
Deer and Archery Deer	\$45	\$300
Youth	\$25	\$25
Elk	\$135	\$650
Youth	\$50	\$50
Javelina	\$25	\$100
Youth	\$15	\$15
Pheasant non-archery, non-falconry	Application fee only	Application fee only
Turkey and Archery Turkey	\$25	\$90
Youth	\$10	\$10
Sandhill Crane	\$10	\$10

Nonpermit-tag and Restricted Non-permit-tag Fees	Resident	Nonresident
Antelope	\$90	\$550
Bear	\$25	\$150
Buffalo		
Adult Bulls or Any Buffalo	\$1,100	\$5,400
Adult Cows	\$650	\$3,250
Yearling	\$350	\$1,750
Cow or Yearling	\$650	\$3,250
Deer	\$45	\$300
Youth	\$25	\$25
Elk	\$135	\$650
Youth	\$50	\$50
Javelina	\$25	\$100
Youth	\$15	\$15
Mountain Lion	\$15	\$75
Turkey	\$25	\$90
Youth	\$10	\$10
Sandhill Crane	\$10	\$10

Stamps and Special Use Fees	Resident	Nonresident
Arizona Colorado River Special Use Permit Stamp. For use by California and Nevada licensees	Not available	\$3
Bobcat Seal	\$3	\$3
State Migratory Bird Stamp	\$5	\$5

Other License Fees	Resident	Nonresident
Fur Dealer's License	\$115	\$115
Guide License	\$300	\$300

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License Dealer's License	\$100	\$100
License Dealer's Outlet License	\$25	\$25
Taxidermist License	\$150	\$150
Trapping License	\$30	\$275
Youth	\$10	\$10
Administrative Fees		
Duplicate License Fee	\$4	\$4
Application Fee	\$13	\$15

- D. A person desiring a replacement of a Migratory Bird or Arizona Colorado River Special Use Permit Stamp shall repurchase the stamp.

Historical Note

Amended effective May 3, 1976 (Supp. 76-3). Amended effective March 31, 1977 (Supp. 77-2). Amended effective June 28, 1977 (Supp. 77-3). Amended effective October 20, 1977 (Supp. 77-5). Amended effective January 1, 1979 (Supp. 78-6). Amended effective June 4, 1979 (Supp. 79-3). Amended effective January 1, 1980 (Supp. 79-6). Amended paragraphs (1), (7) through (11), (13), (15), (29), (30), and (32) effective January 1, 1981 (Supp. 80-5). Former Section R12-4-30 renumbered as Section R12-4-102 without change effective August 13, 1981. Amended effective August 31, 1981 (Supp. 81-4). Amended effective September 15, 1982 unless otherwise noted in subsection (D) (Supp. 82-5). Amended effective January 1, 1984 (Supp. 83-4). Amended subsections (A) and (C) effective January 1, 1985 (Supp. 84-5). Amended effective January 1, 1986 (Supp. 85-5). Amended subsection (A), paragraphs (1), (2), (8) and (9) effective January 1, 1987; Amended by adding a new subsection (A), paragraph (31) and renumbering accordingly effective July 1, 1987. Both amendments filed November 5, 1986 (Supp. 86-6). Amended subsections (A) and (C) effective December 30, 1988 (Supp. 88-4). Correction, former Historical Note should read "Amended subsections (A) and (C) filed December 30, 1988, effective January 1, 1989"; Amended subsection (C) effective April 28, 1989 (Supp. 89-2). Section R12-4-102 repealed, new Section R12-4-102 filed as adopted November 26, 1990, effective January 1, 1991 (Supp. 90-4). Amended effective September 1, 1992; filed August 7, 1992 (Supp. 92-3). Amended effective January 1, 1993; filed December 18, 1993 (Supp. 92-4). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended effective December 16, 1995 (Supp. 94-4). Amended effective January 1, 1997; filed in the Office of the Secretary of State November 14, 1995 (Supp. 95-4). Amended subsection (D), paragraph (4), and subsection (E), paragraph (10), effective October 1, 1996; filed in the Office of the Secretary of State July 12, 1996 (Supp. 96-3). Amended subsection (B), paragraph (6) and subsection (E) paragraph (4), effective January 1, 1997; filed with the Office of the Secretary of State November 7, 1996 (Supp. 96-4). Amended by final rulemaking at 6 A.A.R. 211, effective January 1, 2000 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 1146, effective July 1, 2000 or January 1, 2001, as designated within the text of the Section (Supp. 00-1). Amended by final rulemaking at 9 A.A.R. 610, effective April 6, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 1157, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 10 A.A.R. 2823, effective

August 13, 2004 (Supp. 04-2). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 12 A.A.R. 1391, effective June 4, 2006 (Supp. 06-2). Amended by final rulemaking at 13 A.A.R. 462, effective February 6, 2007 (Supp. 07-1). Amended by final rulemaking at 17 A.A.R. 1472, effective July 12, 2011 (Supp. 11-3). Amended by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3).

R12-4-103. Duplicate Tags and Licenses

- A. Under A.R.S. § 17-332(C), the Department and its license dealers may issue a duplicate license or tag to an applicant who:
1. Pays the applicable fee prescribed under R12-4-102, and
 2. Signs an affidavit. The affidavit is furnished by the Department and is available at any Department office or license dealer.
- B. The applicant shall provide the following information on the affidavit:
1. The applicant's personal information:
 - a. Name;
 - b. Department identification number, when applicable;
 - c. Residency status and number of years of residency immediately preceding application, when applicable;
 2. The original license or tag information:
 - a. Type of license or tag;
 - b. Place of purchase;
 - c. Purchase date, when available; and
 3. Disposition of the original tag for which a duplicate is being purchased:
 - a. The tag was not used and is lost, destroyed, mutilated, or otherwise unusable; or
 - b. The tag was placed on a harvested animal that was subsequently condemned and the carcass and all parts of the animal were surrendered to a Department employee as required under R12-4-112(B) and (C). An applicant applying for a duplicate tag under this subsection shall also submit the condemned meat duplicate tag authorization form issued by the Department.
- C. In the event the Department is unable to verify the expiration date of the original license, the duplicate license shall expire on December 31 of the current year.

Historical Note

Amended effective June 7, 1976 (Supp. 76-3). Amended effective October 20, 1977 (Supp. 77-5). Former Section R12-4-07 renumbered as Section R12-4-103 without change effective August 13, 1981 (Supp. 81-4). Amended effective January 1, 1996; filed in the Office of the Secretary of State December 18, 1995 (Supp. 95-4). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).

R12-4-104. Application Procedures for Issuance of Hunt Permit-tags by Computer Draw and Purchase of Bonus Points

- A. For the purposes of this Section, "group" means all applicants who placed their names on a single application as part of the same application.
- B. A person is eligible to apply:
1. For a hunt permit-tag if the person:
 - a. Is at least 10 years of age at the start of the hunt for which the person is applying;
 - b. Has successfully completed a Department-sanctioned hunter education course by the start date of

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- the hunt for which the person is applying, when the person is under the age of 14;
- c. Has not reached the bag limit established under subsection (J) for that genus; and
 - d. Is not suspended or revoked in this state as a result of an action under A.R.S. §§ 17-340 or 17-502 at the time the person submits an application.
2. For a bonus point if the person:
 - a. Is at least 10 years of age by the application deadline; and
 - b. Is not suspended or revoked in this state as a result of an action under A.R.S. §§ 17-340 or 17-502 at the time the person submits an application.
- C.** An applicant shall apply at the times, locations, and in the manner and method established by the hunt permit-tag application schedule published by the Department and available at any Department office, online at www.azgfd.gov, or a license dealer.
1. The Commission shall set application deadline dates for hunt permit-tag computer draw applications through the hunt permit-tag application schedule.
 2. The Director has the authority to extend any application deadline date if a problem occurs that prevents the public from submitting a hunt permit-tag application within the deadlines set by the Commission.
 3. The Commission, through the hunt permit-tag application schedule, shall designate the manner and method of submitting an application, which may require an applicant to apply online only. If the Commission requires applicant's to use the online method, the Department shall accept paper applications only in the event of a Department systems failure.
- D.** An applicant for a hunt permit-tag or a bonus point shall complete and submit a Hunt Permit-tag Application. The application form is available from any Department office, a license dealer, or online at www.azgfd.gov.
- E.** An applicant shall provide the following information on the Hunt Permit-tag Application:
1. The applicant's personal information:
 - a. Name;
 - b. Date of birth;
 - c. Social security number, as required under A.R.S. §§ 25-320(P) and 25-502(K);
 - d. Department identification number, when applicable;
 - e. Residency status and number of years of residency immediately preceding application, when applicable;
 - f. Mailing address, when applicable;
 - g. Physical address;
 - h. Telephone number, when available; and
 - i. E-mail address, when available;
 2. If the applicant possesses a valid license authorizing the take of wildlife in this state, the number of the applicant's license;
 3. If the applicant does not possess a valid license at the time of the application, the applicant shall purchase a license as established under subsection (L). The applicant shall provide all of the following information on the license application portion of the Hunt Permit-tag Application:
 - a. Physical description, to include the applicant's eye color, hair color, height, and weight;
 - b. Residency status and number of years of residency immediately preceding application, when applicable;
 - c. Type of license for which the person is applying; and
 4. Certify the information provided on the application is true and accurate;
 5. An applicant who is:
 - a. Under the age of 10 and is submitting an application for a hunt other than big game is not required to have a license under this Chapter. The applicant shall indicate "youth" in the space provided for the license number on the Hunt Permit-tag Application.
 - b. Age nine or older and is submitting an application for a big game hunt is required to purchase an appropriate license as required under this Section. The applicant shall either enter the appropriate license number in the space provided for the license number on the Hunt Permit-tag Application or purchase a license at the time of application, as applicable.
- F.** In addition to the information required under subsection (E), an applicant shall also submit all applicable fees established under R12-4-102, as follows:
1. When applying electronically:
 - a. The permit application fee; and
 - b. The license fee, when the applicant does not possess a valid license at the time of application. The applicant shall submit payment in U.S. currency using valid credit or debit card.
 - c. If an applicant is successful in the computer draw, the Department shall charge the hunt permit-tag fee using the credit or debit card furnished by the applicant.
 2. When applying manually:
 - a. The fee for the applicable hunt permit-tag;
 - b. The permit application fee; and
 - c. The license fee if the applicant does not possess a valid license at the time of application. The applicant shall submit payment by certified check, cashier's check, or money order made payable in U.S. currency to the Arizona Game and Fish Department.
- G.** An applicant shall apply for a specific hunt or a bonus point by the current hunt number. If all hunts selected by the applicant are filled at the time the application is processed in the computer draw, the Department shall deem the application unsuccessful, unless the application is for a bonus point.
1. An applicant shall make all hunt choices for the same genus within one application.
 2. An applicant shall not include applications for different genera of wildlife in the same envelope.
- H.** An applicant shall submit only one valid application per genus of wildlife for any calendar year, except:
1. If the bag limit is one per calendar year, an unsuccessful applicant may re-apply for remaining hunt permit-tags in unfilled hunt areas, as specified in the hunt permit-tag application schedule.
 2. For genera that have multiple draws within a single calendar year, a person who successfully draws a hunt permit-tag during an earlier season may apply for a later season for the same genus if the person has not taken the bag limit for that genus during a preceding hunt in the same calendar year.
 3. If the bag limit is more than one per calendar year, a person may apply for remaining hunt permit-tags in unfilled hunt areas as specified in the hunt permit-tag application schedule.
- I.** All members of a group shall apply for the same hunt numbers and in the same order of preference.
1. No more than four persons may apply as a group.

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2. The Department shall not issue a hunt permit-tag to any group member unless sufficient hunt permit-tags are available for all group members.
- J.** A person shall not apply for a hunt permit-tag for:
 1. Rocky Mountain or desert bighorn sheep if the person has met the lifetime bag limit for that sub-species.
 2. Buffalo if the person has met the lifetime bag limit for that species.
 3. Any species when the person has reached the bag limit for that species during the same calendar year for which the hunt permit-tag applies.
- K.** To participate in:
 1. The computer draw system, an applicant shall possess an appropriate hunting license that shall be valid, either:
 - i. On the last day of the application deadline for that computer draw, as established by the hunt permit-tag application schedule published by the Department, or
 - ii. On the last day of an extended deadline date, as authorized under subsection (C)(2).
 - iii. If an applicant does not possess an appropriate hunting license that meets the requirements of this subsection, the applicant shall purchase the license at the time of application.
 2. The bonus point system, an applicant shall comply with the requirements established under R12-4-107.
- L.** The Department shall reject as invalid a Hunt Permit-Tag Application not prepared or submitted in accordance with this Section or not prepared in a legible manner.
- M.** Any hunt permit-tag issued for an application that is subsequently found not to be in accordance with this Section is invalid.
- N.** The Department or its authorized agent shall mail hunt permit-tags to successful applicants. The Department shall return application overpayments to the applicant designated "A" on the Hunt Permit-tag Application. The Department shall not refund:
 1. A permit application fee.
 2. A license fee submitted with a valid application for a hunt permit-tag or bonus point.
 3. An overpayment of five dollars or less. The Department shall consider the overpayment to be a donation to the Arizona Game and Fish Fund.
- O.** The Department shall award a bonus point for the appropriate species to an applicant when the payment submitted is less than the required fees, but is sufficient to cover the application fee and, when applicable, license fee.
- P.** When the Department determines a Department error, as defined under subsection (3), caused the rejection or denial of a valid application:
 1. The Director may authorize either:
 - a. The issuance of an additional hunt permit-tag, provided the issuance of an additional hunt permit-tag will have no significant impact on the wildlife population to be hunted and the application for the hunt permit-tag would have otherwise been successful based on its random number, or
 - b. The awarding of a bonus point when a hunt permit-tag is not issued.
 2. A person who is denied a hunt permit-tag or a bonus point under this subsection may appeal to the Commission as provided under A.R.S. Title 41, Chapter 6, Article 10.
 3. For the purposes of this subsection, "Department error" means an internal processing error that:
 - a. Prevented a person from lawfully submitting an application for a hunt permit-tag,
 - b. Caused a person to submit an invalid application for a hunt permit-tag,
 - c. Caused the rejection of an application for a hunt permit-tag,
 - d. Failed to apply an applicant's bonus points to a valid application for a hunt permit-tag, or
 - e. Caused the denial of a hunt permit-tag.

Historical Note

Amended effective May 3, 1976 (Supp. 76-3). Amended effective June 28, 1977 (Supp. 77-3). Amended effective July 24, 1978 (Supp. 78-4). Former Section R12-4-06 renumbered as Section R12-4-104 without change effective August 13, 1981. Amended subsections (N), (O), and (P) effective August 31, 1981 (Supp. 81-4). Former Section R12-4-104 repealed, new Section R12-4-104 adopted effective May 12, 1982 (Supp. 82-3). Amended subsection (D) as an emergency effective December 27, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-6). Emergency expired. Amended effective June 20, 1983 (Supp. 83-3). Amended subsection (F)(3) effective September 12, 1984. Amended subsection (F)(9) and added subsections (F)(10) and (G)(3) effective October 31, 1984 (Supp. 84-5). Amended effective May 5, 1986 (Supp. 86-3). Amended effective June 4, 1987 (Supp. 87-2). Section R12-4-104 repealed, new Section R12-4-104 adopted effective March 1, 1991; filed February 28, 1991 (Supp. 91-1). Amended effective January 1, 1996; filed in the Office of the Secretary of State December 18, 1995 (Supp. 95-4). Amended by final rulemaking at 6 A.A.R. 211, effective January 1, 2000 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 610, effective April 6, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 845, effective April 3, 2004 (Supp. 04-1). Amended by final rulemaking at 11 A.A.R. 991, effective April 2, 2005; amended by final rulemaking at 11 A.A.R. 1177, effective May 2, 2005 (Supp. 05-1). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).

R12-4-105. License Dealer's License

- A.** For the purposes of this Section, unless the context otherwise requires:

"Dealer number" means the unique number assigned by the Department to a dealer outlet.

"Dealer outlet" means a specified location authorized to sell licenses under a license dealer's license.

"License" means any hunting or fishing license, permit, stamp, or tag that may be sold by a dealer or dealer outlet under this Section.

"License dealer" means a business licensed by the Department to sell licenses from one or more dealer outlets.

"License Dealer Portal" means the secure website provided by the Department for issuing licenses and permits and accessing a license dealer's account.

- B.** A person is eligible to apply for a license dealer's license, provided all of the following criteria are met:
1. The person's privilege to sell licenses for the Department has not been revoked or canceled under A.R.S. §§ 17-334, 17-338, or 17-339 within the two calendar years immediately preceding the date of application;

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2. The person's credit record or assets assure the Department that the value of the licenses shall be adequately protected;
3. The person agrees to assume financial responsibility for licenses provided by the Department at the maximum value established under R12-4-102, less the dealer commission prescribed under A.R.S. § 17-338(B).
- C.** A person shall apply for a license dealer's license by submitting an application to any Department office. The application is furnished by the Department and is available at any Department office. A license dealer license applicant shall provide all of the following information on the application:
 1. The principal business or corporation information:
 - a. Name,
 - b. Physical address, and
 - c. Telephone number;
 - d. If not a corporation, the applicant shall provide the information required under subsections (a), (b), and (c) for each owner;
 2. The contact information for the person responsible for ensuring compliance with this Section:
 - a. Name,
 - b. Business address, and
 - c. Business telephone number;
 3. Whether the applicant has previously sold licenses under A.R.S. § 17-334;
 4. Whether the applicant is seeking renewal of an existing license dealer's license;
 5. Credit references and a statement of assets and liabilities; and
 6. Dealer outlet information:
 - a. Name,
 - b. Physical address,
 - c. Telephone number, and
 - d. Name of the person responsible for ensuring compliance with this Section at each dealer outlet.
- D.** A license dealer may request to add dealer outlets to the license dealer's license, at any time during the license year, by submitting the application form containing the information required under subsection (C) to the Department.
- E.** An applicant who is denied a license dealer's license under this Section may appeal to the Commission as provided under A.R.S. Title 41, Chapter 6, Article 10.
- F.** The Department shall:
 1. Provide to the license dealer all licenses that the license dealer will make available to the public for sale,
 2. Authorize the license dealer to use the dealer's own license stock, or
 3. Authorize the license dealer to issue licenses and permits online via the Department's License Dealer Portal.
- G.** Upon receipt of licenses provided by the Department, the license dealer shall verify the licenses received are the licenses identified on the shipment inventory provided by the Department with the shipment.
 1. Within five working days from receipt of shipment, the person performing the verification shall:
 - a. Clearly designate any discrepancies on the shipment inventory,
 - b. Sign and date the shipping inventory, and
 - c. Return the signed shipping inventory to the Department.
 2. The Department shall verify any discrepancies identified by the license dealer and credit or debit the license dealer's inventory accordingly.
- H.** A license dealer shall maintain an inventory of licenses for sale to the public at each outlet.
- I.** A license dealer may request additional licenses in writing or verbally.
 1. The request shall include:
 - a. The name of the license dealer,
 - b. The assigned dealer number,
 - c. A list of the licenses needed, and
 - d. The name of the person making the request.
 2. Within 10 calendar days from receipt of a request, the Department shall provide the licenses requested, unless:
 - a. The license dealer failed to acknowledge licenses previously provided to the license dealer, as required under subsection (G);
 - b. The license dealer failed to transmit license fees, as required under subsection (J); or
 - c. The license dealer is not in compliance with this Section and all applicable statutes and rules.
- J.** A license dealer shall transmit to the Department all license fees collected by the tenth day of each month, less the dealer commission prescribed under A.R.S. § 17-338(B). Failure to comply with the requirements of this subsection shall result in the cancellation of the license dealer's license, as authorized under A.R.S. § 17-338(A).
- K.** A license dealer shall submit a monthly report to the Department by the tenth day of each month, as prescribed under A.R.S. § 17-339.
 1. The monthly report form is furnished by the Department.
 2. A monthly report is required regardless of whether or not activities were performed.
 3. Failure to submit the monthly report in compliance with this subsection shall be cause to cancel the license dealer's license.
 4. The license dealer shall include in the monthly report all of the following information for each outlet:
 - a. Name of the dealer;
 - b. The assigned dealer number;
 - c. Reporting period;
 - d. Number of sales and dollar amount of sales for reporting period, by type of license sold;
 - e. Dollar amount of commission authorized under A.R.S. § 17-338(B);
 - f. Debit and credit adjustments for previous reporting periods, if any;
 - g. Number of affidavits received for which a duplicate license was issued under R12-4-103;
 - h. List of lost or missing licenses; and
 - i. Printed name and signature of the preparer.
 5. In addition to the information required under subsection (K), the license dealer shall also provide the affidavit for each duplicate license issued by the dealer during the reporting period.
 - a. The affidavit is furnished by the Department and is included in the license book.
 - b. A license dealer who fails to submit the affidavit for a duplicate license issued by the license dealer shall remit to the Department the actual cash value of the original license replaced.
- L.** The Department shall provide written notice of suspension and demand the return of all inventory within five calendar days from any license dealer who:
 1. Fails to transmit monies due the Department under A.R.S. § 17-338 by the deadline established under subsection (J);
 2. Issues to the Department more than one check with insufficient funds during a calendar year; or
 3. Otherwise fails to comply with this Section and all applicable statutes and rules.

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- M.** As prescribed under A.R.S. § 17-338, the actual cash value of licenses not returned to the Department is due and payable to the Department within 15 working days from the date the Department provides written notice to the license dealer. This includes, but is not limited to:
1. Licenses not returned upon termination of business by a license dealer; or
 2. Licenses reported by a dealer outlet or discovered by the Department to be lost, missing, stolen, or destroyed for any reason.
- N.** In addition to those violations that may result in revocation, suspension, or cancellation of a license dealer's license as prescribed under A.R.S. §§ 17-334, 17-338, and 17-339, the Commission may revoke a license dealer's license if the license dealer or an employee of the license dealer is convicted of counseling, aiding, or attempting to aid any person in obtaining a fraudulent license.
- Historical Note**
- Amended effective June 7, 1976 (Supp. 77-3). Former Section R12-4-08 renumbered as Section R12-4-105 without change effective August 13, 1981 (Supp. 81-4). Former Section R12-4-105 repealed, new Section R12-4-105 adopted effective December 30, 1988 (Supp. 88-4). Correction, former Historical Note should read "Former Section R12-4-105 repealed, new Section R12-4-105 adopted effective January 1, 1989, filed December 30, 1988" (Supp. 89-2). Amended effective March 1, 1991; filed February 28, 1991 (Supp. 91-1). Amended effective January 1, 1996; filed in the Office of the Secretary of State December 18, 1995 (Supp. 95-4). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).
- R12-4-106. Special Licenses Licensing Time-frames**
- A.** For the purposes of this Section, the following definitions apply:
- "Administrative review time-frame" has the same meaning as prescribed under A.R.S. § 41-1072(1).
- "License" means any permit or authorization issued by the Department and listed under subsection (H).
- "Overall time-frame" has the same meaning as prescribed under A.R.S. § 41-1072(2).
- "Substantive review time-frame" has the same meaning as prescribed under A.R.S. § 41-1072(3).
- B.** As required under A.R.S. § 41-1072 et seq., within the overall time-frames listed in the table below, the Department shall either:
1. Grant a license to an applicant after determining the applicant meets all of the criteria required by statute and the governing rule; or
 2. Deny a license to an applicant when the Department determines the applicant does not meet all of the criteria required by statute and the governing rule.
 - a. The Department may deny a license at any point during the review process if the information provided by the applicant demonstrates the applicant is not eligible for the license as prescribed under statute or the governing rule.
 - b. The Department shall issue a written denial notice when it is determined that an applicant does not meet all of the criteria for the license.
 - c. The written denial notice shall provide:
 - i. The Department's justification for the denial, and
 - ii. When a hearing or appeal is authorized, an explanation of the applicant's right to a hearing or appeal.
- C.** During the overall time-frame:
1. The applicant and the Department may agree in writing to extend the overall time-frame.
 2. The substantive review time-frame shall not be extended by more than 25% of the overall time-frame.
- D.** An applicant may withdraw an application at any time.
- E.** The administrative review time-frame shall begin upon the Department's receipt of an application.
1. During the administrative review time-frame, the Department may return to the applicant, without denial, an application that is missing any of the information required under R12-4-409 and the rule governing the specific license. The Department shall issue to the applicant a written notice that identifies all missing information and indicates the applicant has 30 days in which to return the missing information.
 2. The administrative review time-frame and the overall time-frame listed for the applicable license under this Section are suspended from the date on the notice until the date the Department receives the missing information.
 3. If an applicant fails to respond to a request for missing information within 30 days, the Department shall consider the application withdrawn.
- F.** The substantive review time-frame shall begin when the Department determines an application is complete.
1. During the substantive review time-frame, the Department may make one comprehensive written request for additional information. The written notice shall:
 - a. Identify the additional information, and
 - b. Indicate the applicant has 30 days in which to submit the additional information.
 - c. The Department and the applicant may mutually agree in writing to allow the agency to submit supplemental requests for additional information.
 - d. If an applicant fails to respond to a request for additional information within 30 days, the Department shall consider the application withdrawn.
 2. The substantive review time-frame and the overall time-frame listed for the applicable license under this Section are suspended from the date on the request until the date the Department receives the additional information.
- G.** If the last day of the time-frame period falls on a Saturday, Sunday, or an official State holiday, the Department shall consider the next business day the time-frame period's last day. All periods listed are:
1. Calendar days, and
 2. Maximum time periods.
- H.** The Department may grant or deny a license in less time than specified below.

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Table 1. Time-Frames

Name of Special License	Governing Rule	Administrative Review Time-frame	Substantive Review Time-frame	Overall Time-frame
Aquatic Wildlife Stocking Permit	R12-4-410	10 days	170 days	180 days
Authorization for Use of Drugs on Wildlife	R12-4-309	20 days	70 days	90 days
Challenged Hunter Access/Mobility Permit	R12-4-217	1 day	29 days	30 days
Crossbow Permit	R12-4-216	1 day	29 days	30 days
Disabled Veteran's License	R12-4-202	1 day	29 days	30 days
Fishing Permits	R12-4-310	10 days	20 days	30 days
Game Bird License	R12-4-414	10 days	20 days	30 days
Guide License	R12-4-208	10 days	20 days	30 days
License Dealer's License	R12-4-105	10 days	20 days	30 days
Live Bait Dealer's License	R12-4-411	10 days	20 days	30 days
Pioneer License	R12-4-201	1 day	29 days	30 days
Private Game Farm License	R12-4-413	10 days	20 days	30 days
Scientific Collecting Permit	R12-4-418	10 days	20 days	30 days
Small Game Depredation Permit	R12-4-113	10 days	20 days	30 days
Sport Falconry License	R12-4-422	10 days	20 days	30 days
Watercraft Agents	R12-4-509	10 days	20 days	30 days
White Amur Stocking License	R12-4-424	10 days	20 days	30 days
Wildlife Holding License	R12-4-417	10 days	20 days	30 days
Wildlife Rehabilitation License	R12-4-423	10 days	50 days	60 days
Wildlife Service License	R12-4-421	10 days	50 days	60 days
Zoo License	R12-4-420	10 days	20 days	30 days

Historical Note

Editorial correction subsections (F) through (G) (Supp. 78-5). Former Section R12-4-09 renumbered as Section R12-4-106 without change effective August 13, 1981 (Supp. 81-4). Repealed effective May 27, 1992 (Supp. 92-2). New Section adopted June 10, 1998 (Supp. 98-2). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).

R12-4-107. Bonus Point System

A. For the purpose of this Section, the following definitions apply:

“Bonus point hunt number” means the hunt number assigned in a Commission Order for use by an applicant who is applying for a bonus point only.

“Loyalty bonus point” means a bonus point awarded to a person who has submitted a valid application for a hunt permit-tag or a bonus point for a specific genus identified in subsection (B) at least once annually for a consecutive five-year period.

B. The bonus point system grants a person one random number entry in each computer draw for antelope, bear, bighorn sheep, buffalo, deer, elk, javelina, or turkey for each bonus point that person has accumulated under this Section.

- Each bonus point random number entry is in addition to the entry normally granted under R12-4-104.
- When processing a “group” application, as defined under R12-4-104, the Department shall use the average number of bonus points accumulated by all persons in the group, rounded to the nearest whole number. If the average number of bonus points is equal to or greater than .5, the total will be rounded to the next higher number.
- The Department shall credit a bonus point under an applicant's Department identification number for the genus on the application.

4. The Department shall not transfer bonus points between persons or genera.

C. The Department shall award one bonus point to an applicant who submits a valid Hunt Permit-tag Application provided the following apply:

- The application is unsuccessful in the computer draw or the application is for a bonus point only;
- The application is not for a hunt permit-tag leftover after the computer draw and available on a first-come, first-served basis as established under R12-4-114; and
- The applicant either provides the appropriate hunting license number on the application or submits an application and fees for the applicable license with the Hunt Permit-tag Application, as applicable.

D. An applicant who purchases a bonus point only shall:

- Submit a valid Hunt Permit-tag Application, as prescribed under R12-4-104, with the assigned bonus point hunt number for the particular genus as the first-choice hunt number on the application. The Department shall reject any application that:
 - Indicates the bonus point only hunt number as any choice other than the first-choice, or
 - Includes any other hunt number on the application;
- Include the applicable fees:
 - Application fee, and
 - Applicable license fee, required when the applicant does not possess a valid license at the time of application; and

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3. Submit only one Hunt Permit-tag Application per genus per computer draw.
- E. With the exception of the hunter education bonus point, each accumulated bonus point is valid only for the genus designated on the Hunt Permit-tag Application.
- F. With the exception of a permanent bonus point awarded for hunter education and a loyalty bonus point which is accrued and forfeited as established under subsection (L), a person's accumulated bonus points for a genus are expended if:
 1. The person is issued a hunt permit-tag for that genus in a computer draw;
 2. The person fails to submit a Hunt Permit-tag Application for that genus for five consecutive years; or
 3. The person purchases a surrendered tag as prescribed under R12-4-118(F)(1), (2), or (3).
- G. Notwithstanding subsection (F), the Department shall restore any expended bonus points to a person who surrenders or transfers a tag in compliance with R12-4-118 or R12-4-121.
- H. An applicant issued a first-come, first-served hunt permit-tag under R12-4-114(C)(2)(e) after the computer draw does not expend bonus points for that genus.
- I. An applicant who is unsuccessful for a first-come, first-served hunt permit-tag made available by the Department after the computer draw is not eligible to receive a bonus point.
- J. The Department shall award one permanent bonus point for each genus upon a person's first graduation from a Department-sanctioned Arizona Game and Fish Department Hunter Education Course.
 1. Course participants are required to provide the following information upon registration, the participants:
 - a. Name;
 - b. Mailing address;
 - c. Telephone number;
 - d. E-mail address, when available;
 - e. Date of birth; and
 - f. Department ID number, when applicable.
 2. The Arizona Game and Fish Department-certified Instructor shall submit the course paperwork to the Department within 10 business days of course completion. Course paperwork must be received by the Department no less than 30 days before the computer draw application deadline, as specified in the hunt permit-tag application schedule in order for the Department to assign hunter education bonus points in the next computer draw.
 3. The Department shall not award hunter education bonus points for any of the following specialized hunter education courses:
 - a. Bowhunter Education,
 - b. Trapper Education, or
 - c. Advanced Hunter Education.
- K. The Department provides an applicant's total number of accumulated bonus points on the Department's application web site or IVR telephone system.
 1. If a person believes the total number of accumulated bonus points is incorrect, the person may request proof of compliance with this Section, from the Department, to prove Department error.
 2. In the event of an error, the Department shall correct the person's record.
- L. The following provisions apply to the loyalty bonus point program:
 1. An applicant who submits a valid application at least once a year for a hunt permit-tag or a bonus point for a specific genus consecutively for a five-year period shall accrue a loyalty bonus point for that genus.
 2. Except as established under subsection (N), once a loyalty bonus point is accrued, the applicant shall retain the loyalty bonus point provided the applicant annually submits an application, with funds sufficient to cover all application fees and applicable license fees for each applicant listed on the application, for a hunt permit-tag or a bonus point for the genus for which the loyalty bonus point was accrued.
 3. An applicant who fails to apply in any calendar year for a hunt permit-tag or bonus point for the genus for which the loyalty bonus point was accrued shall forfeit the loyalty bonus point for that genus.
 4. A loyalty bonus point is accrued in addition to all other bonus points.
- M. A military member, military reserve member, member of the National Guard, or emergency response personnel with a public agency may request the reinstatement of any expended bonus points for a successful Hunt Permit-tag Application.
 1. To request reinstatement of expended bonus points under these circumstances, an applicant shall submit all of the following information to the Arizona Game and Fish Department, Draw Section, 5000 W. Carefree Highway, Phoenix, AZ 85086:
 - a. Evidence of mobilization or change in duty status, such as a letter from the public agency or official orders; or
 - b. An official declaration of a state of emergency from the public agency or authority making the declaration of emergency, if applicable; and
 - c. The valid, unused hunt permit-tag.
 2. The Department shall deny requests post-marked after the beginning date of the hunt for which the hunt permit-tag is valid, unless the person also submits, with the request, evidence of mobilization, activation, or a change in duty status that precluded the applicant from submitting the hunt permit-tag before the beginning date of the hunt.
 3. Under A.R.S. § 17-332(E), no refunds for a license or hunt permit-tag will be issued to an applicant who applies for reinstatement of bonus points under this subsection.
 4. Reinstatement of bonus points under this subsection is not subject to the requirements established under R12-4-118.
- N. It is unlawful for a person to purchase a bonus point by fraud or misrepresentation and any bonus point so obtained shall be removed from the person's Department record.

Historical Note

Former Section R12-4-03 renumbered as Section R12-4-107 without change effective August 13, 1981 (Supp. 81-4). Section R12-4-107 repealed, new Section R12-4-107 adopted effective March 1, 1991; filed February 28, 1991 (Supp. 91-1). Amended effective July 29, 1992 (Supp. 92-3). Section R12-4-107 repealed, new Section R12-4-107 adopted effective January 1, 1999; filed with the Office of the Secretary of State February 9, 1998 (Supp. 98-1). Amended by final rulemaking at 9 A.A.R. 610, effective April 6, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 845, effective April 3, 2004 (Supp. 04-1). Amended by final rulemaking at 11 A.A.R. 991, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 11 A.A.R. 991, effective April 2, 2005; amended by final rulemaking at 11 A.A.R. 1177, effective May 2, 2005 (Supp. 05-1). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3). Amended by final rulemaking at 21 A.A.R. 3025, effective January

2, 2016 (Supp. 15-4).

R12-4-108. Management Unit Boundaries

- A. For the purpose of this Section, parentheses mean “also known as,” and the following definitions shall apply:
1. “FH” means “forest highway,” a paved road.
 2. “FR” means “forest road,” an unpaved road.
 3. “Hwy” means “Highway.”
 4. “mp” means “milepost.”
- B. The state is divided into units for the purpose of managing wildlife. Each unit is identified by a number, or a number and letter. For the purpose of this Section, Indian reservation land contained within any management unit is not under the jurisdiction of the Arizona Game and Fish Commission or the Arizona Game and Fish Department.
- C. Management unit descriptions are as follows:

Unit 1 – Beginning at the New Mexico state line and U.S. Hwy 60; west on U.S. Hwy 60 to Vernon Junction; southerly on the Vernon-McNary road (FR 224) to the White Mountain Apache Indian Reservation boundary; east and south along the reservation boundary to Black River; east and north along Black River to the east fork of Black River; north along the east fork to Three Forks; and continuing north and east on the Three Forks-Williams Valley-Alpine Rd. (FR 249) to U.S. Hwy 180; east on U.S. Hwy 180 to the New Mexico state line; north along the state line to U.S. Hwy 60.

Unit 2A – Beginning at St. Johns on U.S. Hwy 191 (AZ Hwy 61); north on U.S. Hwy 191 (AZ Hwy 61) to the Navajo Indian Reservation boundary; westerly along the reservation boundary to AZ Hwy 77; south on AZ Hwy 77 to Exit 292 on I-40; west on the westbound lane of I-40 to Exit 286; south on AZ Hwy 77 to U.S. Hwy 180; southeast on U.S. Hwy 180 to AZ Hwy 180A; south on AZ Hwy 180A to AZ Hwy 61; east on AZ Hwy 61 to U.S. Hwy 180 (AZ Hwy 61); east to U.S. Hwy 191 at St. Johns; except those portions that are sovereign tribal lands of the Zuni Tribe.

Unit 2B – Beginning at Springerville; east on U.S. Hwy 60 to the New Mexico state line; north along the state line to the Navajo Indian Reservation boundary; westerly along the reservation boundary to U.S. Hwy 191 (AZ Hwy 61); south on U.S. Hwy 191 (U.S. Hwy 180) to Springerville.

Unit 2C – Beginning at St. Johns on U.S. Hwy 191 (AZ Hwy 61); west on to AZ Hwy 61 Concho; southwest on AZ Hwy 61 to U.S. Hwy 60; east on U.S. Hwy 60 to U.S. Hwy 191 (U.S. Hwy 180); north on U.S. Hwy 191 (U.S. Hwy 180) to St. Johns.

Unit 3A – Beginning at the junction of U.S. Hwy 180 and AZ Hwy 77; south on AZ Hwy 77 to AZ Hwy 377; southwesterly on AZ Hwy 377 to AZ Hwy 277; easterly on AZ Hwy 277 to Snowflake; easterly on the Snowflake-Concho Rd. to U.S. Hwy 180A; north on U.S. Hwy 180A to U.S. Hwy 180; northwesterly on U.S. Hwy 180 to AZ Hwy 77.

Unit 3B – Beginning at Snowflake; southerly along AZ Hwy 77 to U.S. Hwy 60; southwest along U.S. Hwy 60 to the White Mountain Apache Indian Reservation boundary; easterly along the reservation boundary to the Vernon-McNary Rd. (FR 224); northerly along the Vernon-McNary Rd. to U.S. Hwy 60; west on U.S. Hwy 60 to AZ Hwy 61; northeasterly on AZ Hwy 61 to AZ Hwy 180A; northerly on AZ Hwy 180A to Concho-Snowflake

Rd.; westerly on the Concho-Snowflake Rd. to Snowflake.

Unit 3C – Beginning at Snowflake; westerly on AZ Hwy 277 to AZ Hwy 260; westerly on AZ Hwy 260 to the Sitgreaves National Forest boundary with the Tonto National Forest; easterly along the Apache-Sitgreaves National Forest boundary to U.S. Hwy 60 (AZ Hwy 77); northeasterly on U.S. Hwy 60 (AZ Hwy 77) to Showlow; northerly along AZ Hwy 77 to Snowflake.

Unit 4A – Beginning on the boundary of the Apache-Sitgreaves National Forest with the Coconino National Forest at the Mogollon Rim; north along this boundary (Leonard Canyon) to East Clear Creek; northerly along East Clear Creek to AZ Hwy 99; north on AZ Hwy 99 to AZ Hwy 87; north on AZ Hwy 87 to Business I-40 (3rd St.); west on Business I-40 (3rd St.) to Hipkoe Dr.; northerly on Hipkoe Dr. to I-40; west on I-40 to mp 221.4; north to the southwest corner of the Navajo Indian Reservation boundary; east along the Navajo Indian Reservation boundary to the Little Colorado River; southerly along the Little Colorado River to Chevelon Creek; southerly along Chevelon Creek to Woods Canyon; westerly along Woods Canyon to Woods Canyon Lake Rd.; westerly and southerly along the Woods Canyon Lake Rd. to the Mogollon Rim; westerly along the Mogollon Rim to the boundary of the Apache-Sitgreaves National Forest with the Coconino National Forest.

Unit 4B – Beginning at AZ Hwy 260 and the Sitgreaves National Forest boundary with the Tonto National Forest; northeasterly on AZ Hwy 260 to AZ Hwy 277; northeasterly on AZ Hwy 277 to Hwy 377; northeasterly on AZ Hwy 377 to AZ Hwy 77; northeasterly on AZ Hwy 77 to I-40 Exit 286; northeasterly along the westbound lane of I-40 to Exit 292; north on AZ Hwy 77 to the Navajo Indian Reservation boundary; west along the reservation boundary to the Little Colorado River; southerly along the Little Colorado River to Chevelon Creek; southerly along Chevelon Creek to Woods Canyon; westerly along Woods Canyon to Woods Canyon Lake Rd. (FH 151); westerly and southerly along the Woods Canyon Lake Rd. (FH 151) to the Mogollon Rim; easterly along the Mogollon Rim to the intersection of AZ Hwy 260 and the Sitgreaves National Forest boundary with the Tonto National Forest.

Unit 5A – Beginning at the junction of the Sitgreaves National Forest boundary with the Coconino National Forest boundary at the Mogollon Rim; northerly along this boundary (Leonard Canyon) to East Clear Creek; northeasterly along East Clear Creek to AZ Hwy 99; north on AZ Hwy 99 to AZ Hwy 87; north on AZ Hwy 87 to Business I-40 (3rd St.); west on Business I-40 (3rd St.) to Hipkoe Dr.; north on Hipkoe Dr. to I-40; west on I-40 to the Meteor Crater Rd. (Exit 233); southerly on the Meteor Crater-Chavez Pass-Jack’s Canyon Rd. (FR 69) to AZ Hwy 87; southwest along AZ Hwy 87 to the Coconino-Tonto National Forest boundary; easterly along the Coconino-Tonto National Forest boundary (Mogollon Rim) to the Sitgreaves National Forest boundary with the Coconino National Forest.

Unit 5B – Beginning at Lake Mary-Clint’s Well Rd. (FH3) and Walnut Canyon (mp 337.5 on FH3); southeasterly on FH3 to AZ Hwy 87; northeasterly on AZ Hwy 87 to FR 69; westerly and northerly on FR 69 to I-40 (Exit 233); west on I-40 to Walnut Canyon (mp 210.2); south-

westerly along the bottom of Walnut Canyon to Walnut Canyon National Monument; southwesterly along the northern boundary of the Walnut Canyon National Monument to Walnut Canyon; southwesterly along the bottom of Walnut Canyon to FH3 (mp 337.5).

Unit 6A – Beginning at the junction of U.S. Hwy 89A and FR 237; southwesterly on U.S. Hwy 89A to the Verde River; southeasterly along the Verde River to the confluence with Fossil Creek; northeasterly along Fossil Creek to Fossil Springs; southeasterly on FS trail 18 (Fossil Spring Trail) to the top of the rim; northeasterly on the rim to Nash Point on the Tonto-Coconino National Forest boundary; easterly along this boundary to AZ Hwy 87; northeasterly on AZ Hwy 87 to Lake Mary-Clint's Well Rd. (FH3); northwesterly on FH3 to FR 132; southwesterly on FR 132 to FR 296; southwesterly on FR 296 to FR 296A; southwesterly on FR 296A to FR 132; northwesterly on FR 132 to FR 235; westerly on FR 235 to Priest Draw; southwesterly along the bottom of Priest Draw to FR 235; westerly on FR 235 to FR 235A; westerly on FR 235A to FR 235; southerly on FR 235 to FR 235K; northwesterly on FR 235K to FR 700; northerly on FR 700 to Mountaineer Rd.; west on Mountaineer Rd. to FR 237; westerly on FR 237 to U.S. Hwy 89A except those portions that are sovereign tribal lands of the Yavapai-Apache Nation.

Unit 6B – Beginning at mp 188.5 on I-40 at a point just north of the east boundary of Camp Navajo; south along the eastern boundary of Camp Navajo to the southeastern corner of Camp Navajo; southeast approximately 1/3 mile through the forest to the forest road in section 33; southeast on the forest road to FR 231 (Woody Mountain Rd.); easterly on FR 231 to FR 533; southerly on FR 533 to U.S. Hwy 89A; southerly on U.S. Hwy 89A to the Verde River; northerly along the Verde River to Sycamore Creek; northeasterly along Sycamore Creek and Volunteer Canyon to the southwest corner of the Camp Navajo boundary; northerly along the western boundary of Camp Navajo to the northwest corner of Camp Navajo; continuing north to I-40 (mp 180.0); easterly along I-40 to mp 188.5.

Unit 7 – Beginning at the junction of AZ Hwy 64 and I-40 (in Williams); easterly on I-40 to FR 171 (mp 184.4 on I-40); northerly on FR 171 to the Transwestern Gas Pipeline; easterly along the Transwestern Gas Pipeline to FR 420 (Schultz Pass Rd.); northeasterly on FR 420 to U.S. Hwy 89; across U.S. Hwy 89 to FR 545; east on FR 545 to the Sunset Crater National Monument; easterly along the southern boundary of the Sunset Crater National Monument to FR 545; east on FR 545 to the 345 KV transmission lines 1 and 2; southeasterly along the power lines to I-40 (mp 212 on I-40); east on I-40 to mp 221.4; north to the southwest corner of the Navajo Indian Reservation boundary; northerly and westerly along the reservation boundary to the Four Corners Gas Line; southwesterly along the Four Corners Gas Line to U.S. Hwy 180; west on U.S. Hwy 180 to AZ Hwy 64; south on AZ Hwy 64 to I-40.

Unit 8 – Beginning at the junction of I-40 and U.S. Hwy 89 (in Ash Fork, Exit 146); south on U.S. Hwy 89 to the Verde River; easterly along the Verde River to Sycamore Creek; northerly along Sycamore Creek to Volunteer Canyon; northeasterly along Volunteer Canyon to the west boundary of Camp Navajo; north along the bound-

ary to a point directly north of I-40; west on I-40 to U.S. Hwy 89.

Unit 9 – Beginning where Cataract Creek enters the Havasupai Reservation; easterly and northerly along the Havasupai Reservation boundary to Grand Canyon National Park; easterly along the Grand Canyon National Park boundary to the Navajo Indian Reservation boundary; southerly along the reservation boundary to the Four Corners Gas Line; southwesterly along the Four Corners Gas Line to U.S. Hwy 180; westerly along U.S. Hwy 180 to AZ Hwy 64; south along AZ Hwy 64 to Airport Rd.; west and north along Airport Rd. to the Valle-Cataract Creek Rd.; westerly along the Valle-Cataract Creek Rd. to Cataract Creek at Island Tank; northwesterly along Cataract Creek to the Havasupai Reservation Boundary.

Unit 10 – Beginning at the junction of AZ Hwy 64 and I-40; westerly on I-40 to Crookton Rd. (AZ Hwy 66, Exit 139); westerly on AZ Hwy 66 to the Hualapai Indian Reservation boundary; northeasterly along the reservation boundary to Grand Canyon National Park; east along the park boundary to the Havasupai Indian Reservation; easterly and southerly along the reservation boundary to where Cataract Creek enters the reservation; southeasterly along Cataract Creek in Cataract Canyon to Island Tank; easterly on the Cataract Creek-Valle Rd. to Airport Rd.; south and east along Airport Rd. to AZ Hwy 64; south on AZ Hwy 64 to I-40.

Unit 11M – Beginning at the junction of Lake Mary-Clint's Well Rd (FH3) and Walnut Canyon (mp 337.5 on FH3); northeasterly along the bottom of Walnut Canyon to the Walnut Canyon National Monument boundary; northeasterly along the northern boundary of the Walnut Canyon National Monument to Walnut Canyon; northeasterly along the bottom of Walnut Canyon to I-40 (mp 210.2); east on I-40 to the 345 KV transmission lines 1&2 (mp 212 on I-40); north and northeasterly along the power line to FR 545 (Sunset Crater Rd); west along FR 545 to the Sunset Crater National Monument boundary; westerly along the southern boundary of the Sunset Crater National monument to FR 545; west on FR 545 to US Hwy 89; across US Hwy 89 to FR 420 (Schultz Pass Rd); southwesterly on FR 420 to the Transwestern Gas Pipeline; westerly along the Transwestern Gas Pipeline to FR 171; south on FR 171 to I-40 (mp 184.4 on I-40); east on I-40 to a point just north of the eastern boundary of the Navajo Army Depot (mp 188.5 on I-40); south along the eastern boundary of the Navajo Army Depot to the southeast corner of the Depot; southeast approximately 1/3 mile to forest road in section 33; southeasterly along that forest road to FR 231 (Woody Mountain Rd); easterly on FR 231 to FR 533; southerly on FR 533 to US Hwy 89A; southerly on US Hwy 89A to FR 237; northeasterly on FR 237 to Mountaineer Rd; easterly on Mountaineer Rd to FR 700; southerly on FR 700 to FR 235K; southeasterly on FR 235K to FR 235; northerly on FR 235 to FR 235A; easterly on FR 235A to FR 235; easterly on FR 235 to Priest Draw; northeasterly along the bottom of Priest Draw to FR 235; easterly on FR 235 to FR 132; southeasterly on FR 132 to FR 296A; northeasterly on FR 296A to FR 296; northeasterly on FR 296 to FR 132; northeasterly on FR 132 to FH 3; southeasterly on FH 3 to the south rim of Walnut Canyon (mp 337.5 on FH3).

Unit 12A – Beginning at the confluence of the Colorado River and South Canyon; southerly and westerly along

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the Colorado River to Kanab Creek; northerly along Kanab Creek to Snake Gulch; northerly, easterly, and southerly around the Kaibab National Forest boundary to South Canyon; northeasterly along South Canyon to the Colorado River.

Unit 12B – Beginning at U.S. Hwy 89A and the Kaibab National Forest boundary near mp 566; southerly and easterly along the forest boundary to Grand Canyon National Park; northeasterly along the park boundary to Glen Canyon National Recreation area; easterly along the recreation area boundary to the Colorado River; north-easterly along the Colorado River to the Arizona-Utah state line; westerly along the state line to Kanab Creek; southerly along Kanab Creek to the Kaibab National Forest boundary; northerly, easterly, and southerly along this boundary to U.S. Hwy 89A near mp 566; except those portions that are sovereign tribal lands of the Kaibab Band of Paiute Indians.

Unit 13A – Beginning on the western edge of the Hurricane Rim at the Utah state line; southerly along the western edge of the Hurricane Rim to Mohave County Rd. 5 (the Mt. Trumbull Rd.); west along Mohave County Rd. 5 to the town of Mt. Trumbull (Bundyville); south from the town of Mt. Trumbull (Bundyville) on Mohave County Rd. 257 to BLM Rd. 1045; south on BLM Rd. 1045 to where it crosses Cold Spring Wash near Cold Spring Wash Pond; south along the bottom of Cold Spring Wash to Whitmore Wash; southerly along the bottom of Whitmore Wash to the Colorado River; easterly along the Colorado River to Kanab Creek; northerly along Kanab Creek to the Utah state line; west along the Utah state line to the western edge of the Hurricane Rim; except those portions that are sovereign tribal lands of the Kaibab Band of Paiute Indians.

Unit 13B – Beginning on the western edge of the Hurricane Rim at the Utah state line; southerly along the western edge of the Hurricane Rim to Mohave County Rd. 5 (the Mt. Trumbull Rd.); west along Mohave County Rd. 5 to the town of Mt. Trumbull (Bundyville); south from the town of Mt. Trumbull (Bundyville) on Mohave County Rd. 257 to BLM Rd. 1045; south on BLM Rd. 1045 to where it crosses Cold Spring Wash near Cold Spring Wash Pond; south along the bottom of Cold Spring Wash to Whitmore Wash; southerly along the bottom of Whitmore Wash to the Colorado River; westerly along the Colorado River to the Nevada state line; north along the Nevada state line to the Utah state line; east along the Utah state line to the western edge of the Hurricane Rim.

Unit 15A – Beginning at Pearce Ferry on the Colorado River; southerly on the Pearce Ferry Rd. to Antares Rd.; southeasterly on Antares Rd. to AZ Hwy 66; easterly on AZ Hwy 66 to the Hualapai Indian Reservation; west and north along the west boundary of the reservation to the Colorado River; westerly along the Colorado River to Pearce Ferry; except those portions that are sovereign tribal lands of the Hualapai Indian Tribe.

Unit 15B – Beginning at Kingman on I-40 (Exit 48); northwesterly on U.S. Hwy 93 to Hoover Dam; north and east along the Colorado River to Pearce Ferry; southerly on the Pearce Ferry Rd. to Antares Rd.; southeasterly on Antares Rd. to AZ Hwy 66; easterly on AZ Hwy 66 to Hackberry Rd.; southerly on the Hackberry Rd. to its junction with U.S. Hwy 93; north on U.S. Hwy 93 to I-40 (Exit 71); west on I-40 to Kingman (Exit 48).

Unit 15C – Beginning at Hoover Dam; southerly along the Colorado River to AZ Hwy 68 and Davis Dam; easterly on AZ Hwy 68 to U.S. Hwy 93; northwesterly on U.S. Hwy 93 to Hoover Dam.

Unit 15D – Beginning at AZ Hwy 68 and Davis Dam; southerly along the Colorado River to I-40; east and north on I-40 to Kingman (Exit 48); northwest on U.S. Hwy 93 to AZ Hwy 68; west on AZ Hwy 68 to Davis Dam; except those portions that are sovereign tribal lands of the Fort Mohave Indian Tribe.

Unit 16A – Beginning at Kingman on I-40 (Exit 48); south and west on I-40 to U.S. Hwy 95 (Exit 9); southerly on U.S. Hwy 95 to the Bill Williams River; easterly along the Bill Williams and Santa Maria rivers to U.S. Hwy 93; north on U.S. Hwy 93 to I-40 (Exit 71); west on I-40 to Kingman (Exit 48).

Unit 16B – Beginning at I-40 on the Colorado River; southerly along the Arizona-California state line to the Bill Williams River; east along the Bill Williams River to U.S. Hwy 95; north on U.S. Hwy 95 to I-40 (Exit 9); west on I-40 to the Colorado River.

Unit 17A – Beginning at the junction of the Williamson Valley Rd. (County Road 5) and the Camp Wood Rd. (FR 21); westerly on the Camp Wood Rd. to the west boundary of the Prescott National Forest; north along the forest boundary to the Baca Grant; east, north and west around the grant to the west boundary of the Prescott National Forest; north and east along the forest boundary to the Williamson Valley Rd. (County Rd. 5, FR 6); southerly on Williamson Valley Rd. (County Rd. 5, FR 6) to the Camp Wood Rd.

Unit 17B – Beginning at the junction of Iron Springs Rd. (County Rd. 10) and Williamson Valley Rd. (County Road 5) in Prescott; westerly on the Prescott-Skull Valley-Hillside-Bagdad Rd. to Bagdad; northeast on the Bagdad-Camp Wood Rd. (FR 21) to the Williamson Valley Rd. (County Rd. 5, FR 6); south on the Williamson Valley Rd. (County Rd. 5, FR 6) to the Iron Springs Rd.

Unit 18A – Beginning at Seligman; westerly on AZ Hwy 66 to the Hualapai Indian Reservation; southwest and west along the reservation boundary to AZ Hwy 66; southwest on AZ Hwy 66 to the Hackberry Rd.; south on the Hackberry Rd. to U.S. Hwy 93; south on U.S. Hwy 93 to Cane Springs Wash; easterly along Cane Springs Wash to the Big Sandy River; northerly along the Big Sandy River to Trout Creek; northeast along Trout Creek to the Davis Dam-Prescott power line; southeasterly along the power line to the west boundary of the Prescott National Forest; north and east along the forest boundary to the Williamson Valley Rd. (County Rd. 5, FR 6); northerly on the Williamson Valley Rd. (County Rd. 5, FR 6) to Seligman and AZ Hwy 66; except those portions that are sovereign tribal lands of the Hualapai Indian Tribe.

Unit 18B – Beginning at Bagdad; southeast on AZ Hwy 96 to the Santa Maria River; southwest along the Santa Maria River to U.S. Hwy 93; northerly on U.S. Hwy 93 to Cane Springs Wash; easterly along Cane Springs Wash to the Big Sandy River; northerly along the Big Sandy River to Trout Creek; northeasterly along Trout Creek to the Davis Dam-Prescott power line; southeasterly along the power line to the west boundary of the Prescott National Forest; south along the forest boundary to the Baca Grant; east, south and west along the forest boundary; south

along the west boundary of the Prescott National Forest; to the Camp Wood-Bagdad Rd.; southwesterly on the Camp Wood-Bagdad Rd. to Bagdad; except those portions that are sovereign tribal lands of the Hualapai Indian Tribe.

Unit 19A – Beginning at AZ Hwy 69 and U.S. Hwy 89 (in Prescott); northerly on U.S. Hwy 89 to the Verde River; easterly along the Verde River to I-17; southwest-erly on the southbound lane of I-17 to AZ Hwy 69; north-westerly on AZ Hwy 69 to U.S. Hwy 89; except those portions that are sovereign tribal lands of the Yavapai-Prescott Tribe and the Yavapai-Apache Nation.

Unit 19B – Beginning at the intersection of U.S. Hwy 89 and AZ Hwy 69, west on Gurley St. to Grove Ave.; north on the Grove Ave. to Miller Valley Rd.; northwest on the Miller Valley Rd. to Iron Springs Rd.; northwest on the Iron Springs Rd. to the junction of Williamson Valley Rd. and Iron Springs Rd.; northerly on the Williamson Val-ley-Prescott-Seligman Rd. (FR 6, Williamson Valley Rd.) to AZ Hwy 66 at Seligman; east on Crookton Rd. (AZ Hwy 66) to I-40 (Exit 139); east on I-40 to U.S. Hwy 89; south on U.S. Hwy 89 to the junction with AZ Hwy 69; except those portions that are sovereign tribal lands of the Yavapai-Prescott Tribe.

Unit 20A – Beginning at the intersection of U.S. Hwy 89 and AZ Hwy 69; west on Gurley St. to Grove Ave.; north on the Grove Ave. to Miller Valley Rd., northwest on the Miller Valley Rd. to Iron Springs Rd., west and south on the Iron Springs-Skull Valley-Kirkland Junction Rd. to U.S. Hwy 89; continue south and easterly on the Kirkland Junction-Wagoner-Crown King-Cordes Rd. to Cordes, from Cordes southeast to I-17 (Exit 259); north on the southbound lane of I-17 to AZ Hwy 69; northwest on AZ Hwy 69 to junction of U.S. Hwy 89 at Prescott; except those portions that are sovereign tribal lands of the Yavapai-Prescott Tribe.

Unit 20B – Beginning at the Hassayampa River and U.S. Hwy 60/93 (in Wickenburg); northeasterly along the Has-sayampa River to the Kirkland Junction-Wagoner- Crown King-Cordes road (at Wagoner); southerly and northeast-erly along the Kirkland Junction-Wagoner-Crown King-Cordes Rd. (at Wagoner) to I-17 (Exit 259); south on the southbound lane of I-17 to the New River Road (Exit 232); west on the New River Road to State Hwy 74; west on AZ Hwy 74 to the junction of AZ Hwy 74 and U.S. Hwy 60/93; northwesterly on U.S. Hwy 60/93 to the Has-sayampa River.

Unit 20C – Beginning at U.S. Hwy 60/93 and the Santa Maria River; northeasterly along the Santa Maria River to AZ Hwy 96; easterly on AZ Hwy 96 to Kirkland Junc-tion; southeasterly along the Kirkland Junction-Wagoner-Crown King-Cordes road to the Hassayampa River (at Wagoner); southwest-erly along the Hassayampa River to U.S. Hwy 60/93; northwesterly on U.S. Hwy 60/93 to the Santa Maria River.

Unit 21 – Beginning on I-17 at the Verde River; southerly on the southbound lane of I-17 to the New River Road (Exit 232); east on New River Road to Fig Springs Road; northeasterly on Fig Springs Road to the Tonto National Forest boundary; southeasterly along this boundary to the Verde River; north along the Verde River to I-17.

Unit 22 – Beginning at the junction of the Salt and Verde Rivers; north along the Verde River to the confluence

with Fossil Creek; northeasterly along Fossil Creek to Fossil Springs; southeasterly on FS trail 18 (Fossil Spring Trail) to the top of the rim; northeasterly on the rim to Nash Point on the Tonto-Coconino National Forest boundary along the Mogollon Rim; easterly along this boundary to Tonto Creek; southerly along the east fork of Tonto Creek to the spring box, north of the Tonto Creek Hatchery, and continuing southerly along Tonto Creek to the Salt River; westerly along the Salt River to the Verde River; except those portions that are sovereign tribal lands of the Tonto Apache Tribe and the Fort McDowell Yavapai Nation.

Unit 23 – Beginning at the confluence of Tonto Creek and the Salt River; northerly along Tonto Creek to the spring box, north of the Tonto Creek Hatchery, on Tonto Creek; northeasterly along the east fork of Tonto Creek to the Tonto-Sitgreaves National Forest boundary along the Mogollon Rim; east along this boundary to the White Mountain Apache Indian Reservation boundary; south-erly along the reservation boundary to the Salt River; westerly along the Salt River to Tonto Creek.

Unit 24A – Beginning on AZ Hwy 177 in Superior; southeasterly on AZ Hwy 177 to the Gila River; north-easterly along the Gila River to the San Carlos Indian Reservation boundary; easterly, westerly and northerly along the reservation boundary to the Salt River; south-westerly along the Salt River to AZ Hwy 288; southerly on AZ Hwys 288 and 188 to U.S. Hwy 60; southwest-erly on U.S. Hwy 60 to AZ Hwy 177.

Unit 24B – Beginning on U.S. Hwy 60 in Superior; north-easterly on U.S. Hwy 60 to AZ Hwy 188; northerly on AZ Hwys 188 and 288 to the Salt River; westerly along the Salt River to the Tonto National Forest boundary near Granite Reef Dam; southeasterly along Forest boundary to Forest Route 77 (Peralta Rd.); southwest-erly on Forest Route 77 (Peralta Rd.) to U.S. Hwy 60; easterly on U.S. Hwy 60 to Superior.

Unit 25M – Beginning at the junction of 51st Ave. and I-10; west on I-10 to AZ Loop 303, northeasterly on AZ Loop 303 to I-17; north on I-17 to Carefree Hwy; east on Carefree Hwy to Cave Creek Rd.; northeasterly on Cave Creek Rd. to the Tonto National Forest boundary; east-erly and southerly along the Tonto National Forest boundary to Fort McDowell Yavapai Nation boundary; northeasterly along the Fort McDowell Yavapai Nation boundary to the Verde River; southerly along the Verde River to the Salt River; southwest-erly along the Salt River to the Tonto National Forest boundary; southerly along the Tonto National Forest boundary to Bush Hwy/Power Rd.; southerly on Bush Hwy/Power Rd. to AZ Loop 202; easterly, southerly, and westerly on AZ Loop 202 to the intersection of Pecos Rd. at I-10; west on Pecos Rd. to the Gila River Indian Community boundary; northwesterly along the Gila River Indian Community boundary to 51st Ave; northerly on 51st Ave to I-10; except those portions that are sovereign tribal lands.

Unit 26M – Beginning at the junction of I-17 and New River Rd. (Exit 232); southwest-erly on New River Rd. to AZ Hwy 74; westerly on AZ Hwy 74 to U.S. Hwy 93; southeasterly on U.S. Hwy 93 to the Beardsley Canal; southwest-erly on the Beardsley Canal to Indian School Rd.; west on Indian School Rd. to Jackrabbit Trail; south on Jackrabbit Trail to I-10 (Exit 121); west on I-10 to Oglesby Rd. (Exit 112); south on Oglesby Rd. to AZ

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Hwy 85; south on AZ Hwy 85 to the Gila River; north-easterly along the Gila River to the Gila River Indian Community boundary; southeasterly along the Gila River Indian Community boundary to AZ Hwy 347 (John Wayne Parkway); south on AZ Hwy 347 (John Wayne Parkway) to AZ Hwy 84; east on AZ Hwy 84 to Stanfield; south on the Stanfield-Cocklebur Rd. to the Tohono O'odham Nation boundary; easterly along the Tohono O'odham Nation boundary to Battaglia Rd.; east on Battaglia Rd. to Toltec Rd.; north on Toltec Rd. to I-10 (Exit 203); southeasterly on I-10 to AZ Hwy 87 (Exit 211); north on AZ Hwy 87 to AZ Hwy 287 north of Coolidge; east on AZ Hwy 287 to AZ Hwy 79; north on AZ Hwy 79 to U.S. Hwy 60; northwesterly on U.S. Highway 60 to Peralta Rd.; northeasterly along Peralta Rd. to the Tonto National Forest boundary; northwesterly along the Tonto National Forest boundary to the Salt River; northeasterly along the Salt River to the Verde River; northerly along the Verde River to the Tonto National Forest boundary; northwesterly along the Tonto National Forest boundary to Fig Springs Rd.; southwesterly on Fig Springs Rd. to New River Rd.; west on New River Rd. to I-17 (Exit 232); except Unit 25M and those portions that are sovereign tribal lands.

Unit 27 – Beginning at the New Mexico state line and AZ Hwy 78; southwest on AZ Hwy 78 to U.S. Hwy 191; north on U.S. Hwy 191 to Lower Eagle Creek Rd. (Pump Station Rd.); west on the Lower Eagle Creek Rd. (Pump Station Rd.) to Eagle Creek; north along Eagle Creek to the San Carlos Apache Indian Reservation boundary; north along the San Carlos Apache Indian Reservation boundary to Black River; northeast along Black River to the East Fork of Black River; northeast along the East Fork of Black River to Three Forks-Williams Valley-Alpine Rd. (FR 249); easterly along Three Forks-Williams Valley-Alpine Rd. to U.S. Hwy 180; southeast on U.S. Hwy 180 to the New Mexico state line; south along the New Mexico state line to AZ Hwy 78.

Unit 28 – Beginning at I-10 and the New Mexico state line; north along the state line to AZ Hwy 78; southwest on AZ Hwy 78 to U.S. Hwy 191; northwest on U.S. Hwy 191 to Clifton; westerly on the Lower Eagle Creek Rd. (Pump Station Rd.) to Eagle Creek; northerly along Eagle Creek to the San Carlos Indian Reservation boundary; southerly and west along the reservation boundary to U.S. Hwy 70; southeast on U.S. Hwy 70 to U.S. Hwy 191; south on U.S. Hwy 191 to I-10 Exit 352; easterly on I-10 to the New Mexico state line.

Unit 29 – Beginning on I-10 at the New Mexico state line; westerly on I-10 to the Bowie-Apache Pass Rd.; southerly on the Bowie-Apache Pass Rd. to AZ Hwy 186; southeast on AZ Hwy 186 to AZ Hwy 181; south on AZ Hwy 181 to the West Turkey Creek-Kuykendall cutoff road; southerly on the Kuykendall cutoff road to Rucker Canyon Rd.; easterly on the Rucker Canyon Rd. to Tex Canyon Rd.; southerly on Tex Canyon Rd. to U.S. Hwy 80; northeast on U.S. Hwy 80 to the New Mexico state line; north along the state line to I-10.

Unit 30A – Beginning at the junction of the New Mexico state line and U.S. Hwy 80; south along the state line to the U.S.-Mexico border; west along the border to U.S. Hwy 191; northerly on U.S. Hwy 191 to I-10 Exit 331; northeasterly on I-10 to the Bowie-Apache Pass Rd.; southerly on the Bowie-Apache Pass Rd. to AZ Hwy 186;

southeasterly on AZ Hwy 186 to AZ Hwy 181; south on AZ Hwy 181 to the West Turkey Creek - Kuykendall cutoff road; southerly on the Kuykendall cutoff road to Rucker Canyon Rd.; easterly on Rucker Canyon Rd. to the Tex Canyon Rd.; southerly on Tex Canyon Rd. to U.S. Hwy 80; northeast on U.S. Hwy 80 to the New Mexico state line.

Unit 30B – Beginning at U.S. Hwy 191 and the U.S.-Mexico border; west along the border to the San Pedro River; north along the San Pedro River to I-10; northeasterly on I-10 to U.S. Hwy 191; southerly on U.S. Hwy 191 to the U.S.-Mexico border.

Unit 31 – Beginning at Willcox Exit 340 on I-10; north on Fort Grant Rd. to Brookerson Rd.; north on Brookerson Rd. to Ash Creek Rd.; west on Ash Creek Rd. to Fort Grant Rd.; north on Fort Grant Rd. to Bonita; northerly on the Bonita-Klondyke Rd. to the junction with Aravaipa Creek; west along Aravaipa Creek to AZ Hwy 77; northerly along AZ Hwy 77 to the Gila River; northeast along the Gila River to the San Carlos Indian Reservation boundary; south then east and north along the reservation boundary to U.S. Hwy 70; southeast on U.S. Hwy 70 to U.S. Hwy 191; south on U.S. Hwy 191 to the 352 exit on I-10; southwest on I-10 to Exit 340.

Unit 32 – Beginning at Willcox Exit 340 on I-10; north on Fort Grant Rd. to Brookerson Rd.; north on Brookerson Rd. to Ash Creek Rd.; west on Ash Creek Rd. to Fort Grant Rd.; north on Fort Grant Rd. to Bonita; northerly on the Bonita-Klondyke Rd. to the junction with Aravaipa Creek; west along Aravaipa Creek to AZ Hwy 77; southerly along AZ Hwy 77 to the San Pedro River; southerly along the San Pedro River to I-10; northeast on I-10 to Willcox Exit 340.

Unit 33 – Beginning at Tangerine Rd. and AZ Hwy 77; north and northeast on AZ Hwy 77 to the San Pedro River; southeast along the San Pedro River to I-10 at Benson; west on I-10 to Marsh Station Rd. (Exit 289); northwest on the Marsh Station Rd. to the Agua Verde Rd.; north on the Agua Verde Rd. to its terminus then north 1/2 mile to the Coronado National Forest boundary; north and west along the National Forest boundary; then west, north, and east along the Saguaro National Park boundary; continuing north and west along the Coronado National Forest boundary to the southern boundary of Catalina State Park; west along the southern boundary of Catalina State Park to AZ Hwy 77; north on AZ Hwy 77 to Tangerine Rd.

Unit 34A – Beginning in Nogales at I-19 and Grand Avenue (U.S. Highway 89); northeast on Grand Avenue (U.S. Hwy. 89) to AZ Hwy 82; northeast on AZ Hwy 82 to AZ Hwy 83; northerly on AZ Hwy 83 to the Sahuarita road alignment; west along the Sahuarita road alignment to I-19 Exit 75; south on I-19 to Grand Avenue (U.S. Hwy 89).

Unit 34B – Beginning at AZ Hwy 83 and I-10 Exit 281; easterly on I-10 to the San Pedro River; south along the San Pedro River to AZ Hwy 82; westerly on AZ Hwy 82 to AZ Hwy 83; northerly on AZ Hwy 83 to I-10 Exit 281.

Unit 35A – Beginning on the U.S.-Mexico border at the San Pedro River; west along the border to Lochiel Rd.; north on Lochiel Rd. to Patagonia San Rafael Rd.; north on the Patagonia San Rafael Rd. to San Rafael Valley-FS 58 Rd.; north on the San Rafael Valley-FS 58 Rd. to

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Christian Ln.; north on the Christian Ln. to Ranch Rd.; east and north on the Ranch Rd. to FR 799-Canelo Pass Rd.; northeasterly on the FR 799-Canelo Pass Rd. to AZ Hwy 83; northwesterly on the AZ Hwy 83 to Elgin Canelo Rd.; northeasterly on the Elgin-Canelo Rd. to Upper Elgin Rd.; north on the Upper Elgin Rd. to AZ Hwy 82; easterly on AZ Hwy 82 to the San Pedro River; south along the San Pedro River to the U.S.-Mexico border.

Unit 35B – Beginning at Grand Avenue (U.S. Hwy 89) at the U.S.-Mexico border in Nogales; east along the U.S.-Mexico border to Lochiel Rd.; north on the Lochiel Rd. to Patagonia San Rafael Rd.; north on the Patagonia San Rafael Rd. to San Rafael Valley-FS 58 Rd.; north on the San Rafael Valley-FS 58 Rd. to Christian Ln.; north on the Christian Ln. to Ranch Rd.; east and north on the Ranch Rd. to FR 799-Canelo Pass Rd.; northeasterly on FR 799-Canelo Pass Rd. to AZ Hwy 83; northwesterly on the AZ Hwy 83 to Elgin Canelo Rd.; north on the Elgin Canelo Rd. to Upper Elgin Rd.; north on the Upper Elgin Rd. to AZ Hwy 82; southwest on AZ Hwy 82 to Grand Avenue; southwest on Grand Avenue to the U.S.-Mexico border.

Unit 36A – Beginning at the junction of Sandario Rd. and AZ Hwy 86; southwesterly on AZ Hwy 86 to AZ Hwy 286; southerly on AZ Hwy 286 to the Arivaca-Sasabe Rd.; southeasterly on the Arivaca-Sasabe Rd. to the town of Arivaca; from the town of Arivaca northeasterly on the Arivaca Rd. to I-19; north on I-19 to the southern boundary of the San Xavier Indian Reservation boundary; westerly and northerly along the reservation boundary to the Sandario road alignment; north on Sandario Rd. to AZ Hwy 86.

Unit 36B – Beginning at I-19 and Grand Avenue (U.S. Hwy 89) in Nogales; southwest on Grand Avenue to the U.S.-Mexico border; west along the U.S.-Mexico border to AZ Hwy 286; north on AZ Hwy 286 to the Arivaca-Sasabe Rd.; southeasterly on the Arivaca-Sasabe Rd. to the town of Arivaca; from the town of Arivaca northeasterly on the Arivaca Rd. to I-19; south on I-19 to Grand Avenue (U.S. Hwy 89).

Unit 36C – Beginning at the junction of AZ Hwy 86 and AZ Hwy 286; southerly on AZ Hwy 286 to the U.S.-Mexico border; westerly along the border to the east boundary of the Tohono O'odham (Papago) Indian Reservation; northerly along the reservation boundary to AZ Hwy 86; easterly on AZ Hwy 86 to AZ Hwy 286.

Unit 37A – Beginning at the junction of I-10 and Tangerine Rd. (Exit 240); southeast on I-10 to Avra Valley Rd. (Exit 242); west on Avra Valley Rd. to Sandario Rd.; south on Sandario Rd. to AZ Hwy 86; southwest on AZ Hwy 86 to the Tohono O'odham Nation boundary; north, east, and west along this boundary to Battaglia Rd.; east on Battaglia Rd. to Toltec Rd.; north on Toltec Rd. to I-10 (Exit 203); southeast on I-10 to AZ Hwy 87 (Exit 211); north on AZ Hwy 87 to AZ Hwy 287; east on AZ Hwy 287 to AZ Hwy 79 at Florence; southeast on AZ Hwy 79 to its junction with AZ Hwy 77; south on AZ Hwy 77 to Tangerine Rd.; west on Tangerine Rd. to I-10.

Unit 37B – Beginning at the junction of AZ Hwy 79 and AZ Hwy 77; northwest on AZ Hwy 79 to U.S. Hwy 60; east on U.S. Hwy 60 to AZ Hwy 177; southeast on AZ

Hwy 177 to AZ Hwy 77; southeast and southwest on AZ Hwy 77 to AZ Hwy 79.

Unit 38M – Beginning at the junction of I-10 and Tangerine Rd. (Exit 240); southeast on I-10 to Avra Valley Rd. (Exit 242); west on Avra Valley Rd. to Sandario Rd.; south on Sandario Rd. to the San Xavier Indian Reservation boundary; south and east along the reservation boundary to I-19; south on I-19 to Sahuarita Rd. (Exit 75); east on Sahuarita Rd. to AZ Hwy 83; north on AZ Hwy 83 to I-10 (Exit 281); east on I-10 to Marsh Station Rd. (Exit 289); northwest on Marsh Station Rd. to the Agua Verde Rd.; north on the Agua Verde Rd. to its terminus, then north 1/2 mile to the Coronado National Forest boundary; north and west along the National Forest boundary, then west, north, and east along the Saguaro National Park boundary; continuing north and west along the Coronado National Forest boundary to the southern boundary of Catalina State Park; west along the southern boundary of Catalina State Park to AZ Hwy 77; north on AZ Hwy 77 to Tangerine Rd.; west on Tangerine Rd. to I-10.

Unit 39 – Beginning at AZ Hwy 85 and the Gila River; east along the Gila River to the western boundary of the Gila River Indian Community; southeasterly along this boundary to AZ Hwy 347 (John Wayne Parkway); south on AZ Hwy 347 (John Wayne Parkway) to AZ Hwy 84; east on AZ Hwy 84 to Stanfield; south on the Stanfield-Cocklebur Rd. to I-8; westerly on I-8 to Exit 87; northerly on the Agua Caliente Rd. to the Hyder Rd.; northeasterly on Hyder Rd. to 555th Ave.; north on 555th Ave. to Lahman Rd.; east on Lahman Rd., which becomes Agua Caliente Rd.; northeasterly on Agua Caliente Rd. to Old Hwy 80; northeasterly on Old Hwy 80 to Arizona Hwy 85; southerly on AZ Hwy 85 to the Gila River; except those portions that are sovereign tribal lands of the Tohono O'odham Nation and the Ak-Chin Indian Community.

Unit 40A – Beginning at Ajo; southeasterly on AZ Hwy 85 to Why; southeasterly on AZ Hwy 86 to the Tohono O'odham (Papago) Indian Reservation; northerly and easterly along the reservation boundary to the Cocklebur-Stanfield Rd.; north on the Cocklebur-Stanfield Rd. to I-8; westerly on I-8 to AZ Hwy 85; southerly on AZ Hwy 85 to Ajo.

Unit 40B – Beginning at Gila Bend; westerly on I-8 to the Colorado River; southerly along the Colorado River to the Mexican border at San Luis; southeasterly along the border to the Cabeza Prieta National Wildlife Refuge; northerly, easterly and southerly around the refuge boundary to the Mexican border; southeast along the border to the Tohono O'odham (Papago) Indian Reservation; northerly along the reservation boundary to AZ Hwy 86; northwesterly on AZ Hwy 86 to AZ Hwy 85; north on AZ Hwy 85 to Gila Bend; except those portions that are sovereign tribal lands of the Cocopah Tribe.

Unit 41 – Beginning at I-8 and U.S. Hwy 95 (in Yuma); easterly on I-8 to exit 87; northerly on the Agua Caliente Rd. to the Hyder Rd.; northeasterly on Hyder Rd. to 555th Ave.; north on 555th Ave. to Lahman Rd.; east on Lahman Rd., which becomes Agua Caliente Rd.; northeasterly on Agua Caliente Rd. to Old Hwy 80; northeasterly on Old Hwy 80 to Arizona Hwy 85; northerly on AZ Hwy 85 to Oglesby Rd.; north on Oglesby Rd. to I-10; westerly on I-10 to Exit 45; southerly on Vicksburg-Kofa

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National Wildlife Refuge Rd. to the Refuge boundary; easterly, southerly, westerly, and northerly along the boundary to the Castle Dome Rd.; southwesterly on the Castle Dome Rd. to U.S. Hwy 95; southerly on U.S. Hwy 95 to I-8.

Unit 42 – Beginning at the junction of the Beardsley Canal and U.S. Hwy 93 (U.S. 89, U.S. 60); northwesterly on U.S. Hwy 93 to AZ Hwy 71; southwesterly on AZ Hwy 71 to U.S. Hwy 60; westerly on U.S. Hwy 60 to Aguila; south on the Eagle Eye Rd. to the Salome-Hassayampa Rd.; southeasterly on the Salome-Hassayampa Rd. to I-10 (Exit 81); easterly on I-10 to Jackrabbit Trail (Exit 121); north along Jackrabbit Trail to the Indian School road; east along Indian School Rd. to the Beardsley Canal; northeasterly along the Beardsley Canal to U.S. Hwy 93.

Unit 43A – Beginning at U.S. Hwy 95 and the Bill Williams River; west along the Bill Williams River to the Arizona-California state line; southerly to the south end of Cibola Lake; northerly and easterly on the Cibola Lake Rd. to U.S. Hwy 95; south on U.S. Hwy 95 to the Stone Cabin-King Valley Rd. (King Rd.); east along the Stone Cabin-King Valley Rd. (King Rd.) to the west boundary of the Kofa National Wildlife Refuge; northerly along the refuge boundary to the Crystal Hill Rd. (Blevens Rd.); northwesterly on the Crystal Hill Rd. (Blevens Rd.) to U.S. Hwy 95; northerly on U.S. Hwy 95 to the Bill Williams River; except those portions that are sovereign tribal lands of the Colorado River Indian Tribes.

Unit 43B – Beginning at the south end of Cibola Lake; southerly along the Arizona-California state line to I-8; southeasterly on I-8 to U.S. Hwy 95; easterly and northerly on U.S. Hwy 95 to the Castle Dome road; northeast on the Castle Dome Rd. to the Kofa National Wildlife Refuge boundary; north along the refuge boundary to the Stone Cabin-King Valley Rd. (King Rd.); west along the Stone Cabin-King Valley Rd. (King Rd.) to U.S. Hwy 95; north on U.S. Hwy 95 to the Cibola Lake Rd.; west and south on the Cibola Lake Rd. to the south end of Cibola Lake; except those portions that are sovereign tribal lands of the Quechan Tribe.

Unit 44A – Beginning at U.S. Hwy 95 and the Bill Williams River; south along U.S. Hwy 95 to AZ Hwy 72; southeasterly on AZ Hwy 72 to Vicksburg; south on the Vicksburg-Kofa National Wildlife Refuge Rd. to I-10; easterly on I-10 to the Salome-Hassayampa Rd. (Exit 81); northwesterly on the Salome-Hassayampa Rd. to Eagle Eye Rd.; northeasterly on Eagle Eye Rd. to Aguila; east on U.S. Hwy 60 to AZ Hwy 71; northeasterly on AZ Hwy 71 to U.S. Hwy 93; northwesterly on U.S. Hwy 93 to the Santa Maria River; westerly along the Santa Maria and Bill Williams rivers to U.S. Hwy 95; except those portions that are sovereign tribal lands of the Colorado River Indian Tribes.

Unit 44B – Beginning at Quartzsite; south on U.S. Hwy 95 to the Crystal Hill Rd. (Blevens Rd.); east on the Crystal Hill Rd. (Blevens Rd.) to the Kofa National Wildlife Refuge; north and east along the refuge boundary to the Vicksburg-Kofa National Wildlife Refuge Rd.; north on the Vicksburg-Kofa National Wildlife Refuge Rd. to AZ Hwy 72; northwest on AZ Hwy 72 to U.S. Hwy 95; south on U.S. Hwy 95 to Quartzsite.

Unit 45A – Beginning at the junction of the Stone Cabin-King Valley Rd. (King Rd.) and Kofa National Wildlife Refuge boundary; east on the Stone Cabin-King Valley Rd. (King Rd.) to O-O Junction; north from O-O Junction on the Kofa Mine Rd. to the Evening Star Mine; north on a line over Polaris Mountain to Midwell-Alamo Spring-Kofa Cabin Rd. (Wilbanks Rd.); north on the Midwell-Alamo Spring-Kofa Cabin Rd. (Wilbanks Rd.) to the El Paso Natural Gas Pipeline Rd.; north on a line from the junction to the north boundary of the Kofa National Wildlife Refuge; west and south on the boundary line to Stone Cabin-King Valley Rd. (King Rd.).

Unit 45B – Beginning at O-O Junction; north from O-O Junction on the Kofa Mine Rd. to the Evening Star Mine; north on a line over Polaris Mountain to Midwell-Alamo Spring-Kofa Cabin Rd. (Wilbanks Rd.); north on the Midwell-Alamo Spring-Kofa Cabin Rd. (Wilbanks Rd.) to the El Paso Natural Gas Pipeline Rd.; north on a line from the junction to the north Kofa National Wildlife Refuge boundary; east to the east refuge boundary; south and west along the Kofa National Wildlife Refuge boundary to the Stone Cabin-King Valley Rd. (Wellton-Kofa Rd./Ave 40E); north and west on the Stone Cabin-King Valley Rd. (Wellton-Kofa Rd./Ave 40E) to O-O Junction.

Unit 46A – That portion of the Cabeza Prieta National Wildlife Refuge east of the Yuma-Pima County line.

Unit 46B – That portion of the Cabeza Prieta National Wildlife Refuge west of the Yuma-Pima County line.

Historical Note

Amended as an emergency effective April 10, 1975 (Supp. 75-1). Amended effective March 5, 1976 (Supp. 76-2). Amended effective May 17, 1977 (Supp. 77-3). Amended effective September 7, 1978 (Supp. 78-5). Amended effective June 4, 1979 (Supp. 79-3). Former Section R12-4-10 renumbered as Section R12-4-108 without change effective August 13, 1981 (Supp. 81-4). Amended effective March 1, 1991; filed February 28, 1991 (Supp. 91-1). Amended effective February 4, 1993 (Supp. 93-1). Amended effective January 1, 1996; filed in the Office of the Secretary of State December 18, 1995 (Supp. 95-4). Amended by final rulemaking at 6 A.A.R. 1146, effective July 1, 2000 (Supp. 00-1). Amended by final rulemaking at 7 A.A.R. 865, effective July 1, 2001 (Supp. 01-1). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 18 A.A.R. 1458, effective January 1, 2013 (Supp. 12-2). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).

R12-4-109. Approved Trapping Education Course Fee

Under A.R.S. § 17-333.02(A), the provider of an approved educational course of instruction in responsible trapping and environmental ethics may collect a fee from each participant that:

1. Is reasonable and commensurate for the course, and
2. Does not exceed \$25.

Historical Note

Amended as an emergency effective April 10, 1975 (Supp. 75-1). Amended effective May 3, 1976 (Supp. 76-3). Editorial correction paragraph (14) (Supp. 78-5). Former Section R12-4-11 renumbered as Section R12-4-109 without change effective August 13, 1981 (Supp. 81-4). Amended by adding paragraphs (2) and (3) and renumbering former paragraphs (2) through (17) as paragraphs (4) through (19) effective May 12, 1982 (Supp. 82-3). Amended effective March 1, 1991; filed February 28,

1991 (Supp. 91-1). Section repealed by final rulemaking at 6 A.A.R. 211, effective May 1, 2000 (Supp. 99-4).
New Section made by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3).

R12-4-110. Posting and Access to State Land

A. For the purpose of this Section:

1. "Corrals," "feed lots," or "holding pens" mean completely fenced areas used to contain livestock for purposes other than grazing.
2. "Existing road" means any maintained or unmaintained road, way, highway, trail, or path that has been used for motorized vehicular travel, and clearly shows or has a history of established vehicle use, and is not currently closed by the Commission.
3. "State lands" means all land owned or held in trust by the state that is managed by the State Land Department and lands that are owned or managed by the Game and Fish Commission.

B. In addition to the prohibition against posting prescribed under A.R.S. § 17-304, a person shall not lock a gate, construct a fence, place an obstacle, or otherwise commit an act that denies legally available access to or use of any existing road upon state lands by persons lawfully taking or retrieving wildlife or conducting any activities that are within the scope of and take place while lawfully hunting or fishing.

1. A person in violation of this Section shall take immediate corrective action to remove any lock, fence, or other obstacle unlawfully preventing access to state lands.
2. If immediate corrective action is not taken, a representative of the Department may remove any unlawful posting and remove any lock, fence, or other obstacle that unlawfully prevents access to state lands.
3. In addition, the Department may take appropriate legal action to recover expenses incurred in the removal of any unlawful posting or obstacle that prevented access to state land.

C. The provisions of this Section do not allow any person to trespass upon private land to gain access to any state land.

D. A person may post state lands as closed to hunting, fishing, or trapping without further action by the Commission when the state land is within one-quarter mile of any:

1. Occupied residence, cabin, lodge, or other building; or
2. Corrals, feed lots, or holding pens containing concentrations of livestock other than for grazing purposes.

E. The Commission may grant permission to lock, tear down, or remove a gate or close a road or trail that provides legally available access to state lands for persons lawfully taking wildlife or conducting any activities that are within the scope of and take place while lawfully hunting or fishing if access to such lands is provided by a reasonable alternate route.

1. Under R12-4-610, the Director may grant a permit to a state land lessee to temporarily lock a gate or close an existing road that provides access to state lands if the taking of wildlife will cause unreasonable interference during a critical livestock or commercial operation. This permit shall not exceed 30 days.
2. Applications for permits for more than 30 days shall be submitted to the Commission for approval.
3. If a permit is issued to temporarily close a road or gate, a copy of the permit shall be posted at the point of the closure during the period of the closure.

F. A person may post state lands other than those referenced under subsection (D) as closed to hunting, fishing, or trapping, provided the person has obtained a permit from the Commission authorizing the closure. A person possessing a permit

authorizing the closure of state lands shall post signs in compliance with A.R.S. 17-304(C). The Commission may permit the closure of state land when it is necessary:

1. Because the taking of wildlife constitutes an unusual hazard to permitted users;
2. To prevent unreasonable destruction of plant life or habitat; or
3. For proper resource conservation, use, or protection, including but not limited to high fire danger, excessive interference with mineral development, developed agricultural land, or timber or livestock operations.

G. A person shall submit an application for posting state land to prohibit hunting, fishing, or trapping under subsection (F), or to close an existing road under subsection (E), as required under R12-4-610. If an application to close state land to hunting, fishing, or trapping is made by a person other than the state land lessee, the Department shall provide notice to the lessee and the State Land Commissioner before the Commission considers the application. The state land lessee or the State Land Commissioner shall file any objections with the Department, in writing, within 30 days after receipt of notice, after which the matter shall be submitted to the Commission for determination.

H. A person may use a vehicle on or off a road to pick up lawfully taken big game animals.

I. The closing of state land to hunting, fishing, or trapping shall not restrict any other permitted use of the land.

J. State trust land may be posted with signs that read "State Land No Trespassing," but such posting shall not prohibit access to such land by any person lawfully taking or retrieving wildlife or conducting any activities that are within the scope of and take place while lawfully hunting or fishing.

K. When hunting, fishing, or trapping on state land, a license holder shall not:

1. Break or remove any lock or cut any fence to gain access to state land;
2. Open and not immediately close a gate;
3. Intentionally or wantonly destroy, deface, injure, remove, or disturb any building, sign, equipment, marker, or other property;
4. Harvest or remove any vegetative or mineral resources or object of archaeological, historic, or scientific interest;
5. Appropriately mutilate, deface, or destroy any natural feature, object of natural beauty, antiquity, or other public or private property;
6. Dig, remove, or destroy any tree or shrub;
7. Gather or collect renewable or non-renewable resources for the purpose of sale or barter unless specifically permitted or authorized by law;
8. Frighten or chase domestic livestock or wildlife, or endanger the lives or safety of others when using a motorized vehicle or other means; or
9. Operate a motor vehicle off road or on any road closed to the public by the Commission or landowner, except to retrieve a lawfully taken big game animal.

Historical Note

Adopted effective June 1, 1977 (Supp. 77-3). Editorial correction subsection (F) (Supp. 78-5). Former Section R12-4-13 renumbered as Section R12-4-110 without change effective August 13, 1981 (Supp. 81-4). Amended effective March 1, 1991; filed February 28, 1991 (Supp. 91-1). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).

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R12-4-111. Identification Number

A person applying for a Department identification number, as defined under R12-4-101, shall provide the person's:

1. Full name,
2. Any additional names the person has lawfully used in the past or is known by,
3. Date of birth, and
4. Mailing address.

Historical Note

Amended effective April 22, 1980 (Supp. 80-2). Former Section R12-4-05 renumbered as Section R12-4-111 without change effective August 13, 1981 (Supp. 81-4). Section R12-4-111 repealed effective March 1, 1991; filed February 28, 1991 (Supp. 91-1). New Section adopted effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).

R12-4-112. Diseased, Injured, or Chemically-immobilized Wildlife

- A. A person who lawfully takes and possesses wildlife believed to be diseased, injured, or chemically-immobilized may request an inspection of the wildlife carcass provided:
 1. The wildlife was lawfully taken and possessed under a valid hunt permit- or nonpermit-tag, and
 2. The person who took the wildlife did not create the condition.
- B. The Department, after inspection, may condemn the carcass if it is determined the wildlife is unfit for human consumption. The Department shall condemn chemically-immobilized wildlife only when the wildlife was taken during the immobilizing drug's established withdrawal period.
- C. The person shall surrender the entire condemned wildlife carcass and any parts thereof to the Department.
 1. Upon surrender of the condemned wildlife, the Department shall provide to the person written authorization allowing the person to purchase a duplicate hunt permit- or nonpermit-tag.
 2. The person may purchase a duplicate tag from any Department office or license dealer where the permit-tag is available.
- D. If the duplicate tag is issued by a license dealer, the license dealer shall forward the written authorization to the Department with the report required under R12-4-105(K).

Historical Note

Former Section R12-4-04 renumbered as Section R12-4-112 without change effective August 13, 1981 (Supp. 81-4). Amended effective March 1, 1991; filed February 28, 1991 (Supp. 91-1). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).

R12-4-113. Small Game Depredation Permit

- A. The Department shall issue a small game depredation permit authorizing the take of small game and the allowable methods of take only after the Department has determined all other remedies prescribed under A.R.S. § 17-239(A), (B), and (C) have been exhausted and the take of the small game is necessary to alleviate the property damage. A small game depredation permit is:
 1. A complimentary permit.

2. Not valid for the take of migratory birds unless the permit holder:
 - a. Obtains and possesses a federal special purpose permit under 50 C.F.R. 21.41, revised October 1, 2014, which is incorporated by reference; or
 - b. Is exempt from permitting requirements under 50 C.F.R. 21.43, revised October 1, 2014, which is incorporated by reference;
 - c. For subsections (A)(2)(a) and (b), the incorporated material is available at any Department office, online at www.gpoaccess.gov, or it may be ordered from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000. This incorporation by reference does not include any later amendments or editions of the incorporated material.
- B. A person desiring a small game depredation permit shall submit to the Department an application requesting the permit. The application form is furnished by the Department and is available at any Department office and online at www.azgfd.gov. The person shall provide all of the following information on the form:
 1. Full name or, when submitted by a municipality, the name of the agency and agency contact;
 2. Mailing address;
 3. Telephone number or, when submitted by a municipality, agency contact number;
 4. E-mail address, when available, or, when submitted by a municipality, agency contact e-mail address;
 5. Description of property damage suffered;
 6. Species of animal causing the property damage; and
 7. Area the permit would be valid for.

Historical Note

Adopted effective August 5, 1976 (Supp. 76-4). Former Section R12-4-12 renumbered as Section R12-4-113 without change effective August 13, 1981 (Supp. 81-4). Amended as an emergency effective September 20, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-5). Amended effective May 5, 1986 (Supp. 86-3). Section R12-4-113 repealed, new Section R12-4-113 adopted effective March 1, 1991; filed February 28, 1991 (Supp. 91-1). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).

R12-4-114. Issuance of Nonpermit-tags and Hunt Permit-tags

- A. The Department provides numbered tags for sale to the public. The Department shall ensure each tag:
 1. Includes a transportation and shipping permit as prescribed under A.R.S. §§ 17-332 and 17-371, and
 2. Clearly identifies the animal for which the tag is valid.
- B. If the Commission establishes a big game season for which a hunt number is not assigned, the Department or its authorized agent, or both, shall sell nonpermit-tags.
 1. A person purchasing a nonpermit-tag shall provide all of the following information to a Department office or license dealer at the time of purchase; the applicant's:
 - a. Name,
 - b. Mailing address, and
 - c. Department identification number.
 2. An applicant shall not obtain nonpermit-tags in excess of the bag limit established by Commission Order when it established the season for which the nonpermit-tags are valid.

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- C. If the number of hunt permits for a species in a particular hunt area must be limited, a Commission Order establishes a hunt number for that hunt area and a hunt permit-tag is required to take the species in that hunt area.
1. A person applying for a hunt permit-tag shall submit an application as described under R12-4-104.
 2. The Department shall determine whether a hunt permit-tag will be issued to an applicant as follows:
 - a. The Department shall reserve a maximum of 20% of the hunt permit-tags for each hunt number, except as established under subsection (C)(2)(b), for antelope, bear, deer, elk, javelina, and turkey and reserve a maximum of 20% of the hunt permit-tags for all hunt numbers combined statewide for bighorn sheep and buffalo to issue to persons who have bonus points and shall issue the hunt permit-tags as established under subsection (C)(2)(c).
 - b. For antelope, bear, deer, elk, javelina, and turkey, the Department shall reserve one hunt permit-tag for any hunt number with fewer than five, but more than one, hunt permit-tags and shall issue the tag as established under subsection (C)(2)(c). When this occurs, the Department shall adjust the number of available hunt permit-tags in order to ensure the total number of hunt permit-tags available does not exceed the 20% maximum specified in subsection (C)(2)(a).
 - c. The Department shall issue the reserved hunt permit-tags for hunt numbers that eligible applicants designate as their first or second choices. The Department shall issue the reserved hunt permit-tags by random selection:
 - i. First, to eligible applicants with the highest number of bonus points for that genus;
 - ii. Next, if there are reserved hunt permit-tags remaining, to eligible applicants with the next highest number of bonus points for that genus; and
 - iii. If there are still tags remaining, to the next eligible applicants with the next highest number of bonus points; continuing in the same manner until all of the reserved tags have been issued or until there are no more applicants for that hunt number who have bonus points.
 - d. The Department shall ensure that all unreserved hunt permit-tags are issued by random selection:
 - i. First, to hunt numbers designated by eligible applicants as their first or second choices; and
 - ii. Next, to hunt numbers designated by eligible applicants as their third, fourth, or fifth choices.
 - e. Before each of the three passes listed under (C)(2)(c)(i),(ii), and (iii), each application is processed through the Department's random number generator program. A random number is assigned to each application; an additional random number is assigned to each application for each group bonus point, including the Hunter Education and Loyalty bonus points. Only the lowest random number generated for an application is used in the computer draw process. A new random number is generated for each application for each pass of the computer draw.
 - f. If the bag limit is more than one per calendar year, or if there are unissued hunt permit-tags remaining after the random computer draw, the Department shall ensure these hunt permit-tags are available on a first-come, first-served basis as specified in the annual hunt permit-tag application schedule.
- D. A person may purchase hunt permit-tags equal to the bag limit for a genus.
1. A person shall not exceed the established bag limit for that genus.
 2. A person shall not apply for any additional hunt-permit-tags if the person has reached the bag limit for that genus during the same calendar year.
 3. A person who surrenders a tag in compliance with R12-4-118 is eligible to apply for another hunt permit-tag for the same genus during the same calendar year, provided the person has not reached the bag limit for that genus.
- E. The Department shall make available to nonresidents:
1. For bighorn sheep and buffalo, no more than one hunt permit-tag or 10% of the total hunt permit-tags, whichever is greater, for bighorn sheep or buffalo in any computer draw. The Department shall not make available more than 50% nor more than two bighorn sheep or buffalo hunt permit-tags of the total in any hunt number.
 2. For antelope, antlered deer, bull elk, or turkey, no more than 10%, rounded down to the next lowest number, of the total hunt permit-tags in any hunt number. If a hunt number for antelope, antlered deer, bull elk, or turkey has 10 or fewer hunt permit-tags, no more than one hunt permit-tag will be made available unless the hunt number has only one hunt permit-tag, then that tag shall only be available to a resident.
- F. The Commission may, at a public meeting, increase the number of hunt permit-tags issued to nonresidents in a computer draw when necessary to meet management objectives.
- G. The Department shall not issue under subsection (C)(2)(c), more than half of the hunt permit-tags made available to nonresidents under subsection (E).
- H. A nonresident cap established under this Section applies only to hunt permit-tags issued by computer draw under subsections (C)(2)(c) and (d).

Historical Note

Adopted effective March 1, 1991; filed February 28, 1991 (Supp. 91-1). Amended effective January 1, 1993; filed December 18, 1992 (Supp. 92-4). Amended effective January 1, 1996; filed in the Office of the Secretary of State December 18, 1995 (Supp. 95-4). Amended effective January 1, 1997; filed with the Office of the Secretary of State November 7, 1996 (Supp. 96-4). Amended by final rulemaking at 9 A.A.R. 610, effective April 6, 2003 (Supp. 03-1). Amended by final rulemaking at 11 A.A.R. 1183, effective May 2, 2005 (Supp. 05-1). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).

R12-4-115. Restricted Nonpermit-Tags; Supplemental Hunts and Hunter Pool

- A. For the purposes of this Section, the following definitions apply:

“Companion tag” means a restricted nonpermit-tag valid for a supplemental hunt prescribed by Commission Order that exactly matches the season dates and open areas of another big game hunt, for which a hunt number is assigned and hunt permit-tags are issued through the computer draw.

“Emergency season” means a season established for reasons constituting an immediate threat to the health, safety

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or management of wildlife or its habitat, or public health or safety.

“Management objectives” means goals, recommendations, or guidelines contained in Department or Commission-approved wildlife management plans, which include hunt guidelines, operational plans, or hunt recommendations;

“Hunter pool” means all persons who have submitted an application for a supplemental hunt.

“Restricted nonpermit-tag” means a permit limited to a season for a supplemental hunt established by the Commission for the following purposes:

Take of depredating wildlife as authorized under A.R.S. § 17-239;

Take of wildlife under an Emergency Season; or

Take of wildlife under a population management hunt if the Commission has prescribed nonpermit-tags by Commission Order for the purpose of meeting management objectives because regular seasons are not, have not been, or will not be sufficient or effective to achieve management objectives.

- B. The Commission shall, by Commission Order, open a season or seasons and prescribe a maximum number of restricted nonpermit-tags to be made available under this Section.
- C. The Department shall implement a population management hunt under the open season or seasons established under subsection (B) if the Department determines the:
 1. Regular seasons have not met or will not meet management objectives;
 2. Take of wildlife is necessary to meet management objectives; and
 3. Issuance of a specific number of restricted nonpermit-tags is likely to meet management objectives.
- D. To implement a population management hunt established by Commission Order, the Department shall:
 1. Select season dates, within the range of dates listed in the Commission Order;
 2. Select specific hunt areas, within the range of hunt areas listed in the Commission Order;
 3. Select the legal animal that may be taken from the list of legal animals identified in the Commission Order;
 4. Determine the number of restricted nonpermit-tags that will be issued from the maximum number of tags authorized in the Commission Order.
 - a. The Department shall not issue more restricted nonpermit-tags than the maximum number prescribed by Commission Order.
 - b. A restricted nonpermit-tag is valid only for the supplemental hunt for which it is issued.
- E. The provisions of R12-4-104, R12-4-107, R12-4-114, and R12-4-609 do not apply to a supplemental hunt.
- F. If the Department anticipates the normal fee structure will not generate adequate participation, then the Department may reduce restricted nonpermit-tag fees up to 75%, as authorized under A.R.S. § 17-239(D).
- G. A supplemental hunt application submitted in accordance with this Section does not invalidate any other application submitted by the person for a hunt permit-tag.
 1. The Department shall not accept a group application, as defined under R12-4-104, for a restricted nonpermit-tag.
 2. An applicant shall not apply for or obtain a restricted nonpermit-tag to take wildlife in excess of the bag limit established by Commission Order.
3. The issuance of a restricted nonpermit-tag does not authorize a person to exceed the bag limit established by Commission Order.
- H. To participate in a supplemental hunt, a person shall:
 1. Obtain a restricted nonpermit-tag as prescribed under this Section, and
 2. Possess a valid hunting license. If the applicant does not possess a valid license or the license will expire before the supplemental hunt, the applicant shall purchase an appropriate license.
- I. The Department or its authorized agent shall maintain a hunter pool for supplemental hunts other than companion tag hunts.
 1. The Department shall purge and renew the hunter pool on an annual basis.
 2. An applicant for a restricted nonpermit-tag under this subsection shall submit a hunt permit-tag application to the Department. The application is available at any Department office, an authorized agent, or online at www.azgfd.gov. The applicant shall provide all of the following information on the application:
 - a. The applicant's:
 - i. Name,
 - ii. Mailing address,
 - iii. Number of years of residency immediately preceding application,
 - iv. Date of birth, and
 - v. Daytime and evening telephone numbers,
 - b. The species that the applicant would like to hunt, if selected,
 - c. The applicant's hunting license number.
 3. In addition to the requirements established under subsection (I)(2), at the time of application the applicant shall submit the application fee required under R12-4-102.
 4. When issuing a restricted nonpermit-tag, the Department or its authorized agent shall randomly select applicants from the hunter pool.
 - a. The Department or its authorized agent shall attempt to contact each randomly-selected applicant by telephone at least three times within a 24-hour period.
 - b. If an applicant cannot be contacted or is unable to participate in the supplemental hunt, the Department or its authorized agent shall return the application to the hunter pool and draw another application.
 - c. In compliance with subsection (D)(4), the Department or its authorized agent shall select no more applications after the number of restricted nonpermit-tags established by Commission Order are issued.
 5. The Department shall reserve a restricted nonpermit-tag for an applicant only for the period specified by the Department when contact is made with the applicant. If an applicant fails to purchase the nonpermit-tag within the specified period, the Department or its authorized agent shall:
 - a. Remove the person's application from the hunter pool, and
 - b. Offer that restricted nonpermit-tag to another person whose application is drawn from the hunter pool as established under this Section.
 6. A person who participates in a supplemental hunt through the hunter pool shall be removed from the supplemental hunter pool for the genus for which the person participated. A hunter pool applicant who is selected and who wishes to participate in a supplemental hunt shall submit the following to the Department to obtain a restricted nonpermit-tag:

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- a. The fee for the tag as established under R12-4-102 or subsection (F) if the fee has been reduced, and
 - b. The applicant's hunting license number. The applicant shall possess an appropriate license that is valid at the time of the supplemental hunt. The applicant shall purchase a license at the time of application when:
 - i. The applicant does not possess a valid license, or
 - ii. The applicant's license will expire before the supplemental hunt.
 - 7. A person who participates in a supplemental hunt shall not reapply for the hunter pool for that genus until the hunter pool is renewed.
 - J.** The Department shall only make a companion tag available to a person who possesses a matching hunt permit-tag and not a person from the hunter pool. Authorization to issue a companion tag occurs when the Commission establishes a hunt in Commission Order under subsection (B).
 - 1. The requirements of subsection (D) are not applicable to a companion tag issued under this subsection.
 - 2. To obtain a companion tag under this subsection, an applicant shall submit a hunt permit-tag application to the Department. The application is available at any Department office and online at www.azgfd.gov. The applicant shall provide all of the following information on the application, the applicant's:
 - a. Name,
 - b. Mailing address,
 - c. Department identification number, and
 - d. Hunt permit-tag number, to include the hunt number and permit number, corresponding with the season dates and open areas of the supplemental hunt.
 - 3. In addition to the requirements established under subsection (J)(2), at the time of application the applicant shall:
 - a. Provide verification that the applicant lawfully obtained the hunt permit-tag for the hunt described under this subsection by presenting the hunt permit-tag to a Department office for verification, and
 - b. Submit all applicable fees required under R12-4-102.
- unlawful activity will then become eligible to receive a reward as established under subsections (C) and (D), provided funds are available in the Wildlife Theft Prevention Fund and:
- 1. The person who reported the violation provides the Operation Game Thief control number issued by Department law enforcement personnel, as established under subsection (B);
 - 2. The information provided relates to a violation of any provisions of A.R.S. Title 17, A.A.C. Title 12, Chapter 4, or federal wildlife laws enforced by and under the jurisdiction of the Department, but not on Indian Reservations;
 - 3. The person did not first provide information during a criminal investigation or judicial proceeding; and
 - 4. The person who reports the violation is not:
 - a. The person who committed the violation,
 - b. A peace officer,
 - c. A Department employee, or
 - d. An immediate family member of a Department employee.
 - B.** The Department shall inform the person providing information regarding a wildlife violation of the procedure for claiming a reward if the information results in an arrest. The Department shall also provide the person with the control number assigned to the reported violation.
 - C.** Reward payments for information that results in an arrest for the reported violation are as follows:
 - 1. For cases that involve antelope, eagles, bear, bighorn sheep, buffalo, deer, elk, javelina, mountain lion, turkey, or endangered or threatened wildlife as defined under R12-4-401, \$500;
 - 2. For cases that involve wildlife that are not listed under subsection (C)(1), a minimum of \$50, not to exceed \$150, except for additional amounts authorized under subsection (C)(3); and
 - 3. For cases that involve any wildlife, an additional \$1,000 may be made available based on:
 - a. The value of the information;
 - b. The unusual value of the wildlife;
 - c. The number of individual animals taken;
 - d. Whether or not the person who committed the unlawful act was arrested for commercialization of wildlife; and
 - e. Whether or not the person who committed the unlawful act is a repeat offender.
 - D.** If more than one person independently provides information or evidence that leads to an arrest for a violation, the Department may divide the reward payment among the persons who provided the information if the total amount of the reward payment does not exceed the maximum amount of a monetary reward established under subsections (C) or (E);
 - E.** Notwithstanding subsection (C), the Department may offer and pay a reward up to the minimum civil damage value of the wildlife unlawfully taken, wounded or killed, or unlawfully possessed as prescribed under A.R.S. § 17-314, if the Department believes that an enhanced reward offer is merited due to the specific circumstances of the case.

Historical Note

Adopted effective June 13, 1977 (Supp. 77-3). Former Section R12-4-14 renumbered as Section R12-4-115 without change effective August 13, 1981 (Supp. 81-4). Former Section R12-4-115 renumbered as Section R12-4-607 without change effective December 22, 1987 (Supp. 87-4). New Section R12-4-115 adopted effective March 1, 1991; filed February 28, 1991 (Supp. 91-1). Amended effective January 1, 1993; filed December 18, 1992 (Supp. 92-4). Amended by final rulemaking at 9 A.A.R. 610, effective April 6, 2003 (Supp. 03-1). Amended by final rulemaking at 11 A.A.R. 991, effective April 2, 2005; amended by final rulemaking at 11 A.A.R. 1177, effective May 2, 2005 (Supp. 05-1). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).

R12-4-116. Reward Payments

- A.** Subject to the restrictions prescribed under A.R.S. § 17-315, a person may claim a reward from the Department when the person provides information that leads to an arrest through the Operation Game Thief Program. The person who reports the

Historical Note

Adopted effective January 10, 1979 (Supp. 79-1). Former Section R12-4-15 renumbered as Section R12-4-116 without change effective August 13, 1981 (Supp. 81-4). Amended effective December 18, 1985 (Supp. 85-6). Section R12-4-116 repealed, new Section R12-4-116 adopted effective March 1, 1991; filed February 28, 1991 (Supp. 91-1). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by

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final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).

R12-4-117. Indian Reservations

A state license, permit, or tag is not required to hunt or fish on any Indian reservation in this State. Wildlife lawfully taken on an Indian reservation may be transported or processed anywhere in the State if it can be identified as to species and legality as provided in A.R.S. § 17-309(A)(19). All wildlife transported anywhere in this State is subject to inspection under the provisions of A.R.S. § 17-211(E)(4).

Historical Note

Former Section R12-4-02 renumbered as Section R12-4-117 without change effective August 13, 1981 (Supp. 81-4). Former Section R12-4-117 repealed, new Section R12-4-117 adopted effective April 10, 1984 (Supp. 84-2). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).

R12-4-118. Hunt Permit-tag Surrender

- A.** The Commission authorizes the Department to implement a tag surrender program if the Director finds:
1. The Department has the administrative capacity to implement the program;
 2. There is public interest in such a program; or
 3. The tag surrender program is likely to meet the Department's revenue objectives.
- B.** The tag surrender program is limited to a person who has a valid and active membership in a Department membership program.
1. The Department may establish a membership program that offers a person various products and services.
 2. The Department may establish different membership levels based on the type of products and services offered and set prices for each level.
 - a. The lowest membership level may include the option to surrender one hunt permit-tag during the membership period.
 - b. A higher membership level may include the option to surrender more than one hunt permit-tag during the membership period.
 3. The Department may establish terms and conditions for the membership program in addition to the following:
 - a. Products and services to be included with each membership level.
 - b. Membership enrollment is available online only and requires a person to create a portal account.
 - c. Membership is not transferable.
 - d. No refund shall be made for the purchase of a membership, unless an internal processing error resulted in the collection of erroneous fees.
- C.** The tag surrender program is restricted to the surrender of an original, unused hunt permit-tag obtained through a computer draw.
1. A person must have a valid and active membership in the Department's membership program with at least one unredeemed tag surrender that was valid:
 - a. On the application deadline date for the computer draw in which the hunt permit-tag being surrendered was drawn, and
 - b. At the time of tag surrender.
 2. A person who chooses to surrender an original, unused hunt permit-tag shall do so prior to the close of business the day before the hunt begins for which the tag is valid.

3. A person may surrender an unused hunt permit-tag for a specific species only once before any bonus points accrued for that species must be expended.
- D.** To surrender an original, unused hunt permit-tag, a person shall comply with all of the following conditions:
1. A person shall submit a completed application form to any Department office. The application form is available at any Department office and online at www.azgfd.gov. The applicant shall provide all of the following information on the application form:
 - a. The applicant's:
 - i. Name,
 - ii. Mailing address,
 - iii. Department identification number,
 - iv. Membership number,
 - b. Applicable hunt number,
 - c. Applicable hunt permit-tag number, and
 - d. Any other information required by the Department.
 2. A person shall surrender the original, unused hunt permit-tag as required under subsection (C) in the manner described by the Department as indicated on the application form.
- E.** Upon receipt of an original, unused hunt permit-tag surrendered in compliance with this Section, the Department shall:
1. Restore the person's bonus points that were expended for the surrendered tag, and
 2. Award the bonus point the person would have accrued had the person been unsuccessful in the computer draw for the surrendered tag.
 3. Not refund any fees the person paid for the surrendered tag, as prohibited under A.R.S. § 17-332(E).
- F.** The Department may, at its sole discretion, re-issue or destroy the surrendered original, unused hunt permit-tag. When re-issuing a tag, the Department may use any of the following methods in no order of preference:
1. Re-issuing the surrendered tag, beginning with the highest membership level in the Department's membership program, to a person who has a valid and active membership in that membership level and who would have been next to receive a tag for that hunt number, as evidenced by the random numbers assigned during the Department's computer draw process;
 2. Re-issuing the surrendered tag to a person who has a valid and active membership in any tier of the Department's membership program with a tag surrender option and who would have been next to receive a tag for that hunt number, as evidenced by the random numbers assigned during the Department's computer draw process;
 3. Re-issuing the surrendered tag to an eligible person who would have been next to receive a tag for that hunt number, as evidenced by the random numbers assigned during the Department's computer draw process; or
 4. Offering the surrendered tag through the first-come, first-served process.
- G.** For subsections (F)(1), (2), and (3); if the Department cannot contact a person qualified to receive a tag or the person declines to purchase the surrendered tag, the Department shall make a reasonable attempt to contact and offer the surrendered tag to the next person qualified to receive a tag for that hunt number based on the assigned random number during the Department's computer draw process. This process will continue until the surrendered tag is either purchased or the number of persons qualified is exhausted. For purposes of subsections (G) and (H), the term "qualified" means a person who satisfies the conditions for re-issuing a surrendered tag as

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provided under the selected re-issuing method.

- H. When the re-issuance of a surrendered tag involves a group application and one or more members of the group is qualified under the particular method for re-issuing the surrendered tag, the Department shall offer the surrendered tag first to the applicant designated "A" if qualified to receive a surrendered tag.
 1. If applicant "A" chooses not to purchase the surrendered tag or is not qualified, the Department shall offer the surrendered tag to the applicant designated "B" if qualified to receive a surrendered tag.
 2. This process shall continue with applicants "C" and then "D" until the surrendered tag is either purchased or all qualified members of the group application choose not to purchase the surrendered tag.
- I. A person who receives a surrendered tag shall submit the applicable tag fee as established under R12-4-102 and provide their valid hunting license number.
 1. A person receiving the surrendered tag as established under subsections (F)(1), (2), and (3) shall expend all bonus points accrued for that genus, except any accrued Hunter Education and loyalty bonus points.
 2. The applicant shall possess a valid hunting license at the time of purchasing the surrendered tag and at the time of the hunt for which the surrendered tag is valid. If the person does not possess a valid license at the time the surrendered tag is offered, the applicant shall purchase a license in compliance with R12-4-104.
 3. The issuance of a surrendered tag does not authorize a person to exceed the bag limit established by Commission Order.
 4. It is unlawful for a person to purchase a surrendered tag when the person has reached the bag limit for that genus during the same calendar year.
- J. A person is not eligible to petition the Commission under R12-4-611 for reinstatement of any expended bonus points, except as authorized under R12-4-107(M).
- K. For the purposes of this Section and R12-4-121, "valid and active membership" means a paid and unexpired membership in any level of the Department's membership program.

Historical Note

Adopted effective April 8, 1983 (Supp. 83-2). Section R12-4-118 repealed effective March 1, 1991; filed February 28, 1991 (Supp. 91-1). New Section made by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).

R12-4-119. Arizona Game and Fish Department Reserve

- A. The Commission shall establish an Arizona Game and Fish Department Reserve under A.R.S. § 17-214, consisting of commissioned reserve officers and noncommissioned reserve volunteers.
- B. Commissioned reserve officers shall:
 1. Meet and maintain the minimum qualifications and training requirements necessary for peace officer certification by the Arizona Peace Officer Standards and Training Board as prescribed under 13 A.A.C. 4, and
 2. Assist with wildlife enforcement patrols, boating enforcement patrols, off-highway vehicle enforcement patrols, special investigations, and other enforcement and related non-enforcement duties as the Director designates.
- C. Noncommissioned reserve volunteers shall:
 1. Meet qualifications that the Director determines are related to the services to be performed by the volunteer and the success or safety of the program mission, and

2. Perform any non-enforcement duties designated by the Director for the purposes of conservation and education to maximize paid staff time.

Historical Note

Adopted effective September 29, 1983 (Supp. 83-5). Section R12-4-119 repealed, new Section R12-4-119 adopted effective March 1, 1991; filed February 28, 1991 (Supp. 91-1). Amended by final rulemaking at 8 A.A.R. 1702, effective March 11, 2002 (Supp. 02-1). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).

R12-4-120. Issuance, Sale, and Transfer of Special Big Game License-tags

- A. An incorporated nonprofit organization that is tax exempt under section 501(c) seeking special big game license-tags as authorized under A.R.S. § 17-346 shall submit a proposal to the Director of the Arizona Game and Fish Department from March 1 through May 31 preceding the year when the tags may be legally used. The proposal shall include all of the following information for each member of the organization coordinating the proposal:
 1. The name of the organization making the proposal and the:
 - a. Name;
 - b. Mailing address;
 - c. E-mail address, when available; and
 - d. Telephone number;
 2. Organization's previous involvement with wildlife management;
 3. Organization's conservation objectives;
 4. Number of special big game license-tags and the species requested;
 5. Purpose to be served by the issuance of these tags;
 6. Method or methods by which the tags will be marketed and sold;
 7. Proposed fund raising plan;
 8. Estimated amount of money to be raised and the rationale for that estimate;
 9. Any special needs or particulars relevant to the marketing of the tags;
 10. A copy of the organization's articles of incorporation and evidence that the organization has tax-exempt status under Section 501(c) of the Internal Revenue Code, unless a current and correct copy is already on file with the Department;
 11. Statement that the person or organization submitting the proposal agrees to the conditions established under A.R.S. § 17-346 and this Section;
 12. Printed name and signature of the president and secretary-treasurer of the organization or their equivalent; and
 13. Date of signing.
- B. The Director shall return to the organization any proposal that does not comply with the requirements established under A.R.S. § 17-346 and this Section. Because proposals are reviewed for compliance after the May 31 deadline, an organization that receives a returned proposal cannot resubmit a corrected proposal, but may submit a proposal that complies with the requirements established under A.R.S. § 17-346 and this Section the following year.
- C. The Director shall submit all timely and valid proposals to the Commission for consideration.
 1. In selecting an organization, the Commission shall consider the:
 - a. Written proposal;

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- b. Proposed uses for tag proceeds;
 - c. Qualifications of the organization as a fund raiser;
 - d. Proposed fund raising plan;
 - e. Organization's previous involvement with wildlife management; and
 - f. Organization's conservation objectives.
 - 2. The Commission may accept any proposal in whole or in part and may reject any proposal if it is in the best interest of wildlife to do so.
 - 3. Commission approval and issuance of any special big game license-tag is contingent upon compliance with this Section.
 - D.** A successful organization shall agree in writing to all of the following:
 - 1. To underwrite all promotional and administrative costs to sell and transfer each special big game license-tag;
 - 2. To transfer all proceeds to the Department within 90 days of the date that the organization sells or awards the tag;
 - 3. To sell and transfer each special big game license-tag as described in the proposal; and
 - 4. To provide the Department with the name, address, and physical description of each person to whom a special big game license-tag is transferred.
 - E.** The Department and the successful organization shall coordinate on:
 - 1. The specific projects or purposes identified in the proposal;
 - 2. The arrangements for the deposit of the proceeds, the accounting procedures, and final audit; and
 - 3. The dates when the wildlife project or purpose will be accomplished.
 - F.** The Department shall dedicate all proceeds generated by the sale or transfer of a special big game license-tag to the management of the species for which the tag was issued.
 - a. A special license-tag shall not be issued until the Department receives all proceeds from the sale of license-tags.
 - b. The Department shall not refund proceeds.
 - G.** A special big game license-tag is valid only for the person named on the tag, for the season dates on the tag, and for the species for which the tag was issued.
 - 1. A hunting license is not required for the tag to be valid.
 - 2. Possession of a special big game license-tag shall not invalidate any other big game tag or application for any other big game tag.
 - 3. Wildlife taken under the authority of a special big game license-tag shall not count towards the established bag limit for that species.
- Historical Note**
- Adopted effective September 22, 1983 (Supp. 83-5). Amended effective April 7, 1987 (Supp. 87-2). Correction, balance of language in subsection (I) is deleted as certified effective April 7, 1987 (Supp. 87-4). Amended effective March 1, 1991; filed February 28, 1991 (Supp. 91-1). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).
- R12-4-121. Big Game Tag Transfer**
- A.** For the purposes of this Section:
- “Authorized nonprofit organization” means a nonprofit organization approved by the Department to receive donated unused tags.
- “Unused tag” means a big game hunt permit-tag, nonpermit-tag, or special license tag that has not been attached to any animal.
- B.** A parent, grandparent, or guardian issued a big game hunt permit-tag, nonpermit-tag, or special license tag may transfer the unused tag to the parent's, grandparent's, or guardian's minor child or grandchild.
1. A parent, grandparent, or guardian issued a tag may transfer the unused tag to a minor child or grandchild at any time prior to the end of the season for which the unused tag was issued.
 2. A parent, grandparent, or guardian may transfer the unused tag by providing all of the following documentation in person at any Department office:
 - a. Proof of ownership of the unused tag to be transferred,
 - b. The unused tag, and
 - c. The minor's valid hunting license.
 3. If a parent, grandparent, or legal guardian is deceased, the personal representative of the person's estate may transfer an unused tag to an eligible minor. The person acting as the personal representative shall present:
 - a. The deceased person's death certificate, and
 - b. Proof of the person's authority to act as the personal representative of the deceased person's estate.
 4. To be eligible to receive an unused tag from a parent, grandparent, or legal guardian, the minor child shall meet the criteria established under subsection (D).
 5. A minor child or grandchild receiving an unused tag from a parent, grandparent, or legal guardian shall be accompanied into the field by any grandparent, parent, or legal guardian of the minor child.
- C.** A person issued a tag or the person's legal representative may donate the unused tag to an authorized nonprofit organization for use by a minor child with a life threatening medical condition or permanent physical disability or a veteran of the Armed Forces of the United States with a service-connected disability.
1. The person or legal representative who donates the unused tag shall provide the authorized nonprofit organization with a written statement indicating the unused tag is voluntarily donated to the organization.
 2. An authorized nonprofit organization receiving a donated tag under this subsection may transfer the unused tag to an eligible minor child or veteran by contacting any Department office.
 - a. To obtain a transfer, the nonprofit organization shall:
 - i. Provide proof of donation of the unused tag to be transferred;
 - ii. Provide the unused tag;
 - iii. Provide proof of the minor child's or veteran's valid hunting license.
 - b. To be eligible to receive a donated unused tag from an authorized nonprofit organization, a minor child shall meet the criteria established under subsection (D).
 3. A person who donates an original, unused hunt permit-tag issued in a computer drawing to an authorized nonprofit organization may submit a request to the Department for the reinstatement of the bonus points expended for that unused tag, provided all of the following conditions are met:
 - a. The person has a valid and active membership in the Department's membership program with at least one unredeemed tag surrender on the application deadline date, for the computer draw in which the hunt

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- permit-tag being surrendered was drawn, and at the time of tag surrender.
- b. The person submits a completed application form as described under R12-4-118;
 - c. The person provides acceptable proof to the Department that the tag was transferred to an authorized nonprofit organization; and
 - d. The person submits the request to the Department:
 - i. No later than 60 days after the date on which the tag was donated to an authorized nonprofit organization; and
 - ii. No less than 30 days prior to the computer draw application deadline for that genus, as specified in the hunt permit-tag application schedule.
- D.** To receive an unused tag authorized under subsections (B) or (C), an eligible minor child shall meet the following criteria:
1. Possess a valid hunting license,
 2. Has not reached the applicable annual or lifetime bag limit for that genus, and
 3. Is 10 to 17 years of age on the date of the transfer. A minor child under the age of 14 shall have satisfactorily completed a Department-sanctioned hunter education course before the beginning date of the hunt.
- E.** To receive an unused tag authorized under subsection (C), an eligible veteran of the Armed Forces of the United States with a service-connected disability shall meet the following criteria:
1. Possess a valid hunting license, and
 2. Has not reached the applicable annual or lifetime bag limit for that genus.
- F.** A nonprofit organization is eligible to apply for authorization to receive a donated unused tag, provided the nonprofit organization:
1. Is qualified under section 501(c)(3) of the United States Internal Revenue Code, and
 2. Affords opportunities and experiences to:
 - a. Children with life-threatening medical conditions or physical disabilities, or
 - b. Veterans with service-connected disabilities.
 3. This authorization is valid for a period of one-year, unless revoked by the Department for noncompliance with the requirements established under A.R.S. § 17-332 or this Section.
 4. A nonprofit organization shall apply for authorization by submitting an application to any Department office. The application form is furnished by the Department and is available at any Department office. A nonprofit organization shall provide all of the following information on the application:
 - a. Nonprofit organization's information:
 - i. Name,
 - ii. Physical address,
 - iii. Telephone number;
 - b. Contact information for the person responsible for ensuring compliance with this Section:
 - i. Name,
 - ii. Address,
 - iii. Telephone number;
 - c. Signature of the president and secretary-treasurer of the organization or their equivalents; and
 - d. Date of signing.
 5. In addition to the application, a nonprofit organization shall provide all of the following:
 - a. A copy of the organization's articles of incorporation and evidence that the organization has tax-exempt status under Section 501(c)(3) of the Internal

- Revenue Code, unless a current and correct copy is already on file with the Department;
- b. Document identifying the organization's mission;
 - c. A letter stating how the organization will participate in the Big Game Tag Transfer program; and
 - d. A statement that the person or organization submitting the application agrees to the conditions established under A.R.S. § 17-332 and this Section.
6. An applicant who is denied authorization to receive donated tags under this Section may appeal to the Commission as provided under A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

Adopted effective October 10, 1986, filed September 25, 1986 (Supp. 86-5). Rule expired one year from effective date of October 10, 1986. Rule readopted without change for one year effective January 22, 1988, filed January 7, 1988 (Supp. 88-1). Rule expired effective January 22, 1989 (Supp. 89-1). New Section R12-4-121 adopted effective March 1, 1991; filed February 28, 1991 (Supp. 91-1). Repealed effective January 1, 1993; filed December 18, 1992 (Supp. 92-4). New Section made by final rulemaking at 7 A.A.R. 2732, effective July 1, 2001 (Supp. 01-2). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 18 A.A.R. 1195, effective June 30, 2012 (Supp. 12-2). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).

R12-4-122. Handling, Transporting, Processing, and Storing of Game Meat Given to Public Institutions and Charitable Organizations

- A.** Under A.R.S. § 17-240 and this Section, the Department may donate the following wildlife, except that the Department shall not donate any portion of an animal killed in a collision with a motor vehicle or an animal that died subsequent to immobilization by any chemical agent:
1. Big game, except bear or mountain lion;
 2. Upland game birds;
 3. Migratory game birds;
 4. Game fish.
- B.** The Director shall not authorize an employee to handle game meat for the purpose of this Section until the employee has satisfactorily completed a course designed to give the employee the expertise necessary to protect game meat recipients from diseased or unwholesome meat products. A Department employee shall complete a course that is either conducted or approved by the State Veterinarian. The employee shall provide a copy of a certificate that demonstrates satisfactory completion of the course to the Director.
- C.** Only an employee authorized by the Director shall determine if game meat is safe and appropriate for donation. An authorized Department employee shall inspect and field dress each donated carcass before transporting it. The Department shall not retain the game meat in storage for more than 48 continuous hours before transporting it, and shall reinspect the game meat for wholesomeness before final delivery to the recipient.
- D.** Final processing and storage is the responsibility of the recipient.

Historical Note

Adopted effective August 6, 1991 (Supp. 91-3). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1).

R12-4-123. Expenditure of Funds

- A.** The Director may expend funds available through appropriate

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tions, licenses, gifts, or other sources, in compliance with applicable laws and rules, and:

1. For purposes designated by lawful Commission agreements and Department guidelines;
2. In agreement with budgets approved by the Commission;
3. In agreement with budgets appropriated by the legislature;
4. With regard to a gift, for purposes designated by the donor, the Director shall expend undesignated donations for a public purpose in furtherance of the Department's responsibilities and duties.

- B.** The Director shall ensure that the Department implements internal management controls to comply with subsection (A) and to deter unlawful use or expenditure of funds.

Historical Note

Adopted effective July 12, 1996 (Supp. 96-3). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1).

R12-4-124. Proof of Domicile

- A.** An applicant may be required to present acceptable proof of domicile in Arizona to the Department upon request.
- B.** Acceptable proof of domicile in Arizona may include, but is not limited to, one or more of the following lawfully obtained documents:
1. Arizona Driver's License;
 2. Arizona Resident State Income Tax Return filing;
 3. Arizona school records containing satisfactory proof of identity and relationship of the parent or guardian to the minor child, when applicable;
 4. Arizona Voter Registration Card;
 5. Certified copy of an Arizona court order such as an order of probation, parole, or mandatory release;
 6. Selective Service Registration Acknowledgement Card indicating an address in Arizona;
 7. Social Security Administration document indicating an address in Arizona; or
 8. Current documents issued by the U.S. military indicating Arizona as state of residence or an address in Arizona.

Historical Note

New Section made by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).

R12-4-125. Public Solicitation or Event on Department Property

- A.** All Department buildings, properties, and wildlife areas are designated non-public forums and are closed to all solicitations and events unless permitted by the Department.
- B.** A solicitation or event on Department property shall not:
1. Conflict with the Department's mission; or
 2. Constitute partisan political activity, the activity of a political campaign, or influence in any way an election or the results thereof.
- C.** A request for permission to conduct a solicitation or event on Department property shall be directed to the responsible Regional Supervisor or Branch Chief who shall initially determine whether an application is required for the solicitation or event.
- D.** If it is determined that an application is required, the person may apply for a solicitation or event permit by submitting a completed solicitation or event application to any Department office or Department Headquarters, Director's Office, at 5000 W. Carefree Hwy, Phoenix, AZ 85086. The application form is furnished by the Department and available at all Department offices.
1. An applicant shall submit an application:

- a. Not more than six months prior to the solicitation or event; and
- b. Not less than 14 days prior to the desired date of the solicitation or event for solicitations other than the posting of advertising, handbills, leaflets, circulars, posters, or other printed materials; or
- c. Not less than 10 days prior to the desired date of the solicitation or event for solicitations involving only the posting of advertising, handbills, leaflets, circulars, posters, or other printed materials.

2. An applicant shall provide all of the following information on the application:

- a. Sponsor's name, address, and telephone number;
- b. Sponsor's e-mail address, when available;
- c. Contact person's name and telephone number, when the sponsor is an organization;
- d. Proposed date of the solicitation or event;
- e. Specific, proposed location for the solicitation or event;
- f. Starting and approximate concluding times;
- g. General description of the solicitation or event's purpose;
- h. Anticipated number of attendees, when applicable;
- i. Amount of fees to be charged to attendees, when applicable;
- j. Detailed description of any activity that will occur at the solicitation or event, including a detailed map of the solicitation or event and any equipment that will be used, e.g., tents, tables, etc.;
- k. Copies of any solicitation materials to be distributed to the public or to be posted on Department property;
- l. Copy of a current and valid license issued by the Arizona Department of Liquor Licenses and Control, required when the applicant intends to sell alcohol at the solicitation or event; and
- m. The contact person's signature and date. The person's signature on the application certifies that the sponsor:
 - i. Assumes risk of injury to persons or property;
 - ii. Agrees to hold harmless the state of Arizona, its officials, Departments, employees, and agents against all claims arising from the use of Department facilities;
 - iii. Assumes responsibility for any damages or clean-up costs due to the solicitation or event, solicitation or event cleanup, or solicitation or event damage repair; and
 - iv. Agrees to surrender the premises in a clean and orderly condition.

- E.** The Department may take any of the following actions to the extent necessary and in the best interest of the State:

1. Require the sponsor to furnish all necessary labor, material, and equipment for the solicitation or event;
2. Require the sponsor to post a deposit against damage and cleanup expense;
3. Require indemnification of the state of Arizona, its Departments, agencies, officers, and employees;
4. Require the sponsor to carry adequate insurance and provide certificates of insurance to the Department not less than ten business days before the solicitation or event. A certificate of insurance for a solicitation or event shall name the state of Arizona, its Departments, agencies, boards, commissions, officers, agents, and employees as additional insureds;

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5. Require the sponsor to enter into written agreements with any vendors and subcontractors and require vendors and subcontractors to provide certificates of insurance to the Department not less than ten business days before the solicitation or event. A certificate of insurance for a solicitation or event shall name the state of Arizona, its Departments, agencies, boards, commissions, officers, agents, and employees as additional insureds;
 6. Require the sponsor to provide medical support, security, and sanitary services, including public restrooms; and
 7. Impose additional conditions not otherwise specified under this Section on the conduct of the solicitation or event.
- F.** The Department may consider the following criteria when determining whether any of the actions in subsection (E) are necessary and in the best interest of the state:
1. Previous experience with similar solicitations or events;
 2. Deposits required for similar solicitations or events in Arizona;
 3. Risk data; and
 4. Medical, sanitary, and security services required for similar solicitations or events in Arizona and the cost of those services.
- G.** The Department shall designate the hours of use for Department property.
- H.** The Department shall inspect the solicitation or event site at the conclusion of activities and document any damage or cleanup costs incurred because of the solicitation or event. The sponsor shall be responsible for any cleanup or damage costs associated with the solicitation or event.
- I.** The sponsor shall not allow, without the express written permission of the Department, the possession, use, or consumption of alcoholic beverages at the solicitation or event site. When the Department provides written permission for the possession, use, or consumption of alcoholic beverages at the solicitation or event site, the sponsor shall provide to the Department:
1. A copy of a current and valid license issued by the Arizona Department of Liquor Licenses and Control to the sponsor and vendor, required when the applicant intends to sell alcohol at the solicitation or event; and
 2. A liquor liability rider, included with the insurance certificate required under subsection (E)(4).
- J.** The sponsor shall not allow unlawful possession or use of drugs at the solicitation or event site.
- K.** The Department shall deny an application for any of the following reasons:
1. The solicitation or event interferes with the work of an employee or the daily business of the Department;
 2. The solicitation or event conflicts with the time, place, manner, or duration of other approved or pending solicitations or events;
 3. The content of the solicitation or event conflicts with or is unrelated to the Department's activities or its mission;
 4. The solicitation or event presents a risk of injury or illness to persons or risk of damage to property;
 5. The sponsor cannot demonstrate adequate compliance with applicable local, state, or federal laws, ordinances, codes, or regulations, or
 6. The sponsor has not complied with the requirements of the application process or this Section.
- L.** At all times, the Department reserves the right to immediately remove or cause to be removed all obstructions or other hazards of the solicitation or event that could damage state property, inhibit egress, or poses a safety risk. The Department also reserves the right to immediately remove or cause to be removed any person damaging state property, inhibiting egress, or posing a threat to public health and safety.
- M.** The Department may revoke approval of a solicitation or event due to emergency circumstances or for failure to comply with this Section.
- N.** The Department shall send written notice of the denial or revocation of an approved permit. The notice shall contain the reason for the denial or revocation.
- O.** A sponsor:
1. Is liable to the Department for damage to Department property and any expense arising out of the sponsor's use of Department property.
 2. Shall post solicitation material only in designated posting areas.
 3. Shall ensure that a solicitation or event on Department property causes the minimum infringement of use to the public and government operation.
 4. Shall modify or terminate a solicitation or event, upon request by the Department, if the Department determines that the solicitation or event unacceptably infringes on the Department's operations or causes an unacceptable risk of liability exposure to the State.
- P.** When conducting an event on Department property, a sponsor shall:
1. Park or direct vehicles in designated parking areas.
 2. Obey all posted requirements and restrictions.
 3. Designate one person to act as a monitor for every 50 persons anticipated to attend the solicitation or event. The monitor shall act as a contact person for the Department for the purposes of the solicitation or event.
 4. Ensure that all safety standards, guidelines, and requirements are followed.
 5. Implement additional safety requirements upon request by the Department.
 6. Ensure all obstructions and hazards are eliminated.
 7. Ensure trash and waste is properly disposed of throughout the solicitation or event.
- Q.** The Department shall revoke or terminate the solicitation or event if a sponsor fails to comply with a Department request or any one of the following minimum safety requirements:
1. All solicitation or event activities shall comply with all applicable federal, state, and local laws, ordinances, codes, statutes, rules, and regulations.
 2. The layout of the solicitation or event shall ensure that emergency vehicles will have access at all times.
 3. The Department may conduct periodic safety checks throughout the solicitation or event.
- R.** This Section does not apply to government agencies.

Historical Note

New Section made by emergency rulemaking at 10 A.A.R. 4777, effective November 4, 2004 for 180 days (Supp. 04-4). Emergency expired (Supp. 05-2). New Section renumbered from R12-4-804 and amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).

ARTICLE 2. LICENSES; PERMITS; STAMPS; TAGS**R12-4-201. Pioneer License**

- A.** A pioneer license grants all of the hunting and fishing privileges of a combination hunting and fishing license. The pioneer license is only available at a Department office.
- B.** The pioneer license is a complimentary license and is valid for the license holder's lifetime.
- C.** A person who is age 70 or older and has been a resident of Arizona for at least 25 consecutive years immediately preceding application may apply for a pioneer license by submitting an

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application to the Department. The application form is furnished by the Department and is available at any Department office and online at www.azgfd.gov. A pioneer license applicant shall provide all of the following information on the application:

1. The applicant's personal information:
 - a. Name;
 - b. Date of birth;
 - c. Physical description, to include the applicant's eye color, hair color, height, and weight;
 - d. Department identification number, when applicable;
 - e. Residency status and number of years of residency immediately preceding application, when applicable;
 - f. Mailing address, when applicable;
 - g. Physical address;
 - h. Telephone number, when available; and
 - i. E-mail address, when available;
 2. Affirmation that:
 - a. The applicant is 70 years of age or older and has been a resident of this state for 25 or more consecutive years immediately preceding application for the license; and
 - b. The information provided on the application is true and accurate.
 3. Applicant's signature and date. The applicant's signature shall be either notarized or witnessed by a Department employee.
- D.** In addition to the requirements listed under subsection (C), an applicant for a pioneer license shall also submit any one of the following documents at the time of application:
1. Valid U.S. passport;
 2. Original or certified copy of the applicant's birth certificate;
 3. Original or copy of a valid government-issued driver's license; or
 4. Original or copy of a valid government-issued identification card.
- E.** All information and documentation provided by the applicant is subject to Department verification. The Department shall return the original or certified copy of a document to the applicant after verification.
- F.** The Department shall deny a pioneer license when the applicant:
1. Fails to meet the criteria prescribed under A.R.S. § 17-336(A)(1),
 2. Fails to comply with this Section, or
 3. Provides false information on the application.
- G.** The Department shall provide written notice to the applicant stating the reason for the denial. The applicant may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Ch 6, Article 10.
- H.** A pioneer license holder may request a no-fee duplicate of the paper license provided:
1. The license was lost or destroyed;
 2. The license holder submits a written request to the Department for a no-fee duplicate paper license; and
 3. The Department's records indicate a pioneer license was previously issued to that person.
- I.** A person issued a pioneer license prior to January 1, 2014 shall be entitled to the privileges established under subsection (A).

Historical Note

Former Section R12-4-31 renumbered as Section R12-4-201 without change effective August 13, 1981. New Section R12-4-201 amended effective August 31, 1981

(Supp. 81-4). Amended subsection (B) effective December 9, 1985 (Supp. 85-6). Amended subsections (D) and (E), and changed application for a Pioneer License effective September 24, 1986 (Supp. 86-5). Former Section repealed, new Section adopted effective December 22, 1989 (Supp. 89-4). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended by final rulemaking at 12 A.A.R. 212, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3). Amended by final rulemaking at 20 A.A.R. 3045, effective January 3, 2015 (Supp. 14-4).

R12-4-202. Disabled Veteran's License

- A.** A disabled veteran's license grants all of the hunting and fishing privileges of a combination hunting and fishing license. The disabled veteran's license is only available at a Department office.
- B.** The disabled veteran's license is a complimentary license and is valid for a three-year period from the issue date or the license holder's lifetime, as established under subsection (F).
- C.** An eligible applicant is a disabled veteran who:
1. Has been a resident of Arizona for at least one year immediately preceding application, and
 2. Is receiving compensation from the United States government for permanent service-connected disabilities rated as 100% disabling. Eligibility for the disabled veteran's license is based on the disability rating, not on the compensation received by the veteran.
- D.** A person applying for a disabled veteran's license shall submit an application to the Department. The application form is furnished by the Department and available at any Department office and online at www.azgfd.gov. The applicant shall provide all of the following information on the application:
1. The applicant's personal information:
 - a. Name;
 - b. Date of birth,
 - c. Physical description, to include the applicant's eye color, hair color, height, and weight;
 - d. Department identification number, when applicable;
 - e. Residency status and number of years of residency immediately preceding application, when applicable;
 - f. Mailing address, when applicable;
 - g. Physical address;
 - h. Telephone number, when available; and
 - i. E-mail address, when available;
 2. Affirmation that:
 - a. The applicant meets the eligibility requirements prescribed under A.R.S. § 17-336(A)(2),
 - b. The applicant has been a resident of this state for at least one year immediately preceding application for the license, and
 - c. The information provided on the application is true and accurate.
 3. Applicant's signature and date.
- E.** In addition to the requirements established under subsection (D), an applicant for a disabled veteran's license shall, at the time of application, also submit an original certification or a benefits letter issued by the United States Department of Veteran's Affairs (DVA) or obtained from the DVA website that meets the requirements specified in subsections (D)(1), (2), and (3). The certification form is furnished by the Department and is available at any Department office and online at www.azgfd.gov. The certification shall be completed by an agent of the United States Department of Veteran's Affairs.

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The certification shall include all of the following information:

1. The applicant's full name,
 2. Certification that the applicant is receiving compensation from the United States government for permanent service-connected disabilities rated as 100% disabling,
 3. Certification that the 100% rating is permanent, and:
 - a. Will not require reevaluation or
 - b. Will be reevaluated in three years, and
 4. The signature and title of the Department of Veterans' Affairs agent who issued or approved the certification.
- F.** If the certification or benefits letter required under subsection (E) indicate the applicant's disability rating of 100% is permanent and:
1. Will not be reevaluated, the disabled veteran's license will not expire.
 2. Will be reevaluated in three years, the disabled veteran's license will expire three years from the date of issuance.
- G.** All information and documentation provided by the applicant is subject to Department verification. The Department shall return the original or certified copy of a document to the applicant after verification.
- H.** The Department shall deny a disabled veteran's license when the applicant:
1. Fails to meet the criteria prescribed under A.R.S. § 17-336(A)(2),
 2. Fails to comply with the requirements of this Section, or
 3. Provides false information during the application process.
- I.** The Department shall provide written notice to the applicant stating the reason for the denial. The applicant may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10.
- J.** A disabled veteran's license holder may request a no-fee duplicate paper license provided:
1. The license was lost or destroyed,
 2. The license holder submits a written request to the Department for a duplicate license, and
 3. The Department's records indicate a disabled veteran's license was previously issued to that person.
- K.** A person issued a disabled veteran's license prior to January 1, 2014 shall be entitled to the privileges established under subsection (A).
- L.** For the purposes of this Section, "disabled veteran" means a veteran of the armed forces of the United States with a service connected disability.

Historical Note

Former Section R12-4-66 renumbered, then repealed and readopted as Section R12-4-43 effective February 20, 1981 (Supp. 81-1). Former Section R12-4-43 renumbered as Section R12-4-202 without change effective August 13, 1981 (Supp. 81-4). Amended effective December 31, 1984 (Supp. 84-6). Repealed effective April 28, 1989 (Supp. 89-2). New Section R12-4-202 adopted effective December 22, 1989 (Supp. 89-4). Amended by final rulemaking at 6 A.A.R. 211, effective December 14, 1999 (Supp. 99-4). Amended by final rulemaking at 12 A.A.R. 212, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 18 A.A.R. 1199, effective June 30, 2012 (Supp. 12-2). Amended by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3). Amended by final rulemaking at 20 A.A.R. 3045, effective January 3, 2015 (Supp. 14-4). Amended by final rulemaking at 21 A.A.R. 2550, effective January 5, 2015 (Supp. 15-2).

R12-4-203. National Harvest Information Program (HIP);

State Waterfowl and Migratory Bird Stamp

- A.** All state fish and wildlife agencies are required to obtain data to assess the harvest of migratory game birds in compliance with the federally mandated National Harvest Information Program administered by the United States Fish and Wildlife Service in accordance with 50 C.F.R. Part 20.
- B.** In compliance with the National Harvest Information Program, the Department requires a person to possess a migratory bird stamp or authorization number, which may be affixed to or written on the appropriate license, and a current, valid federal waterfowl stamp. The migratory bird stamp and authorization number are required to take band-tailed pigeons, moorhen, coots, doves, ducks, geese, snipe, or swans.
1. The state migratory bird stamp expires on June 30 of each year. To obtain a state migratory bird stamp, a person shall submit:
 - a. The fee required under R12-4-102, and
 - b. A completed state migratory bird registration form to a license dealer or a Department office.
 2. The person shall provide on the state migratory bird registration form the person's:
 - a. Name,
 - b. Mailing address,
 - c. Date of birth, and
 - d. Information on past and anticipated hunting activity.
 3. The youth combination hunting and fishing license includes the state migratory bird stamp privileges. A youth hunter who possesses a valid combination hunting and fishing license shall obtain:
 - a. A Federal waterfowl stamp when the youth hunter is 16 years of age or older and is taking ducks, geese, swans, coots, gallinules; or
 - b. A permit-tag when the youth hunter is taking sandhill crane.
- C.** A license dealer shall submit state migratory bird registration forms for all state migratory bird stamps sold with the monthly report required under A.R.S. § 17-338.

Historical Note

Amended effective March 7, 1979 (Supp. 79-2).
 Amended effective April 22, 1980 (Supp. 80-2).
 Amended subsections (A), (C), (D), and (G) effective December 29, 1980 (Supp. 80-6). Former Section R12-4-41 renumbered as Section R12-4-203 without change effective August 13, 1981 (Supp. 81-4). Amended subsections (A), (C), (E), (G) and added Form 7016 (Supp. 81-6). Repealed effective April 28, 1989 (Supp. 89-2). New Section adopted effective July 1, 1997; filed with the Office of the Secretary of State November 7, 1996 (Supp. 96-4). Amended by final rulemaking at 6 A.A.R. 1146, effective July 1, 2000 (Supp. 00-1). Amended by final rulemaking at 12 A.A.R. 212, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 13 A.A.R. 462, effective February 6, 2007 (Supp. 07-1). Amended by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3). Amended by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3).

Editor's Note

For similar subject matter, see Section R12-4-411.
 This editor's note does not apply to the new Section adopted effective July 1, 1997 (Supp. 96-4).

R12-4-204. Repealed

Historical Note

Amended effective May 31, 1976 (Supp. 76-3). Correc-

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tion, Historical Note Supp. 76-3 should read "Amended effective May 3, 1976" (Supp. 78-5). Amended effective March 7, 1979 (Supp. 79-2). Amended effective March 20, 1981 (Supp. 81-2). Former Section R12-4-32 renumbered as Section R12-4-204 without change effective August 13, 1981 (Supp. 81-4). Repealed effective April 28, 1989 (Supp. 89-2). New Section made by final rulemaking at 12 A.A.R. 212, effective March 11, 2006 (Supp. 06-1). Repealed by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3).

R12-4-205. High Achievement Scout License

- A.** A high achievement scout license is offered to a resident who is:
1. Eligible for a combination hunting and fishing license,
 2. Under 21 years of age, and
 3. A member of the Boy Scouts of the United States of America and has attained the rank of Eagle Scout, or
 4. A member of the Girl Scouts of the United States of America and has attained the Gold Award.
- B.** The high achievement scout license grants all of the hunting and fishing privileges of the youth combination hunting and fishing license and is only available at Department offices.
1. The license is valid for one year from the date of purchase or selected start date provided the date selected is no more than 60 calendar days from and after the date of purchase.
 2. A valid hunt permit-tag, nonpermit-tag, or stamp is required to validate the high achievement scout license for the take of big game animals, migratory game birds, or other wildlife authorized by an applicable tag or stamp.
- C.** An applicant for a high achievement scout license shall apply on an application form available from any Department office and on the Department's web site at www.azgfd.gov. The applicant shall provide all of the following information on the application:
1. The applicant's:
 - a. Name;
 - b. Date of birth;
 - c. Physical description, to include the applicant's eye color, hair color, height, and weight;
 - d. Department identification number, when applicable;
 - e. Residency status and number of years of residency immediately preceding application, when applicable;
 - f. Mailing address, when applicable;
 - g. Physical address;
 - h. Telephone number, when available; and
 - i. E-mail address, when available;
 2. Affirmation that the information provided on the application is true and accurate; and
 3. Applicant's signature and date.
- D.** In addition to the application, an eligible applicant shall present with the application:
1. For an applicant who is a member of the Boy Scouts of the United States of America, any one of the following original documents:
 - a. A certification letter from the Boy Scouts of the United States of America stating that the applicant has attained the rank of Eagle Scout,
 - b. A Boy Scouts of the United States of America Eagle Scout Award Certificate, or
 - c. A Boy Scouts of the United States of America Eagle Scout wallet card.
 2. For an applicant who is a member of the Girl Scouts of the United States of America, any one of the following original documents:

- a. A certification letter from the Girl Scouts of the United States of America stating that the applicant has completed the award,
- b. A Girl Scouts of the United States of America Gold Award Certificate, or
- c. A Girl Scouts Gold Award Certificate from the local council.

- E.** The Department shall deny a high achievement scout license to an applicant who:
1. Is not eligible for the license;
 2. Fails to comply with the requirements of this Section; or
 3. Provides false information during the application process.
- F.** The Department shall provide written notice to the applicant stating the reason for the denial. The applicant may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

Amended effective May 3, 1976 (Supp. 76-3). Editorial correction subsection (A) (Supp. 78-5). Amended effective March 7, 1979 (Supp. 79-2). Amended effective September 23, 1980 (Supp. 80-5). Former Section R12-4-33 renumbered as Section R12-4-205 without change effective August 13, 1981 (Supp. 81-4). Repealed effective April 28, 1989 (Supp. 89-2). New Section made by final rulemaking at 17 A.A.R. 1472, effective July 12, 2011 (Supp. 11-3). Amended by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3). Amended by final rulemaking at 20 A.A.R. 3045, effective January 3, 2015 (Supp. 14-4).

R12-4-206. General Hunting License; Exemption

- A.** A general hunting license is valid for the taking of small game, fur-bearing animals, predatory animals, nongame animals, and upland game birds. A valid hunt permit-tag, nonpermit-tag, or stamp is required to validate the general hunting license for the take of big game animals, migratory game birds, or other wildlife authorized by an applicable tag or stamp.
- B.** The general hunting license is valid for one-year from:
1. The date of purchase when a person purchases the hunting license from a license dealer, as defined under R12-4-101;
 2. On the last day of the application deadline for that draw, as established by the hunt permit-tag application schedule published by the Department;
 3. On the last day of an extended deadline date, as authorized under subsection R12-4-104(C). If an applicant does not possess an appropriate license that meets the requirements of this subsection, the applicant shall purchase the license at the time of application; or
 4. The selected start date when a person purchases the hunting license from a Department office or online. A person may select the start date for the hunting license provided the date selected is no more than 60 calendar days from and after the date of purchase.
- C.** A resident may apply for a general hunting license by submitting an application to the Department, a License Dealer as defined under R12-4-101, or online at www.azgfd.gov. The application is furnished by the Department and is available at any Department office, license dealer, and online at www.azgfd.gov. A general hunting license applicant shall provide the following information on the application:
1. The applicant's:
 - a. Name;
 - b. Date of birth,
 - c. Physical description, to include the applicant's eye color, hair color, height, and weight;

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- d. Department identification number, when applicable;
 - e. Residency status and number of years of residency immediately preceding application, when applicable;
 - f. Mailing address, when applicable;
 - g. Physical address;
 - h. Telephone number, when available; and
 - i. E-mail address, when available; and
 - 2. Affirmation that the information provided on the application is true and accurate; and
 - 3. Applicant's signature and date.
- D.** In addition to the requirements listed under subsection (C), at the time of application an applicant who is applying for a general hunting license:
- 1. In person shall pay the applicable fee required under R12-4-102.
 - 2. Online shall electronically pay the fee required under R12-4-102 and print the new license. A person applying online shall affirm, or provide permission for another person to affirm, the information electronically provided is true and accurate.
- E.** A person who is under 10 years of age may hunt wildlife other than big game without a hunting license when accompanied by a properly licensed person who is 18 years of age or older.

Historical Note

Amended effective March 7, 1979 (Supp. 79-2).
 Amended effective December 4, 1980 (Supp. 80-6). Former Section R12-4-34 renumbered as Section R12-4-206 without change effective August 13, 1981 (Supp. 81-4).
 Repealed effective April 28, 1989 (Supp. 89-2). New Section made by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3).

R12-4-207. General Fishing License; Exemption

- A.** A general fishing license is valid for the taking of all aquatic wildlife and allows the license holder to engage in simultaneous fishing as defined under R12-4-301. The general fishing license is valid:
- 1. State-wide including Mittry Lake and Topock Marsh and the Arizona shoreline of Lake Mead, Lake Mohave and Lake Havasu, and Commission designated community waters. The list of Commission designated community waters is available at any license dealer, Department office, and online at www.azgfd.gov.
 - 2. On that portion of the Colorado River that forms the common boundary between Arizona and Nevada and Arizona and California and connected adjacent water, provided Arizona has an agreement with California and Nevada that recognizes a general fishing license as valid for taking aquatic wildlife on any portion of the Colorado River that forms the common boundary between Arizona and Nevada and Arizona and California.
- B.** The general fishing license is valid for one-year from:
- 1. The date of purchase when a person purchases the fishing license from a license dealer, as defined under R12-4-101; or
 - 2. The selected start date when a person purchases the fishing license from a Department office or online. A person may select the start date for the fishing license provided the date selected is no more than 60 calendar days from and after the date of purchase.
- C.** A resident or nonresident may apply for a general fishing license by submitting an application to the Department, a License Dealer as defined under R12-4-101, or online at www.azgfd.gov. The application is furnished by the Depart-

ment and is available at any Department office, license dealer, and online at www.azgfd.gov. A general fishing license applicant shall provide the following information on the application:

- 1. The applicant's:
 - a. Name;
 - b. Date of birth,
 - c. Physical description, to include the applicant's eye color, hair color, height, and weight;
 - d. Department identification number, when applicable;
 - e. Residency status and number of years of residency immediately preceding application, when applicable;
 - f. Mailing address, when applicable;
 - g. Physical address;
 - h. Telephone number, when available; and
 - i. E-mail address, when available; and
 - 2. Affirmation that the information provided on the application is true and accurate; and
 - 3. Applicant's signature and date.
- D.** In addition to the requirements listed under subsection (C), an applicant who is applying for a general fishing license:
- 1. In person shall pay the applicable fee required under R12-4-102.
 - 2. Online shall electronically pay the fee required under R12-4-102 and print the new license. A person applying online shall affirm, or provide permission for another person to affirm, the information electronically provided is true and accurate.
- E.** In addition to the exemption prescribed under A.R.S. § 17-335, a person who is under 10 years of age may fish without a fishing license.

Historical Note

Amended effective March 7, 1979 (Supp. 79-2).
 Amended effective December 4, 1980 (Supp. 80-6). Former Section R12-4-35 renumbered as Section R12-4-207 without change effective August 13, 1981 (Supp. 81-4).
 Repealed effective April 28, 1989 (Supp. 89-2). New Section made by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3).

R12-4-208. Guide License

- A.** A guide, as defined under A.R.S. § 17-101, is a person who does any one of the following:
- 1. Advertises for guiding services.
 - 2. Is presented to the public for hire as a guide.
 - 3. Is employed by a commercial enterprise as a guide.
 - 4. Accepts compensation in any form commensurate with the market value in this state for guiding services in exchange for aiding, assisting, directing, leading, or instructing a person in the field to locate and take wildlife.
 - 5. Is not a landowner or lessee who, without full fair market compensation, allows access to the landowner's or lessee's property and directs and advises a person in taking wildlife.
- B.** A person shall not act as a guide unless the person holds one of the following guide licenses:
- 1. A hunting guide license, which authorizes the license holder to act as a guide for the taking of lawful wildlife other than aquatic wildlife as defined under A.R.S. § 17-101.
 - 2. A fishing guide license, which authorizes the license holder to act as a guide for the taking of lawful aquatic wildlife.

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3. A hunting and fishing guide license, which authorizes the license holder to act as a guide for the taking of lawful wildlife.
- C. A guide license shall expire on December 31 of each year.
- D. A person is not eligible to apply for an original or renewal guide license when any one of the following conditions apply:
 1. The applicant was convicted of a felony violation of any federal wildlife law, within five years immediately preceding the date of application;
 2. The applicant was convicted of a violation listed under A.R.S. § 17-309(D), within five years immediately preceding the date of application;
 3. The applicant was convicted of a violation of a federal or state wildlife law for which a license to take wildlife may be revoked or suspended within five years immediately preceding the date of application; or
 4. The applicant's privilege to take or possess wildlife or to guide or act as a guide is currently suspended or revoked anywhere in the United States for violation of a federal or state wildlife law.
- E. Notwithstanding subsection (D), a person who was convicted of a misdemeanor violation of any wildlife law within one year preceding the date of application may apply for a guide license provided the person immediately and voluntarily reported the violation to the Department after committing the violation.
- F. An applicant for a guide license shall:
 1. Be 18 years of age or older, and
 2. Possess the required Department-issued license, as applicable:
 - a. A current Arizona hunting license when applying for a hunting guide license;
 - b. A current Arizona fishing license when applying for a fishing guide license;
 - c. A current Arizona combination hunting and fishing license when applying for a hunting and fishing guide license;
- G. The guide license does not exempt the license holder from any applicable method of take or licensing requirement. The guide license holder shall comply with all applicable Commission rules, including, but not limited to, rules governing:
 1. Lawful methods of take,
 2. Lawful devices, and
 3. License requirements.
- H. Unless otherwise provided under this Section, a person shall successfully complete the Department administered examination, and answer at least 80% of the questions correctly, prior to applying for a guide license. Guide examinations are:
 1. Provided at a Department office.
 2. Valid for a period up to twelve months prior to the date on which the applicant submits an application to the Department.
 3. Conducted during normal business hours.
 4. Conducted on the first Monday of the month or by special appointment. A person interested in taking the guide examination shall contact a Department office to obtain scheduling information.
- I. The examination is based on the type of guide license the person is seeking.
 1. A person shall provide acceptable proof of identity, as listed under subsection (L)(2), prior to taking the examination.
 2. The examination may include questions regarding any of the following topics:
 - a. A.R.S. Title 17 Game and Fish statutes and Commission rules regarding the taking and handling of terrestrial and aquatic wildlife;
 - b. A.R.S. Title 28, Ch 3, Article 20 Off-highway Vehicles statutes and rule regarding the use of off-highway vehicles;
 - c. A.R.S. Title 5, Ch 3, Boating and Water Sports statutes and Commission rules on boating;
 - d. Requirements for guiding on federal lands;
 - e. Identification of aquatic wildlife species;
 - f. Identification of wildlife;
 - g. Special state and federal laws regarding certain species;
 - h. General knowledge of species habitat and wildlife that may occur in the same habitat;
 - i. General knowledge of the types of habitat within the State; and
 - j. General knowledge of special or concurrent jurisdictions within the State.
3. An applicant who fails an examination may retake the examination on the same day or as otherwise agreed upon by the applicant and the examination administrator. An applicant who fails an examination twice on the same day shall wait at least seven calendar days, from the examination date, before retaking the examination.
- J. In addition to the guide examination requirement under subsection (H), a guide license holder shall take the Department administered examination when:
 1. The applicant is applying to add a new guiding authority to a current guide license;
 2. The applicant for a hunting guide license was convicted of a violation of A.R.S. Title 17 or Game and Fish Commission rule governing the taking and handling of terrestrial wildlife within one year preceding the date of application;
 3. The applicant for a fishing guide license was convicted of a violation of A.R.S. Title 17 or Game and Fish Commission rule governing the taking and handling of aquatic wildlife within one year preceding the date of application;
 4. The applicant failed to submit a renewal application postmarked before the expiration date of the guide license; or
 5. The applicant failed to submit the annual report for the preceding license year by January 10 of the following license year.
- K. A person may apply for a guide license by submitting an application to the Department. The application form is furnished by the Department and is available at any Department office and online at www.azgfd.gov. A guide license applicant shall provide all of the following information on the application:
 1. The applicant's personal information:
 - a. Name;
 - b. Date of birth;
 - c. Physical description, to include the applicant's eye color, hair color, height, and weight;
 - d. Social Security Number or Department identification number;
 - e. Residency status;
 - f. Mailing address, when applicable;
 - g. Physical address;
 - h. Telephone number, when available;
 - i. E-mail address, when available;
 - j. Type of guide license sought; and
 - k. Calendar year for which the application is made;
 2. The outfitting or guide:
 - a. Business name; and
 - b. Business address, as applicable;
 3. Responses to questions relating to criminal violations;
 4. Affirmation that:

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- a. The applicant meets the eligibility requirements prescribed under this Section; and
 - b. The information provided on the application is true and accurate;
- 5. Applicant's signature and date.
- L.** In addition to the requirements listed under subsection (K), an applicant for a guide license shall also submit the following documents at the time of application for an original or renewal of a guide license:
 - 1. Proof of the successful completion of the guide examination required under subsection (H). The applicant must successfully complete the examination within the twelve months immediately preceding the date of application.
 - 2. One of the following as proof of the applicant's identity:
 - a. Valid U.S. passport;
 - b. Original or certified copy of the applicant's birth certificate;
 - c. Original or copy of a valid government-issued driver's license; or
 - d. Original or copy of a valid government-issued identification card.
- M.** All information and documentation provided by the guide license applicant is subject to Department verification. The Department shall return the original or certified copy of a document to the applicant after verification.
- N.** An applicant for a guide license shall pay all applicable fees required under R12-4-102 upon approval of an initial or renewal application for a guide license.
- O.** The Department shall deny a guide license when the applicant:
 - 1. Fails to meet the criteria prescribed under A.R.S. § 17-362,
 - 2. Fails to comply with the requirements of this Section,
 - 3. Provides false information during the application process,
 - 4. Fails to provide the annual report required under subsection (R) by January 10, or
 - 5. Provides false information in the annual report required under subsection (R) within three years immediately preceding the date of application.
- P.** The Department shall provide written notice to the applicant stating the reason for the denial. The applicant may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10.
- Q.** A guide license holder may submit an application for renewal of a guide license after December 1 of the year it was issued. The Department shall not start the substantive review, as defined under A.R.S. § 41-1072, before January 10 of the following license year, unless the Department receives the annual report prior to the date established under subsection (R). The current guide license shall remain valid pending a Department decision on the application for renewal, provided:
 - 1. The application for renewal is submitted to the Department by December 31, and
 - 2. The Department receives the annual report submitted in compliance with subsection (R).
- R.** A guide license holder shall submit to the Department the annual report required under A.R.S. § 17-362(C) for the previous calendar year before January 10 of the following license year. The report form is furnished by the Department and is available at any Department office or online at www.azgfd.gov.
 - 1. A report is required whether or not the license holder performed any guiding activities.
 - 2. The annual report shall include all of the following information, as applicable:
 - a. License holder's personal information:
 - i. Name;
 - ii. Guide license number; and
 - iii. E-mail address, when available; and
 - b. Client's personal information:
 - i. Name;
 - ii. Mailing address; and
 - iii. Arizona license, tag and permit numbers, and
 - c. Dates guiding activities were conducted;
 - d. Number and species of wildlife taken by the clients;
 - e. Game management unit or body of water where guiding activities took place;
 - f. Affirmation that the information provided in the annual report is true and accurate; and
 - g. License holder's signature and date.
- 3. The Department shall not renew a guide license if the annual report is not submitted to the Department by January 10 of the following license year.
- S.** The date of receipt for the items required under subsections (K), (L), (Q), and (R) shall be as follows:
 - 1. The date a person presents the items to a Department office;
 - 2. The date a private express mail carrier receives the package containing the items as indicated on the shipping package; or
 - 3. The date of the United States Postal Service postmark stamped on the envelope containing the items.
- T.** While performing guide activities or providing guide services, a guide license holder shall:
 - 1. Possess a valid guide license.
 - 2. Possess a valid Arizona hunting, fishing, or combination hunting and fishing license, as applicable under subsection (F)(2).
 - 3. Present the license for inspection upon the request of any peace officer, wildlife manager, or game ranger.
 - 4. Report any violation of a federal or state wildlife regulation, law, or rule personally witnessed by the guide license holder.
- U.** A guide license holder shall not:
 - 1. Use, or allow another person to use, any method or device prohibited under any federal or state wildlife regulation, law, or rule while taking wildlife.
 - 2. Aid, counsel, agree to aid, or attempt to aid another person in planning or engaging in conduct that results in a violation of any federal or state wildlife regulation, law, or rule while taking wildlife.
 - 3. Pursue any wildlife or hold at bay any wildlife for a person unless that person is present during the pursuit to take the wildlife.
 - a. The person shall be continuously present during the entire pursuit of that specific target animal.
 - b. If dogs are used, the person shall be present when the dogs are released on a specific target animal and shall be continuously present for the remainder of the pursuit.
 - 4. Hold wildlife at bay other than during daylight hours, unless a Commission Order authorizes the take of the species at night.
- V.** As authorized under A.R.S. § 17-362(A), the Commission may revoke or suspend a guide license when any one or more of the following actions occur:
 - 1. The guide license holder failed to comply with the requirements of A.R.S. Title 17 or was convicted of violating any provision of A.R.S. Title 17;
 - 2. The guide license holder was convicted of a felony violation of any federal wildlife law;
 - 3. The guide license holder was convicted of a violation listed under A.R.S. § 17-309(D);

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4. The guide license holder was convicted of a violation of a federal or state wildlife law for which a license to take wildlife may be revoked or suspended; or
5. The guide license holder's privilege to take or possess wildlife is suspended or revoked by any jurisdiction for violation of a federal or state wildlife law.

Historical Note

Amended effective March 7, 1979 (Supp. 79-2). Former Section R12-4-40 renumbered as Section R12-4-208 without change effective August 13, 1981 (Supp. 81-4). Former rule repealed, new Section R12-4-208 adopted effective December 22, 1989 (Supp. 89-4). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 211, effective January 1, 2000 (Supp. 99-4). Amended by final rulemaking at 12 A.A.R. 212, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 20 A.A.R. 3045, effective January 3, 2015 (Supp. 14-4).

R12-4-209. Community Fishing License; Exemption

- A. A community fishing license is valid for taking all aquatic wildlife from Commission designated community waters, only, and allows the license holder to engage in simultaneous fishing as defined under R12-4-301. The list of Commission designated community waters is available at any license dealer, Department office, and online at www.azgfd.gov.
- B. The community fishing license is valid for one-year from:
 1. The date of purchase when a person purchases the community fishing license from a license dealer, as defined under R12-4-101; or
 2. The selected start date when a person purchases the community fishing license from a Department office or online. A person may select the start date for the community fishing license provided the date selected is no more than 60 calendar days from and after the date of purchase.
- C. A resident or nonresident may apply for a community fishing license by submitting an application to the Department, a License Dealer as defined under R12-4-101, or online at www.azgfd.gov. The application is furnished by the Department and is available at any Department office, license dealer, and online at www.azgfd.gov. A community fishing license applicant shall provide the following information on the application:
 1. The applicant's:
 - a. Name;
 - b. Date of birth,
 - c. Physical description, to include the applicant's eye color, hair color, height, and weight;
 - d. Department identification number, when applicable;
 - e. Residency status and number of years of residency immediately preceding application, when applicable;
 - f. Mailing address, when applicable;
 - g. Physical address;
 - h. Telephone number, when available; and
 - i. E-mail address, when available; and
 2. Affirmation that the information provided on the application is true and accurate; and
 3. Applicant's signature and date.
- D. In addition to the requirements listed under subsection (C), an applicant who is applying for a community fishing license:
 1. In person shall pay the applicable fee required under R12-4-102.

2. Online shall electronically pay the fee required under R12-4-102 and print the new license. A person applying online shall affirm, or provide permission for another person to affirm, the information electronically provided is true and accurate.

- E. In addition to the exemption prescribed under A.R.S. § 17-335, a person who is under 10 years of age may fish in Commission designated community waters without a fishing license.

Historical Note

Adopted effective March 20, 1981 (Supp. 81-2). Former Section R12-4-42 renumbered as Section R12-4-209 without change effective August 13, 1981 (Supp. 81-4). Repealed effective April 28, 1989 (Supp. 89-2). New Section made by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3).

R12-4-210. Combination Hunting and Fishing License; Exemption

- A. A combination hunting and fishing license is valid for the taking of small game, fur-bearing animals, predatory animals, nongame animals, and upland game birds.
- B. A combination hunting and fishing license is valid for the taking of all aquatic wildlife and allows the license holder to engage in simultaneous fishing as defined under R12-4-101. The combination hunting and fishing license is valid:
 1. State-wide including Mitty Lake and Topock Marsh and the Arizona shoreline of Lake Mead, Lake Mohave and Lake Havasu, and Commission designated community waters. The list of Commission designated community waters is available at any license dealer, Department office, and online at www.azgfd.gov.
 2. On that portion of the Colorado River that forms the common boundary between Arizona and Nevada and Arizona and California and connected adjacent water, provided Arizona has an agreement with California and Nevada that recognizes a combination hunting and fishing license as valid for taking aquatic wildlife on any portion of the Colorado River that forms the common boundary between Arizona and Nevada and Arizona and California.
- C. The Department offers three combination hunting and fishing licenses:
 1. A short-term combination hunting and fishing license, valid for one 24-hour period from midnight to midnight.
 - a. The short-term combination hunting and fishing license is not valid for the take of big game animals.
 - b. The short-term combination hunting and fishing license is valid for the take of migratory game birds and waterfowl, provided the person possesses the applicable State Migratory Bird stamp and Federal Waterfowl stamp.
 - c. The Department does not limit the number of short-term combination hunting and fishing licenses a resident or nonresident may purchase.
 2. A combination hunting and fishing license for a person age 18 and over.
 - a. The combination hunting and fishing license is valid for one-year from:
 - i. The date of purchase when a person purchases the combination hunting and fishing license from a license dealer, as defined under R12-4-101;
 - ii. On the last day of the application deadline for that draw, as established by the hunt permit-tag

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- application schedule published by the Department;
- iii. On the last day of an extended deadline date, as authorized under subsection R12-4-104(C). If an applicant does not possess an appropriate license that meets the requirements of this subsection, the applicant shall purchase the license at the time of application; or
 - iv. The selected start date when a person purchases the combination hunting and fishing license from a Department office or online. A person may select the start date for the combination hunting and fishing license provided the date selected is no more than 60 calendar days from and after the date of purchase.
- b. A valid hunt permit-tag, nonpermit-tag, or stamp is required to validate the combination hunting and fishing license for the take of big game animals, migratory game birds, or other wildlife authorized by an applicable tag or stamp.
3. A youth combination hunting and fishing license for a person through age 17.
 - a. The combination hunting and fishing license is valid for one-year from:
 - i. The date of purchase when a person purchases the combination hunting and fishing license from a license dealer, as defined under R12-4-101;
 - ii. On the last day of the application deadline for that draw, as established by the hunt permit-tag application schedule published by the Department;
 - iii. On the last day of an extended deadline date, as authorized under subsection R12-4-104(C). If an applicant does not possess an appropriate license that meets the requirements of this subsection, the applicant shall purchase the license at the time of application; or
 - iv. The selected start date when a person purchases the combination hunting and fishing license from a Department office or online. A person may select the start date for the combination hunting and fishing license provided the date selected is no more than 60 calendar days from and after the date of purchase.
 - b. A valid hunt permit-tag, nonpermit-tag, or stamp is required to validate the combination hunting and fishing license for the take of big game animals, migratory game birds, or other wildlife authorized by an applicable tag or stamp.
- D. A resident or nonresident may apply for a combination hunting and fishing license by submitting an application to the Department, a License Dealer as defined under R12-4-101, or online at www.azgfd.gov. The application is furnished by the Department and is available at any Department office, license dealer, and online at www.azgfd.gov. A combination hunting and fishing license applicant shall provide the following information on the application:
 1. The applicant's:
 - a. Name;
 - b. Date of birth,
 - c. Physical description, to include the applicant's eye color, hair color, height, and weight;
 - d. Department identification number, when applicable;
 - e. Residency status and number of years of residency immediately preceding application, when applicable;
 - f. Mailing address, when applicable;
 - g. Physical address;
 - h. Telephone number, when available; and
 - i. E-mail address, when available; and
 2. Affirmation that the information provided on the application is true and accurate; and
 3. Applicant's signature and date.
- E. In addition to the requirements listed under subsection (C), an applicant who is applying for a combination hunting and fishing license:
 1. In person shall pay the applicable fee required under R12-4-102.
 2. Online shall electronically pay the fee required under R12-4-102 and print the new license. A person applying online shall affirm, or provide permission for another person to affirm, the information electronically provided is true and accurate.
 - F. Exemptions authorized under R12-4-206(E), R12-4-207(E), and R12-4-209(E) also apply to this Section, as applicable.

Historical Note

Former Section R12-4-39 repealed, new Section R12-4-39 adopted effective January 20, 1977 (Supp. 77-1). Editorial correction subsection (A), paragraph (2) (Supp. 78-5). Amended effective March 7, 1979 (Supp. 79-2). Amended effective April 22, 1980 (Supp. 80-2). Former Section R12-4-39 repealed, new Section R12-4-39 adopted effective March 17, 1981 (Supp. 81-2). Former Section R12-4-39 renumbered as Section R12-4-210 without change effective August 13, 1981 (Supp. 81-4). Amended effective December 16, 1982 (Supp. 82-6). Repealed effective April 28, 1989 (Supp. 89-2). New Section made by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3).

R12-4-211. Lifetime License

- A. The Department offers the following lifetime licenses:
 1. A lifetime hunting license includes the privileges established under R12-4-206(A).
 2. A lifetime fishing license includes the privileges established under R12-4-207(A).
 3. A lifetime combination hunting and fishing license includes the privileges established under R12-4-210(A) and (B).
- B. A lifetime license does not expire and remains valid if the licensee subsequently resides outside of this state.
 1. A licensee who resides outside of Arizona shall submit the nonresident fee to purchase any required permit-tag, nonpermit-tag, or stamp to hunt and fish in this state.
 2. Limits established under R12-4-114 for nonresident permit-tags do not apply to a lifetime license holder.
- C. A resident may apply for a lifetime license by submitting an application to the Department and paying the applicable fee required under subsection (D). The application is furnished by the Department and is available at any Department office and online at www.azgfd.gov. A lifetime license applicant shall provide the following information on the application:
 1. The applicant's:
 - a. Name;
 - b. Date of birth,
 - c. Physical description, to include the applicant's eye color, hair color, height, and weight;
 - d. Social Security Number, when required under A.R.S. §§ 25-320(P) and 25-502(K);

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- e. Department identification number, when applicable;
 - f. Residency status and number of years of residency immediately preceding application, when applicable;
 - g. Mailing address, when applicable;
 - h. Physical address;
 - i. Telephone number, when available; and
 - j. E-mail address, when available; and
 - 2. Affirmation that the information provided on the application is true and accurate; and
 - 3. Applicant's signature and date.
- D.** The fees for resident lifetime licenses are determined by the age of the applicant as follows:
- 1. Age 0 through 13 years is 17 times the fee established under R12-4-102 for the equivalent one-year license.
 - 2. Age 14 through 29 years is 18 times the fee established under R12-4-102 for the equivalent one-year license.
 - 3. Age 30 through 44 years is 16 times the fee established under R12-4-102 for the equivalent one-year license.
 - 4. Age 45 through 61 years is 15 times the fee established under R12-4-102 for the equivalent one-year license.
 - 5. Age 62 and older is 8 times the fee established under R12-4-102 for the equivalent one-year license.
 - 6. For the purposes of this subsection, when the applicant is under the age of 18, the fee for the lifetime license is based on the full priced license fee, not the youth license fee.
- E.** A lifetime license may be denied or suspended pursuant to, and for the offenses described under, A.R.S. § 17-340.
- F.** A person issued a lifetime license prior to the effective date of this Section shall be entitled to the privileges established under subsection (A)(1), (A)(2), or (A)(3), as applicable, for the equivalent lifetime license.

Historical Note

Amended effective March 7, 1979 (Supp. 79-2).
 Amended effective October 9, 1980 (Supp. 80-5). Former Section R12-4-36 renumbered as Section R12-4-211 without change effective August 13, 1981 (Supp. 81-4).
 Repealed effective April 28, 1989 (Supp. 89-2). New Section made by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3).

R12-4-212. Benefactor License

- A.** A benefactor license includes the privileges established under R12-4-210(A) and (B). A valid hunt permit-tag, nonpermit-tag, or stamp is required to validate the benefactor license for the take of big game animals, migratory game birds, or other wildlife authorized by an applicable tag or stamp.
- B.** A benefactor license does not expire and remains valid if the licensee subsequently resides outside of this state.
- 1. A licensee who resides outside of Arizona shall submit the nonresident fee to purchase any required permit-tag, nonpermit-tag, or stamp to hunt and fish in this state.
 - 2. Limits established under R12-4-114 for nonresident permit-tags do not apply to a benefactor license holder.
- C.** The benefactor license fee is \$1,500. The difference between \$1,500 and the license fee for a resident lifetime combination hunting and fishing license established under R12-4-211(D):
- 1. Is a donation to the State for continued management, protection, and conservation of the State's wildlife.
 - 2. Shall be credited to the wildlife endowment fund established under A.R.S. § 17-271.
 - 3. May be tax deductible to the extent allowed by federal and state income tax statutes for contributions to qualifying tax-exempt organizations.
- D.** A resident may apply for a benefactor license by submitting an

application to the Department. The application is furnished by the Department and is available at any Department office and online at www.azgfd.gov. A benefactor license applicant shall provide the following information on the application:

- 1. The applicant's:
 - a. Name;
 - b. Date of birth;
 - c. Physical description, to include the applicant's eye color, hair color, height, and weight;
 - d. Social Security Number, when required under A.R.S. §§ 25-320(P) and 25-502(K);
 - e. Department identification number, when applicable;
 - f. Residency status and number of years of residency immediately preceding application, when applicable;
 - g. Mailing address, when applicable;
 - h. Physical address;
 - i. Telephone number, when available; and
 - j. E-mail address, when available; and
 - 2. Affirmation that the information provided on the application is true and accurate; and
 - 3. Applicant's signature and date.
- E.** A benefactor license may be denied or suspended pursuant to, and for the offenses described under, A.R.S. § 17-340.
- F.** A person issued a benefactor license prior to the effective date of this Section shall be entitled to the privileges established under subsection (A).

Historical Note

Amended as an emergency effective April 10, 1975 (Supp. 75-1). Amended effective January 1, 1977 (Supp. 76-5). Former Section R12-4-37 renumbered as Section R12-4-211 without change effective August 13, 1981 (Supp. 81-4). Repealed effective April 28, 1989 (Supp. 89-2). New Section made by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3).

R12-4-213. Hunt Permit-tags and Nonpermit-tags

- A.** A valid hunt permit-tag or nonpermit-tag is required to validate a license to take a big game animal or other wildlife requiring a valid tag. Before a person may take a big game animal or other wildlife requiring a tag, the person shall apply for and obtain the appropriate tag required for the take of that big game animal or other wildlife.
- B.** A person may apply for a hunt permit-tag in accordance with R12-4-104 and at the times, locations, and in the manner established by the hunt permit-tag application schedule that the Department publishes and is available at any Department office, online at www.azgfd.gov, or a license dealer as defined under R12-4-101.
- C.** A person applying for a nonpermit-tag shall apply in accordance with R12-4-114 and pay the required fee established under R12-4-102.

Historical Note

Amended effective March 7, 1979 (Supp. 79-2).
 Amended effective December 4, 1980 (Supp. 80-6). Former Section R12-4-38 renumbered as Section R12-4-213 without change effective August 13, 1981 (Supp. 81-4).
 Repealed effective April 28, 1989 (Supp. 89-2). New Section made by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3).

R12-4-214. Apprentice License

- A.** An apprentice license authorizes the taking of small game, furbearing animals, predatory animals, nongame animals, and upland game birds. The apprentice license is only available from a Department office.

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- B. An apprentice license is:
 - 1. A complimentary license,
 - 2. Valid for any two consecutive days; and
 - 3. Issued to a person only once per calendar year.
- C. The apprentice license is not valid for the take of big game animals.
- D. The apprentice license is valid for the take of migratory game birds and waterfowl when the apprentice also possesses the applicable Migratory Bird stamp and federal waterfowl stamp.
- E. An apprentice license holder shall be accompanied by a mentor at all times while in the field. A mentor is eligible to apply for no more than two apprentice hunting licenses in any calendar year. A mentor shall:
 - 1. Be a resident of Arizona,
 - 2. Be 18 years of age or older,
 - 3. Possess an appropriate and valid Arizona hunting license, and
 - 4. Provide the apprentice with instruction and supervision on safe and ethical hunting practices.
 - 5. A short-term license does not meet the license requirement of this subsection.
- F. A mentor may apply for an apprentice license at any Department office. An applicant for an apprentice license shall provide the following information at the time of application:
 - 1. The mentor's:
 - a. Name;
 - b. Arizona hunting license number and effective date of the license; and
 - 2. The applicant's:
 - a. Name;
 - b. Age;
 - c. Date of birth;
 - d. Telephone number, when available;
 - e. Department identification number, when applicable;
 - f. E-mail address, when available;
 - g. Physical description, to include the applicant's eye color, hair color, height, and weight;
 - f. Mailing address, when applicable;
 - g. Physical address; and
 - h. Residency status.
 - c. Telephone number, when available;
 - 2. The applicant's:
 - a. Name;
 - b. Date of birth,
 - c. Physical description, to include the applicant's eye color, hair color, height, and weight;
 - d. Department identification number, when applicable;
 - e. Mailing address, when applicable;
 - f. Physical address;
 - g. Telephone number, when available; and
 - h. E-mail address, when available;
 - 3. The dates on which the nonprofit organization intends to conduct the youth group fishing activity.
 - 4. The approximate number of youth participating in the group fishing activity.
- C. For the purpose of this Section, "governmental entity" means any town, city, county, municipality, or other political subdivision of this state or any department, agency, board, commission, authority, division, office, public school, public charter school, public corporation, or other public entity of this state or any department agency bureau, or office of the federal government that is physically located within this state.

Historical Note

Adopted effective December 9, 1982 (Supp. 82-6). Section repealed, new Section adopted effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Section expired under A.R.S. § 41-1056(E) at 11 A.A.R. 4308, effective December 31, 2003 (Supp. 05-4). New Section made by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3).

R12-4-216. Crossbow Permit

- A. For the purposes of this Section, "healthcare provider" means a person who is licensed to practice by the federal government, any state, or U.S. territory with one of the following credentials:
 - Medical Doctor,
 - Doctor of Osteopathy,
 - Doctor of Chiropractic,
 - Nurse Practitioner, or
 - Physician Assistant.
- B. A crossbow permit allows a person to use a crossbow, or any bow to be drawn and held with an assisting device, during an archery-only season, as prescribed under R12-4-318, when authorized under R12-4-304 as lawful for the species hunted.
- C. The crossbow permit does not exempt the permit holder from any other applicable method of take or licensing requirement. The permit holder shall be responsible for compliance with all applicable regulatory requirements.
- D. The crossbow permit does not expire, unless:
 - 1. The medical certification portion of the application indicates the person has a temporary physical disability; then the crossbow permit shall be valid only for the period of time indicated on the crossbow permit as specified by the healthcare provider,
 - 2. The permit holder no longer meets the criteria for obtaining the crossbow permit, or
 - 3. The Commission revokes the person's hunting privileges under A.R.S. § 17-340. A person whose crossbow permit is revoked by the Commission may petition the Commission for a rehearing as established under R12-4-607.
- E. An applicant for a crossbow permit shall apply by submitting an application to the Department. The application form is furnished by the Department and is available at any Department office and online at www.azgfd.gov. A crossbow permit appli-

Historical Note

Former Section R12-4-67 renumbered as Section R12-4-214 without change effective August 13, 1981 (Supp. 81-4). Repealed effective December 22, 1989 (Supp. 89-4). New Section made by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3).

R12-4-215. Youth Group Two-day Fishing License

- A. A youth group two-day fishing license authorizes a nonprofit organization or governmental entity as defined under subsection (C) that sponsors adult supervised activities for youth to take up to 25 youths fishing. The youth group two-day fishing license is only available from a Department office. The youth group two-day fishing license is valid for:
 - 1. Two consecutive days,
 - 2. The take of all aquatic wildlife, and
 - 3. All privileges established under R12-4-207(A).
- B. A nonprofit organization or governmental entity may apply for a youth group two-day fishing license at any Department office. An applicant for a youth group two-day fishing license shall be a resident. The applicant shall pay the fee required under R12-4-102 and provide the following information at the time of application:
 - 1. The nonprofit organization's or governmental entity's:
 - a. Name;
 - b. Mailing address; and

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cant shall provide all of the following information on the application:

1. The applicant's:
 - a. Name;
 - b. Date of birth;
 - c. Physical description, to include the applicant's eye color, hair color, height, and weight;
 - d. Department identification number, when applicable;
 - e. Residency status;
 - f. Mailing address, when applicable;
 - g. Physical address;
 - h. Telephone number, when available; and
 - i. E-mail address, when available;
 2. Affirmation that:
 - a. The applicant meets the requirements of this Section, and
 - b. The information provided on the application is true and accurate, and
 3. Applicant's signature and date.
 4. The certification portion of the application shall be completed by a healthcare provider. The healthcare provider shall:
 - a. Certify the applicant has one or more of the following physical limitations:
 - i. An amputation involving body extremities required for stable function to use conventional archery equipment;
 - ii. A spinal cord injury resulting in a disability to the lower extremities, leaving the applicant nonambulatory;
 - iii. A wheelchair restriction;
 - iv. A neuromuscular condition that prevents the applicant from drawing and holding a bow;
 - v. A failed functional draw test that equals 30 pounds of resistance and involves holding it for four seconds;
 - vi. A failed manual muscle test involving the grading of shoulder and elbow flexion and extension or an impaired range-of-motion test involving the shoulder or elbow; or
 - vii. A combination of comparable physical disabilities resulting in the applicant's inability to draw and hold a bow.
 - b. Indicate whether the disability is temporary or permanent and, when temporary, specify the expected duration of the physical limitation; and
 - c. Provide the healthcare provider's:
 - i. Typed or printed name,
 - ii. License number,
 - iii. Business address,
 - iv. Telephone number, and
 - v. Signature and date;
 5. A person who holds a valid Challenged Hunter Access/Mobility Permit (CHAMP) and who is applying for a crossbow permit is exempt from the requirements of subsection (E)(4) and shall indicate "CHAMP" in the space provided for the medical certification on the crossbow permit application
- F.** All information and documentation provided by the applicant is subject to Department verification. The Department shall return the original or certified copy of a document to the applicant after verification.
- G.** The Department shall deny a crossbow permit when the applicant:
1. Fails to meet the criteria prescribed under this Section,
 2. Fails to comply with the requirements of this Section, or

3. Provides false information during the application process.

- H.** The Department shall provide written notice to the applicant stating the reason for the denial. The applicant may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10.
- I.** The applicant claiming a temporary or permanent disability is responsible for all costs associated with obtaining the medical documentation, re-evaluation of the information, or a second medical opinion.
- J.** When acting under the authority of a crossbow permit, the crossbow permit holder shall possess the permit, and exhibit the permit upon request to any peace officer, wildlife manager, or game ranger.
- K.** A crossbow permit holder shall not:
1. Transfer the permit to another person, or
 2. Allow another person to use or possess the permit.

Historical Note

Adopted effective April 7, 1983 (Supp. 83-2). Repealed effective January 1, 1993; filed December 18, 1993 (Supp. 92-4). New Section adopted effective January 1, 1996; filed in the Office of the Secretary of State December 18, 1995 (Supp. 95-4). Amended by final rulemaking at 6 A.A.R. 211, effective January 1, 2000 (Supp. 99-4). Amended by final rulemaking at 12 A.A.R. 212, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 20 A.A.R. 3045, effective January 3, 2015 (Supp. 14-4).

R12-4-217. Challenged Hunter Access/Mobility Permit (CHAMP)

- A.** For the purposes of this Section, the following definitions apply:
- "Healthcare provider" means a person who is licensed to practice by the federal government, any state, or U.S. territory with one of the following credentials:

Medical Doctor,
 Doctor of Osteopathy,
 Doctor of Chiropractic,
 Nurse Practitioner, or
 Physician Assistant.

"Severe permanent disability" means one or more permanent physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, intellectual disability, muscular dystrophy, musculoskeletal disorders, neurological disorders, paraplegia, pulmonary disorders, quadriplegia and other spinal cord conditions, sickle cell anemia, and end stage renal disease or a combination of permanent disabilities resulting in comparable substantial functional limitations.

- B.** The Challenged Hunter Access/Mobility Permit (CHAMP) allows a person with a severe permanent disability to perform one or more of the following activities:
1. Discharge a firearm or other legal hunting device from a motor vehicle if, under existing conditions:
 - a. The discharge is otherwise lawful;
 - b. The motor vehicle is not in motion;
 - c. The motor vehicle is not on any road, as defined under A.R.S. § 17-101; and
 - d. The motor vehicle's engine is turned off.
 2. Discharge a firearm or other legal hunting device from a watercraft, as defined under R12-4-501; provided the motor is turned off, the sail furled, or both; and progress has ceased.

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- a. The watercraft may be drifting as a result of current or wind, beached, moored, resting at anchor, or propelled by paddle, oars, or pole.
 - b. A person may use a watercraft under power to retrieve dead or wounded wildlife.
 - c. For the purposes of this subsection, "watercraft" does not include a sinkbox.
- 3. Use off-road locations in a motor vehicle if use is not in conflict with federal or state statutes or regulations or local ordinances or regulations and the motor vehicle is used as a place to wait for game. A person shall not use a motor vehicle to chase or pursue game.
- 4. Designate an assistant to track and dispatch a wounded animal, and to retrieve the animal, in accordance with the requirements of this Section.
- C. The CHAMP holder shall comply with all applicable regulatory requirements. A CHAMP does not exempt the permit holder from any other applicable method of take or licensing requirement.
- D. The CHAMP does not expire, unless:
 - 1. The permit holder no longer meets the criteria for obtaining the CHAMP, or
 - 2. The Commission revokes the person's hunting privileges under A.R.S. § 17-340. A person whose CHAMP is revoked by the Commission may petition the Commission for a rehearing as established under R12-4-607.
- E. An applicant for a CHAMP shall apply by submitting an application to the Department. The application form is furnished by the Department and is available from any Department office and online at www.azgfd.gov. The CHAMP applicant shall provide all of the following information on the application:
 - 1. The applicant's:
 - a. Name;
 - b. Date of birth;
 - c. Physical description, to include the applicant's eye color, hair color, height, and weight;
 - d. Department identification number, when applicable;
 - e. Residency status;
 - f. Mailing address, when applicable;
 - g. Physical address;
 - h. Telephone number, when available; and
 - i. E-mail address, when available;
 - 2. Affirmation that:
 - a. The applicant meets the requirements of this Section, and
 - b. The information provided on the application is true and accurate, and
 - 3. Applicant's signature and date.
 - 4. The certification portion of the application shall be completed by a healthcare provider. The healthcare provider shall:
 - a. Certify the applicant is a person with a severe permanent disability as defined under subsection (A), and
 - b. Provide the healthcare provider's:
 - i. Typed or printed name,
 - ii. Business address,
 - iii. Telephone number, and
 - iv. Signature and date;
- F. All information and documentation provided by the applicant is subject to Department verification. The Department shall return the original or certified copy of a document to the applicant after verification.
- G. The applicant claiming a severe permanent disability is responsible for all costs associated with obtaining the medical documentation, re-evaluation of the information, or a second medical opinion.
- H. The Department shall deny a CHAMP when the applicant:
 - 1. Fails to meet the criteria prescribed under this Section,
 - 2. Fails to comply with the requirements of this Section, or
 - 3. Provides false information during the application process.
- I. The Department shall provide written notice to the applicant stating the reason for the denial. The applicant may appeal the denial to the Commission as prescribed in A.R.S. Title 41, Chapter 6, Article 10.
- J. When acting under the authority of the CHAMP, the permit holder shall possess and exhibit the permit upon request to any peace officer, wildlife manager, or game ranger.
- K. The CHAMP holder shall ensure the CHAMP vehicle placard, issued with the CHAMP, is visibly displayed on the motor vehicle or watercraft when in use.
- L. The Department shall provide a CHAMP holder with a dispatch permit that allows the CHAMP holder to designate a licensed hunter as an assistant to:
 - 1. Dispatch and retrieve an animal wounded by the CHAMP holder, or
 - 2. Retrieve wildlife killed by the CHAMP holder.
- M. The CHAMP holder shall:
 - 1. Designate an assistant only after the animal is wounded or killed.
 - 2. Ensure the designation on the dispatch permit is in ink and includes:
 - a. A description of the animal,
 - b. The assistant's name and valid Arizona hunting license number,
 - c. The date and time the animal was wounded or killed, and
 - 3. Ensure compliance with all of the following requirements:
 - a. The site where the animal is wounded and the location from which tracking begins are marked so they can be identified later.
 - b. The assistant possesses the dispatch permit and a valid hunting license while tracking and dispatching the wounded animal. When acting under the authority of the dispatch permit, the assistant shall possess and exhibit the dispatch permit and hunting license upon request to any peace officer, wildlife manager, or game ranger.
 - c. The CHAMP holder is in the field while the assistant is tracking and dispatching the wounded animal.
 - d. The assistant does not transfer the dispatch permit to anyone except that the dispatch permit may be transferred back to the CHAMP holder.
 - e. Dispatch is made by a method that is lawful for the take of the particular animal in the particular season in accordance with requirements established under R12-4-304 and R12-4-318.
 - f. The assistant attaches the dispatch permit to the carcass of the animal and returns the carcass to the CHAMP holder, and the tag of the CHAMP holder is affixed to the carcass.
 - g. If the assistant is unsuccessful in locating and dispatching the wounded animal, the assistant returns the dispatch permit to the CHAMP holder. The CHAMP holder shall strike the name and authorization of the assistant from the dispatch permit.
- N. A dispatch permit may not be reused when all spaces for designation of an assistant are filled or the dispatch permit is attached to a carcass. The CHAMP holder may request another dispatch permit from the Department if:
 - 1. All spaces for assistants are filled,

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2. The dispatch permit is lost, or
 3. When the CHAMP holder needs another dispatch permit for another big game hunt.
- O.** A CHAMP holder shall not:
1. Transfer the permit to another person, or
 2. Allow another person to use or possess the permit.

Historical Note

Adopted effective October 9, 1980 (Supp. 80-5). Former Section R12-4-59 renumbered as Section R12-4-310 without change effective August 13, 1981 (Supp. 81-4). Former Section R12-4-310 renumbered as R12-4-217 and amended effective December 30, 1988 (Supp. 88-4). Correction, former Historical Note should read "Former Section R12-4-310 renumbered as R12-4-217 and amended effective January 1, 1989, filed December 30, 1988" (Supp. 89-2). Section repealed, new Section adopted effective January 1, 1996; filed in the Office of the Secretary of State December 18, 1995 (Supp. 95-4). Amended by final rulemaking at 6 A.A.R. 211, effective January 1, 2000 (Supp. 99-4). Amended by final rulemaking at 12 A.A.R. 212, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 20 A.A.R. 3045, effective January 3, 2015 (Supp. 14-4).

R12-4-218. Repealed**Historical Note**

Adopted effective December 30, 1988 (Supp. 88-4). Correction, former Historical Note should read "Adopted effective January 1, 1989, filed December 30, 1988" (Supp. 89-2). Repealed effective November 7, 1996 (Supp. 96-4).

R12-4-219. Renumbered**Historical Note**

Adopted as an emergency effective July 5, 1988 pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Correction, Historical Note, Supp. 88-3, should read, "Adopted as an emergency effective July 15, 1988..."; readopted and amended as an emergency effective October 13, 1988 pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 24, 1989 pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Former Section R12-4-219 amended and adopted as a permanent rule and renumbered as Section R12-4-424 effective April 28, 1989 (Supp. 89-2).

R12-4-220. Repealed**Historical Note**

Adopted effective December 30, 1988 (Supp. 88-4). Correction, former Historical Note should read "Adopted effective January 1, 1989, filed December 30, 1988" (Supp. 89-2). Repealed effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4).

ARTICLE 3. TAKING AND HANDLING OF WILDLIFE**R12-4-301. Definitions**

In addition to the definitions provided under A.R.S. § 17-101, the following definitions apply to this Article unless otherwise specified:

"Administer" means to pursue, capture, or otherwise restrain wildlife in order to directly apply a drug to wildlife by injection, inhalation, ingestion or any other means.

"Aircraft" means any contrivance used for flight in the air or any lighter-than-air contrivance.

"Artificial lures and flies" means man-made devices intended as visual attractants for fish and does not include living or dead organisms or edible parts of those organisms, natural or prepared food stuffs, artificial salmon eggs, artificial corn, or artificial marshmallows.

"Barbless hook" means any fishhook manufactured without barbs or on which the barbs have been completely closed or removed.

"Body-gripping trap" means a device designed to capture an animal by gripping the animal's body.

"Cervid" means any member of the deer family (Cervidae); which includes caribou, elk, moose, mule deer, reindeer, wapiti, and whitetail deer.

"Confinement trap" means a device designed to capture wildlife alive and hold it without harm.

"Crayfish net" means a net that does not exceed 36 inches on a side or in diameter and is retrieved by means of a hand-held line.

"Dip net" means any net, excluding the handle, that is no greater than 3 feet in the greatest dimension, that is hand-held, non-motorized, and the motion of the net is caused by the physical effort of the individual.

"Drug" means any chemical substance, other than food or mineral supplements, which affects the structure or biological function of wildlife.

"Evidence of legality" means the wildlife is accompanied by the applicable license, tag, stamp, or permit required by law and is identifiable as the "legal wildlife" prescribed by Commission Order, which may include evidence of species, gender, antler or horn growth, maturity and size.

"Foothold trap" means a device designed to capture an animal by the leg or foot.

"Instant kill trap" means a device designed to render an animal unconscious and insensitive to pain quickly with inevitable subsidence into death without recovery of consciousness.

"Land set" means any trap used on land rather than in water.

"Minnow trap" means a trap with dimensions that do not exceed 12 inches in depth, 12 inches in width and 24 inches in length.

"Muzzleloading handgun" means a firearm intended to be fired from the hand, incapable of firing fixed ammunition, having a single barrel, and loaded through the muzzle with black powder or synthetic black powder and a single projectile.

"Muzzleloading rifle" means a firearm intended to be fired from the shoulder, incapable of firing fixed ammunition, having a single barrel and single chamber, and loaded through the muzzle with black powder or synthetic black powder and a single projectile.

"Nonprofit organization" means an organization that is recognized as nonprofit under Section 501(c) of the U.S. Internal Revenue Code.

"Paste-type bait" means a partially liquefied substance used as a lure for animals.

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“Person” means any individual, corporation, partnership, limited liability company, non-governmental organization or club, licensed animal shelter, government entity other than the Department, and any officer, employee, volunteer, member or agent of a person.

“Pre-charged pneumatic weapon” means an air gun or pneumatic weapon that is charged from an external high compression source such as an air compressor, air tank, or external hand pump.

“Sight-exposed bait” means a carcass or parts of a carcass lying openly on the ground or suspended in a manner so that it can be seen from above by a bird. This does not include a trap flag, dried or bleached bone with no attached tissue, or less than two ounces of paste-type bait.

“Simultaneous fishing” means taking fish by using two lines and not more than two hooks or two artificial lures or flies per line.

“Sinkbox” means a low floating device with a depression that affords a hunter a means of concealment beneath the surface of the water.

“Trap flag” means an attractant made from materials other than animal parts that is suspended at least three feet above the ground.

“Water set” means any trap used and anchored in water rather than on land.

Historical Note

Amended as an emergency effective April 10, 1975 (Supp. 75-1). Amended effective May 3, 1976, Amended effective June 7, 1976 (Supp. 76-3). Amended effective May 26, 1978 (Supp. 78-3). Editorial correction subsection (D) (Supp. 78-5). Amended effective June 4, 1979 (Supp. 79-3). Former Section R12-4-50 renumbered as Section R12-4-301 without change effective August 13, 1981 (Supp. 81-4). Amended subsection (A) effective May 12, 1982 (Supp. 82-3). Amended effective July 3, 1984 (Supp. 84-4). Amended effective December 30, 1988 (Supp. 88-4). Correction, former Historical Note should read “Amended effective January 1, 1989, filed December 30, 1988” (Supp. 89-2). Amended effective February 9, 1998 (Supp. 98-1). Amended by final rulemaking at 10 A.A.R. 850, effective April 3, 2004 (Supp. 04-1). Former R12-4-301 renumbered to R12-4-321; new Section made by final rulemaking at 18 A.A.R. 1458, effective January 1, 2013 (Supp. 12-2). Amended by final rulemaking at 19 A.A.R. 826, effective July 1, 2013 (Supp. 13-2).

R12-4-302. Use of Tags

- A. In addition to meeting requirements prescribed under A.R.S. § 17-331, an individual who takes wildlife shall have in possession any tag required for the particular season or hunt area.
- B. A tag obtained in violation of statute or rule is invalid and shall not be used to take, transport, or possess wildlife.
- C. An individual who lawfully possesses both a nonpermit-tag and a hunt permit-tag shall not take a genus or species in excess of the bag limit established by Commission Order for that genus or species.
- D. An individual shall:
 1. Take and tag only the wildlife identified on the tag; and
 2. Use a tag only in the season and hunt for which the tag is valid, as specified by Commission Order.
- E. Except as permitted under R12-4-217, an individual shall not:

1. Allow their tag to be attached to wildlife killed by another individual,
 2. Allow their tag to be possessed by another individual who is in a hunt area,
 3. Attach their tag to wildlife killed by another individual,
 4. Attach a tag issued to another individual to wildlife, or
 5. Possess a tag issued to another individual while in a hunt area.
- F. Except as permitted under R12-4-217, immediately after an individual kills wildlife, the individual shall attach the tag to the wildlife carcass in the manner indicated on the tag.
 - G. An individual who lawfully takes wildlife with a valid tag and authorizes another individual to possess, transport, or ship the tagged portion of the carcass shall complete the Transportation and Shipping Permit portion of the original tag authorizing the take of that animal.
 - H. If a tag is cut, notched, mutilated, or the Transportation and Shipping Permit portion of the tag is signed or filled out, the tag is no longer valid for the take of wildlife.

Historical Note

Former Section R12-4-51 renumbered as Section R12-4-302 without change effective August 13, 1981 (Supp. 81-4). Amended subsections (A), (D), (E), and repealed subsection (G) effective May 12, 1982 (Supp. 82-3). Amended effective March 23, 1983 (Supp. 83-2). Amended subsection (F) effective October 31, 1984 (Supp. 84-5). Amended subsections (A), (D), (F) and (G) and added a new Section (H) effective June 4, 1987 (Supp. 87-2). Amended effective December 30, 1988 (Supp. 88-4). Correction, former Historical Note should read “Amended effective January 1, 1989, filed December 30, 1988” (Supp. 89-2). Section R12-4-302 repealed, new Section R12-4-302 adopted effective March 1, 1991; filed February 28, 1991 (Supp. 91-1). Amended effective January 1, 1993; filed December 18, 1992 (Supp. 92-4). Section repealed, new Section adopted effective January 1, 1996; filed in the Office of the Secretary of State December 18, 1995 (Supp. 95-4). Amended by final rulemaking at 10 A.A.R. 850, effective April 3, 2004 (Supp. 04-1). Amended by final rulemaking at 12 A.A.R. 683, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 19 A.A.R. 826, effective July 1, 2013 (Supp. 13-2). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).

R12-4-303. Unlawful Devices, Methods, and Ammunition

- A. In addition to the prohibitions prescribed under A.R.S. §§ 17-301 and 17-309, the following devices, methods, and ammunition are unlawful for taking any wildlife in this state:
 1. An individual shall not use any of the following to take wildlife:
 - a. Fully automatic firearms, including firearms capable of selective automatic fire; or
 - b. Tracer, armor-piercing, or full-jacketed ammunition designed for military use.
 2. An individual shall not use or possess any of the following while taking wildlife:
 - a. Poisoned projectiles or projectiles that contain explosives;
 - b. Pitfalls of greater than 5-gallon size, explosives, poisons, or stupefying substances, except as permitted under A.R.S. § 17-239 or as allowed by a scientific collecting permit issued under A.R.S. § 17-238;
 - c. Any lure, attractant, or cover scent containing any cervid urine; or

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- d. Electronic night vision equipment, electronically enhanced light-gathering devices, thermal imaging devices or laser sights; except for devices such as laser range finders, scopes with self-illuminating reticles, and fiber optic sights with self-illuminating sights or pins that do not project a visible light onto an animal.
- 3. An individual shall not:
 - a. Hold wildlife at bay other than during daylight hours, unless authorized by Commission Order.
 - b. Injure, confine, or place a tracking device in or on wildlife for the purpose of aiding another individual to take wildlife.
 - c. Place any substance, device, or object in, on, or by any water source to prevent wildlife from using that water source.
 - d. Place any substance in a manner intended to attract bears.
 - e. Use a manual or powered jacking or prying device to take reptiles or amphibians.
 - f. Use dogs to pursue, tree, corner or hold at bay any wildlife for a hunter unless that hunter is present for the entire hunt.
 - g. Take migratory game birds, except Eurasian Collared-doves, using a shotgun larger than 10 gauge, a shotgun of any description capable of holding more than three shells unless it is plugged with a one-piece filler that cannot be removed without disassembling the shotgun so that its total capacity does not exceed three shells, electronically amplified bird calls, or baits, as prohibited under 50 CFR 20.21, revised October 1, 2009. The material incorporated by reference in this Section does not include any later amendments or editions. The incorporated material is available at any Department office, online from the Government Printing Office web site www.gpoaccess.gov, or may be ordered from the Superintendent of Documents, U.S. Government Printing Office, 732 N. Capitol St. N.W., Stop IDCC, Washington, D.C. 20401.
 - h. Discharge a pneumatic weapon .30 caliber or larger while taking wildlife within one-fourth mile of an occupied farmhouse or other residence, cabin, lodge or building without permission of the owner or resident.
- 4. An individual shall not use edible or ingestible substances to aid in taking big game. The use of edible or ingestible substances to aid in taking big game is unlawful when:
 - a. An individual places edible or ingestible substances for the purpose of attracting or taking big game, or
 - b. An individual knowingly takes big game with the aid of edible or ingestible substances placed for the purpose of attracting wildlife to a specific location.
- 5. Subsection (A)(4) does not limit Department employees or Department agents in the performance of their official duties.
- 6. For the purposes of subsection (A)(4), edible or ingestible substances do not include any of the following:
 - a. Water.
 - b. Salt.
 - c. Salt-based materials produced and manufactured for the livestock industry.
 - d. Nutritional supplements produced and manufactured for the livestock industry and placed during the course of livestock or agricultural operations.

B. Wildlife taken in violation of this Section is unlawfully taken.

- C. This Section does not apply to any activity allowed under A.R.S. § 17-302, to an individual acting within the scope of their official duties as an employee of the state or United States, or as authorized by the Department.

Historical Note

Amended effective May 3, 1976 (Supp. 76-3). Amended effective April 29, 1977 (Supp. 77-2). Amended effective September 7, 1978 (Supp. 78-5). Former Section R12-4-52 renumbered as Section R12-4-303 without change effective August 13, 1981 (Supp. 81-4). Amended effective March 28, 1983 (Supp. 83-2). Amended subsections (A) and (C) effective October 31, 1984 (Supp. 84-5). Amended effective June 4, 1987 (Supp. 87-2). Former Section R12-4-303 repealed, new Section R12-4-303 adopted effective December 30, 1988 (Supp. 88-4). Correction, former Historical Note should read "Former Section R12-4-303 repealed, new Section R12-4-303 adopted effective January 1, 1989, filed December 30, 1988" (Supp. 89-2). Amended effective February 9, 1998 (Supp. 98-1). Amended by final rulemaking at 10 A.A.R. 850, effective April 3, 2004 (Supp. 04-1). Amended by final rulemaking at 19 A.A.R. 826, effective July 1, 2013 (Supp. 13-2).

R12-4-304. Lawful Methods for Taking Wild Mammals, Birds, and Reptiles

- A. An individual may only use the following methods to take big game when authorized by Commission Order and subject to the restrictions under R12-4-303 and R12-4-318.
 - 1. To take antelope:
 - a. Centerfire rifles;
 - b. Muzzleloading rifles;
 - c. All other rifles using black powder or synthetic black powder;
 - d. Centerfire handguns;
 - e. Handguns using black powder or synthetic black powder;
 - f. Shotguns shooting slugs, only;
 - g. Pre-charged pneumatic weapons .35 caliber or larger;
 - h. Bows with a standard pull of 30 or more lbs, using arrows with broadheads no less than 7/8 inch in width with metal cutting edges; and
 - i. Crossbows with a minimum draw weight of 125 lbs, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal cutting edges or bows as described in subsection (A)(1)(h) to be drawn and held with an assisting device.
 - 2. To take bear:
 - a. Centerfire rifles;
 - b. Muzzleloading rifles;
 - c. All other rifles using black powder or synthetic black powder;
 - d. Centerfire handguns;
 - e. Handguns using black powder or synthetic black powder;
 - f. Shotguns shooting slugs, only;
 - g. Pre-charged pneumatic weapons .35 caliber or larger;
 - h. Bows with a standard pull of 30 or more lbs, using arrows with broadheads no less than 7/8 inch in width with metal cutting edges;
 - i. Crossbows with a minimum draw weight of 125 lbs, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal

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- cutting edges or bows as described in subsection (A)(2)(h) to be drawn and held with an assisting device; and
 - j. Pursuit with dogs only between August 1 and December 31, provided the individual shall immediately kill or release the bear after it is treed, cornered, or held at bay. For the purpose of this subsection, "release" means the individual removes the dogs from the area so the bear can escape on its own after it is treed, cornered, or held at bay.
3. To take bighorn sheep:
 - a. Centerfire rifles;
 - b. Muzzleloading rifles;
 - c. All other rifles using black powder or synthetic black powder;
 - d. Centerfire handguns;
 - e. Handguns using black powder or synthetic black powder;
 - f. Shotguns shooting slugs, only;
 - g. Pre-charged pneumatic weapons .35 caliber or larger;
 - h. Bows with a standard pull of 30 or more lbs, using arrows with broadheads no less than 7/8 inch in width with metal cutting edges; and
 - i. Crossbows with a minimum draw weight of 125 lbs, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal cutting edges or bows as described in subsection (A)(3)(h) to be drawn and held with an assisting device.
 4. To take buffalo:
 - a. State-wide, except for the game management units identified under subsection (A)(4)(b):
 - i. Centerfire rifles;
 - ii. Muzzleloading rifles;
 - iii. All other rifles using black powder or synthetic black powder;
 - iv. Centerfire handguns no less than .41 Magnum or centerfire handguns with an overall cartridge length of no less than two inches;
 - v. Bows with a standard pull of 40 or more lbs, using arrows with broadheads of no less than 7/8 inch in width with metal cutting edges; and
 - vi. Crossbows with a minimum draw weight of 125 lbs, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal cutting edges or bows as described in subsection (A)(4)(a)(v) to be drawn and held with an assisting device.
 - b. In game management units 5A and 5B:
 - i. Centerfire rifles,
 - ii. Muzzleloading rifles, and
 - iii. All other rifles using black powder or synthetic black powder.
 5. To take deer:
 - a. Centerfire rifles;
 - b. Muzzleloading rifles;
 - c. All other rifles using black powder or synthetic black powder;
 - d. Centerfire handguns;
 - e. Handguns using black powder or synthetic black powder;
 - f. Shotguns shooting slugs, only;
 - g. Pre-charged pneumatic weapons .35 caliber or larger;
 - h. Bows with a standard pull of 30 or more lbs, using arrows with broadheads no less than 7/8 inch in width with metal cutting edges; and
 - i. Crossbows with a minimum draw weight of 125 lbs, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal cutting edges or bows as described in subsection (A)(5)(h) to be drawn and held with an assisting device.
 6. To take elk:
 - a. Centerfire rifles;
 - b. Muzzleloading rifles;
 - c. All other rifles using black powder or synthetic black powder;
 - d. Centerfire handguns;
 - e. Handguns using black powder or synthetic black powder;
 - f. Shotguns shooting slugs, only;
 - g. Bows with a standard pull of 30 or more lbs, using arrows with broadheads no less than 7/8 inch in width with metal cutting edges; and
 - h. Crossbows with a minimum draw weight of 125 lbs, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal cutting edges or bows as described in subsection (A)(6)(g) to be drawn and held with an assisting device.
 7. To take javelina:
 - a. Centerfire rifles;
 - b. Muzzleloading rifles;
 - c. All other rifles using black powder or synthetic black powder;
 - d. Centerfire handguns;
 - e. Handguns using black powder or synthetic black powder;
 - f. Shotguns shooting slugs, only;
 - g. Pre-charged pneumatic weapons .35 caliber or larger;
 - h. Bows with a standard pull of 30 or more lbs, using arrows with broadheads no less than 7/8 inch in width with metal cutting edges;
 - i. Crossbows with a minimum draw weight of 125 lbs, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal cutting edges or bows as described in subsection (A)(7)(h) to be drawn and held with an assisting device;
 - j. .22 rimfire magnum rifles; and
 - k. 5 mm rimfire magnum rifles.
 8. To take mountain lion:
 - a. Centerfire rifles;
 - b. Muzzleloading rifles;
 - c. All other rifles using black powder or synthetic black powder;
 - d. Centerfire handguns;
 - e. Handguns using black powder or synthetic black powder;
 - f. Shotguns shooting slugs or shot;
 - g. Pre-charged pneumatic weapons .35 caliber or larger;
 - h. Bows with a standard pull of 30 or more lbs, using arrows with broadheads no less than 7/8 inch in width with metal cutting edges;
 - i. Crossbows with a minimum draw weight of 125 lbs, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal

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- cutting edges or bows as described in subsection (A)(8)(h) to be drawn and held with an assisting device;
- j. Artificial light, during seasons with day-long hours, provided the light is not attached to or operated from a motor vehicle, motorized watercraft, watercraft under sail, or floating object towed by a motorized watercraft or a watercraft under sail; and
 - k. Pursuit with dogs, provided the individual shall immediately kill or release the mountain lion after it is treed, cornered, or held at bay. For the purpose of this subsection, "release" means the individual removes the dogs from the area so the mountain lion can escape on its own after it is treed, cornered, or held at bay.
9. To take turkey:
- a. Shotguns shooting shot;
 - b. Bows with a standard pull of 30 or more lbs, using arrows with broadheads no less than 7/8 inch in width with metal cutting edges; and
 - c. Crossbows with a minimum draw weight of 125 lbs, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal cutting edges or bows as described in subsection (A)(9)(b) to be drawn and held with an assisting device.
- B.** An individual may only use the following methods to take small game, when authorized by Commission Order and subject to the restrictions under R12-4-303 and R12-4-318.
- 1. To take cottontail rabbits and tree squirrels:
 - a. Firearms,
 - b. Bow and arrow,
 - c. Crossbow,
 - d. Pneumatic weapons,
 - e. Slingshots,
 - f. Hand-held projectiles,
 - g. Falconry, and
 - h. Dogs.
 - 2. To take all upland game birds and Eurasian Collared-doves:
 - a. Bow and arrow;
 - b. Falconry;
 - c. Pneumatic weapons;
 - d. Shotguns shooting shot, only;
 - e. Handguns shooting shot, only;
 - f. Crossbow;
 - g. Slingshot;
 - h. Hand-held projectiles; and
 - i. Dogs.
 - 3. To take migratory game birds, except Eurasian Collared-doves:
 - a. Bow and arrow;
 - b. Crossbow;
 - c. Falconry;
 - d. Dogs;
 - e. Shotguns shooting shot:
 - i. Ten gauge or smaller, except that lead shot shall not be used or possessed while taking ducks, geese, swans, mergansers, common moorhens, or coots; and
 - ii. Incapable of holding more than a total of three shells, as prescribed under 50 CFR 20.21, published October 1, 2009. The material incorporated by reference in this subsection does not include any later amendments or editions. The material is available at any Department office, online from the Government Printing Office web site www.gpoaccess.gov, or may be ordered from the Superintendent of Documents, U.S. Government Printing Office, 732 N. Capitol St. N.W., Stop: IDCC, Washington, D.C. 20401.
- C.** An individual may take waterfowl from any watercraft, except a sinkbox, subject to the following conditions:
- 1. The motor is shut off, the sail is furled, as applicable, and any progress from a motor or sail has ceased;
 - 2. The watercraft may be:
 - a. Adrift as a result of current or wind action;
 - b. Beached;
 - c. Moored;
 - d. Resting at anchor; or
 - e. Propelled by paddle, oars, or pole; and
 - 3. The individual may only use the watercraft under power to retrieve dead or crippled waterfowl; shooting is prohibited while the watercraft is underway.
- D.** An individual may take predatory and furbearing animals by using the following methods, when authorized by Commission Order and subject to the restrictions under R12-4-303 and R12-4-318:
- 1. Firearms;
 - 2. Pre-charged pneumatic weapons .22 caliber or larger;
 - 3. Bow and arrow;
 - 4. Crossbow;
 - 5. Traps not prohibited under R12-4-307;
 - 6. Artificial light while taking raccoon provided the light is not attached to or operated from a motor vehicle, motorized watercraft, watercraft under sail, or floating object towed by a motorized watercraft or a watercraft under sail;
 - 7. Artificial light while taking coyote during seasons with day-long hours, provided the light is not attached to or operated from a motor vehicle, motorized watercraft, watercraft under sail, or floating object towed by a motorized watercraft or a watercraft under sail; and
 - 8. Dogs.
- E.** An individual may take nongame mammals and birds by any method authorized by Commission Order and not prohibited under R12-4-303 or R12-4-318, subject to the following restrictions. An individual:
- 1. Shall not take nongame mammals and birds using foot-hold traps;
 - 2. Shall check pitfall traps of any size daily, release non-target species, remove pitfalls when no longer in use, and fill any holes;
 - 3. Shall not use firearms at night; and
 - 4. May use artificial light while taking nongame mammals and birds, if the light is not attached to or operated from a motor vehicle, motorized watercraft, watercraft under sail, or floating object towed by a motorized watercraft or a watercraft under sail.
- F.** An individual may take reptiles by any method not prohibited under R12-4-303 or R12-4-318 subject to the following restrictions. An individual:
- 1. Shall check pitfall traps of any size daily, release non-target species, remove pitfalls when no longer in use, and fill any holes;
 - 2. Shall not use firearms at night; and
 - 3. May use artificial light while taking reptiles provided the light is not attached to or operated from a motor vehicle, motorized watercraft, watercraft under sail, or floating object towed by a motorized watercraft or a watercraft under sail.

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Historical Note

Amended effective May 21, 1975 (Supp. 75-1). Amended effective May 3, 1976 (Supp. 76-3). Amended effective October 20, 1977 (Supp. 77-5). Amended effective January 11, 1978 (Supp. 78-1). Amended effective September 7, 1978 (Supp. 78-5). Amended effective November 14, 1979 (Supp. 79-6). Amended effective July 22, 1980 (Supp. 80-4). Former Section R12-4-53 renumbered as Section R12-4-304 without change effective August 13, 1981 (Supp. 81-4). Amended effective May 12, 1982 (Supp. 82-3). Amended effective April 7, 1983 (Supp. 83-2). Amended subsection (I) effective June 7, 1984 (Supp. 84-3). Amended effective February 28, 1985 (Supp. 85-1). Amended effective September 16, 1985 (Supp. 85-5). Amended effective June 4, 1987 (Supp. 87-2). Former Section R12-4-304 repealed, new Section R12-4-304 adopted effective December 30, 1988 (Supp. 88-4). Correction, former Historical Note should read "Former Section R12-4-304 repealed, new Section R12-4-304 adopted effective January 1, 1989, filed December 30, 1988" (Supp. 89-2). Amended effective January 1, 1993; filed December 18, 1992 (Supp. 92-4). Former Section R12-4-304 repealed, new Section R12-4-304 adopted effective February 9, 1998 (Supp. 98-1). Amended by final rulemaking at 8 A.A.R. 1702, effective March 11, 2002 (Supp. 02-1). Amended by final rulemaking at 10 A.A.R. 850, effective April 3, 2004 (Supp. 04-1). Amended by exempt rulemaking at 17 A.A.R. 2629, effective December 9, 2011 (Supp. 11-4). Amended by final rulemaking at 19 A.A.R. 826, effective July 1, 2013 (Supp. 13-2).

R12-4-305. Possessing, Transporting, Importing, Exporting, and Selling Carcasses or Parts of Wildlife

- A.** An individual shall ensure that evidence of legality remains with the carcass or parts of a carcass of any wild mammal, bird, or reptile that the individual possesses, transports, or imports until arrival at the individual's permanent abode, a commercial processing plant, or the place where the wildlife is to be consumed.
- B.** In addition to the requirement in subsection (A), an individual possessing or transporting the following wildlife shall ensure each:
 1. Big game animal, sandhill crane, and pheasant has the required valid tag attached as prescribed under R12-4-302;
 2. Migratory game bird, except sandhill cranes, has one fully feathered wing attached;
 3. Sandhill crane has either the fully feathered head or one fully feathered wing attached; and
 4. Quail has attached a fully feathered head, or a fully feathered wing, or a leg with foot attached, when the current Commission Order has established separate bag or possession limits for any species of quail.
- C.** An individual who has lawfully taken wildlife that requires a valid tag when prescribed by the Commission may authorize its transportation or shipment by completing and signing the Transportation and Shipping Permit portion of the valid tag for that animal. A separate Transportation and Shipping Permit issued by the Department is necessary to transport or ship to another state or country any big game taken with a resident license. Under A.R.S. § 17-372(B), an individual may ship other lawfully taken wildlife by common carrier after obtaining a valid Transportation and Shipping Permit issued by the Department. The individual shall provide the following information on the permit form:
 1. Number and description of the wildlife to be transported or shipped;
 2. Name, address, license number, and license class of the individual who took the wildlife;
 3. Tag number;
 4. Name and address of the individual receiving a portion of the carcass of the wildlife as authorized under subsection (D), if applicable;
 5. Address of destination where the wildlife is to be transported or shipped; and
 6. Name and address of transporter or shipper.
- D.** An individual who lawfully takes wildlife under a tag may authorize another individual to possess the head or carcass of the wildlife by separating and attaching the tag as prescribed under R12-4-302.
- E.** An individual who receives a portion of the wildlife shall provide the identity of the individual who took and gave the portion of the wildlife.
- F.** An individual shall not possess the horns of a bighorn sheep, taken by a hunter in this state, unless the horns are marked or sealed as prescribed under R12-4-308.
- G.** Except as provided under R12-4-307, before an individual may sell, offer for sale, or export the raw pelt or unskinned carcass of a bobcat taken in this state the individual shall:
 1. Present the bobcat for inspection at any Department office, and
 2. Purchase a bobcat seal by paying the fee established under R12-4-102 at any Department office or other location as determined and published by the Department. Department personnel or an authorized agent shall attach and lock the bobcat seal only to a pelt or unskinned carcass presented with a validated transportation tag.
- H.** An individual who takes bear or mountain lion under A.R.S. § 17-302 during a closed season may retain the carcass of the wildlife if the individual has a valid hunting license and the carcass is immediately tagged with a nonpermit-tag as required under R12-4-114 and R12-4-302, unless the individual has already taken the applicable bag limit for that big game animal. An animal retained under this subsection shall count towards the applicable bag limit for bear or mountain lion as authorized by Commission Order. The individual shall comply with inspection and reporting requirements established under R12-4-308.
- I.** An individual may possess, transport, or import only the following portions of a cervid lawfully taken in another state or country:
 1. Boneless portions of meat, or meat that has been cut and packaged;
 2. Clean hides and capes with no skull or soft tissue attached, except as required for proof of legality;
 3. Clean skulls with antlers, clean skull plates, or antlers with no meat or soft tissue attached;
 4. Finished taxidermy mounts or products; and
 5. Upper canine teeth with no meat or tissue attached.
- J.** A private game farm license holder may transport a cervid lawfully killed or slaughtered at the license holder's game farm to a licensed meat processor.
- K.** An individual may possess or transport only the following portions of a cervid lawfully killed or slaughtered at a private game farm authorized under R12-4-413:
 1. Boneless portions of meat, or meat that has been cut and packaged;
 2. Clean hides and capes with no skull or soft tissue attached;
 3. Clean skulls with antlers, clean skull plates, or antlers with no meat or soft tissue attached;

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- 4. Finished taxidermy mounts or products; and
- 5. Upper canine teeth with no meat or tissue attached.
- L. An individual who obtains buffalo meat as authorized under R12-4-306 may sell the meat.
- M. Except for cervids, which are subject to requirements established under subsections (I), (J), and (K), an individual may import into this state the carcasses or parts of wildlife, including aquatic wildlife, lawfully taken in another state or country if transported and exported in accordance with the laws of the state or country of origin.
- N. An individual in possession of or transporting the carcass of any freshwater fish taken within this state shall ensure that the head, tail, or skin is attached so that the species can be identified, numbers counted, and any required length determined.
- O. An individual shall not transport live crayfish from the site where taken, except as permitted under R12-4-316.
- P. An individual in possession of a carp (*Cyprinus carpio*), buffalofish (*Ictiobus* spp.), or crayfish (families *Astacidae*, *Cambaridae*, and *Parastacidae*) carcass taken under Commission Order may sell the carcass.

Historical Note

Amended effective May 3, 1976 (Supp. 76-3). Former Section R12-4-54 renumbered as Section R12-4-305 without change effective August 13, 1981 (Supp. 81-4). Amended effective May 12, 1982 (Supp. 82-3). Amended effective June 14, 1983 (Supp. 83-3). Amended effective December 30, 1988 (Supp. 88-4). Correction, former Historical Note should read "Amended effective January 1, 1989, filed December 30, 1988" (Supp. 89-2). Section repealed, new Section adopted effective April 1, 1997; filed in the Office of the Secretary of State July 12, 1996 (Supp. 96-3). Amended by final rulemaking at 10 A.A.R. 850, effective April 3, 2004 (Supp. 04-1). Amended by final rulemaking at 12 A.A.R. 683, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 19 A.A.R. 826, effective July 1, 2013 (Supp. 13-2).

R12-4-306. Buffalo Hunt Requirements

- A. When authorized by Commission Order, the Department shall conduct a hunt to harvest buffalo from the state's buffalo herds.
- B. A hunter with a buffalo permit-tag or nonpermit-tag shall:
 - 1. Provide a signed written acknowledgment that the hunter received, read, understands, and agrees to comply with the requirements of this Section.
 - 2. Be accompanied by an authorized Department employee, when required, and
 - 3. Take only the buffalo designated by the Department employee, when required.
- C. For the House Rock Herd (Units 12A, 12B, and 13A): when required by the Department, a hunter with a nonpermit-tag shall:
 - 1. Hunt in the order scheduled.
 - 2. Be accompanied by a Department employee who:
 - a. Shall designate the buffalo to be harvested, and
 - b. May assist in taking the buffalo if the hunter fails to dispatch a wounded buffalo within a reasonable period.
- D. For the Raymond Herd (Units 5A and 5B):
 - 1. A hunter with a permit-tag shall:
 - a. Hunt in the order scheduled, and
 - b. Be accompanied by an authorized Department employee who:
 - i. Shall designate the buffalo to be harvested, and
 - ii. May assist in taking the buffalo if the hunter fails to dispatch a wounded buffalo within a reasonable period.
- E. A hunter issued a buffalo permit-tag or non-permit tag shall check out no more than three days after the end of the hunt, regardless of whether the hunter was successful, unsuccessful, or did not participate in a buffalo hunt.
 - 1. House Rock Herd (Units 12A, 12B, and 13A): a hunter may check out either in person or by telephone at the House Rock Wildlife Area headquarters, the Jacob Lake Check station when open during deer season, or the Department's Flagstaff regional office.
 - 2. Raymond Herd (Units 5A and 5B):
 - a. A successful hunter shall check out in person at the Raymond Wildlife Area headquarters or the Department's Flagstaff regional office. The hunter shall present the buffalo to the Department for the purpose of gathering biological data.
 - b. An unsuccessful hunter shall check out by telephone at the Raymond Wildlife Area headquarters or the Department's Flagstaff regional office.
 - 3. At the time of check-out, the hunter shall provide all of the following information:
 - a. Hunter's name,
 - b. Hunter's contact number,
 - c. Tag number,
 - d. Sex of buffalo taken,
 - e. Age of the buffalo taken: adult or yearling,
 - f. Number of days hunted, and
 - g. Number of buffalo seen while hunting.
 - 4. When accompanied by an authorized Department employee, the employee shall conduct the check-out at the end of the hunt.
- F. Failure to comply with the requirements of this Section shall result in the invalidation of the hunter's permit-tag or nonpermit-tag, consistent with the written acknowledgment signed and agreed to by the hunter.

Historical Note

Former Section R12-4-55 renumbered as Section R12-4-306 without change effective August 13, 1981 (Supp. 81-4). Amended subsections (A), (B), and (D) effective May 12, 1982 (Supp. 82-3). Amended effective December 30, 1988 (Supp. 88-4). Correction, former Historical Note should read "Amended effective January 1, 1989, filed December 30, 1988" (Supp. 89-2). Amended by final rulemaking at 10 A.A.R. 850, effective April 3, 2004 (Supp. 04-1). Amended by final rulemaking at 19 A.A.R. 826, effective July 1, 2013 (Supp. 13-2).

R12-4-307. Trapping Regulations, Licensing; Methods; Tagging of Bobcat Pelts

- A. An Arizona trapping license permits an individual to trap predatory and fur-bearing animals. The Department shall issue a registration number to a trapper and enter the number on the trapping license at the time the trapper purchases the license. The trapper registration number is not transferable.
- B. A trapping license is required for any individual 14 years of age and older. An individual under the age of 14 is not

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required to purchase a trapping license, but shall apply for and obtain a registration number.

- C. An individual born on or after January 1, 1967 shall successfully complete a Department-approved trapping education course before applying for a trapping license.
- D. An individual applying for a trapping registration number or trapping license shall pay the applicable fees established under R12-4-102.
- E. An individual applying for a trapping registration number or trapping license shall apply using a form furnished by the Department. The form is available at any Department office and online at www.azgfd.gov. The individual shall provide all of the following information on the form:
 - 1. Applicant's:
 - a. Full name, address, and telephone number;
 - b. Date of birth and physical description;
 - 2. Identification number assigned by the Department;
 - 3. Category of license:
 - a. Resident,
 - b. Nonresident, or
 - c. Juvenile, and
 - 4. The applicant's signature.
- F. A trapper may only trap predatory and fur-bearing animals during trapping seasons established by Commission Order.
- G. A trapper shall:
 - 1. Inspect traps daily;
 - 2. Kill or release all predatory and fur-bearing animals;
 - 3. Possess a choke restraint device that enables the trapper to release a javelina from a trap when trapping in a javelina hunt unit, as designated by Commission Order;
 - 4. Possess a device that is designed or manufactured to restrain a trapped animal while it is being removed from a trap when its release is required by this Section; and
 - 5. Release, without additional injury, all animals that cannot lawfully be taken by trap.
 - 6. Subsections (G)(3) and (G)(4) do not apply when the trapper is using a confinement trap.
- H. A trapper shall not:
 - 1. Bait a confinement trap with:
 - a. A live animal;
 - b. Any edible parts of small game, big game, or game fish; or
 - c. Any part of any game bird or nongame bird.
 - 2. Set any trap within:
 - a. One-half mile of any of the following areas developed for public use:
 - i. Boat launching area,
 - ii. Camping area,
 - iii. Picnic area, or
 - iv. Roadside rest area.
 - b. One-half mile of any occupied residence or building without permission of the owner or resident.
 - c. One-hundred yards of an interstate highway or any other highway maintained by the Arizona Department of Transportation.
 - d. Fifty feet of any trail maintained for public use by a government agency.
 - e. Seventy-five feet of any other road as defined under A.R.S. § 17-101.
 - f. Subsections (H)(2)(b), (H)(2)(c), (H)(2)(d), and (H)(2)(e) do not apply when the trapper is using a confinement trap.
 - 3. Set a foothold trap within 30 feet of sight-exposed bait.
 - 4. Use any:
 - a. Body-gripping or other instant kill trap with an open jaw spread that exceeds 5 inches for any land set or 10 inches for any water set;
 - b. Foothold trap with an open jaw spread that exceeds 7 1/2 inches for any water set;
 - c. Snare, unless authorized under subsection (I);
 - d. Trap with an open jaw spread that exceeds 6 1/2 inches for any land set; or
 - e. Trap with teeth.
- I. A trapper who uses a foothold trap to take wildlife with a land set shall use commercially manufactured traps that meet the following specifications:
 - 1. A padded or rubber-jawed trap or an unpadded trap with jaws permanently offset to a minimum of 3/16 inch and a device that allows for pan tension adjustment;
 - 2. A foothold trap that captures wildlife by means of an enclosed bar or spring designed to prevent the capture of non-targeted wildlife or domestic animals; or
 - 3. A powered cable device with an inside frame hinge width no wider than 6 inches, a cable loop stop size of at least 2 inches in diameter to prevent capture of small non-target species, and a device that allows for a pan tension adjustment.
- J. A trapper who uses a foothold trap to take wildlife with a land set shall ensure that the trap has an anchor chain equipped with at least two swivels as follows:
 - 1. An anchor chain 12 inches or less in length shall have a swivel attached at each end.
 - 2. An anchor chain greater than 12 inches in length shall have one swivel attached at the trap and one swivel attached within 12 inches of the trap. The anchor chain shall be equipped with a shock-absorbing spring that requires less than 40 pounds of force to extend or open the spring.
- K. A trapper shall ensure that each trap has either the name and address or the registration number of the trapper marked on a metal tag attached to the trap. The number assigned by the Department is the only acceptable registration number.
- L. A trapper shall immediately attach a valid bobcat transportation tag to the pelt or unskinned carcass of a bobcat taken in this state. The trapper shall validate the transportation tag by providing all of the following information on the bobcat transportation tag:
 - 1. Current trapping license number,
 - 2. Game management unit where the bobcat was taken,
 - 3. Sex of the bobcat, and
 - 4. Method by which the bobcat was taken.
- M. The Department shall provide transportation tags with each trapping license. Additional transportation tags are available at any Department office at no charge.
- N. A trapper shall ensure that all bobcats taken in this state have a bobcat seal attached and locked either through the mouth and an eye opening or through both eye openings no later than 10 days after the close of trapping season.
 - 1. When available, bobcat seals are issued on a first-come, first-served basis at Department offices and other locations at those times and places as determined and published by the Department.
 - 2. The trapper shall pay the bobcat seal fee established under R12-4-102.
 - 3. Department personnel or an authorized agent shall attach and lock a bobcat seal only to a pelt or unskinned carcass presented with a validated transportation tag and a complete lower jaw identified with labels provided with the transportation tag. Department personnel or authorized

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agents shall collect the transportation tags and jaws before attaching the bobcat seal.

- O. Department personnel shall attach a bobcat seal to a bobcat pelt seized under A.R.S. § 17-211(E)(4) before disposal by the Department to the public.
- P. A licensed trapper shall file the annual report prescribed under A.R.S. § 17-361(D).
 - 1. The trapper shall submit the report to Arizona Game and Fish Department, Game Branch, 5000 W. Carefree Highway, Phoenix, AZ 85086 by April 1 of each year.
 - 2. A report is required even when trapping activities were not conducted. The report form is available at any Department office and online at www.azgfd.gov.
 - 3. The Department shall deny a trapping license to any trapper who fails to submit an annual report until the trapper complies with reporting requirements.
- Q. Persons suffering property loss or damage due to wildlife and who take responsive measures as permitted under A.R.S. §§ 17-239 and 17-302 are exempt from this Section. This exemption does not authorize any form of trapping prohibited under A.R.S. § 17-301.

Historical Note

Repealed effective May 3, 1976 (Supp. 76-3). New Section R12-4-56 adopted effective September 2, 1977 (Supp. 77-5). Amended effective December 27, 1979 (Supp. 79-6). Former Section R12-4-56 renumbered as Section R12-4-307 without change effective August 13, 1981. New Section R12-4-307 amended effective August 31, 1981 (Supp. 81-4). Amended effective August 4, 1982 (Supp. 82-4). Correction, Former Section R12-4-56 renumbered as Section R12-4-307 without change effective August 13, 1981 should read "effective August 31, 1981." Amended as an emergency effective March 29, 1983 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-2). Amended subsections (B), (C)(6), (7), and (8) and added subsection (I)(5) as a permanent rule effective August 27, 1984 (Supp. 84-4). Amended subsection (C), paragraph (4), subsection (D), subsection (H), paragraph (1), subsection (I), paragraphs (3), (4) and (5) effective September 12, 1986 (Supp. 86-5). Amended effective March 1, 1994; filed in the Office of the Secretary of State November 23, 1993; Exhibit A - "Trapping Report" Form 2050, repealed from Section R12-4-307 (Supp. 93-4). Amended effective January 1, 1996; filed in the Office of the Secretary of State December 18, 1995 (Supp. 95-4). Corrected mislabeled subsection "C" to subsection "D" as per the Commission's request July 22, 1997 (Supp. 97-2). Amended effective February 9, 1998 (Supp. 98-1). Amended by final rulemaking at 8 A.A.R. 1702, effective March 11, 2002 (Supp. 02-1). Amended by final rulemaking at 10 A.A.R. 850, effective April 3, 2004 (Supp. 04-1). Amended by final rulemaking at 19 A.A.R. 826, effective July 1, 2013 (Supp. 13-2).

R12-4-308. Wildlife Inspections, Check Stations, and Roadblocks

- A. The Department has the authority to establish mandatory wildlife check stations.
 - 1. The Department shall publish in the Commission Order establishing the season the:
 - a. Location,
 - b. Check in requirements, and
 - c. Check-out requirements for that specific season.
 - 2. The Department shall ensure a wildlife check station with a published:
 - a. Check in requirement is open:

- i. 8:00 a.m. the day before the season until 8:00 p.m. the first day of the season, and
 - ii. 8:00 a.m. to 8:00 p.m. during each day of the season.
- b. Check-out requirement is open:
 - i. 8:00 a.m. to 8:00 p.m. during each day of the season, and
 - ii. Until 12:00 noon on the day after the close of the season.

- 3. A hunter shall:
 - a. Check in at a wildlife check station in person before hunting when the Department includes a check in requirement in the Commission Order for that season;
 - b. Check out at a wildlife check station in person after hunting when the Department includes a check-out requirement in the Commission Order for that season and shall:
 - i. Present for inspection any wildlife taken; and
 - ii. Display any license, tag, or permit required for taking or transporting wildlife.

- B. The Department may conduct inspections of lawfully taken wildlife at the Department's Phoenix and regional offices or designated locations during the posted business hours.
 - 1. A bighorn sheep hunter shall check out either in person or by designee within three days after the close of the season. The hunter or designee shall submit the intact horns and skull for inspection and photographing. A Department representative shall affix a mark or seal to one horn of each bighorn sheep lawfully taken under Commission Order. It is unlawful for any person to remove, alter, or obliterate the mark or seal.
 - 2. A successful bear or mountain lion hunter shall:
 - a. Report information about the kill to the Department either in person or by telephone within 48 hours of taking the wildlife. The report shall include the:
 - i. Name of the hunter,
 - ii. Hunter's hunting license number,
 - iii. Sex of the wildlife taken,
 - iv. Management unit where the wildlife was taken,
 - v. Telephone number where the hunter can be reached for additional information, and
 - vi. Any additional information required by the Department.
 - b. Present either in person or by designee the skull, hide, and attached proof of sex for inspection within 10 days of taking the wildlife. If a hunter freezes the skull or hide before presenting it for inspection, the hunter shall prop the jaw open to allow access to the teeth and ensure that the attached proof of sex is identifiable and accessible.
 - 3. For seasons other than bear, bighorn sheep, or mountain lion, where a harvest objective is established, a successful hunter shall report information about the kill either in person or by telephone within 48 hours of taking the wildlife. The report shall include the information required under subsection (B)(2)(a).
- C. The Director may establish vehicle roadblocks at specific locations when necessary to ensure compliance with applicable wildlife laws. Any occupant of a vehicle at a roadblock shall, upon request, present for inspection all wildlife in possession, and produce and display any license, tag, stamp, or permit required for taking or transporting wildlife.
- D. This Section does not limit the game ranger or wildlife manager's authority to conduct stops, searches, and inspections authorized under A.R.S. §§ 17-211(E), 17-250(A)(4), and 17-

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331, or to establish voluntary wildlife survey stations to gather biological information.

Historical Note

Amended effective June 29, 1978 (Supp. 78-3). Former Section R12-4-57 renumbered as Section R12-4-308 without change effective August 13, 1981 (Supp. 81-4). Former Section R12-4-308 repealed, new Section R12-4-308 adopted effective May 12, 1982 (Supp. 82-3). Amended subsections (B), (D), and (F), and added subsection (G) effective July 3, 1984 (Supp. 84-4). Former Section R12-4-308 repealed, new Section R12-4-308 adopted effective December 30, 1988 (Supp. 88-4). Correction, former Historical Note should read "Former Section R12-4-308 repealed, new Section R12-4-308 adopted effective January 1, 1989, filed December 30, 1988" (Supp. 89-2). Amended effective January 1, 1993; filed December 18, 1992 (Supp. 92-4). Amended effective July 12, 1996 (Supp. 96-3). Amended effective November 10, 1997 (Supp. 97-4). Amended by final rulemaking at 10 A.A.R. 850, effective April 3, 2004 (Supp. 04-1). Amended by final rulemaking at 12 A.A.R. 683, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 19 A.A.R. 826, effective July 1, 2013 (Supp. 13-2).

R12-4-309. Authorization for Use of Drugs on Wildlife

- A. A person shall not administer any drug to any wildlife under the jurisdiction of the state, including but not limited to drugs used for fertility control, disease prevention or treatment, immobilization, or growth stimulation without written authorization from the Department or as otherwise provided under subsection (E).
- B. A person requesting written authorization for the use of drugs on wildlife shall submit the request in writing to the Department at 5000 W. Carefree Hwy, Phoenix, AZ 85086 and at least 120 days before the anticipated start date of the activity and provide all of the following:
 1. A plan that includes:
 - a. The purpose and need for the proposed activity;
 - b. A clear statement of the objectives; for fertility control the statement shall include the target wildlife population goals or densities and the anticipated time-frame for meeting these objectives;
 - c. A description of the agent, drug, or method including federal approvals or permits obtained, as applicable, and any mandated labeling restrictions or limitations designed to reduce or minimize detrimental effects to wildlife and humans;
 - d. Required approvals, including, but not limited to, any federal or state agency approvals for specific use;
 - e. Citations of published scientific literature documenting field studies on the efficacy and safety for both target and non-target species, including predators, scavengers, and humans;
 - f. A description of the activity area;
 - g. A description of the target species population and current status;
 - h. A description of the field methodology for delivery that includes the following, as applicable:
 - i. Timing,
 - ii. Sex and number of animals to be treated,
 - iii. Percentage of the population to be treated,
 - iv. Calculated population effect, and
 - v. Short and long term monitoring and evaluation procedures.

2. Documentation regarding the experience and credentials of the applicant or the applicant's agents as it applies to the requested activity;
 3. Written endorsement from the agency or institution; required when the applicant is a government agency, university, or other institution; and
 4. Written permission from landowners or lessees in all locations where the drug will be administered.
- C. The Department shall notify the applicant of the Department's decision to grant or deny the request within 90 days. The Department has the authority to place conditions on the written authorization regarding:
1. Locations and time-frames,
 2. Drugs and methodology,
 3. Limitations,
 4. Reporting requirements, and
 5. Any other conditions deemed necessary by the Department.
- D. A person with authorization shall:
1. Carry written authorization while engaged in the activity and exhibit it upon request to any peace officer;
 2. Allow Department personnel to be present to monitor activities for compliance, public safety, and proper treatment of animals;
 3. Adhere to all drug label restrictions and precautions;
 4. Provide an annual and final report:
 - a. The annual report must include the number of animals treated, the level of treatment effect obtained to date, and any problems including mortalities or morbidities of target animals.
 - b. The final report must include the end results, including the number of wildlife treated and treatment effects on target and non-target wildlife, including mortalities, morbidities, and reproductive rate changes.
 5. Comply with all conditions and requirements set forth in the written authorization.
- E. This Section does not prohibit the treatment of wildlife by a licensed veterinarian or holder of a special license in accordance with R12-4-407(A)(2) and (8), R12-4-428(B)(13), activities as authorized under R12-4-418, R12-4-420, R12-4-421, and R12-4-423, an individual exempt from special licensing under R12-4-407(A)(4) and (5), or reasonable lethal removal activities for wildlife control as authorized under A.R.S. § 17-239(A).
- F. This Section does not limit:
1. Department employees or Department agents in the performance of their official duties related to wildlife management,
 2. The practices of aquaculture facilities administered by the US Fish and Wildlife Service, and commercial aquaculture facilities operating under a valid license from the Arizona Department of Agriculture, or
 3. The use of supplements or drugs as a part of conventional livestock operations where those supplements may incidentally be consumed by wildlife.
- G. The Department shall take possession of and dispose of any remaining wildlife drugs administered in violation of this Section and any devices and paraphernalia used to administer those drugs, as authorized under A.R.S. §§ 17-211(E), 17-231(A), and 17-240(B).

Historical Note

Amended effective May 21, 1975 (Supp. 75-1). Amended effective May 3, 1976 (Supp. 76-3). Amended effective March 7, 1979 (Supp. 79-2). Former Section R12-4-58 renumbered as Section R12-4-309 without change effective

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tive August 13, 1981 (Supp. 81-4). Former Section R12-4-309 repealed, new Section R12-4-309 adopted effective May 12, 1982 (Supp. 82-3). Amended subsection (A) effective July 3, 1984 (Supp. 84-4). Former Section R12-4-309 repealed, new Section R12-4-309 adopted effective December 30, 1988 (Supp. 88-4). Correction, former Historical Note should read "Former Section R12-4-309 repealed, new Section R12-4-309 adopted effective January 1, 1989, filed December 30, 1988" (Supp. 89-2). Amended effective March 1, 1991; filed February 28, 1991 (Supp. 91-1). Amended effective January 1, 1993; filed December 18, 1992 (Supp. 92-4). Amended effective January 1, 1997; filed with the Office of the Secretary of State November 7, 1996 (Supp. 96-4). Amended effective January 1, 1999; filed with the Office of the Secretary of State December 4, 1998 (Supp. 98-4). Section repealed by final rulemaking at 8 A.A.R. 1702, effective March 11, 2002 (Supp. 02-1). New Section made by final rulemaking at 16 A.A.R. 1460, effective September 11, 2010 (Supp. 10-3). Amended by final rulemaking at 19 A.A.R. 826, effective July 1, 2013 (Supp. 13-2).

R12-4-310. Fishing Permits

- A. The Department may issue a fishing permit to state, county, or municipal agencies or departments and to nonprofit organizations licensed by or contracted with the Department of Economic Security or Department of Health Services, whose primary purpose is to provide physical or mental rehabilitation or training for individuals with physical, developmental, or mental disabilities.
- B. The permit:
 1. Is valid for the two days specified on the permit;
 2. Authorizes up to 20 individuals with physical, developmental, or mental disabilities to fish without a fishing license upon any public waters except that fishing in the waters of the Colorado River is restricted to fishing from the Arizona shoreline only, unless the persons fishing under the authority of the permit also possess a valid Colorado River stamp from the adjacent state; and
 3. Does not exempt individuals fishing under the authority of the permit from compliance with other statutes, Commission Orders, and rules not contained in this Section.
- C. An applicant for a fishing permit shall submit a properly completed application to the Department. The application is furnished by the Department and is available from any Department office and online at www.azgfd.gov.
 1. The applicant shall provide all of the following information:
 - a. The name, address, and telephone number of the agency, department, or nonprofit organization requesting the permit;
 - b. The name, position title, and telephone number of the individual responsible for supervising the individuals fishing under the authority of the permit;
 - c. The total number of individuals who will be fishing under the authority of the permit;
 - d. The dates of the two days for which the permit will be valid; and
 - e. The location for which the permit will be valid.
 2. In addition to the information required under subsection (C)(1), nonprofit organizations shall also submit documentation that they are licensed by or have a contract with the Department of Economic Security or the Department of Health Services for the purpose of providing rehabilitation or treatment services to individuals or groups with physical, developmental, or mental disabilities.

- D. The Department shall issue or deny the fishing permit to an applicant within 30 calendar days of receiving an application.
- E. The fishing permit holder shall provide instruction on fish identification, fishing ethics, safety, and techniques to the individuals who will be fishing under authority of the permit. The Department shall provide the lesson plan for this instruction to the permit holder.
- F. Each individual fishing without a license under the authority of the fishing permit may take only one-half the regular bag limit established by Commission Order for any species, unless the regular bag limit is one, in which case the permit authorizes the regular limit.
- G. The permit holder shall submit a report to the Department not later than 30 days after the end of the authorized fishing dates. The report form is furnished by the Department and is available at any Department office. The permit holder shall report all of the following information on the form:
 1. The fishing permit number and the information contained in the permit;
 2. The total number of individuals who fished and total hours fished;
 3. The total number of fish caught, kept, and released, by species.
- H. The Department may deny future fishing permits to a permit holder who failed to submit the report until the permit holder complies with reporting requirements.

Historical Note

Adopted effective October 9, 1980 (Supp. 80-5). Former Section R12-4-59 renumbered as Section R12-4-310 without change effective August 13, 1981 (Supp. 81-4). Former Section R12-4-310 renumbered as R12-4-217 and amended effective December 30, 1988 (Supp. 88-4). Correction, former Historical Note should read "Former Section R12-4-310 renumbered as R12-4-217 and amended effective January 1, 1989, filed December 30, 1988" (Supp. 89-2). New Section adopted November 7, 1996 (Supp. 96-4). Amended by final rulemaking at 10 A.A.R. 850, effective April 3, 2004 (Supp. 04-1). Amended by final rulemaking at 19 A.A.R. 826, effective July 1, 2013 (Supp. 13-2).

R12-4-311. Exemptions from Requirement to Possess an Arizona Fishing License or Hunting License While Taking Wildlife
In addition to the exemptions prescribed under A.R.S. § 17-335, R12-4-206(E), R12-4-207(E), and R12-4-209(E) and provided the person's fishing and hunting license privileges are not currently revoked by the Commission:

1. A fishing license is not required when a person is:
 - a. Fishing from artificial ponds, tanks, and lakes contained entirely on private lands that are not:
 - i. Open to the public, and
 - ii. Managed by the Department.
 - b. Taking terrestrial mollusks or crustaceans from private property.
 - c. Fishing in Arizona on any designated Saturday occurring during National Fishing and Boating Week, except in waters of the Colorado River forming the common boundaries between Arizona and California, Nevada, or Utah where fishing without a license is limited to the shoreline, unless the state with concurrent jurisdiction removes licensing requirements on the same day.
 - d. Participating in an introductory fishing education program sanctioned by the Department, during scheduled program hours, only. A sanctioned program shall have a Department employee, sport fish-

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ing contractor, or authorized volunteer instructor present during scheduled program hours. For the purposes of this subsection, "authorized volunteer instructor" means a person who has successfully passed the Department's required background check and sport fishing education workshop.

2. A hunting license is not required when a person is participating in an introductory hunting event organized, sanctioned, or sponsored by the Department. The person may hunt small game, furbearing, predator, and designated mammals during scheduled event hours, only. To hunt migratory game birds, the individual shall have any stamps required by federal regulation. The introductory hunting event shall have a Department employee, certified hunter education instructor, or authorized volunteer present during scheduled hunting hours. For the purposes of this subsection, "authorized volunteer" means a person who has successfully passed the Department's required background check and Department event best practices training. This subsection does not apply to any event that requires participants to obtain a permit-tag or nonpermit-tag.

Historical Note

Amended as an emergency effective April 10, 1975 (Supp. 75-1). Amended effective May 3, 1976 (Supp. 76-3). Amended effective May 26, 1978 (Supp. 78-3). Amended effective May 31, 1979. Amended effective June 4, 1979 (Supp. 79-3). Amended effective April 22, 1980 (Supp. 80-2). Former Section R12-4-60 renumbered as Section R12-4-311 without change effective August 13, 1981 (Supp. 81-4). Amended subsections (A), (B), and (D) and added subsections (F) and (G) effective December 17, 1981 (Supp. 81-6). Amended as an emergency effective May 12, 1982, pursuant to A.R.S. § 41-1003, valid for 90 days (Supp. 82-3). Emergency certification expired. Amended subsections (A) through (E) effective December 7, 1982 (Supp. 82-6). Amended subsections (C) and (D) effective February 9, 1984 (Supp. 84-1). Amended effective December 13, 1985 (Supp. 85-6). Amended subsections (A) and (D) effective December 16, 1986 (Supp. 86-6). Former Section R12-4-311 repealed, new Section R12-4-311 adopted effective December 30, 1988 (Supp. 88-4). Correction, former Historical Note should read "Former Section R12-4-322 repealed, new Section R12-4-311 adopted effective January 1, 1989, filed effective December 30, 1988" (Supp. 89-2). Amended by final rulemaking at 10 A.A.R. 850, effective April 3, 2004 (Supp. 04-1). Amended by final rulemaking at 19 A.A.R. 826, effective July 1, 2013 (Supp. 13-2). Amended by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3).

R12-4-312. Repealed**Historical Note**

Amended effective June 4, 1979 (Supp. 79-3). Amended effective April 22, 1980 (Supp. 80-2). Former Section R12-4-61 renumbered as Section R12-4-312 without change effective August 13, 1981 (Supp. 81-4). Amended subsections (B), (E) and (F) effective December 17, 1981 (Supp. 81-6). Amended subsections (A), (C), (D), (E), and added subsection (G) effective December 9, 1982 (Supp. 82-6). Amended subsection (A), paragraph (1) effective November 27, 1984 (Supp. 84-6). Amended effective December 13, 1985 (Supp. 85-6). Former Section R12-4-312 repealed, new Section R12-4-312 adopted effective December 30, 1988 (Supp. 88-4). Cor-

rection, former Historical Note should read "Former Section R12-4-312 repealed, new Section R12-4-312 adopted effective January 1, 1989, filed December 30, 1988 (Supp. 89-2). Amended by final rulemaking at 10 A.A.R. 850, effective April 3, 2004 (Supp. 04-1). Amended by final rulemaking at 19 A.A.R. 826, effective July 1, 2013 (Supp. 13-2). Repealed by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3).

R12-4-313. Lawful Methods of Taking Aquatic Wildlife

- A. An individual may take aquatic wildlife as defined under A.R.S. § 17-101, subject to the restrictions prescribed under R12-4-303, R12-4-317, and this Section. Aquatic wildlife may be taken during the day or night and may be taken using artificial light as prescribed under A.R.S. § 17-301.
- B. The Commission may, through Commission Order, prescribe legal sizes for possession of aquatic wildlife.
- C. An individual may take aquatic wildlife by angling or simultaneous fishing as defined under R12-4-301 with any bait, artificial lure, or fly subject to the following restrictions, an individual:
 1. Shall not possess aquatic wildlife other than aquatic wildlife prescribed by Commission Order;
 2. Shall not use the flesh of game fish as bait, except sunfish of the genus *Lepomis*;
 3. May use live baitfish, as defined under R12-4-101, only in areas designated by Commission Order; and
 4. Shall not use waterdogs as live bait in that portion of Santa Cruz County lying east and south of State Highway 82 or that portion of Cochise County lying west of the San Pedro River and south of State Highway 82.
- D. In addition to angling, an individual may also take the following aquatic wildlife using the following methods, subject to the restrictions established under R12-4-303, R12-4-317, and this Section:
 1. Carp (*Cyprinus carpio*), buffalofish, mullet, tilapia, goldfish, and shad may be taken by:
 - a. Bow and arrow,
 - b. Crossbow,
 - c. Snare,
 - d. Gig,
 - e. Spear or spear gun, or
 - f. Snagging,
 2. Except for snagging, an individual shall not use any of the methods of take listed under subsection (D)(1) within 200 yards of any boat dock or designated swimming area.
 3. Striped bass may be taken by spear or spear gun in waters designated by Commission Order.
 4. Live baitfish may be taken for personal use as bait by:
 - a. A cast net not to exceed a radius of 4 feet measured from the horn to the headline;
 - b. A minnow trap, as defined under R12-4-301;
 - c. A seine net not to exceed 10 feet in length and 4 feet in width; or
 - d. A dip net.
 5. Catfish may be taken by bow and arrow or crossbow in waters designated by Commission Order.
 6. Amphibians, soft-shelled turtles, mollusks, and crustaceans may be taken by minnow trap, crayfish net, hand, or with any hand-held, non-motorized implement that does not discharge a projectile, unless otherwise permitted under this Section.
 7. In addition to the methods described under subsection (D)(6), bullfrogs may be taken by:
 - a. Bow and arrow,
 - b. Crossbow,

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- c. Pneumatic weapon, or
- d. Slingshot.
- 8. In addition to the methods described under subsection (D)(6), crayfish may be taken with the following devices:
 - a. A trap not more than 3 feet in the greatest dimension,
 - b. A dip net as defined under R12-4-301, or
 - c. A seine net not larger than 10 feet in length and 4 feet in width.
- E. An individual who uses a crayfish net and minnow trap shall:
 - 1. Attach a water-resistant identification tag to the trap when it is unattended. The tag shall include the individual's:
 - a. Name,
 - b. Address, and
 - c. Fishing license number.
 - 2. Raise and empty the trap daily.

Historical Note

Amended as an emergency effective April 10, 1975 (Supp. 75-1). Amended effective May 17, 1977 (Supp. 77-3). Amended effective June 29, 1978 (Supp. 78-3). Amended effective April 22, 1980 (Supp. 80-2). Former Section R12-4-62 renumbered as Section R12-4-313 without change effective August 13, 1981 (Supp. 81-4). Amended effective December 7, 1982 (Supp. 82-6). Amended subsection (A)(7) and added subsection (E)(3) effective November 27, 1984 (Supp. 84-6). Amended subsections (A) and (E) effective December 9, 1985 (Supp. 85-6). Amended subsections (A) and (E) effective December 16, 1986 (Supp. 86-6). Former Section R12-4-313 repealed, new Section R12-4-313 adopted effective December 30, 1988 (Supp. 88-4). Correction, former Historical Note should read "Former Section R12-4-313 repealed, new Section R12-4-313 adopted effective January 1, 1989, filed December 30, 1988" (Supp. 89-2). Amended effective January 1, 1993; filed December 18, 1992 (Supp. 92-4). Amended effective October 14, 1993 (Supp. 93-4). Amended by final rulemaking at 7 A.A.R. 2220, effective May 25, 2001 (Supp. 01-2). Amended by final rulemaking at 10 A.A.R. 850, effective April 3, 2004 (Supp. 04-1). Amended by final rulemaking at 19 A.A.R. 826, effective July 1, 2013 (Supp. 13-2).

R12-4-314. Repealed**Historical Note**

Amended effective May 3, 1976 (Supp. 76-3). Amended effective April 22, 1980 (Supp. 80-2). Former Section R12-4-63 renumbered as Section R12-4-314 without change effective August 13, 1981 (Supp. 81-4). Amended subsection (B) effective December 31, 1984 (Supp. 84-6). Amended effective December 30, 1988 (Supp. 88-4). Correction, former Historical Note should read "Amended effective January 1, 1989, filed December 30, 1988" (Supp. 89-2). Amended effective January 1, 1993; filed December 18, 1992 (Supp. 92-4). Section repealed by final rulemaking at 10 A.A.R. 850, effective April 3, 2004 (Supp. 04-1).

R12-4-315. Possession of Live Fish; Unattended Live Boxes and Stringers

- A. An individual may possess fish taken alive as provided under R12-4-313 on the waters where taken, except when the take or possession is expressly prohibited under R12-4-313 or R12-4-317, but the individual shall not transport the fish alive from the waters where taken except as authorized under R12-4-316.
- B. An individual shall attach water resistant identification to any

unattended live boxes or stringers holding fish and ensure the identification bears the individual's:

- 1. Name,
- 2. Address, and
- 3. Fishing license number.

Historical Note

Former Section R12-4-64 renumbered as Section R12-4-315 without change effective August 13, 1981 (Supp. 81-4). Amended effective December 30, 1988 (Supp. 88-4).

Correction, former Historical Note should read "Amended effective January 1, 1989, filed December 30, 1988" (Supp. 89-2). Amended by final rulemaking at 10 A.A.R. 850, effective April 3, 2004 (Supp. 04-1). Amended by final rulemaking at 19 A.A.R. 826, effective July 1, 2013 (Supp. 13-2).

R12-4-316. Possession, Transportation, or Importation of Live Baitfish, Crayfish, or Waterdogs

- A. An individual may possess live baitfish, crayfish, or waterdogs for use as live bait only as established under R12-4-317 and this Section.
- B. An individual may possess or transport the following live baitfish for personal use as live bait as established under R12-4-317:
 - 1. Fathead minnow (*Pimephales promelas*),
 - 2. Mosquitofish (*Gambusia affinis*),
 - 3. Threadfin shad (*Dorosoma petenense*),
 - 4. Golden shiners (*Notemigonus crysoleucas*), and
 - 5. Goldfish (*Carassius auratus*).
- C. An individual who possesses a valid Arizona fishing license may:
 - 1. Import, transport, or possess live waterdogs for personal use as bait, except in the portion of Santa Cruz County lying east and south of State Highway 82 or the portion of Cochise County lying west of the San Pedro River and south of State Highway 82.
 - 2. Import live baitfish listed under subsection (B) from California or Nevada without accompanying documentation certifying the fish are free of disease.
 - 3. Import live baitfish listed under subsection (B) from any other state with accompanying documentation certifying that the fish are free of Furunculosis.
- D. An individual may:
 - 1. Trap or capture live crayfish as provided under R12-4-313.
 - 2. Use live crayfish as bait only in the body of water where trapped or captured, not in an adjacent body of water, except for the portion of La Paz County west of Highway 95 and south of Interstate 10, Yuma County, and on the Colorado River from the Palo Verde Diversion Dam downstream to the Southern international boundary with Mexico.
- E. An individual shall not:
 - 1. Import, transport, move between waters, or possess live crayfish for personal use as live bait except as allowed in 12 A.A.C. 4, Article 4, and except for the portion of La Paz County west of Highway 95 and south of Interstate 10, Yuma County, and on the Colorado River from the Palo Verde Diversion Dam downstream to the southern international boundary with Mexico.
 - 2. Transport crayfish alive from the site where taken except for the portion of La Paz County west of Highway 95 and south of Interstate 10, Yuma County, and on the Colorado River from the Palo Verde Diversion Dam downstream to the southern international boundary with Mexico.

3. Import, transport, move between waters, or possess live red shiner (*Cyprinella lutrensis*) for personal use.

Historical Note

Amended effective May 3, 1976 (Supp. 76-3). Amended effective June 4, 1979 (Supp. 79-3). Amended subsections (A), (B), (C), and (D) effective December 29, 1980 (Supp. 80-6). Former Section R12-4-65 renumbered as Section R12-4-316 without change effective August 13, 1981 (Supp. 81-4). Amended subsections (B), (C) and (F) effective February 9, 1984 (Supp. 84-1). Amended effective December 31, 1984 (Supp. 84-6). Former Section R12-4-316 repealed, new Section R12-4-316 adopted effective December 30, 1988 (Supp. 88-4). Correction, former Historical Note should read "Former Section R12-4-316 repealed, new Section R12-4-316 adopted effective January 1, 1989, filed December 30, 1988" (Supp. 89-2). Amended by final rulemaking at 7 A.A.R. 2147, effective May 25, 2001 (Supp. 01-2). Amended by final rulemaking at 10 A.A.R. 850, effective April 3, 2004 (Supp. 04-1). Amended by final rulemaking at 19 A.A.R. 826, effective July 1, 2013 (Supp. 13-2).

R12-4-317. Seasons for Lawfully Taking Fish, Mollusks, Crustaceans, Amphibians, and Aquatic Reptiles

- A. Methods of lawfully taking aquatic wildlife during seasons designated by Commission Order as "general" seasons are designated under R12-4-313.
- B. Other seasons designated by Commission Order have specific requirements and lawful methods of take more restrictive than those for general seasons, as prescribed under this Section. While taking aquatic wildlife under R12-4-313 an individual participating in:
 1. An "artificial lures and flies only" season shall use only artificial lures and flies as defined under R12-4-301. The Commission may further restrict "artificial lures and flies only" season to the use of barbless or single barbless hooks as defined under R12-4-301.
 2. A "live baitfish" season shall not possess or use any species of fish as live bait at, in, or upon any waters unless that species is specified as a live baitfish for those waters by Commission Order. Live baitfish shall not be transported from the waters where taken except as authorized under R12-4-316.
 3. An "immediate kill or release" season shall kill and retain the designated species as part of the bag limit or immediately release the wildlife. Further fishing is prohibited after the legal bag limit is killed.
 4. A "catch and immediate release" season shall immediately release the designated species.
 5. An "immediate kill" season shall immediately kill and retain the designated species as part of the bag limit.
 6. A "snagging" season shall use this method only at times and locations designated by Commission Order.
 7. A "spear or spear gun" season shall use this method only at times and locations designated by Commission Order.
- C. A "special" season may be designated by Commission Order to allow fish to be taken by hand or by any hand-held, non-motorized implement that does not discharge a projectile. The "special" season may apply to any waters where a fish die-off is imminent due either to poor or low water conditions, Department fish renovation activities, or as designated by Commission Order.

Historical Note

Renumbered, then repealed and readopted as Section R12-4-43 effective February 20, 1981 (Supp. 81-1). For-

mer Section R12-4-66 renumbered as Section R12-4-317 without change effective August 13, 1981 (Supp. 81-4).

Correction, Section R12-4-317 formerly shown as repealed should have read reserved. Former Historical Note erroneous, see R12-4-202. Section R12-4-317 adopted effective June 20, 1984 (Supp. 84-3). Repealed effective December 30, 1988 (Supp. 88-4). Correction, former Historical Note should read "Repealed effective January 1, 1989, filed December 30, 1988" (Supp. 89-2). New Section made by final rulemaking at 10 A.A.R. 850, effective April 3, 2004 (Supp. 04-1). Amended by final rulemaking at 19 A.A.R. 826, effective July 1, 2013 (Supp. 13-2).

R12-4-318. Seasons for Lawfully Taking Wild Mammals, Birds, and Reptiles

- A. Methods of lawfully taking wild mammals, birds, and reptiles during seasons designated by Commission Order as "general" seasons are designated under R12-4-304.
- B. Methods of lawfully taking big game during seasons designated by Commission Order as "special" are designated under R12-4-304. "Special" seasons are open only to a person who possesses a special big game license tag authorized under A.R.S. § 17-346 and R12-4-120.
- C. When designated by Commission Order, the following seasons have specific requirements and lawful methods of take more restrictive than those for general and special seasons, as prescribed under this Section. While taking the species authorized by the season, a person participating in:
 1. A "CHAMP" season shall be a challenged hunter access/mobility permit holder as established under R12-4-217.
 2. A "youth-only hunt" shall be under the age of 18. A youth hunter whose 18th birthday occurs during a "youth-only hunt" for which the youth hunter has a valid permit or tag may continue to participate for the duration of that "youth-only hunt."
 3. A "pursuit-only" season may use dogs to pursue bears, mountain lions, or raccoons as designated by Commission Order, but shall not kill or capture the quarry. A person participating in a "pursuit-only" season shall possess and, at the request of Department personnel, produce an appropriate and valid hunting license and any required tag for taking the animal pursued, even though there shall be no kill.
 4. A "restricted season" may use any lawful method authorized for a specific species under R12-4-304, except dogs may not be used to pursue the wildlife for which the season was established.
 5. An "archery-only" season shall not use any other weapons, including crossbows or bows with a device that holds the bow in a drawn position except as authorized under R12-4-216. A person participating in an "archery-only" season may use one or more of the following methods or devices if authorized under R12-4-304 as lawful for the species hunted:
 - a. Bows and arrows, and
 - b. Falconry.
 6. A "handgun, archery, and muzzleloader (HAM)" season may use one or more of the following methods or devices if authorized under R12-4-304 as lawful for the species hunted:
 - a. Bows and arrows,
 - b. Crossbows or bows to be drawn and held with an assisting device,
 - c. Handguns, and
 - d. Muzzle-loading rifles as defined under R12-4-301.

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7. A “muzzleloader” season may use one or more of the following methods or devices if authorized under R12-4-304 as lawful for the species hunted:
 - a. Bows and arrows;
 - b. Crossbows or bows to be drawn and held with an assisting device; and
 - c. Muzzleloading rifles or handguns, as defined under R12-4-301.
8. A “limited weapon” season may use one or more of the following methods or devices for taking wildlife, if authorized under R12-4-304 as lawful for the species hunted:
 - a. Any trap except foothold traps,
 - b. Bows and arrows,
 - c. Capture by hand,
 - d. Crossbows or bows to be drawn and held with an assisting device,
 - e. Dogs,
 - f. Falconry,
 - g. Hand-propelled projectiles,
 - h. Nets,
 - i. Pneumatic weapons discharging a single projectile .25 caliber or smaller, or
 - j. Slingshots.
9. A “limited weapon hand or hand-held implement” season may use one or more of the following methods or devices for taking wildlife, if authorized under R12-4-304 as lawful for the species hunted:
 - a. Catch-pole,
 - b. Hand,
 - c. Snake hook, or
 - d. Snake tongs.
10. A “limited weapon-pneumatic” season may use one or more of the following methods or devices for taking wildlife, if authorized under R12-4-304 as lawful for the species hunted:
 - a. Capture by hand,
 - b. Dogs,
 - c. Falconry,
 - d. Hand-propelled projectiles,
 - e. Nets,
 - f. Pneumatic weapons discharging a single projectile .25 caliber or smaller, or
 - g. Slingshots.
11. A “limited weapon-rimfire” season may use one or more of the following methods or devices for taking wildlife, if authorized under R12-4-304 as lawful for the species hunted:
 - a. Any trap except foothold traps,
 - b. Bows and arrows,
 - c. Capture by hand,
 - d. Crossbows or bows to be drawn and held with an assisting device,
 - e. Dogs,
 - f. Falconry,
 - g. Hand-propelled projectiles,
 - h. Nets,
 - i. Pneumatic weapons,
 - j. Rifled firearms using rimfire cartridges,
 - k. Shotgun shooting shot or slug, or
 - l. Slingshots.
12. A “limited weapon-shotgun” season may use one or more of the following methods or devices for taking wildlife, if authorized under R12-4-304 as lawful for the species hunted:
 - a. Any trap except foothold traps,
 - b. Bows and arrows,
 - c. Capture by hand,
 - d. Crossbows or bows to be drawn and held with an assisting device,
 - e. Dogs,
 - f. Falconry,
 - g. Hand-propelled projectiles,
 - h. Nets,
 - i. Pneumatic weapons,
 - j. Shotgun shooting shot or slug, or
 - k. Slingshots.
13. A “limited weapon-shotgun shooting shot” season may use one or more of the following methods or devices for taking wildlife, if authorized under R12-4-304 as lawful for the species hunted:
 - a. Any trap except foothold traps,
 - b. Bows and arrows,
 - c. Capture by hand,
 - d. Crossbows or bows to be drawn and held with an assisting device,
 - e. Dogs,
 - f. Falconry,
 - g. Hand-propelled projectiles,
 - h. Nets,
 - i. Pneumatic weapons,
 - j. Shotgun shooting shot, or
 - k. Slingshots.
14. A “falconry-only” season shall be a falconer licensed under R12-4-422 unless exempt under A.R.S. § 17-236(C) or R12-4-407. A falconer participating in a “falconry-only” season shall use no other method of take except falconry.
15. A “raptor capture” season shall be a falconer licensed under R12-4-422 unless exempt under R12-4-407.

Historical Note

Adopted effective June 4, 1987 (Supp. 87-2). Amended effective December 30, 1988 (Supp. 88-4). Correction, former Historical Note should read “Amended effective January 1, 1989, filed December 30, 1988” (Supp. 89-2). Amended effective March 1, 1991; filed February 28, 1991 (Supp. 91-1). Amended effective January 1, 1993; filed December 18, 1992 (Supp. 92-4). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended effective January 1, 1996; filed in the Office of the Secretary of State December 18, 1995 (Supp. 95-4). Amended effective January 1, 1997; filed in the Office of the Secretary of State July 12, 1996 (Supp. 96-3). Amended effective January 1, 1998; filed in the Office of the Secretary of State November 10, 1997 (Supp. 97-4). Amended by final rulemaking at 6 A.A.R. 211, effective January 1, 2000 (Supp. 99-4). Amended by final rulemaking at 10 A.A.R. 850, effective April 3, 2004 (Supp. 04-1). Amended by final rulemaking at 16 A.A.R. 1460, effective September 11, 2010 (Supp. 10-3). Amended by final rulemaking at 18 A.A.R. 1458, effective January 1, 2013 (Supp. 12-2). Amended by final rulemaking at 19 A.A.R. 826, effective July 1, 2013 (Supp. 13-2).

R12-4-319. Use of Aircraft to Take Wildlife

- A. For the purposes of this Section, “locate” means any act or activity that does not take or harass wildlife and is directed at locating or finding wildlife in a hunt area.
- B. An individual shall not take or assist in taking wildlife from or with the aid of aircraft.
- C. Except in hunt units with Commission-ordered special seasons

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under R12-4-115 and R12-4-120 and hunt units with seasons only for mountain lion and no other concurrent big game season, an individual shall not locate or assist in locating wildlife from or with the aid of an aircraft in a hunt unit with an open big game season. This restriction begins 48 hours before the opening of a big game season in a hunt unit and extends until the close of the big game season for that hunt unit.

- D. An individual who possesses a special big game license tag for a special season under R12-4-115 or R12-4-120 or an individual who assists or will assist such a licensee shall not use an aircraft to locate wildlife beginning 48 hours before and during a Commission-ordered special season.
- E. This Section does not apply to any individual acting within the scope of official duties as an employee or authorized agent of the state or the United States to manage or protect or aid in the management or protection of land, water, wildlife, livestock, domesticated animals, human life, or crops.

Historical Note

Amended effective May 21, 1975 (Supp. 75-1). Amended effective May 3, 1976 (Supp. 76-3). Amended effective June 12, 1979 (Supp. 79-3). Amended effective April 22, 1980 (Supp. 80-2). Former Section R12-4-68 renumbered as Section R12-4-319 without change effective August 13, 1981 (Supp. 81-4). Repealed effective April 28, 1989 (Supp. 89-2). New Section R12-4-319 adopted as an emergency effective October 18, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-4). Emergency expired. New Section adopted by final rulemaking at 6 A.A.R. 211, effective December 14, 1999 (Supp. 99-4). Amended by final rulemaking at 10 A.A.R. 850, effective April 3, 2004 (Supp. 04-1). Amended by final rulemaking at 19 A.A.R. 826, effective July 1, 2013 (Supp. 13-2). Amended by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3).

R12-4-320. Harassment of Wildlife

- A. In addition to the provisions established under A.R.S. § 17-301, it is unlawful to harass, molest, chase, rally, concentrate, herd, intercept, torment, or drive wildlife with or from any aircraft as defined under R12-4-301, or with or from any motorized terrestrial or aquatic vehicle.
- B. This Section does not apply to individuals acting:
 - 1. In accordance with the provisions established under A.R.S. § 17-239; or
 - 2. Within the scope of official duties as an employee or authorized agent of the state or the United States to manage or protect or aid in the management or protection of land, water, wildlife, livestock, domesticated animals, human life, or crops.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 850, effective April 3, 2004 (Supp. 04-1). Amended by final rulemaking at 19 A.A.R. 826, effective July 1, 2013 (Supp. 13-2).

R12-4-321. Restrictions for Taking Wildlife in City, County, or Town Parks and Preserves

- A. All city, county, and town parks and preserves are closed to hunting, unless open by Commission Order.
- B. Unless otherwise provided under Commission Order or rule, a city, county, or town may:
 - 1. Limit or prohibit any individual from hunting or trapping within 1/4 mile of any:
 - a. Developed picnic area,
 - b. Developed campground,
 - c. Boat ramp,

- d. Shooting range,
- e. Occupied structure, or
- f. Golf course.
- 2. Require an individual entering a city, county, or town park or preserve, for the purpose of hunting, to declare the individual's intent to hunt when entering the park or preserve, if the park or preserve has an entry station in operation.
- 3. Allow an individual to take wildlife in a city, county, or town park or preserve only during the posted park or preserve hours.

Historical Note

New Section R12-4-321 renumbered from R12-4-301 and amended by final rulemaking at 18 A.A.R. 1458, effective January 1, 2013 (Supp. 12-2).

R12-4-322. Pickup and Possession of Wildlife Carcasses or Parts

- A. For the purposes of this Section, the following definitions apply:
 - 1. "Fresh" means the majority of the wildlife carcass or part is not exposed dry bone and is comprised mainly of hair, hide, or flesh.
 - 2. "Not fresh" means the majority of the wildlife carcass or part is exposed dry bone due to natural processes such as scavenging, decomposition, or weathering.
- B. If not contrary to federal law or regulation, an individual may pick up and possess naturally shed antlers or horns or other wildlife parts that are not fresh without a permit or inspection by a Department officer.
- C. If not contrary to federal law or regulation, an individual may only pick up and possess a fresh wildlife carcass or its parts under this Section if the individual notifies the Department prior to pick up and possession and:
 - 1. The Department's first report or knowledge of the carcass or its parts is voluntarily provided by the individual wanting to possess the carcass or its parts;
 - 2. A Department law enforcement officer is able to observe the carcass or its parts at the site where the animal was found in the same condition and location as when the animal was originally found by the individual wanting to possess the carcass or its parts; and
 - 3. A Department law enforcement officer, using the officer's education, training, and experience, determines the animal died from natural causes. The Department may require the individual to take the officer to the site where the animal carcass or parts were found when an adequate description or location cannot be provided to the officer.
- D. If a Department law enforcement officer determines that the individual wanting to possess the carcass or its parts is authorized to do so under subsection (C), the officer may authorize possession of the carcass or its parts.
- E. Wildlife parts picked up and possessed from areas under control of jurisdictions that prohibit such activity, such as other states, reservations, or national parks, are illegal to possess in this state.
- F. This Section does not authorize the pickup and possession of a threatened or endangered species carcass or its parts.

Historical Note

New Section made by final rulemaking at 19 A.A.R. 826, effective July 1, 2013 (Supp. 13-2).

ARTICLE 4. LIVE WILDLIFE**R12-4-401. Live Wildlife Definitions**

In addition to definitions provided under A.R.S. § 17-101, and for the purposes of this Article, the following definitions apply:

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“Adoption” means the transfer of custody of live wildlife to a member of the public, initiated by either the Department or its authorized agent, when no special license is required.

“Agent” means the person identified on a special license and who assists a special license holder in performing activities authorized by the special license to achieve the objectives for which the license was issued. “Agent” has the same meaning as “sublicensee” and “subpermittee” as these terms are used for the purpose of federal permits.

“Aquarium trade” means the commercial industry and its customers who lawfully trade in aquatic live wildlife.

“Aversion training” means behavioral training in which an aversive stimulus is paired with an undesirable behavior in order to reduce or eliminate that behavior.

“Captive live wildlife” means live wildlife held in captivity, physically restrained, confined, impaired, or deterred to prevent it from escaping to the wild or moving freely in the wild.

“Captive-reared” means wildlife born, bred, raised, or held in captivity.

“Cervid” means a mammal classified as a Cervidae or member of the deer family found anywhere in the world, as defined in the taxonomic classification from the Integrated Taxonomic Information System, available online at www.itis.gov.

“Circus” means a scheduled event where a variety of entertainment is the principal business, primary purpose, and attraction. “Circus” does not include animal displays or exhibits held as an attraction for a secondary commercial endeavor.

“Commercial purpose” means the bartering, buying, leasing, loaning, offering to sell, selling, trading, exporting or importing of wildlife or their parts for monetary gain.

“Domestic” means an animal species that does not exist in the wild, and includes animal species that have only become feral after they were released by humans who held them in captivity or individuals or populations that escaped from human captivity.

“Educational display” means a display of captive live wildlife to increase public understanding of wildlife biology, conservation, and management without requiring or soliciting payment from an audience or an event sponsor. For the purposes of this Article, “to display for educational purposes” refers to display as part of an educational display.

“Educational institution” means any entity that provides instructional services or education-related services to persons.

“Endangered or threatened wildlife” means wildlife listed under 50 C.F.R. 17.11, revised October 1, 2013, which is incorporated by reference. A copy of the list is available at any Department office, online at www.gpoaccess.gov, or may be ordered from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000. This incorporation by reference does not include any later amendments or editions of the incorporated material.

“Evidence of lawful possession” means any license or permit authorizing possession of a specific live wildlife species or individual, or other documentation establishing lawful possession. Other forms of documentation may include, but are not limited to, a statement issued by the country or state of origin verifying a license or permit for that specific live wildlife species or individual is not required.

“Exhibit” means to display captive live wildlife in public or to allow photography of captive live wildlife for any commercial purpose.

“Exotic” means wildlife or offspring of wildlife not native to North America.

“Fish farm” means a commercial operation designed and operated for propagating, rearing, or selling aquatic wildlife for any purpose.

“Game farm” means a commercial operation designed and operated for the purpose of propagating, rearing, or selling terrestrial wildlife or the parts of terrestrial wildlife for any purpose stated under R12-4-413.

“Health certificate” means a certificate of an inspection completed by a licensed veterinarian verifying the animal examined appears to be healthy and free of infectious, contagious, and communicable diseases.

“Hybrid wildlife” means an offspring from two different wildlife species or genera. Offspring from a wildlife species and a domestic animal species are not considered wildlife.

“Live baitfish” means any species of live freshwater fish designated by Commission Order as lawful for use in taking aquatic wildlife under R12-4-313 and R12-4-317.

“Live bait” means aquatic live wildlife used or intended for use in taking aquatic wildlife.

“Migratory birds” mean all species listed under 50 C.F.R. 10.13 revised October 1, 2014, and no later amendments or editions. The incorporated material is available from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000, and is on file with the Department.

“Noncommercial purpose” means the use of products or services developed using wildlife for which no compensation or monetary value is received.

“Nonhuman primate” means any nonhuman member of the order Primate of mammals including prosimians, monkeys, and apes.

“Nonnative” means wildlife or its offspring that did not occur naturally within the present boundaries of Arizona before European settlement.

“Person” has the same meaning as defined under A.R.S. § 1-215.

“Photography” means any process that creates durable images of wildlife or parts of wildlife by recording light or other electromagnetic radiation, either chemically by means of a light-sensitive material or electronically by means of an image sensor.

“Rehabilitated wildlife” means live wildlife that is injured, orphaned, sick, or otherwise debilitated and is provided care to restore it to a healthy condition suitable for release to the wild or for lawful captive use.

“Research facility” means any association, institution, organization, school, except an elementary or secondary school, or society that uses or intends to use live animals in research.

“Restricted live wildlife” means wildlife that cannot be imported, exported, or possessed without a special license or lawful exemption. “Shooting preserve” means any operation where live wildlife is released for the purpose of hunting.

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“Special license” means any license issued under this Article, including any additional stipulations placed on the license authorizing specific activities normally prohibited under A.R.S. § 17-306 and R12-4-402.

“Species of greatest conservation need” means any species listed in the Department’s Arizona’s State Wildlife Action Plan list Tier 1a and 1b published by the Arizona Game and Fish Department. The material is available for inspection at any Department office and online at www.azgfd.gov.

“Stock” and “stocking” means to release live aquatic wildlife into public or private waters other than the waters where taken.

“Taxa” means groups of animals within specific classes of wildlife occurring in the state with common characteristics that establish relatively similar requirements for habitat, food, and other ecological, genetic, or behavioral factors.

“Unique identifier” means a permanent marking made of alphanumeric characters that identifies an individual animal, which may include, but is not limited to, a tattoo or microchip.

“USFWS” means the United States Fish and Wildlife Service.

“Volunteer” means a person who:

Assists a special license holder in conducting activities authorized under the special license,

Is under the direct supervision of the license holder at the premises described on the license,

Is not designated as an agent, and

Receives no compensation.

“Wildlife disease” means any disease that poses a health risk to wildlife in Arizona.

“Zoo” means any facility licensed by the Arizona Game and Fish Department under R12-4-420 or, for facilities located outside of Arizona, licensed or recognized by the applicable governing agency.

“Zoonotic” means a disease that can be transmitted from animals to humans or, more specifically, a disease that normally exists in animals but that can infect humans.

Historical Note

Adopted effective April 28, 1989 (Supp. 89-2). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended by final rulemaking at 9 A.A.R. 3186, effective August 30, 2003 (Supp. 03-3). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

R12-4-402. Live Wildlife: Unlawful Acts

- A. A person shall not perform any of the following activities with live wildlife unless authorized by a federal license or permit, this Chapter, or A.R.S. Title 3, Chapter 16:
 1. Import any live wildlife into the state;
 2. Export any live wildlife from the state;
 3. Conduct any of the following activities with live wildlife within the state:
 - a. Display,
 - b. Exhibit,
 - c. Give away,
 - d. Lease,
 - e. Offer for sale,
 - f. Possess,
 - g. Propagate,

- h. Purchase,
- i. Release,
- j. Rent,
- k. Sell,
- l. Sell as live bait,
- m. Stock,
- n. Trade,
- o. Transport; or

4. Kill any captive live wildlife.

- B. The Department may seize, quarantine, hold, or euthanize any lawfully possessed wildlife held in a manner that poses an actual or potential threat to the wildlife, other wildlife, or the safety, health, or welfare of the public. The Department shall make reasonable efforts to find suitable placement for any animal prior to euthanizing it.
- C. A person who does not lawfully possess wildlife in accordance with this Article shall be responsible for all costs associated with the care and keeping of the wildlife.

Historical Note

Adopted effective April 28, 1989 (Supp. 89-2). Amended by final rulemaking at 7 A.A.R. 2732, effective July 1, 2001 (Supp. 01-2). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

R12-4-403. Escaped or Released Live Wildlife

- A. The Department may seize, quarantine, or euthanize any live wildlife that has been released, has escaped, or is likely to escape if the wildlife poses an actual or potential threat to:
 1. Native wildlife;
 2. Wildlife habitat; or
 3. Public health, safety, or welfare; or
 4. Property.
- B. A person shall not release live wildlife, unless specifically directed to do so by the Department or authorized under this Article.
- C. The person possessing the wildlife shall be responsible for all costs incurred by the Department associated with seizing or quarantining the wildlife.
- D. All special license holders shall be subject to the requirements of this Section.

Historical Note

Adopted effective April 28, 1989 (Supp. 89-2). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

R12-4-404. Possession of Live Wildlife Taken Under an Arizona Hunting or Fishing License

- A. A person may take live wildlife from the wild under a valid Arizona hunting or fishing license provided the current Commission Order authorizes a live bag and possession limit for that wildlife and the individual possesses the appropriate hunting or fishing license and special license, when applicable.
- B. Except for live baitfish which may only be possessed and transported as established under R12-4-316, a person may conduct any of the following activities with wildlife taken under an Arizona hunting or fishing license provided the activity is for a noncommercial purpose:
 1. Export,
 2. Kill,
 3. Place on educational display,
 4. Possess,
 5. Propagate, and
 6. Transport.

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- C. A person possessing wildlife or offspring of wildlife taken under this Section shall dispose of the wildlife or offspring of wildlife using any one or more of the following methods:
 1. Giving the wildlife as a gift,
 2. Exporting the wildlife to another state or jurisdiction, or
 3. Disposing of the wildlife as directed by the Department.
- D. A person shall not use wildlife or offspring of wildlife taken under this Section for commercial purposes.
- E. A person exporting live wildlife for a noncommercial purpose shall verify exported live wildlife and offspring of wildlife shall not be:
 1. Bartered,
 2. Leased,
 3. Offered for sale,
 4. Purchased,
 5. Rented,
 6. Sold, or
 7. Used for any commercial purpose.
- F. A person may temporarily hold and release live wildlife possessed under this Section into the wild, provided the person did not remove the wildlife from the immediate area where it was taken.
- G. A person shall not exceed the possession limit of live wildlife established by Commission Order for that species.
 1. Offspring of wildlife possessed under this Section shall count towards the established possession limit.
 2. A person may possess offspring of amphibians or reptiles in excess of the possession limit for no more than 12 months from the date of birth or hatching.
 3. On or before the day the offspring reach 12 months of age, the person possessing them shall dispose of them as prescribed under subsection (C).
 4. A person is prohibited from releasing offspring of propagated wildlife into the wild.
- H. A person may use reptiles and amphibians taken under a valid Arizona hunting license for the purpose of providing aversion or avoidance training when the current Commission Order authorizes a live bag and possession limit for that reptile or amphibian.
- I. A person may sell photographs of wildlife taken under a valid hunting or fishing license.
- J. A person who possesses live wildlife or offspring of wildlife taken under this Section shall comply with the requirements prescribed under R12-4-425 if the wildlife becomes listed as restricted wildlife under R12-4-406.
- B. A person may import live aquatic wildlife not listed as restricted wildlife under R12-4-406 without a special license under the following conditions:
 1. The aquatic wildlife is lawfully possessed under a lawful exemption, valid license, permit, or other form of authorization from another state, the United States, or another country; and
 2. The aquatic wildlife is used only for restaurants or markets that are licensed to sell food to the public and the wildlife is killed before it is transported from the restaurant or market, or, if transported alive from the market, is conveyed directly to its final destination for preparation as food; or
 3. The aquatic wildlife is used only for the aquarium trade or a fish farm and is accompanied by a valid license or permit issued by another state or the United States that allows the wildlife to be transported into this state.
 - a. A person in the aquarium trade shall:
 - i. Only use aquatic wildlife used in the aquarium trade as a pet or in an educational display, and
 - ii. Keep aquatic wildlife used in the aquarium trade in an aquarium or enclosed pond that does not allow the wildlife to leave the aquarium or pond and does not allow other live aquatic wildlife to enter the aquarium or pond.
 - b. A person in the aquarium trade shall not use or possess aquatic wildlife listed as restricted live wildlife under R12-4-406.
- C. A person shall obtain the appropriate special license listed under R12-4-409(A) before importing aquatic live wildlife for any purpose not stated under subsection (B), unless exempt under this Chapter.
- D. A person may purchase, possess, exhibit, transport, propagate, trade, rent, lease, give away, sell, offer for sale, export, or kill wildlife or aquatic wildlife or its offspring without an Arizona license or permit if the wildlife is lawfully imported and possessed as prescribed under subsections (A) or (B).
- E. An individual shall use and dispose of wildlife that is taken under an Arizona hunting or fishing license as prescribed by R12-4-404, or R12-4-417 and this Article, as applicable.

Historical Note

Adopted effective April 28, 1989 (Supp. 89-2). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

R12-4-406. Restricted Live Wildlife**R12-4-405. Importing, Purchasing, and Transporting Live Wildlife Without an Arizona License or Permit**

- A. A person may import mammals, birds, amphibians, and reptiles not listed as restricted wildlife under R12-4-406 without a special license required under this Article, provided the animals are:
 1. Lawfully possessed under a:
 - a. Lawful exemption; or
 - b. Valid license, permit, or other form of authorization from another state, the United States, or another country; and
 2. Accompanied by the health certificate required under 3 A.A.C. 2, Article 6, and this Article, when applicable.
- B. The Commission recognizes the online taxonomic classification from the Integrated Taxonomic Information System as the authority in determining the designations of restricted live mammals, birds, reptiles, amphibians, fish, crustaceans, and mollusks referenced under this Article. The Integrated Taxonomic Information System is available at any Department office and at www.itis.gov.

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- C. All of the following are considered restricted live wildlife and are subject to the requirements of this Article, unless otherwise specified:
1. Hybrid wildlife, as defined under R12-4-401, resulting from the interbreeding of at least one parent species of wildlife that is listed as restricted under this Section; and
 2. Transgenic species, unless otherwise specified under this Article. For the purposes of this Section, "transgenic species" means any organism that has had genes from another organism put into its genome through direct human manipulation of that genome. Transgenic species do not include natural hybrids or individuals that have had their chromosome number altered to induce sterility. A transgenic animal is considered wildlife if the animal is the offspring of at least one wildlife species.
- D. Domestic animals, as defined under R12-4-401, are not subject to restrictions under A.R.S. Title 17, 12 A.A.C. 4, or Commission Orders.
- E. Unless otherwise specified, all mammals listed below are considered restricted live wildlife:
1. All species of the order *Afrosoricida*. Common names include: tenrecs and golden moles.
 2. All species of the following families of the order *Artiodactyla*. Common name: even-toed ungulates:
 - a. The family *Antilocapridae*. Common name: pronghorns.
 - b. The family *Bovidae*. Common names include: cattle, buffalo, bison, oxen, duikers, antelopes, gazelles, goats, and sheep. Except the following genera which are not restricted:
 - i. The genus *Bubalus*. Common name: water buffalo.
 - ii. The genus *Bison*. Common name: bison, American bison or buffalo.
 - c. The family *Cervidae*. Common names include: cervid, deer, elk, moose, wapiti, and red deer.
 - d. The family *Tayassuidae*. Common name: peccaries.
 3. All species of the order *Carnivora*. Common names include: carnivores, skunks, raccoons, bears, foxes, and weasels.
 4. All species of the order *Chiroptera*. Common name: bats.
 5. All species of the genus *Didelphis*. Common name: American opossums.
 6. All species of the order *Erinaceomorpha*. Common names include: gymnures and moonrats. Except members of the family *Erinaceidae*, which are not restricted. Common name: hedgehogs.
 7. All species of the order *Lagomorpha*. Common names include: pikas, rabbits, and hares. Except for members of the genus *Oryctolagus* containing domestic rabbits, which are not wildlife and are not restricted.
 8. All nonhuman primates. Common names include: orangutans, chimpanzees, gorillas, macaques, and spider monkeys.
 9. All species of the following families of the order *Rodentia*. Common name: rodents:
 - a. The family *Capromyidae*. Common name: hutias.
 - b. The family *Castoridae*. Common name: beavers.
 - c. The family *Echimyidae*. Common names include: coypus and nutrias.
 - d. The family *Erethizontidae*. Common name: new world porcupines.
 - e. The family *Geomyidae*. Common name: pocket gophers.
 - f. The family *Sciuridae*. Common names include: squirrels, chipmunks, marmots, woodchucks, and prairie dogs.
 10. All species of the order *Soricomorpha*. Common names include: shrews, desmans, moles, and shrew-moles.
 11. All species of the order *Xenarthra*. Common names include: edentates; or sloths, anteaters, and armadillos.
- F. Birds listed below are considered restricted live wildlife:
1. The following species within the family *Phasianidae*. Common names: partridges, grouse, turkeys, quail, and pheasants:
 - a. *Callipepla gambelii*. Common name: Gambel's quail.
 - b. *Callipepla squamata*. Common name: scaled quail.
 - c. *Colinus virginianus*. Common name: northern bobwhite. Restricted only in game management units 34A, 36A, 36B, and 36C as prescribed under R12-4-108.
 - d. *Cyrtonyx montezumae*. Common name: Montezuma, harlequin, or Mearns's quail.
 - e. *Dendragapus obscurus*. Common name: dusky grouse.
 2. All species listed under the Migratory Bird Treaty Act listed under 50 C.F.R. 10.13 revised October 1, 2014, and no later amendments or editions. The incorporated material is available from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000, and is on file with the Department.
- G. Reptiles listed below are considered restricted live wildlife:
1. All species of the order *Crocodylia*. Common names include: gavials, caimans, crocodiles, and alligators.
 2. All species of the following families or genera of the order *Squamata*:
 - a. The family *Atractaspididae*. Common name: burrowing asps.
 - b. The following species and genera of the family *Colubridae*:
 - i. *Boiga irregularis*. Common name: brown tree snake.
 - ii. *Dispholidus typus*. Common name: boomslang.
 - iii. *Rhabdophis*. Common name: keelback.
 - iv. *Thelotornis kirtlandii*. Common names include: bird snake or twig snake.
 - c. The family *Elapidae*. Common names include: cobras, mambas, coral snakes, kraits, Australian elapids, and sea snakes.
 - d. The family *Helodermatidae*. Common names include: Gila monster and Mexican beaded lizard.
 - e. The family *Viperidae*. Common names include: true vipers and pit vipers, including rattlesnakes.
 3. The following species of the order *Testudines*:
 - a. All species of the family *Chelydridae*. Common name: snapping turtles.
 - b. All species of the genus *Gopherus*. Common names include: gopher tortoises, including the desert tortoise.
- H. Amphibians listed below are considered restricted live wildlife. The following species within the order *Anura*, common names frogs and toads:
1. The species *Bufo horribilis*, *Bufo marinus*, *Bufo schneideri*. Common names include: giant or marine toads.
 2. All species of the genus *Rana*. Common names include: leopard frogs and bullfrogs. Except bullfrogs possessed under A.R.S. § 17-102.

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3. All species of the genus *Xenopus*. Common name: clawed frogs.
- I.** Fish listed below are considered restricted live wildlife:
 1. All species of the family *Acipenseridae*. Common name: sturgeon.
 2. The species *Amia calva*. Common name: bowfin.
 3. The species *Aplodinotus grunniens*. Common name: freshwater drum.
 4. The species *Arapaima gigas*. Common name: bony tongue.
 5. All species of the genus *Astyanax*. Common name: tetra.
 6. The species *Belonesox belizanus*. Common name: pike topminnow.
 7. All species, both marine and freshwater, of the orders *Carcharhiniformes*, *Heterodontiformes*, *Hexanchiformes*, *Lamniformes*, *Orectolobiformes*, *Pristiophoriformes*, *Squaliformes*, *Squatiniiformes*, and except for all species of the families *Brachaeluridae*, *Hemiscylliidae*, *Orectolobidae*, and *Triakidae*; genera of the family *Scyliorhinidae*, including *Aulohalaelurus*, *Halaelurus*, *Haploblepharus*, *Poroderma*, and *Scyliorhinus*; and genera of the family *Parascylliidae*, including *Cirrhoscyllium* and *Parascyllium*. Common name: sharks.
 8. All species of the family *Centrarchidae*. Common name: sunfish.
 9. All species of the family *Cetopsidae* and *Trichomycteridae*. Common name: South American catfish.
 10. All species of the family *Channidae*. Common name: snakehead.
 11. All of the species *Cirrhinus mrigala*, *Gibelion catla*, and *Labeo rohita*. Common name: Indian carp.
 12. All species of the family *Clariidae*. Common names include: labyrinth or airbreathing catfish.
 13. All species of the family *Clupeidae* except threadfin shad, species *Dorosoma petenense*. Common names include: herring and shad.
 14. The species *Ctenopharyngodon idella*. Common names include: white amur or grass carp.
 15. The species *Cyprinella lutrensis*. Common name: red shiner.
 16. The species *Electrophorus electricus*. Common name: electric eel.
 17. All species of the family *Esocidae*. Common names include: pike and pickerels.
 18. All species of the family *Hiodontidae*. Common names include: goldeye and mooneye.
 19. The species *Hoplias malabaricus*. Common name: tiger fish.
 20. The species *Hypophthalmichthys molitrix*. Common name: silver carp.
 21. The species *Hypophthalmichthys nobilis*. Common name: bighead carp.
 22. All species of the family *Ictaluridae*. Common name: catfish.
 23. All species of the genus *Lates* and *Luciolates*. Common name: Nile perch.
 24. All species of the family *Lepisosteidae*. Common name: gar.
 25. The species *Leuciscus idus*. Common names include: whitefish and ide.
 26. The species *Malapterurus electricus*. Common name: electric catfish.
 27. All species of the family *Moronidae*. Common name: temperate bass.
 28. The species *Mylopharyngodon piceus*. Common name: black carp.
 29. All species of the family *Percidae*. Common names include: walleye and pike perches.
 30. All species of the family *Petromyzontidae*. Common name: lamprey.
 31. The species *Polyodon spathula*. Common name: American Paddlefish.
 32. All species of the family *Potamotrygonidae*. Common name: stingray.
 33. All species of the genera *Pygocentrus*, *Pygopristis*, and *Serrasalmus*. Common name: piranha.
 34. All species of the family *Salmonidae*. Common names include: trout and salmon.
 35. The species *Scardinius erythrophthalmus*. Common name: rudd.
 36. All species of the family *Serranidae*. Common name: bass.
 37. The following species, and hybrid forms, of the Genus *Tilapia*: *O. aureus*, *O. mossambica*; *O. niloticus*, *O. urolepis hornorum* and *T. zilli*. Common name: tilapia.
 38. The species *Thymallus arcticus*. Common name: Arctic grayling.
 - J.** Crustaceans listed below are considered restricted live wildlife:
 1. All freshwater species within the families *Astacidae*, *Cambaridae*, and *Parastacidae*. Common name: crayfish.
 2. The species *Eriocheir sinensis*. Common name: Chinese mitten crab.
 - K.** Mollusks listed below are considered restricted live wildlife:
 1. The species *Corbicula fluminea*. Common name: Asian clam.
 2. All species of the family *Dreissenidae*. Common names include: zebra and quagga mussel.
 3. The species *Euglandina rosea*. Common name: rosy wolfsnail.
 4. The species *Mytilopsis leucophaeata*. Common names include: Conrad's false mussel or false dark mussel.
 5. All species of the genus *Pomacea*. Common names include: Chinese mystery snail or apple snail.
 6. The species *Potamopyrgus antipodarum*. Common name: New Zealand mud snail.
 - L.** All wildlife listed within Aquatic Invasive Species Director's Order #1.

Historical Note

Adopted effective April 28, 1989 (Supp. 89-2). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended by final rulemaking at 7 A.A.R. 2220, effective May 25, 2001 (Supp. 01-2). Amended by final rulemaking at 9 A.A.R. 3186, effective August 30, 2003 (Supp. 03-3). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 18 A.A.R. 196, effective January 10, 2012 (Supp. 12-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

R12-4-407. Exemptions from Special License Requirements for Restricted Live Wildlife

- A.** All live cervids may only be imported, possessed, or transported as authorized under R12-4-430.
- B.** A person is not required to possess a special license to lawfully possess restricted live wildlife under the following circumstances:
 1. A person may possess, transport, or give away a desert tortoise (*Gopherus morafkai*) or the progeny of a desert tortoise provided the person possessed the tortoise prior

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- to April 28, 1989 or obtained the tortoise through a Department authorized adoption program. A person who receives a desert tortoise that is given away under this Section is also exempt from special license requirements. A person shall not:
- a. Propagate lawfully possessed desert tortoises or their progeny unless authorized in writing by the Department's special license administrator.
 - b. Export a live desert tortoise from this state unless authorized in writing by the Department.
2. A licensed veterinarian may possess restricted wildlife while providing medical care to the wildlife and may release rehabilitated wildlife as directed in writing by the Department, provided:
 - a. The veterinarian keeps records of restricted live wildlife as required by the Veterinary Medical Examining Board, and makes the records available for inspection by the Department.
 - b. The Department assumes no financial responsibility for any care the veterinarian provides, except care that is specifically authorized by the Department.
 3. A person may transport restricted live wildlife through this state provided the person:
 - a. Transports the wildlife through the state within 72 continuous and consecutive hours;
 - b. Ensures at least one person is continually present with, and accountable for, the wildlife while in this state;
 - c. Ensures the wildlife is neither transferred nor sold to another person;
 - d. Ensures the wildlife is accompanied by evidence of lawful possession, as defined under R12-4-401;
 - e. Ensures a health certificate required under this Article accompanies the wildlife described on the health certificate, when applicable; and
 - f. Ensures the carcasses of any wildlife that die while in transport through this state are disposed of only as directed by the Department.
 4. A person may exhibit, export, import, possess, and transport restricted live wildlife for a circus, temporary animal exhibit, or government-authorized state or county fair, provided the person:
 - a. Possesses evidence of lawful possession as defined under R12-4-401, for the wildlife;
 - b. Ensures the evidence of lawful possession accompanies the wildlife described on that evidence;
 - c. Ensures a health certificate required under this Article accompanies the wildlife described on the health certificate, when applicable;
 - d. Ensures the wildlife does not come into physical contact with the public;
 - e. Keeps the wildlife under complete control by safe and humane means; and
 - f. Ensures the wildlife is not in this state for more than 60 consecutive days.
 5. A person may export, import, possess, and transport restricted live wildlife for the purpose of commercial photography, provided the person:
 - a. Possesses evidence of lawful possession as defined under R12-4-401 for the wildlife;
 - b. Ensures the evidence of lawful possession accompanies the wildlife described on that evidence;
 - c. Ensures a health certificate required under this Article accompanies the wildlife described on the health certificate, when applicable;
 - d. Ensures the wildlife does not come into physical contact with the public;
 - e. Keeps the wildlife under complete control by safe and humane means; and
 - f. Ensures the wildlife is not in this state for more than 60 consecutive days.
 6. A person may exhibit, import, possess, and transport restricted live wildlife for advertising purposes other than photography, provided the person:
 - a. Ensures the wildlife is accompanied by evidence of lawful possession as defined under R12-4-401;
 - b. Ensures the evidence of lawful possession accompanies the wildlife described on that evidence;
 - c. Ensures a health certificate required under this Article accompanies the wildlife described on the health certificate, when applicable;
 - d. Maintains the wildlife under complete control by safe and humane means;
 - e. Prevents the wildlife from coming into contact with the public or being photographed with the public;
 - f. Does not charge the public a fee to view the wildlife; and
 - g. Exports the wildlife from the state within 10 days of importation.
 7. A person may export restricted live wildlife, provided the person:
 - a. Ensures the wildlife is accompanied by evidence of lawful possession as defined under R12-4-401;
 - b. Ensures the evidence of lawful possession accompanies the wildlife described on that evidence;
 - c. Maintains the wildlife under complete control by safe and humane means;
 - d. Prevents the wildlife from coming into contact with the public or being photographed with the public;
 - e. Does not charge the public a fee to view the wildlife; and
 - f. Exports the wildlife from the state within 10 days of importation.
 8. A person may possess restricted live wildlife taken alive under R12-4-404, R12-4-405, and R12-4-427, provided the person possesses the wildlife in compliance with those Sections.
 9. A person who holds a falconry license issued by another state or country is exempt from obtaining an Arizona Sport Falconry License under R12-4-422, unless remaining in this State for more than 180 consecutive days.
 - a. The falconer licensed in another state or country shall present a copy of the out-of-state or out-of-country falconry license, or its equivalent, to the Department upon request.
 - b. A falconer licensed in another state or country and who remains in this State for more than the 180-day period shall apply for an Arizona Sport Falconry License in order to continue practicing sport falconry in this state.
 10. A person may export, give away, import, kill, possess, propagate, purchase, trade, and transport restricted live wildlife provided the person is doing so for a medical or scientific research facility registered with the United States Department of Agriculture under 9 C.F.R. 2.30 revised January 1, 2012, which is incorporated by reference in this Section. The incorporated material is available at any Department office, online at www.gpoaccess.gov, or may be ordered from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000.

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This incorporation by reference contains no future editions or amendments.

11. A person may import and transport restricted live game fish and crayfish directly to restaurants or markets that are licensed to sell food to the public.
 12. A person operating a restaurant or market licensed to sell food to the public may exhibit, offer for sale, possess, and sell restricted live game fish or crayfish, provided the live game fish and crayfish are killed before being transported from the restaurant or market.
 13. A person may export, giveaway, import, kill, possess, propagate, purchase, and trade transgenic animals provided the person is doing so for a medical or scientific research facility.
- C. An exemption granted under this Section is not valid for any wildlife protected by federal statute or regulation.

Historical Note

Adopted effective April 28, 1989 (Supp. 89-2). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended by final rulemaking at 7 A.A.R. 2220, effective May 25, 2001 (Supp. 01-2). Amended by final rulemaking at 9 A.A.R. 3186, effective August 30, 2003 (Supp. 03-3). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

R12-4-408. Holding Wildlife for the Department

- A. A game ranger may authorize a person to possess or transport live wildlife on behalf of the Department if the wildlife is needed as evidence in a pending civil or criminal proceeding.
- B. With the exception of live cervids, the Department has the authority to allow a person to possess and transport captive live wildlife for up to 72 hours or as otherwise directed by the Department.
- C. The Director has the authority to allow a person to hold a live cervid on behalf of the Department.

Historical Note

Adopted effective April 28, 1989 (Supp. 89-2). Amended by final rulemaking at 9 A.A.R. 3186, effective August 30, 2003 (Supp. 03-3). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

R12-4-409. General Provisions and Penalties for Special Licenses

- A. A special license is required when a person intends to conduct any activity using restricted live wildlife. Special licenses are listed as follows:
 1. Aquatic wildlife stocking license, established under R12-4-410;
 2. Game bird license, established under R12-4-414;
 3. Live bait dealer's license, established under R12-4-411;
 4. Private game farm license, established under R12-4-413;
 5. Scientific collecting license, established under R12-4-418;
 6. Sport falconry license, established under R12-4-422;
 7. White amur stocking and holding license, established under R12-4-424;
 8. Wildlife holding license, established under R12-4-417;
 9. Wildlife rehabilitation license, established under R12-4-423;
 10. Wildlife service license, established under R12-4-421; and

11. Zoo license, established under R12-4-420.

- B. A person applying for a special license listed under subsection (A) shall:
 - a. Submit an application to the Department meeting the specific application requirements established under the applicable governing Section.
 - i. Applications for special licenses are furnished by the Department and are available at any Department office and online at www.azgfd.gov.
 - ii. An application is required upon initial application for a special license and when renewing a special license.
 - b. Pay all applicable fees required under R12-4-412.
- C. At the time of application, the person shall certify:
 1. The information provided on the application is true and correct to the applicant's knowledge;
 2. The applicant shall comply with any municipal, county, state or federal code, ordinance, statute, regulation, or rule applicable to the license held; and
 3. The applicant's live wildlife privileges are not currently suspended or revoked in this state, any other state or territory, or by the United States.
- D. A special license obtained by fraud or misrepresentation is invalid from the date of issuance.
- E. The Department shall either grant or deny a special license within the applicable overall time-frame established for that special license under R12-4-106Ch.
- F. In addition to the criteria prescribed under the applicable governing Section, the Department shall deny a special license when:
 1. The applicant's live wildlife privileges are revoked or suspended in this state, any other state, or by the United States;
 2. The applicant was convicted of illegally holding or possessing live wildlife within five years preceding the date of application for the special license; or
 3. The applicant knowingly provides false information on an application.
 4. The Department shall deny a license to a person who fails to meet the requirements established under the applicable governing Section or this Section. The Department shall provide a written notice to the applicant stating the reason for the denial. The person may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10.
- G. A special license holder may only engage in activities using federally-protected wildlife when the license holder possesses a valid license, permit, or other form of documentation issued by the United States authorizing the license holder to use that wildlife in a manner consistent with the special license. A special license issued by the Department does not:
 1. Exempt the license holder from any municipal, county, state or federal code, ordinance, statute, regulation, or rule; or
 2. Authorize the license holder to engage in any activity using wildlife that is protected by federal regulation.
- H. The Department may place additional stipulations on a special license at the time of initial application or renewal when necessary to:
 1. Conserve wildlife populations,
 2. Prevent the introduction and proliferation of wildlife diseases,
 3. Prevent wildlife from escaping, or
 4. Protect public health or safety.
- I. A special license holder shall keep live wildlife in a facility

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according to the captivity standards prescribed under R12-4-428 or as otherwise required under this Article.

- J. The Department may inspect a facility to verify compliance with all applicable requirements established under this Article.
- K. A special license holder shall keep records in compliance with the requirements established under the governing Section and shall make the records available for inspection to the Department upon request.
- L. The Department may conduct an inspection of an applicant's or license holder's facility at any time before or during the license period to determine compliance with the requirements of this Article. The Department shall comply with A.R.S. § 41-1009 when conducting inspections at a license holder's facility.
- M. Upon determining a disease or other emergency condition exists that poses an immediate threat to the public or the welfare of any wildlife, the Department may immediately order a cessation of operations under the special license and, if necessary, order the humane disposition or quarantine of any contaminated or affected wildlife.
 - 1. When directed by the Department, a special license holder shall:
 - a. Perform disease testing,
 - b. Submit biological samples to the Department or its designee,
 - c. Surrender the wildlife to the Department;
 - d. Quarantine the wildlife, or
 - e. Humanely euthanize the wildlife.
 - 2. The license holder shall:
 - a. Ensure any disease or other emergency condition under this subsection is diagnosed by a person professionally certified to make the diagnosis.
 - b. Be responsible for all costs associated with the testing and treatment of the contaminated and affected wildlife.
- N. If a condition exists, including disease or any violation of this Article, that poses a threat to the public or the welfare of any wildlife, but the threat does not constitute an emergency, the Department may issue a written notice of the condition to the special license holder specifying a reasonable period of time for the license holder to remedy the noticed condition. The notice of condition shall be delivered to the special license holder by certified mail or personal service.
 - 1. Failure of the license holder to remedy the noticed condition within the time specified by the Department is a violation under subsection (O).
 - 2. If a licensee receives three notices under this subsection for the same condition within a two-year period, the Department shall treat the third notice as a failure to remedy.
- O. A special license holder shall not:
 - 1. Violate any provision of the governing Section or this Section;
 - 2. Violate any provision of the special license that the person possesses, including any stipulations specified on the special license;
 - 3. Violate A.R.S. § 13-2908, relating to criminal nuisance;
 - 4. Violate A.R.S. § 13-2910, relating to cruelty to animals; or
 - 5. Refuse to allow the inspection of facilities, wildlife, or required records.
- P. The Department may take one or more of the following actions when a special license holder is convicted of a criminal offense involving cruelty to animals, violates subsection (N), or fails to comply with any requirement established under the governing Section or this Section:
 - 1. File criminal charges,
 - 2. Suspend or revoke a special license,
 - 3. Humanely dispose of the wildlife,
 - 4. Seize or seize in place any wildlife held under a special license.
 - 5. A person may appeal to the Commission any Department action listed under this subsection as prescribed under A.R.S. Title 41, Chapter 6, Article 10, except the filing of criminal charges.
- Q. A special license holder who wishes to continue conducting activities authorized under the special license shall submit a renewal application to the Department on or before the special license expiration date.
 - 1. The current license will remain valid until the Department grants or denies the new special license.
 - 2. If the Department denies the renewal application and the license holder appeals the denial to the Commission as prescribed under subsection (F)(4), the license holder may continue to hold the wildlife until:
 - a. The date on which the Commission makes its final decision on the appeal, or
 - b. The final date on which a person may request judicial review of the decision.
 - 3. A special license holder who fails to submit a renewal application to the Department before the date the license expires, cannot lawfully possess any live wildlife currently possessed under the license.
- R. If required by the governing Section, a special license holder shall submit an annual report to the Department before January 31 of each year for the previous calendar year. The report form is furnished by the Department.
 - 1. A report is required regardless of whether or not activities were performed during the previous year.
 - 2. The special license becomes invalid if the special license holder fails to submit the annual report by January 31 of each year.
 - 3. The Department will not process the special license holder's renewal application until the annual report is received by the Department.
 - 4. When the license holder is acting as a representative of an institution, organization, or agency for the purposes of the special license, the license holder shall submit the report required under subsection this Section:
 - a. By January 31 of each year the license holder is affiliated with the institution, organization, or agency; or
 - b. Within 30 days of the date of termination of the license holder's affiliation with the institution, organization, or agency.

Historical Note

Adopted effective April 28, 1989 (Supp. 89-2). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended by final rulemaking at 7 A.A.R. 2732, effective July 1, 2001 (Supp. 01-2). Amended by final rulemaking at 9 A.A.R. 3186, effective August 30, 2003 (Supp. 03-3). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

R12-4-410. Aquatic Wildlife Stocking License

- A. An aquatic wildlife stocking license allows a person to import, possess, purchase, stock, and transport any restricted species designated on the license at the location specified on the license.

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- B. The aquatic wildlife stocking license is valid for no more than 20 consecutive days.
- C. In addition to the requirements established under this Section, an aquatic wildlife stocking license holder shall comply with the special license requirements established under R12-4-409.
- D. The license holder shall be responsible for compliance with all applicable regulatory requirements. The aquatic wildlife stocking license does not:
 - 1. Exempt the license holder from any municipal, county, state, or federal codes, ordinances, statutes, rules, or regulations; or
 - 2. Authorize the license holder to engage in authorized activities using federally-protected wildlife, unless the license holder possesses a valid license, permit, or other form of documentation issued by the United States authorizing the license holder to use that wildlife in a manner consistent with the special license.
- E. The Department shall deny an aquatic wildlife stocking license to a person who fails to meet the requirements established under R12-4-409 or this Section. The Department shall provide the written notice established under R12-4-409(F)(4) to the applicant stating the reason for the denial. The person may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10. In addition to the requirements and criteria established under R12-4-409(F)(1) through (4), the Department shall deny an aquatic wildlife stocking license when:
 - 1. The Department determines that issuance of the license will result in a negative impact to native wildlife; or
 - 2. The applicant proposes to use aquatic wildlife that is not compatible with, or poses a threat to, any wildlife within the river drainage or the area where the stocking is to occur.
- F. A person applying for an aquatic wildlife stocking license shall submit an application to the Department. A separate application is required for each location where the applicant proposes to use wildlife. The application is furnished by the Department and is available at any Department office and online at www.azgfd.gov. An applicant shall provide the following on the application:
 - 1. The applicant's information:
 - a. Name;
 - b. Mailing address; and
 - c. Department ID number, when applicable;
 - 2. When the applicant proposes to use the aquatic wildlife for a commercial purpose the applicant's business:
 - a. Name;
 - b. Federal Tax Identification Number;
 - c. Mailing address; and
 - d. Telephone number;
 - 3. Aquatic wildlife species information:
 - a. Common name of the aquatic wildlife species;
 - b. Number of animals for each species; and
 - c. Approximate size of the aquatic wildlife that will be used under the license;
 - 4. The purpose for introducing the aquatic wildlife species;
 - 5. For each location where the aquatic wildlife will be stocked, the owner's:
 - a. Name;
 - b. Mailing address;
 - c. Telephone number; and
 - d. Physical location of the stocking site, to include river drainage and the Global Positioning System location or Universal Transverse Mercator coordinates;
- 6. A detailed description or diagram of the facilities where the applicant will stock the aquatic wildlife, which includes:
 - a. Size of waterbody proposed for stocking aquatic wildlife;
 - b. Nearest river, stream, or other freshwater system;
 - c. Points where water enters each waterbody, when applicable;
 - d. Points where water leaves each waterbody, when applicable; and
 - e. Location of fish containment barriers;
- 7. For each supplier from whom the applicant will obtain aquatic wildlife, the supplier's:
 - a. Name;
 - b. Federal Tax Identification Number;
 - c. Mailing address;
 - d. Telephone number;
- 8. The dates on which the person will stock aquatic wildlife;
- 9. Any other information required by the Department; and
- 10. The certification required under R12-4-409(C).
- G. In addition to the requirements listed under subsection (F), when an applicant wishes to stock an aquatic species in an area where that species has not yet been introduced, is not currently established, or there is potential for conflict with Department efforts to conserve wildlife, the applicant shall also submit a written proposal to the Department at the time of application. The written proposal shall contain all of the following information:
 - 1. Anticipated benefits resulting from the introduction of the aquatic live wildlife species;
 - 2. Potential adverse economic impacts;
 - 3. Potential dangers the introduced aquatic species may possibly create for native aquatic species and game fish, to include all of the following:
 - a. Determination of whether or not the introduced aquatic species is compatible with native aquatic species or game fish;
 - b. Potential ecological problems created by the introduced aquatic species;
 - c. Anticipated hybridization concerns with introducing the aquatic species; and,
 - d. Future plans designed to evaluate the status and impact of the species after it is introduced.
 - 4. Assessment of probable impacts to sensitive species in the area using the list generated by the Department's On-Line Environmental Review Tool, which is available at www.azgfd.gov. The proposal must address each species listed.
- H. An applicant for an aquatic wildlife stocking license shall pay all applicable fees established under R12-4-412.
- I. An aquatic wildlife stocking license holder shall:
 - 1. Comply with all additional stipulations placed on the license by the Department, as authorized under R12-4-409(H).
 - 2. Obtain all aquatic wildlife, live eggs, fertilized eggs, and milt from a licensed fish farm operator or a private non-commercial fish pond certified to be free of diseases and causative agents through the following actions:
 - a. An inspection shall be performed by a qualified fish health inspector or fish pathologist at the fish farm or pond where the aquatic wildlife or biological material is held before it is shipped to the license holder.
 - b. The inspection shall be conducted no more than 12 months prior to the date on which the aquatic wildlife or biological material is shipped to the license

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holder. The Department may require additional inspections at any time prior to stocking.

- c. The applicant shall submit a copy of the certification to the Department prior to conducting any stocking activities.
- 3. Allow the Department to conduct inspections of an applicant's or license holder's facility and records at any time before or during the license period to determine compliance with the requirements of this Article.
- 4. Possess the license or legible copy of the license while conducting any activities authorized under the aquatic stocking license and presents it for inspection upon the request of any Department employee or agent.
- 5. Dispose of wildlife only as authorized under this Section or as directed in writing by the Department.
- J. An aquatic wildlife stocking license holder shall comply with the requirements established under R12-4-409 and R12-4-428.

Historical Note

Adopted effective April 28, 1989 (Supp. 89-2). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

R12-4-411. Live Bait Dealer's License

- A. A live bait dealer's license allows a person to perform any of the following activities using the aquatic live wildlife listed under subsection (B): exhibit for sale, export, import, kill, offer for sale, possess, purchase, sell, trade, or transport.
- B. A live bait dealer's license allows a person to perform any of the activities listed under subsection (A) with any or all of the following aquatic live wildlife:
 - 1. Fathead minnow, *Pimephales promelas*;
 - 2. Golden shiner, *Notemigonus crysoleucas*;
 - 3. Goldfish, *Carassius auratus*;
 - 4. Mosquito fish, *Gambusia affinis*;
 - 5. Threadfin shad, *Dorosoma petenense*; and
 - 6. Waterdogs, *Ambystoma tigrinum*, except in that portion of Santa Cruz County lying east and south of State Highway 82, or that portion of Cochise County lying west of the San Pedro River and south of State Highway 82.
- C. A live bait dealer's license expires on December 31 of each year.
- D. In addition to the requirements established under this Section, a live bait dealer license holder shall comply with the special license requirements established under R12-4-409.
- E. The license holder shall be responsible for compliance with all applicable regulatory requirements. The live bait dealer's license does not:
 - 1. Exempt the license holder from any municipal, county, state, or federal codes, ordinances, statutes, rules, or regulations; or
 - 2. Authorize the license holder to engage in authorized activities using federally-protected wildlife, unless the license holder possesses a valid license, permit, or other form of documentation issued by the United States authorizing the license holder to use that wildlife in a manner consistent with the special license.
- F. The Department shall deny a live bait dealer's license to a person who fails to meet the requirements established under R12-4-409 or this Section. The Department shall provide the written notice established under R12-4-409(F)(4) to the applicant stating the reason for the denial. The person may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10.
- G. A person applying for a live bait dealer's license shall submit an application to the Department. A separate application is required for each location where the applicant proposes to use wildlife. The application is available from any Department office and online at www.azgfd.gov. An applicant shall provide the following information on the application:
 - 1. The applicant's information:
 - a. Name;
 - b. Mailing address;
 - c. Telephone number; and
 - d. Department ID number, when applicable;
 - 2. The applicant's business:
 - a. Name;
 - b. Federal Tax Identification Number;
 - c. Mailing address; and
 - d. Telephone number of the applicant's business;
 - 3. Wildlife species information:
 - a. Common name of all wildlife species; and
 - b. The number of animals for each species that will be sold under the license.
 - 4. For each location where the wildlife will be used, the owner's:
 - a. Name;
 - b. Mailing address;
 - c. Telephone number; and
 - 5. A detailed description or diagram of the facilities where the applicant will hold the wildlife;
 - 6. For each supplier from whom the applicant will obtain wildlife, the supplier's:
 - a. Name;
 - b. Federal Tax Identification Number;
 - c. Mailing address;
 - d. Telephone number;
 - 7. Any other information required by the Department; and
 - 8. The certification required under R12-4-409(C).
- H. An applicant for a live bait dealer's license shall pay all applicable fees established under R12-4-412.
- I. A live bait dealer's license holder shall:
 - 1. Comply with all additional stipulations placed on the license by the Department, as authorized under R12-4-409(H).
 - 2. Obtain live baitfish from a facility certified free of the diseases and causative agents through the following actions:
 - a. An inspection shall be performed by a qualified fish health inspector or fish pathologist at the facility where the wildlife is held before it is shipped to the license holder.
 - b. The inspection shall be conducted no more than 12 months prior to the date on which the aquatic wildlife or biological material is shipped to the license holder. The Department may require additional inspections at any time prior to shipping.
 - c. The applicant shall submit a copy of the certification to the Department prior to conducting any activities authorized under the license.
 - d. The live bait dealer's license holder shall include a copy of the certification in each shipment.
 - 3. Allow the Department to conduct inspections of an applicant's or license holder's facility and records at any time before or during the license period to determine compliance with the requirements of this Article.
 - 4. Possess the license or legible copy of the license while conducting activities authorized under the live bait dealer's license and presents it for inspection upon the request of any Department employee or agent.

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5. Dispose of aquatic wildlife only as authorized under this Section or as directed by the Department.
- J. A live bait dealer's license holder shall comply with the requirements established under R12-4-428.

Historical Note

Adopted effective April 28, 1989 (Supp. 89-2). Amended by final rulemaking at 7 A.A.R. 2220, effective May 25, 2001 (Supp. 01-2). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

R12-4-412. Special License Fees

- A. A person who applies for a special license authorized under this Article shall pay all applicable fees at the time of application.
- B. A new application fee is required upon initial application or when an applicant fails to renew a special license before the license expires.
- C. A renewal application fee is required when an applicant submits an application to renew the special license before the license expires.

Special License Fees	New Application	Renewal Application
Aquatic Wildlife Stocking License	no fee	no fee
Game Bird		
Field Trial License	\$6	\$6
Hobby License	\$5	\$5
Shooting Preserve License	\$115	\$115
Live Bait Dealer's License	\$35	\$35
Private Game Farm License	\$57.50	\$57.50
Scientific Collecting License		
Commercial	no fee	no fee
Noncommercial	no fee	no fee
Sport Falconry License, not available to a nonresident under R12-4-422(J).	\$87.50	\$87.50
White Amur Stocking and Holding License		
Commercial	\$250	\$250
Noncommercial	\$250	no fee
Wildlife Holding License	no fee	no fee
Wildlife Rehabilitation License	no fee	no fee
Wildlife Service License	no fee	no fee
Zoo License	\$115	\$115

Historical Note

Adopted effective April 28, 1989 (Supp. 89-2). Repealed effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). New Section adopted effective November 10, 1997 (Supp. 97-4). Amended by final rulemaking at 6 A.A.R. 211, effective December 14, 1999 (Supp. 99-4). Section repealed by final rulemaking at 9 A.A.R. 3186, effective August 30, 2003 (Supp. 03-3). New Section made by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

R12-4-413. Private Game Farm License

- A. A private game farm license authorizes a person to commer-

cially farm and sell wildlife, as specified on the license at the location designated on the license.

1. A private game farm license allows the license holder to:
 - a. Display for sale, give away, import, offer for sale, possess, purchase, rent or lease, sell, trade, or transport wildlife, wildlife carcasses, or parts of wildlife; and
 - b. Propagate and rear wildlife.
 2. The Private Game Farm License expires on December 31 of each year.
- B. Private game farm wildlife may be killed or slaughtered, but a person shall not kill or allow the wildlife to be killed by hunting or in a manner that could be perceived as hunting or recreational sport harvest.
- C. Private game farm wildlife shall not be killed by a person who pays a fee to the owner of the private game farm for killing the wildlife, nor shall the game farm owner accept a fee for killing the wildlife, except as authorized under R12-4-414.
- D. A private game farm license authorizes the use of only the following species:
1. Captive-reared game birds:
 - a. *Alectoris chukar*, Chukar;
 - b. *Callipepla californica*, California or valley quail;
 - c. *Callipepla gambelii*, Gambel's quail;
 - d. *Callipepla squamata*, Scaled quail;
 - e. *Colinus virginianus*, Northern bobwhite;
 - f. *Cyrtonyx montezumae*, Montezuma or Mearns' quail;
 - g. *Dendragapus obscurus*, Dusky grouse; and
 - h. *Phasianus colchicus*, Ringneck and whitewing pheasant;
 2. Mammals listed as restricted live wildlife under R12-4-406, provided:
 - a. The same species does not exist in the wild in this state;
 - b. The applicant submits proof of a valid license issued by the United States Department of Agriculture under 9 CFR 25.30 at the time of application;
 - c. The applicant submits a written proposal at the time of application, which includes all of the following information:
 - i. Species to be possessed,
 - ii. Purpose of possession,
 - iii. Purpose of propagation, when applicable,
 - iv. Methods designed to prevent wildlife from escaping,
 - v. Methods designed to prevent threat to native wildlife,
 - vi. Methods designed to ensure public safety; and
 - vii. Methods for disposal of the wildlife, which may include export from this state, or transfer to an eligible game farm licensed under this Section, a zoo licensed under R12-4-420, or a medical or scientific research facility exempted under R12-4-407.
- E. The Department shall deny an application for:
1. A new private game farm license for cervids. The Department may accept a renewal application for a private game farm license holder currently permitted to possess cervids, provided the license holder is in compliance with all applicable requirements under R12-4-409, R12-4-430, and this Section.
 2. A private game farm license for Northern bobwhite, *Colinus virginianus*, in game management units 34A, 36A, 36B, and 36C, as prescribed under R12-4-108.
- F. In addition to the requirements established under this Section,

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a private game farm holder shall comply with the special license requirements established under R12-4-409.

- G.** The license holder shall be responsible for compliance with all applicable regulatory requirements. The private game farm license does not:
 - 1. Exempt the license holder from any municipal, county, state, or federal codes, ordinances, statutes, rules, or regulations; or
 - 2. Authorize the license holder to engage in authorized activities using federally-protected wildlife, unless the license holder possesses a valid license, permit, or other form of documentation issued by the United States authorizing the license holder to use that wildlife in a manner consistent with the special license.
- H.** The Department shall deny a private game farm license to a person who fails to meet the requirements established under R12-4-409 or this Section. The Department shall provide the written notice established under R12-4-409(F)(4) to the applicant stating the reason for the denial. The person may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10.
- I.** A person applying for a private game farm license shall submit an application to the Department. A separate application is required for each location where the applicant proposes to use wildlife. The application is furnished by the Department and is available at any Department office and online at www.azgfd.gov. An applicant shall provide the following information on the application:
 - 1. The applicant's information:
 - a. Name;
 - b. Mailing address;
 - c. Telephone number; and
 - d. Department ID number, when applicable;
 - 2. The applicant's business:
 - a. Name;
 - b. Federal Tax Identification Number;
 - c. Mailing address; and
 - d. Telephone number;
 - 3. For wildlife to be used under the license:
 - a. Common name of the wildlife species;
 - b. Number of animals for each species; and
 - c. When the applicant is renewing the private game farm license, the species and number of animals for each species currently held in captivity under the license;
 - 4. For each location where the wildlife will be used, the land owner's:
 - a. Name;
 - b. Mailing address;
 - c. Telephone number; and
 - d. Physical location description to include the Global Positioning System location or Universal Transverse Mercator coordinates;
 - 5. A detailed description or diagram of the facilities where the applicant will hold the wildlife, and a description of how the facilities comply with the requirements established under R12-4-428 and any other captivity standards established under this Section;
 - 6. For each wildlife supplier from whom the special license applicant will obtain wildlife, the supplier's:
 - a. Name;
 - b. Federal Tax Identification Number;
 - c. Mailing address;
 - d. Telephone number;
 - 7. Any other information required by the Department; and
 - 8. The certification required under R12-4-409(C).
- J.** An applicant for a private game farm license shall pay all applicable fees established under R12-4-412.
- K.** A private game farm license holder shall:
 - 1. Comply with all additional stipulations placed on the license by the Department, as authorized under R12-4-409(H).
 - 2. Ensure each shipment of live wildlife imported into the state is accompanied by a health certificate.
 - a. The certificate shall be issued no more than 30 days prior to the date on which the wildlife shipped.
 - b. A copy of the certificate shall be submitted to the Department prior to importation.
 - 3. Ensure the following documentation accompanies each shipment of wildlife made by the game farm:
 - a. Name of the private game farm license holder,
 - b. Private game farm license number,
 - c. Date wildlife was shipped,
 - d. Number of wildlife, by species, included in the shipment,
 - e. Name of the person or common carrier transporting the shipment, and
 - f. Name of the person receiving the shipment.
 - 4. Provide each person who transports a wildlife carcass from the site of the game farm with a receipt that includes all of the following:
 - a. Date the wildlife was purchased, traded, or given as a gift;
 - b. Name of the game farm; and
 - c. Number of wildlife carcasses, by species, being transported.
 - 5. Ensure each facility is inspected by the attending veterinarian at least once every year.
 - 6. Allow the Department to conduct inspections of an applicant's or license holder's facility and records at any time before or during the license period to determine compliance with the requirements of this Article.
 - 7. Maintain records of all wildlife possessed under the license for a period of three years. In addition to the information required under subsections (M)(4)(a) through (M)(4)(e), the records shall also include:
 - a. The private game farm license holder's:
 - i. Name;
 - ii. Mailing address;
 - iii. Telephone number; and
 - iv. Special license number;
 - b. Copies of all federal, state, and local licenses, permits, and authorizations required for the lawful operation of the private game farm;
 - c. Copies of the annual report required under subsection (M);
 - d. Number of all restricted live wildlife, by species and the date it was obtained;
 - e. Source of all restricted live wildlife and the date it was obtained;
 - f. Number of offspring propagated by all restricted live wildlife; and
 - g. For all restricted live wildlife disposed of by the license holder:
 - i. Number, species, and date of disposition; and
 - ii. Manner of disposition to include the names and addresses of persons to whom the wildlife was bartered, given, or sold, when authorized.
- L.** A private game farm license holder shall not:
 - 1. Propagate hybrid wildlife or domestic animals with wildlife; or
 - 2. Possess domestic species under the special license.

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- M.** A private game farm license holder shall submit an annual report to the Department before January 31 of each year for activities performed under the license for the previous calendar year. The report form is furnished by the Department.
1. A report is required regardless of whether or not activities were performed during the previous year.
 2. The private game farm license becomes invalid if the annual report is not submitted to the Department by January 31 of each year.
 3. The Department will not process the special license holder's renewal application until the annual report is received by the Department.
 4. The annual report shall include all of the following information, as applicable:
 - a. Number of wildlife, by species;
 - b. Source of all wildlife that the license holder obtained or propagated;
 - c. Date on which the wildlife was obtained or propagated;
 - d. Date on which the wildlife was disposed of and the manner of disposition; and
 - e. Name of person who received wildlife disposed of by barter, given as a gift, or sale.
- N.** Except for cervids which shall be disposed of only as established under R12-4-430, a private game farm license holder who no longer uses the wildlife for a commercial purpose shall dispose of the wildlife as follows:
1. Export,
 2. Transfer to another private game farm licensed under this Section,
 3. Transfer to a zoo licensed under R12-4-420,
 4. Transfer to a medical or scientific research facility exempt under R12-4-407,
 5. As directed by the Department, or
 6. As otherwise authorized under this Section.
- O.** A private game farm license holder shall comply with the requirements established under R12-4-428 and R12-4-430.

Historical Note

Adopted effective April 28, 1989 (Supp. 89-2). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended by final rulemaking at 7 A.A.R. 2732, effective July 1, 2001 (Supp. 01-2). Amended by final rulemaking at 9 A.A.R. 3186, effective August 30, 2003 (Supp. 03-3). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

R12-4-414. Game Bird License

- A.** A game bird license authorizes a person to conduct certain activities with the captive pen-reared game birds specified on the license and only at the location or locations specified on the license, as described below:
1. Game Bird Hobby:
 - a. Authorizes a license holder to:
 - i. Possess no more than 50 captive pen-reared game birds at any one time; and
 - ii. Export, gift, import, kill, possess, propagate, purchase, and transport the captive pen-reared game birds specified on the license for personal, noncommercial purposes only.
 - b. The following captive pen-reared game bird species may be possessed by a Game Bird Hobby license holder:
 - i. *Alectoris chukar*, Chukar;
 - ii. *Callipepla californica*, California or valley quail;
 - iii. *Callipepla gambelii*, Gambel's quail;
 - iv. *Callipepla squamata*, Scaled quail;
 - v. *Colinus virginianus*, Northern bobwhite, subject to the restriction specified under subsection (D);
 - vi. *Cyrtonyx montezumae*, Montezuma or Mearn's quail; and
 - vii. *Dendragapus obscurus*, Dusky grouse.
 2. Game Bird Shooting Preserve:
 - a. Authorizes a license holder to:
 - i. Release captive pen-reared game birds for the purpose of hunting or shooting.
 - ii. Export, display, gift, import, kill, offer for sale, possess, propagate, purchase, trade, and transport the captive pen-reared game birds specified on the license.
 - b. The following captive pen-reared game bird species may be possessed by a Game Bird Shooting Preserve license holder:
 - i. *Alectoris chukar*, Chukar;
 - ii. *Anas platyrhynchos*, Mallard duck;
 - iii. *Colinus virginianus*, Northern bobwhite, subject to the restriction specified under subsection (D); and
 - iv. *Phasianus colchicus*, Ringneck and White-wing pheasant.
 - c. The license holder shall restrict the release and take of the live captive pen-reared game birds on private lands to an area not more than 1,000 acres.
 - d. The license holder may charge a fee to allow persons to take captive pen-reared game birds on the shooting preserve.
 - e. A person is not required to possess a hunting license when taking a captive pen-reared game bird released under the provisions of this Section.
 - f. A captive pen-reared game bird released under a Game Bird Shooting Preserve license may be taken with any method designated under R12-4-304.
 - g. The Game Bird Shooting Preserve license expires on December 31 each year.
 3. Game Bird Field Trial:
 - a. Authorizes a license holder to:
 - i. Release and take captive pen-reared game birds for the purpose of conducting a competition to test the performance of hunting dogs in one field trial event;
 - ii. Import, kill, possess, purchase within the State, and transport the captive pen-reared game birds specified on the license for one field trial event; and
 - iii. Export, gift, kill, or transport any captive pen-reared game bird held after the field trial event.
 - b. The following captive pen-reared game bird species may be possessed by a Game Bird Field Trial license holder:
 - i. *Alectoris chukar*, Chukar;
 - ii. *Anas platyrhynchos*, Mallard duck;
 - iii. *Colinus virginianus*, Northern bobwhite, subject to the restriction specified under subsection (D); and
 - iv. *Phasianus colchicus*, Ringneck and White-wing pheasant.

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- c. A person is not required to possess a hunting license in order to participate in a field trial event held under the provisions of this Section.
 - d. A captive pen-reared game bird released under a Game Bird Field Trial license may be taken with any method designated under R12-4-304.
 - e. The Game Bird Field Trial license is valid for no more than ten consecutive days.
4. Game Bird Field Training:
- a. Authorizes a license holder to:
 - i. Release and take released live captive pen-reared game birds specified on the license for the purpose of training a dog or raptor to hunt game birds; and
 - ii. Import, possess, purchase within the State, and transport the captive pen-reared game birds specified on the license; and
 - iii. Export, gift, kill, or transport any captive pen-reared game bird possessed under the license.
 - b. The following captive pen-reared game bird species may be possessed by a Game Bird Field Training license holder:
 - i. *Alectoris chukar*, Chukar;
 - ii. *Anas platyrhynchos*, Mallard duck;
 - iii. *Colinus virginianus*, Northern bobwhite, subject to the restriction specified under subsection (D)(2)(b);
 - iv. *Phasianus colchicus*, Ringneck and White-wing pheasant.
 - c. A person is not required to possess a hunting license when taking a captive pen-reared game bird released under the provisions of this Section.
 - d. A captive pen-reared game bird released under a Game Bird Field Training license may be taken with any method designated under R12-4-304.
 - e. The Game Bird Field Training license expires on December 31 each year.
- B.** In addition to the requirements established under this Section, a game bird license holder shall comply with the special license requirements established under R12-4-409.
- C.** The license holder shall be responsible for compliance with all applicable regulatory requirements. The game bird license does not:
- 1. Exempt the license holder from any municipal, county, state, or federal codes, ordinances, statutes, rules, or regulations; or
 - 2. Authorize the license holder to engage in authorized activities using federally-protected wildlife, unless the license holder possesses a valid license, permit, or other form of documentation issued by the United States authorizing the license holder to use that wildlife in a manner consistent with the special license.
- D.** The Department shall deny a game bird license to a person who fails to meet the requirements under R12-4-409 or this Section. The Department shall provide the written notice established under R12-4-409(F)(4) to the applicant stating the reason for the denial. The person may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10. In addition to the requirements and criteria established under R12-4-409(F)(1) through (4), the Department may deny a game bird license when:
- 1. The applicant proposes to release captive pen-reared game birds:
 - a. At a location where an established wild population of the same species exists.
 - b. During nesting periods of upland game birds or waterfowl that nest in the area.
 - 2. The applicant requests a license:
 - a. For the sole purpose described under subsection (A)(1) and proposes to possess more than 50 captive pen-reared game birds at any one time.
 - b. To possess Northern bobwhites, *Colinus virginianus*, in any one of the following game management units, as described under R12-4-108; 34A, 36A, 36B, and 36C.
 - 3. The Department determines the:
 - a. Authorized activity listed under this Section may pose a threat to native wildlife, wildlife habitat, or public health or safety.
 - b. Escape of any species listed on the application may pose a threat to native wildlife or public health or safety.
 - c. Release of captive pen-reared game birds may interfere with a wildlife or habitat restoration program.
- E.** A person applying for a game bird license shall submit an application to the Department. A person applying for multiple Game Bird Field Trial licenses shall submit a separate application for each date and location where a competition will occur. The application is furnished by the Department and is available at any Department office and on the Department's website. An applicant shall provide the following information on the application:
- 1. The applicant's information:
 - a. Name;
 - b. Mailing address, when applicable;
 - c. Physical address;
 - d. Telephone number; and
 - e. Department ID number, when applicable;
 - 2. For captive pen-reared game birds to be used under the license:
 - a. Common name of game bird species;
 - b. Number of animals for each species; and
 - c. When the applicant is renewing a Game Bird Hobby or Shooting Preserve license, the species and number of animals for each species currently held in captivity under the license;
 - 3. The type of game bird license:
 - a. Game Bird Hobby;
 - b. Game Bird Shooting Preserve;
 - c. Game Bird Field Trial; or
 - d. Game Bird Field Training;
 - 4. For each location where captive pen-reared game birds will be held, the owner's:
 - a. Name;
 - b. Mailing address, when applicable;
 - c. Telephone number; and
 - d. Physical address or general location description and Global Positioning System location, when available;
 - 5. For each location where captive pen-reared game birds will be released, the land owner's or agency's:
 - a. Name;
 - b. Mailing address, when applicable;
 - c. Telephone number; and
 - d. Physical address or general location description and Global Positioning System location, when available; and
 - 6. For each captive pen-reared game bird supplier from whom the applicant will obtain game birds, the supplier's:
 - a. Name;
 - b. Mailing address; and

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- c. Telephone number;
 - 7. An applicant who is applying for a Game Bird Shooting Preserve or Field Trial license and intends to use the captive pen-reared game birds for a commercial purpose shall also provide the applicant's business:
 - a. Name;
 - b. Mailing address; and
 - c. Telephone number;
 - 8. An applicant who intends to use the captive pen-reared game birds for an activity affiliated with a sponsoring organization shall also provide the organization's:
 - a. Name;
 - b. Mailing address; and
 - c. Telephone number of the organization chair or local chapter;
 - 9. An applicant who is applying for a Game Bird Field Trial license shall also specify the range of dates within which the field trial event will take place, not to exceed a 10-day period;
 - 10. An applicant who is applying for a Game Bird Hobby or Game Bird Shooting Preserve license shall also provide a detailed description or diagram of the facilities where the applicant will hold captive pen-reared game birds and a description of how the facilities comply with the requirements established under R12-4-428 and any other captivity standards established under this Section;
 - 11. Any other information required by the Department; and
 - 12. The certification required under R12-4-409(B).
- F.** An applicant for a game bird license shall pay all applicable fees established under R12-4-412.
- G.** A game bird license holder shall:
- 1. Comply with all additional stipulations placed on the license by the Department, as authorized under R12-4-409(H).
 - 2. Allow the Department to conduct inspections of an applicant's or license holder's facility and records at any time before or during the license period to determine compliance with the requirements of this Article.
 - 3. Possess the license or legible copy of the license while conducting any activity authorized under the game bird license and present it for inspection upon the request of any Department employee or agent.
 - 4. Ensure each shipment of captive pen-reared game birds imported into the state is accompanied by a health certificate.
 - a. The certificate shall be issued no more than 30 days prior to the date on which the game birds are shipped.
 - b. A copy of the certificate shall be submitted to the Department prior to importation.
 - 5. Provide each person who transports captive pen-reared game birds taken under the game bird license with documentation that includes all of the following:
 - a. Name of the game bird license holder;
 - b. Game bird license number;
 - c. Date the captive pen-reared game bird was obtained;
 - d. Number of captive pen-reared game birds, by species; and
 - e. When the captive pen-reared game birds are being shipped:
 - i. Name of the person or common carrier transporting the shipment, and
 - ii. Name of the person receiving the shipment.
 - 6. Maintain records of all captive pen-reared game birds possessed under the license for a period of three years. In addition to the information required under subsections (G)(5)(a) through (G)(5)(b), the records shall also include:
 - a. The game bird license holder's:
 - i. Name;
 - ii. Mailing address;
 - iii. Telephone number; and
 - iv. Special license number;
 - b. Copies of the annual report required under subsection (H);
 - 7. Dispose of captive pen-reared game birds only as authorized under this Section or as directed by the Department.
 - 8. Conduct license activities solely at the locations and within the time-frames approved by the Department. A Game Bird License holder may request permission to amend the license to conduct activities authorized under the license at an additional location by submitting the application required under subsection (E) to the Department.
- H.** A game bird license holder shall submit an annual report to the Department before January 31 of each year for the previous calendar year. The report form is furnished by the Department.
- 1. A report is required regardless of whether or not activities were performed during the previous year.
 - 2. The game bird license becomes invalid if the annual report is not submitted to the Department by January 31 of each year.
 - 3. The Department shall not process the special license holder's renewal application until the annual report is received by the Department.
 - 4. The annual report shall include all of the following information, as applicable:
 - a. Number of all captive pen-reared game birds, by species and the date obtained;
 - b. Source of all captive pen-reared game birds and the date obtained;
 - c. Number of offspring propagated by all captive pen-reared game birds; and
 - d. For all captive pen-reared game birds disposed of by the license holder:
 - i. Number, species, and date of disposition; and
 - ii. Manner of disposition to include the names and addresses of persons to whom the wildlife was bartered, given, or sold, when authorized.
- I.** A game bird license holder shall comply with the requirements established under R12-4-428.
- J.** A game bird released under a game bird license and found outside of the location specified on the license shall become property of the State and is subject to the requirements prescribed under A.R.S. Title 17 and 12 A.A.C. 4, Article 3.

Historical Note

Adopted effective April 28, 1989 (Supp. 89-2). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 23 A.A.R. 2557, effective September 6, 2017 (Supp. 17-3).

R12-4-415. Repealed**Historical Note**

Adopted effective April 28, 1989 (Supp. 89-2). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Repealed by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

R12-4-416. Repealed**Historical Note**

Adopted effective April 28, 1989 (Supp. 89-2). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Repealed by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

R12-4-417. Wildlife Holding License

- A.** A wildlife holding license authorizes a person to display for educational purposes, euthanize, export, give away, import, photograph for commercial purposes, possess, propagate, purchase, or transport, restricted and nonrestricted live wildlife lawfully:
1. Held under a valid hunting or fishing license for a purpose listed under subsection (C),
 2. Collected under a valid scientific collecting license issued under R12-4-418,
 3. Obtained under a valid wildlife rehabilitation license issued under R12-4-423,
 4. Or as otherwise authorized by the Department.
- B.** A wildlife holding license expires on December 31 of the year issued, or, if the license holder is a representative of an institution, organization, or agency described under subsection (C)(4), upon termination of affiliation with that entity, whichever comes first.
- C.** A wildlife holding license is valid for the following purposes, only:
1. Advancement of science;
 2. Lawfully possess restricted live wildlife when it is:
 - a. Necessary to give humane treatment to restricted live wildlife that has been abandoned or permanently disabled, and is therefore unable to meet its own needs in the wild; or
 - b. Previously possessed under another special license and the primary purpose for that special license no longer exists;
 3. Promotion of public health or welfare;
 4. Provide education under the following conditions:
 - a. The applicant is an educator affiliated or partnered with an educational organization; and
 - b. The educational organization permits the use of live wildlife.
 5. Photograph for a commercial purpose live wildlife provided:
 - a. The wildlife will be photographed without posing a threat to other wildlife or the public, and
 - b. The photography will not adversely impact other affected wildlife in this state, or
 6. Wildlife management.
- D.** The Department shall deny an application for a wildlife holding license for the possession of cervids.
- E.** In addition to the requirements established under this Section, a wildlife holding license holder shall comply with the special license requirements established under R12-4-409.
- F.** The license holder shall be responsible for compliance with all applicable regulatory requirements. The wildlife holding license does not:
1. Exempt the license holder from any municipal, county, state, or federal codes, ordinances, statutes, rules, or regulations; or
 2. Authorize the license holder to engage in authorized activities using federally-protected wildlife, unless the license holder possesses a valid license, permit, or other form of documentation issued by the United States authorizing the license holder to use that wildlife in a manner consistent with the special license.
- G.** The Department shall deny a wildlife holding license to a person who fails to meet the requirements established under R12-4-409 or this Section, or when the person's wildlife holding privileges are suspended or revoked in any state. The Department shall provide the written notice established under R12-4-409(F)(4) to the applicant stating the reason for the denial. The person may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10. In addition to the requirements and criteria established under R12-4-409(F)(1) through (4), the Department shall deny a wildlife holding when:
1. It is in the best interest of the wildlife; or
 2. The issuance of the license will adversely impact other wildlife or their habitat in the state.
- H.** A person applying for a wildlife holding license shall submit an application to the Department. A separate application is required for each location where the applicant proposes to use wildlife. The application is furnished by the Department and is available at any Department office and online at www.azgfd.gov. The applicant shall provide the following information:
1. The applicant's information:
 - a. Name;
 - b. Mailing address;
 - c. Telephone number; and
 - d. Department ID number, when applicable;
 2. If the applicant will use the wildlife for a commercial purpose, the applicant's business:
 - a. Name;
 - b. Federal Tax Identification Number;
 - c. Mailing address; and
 - d. Telephone number;
 3. If the applicant will use wildlife for activities authorized by an educational or scientific institution that employs, contracts, or is similarly affiliated with the applicant, the institution's:
 - a. Name;
 - b. Mailing address; and
 - c. Telephone number;
 4. For wildlife to be used under the license:
 - a. Common name of the wildlife species;
 - b. Number of animals for each species;
 - c. When the application is for the use of multiple species, the applicant shall list each species and the number of animals for each species; and
 - d. When the applicant is renewing the wildlife holding license, the species and number of animals for each species currently held in captivity under the license;
 5. For wildlife to be used for educational purposes:
 - a. The affiliated educational institution's:
 - i. Name;
 - ii. Federal Tax Identification Number;
 - iii. Mailing address; and
 - iv. Telephone number of the educational institution;
 - b. A copy of the established curriculum utilizing sound educational objectives; and
 - c. A plan for how the applicant will address any safety concerns associated with the use of live wildlife in a public setting.
 6. For each location where the applicant proposes to hold the wildlife, the owner's:
 - a. Name;
 - b. Mailing address;

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- c. Telephone number; and
 - d. Physical location description to include the Global Positioning System location or Universal Transverse Mercator coordinates;
- 7. A detailed description and diagram, or photographs, of the facilities where the applicant will hold the wildlife and a description of how the facilities comply with the requirements established under R12-4-428, and any other captivity standards that may be established under this Section;
- 8. The dates that the applicant will begin and end holding wildlife;
- 9. A clear description of how the applicant intends to dispose of the wildlife once the proposed activity for which the license was issued ends;
- 10. Any other information required by the Department; and
- 11. The certification required under R12-4-409(C).
- 12. For subsection (H)(7), the Department may, at its discretion, accept documented current certification or approval by the applicant's institutional animal care and use committee or similar committee in lieu of the description, diagram, and photographs of the facilities.
- I. In addition to the requirements listed under subsection (H), at the time of application, an applicant for a wildlife holding license shall also submit:
 - 1. Evidence of lawful possession, as defined under R12-4-401;
 - 2. A statement of the applicant's experience in handling and providing care for the wildlife to be held or experience relevant to handling or providing care for wildlife;
 - 3. A written proposal that contains all of the following information:
 - a. A description of the activity the applicant intends to perform under the license;
 - b. Purpose for the proposed activity;
 - c. The contribution the proposed activity will make to one or more of the primary purposes listed under subsection (C).
 - d. For an applicant who wishes to possess restricted live wildlife for the purpose of providing humane treatment, a written explanation stating why the wildlife is unable to meet its own needs in the wild and the following information for the licensed veterinarian who will provide care for the wildlife:
 - i. Name;
 - ii. Mailing address; and
 - iii. Telephone number;
- J. An applicant for a wildlife holding license shall pay all applicable fees required under R12-4-412.
- K. A wildlife holding license holder shall:
 - 1. Comply with all additional stipulations placed on the license by the Department, as authorized under R12-4-409(H).
 - 2. Allow the Department to conduct inspections of an applicant's or license holder's facility and records at any time before or during the license period to determine compliance with the requirements of this Article.
 - 3. Possess the license or legible copy of the license while conducting any activity authorized under the wildlife holding license and presents it for inspection upon the request of any Department employee or agent.
 - 4. Permanently mark any restricted live wildlife used for lawful activities under the authority of the license, when required by the Department.
- 5. Ensure that a copy of the license accompanies any transportation or shipment of wildlife made under the authority of the license.
- 6. Surrender wildlife held under the license to the Department upon request.
- L. A wildlife holding license holder shall submit an annual report to the Department before January 31 of each year for the previous calendar year or as indicated under subsection (O). The report form is furnished by the Department.
 - 1. A report is required regardless of whether or not activities were performed during the previous year.
 - 2. The wildlife holding license becomes invalid if the annual report is not submitted to the Department by January 31 of each year.
 - 3. The Department will not process the special license holder's renewal application until the annual report is received by the Department.
 - 4. The annual report shall include all of the following information, as applicable:
 - a. A list of animals held during the year, the list shall be by species and include the source and date on which the wildlife was acquired.
 - b. The permanent mark or identifier of the wildlife, such as name, number, or another identifier for each animal held during the year, when required by the Department. This designation or identifier shall be provided with other relevant reported details for the holding or disposition of the individual animal;
 - c. Whether the wildlife is alive or dead.
 - d. The current location of the wildlife.
 - e. A list of all educational displays where the wildlife was utilized to include the date, location, organization or audience, approximate attendance, and wildlife used.
- M. A wildlife holding license holder may authorize an agent to assist the license holder in conducting activities authorized under the wildlife holding license, provided the agent's wildlife privileges are not suspended or revoked in any state.
 - 1. The license holder shall obtain written authorization from the Department before allowing a person to act as an agent.
 - 2. The license holder shall notify the Department in writing within 10 calendar days of terminating any agent.
 - 3. The Department may suspend or revoke the license holder's license if an agent violates any requirement of this Section or Article or any stipulations placed upon the license.
 - 4. An agent may possess wildlife for the purposes outlined under subsection (C), under the following conditions:
 - a. The agent shall possess evidence of lawful possession, as defined under R12-4-401, for all wildlife possessed by the agent;
 - b. The agent shall return the wildlife to the primary license holder's facility within two days of receiving the wildlife.
- N. A wildlife holding license holder shall not barter, give as a gift, loan for commercial activities, offer for sale, sell, trade, or dispose of any restricted live wildlife, offspring of restricted live wildlife, or their parts except as stipulated on the wildlife holding license or as directed in writing by the Department.
- O. A wildlife holding license is no longer valid once the primary purpose for which the license was issued, as prescribed in subsection (C), no longer exists. When this occurs, the wildlife holding license holder shall immediately submit the annual report required under (L) to the Department.
- P. A wildlife license holder shall comply with the requirements

established under R12-4-409, R12-4-428, and R12-4-430.

Historical Note

Adopted effective April 28, 1989 (Supp. 89-2). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 211, effective January 1, 2000 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 3186, effective August 30, 2003 (Supp. 03-3). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

R12-4-418. Scientific Collecting License

- A. A scientific collecting license allows a person to conduct any of the following activities with live wildlife when specified on the license:
 1. Display,
 2. Photograph for noncommercial purposes,
 3. Possess,
 4. Propagate,
 5. Take,
 6. Transport, and
 7. Use for educational purposes.
- B. The Department issues three types of scientific collecting licenses:
 1. Personal,
 2. Consultant, and
 3. Government, which includes educational and research institutions.
- C. A person may apply for a scientific collecting license only when the license is requested for:
 1. The purpose of wildlife management, gathering information valuable to the maintenance of wild populations, education, the advancement of science, or promotion of the public health or welfare;
 2. A purpose that is in the best interest of the wildlife or the species, will not adversely impact other affected wildlife in this state, and may be authorized without posing a threat to wildlife or public safety; and
 3. A purpose that does not unnecessarily duplicate previously documented projects.
- D. A scientific collecting license expires on December 31 each year.
- E. For the protection of wildlife or public safety, the Department has the authority to take any one or more of the following actions:
 1. Rescind or modify any method of take authorized by the license;
 2. Restrict the number of animals for each species or other taxa the license holder may take under the license;
 3. Restrict the age, condition, or location of wildlife the license holder may take under the license; or
 4. Deny or substitute the number of specimens and taxa requested on an application.
- F. The license holder shall be responsible for compliance with all applicable regulatory requirements. The scientific collecting license does not:
 1. Exempt the license holder from any municipal, county, state, or federal codes, ordinances, statutes, rules, or regulations; or
 2. Authorize the license holder to engage in authorized activities using federally-protected wildlife, unless the license holder possesses a valid license, permit, or other form of documentation issued by the United States authorizing the license holder to use that wildlife in a manner consistent with the special license.
- G. The Department may deny a scientific collecting license to a person who fails to meet the requirements established under R12-4-409 or this Section, or when the person's scientific collecting privileges are suspended or revoked in any state. The Department shall provide the written notice established under R12-4-409(F)(4) to the applicant stating the reason for the denial. The person may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10. In addition to the requirements and criteria established under R12-4-409(F)(1) through (4), the Department shall deny a scientific collecting license when it is in the best interest of the wildlife or public safety.
- H. A person applying for a scientific collecting license shall submit an application to the Department. A separate application is required for each location where the applicant proposes to use wildlife. The application is furnished by the Department and is available from any Department office, and online at www.azgfd.gov. A person applying for a scientific collecting license shall provide the following information on the application:
 1. The applicant's information:
 - a. Name;
 - b. Mailing address;
 - c. Telephone number; and
 - d. Department ID number; when applicable;
 2. If the applicant will use wildlife for activities authorized by a scientific, educational, or government institution, organization, or agency that employs, contracts, or is similarly affiliated with the applicant, the applicant shall provide the institution's:
 - a. Name;
 - b. Federal Tax Identification Number;
 - c. Mailing address;
 - d. Telephone number of the institution; and
 - e. The applicant's title or a description of the nature of affiliation with the institution or organization;
 3. When the applicant is renewing the scientific collecting license, the species and number of animals for each species currently held in captivity;
 4. For each the location where the wildlife will be held, the land owner's:
 - a. Name;
 - b. Mailing address;
 - c. Telephone number; and
 - d. Physical location description to include the Global Positioning System location or Universal Transverse Mercator coordinates;
 5. A detailed description and diagram, or photographs, of the facilities where the applicant will hold the wildlife and a description of how the facilities comply with the requirements established under R12-4-428, and any other captivity standards that may be established under this Section;
 6. Any other information required by the Department; and
 7. The certification required under R12-4-409(C).
 8. For subsection (H)(5), the Department may, at its discretion, accept documented current certification or approval by the applicant's institutional animal care and use committee or similar committee in lieu of the description, diagram, and photographs of the facilities.
- I. In addition to the requirements listed under subsection (H), at the time of application, an applicant for a scientific collecting license shall also submit a written proposal. The written proposal shall contain all of the following information:
 1. List of activities the applicant intends to perform under the license;

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2. Purpose for the use of wildlife as established under subsection (C);
 3. When the applicant intends to use wildlife for educational purposes, the proposal shall also include the:
 - a. Minimum number of presentations the applicant anticipates to provide under the license
 - b. Name, title, address, and telephone number of persons whom the applicant has contacted to offer educational presentations; and
 - c. Number of specimens the applicant already possesses for any species requested on the application;
 4. Applicant's relevant qualifications and experience in handling and, when applicable, providing care for the wildlife to be held under the license;
 5. Methods of take that the applicant will use, to include:
 - a. Justification for using the method, and
 - b. Proposed method of disposing wildlife taken under the license and any subsequent offspring, when applicable;
 6. Number of animals for each species that will be used under the license;
 7. Locations where collection will take place;
 8. Names and addresses of any agents who will assist the applicant in carrying out the activities described in the proposal.
 9. Project completion date; and
 10. Whether the applicant intends to publish the project or its findings.
- J.** An applicant for a scientific collecting license shall pay all applicable fees required under R12-4-412.
- K.** A scientific collecting license holder shall:
1. Comply with all additional stipulations placed on the license by the Department, as authorized under R12-4-409(H).
 2. Possess the license or legible copy of the license while conducting any activity authorized under the scientific collecting license and presents it for inspection upon the request of any Department employee or agent.
 3. Notify the Department in writing within 10 calendar days of terminating any agent.
 4. Use the most humane and practical method possible prescribed under R12-4-304, R12-4-313, or as directed by the Department in writing.
 5. Conduct activities authorized under the scientific collecting license only at the locations and time periods specified on the scientific collecting license.
 6. Dispose of wildlife, wildlife parts, or offspring, only as directed by the Department.
- L.** A scientific collecting license holder shall not exhibit any wildlife held under the license, unless the person also possesses a zoo license authorized under R12-4-420.
- M.** A scientific collecting license holder may request authorization to allow an agent to assist the license holder in carrying out activities authorized under the scientific collecting license by submitting a written request to the Department.
1. An applicant may request the ability to allow a person to act as an agent on the applicant's behalf, provided:
 - a. An employment or supervisory relationship exists between the applicant and the agent, and
 - b. The agent's privilege to take or possess live wildlife is not suspended or revoked in any state.
 2. The license holder shall obtain approval from the Department prior to allowing the agent assist in any activities.
 3. The license holder is liable for all acts the agent performs under the authority of this Section.
 4. The Department, acting on behalf of the Commission, may suspend or revoke a license for violation of this Section by an agent.
 5. The license holder shall ensure the agent possesses a legible copy of the license while conducting any activity authorized under the scientific collecting license and presents it for inspection upon the request of any Department employee or agent.
- N.** A scientific collecting license holder may submit to the Department a written request to amend the license to add or delete an agent, location, project, or other component documented on the license at any time during the license period.
- O.** A scientific collecting license holder shall submit an annual report to the Department before January 31 of each year. The report form is furnished by the Department.
1. A report is required regardless of whether or not activities were performed during the previous year.
 2. The scientific collecting license becomes invalid if the annual report is not submitted to the Department by January 31 of each year.
 3. The Department will not process the special license holder's renewal application until the annual report is received by the Department.
 4. The Department may stipulate submission of additional interim reports upon license application or renewal.
- P.** A scientific collecting license holder who wishes to permanently hold wildlife species collected under the license in Arizona that will no longer be used for activities authorized under the license shall apply for and obtain a wildlife holding license in compliance with R12-4-417 or another appropriate special license.

Historical Note

Adopted effective April 28, 1989 (Supp. 89-2). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended by final rulemaking at 7 A.A.R. 2732, effective July 1, 2001 (Supp. 01-2). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

R12-4-419. Repealed**Historical Note**

Adopted effective April 28, 1989 (Supp. 89-2). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Repealed by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

R12-4-420. Zoo License

- A.** With the exception of all live cervids, which shall not be imported, transported, or possessed except as allowed under R12-4-430, a zoo license allows an individual to perform all of the following: exhibit, display for educational purposes, import, purchase, export, possess, propagate, euthanize, transport, give away, offer for sale, sell, or trade restricted live wildlife and other Arizona wildlife legally possessed, subject to the following restrictions:
1. A zoo license holder shall hold all wildlife possessed in the facilities specified on the license except when the wildlife is transported to or from a temporary exhibit. A temporary exhibit shall not exceed 60 consecutive days at any one location.
 2. A zoo license holder shall only dispose of restricted live wildlife in this state by selling, giving, or trading it to another zoo licensed under this Section, to an appropriate special license holder such as a game farm licensed under

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R12-4-413, to a medical or scientific research facility exempted under R12-4-407, by exporting it to a zoo that is certified by the American Zoo and Aquarium Association, or as directed by the Department.

3. A zoo license holder shall not accept any wildlife that is donated, purchased, or otherwise obtained without accompanying evidence of lawful possession.
 4. A zoo license holder shall dispose of all wildlife obtained under a scientific collecting permit or wildlife that has been loaned to the zoo by the Department only as directed in writing by the Department.
 5. A zoo license holder shall hold wildlife in such a manner as to prevent it from escaping from the facilities specified on the license, and to prevent the entry of unauthorized individuals or other wildlife.
- B.** The Department shall issue a zoo license only for the following purposes:
1. The advancement of science, wildlife management, or promotion of public health or welfare;
 2. Education; or
 3. Conservation, or maintaining a population of wildlife threatened with extinction in the wild.
- C.** An applicant for a zoo license shall apply on a form provided by the Department and available from any Department office. The applicant shall provide the following information:
1. Name, address, telephone number, birthdate, physical description, and Department ID number (if applicable) of the applicant;
 2. If the applicant will use the wildlife for a commercial purpose, the name, address, and telephone number of the applicant's business. If the applicant will use wildlife for activities authorized by an educational or scientific institution that employs, contracts, or is similarly affiliated with the applicant, the applicant shall provide the name, address, and telephone number of the institution;
 3. The wildlife species and the number of animals per species that will be held under the license. The list shall include scientific and common names for all wildlife held;
 4. An applicant for a zoo license shall include a typewritten, computer or word processor printed, or legibly handwritten proposal that describes the following:
 - a. How the facility or operation meets the definition of a zoo, as stated in A.R.S. § 17-101; and
 - b. The purpose of the license. Acceptable purposes of a zoo license are listed in subsection (B);
 5. If the applicant is renewing the zoo license, the species and number of animals per species that are currently in captivity, and evidence of lawful possession as defined in A.R.S. § 17-101;
 6. Proof of current licensing by the United States Department of Agriculture under 9 CFR Subchapter A, Animal Welfare;
 7. The name, address, and telephone number of the zoo where the wildlife will be held. If the applicant applies to hold wildlife in more than one location, the applicant shall submit a separate application for each location;
 8. A detailed description or diagram of the facilities where the applicant will hold the wildlife, and a description of how the facilities comply with R12-4-428, and any other captivity standards that may be prescribed by this Section. The Department shall not approve a license application until the wildlife holding facility satisfies a Department inspection; and
 9. The applicant's signature and the date of signing. By signing the application, the applicant attests that the

information they have provided is true and correct to their knowledge and that the applicant's live wildlife privileges are not revoked in this state, any other state, or by the United States.

- D.** The Department shall issue a zoo license in compliance with R12-4-106. If the Department denies the application for a zoo license, the Department shall proceed as prescribed by R12-4-409(D). The Department shall issue a license for the purposes stated in subsection (B) if:
1. It is in the best interest of the wildlife, and
 2. Issuance of the license will not adversely impact other wildlife in the state.
- E.** A zoo license holder shall clearly display an entrance sign that states the days of the week and hours when the facility is open for viewing by the general public.
- F.** A zoo license holder shall maintain a record of each animal obtained under subsection (A)(4) for three years following the date of disposition. The record shall include the species, source of the wildlife, date received, any Department approval authorizing acquisition, and the date and method of disposition.
- G.** Before January 31 of each year, a zoo license holder shall file a written report on activities performed under the license for the previous calendar year. A zoo license holder shall submit an annual report to the Department in compliance with R12-4-409(O). The report shall summarize the current species inventory, and acquisition and disposition of all wildlife held under the license.
- H.** A zoo license holder may not add restricted live wildlife as specified in R12-4-406 to the license without making a written request to and receiving approval from the Department.
- I.** A zoo license holder is subject to R12-4-409, R12-4-428, and R12-4-430.

Historical Note

Adopted effective April 28, 1989 (Supp. 89-2). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended by final rulemaking at 7 A.A.R. 2732, effective July 1, 2001 (Supp. 01-2). Amended by final rulemaking at 9 A.A.R. 3186, effective August 30, 2003 (Supp. 03-3). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

R12-4-421. Wildlife Service License

- A.** A wildlife service license authorizes a person to provide, advertise, or offer assistance in removing the live wildlife listed below to the general public. For the purposes of this Section, the following wildlife, as defined under A.R.S. § 17-101(B), are designated live wildlife:
1. Furbearing animals;
 2. Javelina (*Pecari tajacu*);
 3. Nongame animals;
 4. Predatory animals; and
 5. Small game.
- B.** A wildlife service license is not required when conducting pest control removal services authorized under A.R.S. § Title 32, Chapter 22 for the following wildlife not protected under federal regulation:
1. Rodents, except those in the family Sciuridae;
 2. European starlings;
 3. Peach-faced love birds;
 4. House sparrows;
 5. Eurasian collared-doves; and
 6. Any other non-native wildlife species.

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- C. A wildlife service license allows a person to conduct activities that facilitate the removal and relocation of live wildlife listed under subsection (A) when the wildlife causes a nuisance, property damage, poses a threat to public health or safety, or if the health or well-being of the wildlife is threatened by its immediate environment. Authorized activities include, but are not limited to, capture, removal, transportation, and relocation.
- D. The wildlife service license expires on December 31 each year.
- E. An employee of a governmental public safety agency is not required to possess a wildlife service license when the employee is acting within the scope of the employee's official duties.
- F. In addition to the requirements established under this Section, a wildlife service license holder shall comply with the special license requirements established under R12-4-409.
- G. The license holder shall be responsible for compliance with all applicable regulatory requirements; the wildlife service license does not:
 - 1. Exempt the license holder from any municipal, county, state, or federal codes, ordinances, statutes, rules, or regulations; or
 - 2. Authorize the license holder to engage in authorized activities using federally-protected wildlife, unless the license holder possesses a valid license, permit, or other form of documentation issued by the United States authorizing the license holder to use that wildlife in a manner consistent with the special license.
- H. The Department shall deny a wildlife service license to a person who fails to meet the requirements established under R12-4-409 or this Section or when the person's wildlife service privileges are suspended or revoked in any state. The Department shall provide the written notice established under R12-4-409(F)(4) to the applicant stating the reason for the denial. The person may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10.
- I. A person applying for a wildlife service license shall submit an application to the Department. The application is furnished by the Department and is available from any Department office and online at www.azgfd.gov. An applicant shall provide the following information on the application:
 - 1. The applicant's information:
 - a. Name;
 - b. Mailing address;
 - c. Telephone number;
 - d. Physical description, to include the applicant's eye color, hair color, height, and weight; and;
 - e. Department ID number, when applicable;
 - 2. If the applicant will perform license activities for a commercial purpose, the applicant's business:
 - a. Name;
 - b. Federal Tax Identification Number;
 - c. Mailing address;
 - d. Telephone number; and
 - e. Hours and days of the week the applicant will be available for service;
 - 3. The designated wildlife species or groups of species listed under subsection (A) that will be used under the license;
 - 4. The methods that the wildlife license holder will use to perform authorized activities;
 - 5. The general geographic area where services will be performed;
 - 6. Any other information required by the Department; and
 - 7. The certification required under R12-4-409(C).
- J. In addition to the requirements listed under subsection (I), at the time of application, an applicant for a wildlife service license shall also submit:
 - 1. Proof the applicant has a minimum of six months full-time employment or volunteer experience handling wildlife of the species or groups designated on the application; and
 - 2. A written proposal that contains all of the following information:
 - a. Applicant's experience in the capture, handling, and removal of wildlife;
 - b. Specific species the applicant has experience capturing, handling, or removing;
 - c. General location and dates when the activities were performed;
 - d. Methods used to carry out the activities; and
 - e. The methods used to dispose of the wildlife.
- K. When renewing a license without change to the species or species groups authorized under the current license, the wildlife service license holder may reference supporting materials previously submitted in compliance with subsection (J).
- L. An applicant for a wildlife service license shall pay all applicable fees established under R12-4-412.
- M. A wildlife service license holder shall:
 - 1. Comply with all additional stipulations placed on the license by the Department, as authorized under R12-4-409(H).
 - 2. Facilitate the removal and relocation of designated wildlife in a manner that:
 - a. Is least likely to cause injury to the wildlife; and
 - b. Will prevent the wildlife from coming into contact with the general public.
 - 3. Obtain special authorization from the Department regional office that has jurisdiction over the area where the activities will be conducted when performing any activities involving javelina.
 - 4. Release captured designated wildlife only as follows:
 - a. Without immediate threat to the animal or potentially injurious contact with humans;
 - b. During an ecologically appropriate time of year;
 - c. Into a suitable habitat;
 - d. In the same geographic area as the animal was originally captured, except that birds may be released at any location statewide within the normal range of that species in an ecological suitable habitat; and
 - e. In an area designated by the Department regional office that has jurisdiction over the area where it was captured.
 - 5. Euthanize the wildlife using the safest, quickest, and most humane method available.
 - 6. Dispose of all wildlife that is euthanized or that otherwise dies while possessed under the license by burial or incineration within 30 days of death, unless otherwise directed by the Department.
 - 7. Possess the license or legible copy of the license while conducting any wildlife service activity and presents it for inspection upon the request of any Department employee or agent.
 - 8. Inform the Department in writing within five working days of any change in telephone number, area of service, or business hours or days.
- N. A wildlife service license holder may submit to the Department a written request to amend the license to add or delete authority to control and release designated species of wildlife, provided the request meets the requirements of this Section.
- O. A wildlife service license holder shall not:

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1. Exhibit wildlife or parts of wildlife possessed under the license.
 2. Possess designated wildlife beyond the period necessary to transport and relocate or euthanize the wildlife.
 3. Retain any parts of wildlife.
- P.** A wildlife service license holder may:
1. Euthanize designated wildlife only when authorized by the Department.
 2. Give injured or orphaned wildlife to a wildlife rehabilitation license holder.
- Q.** A wildlife service license holder shall submit an annual report to the Department before January 31 of each year on activities performed under the license for the previous calendar year. The report form is furnished by the Department.
1. A report is required regardless of whether or not activities were performed during the previous year.
 2. The wildlife service license becomes invalid if the annual report is not submitted to the Department by January 31 of each year.
 3. The Department will not process the special license holder's renewal application until the annual report is received by the Department.
 4. The annual report shall provide a list of all services performed under the license to include:
 - a. The date and location of service;
 - b. The number and species of wildlife removed, and
 - c. The method of disposition for each animal removed, including the location and date of release.
- R.** A wildlife service license holder shall comply with the requirements established under R12-4-409 and R12-4-428.

Historical Note

Adopted effective January 1, 1993; filed December 18, 1992 (Supp. 92-4). Amended by final rulemaking at 7 A.A.R. 2732, effective July 1, 2001 (Supp. 01-2). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

R12-4-422. Sport Falconry License

- A.** In addition to the definitions provided under A.R.S. § 17-101, R12-4-101, and R12-4-401, and for the purposes of this Section, the following definitions apply:

"Abatement services" means the use of raptors possessed under a falconry permit for the control of nuisance species.

"Captive-bred raptor" means a raptor hatched in captivity.

"Hack" means the temporary release of a raptor into the wild to condition the raptor for use in falconry.

"Hybrid" has the same meaning as prescribed under 50 C.F.R. 21.3, revised October 1, 2013. This incorporation by reference contains no future editions or amendments. The incorporated material is available at any Department office, online at www.gpoaccess.gov, or may be ordered from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000.

"Imping" means using a molted feather to replace or repair a damaged or broken feather.

"Retrices" means a raptor's tail feathers.

"Sponsor" means a licensed General or Master falconer with a valid Arizona Sport Falconry license who has committed to mentoring an Apprentice falconer.

"Suitable perch" means a perch that is of the appropriate size and texture for the species of raptor using the perch.

"Wild raptor" means a raptor taken from the wild, regardless of how long the raptor is held in captivity or whether the raptor is transferred to another licensed falconer or other permit type.

- B.** An Arizona Sport Falconry license permits a person to capture, possess, train, and transport a raptor for the purpose of sport falconry in compliance with the Migratory Bird Treaty Act and the Endangered Species Act of 1973.
1. The sport falconry license validates the appropriate license for hunting or taking quarry with a trained raptor. When taking quarry using a raptor, a person must possess a valid:
 - a. Sport falconry license, and
 - b. Appropriate hunting license.
 2. The sport falconry license is valid until the third December from the date of issuance.
 3. A licensed falconer may capture, possess, train, or transport wild, captive-bred, or hybrid raptors, subject to the limitations established under subsections (H)(1), (H)(2), and (H)(3), as applicable.
- C.** The Department shall comply with the licensing time-frame established under R12-4-106.
- D.** A resident who possesses or intends to possess a raptor for the purpose of sport falconry shall hold an Arizona Sport Falconry license, unless the person is exempt under A.R.S. § 17-236(C) or possesses only raptors not listed under 50 C.F.R. Part 10.13, revised October 1, 2014, and no later amendments or editions. The incorporated material is available from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000, and is on file with the Department.
- E.** In addition to the requirements established under this Section, a licensed falconer shall also comply with special license requirements established under R12-4-409.
- F.** The license holder shall be responsible for compliance with all applicable regulatory requirements; the sport falconry license does not:
1. Exempt the license holder from any municipal, county, state, or federal codes, ordinances, statutes, rules, or regulations;
 2. Authorize the license holder to engage in authorized activities using federally-protected wildlife, unless the license holder possesses a valid license, permit, or other form of documentation issued by the United States authorizing the license holder to use that wildlife in a manner consistent with the special license; or
 3. Authorize a licensed falconer to capture or release a raptor or practice falconry on public lands where prohibited or on private property without permission from the land owner or land management agency.
- G.** The Department shall deny a sport falconry license to a person who fails to meet the requirements established under R12-4-409, R12-4-428, or this Section. The Department shall provide a written notice to an applicant stating the reason for the denial. The person may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10.
- H.** The Department may issue a Sport Falconry license for the following levels to an eligible person:
1. Apprentice level license:
 - a. An Apprentice falconer shall:
 - i. Be at least 12 years of age; and
 - ii. Have a sponsor while practicing falconry as an apprentice. When a sponsorship is terminated, the apprentice is prohibited from practicing fal-

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- conry until a new sponsor is acquired. After acquiring a new sponsor, an apprentice shall submit a written statement from the new sponsor to the Department within 30 days. The written statement shall meet the requirements established under subsection (K)(3)(a)(vi).
- b. An Apprentice falconer may possess only one raptor at a time for use in falconry.
 - c. An Apprentice falconer is prohibited from possessing any:
 - i. Species listed under 50 C.F.R. 17.11, revised October 1, 2014, and subspecies,
 - ii. Raptor taken from the wild as a nestling,
 - iii. Raptor that has imprinted on humans,
 - iv. Bald eagle (*Haliaeetus leucocephalus*),
 - v. White-tailed eagle (*Haliaeetus albicilla*),
 - vi. Steller's sea-eagle (*Haliaeetus pelagicus*), or
 - vii. Golden eagle (*Aquila chrysaetos*).
 - viii. For the purposes of subsection (H)(1)(c)(i), this incorporation by reference contains no future editions or amendments. The incorporated material is available at any Department office, online at www.gpoaccess.gov, or may be ordered from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000.
2. General level license:
 - a. A General falconer shall:
 - i. Be at least 16 years of age; and
 - ii. Have practiced falconry as an apprentice falconer for at least two years, including maintaining, training, flying, and hunting with a raptor for at least four months in each year. An applicant cannot substitute any falconry school or educational program to shorten the two-year Apprentice period.
 - b. A General falconer may possess up to three raptors at a time for use in falconry.
 - c. A General falconer is prohibited from possessing a:
 - i. Bald eagle,
 - ii. White-tailed eagle,
 - iii. Steller's sea-eagle, or
 - iv. Golden eagle.
 3. Master level license:
 - a. A Master falconer shall have practiced falconry as a General falconer for at least five years using raptors possessed by that falconer.
 - b. A Master falconer may possess:
 - i. Any species of wild, captive-bred, or hybrid raptor.
 - ii. Any number of captive-bred raptors provided they are trained and used in the pursuit of wild game; and
 - iii. Up to three of the following species, provided the requirements established under subsection (H)(3)(d) are met: Golden eagle, White-tailed eagle, or Steller's Sea eagle.
 - c. A Master falconer is prohibited from possessing:
 - i. More than three eagles
 - ii. A bald eagle, or
 - iii. More than five wild caught raptors.
 - d. A Master falconer who wishes to possess an eagle shall apply for and receive approval from the Department before possessing an eagle for use in falconry. The licensed falconer shall submit the following documentation to the Department before a request may be considered:
 - i. Proof the licensed falconer has experience in handling large raptors such as, but not limited to, ferruginous hawks (*Buteo regalis*) and goshawks (*Accipiter gentilis*);
 - ii. Information regarding the raptor species, to include the type and duration of the activity in which the experience was gained; and
 - iii. Written statements of reference from two persons who have experience handling or flying large raptors such as, but not limited to, eagles, ferruginous hawks, and goshawks. Each written statement shall contain a concise history of the author's experience with large raptors, and an assessment of the applicant's ability to care for and fly an eagle.
- I. A sponsor shall:
 1. Be at least 18 years of age;
 2. Have practiced falconry as a General falconer for at least two years;
 3. Sponsor no more than three apprentices during the same period of time;
 4. Notify the Department within 30 consecutive days after a sponsorship is terminated;
 5. Determine the appropriate species of raptor for possession by an apprentice; and
 6. Provide instruction pertaining to the:
 - a. Husbandry, training, and trapping of raptors held for falconry;
 - b. Hunting with a raptor; and
 - c. Relevant wildlife laws and regulations.
 - J. A falconer licensed in another state or country is exempt from obtaining an Arizona Sport Falconry license under R12-4-407(B)(9), unless remaining in Arizona for more than 180 consecutive days. A falconer licensed in another state or country and who remains in this state for more than the 180-day period shall apply for an Arizona Sport Falconry license in order to continue practicing sport falconry in this state. The falconer licensed in another state or country shall present a copy of the out-of-state or out-of-country falconry license, or its equivalent, to the Department upon request.
 1. A falconer licensed in another state shall:
 - a. Comply with all applicable state and federal falconry regulations,
 - b. Possess only those raptors authorized under the out-of-state sport falconry license, and
 - c. Provide a health certificate for each raptor possessed under the out-of-state sport falconry license when the raptor is present in this state for more than 30 consecutive days. The health certificate may be issued after the date of the interstate importation, but shall have been issued no more than 30 consecutive days prior to the interstate importation.
 2. A falconer licensed in another country may possess, train, and use for falconry only those raptors authorized under the out-of-country sport falconry license, provided the import of that species into the United States is not prohibited. This subsection does not prohibit the falconer from flying or training a raptor lawfully possessed by any other licensed falconer.
 3. A falconer licensed in another country is prohibited from leaving an imported raptor in this state, unless authorized under federal permit. The falconer shall report the death or escape of a raptor possessed by that falconer to the

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- Department as established under subsection (O)(1) or prior to leaving the state, whichever occurs first.
4. A falconer licensed in another country shall:
 - a. Comply with all applicable state and federal falconry regulations;
 - b. Comply with falconry licensing requirements prescribed by the country of licensure not in conflict with federal or state law;
 - c. Notify the Department no less than 30 consecutive days prior to importing a raptor into this state;
 - d. Provide a health certificate, issued no earlier than 30 consecutive days prior to the date of importation, for each raptor imported into this state; and
 - e. Attach two functioning radio transmitters to any raptor imported into this country by the falconer while flown free in this state by any falconer.
- K.** A person applying for a Sport Falconry license shall submit an application to the Department. The application is furnished by the Department and is available at any Department office and online at www.azgfd.gov.
1. An applicant shall provide the following information on the application:
 - a. Falconry level desired;
 - b. Name;
 - c. Date of birth;
 - d. Mailing address;
 - e. Telephone number, when available;
 - f. Department I.D. number;
 - g. Applicant's physical description, to include the applicant's eye color, hair color, height, and weight;
 - h. Arizona Hunting license number, when available;
 - i. Number of years of experience as a falconer;
 - j. Current Falconry license level;
 - k. Physical address of a facility when the raptor is kept at another location, when applicable;
 - l. Information documenting all raptors possessed by the applicant at the time of application, to include:
 - i. Species;
 - ii. Subspecies, when applicable;
 - iii. Age;
 - iv. Sex;
 - v. Band or microchip number, as applicable;
 - vi. Date and source of acquisition; and
 - m. The certification required under R12-4-409(C);
 - n. Parent or legal guardian's signature, when the applicant is under the age of 18;
 - o. Date of application; and
 - p. Any other information required by the Department.
 2. An applicant shall certify that the applicant has read and is familiar with applicable state laws and rules and the regulations under 50 C.F.R. Part 13 and the other applicable parts in 50 C.F.R. Chapter I, Subchapter B and that the information submitted is complete and accurate to the best of their knowledge and belief.
 3. In addition to the information required under subsection (K)(1), a person applying for:
 - a. An Apprentice level license shall also provide the sponsor's:
 - i. Name,
 - ii. Date of birth,
 - iii. Mailing address,
 - iv. Department I.D. number,
 - v. Telephone number, and
 - vi. A written statement from the sponsor stating that the falconer agrees to sponsor the applicant.
 - b. A General level license shall also provide:
 - i. Information documenting the applicant's experience in maintaining falconry raptors, to include the species and period of time each raptor was possessed while licensed as an Apprentice falconer; and
 - ii. A written statement from the sponsor certifying that the applicant has practiced falconry at the Apprentice falconer level for at least two years, and maintained, trained, flown, and hunted with a raptor for at least four months in each year.
 - c. A Master level license shall certify that the falconer has practiced falconry as a General falconer for at least five years.
- L.** An applicant for any level Sport Falconry license shall pay all applicable fees established under R12-4-412.
- M.** The Department may inspect the applicant's raptor facilities, materials, and equipment to verify compliance with requirements established under R12-4-409(I), R12-4-428, and this Section before issuing a Sport Falconry license. The applicant or licensed falconer shall ensure all raptors currently possessed by the falconer and kept in the facility are present at the time of inspection.
1. Department may inspect a facility:
 - a. After a change of location, when the Department cannot verify the facility is the same facility as the one approved by a previous inspection, or
 - b. Prior to the acquisition of a new species or addition of another raptor when the previous inspection does not indicate the facilities can accommodate a new species or additional raptor.
 2. A licensed falconer shall notify the Department no more than five business days after changing the location of a facility.
 3. When a facility is located on property not owned by the licensed falconer, the falconer shall provide a written statement signed and dated by the property owner at the time of inspection. The written statement shall specify that the licensed falconer has permission to keep a raptor on the property and the property owner permits the Department to inspect the falconry facility at any reasonable time of day and in the presence of the licensed falconer.
 4. A licensed falconer shall ensure the facility:
 - a. Provides a healthy and safe environment,
 - b. Is designed to keep predators out,
 - c. Is designed to avoid injury to the raptor,
 - d. Is easy to access,
 - e. Is easy to clean, and
 - f. Provides access to fresh water and sunlight.
 5. In addition to the requirements established under R12-4-409(I) and R12-4-428:
 - a. A licensed falconer shall ensure facilities where raptors are held have:
 - i. A suitable perch that is protected from extreme temperatures, wind, and excessive disturbance for each raptor;
 - ii. At least one opening for sunlight; and
 - iii. Walls that are solid, constructed of vertical bars spaced narrower than the width of the body of the smallest raptor housed therein, or any other suitable materials approved by the Department.
 - b. A licensed falconer shall possess all of the following equipment:
 - i. At least one flexible, weather-resistant leash;

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- ii. One swivel appropriate to the raptor being flown;
 - iii. At least one water container, available to each raptor kept in the facility, that is at least two inches deep and wider than the length of the largest raptor using the container;
 - iv. A reliable scale or balance suitable for weighing raptors, graduated in increments of not more than 15 grams;
 - v. Suitable equipment that protects the raptor from extreme temperatures, wind, and excessive disturbance while transporting or housing a raptor when away from the permanent facility where the raptor is kept, and
 - vi. At least one pair of jesses constructed of suitable material or Alymeri jesses consisting of an anklet, grommet, and removable strap that attaches the anklet and grommet to a swivel. The falconer may use a one-piece jess only when the raptor is not being flown.
- 6. A licensed falconer may keep a falconry raptor inside the falconer's residence provided a suitable perch is supplied. The falconer shall ensure all flighted raptors kept inside a residence are tethered or otherwise restrained at all times, unless the falconer is moving the raptor into or out of the residence. This subsection does not apply to unflighted eyas, which do not need to be tethered or otherwise restrained.
- 7. A licensed falconer may keep multiple raptors together in one enclosure untethered only when the raptors are compatible with each other.
- 8. A licensed falconer may keep a raptor temporarily outdoors in the open provided the raptor is continually under observation by the falconer or an individual designated by the falconer.
- 9. A licensed falconer may keep a raptor in a temporary facility that the Department has inspected and approved for no more than 120 consecutive days.
- 10. A licensed falconer may keep a raptor in a temporary facility that the Department has not inspected or approved for no more than 30 consecutive days. The falconer shall notify the Department of the temporary facility prior to the end of the 30-day period. The Department may inspect a temporary facility as established under R12-4-409(I).
- N. Prior to the issuance of a Sport Falconry license, an applicant shall:
 - 1. Present proof of a previously held state-issued sport falconry license, or
 - 2. Correctly answer at least 80% of the questions on the Department administered written examination.
 - a. A person whose Sport Falconry license is expired more than five years shall take the examination. The Department shall issue to an eligible applicant a license for the sport falconry license type previously held by the applicant after the applicant correctly answers at least 80% of the questions on the written examination and presents proof of the previous Sport Falconry license.
 - b. A person who holds a falconry license issued in another country shall correctly answer at least 80% of the questions on the written examination. The Department shall determine the level of license issued based upon the applicant's documentation.
- O. A licensed falconer shall submit electronically a 3-186A form to report:
 - 1. Any of the following raptor possession changes to the Department no more than 10 business days after the occurrence:
 - a. Acquisition,
 - b. Banding,
 - c. Escape into the wild without recovery after 30 consecutive days have passed,
 - d. Death,
 - e. Microchipping,
 - f. Rebanding,
 - g. Release,
 - h. Take, or
 - i. Transfer.
 - 2. Upon discovering the theft of a raptor, a licensed falconer shall immediately report the theft of a raptor to the Department and USFWS by:
 - a. Contacting the Department's regional office within 48 hours; and
 - b. Submitting the electronic 3-186A form within 10 days.
- P. A licensed falconer shall print and maintain copies of all required electronic database submissions for each falconry raptor possessed by the falconer. The falconer shall retain copies of all submissions for a period of five years from the date on which the raptor left the falconer's possession.
- Q. A licensed falconer or a person with a valid falconry license, or its equivalent, issued by any state meeting federal falconry standards may capture a raptor for the purpose of falconry only when authorized by Commission Order.
 - 1. A falconer attempting to capture a raptor shall possess:
 - a. A valid Arizona Sport Falconry license or valid falconry license, or its equivalent, issued by another state, and
 - b. Any required Arizona hunt permit-tag issued to the licensed falconer for take of the authorized raptor, and
 - c. A valid Arizona hunting or combination license. A short-term combination hunting and fishing license is not valid for capturing a raptor under this subsection.
 - 2. An Apprentice falconer may take from the wild:
 - a. Any raptor not prohibited under subsection (H)(1)(c) that is less than one year of age, except nestlings or
 - b. An adult raptor.
 - 3. A General or Master falconer may take from the wild:
 - a. A raptor of any age, including nestlings, provided at least one nestling remains in the nest; or
 - b. An adult raptor.
 - 4. A licensed falconer shall take no more than two raptors from the wild for use in falconry each calendar year. For the purpose of take limits, a raptor is counted towards the licensed falconer's take limit by the falconer who originally captured the raptor.
 - 5. A falconer attempting to capture a raptor shall:
 - a. Not use stupefying substances;
 - b. Use a trap or bird net that is not likely to cause injury to the raptor;
 - c. Ensure that each trap or net the falconer is using is continually attended; and
 - d. Ensure that each trap used for the purpose of capturing a raptor is marked with the falconer's name, address, and license number.
 - 6. A licensed falconer shall report the injury of any raptor injured due to capture techniques to the Department. The falconer shall transport the injured raptor to a veterinarian or licensed rehabilitator and pay for the cost of the injured

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- raptor's care and rehabilitation. After the initial medical treatment is completed, the licensed falconer shall either:
- a. Keep the raptor and the raptor shall count towards the falconer's take and possession limit, or
 - b. Transfer the raptor to a permitted wildlife rehabilitator and the raptor shall not count against the falconer's take or possession limit.
7. When a licensed falconer takes a raptor from the wild and transfers the raptor to another falconer who is present at a capture site, the falconer receiving the raptor is responsible for reporting the take of the raptor.
 8. A General or Master falconer may capture a raptor that will be transferred to another licensed falconer who is not present at the capture site. The falconer who captured the raptor shall report the take of the raptor and the capture shall count towards the General or Master falconer's take limit. The General or Master falconer may then transfer the raptor to another falconer.
 9. A General or Master falconer may capture a raptor for another licensed falconer who cannot attend the capture due to a long-term or permanent physical impairment. The licensed falconer with the physical impairment is responsible for reporting the take of the raptor and the raptor shall count against their take and possession limits.
 10. A licensed falconer may capture any raptor displaying a seamless metal band, or any other item identifying it as a falconry raptor, regardless of whether the falconer is prohibited from possessing the raptor. The falconer shall return the recaptured raptor to the falconer of record. The raptor shall not count towards the falconer's take or possession limits, provided the falconer reports the temporary possession of the raptor to the Department no more than five consecutive days after capturing the raptor.
 - a. When the falconer of record cannot or does not wish to possess the raptor, the falconer who captured the raptor may keep the raptor, provided the falconer is eligible to possess the species and may do so without violating any requirement established under this Section.
 - b. When the falconer of record cannot be located, the Department shall determine the disposition of the recaptured raptor.
 11. A licensed falconer may capture and shall report the capture of any raptor wearing a transmitter to the Department no more than five business days after the capture. The falconer shall attempt to contact the researcher or licensed falconer who applied the transmitter and facilitate the replacement or retrieval of the transmitter and raptor. The falconer may possess the raptor for no more than 30 consecutive days while waiting for the researcher or falconer to retrieve the transmitter and raptor. The raptor shall not count towards the falconer's take or possession limits, provided the falconer reports the temporary possession of the raptor to the Department no more than five consecutive days after capturing the raptor. The Department shall determine the disposition of a raptor when the researcher or falconer does not replace the transmitter or retrieve the raptor within the initial 30-day period.
 12. A licensed falconer may capture any raptor displaying a federal Bird Banding Laboratory (BBL) aluminum research band or tag, except a peregrine falcon (*Falco peregrinus*). A licensed falconer who captures a raptor wearing a research band or tag shall report the following information to BBL and the Department:
 - a. Species,
 - b. Band or tag number,
 - c. Location of the capture, and
 - d. Date of capture.
 - e. A person can report the capture of a raptor wearing a research band or tag to BBL by calling 1(800) 327-2263.
 13. A licensed falconer may recapture a falconer's lost or any escaped falconry raptor at any time. The Department does not consider the recapture of a wild falconry raptor as taking a raptor from the wild.
 14. When attempting to trap a raptor in Cochise, Graham, Pima, Pinal, or Santa Cruz counties, a licensed falconer shall:
 - a. Not begin trapping while a northern aplomado falcon (*Falco femoralis septentrionalis*) is observed in the vicinity of the trapping location.
 - b. Suspend trapping when a northern aplomado falcon arrives in the vicinity of the trapping location.
 15. In addition to the requirements in subsection (Q)(14), an apprentice falconer shall be accompanied by a General or Master falconer when attempting to capture a raptor in Cochise, Graham, Pima, Pinal, or Santa Cruz counties.
 16. A licensed Master falconer may take up to two golden eagles from the wild only as authorized under 50 C.F.R. part 22. The Master falconer may:
 - a. Capture an immature or sub-adult golden eagle, or
 - b. Take a nestling from its nest or a nesting adult golden eagle in a livestock depredation area if a biologist representing the agency responsible for declaring the depredation area determines the adult eagle is preying on livestock or wildlife and that any nestling of the adult will be taken by a falconer authorized to possess it.
 - c. The falconer shall inform the Department of the capture plans in person, in writing, or by telephone at least three business days before trapping is initiated. The falconer may send written notification to the Arizona Game and Fish Department's Law Enforcement Programs Coordinator at 5000 West Carefree Highway, Phoenix, Arizona 85086.
 17. A licensed falconer shall ensure any falconry activities the falconer is conducting do not cause unlawful take under the Endangered Species Act of 1973, 16 U.S.C. § 1531 et seq., or the Bald and Golden Eagle Protection Act, 16 U.S.C. §§ 668 through 668d. The Department or USFWS may provide information regarding where take is likely to occur. The falconer shall report the take of any federally listed threatened or endangered species or bald or golden eagle to the USFWS Arizona Ecological Services Field Office.
- R.** A licensed falconer shall comply with all of the following banding requirements:
1. A licensed falconer shall ensure the following raptors are banded after capture:
 - a. Northern Goshawk,
 - b. Harris's hawk (*Parabuteo unicinctus*), and
 - c. Peregrine falcon.
 2. The falconer shall request a band no more than five consecutive days after the capture of a raptor by contacting the Department. A Department representative or a General or Master licensed falconer may attach the USFWS leg band to the raptor.
 3. A licensed falconer shall not use a counterfeit, altered, or defaced band.
 4. A falconer holding a federal propagation permit shall ensure a raptor bred in captivity wears a seamless metal

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- band furnished by USFWS, as prescribed under 50 C.F.R. 21.30.
5. A licensed falconer may remove the rear tab on a band and smooth any imperfections on the surface, provided doing so does not affect the band's integrity or numbering.
 6. A licensed falconer shall report the loss of a band to the Department no more than five business days after discovering the loss. The falconer shall reband the raptor with a new USFWS leg band furnished by the Department.
- S.** A licensed falconer may request Department authorization to implant an ISO-compliant [134.2 kHz] microchip in lieu of a band into a captive-bred raptor or raptor listed under subsection (R)(1).
1. The falconer shall submit a written request to the Department.
 2. The falconer shall retain a copy of the Department's written authorization and any associated documentation for a period of five years from the date the raptor permanently leaves the falconer's possession.
 3. The falconer is responsible for the cost of implanting the microchip and any associated veterinary fees.
- T.** A licensed falconer may allow a falconry raptor to feed on any species of wildlife incidentally killed by the raptor for which there is no open season or for which the season is closed, but shall not take such wildlife into possession.
- U.** A General or Master falconer may hack a falconry raptor. Any raptor the falconer is hacking shall count towards the falconer's possession limit during hacking.
1. A falconer is prohibited from hacking a raptor near the nesting area of a federally threatened or endangered species or in any other location where the raptor is likely to disturb or harm a federally listed threatened or endangered species. The Department may provide information regarding where this is likely to occur.
 2. A licensed falconer shall ensure any hybrid raptor flown free or hacked by the falconer is equipped with at least two functioning radio transmitters.
- V.** A licensed falconer may release:
1. A wild-caught raptor permanently into the wild under the following circumstances:
 - a. The raptor is native to Arizona,
 - b. The falconer removes the raptor's falconry band and any other falconry equipment prior to release, and
 - c. The falconer releases the raptor in a suitable habitat and under suitable seasonal conditions.
 2. A captive-bred raptor permanently into the wild only when the raptor is native to Arizona and the Department approves the release of the raptor. The falconer shall request permission to release the captive-bred raptor by contacting the Department. When permitted by the Department and before releasing the captive-bred raptor, the General or Master falconer shall hack the captive-bred raptor in a suitable habitat and the appropriate season.
 3. A licensed falconer is prohibited from intentionally releasing any hybrid or non-native raptor permanently into the wild.
- W.** A Master falconer may conduct and receive payment for any abatement services conducted with a falconry raptor. The falconer shall apply for and obtain all required federal permits prior to conducting any abatement activities. A General falconer may conduct abatement services only when authorized under the federal permit held by the Master falconer.
- X.** A person other than a licensed falconer may temporarily care for a falconry raptor for no more than 45 consecutive days, unless approved by the Department. The raptor under temporary care shall remain in the falconer's facility. The raptor shall continue to count towards the falconer's possession limit. An unlicensed caretaker shall not fly the raptor. The falconer may request an extension from the Department to the temporary possession period if extenuating circumstances occur. The Department shall evaluate extension requests on a case-by-case basis.
- Y.** A licensed falconer may serve as a caretaker for another licensed falconer's raptor for no more than 120 consecutive days, unless approved by the Department. The falconer shall provide the temporary caretaker with a signed and dated statement authorizing the temporary possession of each raptor. The statement shall also include the temporary possession period and activities the caretaker may conduct with the raptor. The raptor under temporary care shall not count toward the caretakers possession limit. The temporary caretaker may fly or train the raptor when permitted by the falconer in writing. The falconer may request an extension from the Department to the temporary possession period if extenuating circumstances occur. The Department shall evaluate extension requests on a case-by-case basis.
- Z.** A licensed falconer may assist a wildlife rehabilitator in conditioning a raptor in preparation for the raptor's release to the wild. The falconer may temporarily remove the raptor from the rehabilitation facilities while conditioning the raptor. The raptor shall remain under the rehabilitator's license and shall not count towards the falconer's possession limit. The rehabilitator shall provide the licensed falconer with a written statement authorizing the falconer to assist the rehabilitator. The written statement shall also identify the raptor by species, type of injury, and band number, when available. The licensed falconer shall return the raptor to the rehabilitator within the 180-day period established under R12-4-423(T), unless the raptor is:
1. Released into the wild in coordination with the rehabilitator and as authorized under this subsection,
 2. Allowed to remain with the rehabilitator for a longer period of time as authorized under R12-4-423(U), or
 3. Transferred permanently to the falconer, provided the falconer may legally possess the raptor and the Department approves the transfer. The raptor shall count towards the falconer's possession limit.
- AA.** A licensed falconer may use a raptor possessed for falconry in captive propagation, when permitted by USFWS. A licensed falconer is not required to transfer a raptor from a Sport Falconry license to another license when the raptor is used for captive propagation less than eight months in a year.
- BB.** A General or Master licensed falconer may use a lawfully possessed raptor in a conservation education program presented in a public venue. An Apprentice falconer, under the direct supervision of a General or Master falconer, may use a lawfully possessed raptor in a conservation education program presented in a public venue. The primary use for a raptor is falconry; a licensed falconer shall not possess a raptor solely for the purpose of providing a conservation education program. The falconer shall ensure the focus of the conservation education program is to provide information about the biology, ecological roles, and conservation needs of raptors and other migratory birds. The falconer may charge a fee for presenting a conservation education program; however, the fee shall not exceed the amount required to recoup the falconer's costs for providing the program. As a condition of the Sport Falconry License, the licensed falconer agrees to indemnify the Department, its officers, and employees. The falconer is liable for any damages associated with the conservation education activities.

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- CC.** A licensed falconer may allow the photography, filming, or similar uses of a falconry raptor possessed by the licensed falconer, provided:
1. The falconer is not compensated for these activities; and
 2. The final product from these activities:
 - a. Promotes the practice of falconry;
 - b. Provides information about the biology, ecological roles, and conservation needs of raptors and other migratory birds;
 - c. Endorses a nonprofit falconry organization or association, products, or other endeavors related to falconry; or
 - d. Is used in scientific research or science publications.
- DD.** A licensed falconer may use or dispose of lawfully possessed falconry raptor feathers. A falconer shall not buy, sell, or barter falconry raptor feathers. A falconer may possess feathers for imping from each species of raptor that the falconer currently possesses or has possessed.
1. The licensed falconer may transfer or receive feathers for imping from:
 - a. Another licensed falconer,
 - b. A licensed wildlife rehabilitator, or
 - c. Any licensed propagator located in the United States.
 2. A licensed falconer may donate falconry raptor feathers, except bald and golden eagle feathers, to:
 - a. Any person or institution permitted to possess falconry raptor feathers,
 - b. Any person or institution exempt from the permit requirement under 50 C.F.R. 21.12, or
 - c. A non-eagle feather repository. The Department may provide information regarding the submittal of falconry raptor feathers to a non-eagle feather repository.
 3. A licensed falconer shall gather primary and secondary flight feathers or retrices that are molted or otherwise lost from a golden eagle and either retain the feathers for imping purposes or submit the feathers to the U.S. Fish and Wildlife Service, National Eagle Repository, Rocky Mountain Arsenal, Building 128, Commerce City, Colorado 80022.
 4. A falconer whose license is either revoked or expired shall dispose of all falconry raptor feathers in the falconer's possession.
- EE.** Arizona licensed falconers importing raptors into Arizona shall have a health certificate issued no more than 30 consecutive days:
1. Prior to the international importation, or
 2. Prior to or after the inter-state importation.
- FF.** A licensed falconer may conduct any of the following activities with any captive-bred raptor provided the raptor is wearing a seamless band and the person receiving the raptor possesses an appropriate special license:
1. Barter,
 2. Offer for barter,
 3. Gift,
 4. Purchase,
 5. Sell,
 6. Offer for sale, or
 7. Transfer.
- GG.** A licensed falconer is prohibited from conducting any of the following activities with any wild-caught raptor protected under the Migratory Bird Treaty Act:
1. Barter,
 2. Offer for barter,
 3. Purchase,
 4. Sell, or
 5. Offer for sale.
- HH.** A licensed falconer may transfer:
1. Any wild-caught falconry raptor lawfully captured in Arizona with or without a permit tag to another Arizona Sport Falconry License holder at any time.
 - a. The raptor shall count towards the take limit for that calendar year for the falconer taking the raptor from the wild.
 - b. The raptor shall not count against the take limit of the falconer receiving the raptor.
 2. Any wild-caught falconry raptor to another license or permit type under this Article or federal law, provided the raptor has been used in the sport of falconry for at least two years preceding the transfer.
 3. A wild-caught falconry sharp-shinned hawk (*Accipiter striatus*), Cooper's hawk (*Accipiter cooperii*), merlin (*Falco columbarius*), or American kestrel (*Falco sparverius*) to another license or permit type under this Article or federal law, provided the raptor has been used in the sport of falconry for at least one-year preceding the transfer.
 4. Any hybrid or captive-bred raptor to another licensed falconer or permit type under this Article or federal law at any time.
 5. Any falconry raptor that is no longer capable of being flown, as determined by a veterinarian or licensed rehabilitator, to another permit type at any time. The licensed falconer shall provide a copy of the documentation from the veterinarian or rehabilitator stating that the raptor is not useable in falconry to the Federal Migratory Bird Permits office that administers the other permit type.
- II.** A licensed falconer shall not transfer a wild-caught raptor species to a licensed falconer in another state for at least one year from the date of capture if either resident or nonresident take is managed through Commission Order by way of a permit-tag, nonpermit-tag, or annual harvest quota system. However, a licensed falconer may transfer a wild-caught raptor that is not managed through Commission Order by way of a permit-tag, nonpermit-tag, or annual harvest quota system to a licensed falconer in another state at any time.
- JJ.** A surviving spouse, executor, administrator, or other legal representative of a deceased or incapacitated licensed falconer shall transfer any raptor held by the licensed falconer to another licensed falconer no more than 90 consecutive days after the death of the falconer. The Department shall determine the disposition of any raptor not transferred prior to the end of the 90-day period.
- KK.** A licensed falconer shall conduct the following activities, as applicable, no more than 10 business days after either the death of a falconry raptor or the final examination of a deceased raptor by a veterinarian:
1. For a bald or golden eagle, send the entire body, including all feathers, talons, and other parts, to the National Eagle Repository;
 2. For any euthanized non-eagle raptor, to prevent secondary poisoning of other wildlife, the falconer shall either submit the carcass to a non-eagle repository or burn, bury, or otherwise destroy the carcass;
 3. For all other species:
 - a. Submit the carcass to a non-eagle repository;
 - b. Submit the carcass to the Department for submission to a non-eagle repository;
 - c. Donate the body or feathers to any person or institution exempt under 50 C.F.R. 21.12 or authorized by USFWS to acquire and possess such parts or feathers;

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- d. Retain the carcass or feathers for imping purposes as established under subsection (DD);
- e. Burn, bury, or otherwise destroy the carcass; or
- f. Mount the raptor carcass. The falconer shall ensure any microchip implanted in the raptor is not removed and any band attached to the raptor remains on the mount. The falconer may use the mount for a conservation education program. The falconer shall ensure copies of the license and all relevant 3-186A forms are retained with the mount. The mount shall not count towards the falconer's possession limit.

Historical Note

Adopted effective April 28, 1989 (Supp. 89-2). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended effective April 4, 1997 (Supp. 97-2). Amended by final rulemaking at 6 A.A.R. 211, effective December 14, 1999 (Supp. 99-4). Amended by final rulemaking at 18 A.A.R. 958, effective January 1, 2013 (Supp. 12-2). Amended by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

R12-4-423. Wildlife Rehabilitation License

- A.** For the purposes of this Section, "volunteer" means a person who:
 - Is not designated as an agent, as defined under R12-4-401,
 - Assists a wildlife rehabilitation license holder without compensation, and
 - Is under the direct supervision of the license holder at the location specified on the wildlife rehabilitation license.
- B.** A wildlife rehabilitation license is issued for the sole purpose of restoring and returning wildlife to the wild through rehabilitative services. The license allows a person 18 years of age or older to conduct any of the following activities with live injured, disabled, orphaned or otherwise debilitated wildlife specified on the rehabilitation license:
 - 1. Capture;
 - 2. Euthanize;
 - 3. Export to a licensed zoo, when authorized by the Department;
 - 4. Rehabilitate;
 - 5. Release;
 - 6. Temporarily possess;
 - 7. Transport; or
 - 8. Transfer to one of the following:
 - a. Licensed veterinarian for treatment or euthanasia;
 - b. Another appropriately licensed special license holder;
 - c. Licensed zoo, when authorized by the Department; or
 - 9. As otherwise directed in writing by the Department.
- C.** A wildlife rehabilitation license authorizes the possession of the following taxa or species:
 - 1. Amphibians;
 - 2. Reptiles;
 - 3. Birds:
 - a. Non-passerines, birds in any order other than those named in subsections (b) through (e);
 - b. Birds in the orders *Falconiformes* or *Strigiformes*, raptors;
 - c. Birds in the order, *Galliformes* quails and turkeys;
 - d. Birds in the order *Columbiformes*, doves;
 - e. Birds in the order *Trochiliformes*, hummingbirds; and
 - f. Birds in the order *Passeriformes*, passerines;
- 4. Mammals:
 - a. Nongame mammals;
 - b. Bats;
 - c. Big game mammals other than cervids: bighorn sheep, bison, black bear, javelina, mountain lion, pronghorn;
 - d. Carnivores: bobcat, coati, coyote, foxes, raccoons, ringtail, skunks, and weasels; and
 - e. Small game mammals.
- D.** A wildlife rehabilitation license authorizes the possession of the following taxa or species only when specifically requested at the time of application:
 - 1. Eagles;
 - 2. Species listed under 50 C.F.R. 17.11, revised October 1, 2013; and
 - 3. The Department's Tier 1 Species of Greatest Conservation Need, as defined under R12-4-401.
 - 4. For the purposes of subsection (D)(2), this incorporation by reference contains no future editions or amendments. The incorporated material is available at any Department office, online at www.gpoaccess.gov, or may be ordered from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000.
- E.** All wildlife held under the license is the property of the state and shall be surrendered to the Department upon request.
- F.** The wildlife rehabilitation license expires on the last day of the third December from the date of issuance.
- G.** In addition to the requirements established under this Section, a wildlife rehabilitation license holder shall comply with the special license requirements established under R12-4-409.
- H.** The Department shall deny a wildlife rehabilitation license to a person who fails to meet the requirements and criteria established under R12-4-409, R12-4-428, or this Section or when the person's wildlife rehabilitation license is suspended or revoked in any state. The Department shall provide the written notice established under R12-4-409 to the applicant stating the reason for the denial. The person may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10.
- I.** The license holder shall be responsible for compliance with all applicable regulatory requirements; the wildlife rehabilitation license does not:
 - 1. Exempt the license holder from any municipal, county, state, or federal codes, ordinances, statutes, rules, or regulations; or
 - 2. Authorize the license holder to engage in authorized activities using federally-protected wildlife, unless the license holder possesses a valid license, permit, or other form of documentation issued by the United States authorizing the license holder to use that wildlife in a manner consistent with the special license.
- J.** Before applying for a wildlife rehabilitation license, a person shall successfully complete an examination conducted by the Department. The Department shall consider only those parts of the examination that are applicable to the taxa of wildlife for which the license is sought in establishing the qualifications of the applicant.
 - 1. Examinations are provided by appointment, only.
 - 2. An applicant may request a verbal or written examination.
 - 3. The examination shall include questions regarding:
 - a. Wildlife rehabilitation;
 - b. Safe handling of wildlife;
 - c. Transporting wildlife;
 - d. Humane treatment;

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- e. Nutritional requirements;
 - f. Behavioral requirements;
 - g. Developmental requirements;
 - h. Ecological requirements;
 - i. Habitat requirements;
 - j. Captivity standards established under R12-4-428;
 - k. Human and wildlife safety considerations;
 - l. State statutes, rules, and regulations regarding wildlife rehabilitation; and
 - m. National Wildlife Rehabilitation Association minimum standards for wildlife rehabilitation.
4. The applicant must successfully complete the examination within three years prior to the date on which the initial application for the license is submitted to the Department.
- K.** A person applying for a wildlife rehabilitation license shall submit an application to the Department. A separate application is required for each location where the applicant proposes to use wildlife. The application is furnished by the Department and is available at any Department office and online at www.azgfd.gov. The applicant shall provide the following information on the application:
- 1. The applicant's information:
 - a. Name;
 - b. Date of birth;
 - c. Mailing address;
 - d. Telephone number;
 - e. Facility address, if different from mailing address;
 - f. Physical location description to include the Global Positioning System location or Universal Transverse Mercator coordinates; and
 - g. Department ID number, when applicable;
 - 2. The wildlife taxa or species listed under subsection (C) that will be possessed under the license;
 - 3. For each location where the wildlife will be used, the land owner's:
 - a. Name;
 - b. Mailing address;
 - c. Telephone number; and
 - d. Physical location description to include the Global Positioning System location or Universal Transverse Mercator coordinates;
 - 4. A detailed description, diagram, and photographs of the facility where the applicant will hold the wildlife, and a description of how the facility complies with R12-4-428 and any other captivity standards established under this Section;
 - 5. Any other information required by the Department; and
 - 6. The certification required under R12-4-409(C).
- L.** In addition to the requirements listed under subsection (K), at the time of application, an applicant for a wildlife rehabilitation license shall also submit:
- 1. Any one or more of the following:
 - a. A valid, current license issued by a state veterinary medical examination authority that authorizes the applicant to practice as a veterinarian;
 - b. Proof of at least six months of experience performing wildlife rehabilitative work with an average of at least eight hours each week for the taxa or species of animal listed on the application; or
 - c. A current and valid license, permit, or other form of authorization issued by another state or the federal government that allows the applicant to perform wildlife rehabilitation;
 - 2. Proof the applicant successfully completed the examination required under subsection (J) no more than three years prior to submitting the application;
 - 3. An affidavit signed by the applicant affirming either of the following:
 - a. The applicant is a licensed veterinarian; or
 - b. A licensed veterinarian is reasonably available to provide veterinary services as necessary to facilitate rehabilitation of wildlife.
 - 4. A written statement describing:
 - a. The applicant's preferred method of disposing of non-releasable live wildlife as listed under subsection (B); and
 - b. A statement of the applicant's training and experience in handling, capturing, rehabilitating, and caring for the taxa or species when the applicant is applying for a license to perform authorized activities with taxa or species of wildlife listed under subsection (C).
- M.** A wildlife rehabilitation license holder who wishes to continue activities authorized under the license shall renew the license before it expires.
- 1. When renewing a license without change to the species, location, or design of the facility where wildlife is held as authorized under the current license, the license holder may reference supporting materials previously submitted in compliance with subsection (K).
 - 2. A license holder applying for a renewal of the license shall successfully complete the examination at the time of renewal when the annual report submitted under subsection (Z) indicates the license holder did not perform any rehabilitative activities under the license.
 - 3. A license holder applying for a renewal of the license shall submit proof the license holder has completed the continuing education requirement established under subsection (N).
- N.** During the license period a wildlife rehabilitation license holder shall complete eight or more hours of continuing education sessions on wildlife rehabilitation or veterinary medicine. Acceptable continuing education sessions may be obtained from:
- 1. An accredited university or college;
 - 2. The National Wildlife Rehabilitators Association, 2625 Clearwater Rd. Suite 110, St. Cloud, MN 56301;
 - 3. The International Wildlife Rehabilitation Council, PO Box 3197, Eugene, OR 97403; or
 - 4. Other applicable training opportunities approved by the Department in writing. A license holder who wishes to use other applicable training to meet the eight hour continuing education requirement shall request approval of the other applicable training prior to participating in the education session.
- O.** A wildlife rehabilitation license holder may request authorization to allow an agent to assist the license holder in carrying out activities authorized under the wildlife rehabilitation license by submitting a written request to the Department.
- 1. An applicant may request the ability to allow a person to act as an agent on the applicant's behalf, provided:
 - a. An employment or supervisory relationship exists between the applicant and the agent, and
 - b. The agent's privilege to take or possess live wildlife is not suspended or revoked in any state
 - 2. The license holder shall obtain approval from the Department prior to allowing the agent assist in any activities.
 - 3. The license holder is liable for all acts the agent performs under the authority of this Section.

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4. The Department, acting on behalf of the Commission, may suspend or revoke a license for violation of this Section by an agent.
 5. The license holder shall ensure the agent possesses a legible copy of the license while conducting any activity authorized under the wildlife rehabilitation license and presents it for inspection upon the request of any Department employee or agent.
- P.** At any time during the license period, a wildlife rehabilitation license holder may request permission to amend the license to add or delete an agent or a location where wildlife is held; or to obtain authority to rehabilitate additional taxa of wildlife. To request an amendment, the license holder shall submit the following information to the Department, as applicable:
1. To add or delete an agent, the information stated in subsections (K)(1) through (K)(4) and (L)(2), as applicable to the agent;
 2. To add or delete a location, the information stated in subsection (K)(1) through (K)(5); and
 3. To obtain authority to rehabilitate additional taxa or wildlife, the information stated in subsection (K)(1) through (K)(5) and (L)(1) through (L)(4).
- Q.** A wildlife rehabilitation license holder authorized to rehabilitate wildlife species listed under subsection (C)(3)(c), (C)(4)(c) and (C)(4)(d) or (D) shall contact the Department within 24 hours of receiving the individual animal to obtain instructions in handling or transferring that animal. While awaiting instructions, the license holder shall ensure that emergency veterinary care is provided as necessary.
- R.** A wildlife rehabilitation license holder shall:
1. Comply with all additional stipulations placed on the license by the Department, as authorized under R12-4-409(H).
 2. Allow the Department to conduct inspections of an applicant's or license holder's facility and records at any time before or during the license period to determine compliance with the requirements of this Article.
 3. Ensure each facility is inspected by the attending veterinarian at least once every year.
 4. Capture, remove, transport, and release wildlife held under the requirements of this Section in a manner that is least likely to cause injury to the affected wildlife.
 5. Conduct rehabilitation only at the location listed on the license
 6. Be responsible for all expenses incurred, including veterinary expenses, and all actions taken under the license, including all actions or omissions of all agents and volunteers when performing activities under the license.
 7. Immediately surrender wildlife held under the license to the Department upon request.
 8. Dispose of all wildlife that is euthanized or that otherwise dies within 30 days of death either by burial, incineration, or transfer to a scientific research institution, except that the license holder shall transfer all carcasses of endangered or threatened species, species listed under the Department's Tier 1 Species of Greatest Conservation Need, or eagles as directed by the Department.
 9. Maintain a current log that records the information specified under subsection (Z).
 10. Possess the license or legible copy of the license at each authorized location and while conducting any rehabilitation activities and presents it for inspection upon the request of any Department employee or agent.
 11. Ensure a copy of the wildlife rehabilitation license accompanies each transfer or shipment of wildlife.
- S.** A wildlife rehabilitation license holder shall not:
1. Display for educational purposes any wildlife held under the license.
 2. Exhibit any wildlife held under the license.
 3. Permanently possess any wildlife held under the license.
- T.** A wildlife rehabilitation license holder may possess:
1. All wildlife for no more than 90 days; or
 2. A bird for no more than 180 days, unless the Department has authorized possession for a longer period of time.
- U.** A license holder may request permission to possess wildlife for a longer period of time than specified in subsection (T) by submitting a written request to the Department.
1. The Department shall approve or deny the request within ten days of receiving the request.
 2. For requests made due to a medical necessity, the Department may require the license holder to provide a written statement listing the medical reasons for the extension, signed by a licensed veterinarian.
 3. The license holder may continue to hold the specified wildlife while the Department considers the request.
 4. If the request is denied, the Department shall send a written notice to the license holder which shall include specific, time-dated directions for the surrender or disposition of the animal.
- V.** A wildlife rehabilitation license holder may allow a licensed falconer to assist in conditioning a raptor in preparation for the raptor's release to the wild.
1. The license holder may allow the licensed falconer to temporarily remove the raptor from the license holder's facility while conditioning the raptor.
 2. The license holder shall provide the licensed falconer with a written statement authorizing the falconer to assist the license holder.
 3. The written statement shall identify the raptor by species, type of injury, and band number, when available.
 4. The license holder shall ensure the licensed falconer returns the raptor to the license holder within the 180-day period established under subsection (T).
- W.** A wildlife rehabilitation license holder may hold wildlife under the license after the wildlife reaches a state of restored health only for the amount of time reasonably necessary to prepare the wildlife for release. Rehabilitated wildlife shall be released:
1. In an area without immediate threat to the wildlife or contact with humans;
 2. During an ecologically appropriate time of year and time of day; and
 3. Into a suitable habitat in the same geographic area where the animal was originally obtained; or
 4. In an area designated by the Department.
- X.** Wildlife that is not releasable after the time-frames specified in subsection (T) shall be transferred, disposed of, or euthanized as determined by the Department.
- Y.** To permanently hold rehabilitated wildlife that is unsuitable for release, a wildlife rehabilitation license holder shall apply for and obtain a wildlife holding license in compliance with under R12-4-417.
- Z.** A wildlife rehabilitation license holder shall submit an annual report to the Department before January 31 of each year for the previous calendar year. The report form is furnished by the Department.
1. A report is required regardless of whether or not activities were performed during the previous year.
 2. The wildlife rehabilitation license becomes invalid if the annual report is not submitted to the Department by January 31 of each year.

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3. The Department will not process the special license holder's renewal application until the annual report is received by the Department.
 4. The annual report shall contain the following information:
 - a. The license holder's:
 - i. Name;
 - ii. Mailing address; and
 - iii. Telephone number;
 - b. Each agent's:
 - i. Name;
 - ii. Mailing address; and
 - iii. Telephone number;
 - c. The permit or license number of any federal permits or licenses that relate to any rehabilitative function performed by the license holder; and
 - d. An itemized list of each animal held under the license during the calendar year for which activity is being reported. For each animal held by the license holder or agent, the itemization shall include:
 - i. Species;
 - ii. Condition that required rehabilitation;
 - iii. Date of acquisition;
 - iv. Source of acquisition;
 - v. Location of acquisition;
 - vi. Age class at acquisition, when reasonably determinable;
 - vii. Status at disposition or end-of-year in relation to the condition requiring rehabilitation;
 - viii. Method of disposition;
 - ix. Location of disposition; and
 - x. Date of disposition.
 - e. For activities related to federally-protected wildlife, a copy of the rehabilitator's federal permit report of activities related to federally-protected wildlife satisfies the reporting requirement established under subsection (Z)(4)(c) for federally protected wildlife.
- AA.** A wildlife rehabilitation license holder shall comply with the requirements established under R12-4-409, R12-4-428, and R12-4-430, as applicable.
- Historical Note**
- Adopted effective January 4, 1990 (Supp. 90-1).
 Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4).
 Amended by final rulemaking at 7 A.A.R. 2732, effective July 1, 2001 (Supp. 01-2). Amended by final rulemaking at 9 A.A.R. 3186, effective August 30, 2003 (Supp. 03-3).
 Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).
- R12-4-424. White Amur Stocking and Holding License**
- A.** For the purposes of this Section:
- “Closed aquatic system” means any body of water, water system, canal system, or series of lakes, canals, or ponds where triploid white amur are prevented from entering or exiting the system by any natural or man-made barrier, as determined by the Department.
- “Triploid” means a species having 1.5 chromosome sets that renders them sterile.
- B.** A white amur stocking and holding license allows a person to import, possess, stock in a closed aquatic system, and transport triploid white amur (*Ctenopharyngodon idella*).
- C.** The white amur stocking and holding license is valid for no more than 20 consecutive days.
- D.** In addition to the requirements established under this Section, a white amur stocking and holding license holder shall comply with the special license requirements established under R12-4-409.
- E.** The license holder shall be responsible for compliance with all applicable regulatory requirements; the white amur stocking and holding license does not:
1. Exempt the license holder from any municipal, county, state, or federal codes, ordinances, statutes, rules, or regulations; or
 2. Authorize the license holder to engage in authorized activities using federally-protected wildlife, unless the license holder possesses a valid license, permit, or other form of documentation issued by the United States authorizing the license holder to use that wildlife in a manner consistent with the special license.
- F.** The Department shall deny a white amur stocking and holding license to a person who fails to meet the requirements established under R12-4-409 or this Section. The Department shall provide the written notice established under R12-4-409(F)(4) to the applicant stating the reason for the denial. The person may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10. In addition to the requirements and criteria established under R12-4-409(F)(1) through (4), the Department shall deny a white amur stocking license when it determines the issuance of the license may result in a negative impact on native wildlife.
- G.** A person applying for a white amur stocking and holding license shall submit an application to the Department. A separate application is required for each location where the applicant proposes to stock white amur. The application is furnished by the Department and is available from any Department office and online at www.azgfd.gov. The applicant shall provide the following information on the application:
1. The applicant's information:
 - a. Name;
 - b. Mailing address;
 - c. Telephone number; and
 - d. Department ID number, when applicable;
 2. If the applicant will use the wildlife for a commercial purpose, the applicant's business:
 - a. Name;
 - b. Federal Tax Identification Number;
 - c. Mailing address; and
 - d. Telephone number;
 3. For each location where the white amur will be held, stocked, or restocked, the land owner's:
 - a. Name;
 - b. Mailing address;
 - c. Telephone number; and
 - d. Physical location description to include the Global Positioning System location or Universal Transverse Mercator coordinates;
 - e. For the purposes of this subsection, the following systems may qualify as separate locations, as determined by the Department:
 - i. Each closed aquatic system;
 - ii. Each separately managed portion of a closed aquatic system; or
 - iii. Multiple separate closed aquatic systems owned, controlled, or legally held by the same applicant where stocking is to occur;
 4. A detailed description and diagram of each enclosed aquatic system where the applicant will stock and hold the white amur, as prescribed under A.R.S. § 17-317,

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which shall include the following information, as applicable:

- a. A description of how the system meets the definition of a "closed aquatic system" in subsection (A);
 - b. Size of waterbody proposed for stocking;
 - c. Nearest river, stream, or other freshwater system;
 - d. Points where water enters into each water body;
 - e. Points where water leaves each water body; and
 - f. Location of fish containment barriers;
5. For each wildlife supplier from whom the applicant will obtain white amur, the supplier's:
 - a. Name;
 - b. Federal Tax Identification Number;
 - c. Mailing address; and
 - d. Telephone number;
 6. The number and average length of white amur to be stocked;
 7. The dates white amur will be stocked, or restocked;
 8. Any other information required by the Department; and
 9. The certification required under R12-4-409(C).
- H.** When the Department determines an applicant proposes to stock and hold white amur in a watershed in a manner that conflicts with the Department's efforts to conserve wildlife, in addition to the requirements listed under subsection (G), the applicant shall also submit a written proposal to the Department at the time of application. The written proposal shall contain all of the following:
1. Anticipated benefits from introducing white amur;
 2. Potential risks introducing white amur may create for wildlife, including:
 - a. Whether white amur are compatible with native aquatic species or game fish; and
 - b. Method for evaluating the potential impact introducing white amur will have on wildlife;
 3. Assessment of probable impacts to sensitive species in the area using the list generated by the Department's On-Line Environmental Review Tool, which is available at www.azgfd.gov. The proposal must address each species listed.
- I.** A white amur stocking license holder who applies to renew the license shall pay fees as prescribed under R12-4-412.
- J.** A white amur stocking and holding license holder shall comply with the requirements established under R12-4-409.
1. Comply with all additional stipulations placed on the license by the Department, as authorized under R12-4-409(H).
 2. Obtain all aquatic wildlife, live eggs, fertilized eggs, and milt from a licensed fish farm operator or a private non-commercial fish pond certified free of the diseases and causative agents through the following actions:
 - a. An inspection shall be performed by a qualified fish health inspector or fish pathologist at the fish farm or pond where the aquatic wildlife or biological material is held before it is shipped to the license holder.
 - b. The inspection shall be conducted no more than 12 months prior to the date on which the aquatic wildlife or biological material is shipped to the license holder. The Department may require additional inspections at any time prior to stocking.
 - c. The applicant shall submit a copy of the certification to the Department prior to conducting any stocking activities.
 3. Allow the Department to conduct inspections of an applicant's or license holder's facility, records, and any waters

proposed for stocking at any time before or during the license period to determine compliance with the requirements of this Article and to determine the appropriate number of white amur to be stocked.

4. Ensure all shipments of white amur are accompanied by a USFWS, or similar agent, certificate confirming the white amur are triploid.
 5. Possess the license or legible copy of the license while conducting any activities authorized under the white amur stocking and holding license and presents it for inspection upon the request of any Department employee or agent.
- K.** A white amur stocking and holding license holder shall comply with the requirements established under R12-4-409 and R12-4-428.

Historical Note

Adopted as an emergency effective July 5, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3).

Correction, Historical Note, Supp. 88-3, should read, "Adopted as an emergency effective July 15, 1988..."; readopted and amended as an emergency effective October 13, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted as an emergency effective January 24, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Former Section R12-4-219 amended and adopted as a permanent rule and renumbered as Section R12-4-424 effective April 28, 1989 (Supp. 89-2). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended by final rulemaking at 7 A.A.R. 2732, effective July 1, 2001 (Supp. 01-2). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

R12-4-425. Restricted Live Wildlife Lawfully Possessed without License or Permit Before the Effective Date of Article 4 or Any Subsequent Amendments

- A.** A person who lawfully possessed restricted live wildlife without a license or permit from the Department before the effective date of this Section or any subsequent amendments to R12-4-406, this Section, or this Article may continue to possess the wildlife and to use it for any purpose that was lawful, except propagation, before the effective date of R12-4-406, this Section, or this Article or any subsequent amendments, provided the person complies with the requirements established under subsections (A)(1) or (A)(2).
1. The person submits written notification to the Department's regional office in which the restricted live wildlife is held. The person shall submit the written notification to the regional office within 30 calendar days of the effective date of any subsequent amendments to this Section, R12-4-406, or this Article. The written notification shall include all of the following information:
 - a. The number of individuals of each species,
 - b. The purpose for which it is possessed, and
 - c. The unique identifier for each individual wildlife possessed by the person, as established under subsection (F); or
 2. The person maintains documentation of the restricted live wildlife held. The documentation shall include:
 - a. The number of individuals of each species,

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- b. Proof the individuals were legally acquired before the effective date of the amendment causing the wildlife to be restricted,
 - c. The purpose for which it is used, and
 - d. The unique identifier for each wildlife possessed by the person, as established under subsection (F).
- 3. The person shall report the birth or hatching of any progeny conceived before and born after the effective date of this Section, R12-4-406, or this Article to the Department and comply with the requirements established under subsection (F).
- B.** The person shall ensure the written notification described under subsection (A)(1) and (A)(2) includes the person's name, address, and the location where the wildlife is held. A person who maintains their own documentation under subsection (A)(2) shall make it available to the Department upon request.
- C.** A person who possesses wildlife under this Section shall dispose of it using any one of the following methods:
 - 1. Exportation;
 - 2. Euthanasia;
 - 3. Transfer to an Arizona special license holder, provided the special license authorizes possession of the species involved; or
 - 4. As otherwise directed by the Department in writing.
- D.** If a person transfers restricted live wildlife possessed under this Section to a special license holder:
 - 1. The exemption for that wildlife under this Section expires, and
 - 2. The special license holder shall use, possess, and report the wildlife in compliance with this Article and any stipulations applicable to that special license.
- E.** A person who exports wildlife held under this Section shall not import the wildlife back into this state unless the person obtains a special license prior to importing the wildlife back into this state.
- F.** A person who possesses wildlife under this Section shall permanently and uniquely mark the wildlife with a unique identifier as follows:
 - 1. Within 30 calendar days of the effective date of this Section, R12-4-406, or this Article if the person has notified the Department as provided under subsection (A)(1); or
 - 2. Within 30 calendar days of receiving written notice from the Department directing the person to permanently mark the wildlife.
- G.** A person possessing a desert tortoise (*Gopherus agassizii*) is not subject to the requirements of this Section and shall comply with requirements established under R12-4-404 and R12-4-407.
- b. Simian Herpes B virus;
 - c. Simian Immunodeficiency Virus;
 - d. Simian T Lymphotropic Virus; and
 - e. Gastrointestinal pathogens such as, but not limited to, Shigella, Salmonella, E. coli, and Giardia.
- 2. A qualified person, as determined by the Department, performs the test and provides the test results; and
- 3. The tests required under subsection (B)(1) are:
 - a. Conducted no more than 30 days before the person imports the nonhuman primate; and
 - b. The person submits the results to the Department prior to importation.
- C.** A person lawfully possessing the nonhuman primate shall contain the primate within the confines of the person's private property or licensed facility.
- D.** A person possessing a nonhuman primate may only transport the primate by way of a secure cage, crate, or carrier. A person possessing a primate shall only transport the primate to the following locations:
 - 1. To or from a licensed veterinarian;
 - 2. Into or out of the state for lawful purposes.
- E.** A person lawfully possessing a nonhuman primate that bit, scratched, or otherwise exposed a human to pathogenic organisms, as determined by the Department, shall ensure the primate is examined and laboratory tested for the presence of pathogens as follows:
 - 1. The Department shall prescribe examinations and laboratory testing for the presence of pathogens.
 - 2. The person shall have the nonhuman primate examined by a state licensed veterinarian who shall perform any examinations or laboratory tests as directed by the Department.
 - a. The licensed veterinarian shall provide the laboratory results to the Department within 24 hours of receiving the results.
 - b. The Department shall notify the exposed person and the Department of Health Services, Vector Borne and Zoonotic Disease Section within 10 days of receiving notice of the test results.
 - 3. The person possessing the nonhuman primate shall pay all costs associated with the examination, laboratory testing, and maintenance of the primate.
- F.** A person lawfully possessing a nonhuman primate shall ensure a primate that tests positive for a zoonotic disease that poses a serious health risk to humans, or is involved in more than one incident of biting, scratching, or otherwise exposing a human to pathogenic organisms, is maintained in captivity or disposed of as directed in writing by the Department.
- G.** A zoo license holder or a person using nonhuman primates at a research facility, as defined under R12-4-401, possessing a primate that bit, scratched, or otherwise exposed a human to pathogenic organisms shall quarantine and test the primate in accordance with procedures approved by the Department.
- H.** A person lawfully possessing a nonhuman primate is subject to the requirements established under R12-4-428.

Historical Note

Adopted effective April 28, 1989 (Supp. 89-2). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

R12-4-426. Possession of Nonhuman Primates

- A.** A person is prohibited from possessing a nonhuman primate, unless authorized under a special license or lawful exemption.
- B.** A person shall not import a nonhuman primate into this state unless:
 - 1. A person lawfully possessing a nonhuman primate shall ensure the primate is tested and reported to be free of any zoonotic disease that poses a serious health risk as determined by the Department. Zoonotic diseases that pose a serious health risk include, but are not limited to:
 - a. Tuberculosis;

Historical Note

Adopted effective April 28, 1989 (Supp. 89-2). Rule expired December 31, 1989; text rescinded (Supp. 93-2). New Section adopted by final rulemaking at 6 A.A.R. 211, effective December 14, 1999 (Supp. 99-4). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Section R12-4-426(C) corrected to include subsection (C)(1), under A.R.S. § 41-1011 and A.A.C. R1-1-108, Office File No. M11-77, filed March 4, 2011 (Supp. 10-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015

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(Supp. 15-4).

R12-4-427. Exemptions from Requirements to Possess a Wildlife Rehabilitation License

- A. A person may possess, provide rehabilitative care to, and release to the wild any live wildlife listed below that is injured, orphaned, or otherwise debilitated:
1. The order *Passeriformes*: passerine birds;
 2. The order *Columbiformes*: doves;
 3. The family *Phasianidae*: quail, pheasant, and chukars;
 4. The order *Rodentia*: rodents; and
 5. The order *Lagomorpha*: hares and rabbits.
- B. This Section does not:
1. Exempt the person from any municipal, county, state, or federal codes, ordinances, statutes, rules, or regulations; or
 2. Authorize the person to engage in authorized activities using federally-protected wildlife, unless the person possesses a valid license, permit, or other form of documentation issued by the United States that authorizes the license holder to use that wildlife in a manner consistent with the special license.
- C. This Section does not authorize the possession of any of the following:
1. Eggs of wildlife;
 2. Wildlife listed as Species of Greatest Conservation Need, as defined under R12-4-401; or
 3. More than 25 animals at the same time.
- D. A person taking and caring for wildlife listed under this Section is not required to possess a hunting license.
- E. A person shall only take wildlife listed under subsection (A) by hand or by a hand-held implement.
- F. A person shall not possess wildlife lawfully held under this Section for more than 60 days.
- G. The exemptions granted under this Section shall not apply to any person who, by their own action, has unlawfully injured, orphaned, or otherwise debilitated the wildlife.
- H. If the wildlife is rehabilitated and suitable for release, the person who possesses the wildlife shall release it within the 60-day period established under subsection (C):
1. Into a habitat that is suitable to sustain the wildlife, or
 2. As close as possible to the same geographic area from where it was taken.
- I. If the wildlife is not rehabilitated within the 60-day period or the wildlife requires care normally provided by a veterinarian, the person who possesses it shall:
1. Transfer it to a wildlife rehabilitation license holder or veterinarian;
 2. Euthanize it; or
 3. Obtain a wildlife holding permit as established under R12-4-417.

Historical Note

Adopted effective April 28, 1989 (Supp. 89-2). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

R12-4-428. Captivity Standards

- A. For the purposes of this Section, "animal" means any wildlife possessed under a special license, unless otherwise indicated.
- B. A person possessing wildlife under a special license authorized under this Article shall comply with the minimum standards for the humane treatment of animals established under this Section.
- C. A person possessing wildlife under an authority granted under

this Article shall ensure all facilities meet the following minimum standards:

1. The facility shall be:
 - a. Constructed of material of sufficient strength to resist any force the animal may be capable of exerting against it.
 - b. Constructed in a manner designed to reasonably prevent the animal's escape or the entry of unauthorized persons, wildlife, or domestic animals.
 - c. Constructed and maintained in good repair to protect animals from injury, disease, or death and to enable the humane practices established under this Section.
2. If required to comply with related requirements established under this Section, each facility shall be equipped with safe, reliable and adequate electric power.
 - a. All electric wiring shall be constructed and maintained in accordance with all applicable governmental building codes.
 - b. Electrical construction and maintenance shall be sufficient to ensure that no animal has direct contact with any electrical wiring or electrical apparatus and the animal is fully protected from any possibility of injury, shock, or electrocution.
3. Each animal shall be supplied with sufficient potable water to meet its needs.
 - a. All water receptacles shall be kept in clean and sanitary condition.
 - b. Water shall be readily available and monitored at least once daily or more often when the needs of the animal dictate.
 - c. If potable water is not accessible to the animal at all times, it shall be provided as often as necessary for the health and comfort of the animal.
4. Food shall be suitable, wholesome, palatable, free from contamination, and of sufficient appeal, quantity, and nutritive value to maintain the good health of each animal held in the facility.
 - a. Each animal's diet shall be prepared based upon the nutritional needs and preferences of the animal with consideration for the animal's age, species, condition, health, size, and all veterinary directions or recommendations in regard to diet.
 - b. Each animal shall be fed as often as its needs dictate, taking into consideration behavioral adaptations, veterinary treatment or recommendations, normal fasts, or other professionally accepted humane practices.
 - c. The quantity or level of available food for each animal shall be monitored at least once daily, except for those periods of time when professionally accepted humane practices dictate that the animal not consume any food during the entire day.
 - d. Food and food receptacles, when used, shall be sufficient in quantity and accessible to all animals in the facility and shall be placed to minimize potential contamination and conflict between animals using the receptacles.
 - e. Food receptacles shall be kept clean and sanitary at all times.
 - f. Any self-feeding food receptacles shall function properly and the food they provide shall be monitored at least once daily and shall not be subject to deterioration, contamination, molding, caking, or any other process that would render the food unsafe or unpalatable for the animal.

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- g. An appropriate means of refrigeration shall be provided for supplies of perishable animal foods.
- 5. The facility shall be kept sanitary and regularly cleaned as the nature of the animal requires:
 - a. Adequate provision shall be made for the removal and disposal of animal waste, food waste, unusable bedding materials, trash, debris and dead animals not intended for food.
 - b. The facility shall be maintained to minimize the potential of vermin infestation, disease, and unseemly odors.
 - c. Excreta shall be removed from the primary enclosure facility as often as necessary to prevent contamination, minimize hazard of disease, and reduce unseemly odors.
 - d. The sanitary condition of the facility shall be monitored at least once daily.
 - e. When the facility is cleaned by hosing, flushing, or the introduction of any chemical substances, adequate measures shall be taken to ensure the animal has no direct contact with any chemical substance and is not directly sprayed with water, steam, or chemical substances or otherwise wetted involuntarily.
- 6. A sanitary and humane method shall be provided to rapidly eliminate excess water from the facility. If drains are utilized, they shall be:
 - a. Properly constructed.
 - b. Kept in good repair to avoid foul odors or vermin infestation.
 - c. Installed in a manner that prevents the backup or accumulation of debris or sewage.
- 7. No animal shall be exposed to any human activity or environment that may have an inhumane or harmful effect upon the animal that is inconsistent with the purpose of the special license.
- 8. Facilities shall not be constructed or maintained in proximity to any physical condition which may pose any health threat or unnecessary stress to the animal.
- 9. Persons caring for the animals shall conduct themselves in a manner that prevents the spread of disease, minimizes stress, and does not threaten the health of the animal.
- 10. All animals housed in the same facility or within the same enclosed area shall be compatible and shall not pose a substantial threat to the health, life or well-being of any other animal in the same facility or enclosure, whether or not the other animals are held under a special license. This subsection shall not apply to live animals utilized as food items in the enclosures.
- 11. Facilities for the enclosure of animals shall be constructed and maintained to provide sufficient space to allow each animal adequate freedom of movement to make normal postural and social adjustments.
 - a. The facility area shall be large enough and constructed in a manner to allow the animal proper and adequate exercise as is characteristic to each animal's natural behavior and physical needs.
 - b. Facilities for digging or burrowing animals shall have secure safe floors below materials supplied for digging or burrowing activity.
 - c. Animals that naturally climb or perch shall be provided with safe and adequate climbing or perching apparatus.
 - d. Animals that naturally live in an aquatic environment shall be supplied with sufficient access to safe water so as to meet their aquatic behavioral needs.
 - e. The facility and holding environment shall be structured to reasonably promote the psychological well-being of any animal held in the facility.
- 12. A special license holder shall ensure that a sufficient number of properly trained personnel are utilized to meet all the humane husbandry practices established under this Section. The license holder shall be responsible for the actions of all animal care personnel and all other persons that come in contact with the animals.
- 13. The special license holder shall designate a veterinarian licensed to practice in this state as the primary treating veterinarian for each species of animal to be held.
 - a. The license holder shall ensure that all animals in their care receive proper, adequate, and humane veterinary care as the needs of each animal dictate.
 - b. Each animal held for more than one year shall be inspected by the attending veterinarian at least once every year.
 - c. Every animal shall promptly receive licensed veterinary care whenever it appears that the animal is injured, sick, wounded, diseased, infected by parasites, or behaving in a substantially abnormal manner, including but not limited to exhibiting loss of appetite or disinclination to normal physical activity.
 - d. All medications, treatments and other directions prescribed by the attending veterinarian shall be properly administered by the license holder, authorized agent, or volunteer. A license holder, authorized agent, or volunteer shall not administer prescription medicine, unless under the direction of a veterinarian.
- 14. Any animal that is suspected of or diagnosed as harboring any infectious or transmissible disease, whether or not the animal is held under a special license, shall be isolated immediately upon suspicion or diagnosis.
 - a. The isolated animal shall continue to be kept in a humane manner as required under this Section.
 - b. When there is an animal with an infectious or transmissible disease in any animal facility, whether or not the animal is held under a special license, the facility shall be sanitized so as to reasonably eliminate the chance of other animals being exposed to infection. Sanitation procedures may include, but are not limited to:
 - i. Washing facilities or animal-related materials with appropriate antibacterial chemical agents, soaps or detergents;
 - ii. Appropriate application of hot water or steam under pressure; and
 - iii. Replacement of gravel, dirt, sand, water, or food. All residue of chemical agents utilized in the sanitation process shall be reasonably eliminated from the facility before any animal is returned to the facility.
 - c. Parasites and vermin shall be controlled and eliminated so as to ensure the continued health and well-being of all animals.
- D. In addition the standards established under subsection (C), a person shall ensure all indoor facilities meet the following minimum standards:
 - 1. Heating and cooling equipment shall be sufficient to regulate the temperature of the facility to protect the animals from temperature extremes as the nature of the wildlife

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- requires to provide a healthy, comfortable, and humane living environment.
2. Indoor facilities shall be adequately ventilated with fresh air to provide for the healthy, comfortable, and humane keeping of any animal and to minimize drafts, odors, and moisture condensation.
 3. Indoor facilities shall have lighting of a quality, distribution, and duration as is appropriate for the biological needs of the animals held and to facilitate the inspection and maintenance of the facility.
 - a. Artificial lighting, when used, shall be utilized in regular cycles as the animal's needs dictate.
 - b. Lighting shall be designed to protect the animals from excessive or otherwise harmful aspects of illumination.
- E.** In addition the standards established under subsection (C), a person shall ensure that all outdoor facilities meet the following minimum standards:
1. Sufficient shade to prevent the overheating or discomfort of any animal shall be provided.
 2. Sufficient shelter appropriate to protect animals from normal climatic conditions throughout the year. Each animal shall be acclimated to outdoor climatic conditions before they are housed in any outdoor facility or otherwise exposed to the extremes of climate.
- F.** A person who handles an animal shall ensure the animal is handled in an expeditious and careful manner to ensure no unnecessary discomfort, behavioral stress, or physical harm to the animal.
- a. An animal shall be transported in a secure, expeditious, careful, temperature appropriate, and humane manner. An animal shall not be transported in any manner that poses a substantial threat to the life, health, or behavioral well-being of the animal.
 - b. An animal placed on public exhibit or educational display shall be handled in a manner that minimizes the risk of harm to members of the public and to the animal, which includes but is not limited to providing and maintaining a sufficient distance between the animal and the viewing public.
 - c. Any restraint used on an animal shall not cause physical harm or unnecessary discomfort.
- G.** The Department may impose additional requirements on facilities that hold animals to meet the needs of the particular animal and ensure public health and safety. Any additional special license facility requirements shall be set forth in writing by the Department at the time the special license is issued.
- Historical Note**
- Adopted effective April 28, 1989 (Supp. 89-2). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).
- R12-4-429. Expired**
- Historical Note**
- New Section made by emergency rulemaking under A.R.S. § 41-1026 at 8 A.A.R. 3127, effective July 1, 2002 for a period of 180 days (Supp. 02-3). Emergency rulemaking renewed under A.R.S. § 41-1026(D) for an additional 180-day period at 9 A.A.R. 132, effective December 27, 2002 (Supp. 02-4). Section expired effective June 24, 2003 (Supp. 03-2).
- R12-4-430. Importation, Handling, and Possession of Cervids**
- A.** The Department shall not issue a new special license authorizing the possession of a live cervid, except as provided under R12-4-418 and R12-4-420.
- B.** A person shall not import a live cervid into Arizona, except a zoo license holder may import any live nonnative cervid for exhibit, educational display, or propagation provided the nonnative cervid is quarantined for 30 days upon arrival and is procured from a facility that meets all of the following requirements:
1. The exporting facility has a disease surveillance program and no history of chronic wasting disease or other wildlife disease that pose a serious health risk to wildlife or humans and there is accompanying documentation from the facility certifying there is no history of disease at the facility;
 2. The nonnative cervid is accompanied by a health certificate, issued no more than 30 days prior to importation by a licensed veterinarian in the jurisdiction of origin; and
 3. The nonnative cervid is accompanied by evidence of lawful possession, as defined under R12-4-401.
- C.** A person shall not transport a live cervid within Arizona, except to:
1. Export the live cervid from Arizona for a lawful purpose;
 2. Transport the live cervid to a facility for the purpose of slaughter, when the slaughter will take place within five days of the date of transport;
 3. Transport the live cervid to or from a licensed veterinarian for medical care;
 4. Transport the live cervid to a new holding facility owned by, or under the control of, the cervid owner, when all of the following apply:
 - a. The current holding facility has been sold or closed;
 - b. Ownership, possession, custody, or control of the cervid will not be transferred to another person; and
 - c. The owner of the cervid has prior written approval from the Department; or
 5. Transport the live nonnative cervid within Arizona for the purpose of procurement or propagation when all of the following apply:
 - a. The nonnative cervid is transported to or from a zoo licensed under R12-4-420;
 - b. The nonnative cervid is quarantined for 30 days upon arrival at its destination;
 - c. The nonnative cervid is procured from a facility that meets all of the requirements established under subsection (B)(1) through (B)(3).
- D.** A person who lawfully possesses a live cervid, except any cervid held under a private game farm or zoo license, shall comply with the requirements established under R12-4-425.
- E.** A person shall comply with the requirements established under R12-4-305 when transporting a cervid carcass, or its parts, from a licensed private game farm.
- F.** In addition to the recordkeeping requirements of R12-4-413 and R12-4-420, a person who possesses a live cervid under a private game farm or zoo license shall:
1. Permanently mark each live cervid with either an individually identifiable microchip or tattoo within 30 days of acquisition or birth of the cervid; and
 2. Include in the annual report submitted to the Department before January 31 of each year, the following for each native cervid in the license holder's possession:
 - a. Name of the license holder,
 - b. License holder's mailing address,
 - c. License holder's telephone number,
 - d. Number and species of live cervids held,
 - e. The microchip or tattoo number of each live native cervid held,

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- f. The disposition of all cervids that were moved or died during the current reporting period
 - h. Any other information required by the Department to ensure compliance with this Section.
- G. The holder of a private game farm, scientific collecting, or zoo license shall ensure that the retropharyngeal lymph nodes or obex from the head of a cervid over one year of age that dies while held under the special licenses is collected by either a licensed veterinarian or the Department and submitted within 72 hours of the time of death to an Animal and Plant Health Inspection Service certified veterinary diagnostic laboratory for chronic wasting disease analysis. A list of approved laboratories is available at any Department office and online at www.azgfd.gov or www.aphis.usda.gov. The license holder shall:
 - 1. Ensure the shipment of the deceased animal's tissues is made by a common, private, or contract carrier that utilizes a tracking number system to track the shipment.
 - 2. Include all of the following information with the shipment of the deceased animal's tissues, the license holder's:
 - a. Name,
 - b. Mailing address, and
 - c. Telephone number.
 - 3. Designate, on the sample submission form, test results shall be sent to the Department within 10 days of completing the analysis. The sample submission form is furnished by the diagnostic laboratory providing the test.
 - 4. Be responsible for all costs associated with the laboratory analysis.
- H. A person who possesses a cervid shall comply with all procedures for:
 - 1. Tuberculosis control and eradication for cervids as prescribed under the United States Department of Agriculture publication "Bovine Tuberculosis Eradication: Uniform Methods and Rules" USDA APHIS 91-45-011, revised January 1, 2005, which is incorporated by reference in this Section. available
 - 2. Prevention, control, and eradication of Brucellosis in cervids as prescribed under the United States Department of Agriculture publication "Brucellosis in Cervidae: Uniform Methods and Rules" U.S.D.A. A.P.H.I.S. 91-45-16, effective September 30, 2003.
 - 3. The incorporated material is available at any Department office, online at www.aphis.usda.gov, or may be ordered from the USDA APHIS Veterinary Services, Cattle Disease and Surveillance Staff, P. O. Box 96464, Washington D.C. 20090-6464.
 - 4. The material incorporated by reference in this Section does not include any later amendments or editions.
- I. The Department has the authority to seize, euthanize, and dispose of any cervid possessed in violation of this Section, at the owner's expense.

Historical Note

New Section made by final rulemaking at 9 A.A.R. 3186, effective August 30, 2003 (Supp. 03-3). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

ARTICLE 5. BOATING AND WATER SPORTS**R12-4-501. Boating and Water Sports Definitions**

In addition to the definitions provided under A.R.S. § 5-301, the following definitions apply to this Article unless otherwise specified:

"Abandoned watercraft" means any watercraft that has remained:

On private property without the consent of the private property owner;

Unattended for more than 48 hours on a highway, public street, or other public property;

Unattended for more than 72 hours on state or federal lands; or

Unattended for more than 14 days on state or federal waterways, unless in a designated mooring or anchorage area.

"Aids to navigation" means buoys, beacons, or other fixed objects placed on, in, or near the water to mark obstructions to navigation or to direct navigation through channels or on a safe course.

"Authorized third-party provider" means an entity that has been awarded a written agreement with the Department, pursuant to a competitive bid process, to perform limited or specific services on behalf of the Department.

"AZ number" means the Department-assigned identification number with the prefix "AZ."

"Bill of sale" means a written agreement transferring ownership of a watercraft that includes all of the following information:

Name of buyer;

Name of seller;

Manufacturer of the watercraft, when known;

Hull identification number, unless exempt under R12-4-505;

Purchase price and sales tax paid, when applicable; and

Signature of seller.

"Boats keep out" in reference to a regulatory marker means the operator or user of a watercraft, or a person being towed by a watercraft on water skis, an inflatable device, or similar equipment shall not enter.

"Certificate of number" means the Department-issued document that is proof that a motorized watercraft is registered in the name of the owner.

"Certificate of origin" means a document provided by the manufacturer of a new watercraft or its distributor, its franchised new watercraft dealer, or the original purchaser establishing the initial chain of ownership for a watercraft, such as but not limited to:

Manufacturer's certificate of origin (MCO);

Manufacturer's statement of origin (MSO);

Importer's certificate of origin (ICO);

Importer's statement of origin (ISO); or

Builder's certification (Form CG-1261).

"Controlled-use marker" means an anchored or fixed marker on the water, shore, or a bridge that controls the operation of watercraft, water skis, surfboards, or similar devices or equipment.

"Dealer" means any person who engages in whole or in part in the business of buying, selling, or exchanging new or used watercraft, or both, either outright or on conditional sale, consignment, or lease.

"Homemade watercraft" means a watercraft that is not fabricated or manufactured for resale and to which a man-

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ufacturer has not attached a hull identification number. If a watercraft is assembled from a kit or constructed from an unfinished manufactured hull and does not have a manufacturer assigned hull identification number it is a "homemade watercraft."

"Hull identification number" means a number assigned to a specific watercraft by the manufacturer or by a government jurisdiction as prescribed by the U.S. Coast Guard.

"Junk watercraft" means any hulk, derelict, wreck, or parts of any watercraft in an unseaworthy or dilapidated condition that cannot be profitably dismantled or salvaged for parts or profitably restored.

"Letter of gift" means a document transferring ownership of a watercraft that includes all of the following information:

Name of previous owner;

Name of new owner;

Manufacturer of the watercraft, when known;

Hull identification number, unless exempt under R12-4-505;

A statement that the watercraft is a gift; and

Signature of previous owner.

"Livery" means a business authorized to rent or lease watercraft with or without an operator for recreational, non-commercial use as prescribed under A.R.S. § 5-371.

"Manufacturer" means any person engaged in the business of manufacturing or importing new watercraft for the purpose of sale or trade.

"Motorized watercraft" means any watercraft propelled by machinery and powered by electricity, fossil fuel, or steam.

"No ski" in reference to a regulatory marker means a person shall not be towed on water skis, an inflatable device, or similar equipment.

"No wake" in reference to a regulatory marker has the same meaning as "wakeless speed" as defined under A.R.S. § 5-301.

"Operate" in reference to a watercraft means use, navigate, or employ.

"Owner" in reference to a watercraft means a person who claims lawful possession of a watercraft by virtue of legal title or equitable interest that entitles the person to possession.

"Personal flotation device" means a U.S. Coast Guard approved wearable or throwable device for use on any watercraft, as prescribed under A.R.S. §§ 5-331, 5-350(A), and R12-4-511.

"Regatta" means an organized water event of limited duration affecting the public use of waterways, for which a lawful jurisdiction has issued a permit.

"Registered owner" means the person or persons to whom a watercraft is currently registered by any jurisdiction.

"Registration decal" means the Department-issued decal that is proof of watercraft registration.

"Regulatory marker" means a waterway marker placed on, in, or near the water to convey general information or indicate the presence of:

A danger, or

A restricted or controlled-use area.

"Release of interest" means a statement surrendering or abandoning unconditionally any claim or right of ownership or use in a watercraft.

"Sound level" means the noise level measured in decibels on the A-weighted scale of a sound level instrument that conforms to recognized industry standards and is maintained according to the manufacturer's instructions.

"Staggered registration" means the system of renewing watercraft registrations in accordance with the schedule provided under R12-4-504.

"State of principal operation" means the state in whose waters the watercraft is used or will be operated most during the calendar year.

"Throwable personal flotation device" means a U.S. Coast Guard approved Type IV device for use on any watercraft such as, but not limited to, a buoyant cushion, ring buoy, or horseshoe buoy.

"Unreleased watercraft" means a watercraft for which there is no written release of interest from the registered owner.

"Watercraft" means a boat or other floating device of rigid or inflatable construction designed to carry people or cargo on the water and propelled by machinery, oars, paddles, or wind action on a sail. Exceptions are sea-planes, makeshift contrivances constructed of inner tubes or other floatable materials that are not propelled by machinery, personal flotation devices worn or held in hand, and other objects used as floating or swimming aids.

"Watercraft agent" means a person authorized by the Department to collect applicable fees for the registration and numbering of watercraft.

"Watercraft registration" means the validated certificate of number and validating decals issued by the Department.

"Wearable personal flotation device" means a U.S. Coast Guard approved Type I, Type II, Type III, or Type V device for use on any watercraft such as, but not limited to, an off-shore lifejacket, near-shore buoyant vest, special-use wearable device, or flotation aid.

Historical Note

Editorial correction subsection (A) (Supp. 78-5). Former

Section R12-4-83 renumbered as Section R12-4-501 without change effective August 13, 1981 (Supp. 81-4).

Former Section R12-4-501 renumbered to R12-4-515, new Section R12-4-501 adopted effective May 27, 1992 (Supp. 92-2). Amended effective November 7, 1996 (Supp. 96-4). Amended by final rulemaking at 8 A.A.R. 3025, effective July 10, 2002 (Supp. 02-3). Amended by final rulemaking at 13 A.A.R. 4511, effective February 2, 2008 (Supp. 07-4). Amended by final rulemaking at 19 A.A.R. 597, effective July 1, 2013 (Supp. 13-1).

Amended by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3). Amended by final rulemaking at 23 A.A.R. 1732, effective August 5, 2017 (Supp. 17-2).

R12-4-502. Application for Watercraft Registration

- A. Only motorized watercraft as defined under R12-4-501 are subject to watercraft registration.
- B. A person shall apply for watercraft registration under A.R.S. § 5-321 using a form furnished by the Department and available

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at any Department office or on the Department's website. The applicant shall provide the following information for registration of all motorized watercraft except homemade watercraft, which are addressed under subsection (C):

1. Arizona residency certification statement, signed by the watercraft owner;
 2. Type of watercraft;
 3. Propulsion type;
 4. Engine drive type;
 5. Overall length of watercraft;
 6. Make and model of watercraft, if known;
 7. Year built or model year, if known;
 8. Hull identification number;
 9. Hull material;
 10. Fuel type;
 11. Category of use;
 12. Watercraft or AZ number previously issued for the watercraft, if any;
 13. State of principal operation; and
 14. For watercraft:
 - a. Owned by a person:
 - i. Legal name;
 - ii. Mailing address;
 - iii. Date of birth; and
 - iv. Signature of each applicant.
 - b. Owned by a business:
 - i. Name of business;
 - ii. Business address;
 - iii. Tax Identification Number; and
 - iv. Signature and title of authorized representative on behalf of the business.
 - c. Held in a trust:
 - i. Name of trust;
 - ii. Primary trustee's address;
 - iii. Tax Identification Number, required when the trust is held by two or more persons;
 - iv. Date of trust; and
 - iv. Signature of each trustee, unless the trust instrument authorizes the signature of one trustee to bind the trust.
 15. When ownership of the watercraft is in more than one name, the applicant shall indicate ownership designation by use of one of the following methods:
 - a. Where ownership is joint tenancy with right of survivorship, the applicant shall use "and/or" between the names of the owners. To transfer registration of the watercraft, each owner shall provide a signature. Upon legal proof of the death or incompetency of either owner, the remaining owner may transfer registration of the watercraft.
 - b. Where ownership is a tenancy in common the applicant shall use "and" between the names of the owners. To transfer registration of the watercraft, each owner shall provide a signature. In the event of the death or incompetency of any owner, the disposition of the watercraft shall be handled through appropriate legal proceedings.
 - c. Where the ownership is joint tenancy or is community property with an express intent that either of the owners has full authority to transfer registration, the applicant shall use "or" between the names of the owners. Each owner shall sign the application for registration. To transfer registration, either owner's signature is sufficient for transfer.
- C. The builder, owner, or owners of a homemade watercraft shall present the watercraft for inspection at a Department office.

The applicant shall provide the following information for registration of homemade watercraft, using the same ownership designations specified in subsection (A)(15):

1. Type of watercraft;
 2. Propulsion type;
 3. Engine drive type;
 4. Overall length of watercraft;
 5. Year built;
 6. Hull material;
 7. Fuel type;
 8. Category of use;
 9. Each owner's:
 - a. Name,
 - b. Mailing address, and
 - c. Date of birth;
 10. State of principal operation;
 11. Whether the watercraft was assembled from a kit or rebuilt from a factory or manufacturer's hull;
 12. Hull identification number, if assigned; and
 13. Signature of the applicant, acknowledged before a Notary Public or witnessed by a Department employee.
- D. As prescribed under A.R.S. § 5-321, the applicant shall submit a use tax receipt issued by the Arizona Department of Revenue with the application for registration unless any one of the following conditions apply:
1. The applicant is exempt from use tax as provided under 15 A.A.C. Chapter 5,
 2. The applicant is transferring the watercraft from another jurisdiction to Arizona without changing ownership,
 3. The applicant submits a bill of sale or receipt showing the sales or use tax was paid at the time of purchase, or
 4. The applicant submits a notarized affidavit of exemption stating that the acquisition of the watercraft was for rental or resale purposes.
- E. An applicant for a watercraft dealer registration authorized under A.R.S. § 5-322(F), shall be a business offering watercraft for sale or a watercraft manufacturer registered by the U.S. Coast Guard. A person shall display dealer registration for watercraft demonstration purposes only. For the purposes of this Section, "demonstration" means to operate a watercraft on the water for the purpose of selling, trading, negotiating, or attempting to negotiate the sale or exchange of interest in new watercraft, and includes operation by a manufacturer for purposes of testing a watercraft. Demonstration does not include operation of a watercraft for personal purposes by a dealer or manufacturer or an employee, family member, or an associate of a dealer or manufacturer. The watercraft dealer registration is subject to invalidation pursuant to R12-4-506 if a watercraft with displayed dealer registration is used for purposes other than those authorized under A.R.S. § 5-322(F) or this Section. A watercraft dealer registration applicant shall submit an application to the Department. The application is furnished by the Department and is available at any Department office. The applicant shall provide the following information on the application:
1. All business names used for the sale or manufacture of watercraft in Arizona;
 2. Mailing address and telephone number for each business for which a watercraft dealer registration is requested;
 3. Tax privilege license number;
 4. U.S. Coast Guard manufacturer identification code, when applicable;
 5. Total number of certificates of number and decals requested; and
 6. The business owner's or manager's:
 - a. Name,

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- b. Business address,
 - c. Telephone number, and
 - d. Signature.
- F. In addition to submitting the application form and any other information required under this Section, the applicant for watercraft registration shall submit one or more of the following additional forms of documentation:
 1. Original title if the watercraft is titled in another state;
 2. Original registration if the watercraft is from a non-titling state;
 3. Bill of sale as defined under R12-4-501 if the watercraft has never been registered or titled in any state;
 4. Letter of gift as defined under R12-4-501 if the watercraft was received as a gift and was never registered or titled in any state;
 5. Court order or other legal documentation establishing lawful transfer of ownership;
 6. Letter of deletion, required when the watercraft was previously documented by the U.S. Coast Guard;
 7. Statement of facts form furnished by the Department and available from any Department office when none of the documentation identified under subsections (F)(1) through (F)(6) exists either in the possession of the watercraft owner or in the records of any jurisdiction responsible for registering or titling watercraft. An applicant for watercraft registration under a statement of facts shall present the watercraft for inspection at a Department office. The statement of facts form shall include the following information:
 - a. Hull identification number,
 - b. Certification that the watercraft meets one of the following conditions:
 - i. The watercraft was manufactured prior to 1972, is 12 feet in length or less, and is not propelled by an inboard engine;
 - ii. The watercraft is owned by the applicant and has never been registered or titled;
 - iii. The watercraft was owned in a state that required registration, but was never registered or titled; or
 - iv. The watercraft was purchased, received as a gift, or received as a trade and has not been registered, titled, or otherwise documented in the past five years.
 - c. Signature of the applicant, acknowledged before a Notary Public or witnessed by a Department employee.
 8. An original certificate of origin when all of the following conditions apply:
 - a. The watercraft was purchased as new,
 - b. The applicant is applying for watercraft registration within a year of purchasing the watercraft, and
 - c. The certificate of origin is not held by a lien holder.
- G. If the watercraft is being transferred to a person other than the original listed owner, the applicant for a watercraft registration shall submit a release of interest. The Department may require the applicant to provide a release of interest that is acknowledged before a Notary Public or witnessed by a Department employee when the Department is unable to verify the signature on the release of interest.
- H. If the original title is held by a lien holder, the applicant for a watercraft registration shall submit a form furnished by the Department and available from any Department office along with a copy of the title. The applicant shall comply with the following requirements when submitting the form:
 1. The applicant shall provide the following information on the form:
 - a. Applicant's name,
 - b. Applicant's mailing address,
 - c. Make and model of watercraft, and
 - d. Watercraft hull identification number.
 2. The applicant shall ensure the lien holder provides the following information on the form:
 - a. Lien holder's name,
 - b. Lien holder's mailing address,
 - c. Name of person completing the form on behalf of the lien holder,
 - d. Title of person completing the form on behalf of the lien holder, and
 - e. Signature of the person completing the form on behalf of the lien holder, acknowledged before a Notary Public or witnessed by a Department employee.
- I. If the watercraft's original title or registration is lost, the Department shall register a watercraft upon receipt of one of the following:
 1. A letter or printout from any jurisdiction responsible for registering or titling watercraft that verifies the owner of record for that specific watercraft;
 2. A printout of the Vessel Identification System for that specific watercraft from the U.S. Coast Guard and verification from the appropriate state agency that the information regarding the owner of record for that specific watercraft is correct and current;
 3. A statement of facts by the applicant as described under subsection (F)(7) if the watercraft has not been registered, titled, or otherwise documented in the past five years; or
 4. The abandoned or unreleased watercraft approval letter issued by the Department, as established under R12-4-507(I).
- J. The Department shall issue a watercraft registration within 30 calendar days of receiving a valid application and the documentation required under this Section from the applicant or a watercraft agent authorized under R12-4-509.
- K. All watercraft registrations and supporting documentation are subject to verification by the Department and to the requirements established under R12-4-505. The Department shall require a watercraft to be presented for inspection to verify the information provided by an applicant if the Department has reason to believe the information provided by the applicant is inaccurate or the applicant is unable to provide the required information.
- L. The Department shall deem an application invalid if the Department receives legal documentation of any legal action that may affect ownership of that watercraft.
- M. The Department shall invalidate a watercraft registration if the registration is obtained by an applicant who makes a false statement or provides false information on any application, statement of facts, or written instrument submitted to the Department.

Historical Note

Former Section R12-4-84 renumbered as Section R12-4-502 without change effective August 13, 1981 (Supp. 81-4). Amended effective January 2, 1985 (Supp. 85-1). Former Section R12-4-502 repealed, new Section R12-4-502 adopted effective May 27, 1992 (Supp. 92-2). Amended effective November 7, 1996 (Supp. 96-4). Amended by final rulemaking at 8 A.A.R. 3025, effective July 10, 2002 (Supp. 02-3). Amended by final rulemaking at 13 A.A.R. 4511, effective February 2, 2008 (Supp. 07-4). Amended by final rulemaking at 19 A.A.R. 597, effective

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July 1, 2013 (Supp. 13-1). Amended by final rulemaking at 23 A.A.R. 1732, effective August 5, 2017 (Supp. 17-2).

R12-4-503. Renewal of Watercraft Registration; Duplicate Watercraft Registration or Decal

- A.** The owner of a registered watercraft shall renew the watercraft's registration no later than the day before the prior registration period expires.
- To renew a watercraft's registration in person or by mail, an applicant shall pay the registration fee authorized under R12-4-504 and present any one of the following:
 - Current or prior certificate of number,
 - Valid driver's license,
 - Valid Arizona Motor Vehicle Division identification card,
 - Valid passport, or
 - Department-issued renewal notice.
 - The owner of a registered watercraft may renew a watercraft registration by accessing the Department's online system and paying the applicable watercraft registration fee authorized under R12-4-504.
- B.** The owner of a registered watercraft may obtain a duplicate watercraft registration or decal in person or by mail. To obtain a duplicate watercraft registration or decal in person or by mail, an applicant shall:
- Complete and submit an application for a duplicate certificate and/or decal form to the Department or its authorized agent, available from any Department office and on the Department's website; and
 - Pay the duplicate watercraft registration fee authorized under R12-4-504.
- C.** If made available by the Department, the owner of a registered watercraft may obtain a duplicate watercraft registration or decal by accessing the Department's online system and paying the duplicate watercraft registration fee authorized under R12-4-504.
- D.** When a request for a watercraft registration renewal or duplicate watercraft registration or decal is submitted by mail or online, the Department shall mail the registration or decal, as applicable, to the address of record, unless the Department receives a notarized request from the registered owner instructing the Department to mail the duplicate registration or decal to another address.
- Sixteen feet one inch through twenty feet: \$30
 - Twenty feet one inch through twenty-six feet: \$35
 - Twenty-six feet one inch through thirty-nine feet: \$39
 - Thirty-nine feet one inch through sixty-four feet: \$44
 - Sixty-four feet one inch and over: \$66
 - For the purposes of this subsection, the length of the motorized watercraft shall be measured in the same manner prescribed under A.R.S. § 5-321(C).
- Motorized watercraft transfer fee: \$13.
 - Duplicate motorized watercraft registration: \$8.
 - Duplicate decal: \$8.
 - Watercraft dealer certificate of number: \$20.
 - Abandoned or unreleased watercraft application fee: \$100.
 - Unclaimed towed watercraft application fee: \$100.
- B.** The Department or its agent shall collect the entire registration fee for a late registration renewal and a penalty fee of \$5, unless exempt under A.R.S. § 5-321(L) or the expiration date falls on a Saturday, Sunday, or state holiday, and the registration is renewed before the close of business on the next working day. The Department or its agent shall not assess a penalty fee when a renewal is mailed before the expiration date, as evidenced by the postmark.
- C.** All new watercraft registrations expire 12 months after the date of issue.
- D.** Resident and nonresident watercraft registration renewals:
- Shall be valid for a period of 7 to 18 months depending on the expiration month.
 - This provision applies to the initial renewal period only.
 - The Department shall prorate fees accordingly.
 - May be renewed up to six months prior to the expiration month.
 - Shall expire on the last day of the month indicated by the last two numeric digits of the AZ number, as shown in the following table:

Last two numeric digits of AZ number									Expiration month
00	12	24	36	48	60	72	84	96	December
01	13	25	37	49	61	73	85	97	January
02	14	26	38	50	62	74	86	98	February
03	15	27	39	51	63	75	87	99	March
04	16	28	40	52	64	76	88		April
05	17	29	41	53	65	77	89		May
06	18	30	42	54	66	78	90		June
07	19	31	43	55	67	79	91		July
08	20	32	44	56	68	80	92		August
09	21	33	45	57	69	81	93		September
10	22	34	46	58	70	82	94		October
11	23	35	47	59	71	83	95		November

- E.** Watercraft dealer, manufacturer, and governmental use registration renewals expire on October 31 of each year.
- F.** Livery and all other commercial use registration renewals expire on November 30 of each year.

Historical Note

Amended effective December 5, 1978 (Supp. 78-6).
Amended effective March 6, 1980 (Supp. 80-2). Former Section R12-4-86 renumbered as Section R12-4-504 without change effective August 13, 1981 (Supp. 81-4). Former Section R12-4-504 repealed, new Section R12-4-

Historical Note
Former Section R12-4-85 renumbered as Section R12-4-503 without change effective August 13, 1981 (Supp. 81-4). Former Section R12-4-503 renumbered to R12-4-519, new Section R12-4-503 adopted effective May 27, 1992 (Supp. 92-2). Amended effective November 7, 1996 (Supp. 96-4). Amended by final rulemaking at 8 A.A.R. 3025, effective July 10, 2002 (Supp. 02-3). Amended by final rulemaking at 13 A.A.R. 4511, effective February 2, 2008 (Supp. 07-4). Amended by final rulemaking at 19 A.A.R. 597, effective July 1, 2013 (Supp. 13-1). Amended by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3). Amended by final rulemaking at 23 A.A.R. 1732, effective August 5, 2017 (Supp. 17-2).

R12-4-504. Watercraft Fees; Penalty for Late Registration; Staggered Registration Schedule

- A.** The following fees are required, when applicable as authorized under A.R.S. §§ 5-321 and 5-322:
- Motorized watercraft registration fees are assessed as follows:
 - Twelve feet and less: \$20
 - Twelve feet one inch through sixteen feet: \$22

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504 adopted effective May 27, 1992 (Supp. 92-2). Amended by final rulemaking at 9 A.A.R. 1613, effective July 5, 2003 (Sup. 03-2). Amended by final rulemaking at 19 A.A.R. 597, effective July 1, 2013 (Supp. 13-1). Amended by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3). Amended by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3). Amended by exempt rulemaking pursuant to A.R.S. § 41-1005(A)(2)(b) at 21 A.A.R. 1046, effective June 16, 2015 (Supp. 15-2). Amended by final exempt rulemaking at 23 A.A.R. 1034; amended by final rulemaking at 23 A.A.R. 1732, both effective August 5, 2017 (Supp. 17-2).

R12-4-505. Hull Identification Numbers

- A. The Department shall not register a watercraft without a hull identification number.
- B. The Department shall verify watercraft manufactured after November 1, 1972 have a primary hull identification number that complies with the requirements established under 33 C.F.R. 181, subpart C. The Department shall assign a hull identification number when the watercraft hull identification number does not meet the requirements established under 33 C.F.R. 181, subpart C.
- C. The hull identification number shall be fully visible and unobstructed at all times. Watercraft manufactured prior to August 1, 1984, are exempt from this requirement provided the obstruction is original equipment and was attached by the manufacturer.
- D. The Department shall assign a hull identification number to a watercraft with a missing hull identification number only if the Department determines:
 1. The hull identification number was not intentionally or illegally removed or altered, unless the application is accompanied by an order of forfeiture, order of seizure, or other civil process;
 2. The missing hull identification number was caused by error of the manufacturer or a government jurisdiction; or
 3. The watercraft is a homemade watercraft as defined under R12-4-501.
- E. The Department may assign a hull identification number within 30 days of receipt of a valid application, as described under R12-4-502.
- F. The Department may accept a bill of sale presented with a missing or nonconforming hull identification number for registration purposes only when:
 1. The hull identification number matches the nonconforming hull identification number on the watercraft;
 2. Supporting evidence exists that the seller is the owner of the watercraft;
 3. The watercraft is homemade and does not have a hull identification number; or
 4. The watercraft was manufactured prior to November 1, 1972.
- G. Within 30 days of issuance, the applicant or registered owner shall:
 1. Burn, carve, stamp, emboss, mold, bond, or otherwise permanently affix each hull identification number to a non-removable part of the watercraft in a manner that ensures any alteration, removal, or replacement will be obvious.
 2. Ensure the characters of each hull identification number affixed to the watercraft are no less than 1/4 inch in height.
 3. Permanently affix the hull identification number as follows:

- a. On watercraft with transoms, affix the hull identification number to the right or starboard side of the transom within two inches of the top of the transom or hull/deck joint, whichever is lower.
 - b. On watercraft without a transom, affix the hull identification number to the starboard outboard side of the hull, back or aft within one foot of the stern and within two inches of the top of the hull, gunwale, or hull/deck joint, whichever is lower.
 - c. On a catamaran or pontoon boat, affix the hull identification number on the aft crossbeam within one foot of the starboard hull attachment.
 - d. As close as possible to the applicable location established under subsections (a), (b), or (c) when rails, fittings, or other accessories obscure the visibility of the hull identification number.
 - e. Affix a duplicate of the visibly affixed hull identification number in an unexposed location on a permanent part of the hull.
4. Certify to the Department that the hull identification number was permanently affixed to the watercraft. The certification statement is furnished by the Department when a hull identification number is issued. The certification statement shall include the location of the permanently affixed hull identification number.

Historical Note

Amended effective January 1, 1980 (Supp. 79-6). Former Section R12-4-87 renumbered as Section R12-4-505 without change effective August 13, 1981 (Supp. 81-4). Former Section R12-4-505 repealed, new Section R12-4-505 adopted effective May 27, 1992 (Supp. 92-2). Amended effective November 7, 1996 (Supp. 96-4). Amended by final rulemaking at 8 A.A.R. 3025, effective July 10, 2002 (Supp. 02-3). Amended by final rulemaking at 13 A.A.R. 4511, effective February 2, 2008 (Supp. 07-4). Amended by final rulemaking at 19 A.A.R. 597, effective July 1, 2013 (Supp. 13-1). Amended by final rulemaking at 23 A.A.R. 1732, effective August 5, 2017 (Supp. 17-2).

R12-4-506. Invalidation of Watercraft Registration and Decals

- A. Any watercraft registration obtained by fraud or misrepresentation is invalid from the date of issuance.
- B. A certificate of number and any decals issued by the Department under R12-4-502 are invalid if any one of the following occurs:
 1. Any check, money order, or other currency certificate presented to the Department for payment of watercraft registration or renewal is found to be non-negotiable;
 2. Any person whose name appears on the certificate of number loses ownership of the watercraft by legal process;
 3. Arizona is no longer the state of principal operation;
 4. The watercraft is documented by the U.S. Coast Guard;
 5. An applicant provides incomplete or incorrect information to the Department and fails to provide the correct information within 30 days after a request by the Department;
 6. The Department revokes the certificate of number, AZ numbers, and decals as provided under A.R.S. § 5-391(I);
 7. The Department or its agent erroneously issued a certificate of number or any decals;
 8. A watercraft bearing a dealer registration is used for any purpose not authorized under R12-4-502(E); or

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9. A watercraft registered or used as a livery is operated in violation of A.R.S. § 5-371 or R12-4-514.
 - C. A person shall surrender the invalid certificate of number and decals to the Department within 15 calendar days of receiving written determination from the Department that the certificate of number or decals are invalid, unless the person appeals the Department's determination to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10.
 - D. The Department shall not validate or renew an invalid watercraft registration or decals until the reason for invalidity is corrected or no longer exists.
- a. Address or description of the location where the watercraft was found,
 - b. Whether the watercraft was abandoned on private or public property, and
 - c. When applicable, for watercraft abandoned on private property, whether the applicant is the legal owner of the property;
 8. Condition of the watercraft: wrecked, stripped, or intact;
 9. State in which the watercraft will be operated;
 10. Length of time the watercraft was abandoned;
 11. Reason why the applicant believes the watercraft is abandoned; and
 12. Signature of the applicant, acknowledged before a Notary Public or witnessed by a Department employee.

Historical Note

Adopted effective December 4, 1984 (Supp. 84-6).

Amended subsection (B) effective December 30, 1988 (Supp. 88-4). Correction, former Historical Note should read "Amended subsection (B) effective January 1, 1989, filed December 30, 1988" (Supp. 89-2). Former Section R12-4-506 repealed, new Section R12-4-506 adopted effective May 27, 1992 (Supp. 92-2). Amended by final rulemaking at 8 A.A.R. 3025, effective July 10, 2002 (Supp. 02-3). Amended by final rulemaking at 13 A.A.R. 4511, effective February 2, 2008 (Supp. 07-4). Amended by final rulemaking at 19 A.A.R. 597, effective July 1, 2013 (Supp. 13-1). Amended by final rulemaking at 23 A.A.R. 1732, effective August 5, 2017 (Supp. 17-2).

R12-4-507. Transfer of Ownership of an Abandoned or Unreleased Watercraft

- A. A person who has knowledge and custody of a watercraft abandoned on private property owned by that person may attempt to obtain ownership of the watercraft by way of the abandoned watercraft transfer process. A lienholder of foreclosed real property may assign an agent to act on its behalf.
 - B. The last registered owner of an abandoned or unreleased watercraft is presumed to be responsible for the watercraft, unless the watercraft is reported stolen.
 - C. The operator of a self-storage facility located in this state and having a possessory lien shall comply with the requirements prescribed under A.R.S. Title 33, Chapter 15, Article 1 when attempting to obtain ownership of a watercraft abandoned while in storage.
 - D. A person having a possessory lien under a written agreement shall comply with the requirements prescribed under A.R.S. Title 33, Chapter 7, Article 6 when attempting to obtain ownership of a watercraft for which repairs or service fees remain unpaid.
 - E. Only a person acting within the scope of official duties as an employee or authorized agent of a government agency may order the removal of a watercraft abandoned on public property or a public waterway.
 - F. A person seeking ownership of an abandoned or unreleased watercraft shall submit an application to the Department and pay the fee established under R12-4-504. The application is furnished by the Department and available at any Department office. The application shall include the following information, if available:
 1. Hull identification number, unless exempt under R12-4-505;
 2. Registration number;
 3. Decal number;
 4. State of registration;
 5. Year of registration;
 6. Name, address, and daytime telephone number of the person who found the watercraft;
 7. For abandoned watercraft:
 - a. Address or description of the location where the watercraft was found,
 - b. Whether the watercraft was abandoned on private or public property, and
 - c. When applicable, for watercraft abandoned on private property, whether the applicant is the legal owner of the property;
- G. This state and its agencies, employees, and agents are not liable for relying in good faith on the contents of the application.
 - H. The Department shall attempt to determine the name and address of the registered owner by:
 1. Conducting a search of its watercraft database when documentation indicates the watercraft was previously registered in this state, or
 2. Requesting the watercraft record from the other state when documentation indicates the watercraft was previously registered in another state.
 - I. If the Department is able to determine the name and address of the registered owner, the Department shall send written notice of the applicant's attempt to register the watercraft to the owner by certified mail, return receipt requested.
 1. If service is successful or upon receipt of a response from the registered owner, the Department shall send the following written notification to the applicant, as appropriate:
 - a. If the registered owner provides a written release of interest in the watercraft, the Department shall mail the release of interest and an abandoned or unreleased watercraft approval letter to the applicant. The applicant shall apply for watercraft registration in compliance with the requirements established under R12-4-502.
 - b. If the registered owner provides written notice to the Department refusing to release interest in the watercraft, the Department shall notify the applicant of the owner's refusal. The Department shall not register the watercraft to the applicant unless the applicant provides proof of ownership and complies with the requirements established under R12-4-502.
 - c. If the registered owner does not respond to the notice in writing within 30 days from the date of receipt, the Department shall notify the applicant of the owner's failure to respond. The Department shall not register the watercraft to the applicant unless the applicant provides proof of ownership and complies with the requirements established under R12-4-502.
 - d. If the registered owner does not respond to the notice within 180 days from the date of receipt of the notice, this failure to act shall constitute a waiver of interest in the watercraft by any person having an interest in the watercraft, and the watercraft shall be deemed abandoned for all purposes. The Department shall mail an abandoned or unreleased watercraft approval letter to the applicant. The applicant shall apply for watercraft registration in compliance with the requirements established under R12-4-502.
 2. If the written notice is returned unclaimed or refused, the Department shall notify the applicant within 15 days of

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the notice being returned that the attempt to contact the registered owner was unsuccessful.

- J.** If the Department is unable to identify or serve the registered owner, the Department shall post a notice of intent on the Department's website within 45 days of the Department's notification to the applicant as provided in subsection (I)(2).

1. The notice shall include a statement of the Department's intent to transfer ownership of the watercraft ten days after the date of posting, unless the Department receives notice from the registered owner refusing to release interest in the watercraft within that ten-day period following posting.
2. If the watercraft remains unclaimed after the ten-day period, the Department shall mail an abandoned or unreleased watercraft approval letter to the applicant. The applicant shall apply for watercraft registration in compliance with the requirements established under R12-4-502.

- K.** A government agency may submit an application for authorization to dispose of a junk watercraft abandoned on state or federal lands or waterways. The application is furnished by the Department and is available at any Department Office. Upon receipt of the application, the Department shall attempt to determine the name and address of the registered owner. If the Department is unable to identify and serve the registered owner, the Department shall publish a notice of intent to authorize the disposal of the junk watercraft as described under subsection (J).

1. The published notice shall include a statement of the Department's intent to authorize the disposal of the watercraft ten days after the date of publication, unless the Department receives notice from the registered owner refusing to release interest in the watercraft within that ten-day period following publication.
2. If the watercraft remains unclaimed after the ten-day period, the Department shall mail an authorization to dispose of the junk watercraft to the government agency. The government agency may dispose of the abandoned watercraft and all indicia for that watercraft in any manner the agency determines expedient or convenient.

Historical Note

Adopted effective May 27, 1992 (Supp. 92-2). Amended by final rulemaking at 8 A.A.R. 3025, effective July 10, 2002 (Supp. 02-3). Amended by final rulemaking at 9 A.A.R. 1613, effective July 5, 2003 (Supp. 03-2). Amended by final rulemaking at 13 A.A.R. 4511, effective February 2, 2008 (Supp. 07-4). Amended by final rulemaking at 19 A.A.R. 597, effective July 1, 2013 (Supp. 13-1). Amended by final exempt rulemaking at 23 A.A.R. 1034; amended by final rulemaking at 23 A.A.R. 1732, both effective August 5, 2017 (Supp. 17-2).

R12-4-508. New Watercraft Exchanges

- A.** A person may request a no-fee replacement registration for a new watercraft, provided all of the following conditions apply:
1. The person purchased the newly registered watercraft from a new watercraft dealer,
 2. The person returned the watercraft to the new watercraft dealer within 30 days of purchase, and
 3. The new watercraft dealer exchanged the returned watercraft for a watercraft of the same year, make, and model within the same 30 day period.
- B.** To obtain a no-fee replacement registration, the person shall submit the original watercraft registration and a letter from the new watercraft dealer to the Department. The letter shall include all of the following information:
1. A statement that the original watercraft was replaced,

2. The hull identification number for the original watercraft,
3. The hull identification number for the replacement watercraft,
4. The buyer's name, and
5. The new watercraft dealer's name.

Historical Note

Adopted effective May 27, 1992 (Supp. 92-2). Amended by final rulemaking at 19 A.A.R. 597, effective July 1, 2013 (Supp. 13-1).

R12-4-509. Watercraft Dealers; Agents

- A.** The Department may authorize a watercraft dealer to act as an agent on behalf of the Department for the purpose of issuing temporary certificates of number valid for 45 days for new or used watercraft, provided:
1. The applicant's previous authority to act as a watercraft agent under A.R.S. § 5-321(I) has not been canceled by the Department within the preceding 24 months, and
 2. The applicant is a business located and operating within this state and sells watercraft.
- B.** An applicant seeking watercraft agent authorization shall submit an application to the Department. The application is furnished by the Department and available at the Arizona Game and Fish Department, 5000 W. Carefree Highway, Phoenix, AZ 85086. The applicant shall provide the following information on the application:
1. Principal business or corporation name, address, and telephone number or if not a corporation, the full name, address, and telephone number of all owners or partners;
 2. Name, address, and telephone number of the owner or manager responsible for compliance with this Section;
 3. Whether the applicant has previously issued temporary certificates of number under A.R.S. § 5-321(I);
 4. All of the following information specific to the location from which new watercraft are to be sold and temporary certificates of number issued:
 - a. Name of owner or manager;
 - b. Business hours;
 - c. Business telephone number;
 - d. Business type;
 - e. Storefront name; and
 - f. Street address;
 5. Manufacturers of the watercraft to be sold; and
 6. Signature of person named under subsection (B)(2).
- C.** The Department shall either approve or deny the application within the licensing time-frame established under R12-4-106.
- D.** Authorization to act as a watercraft agent is specific to the dealer's business location designated on the application and approved by the Department, unless the dealer is participating in a boat show for the purpose of selling watercraft.
- E.** The watercraft agent shall:
1. Use the assigned watercraft agent number when issuing a temporary certificate of number,
 2. Use the online application system and forms supplied by the Department; and
 3. Collect the appropriate fee as prescribed under R12-4-504 and R12-4-527.
- F.** A watercraft agent is prohibited from issuing a temporary certificate of number for a watercraft when:
1. The watercraft is involved in legal proceedings such as, but not limited to, a marital dissolution, probate, or bankruptcy proceeding;
 2. The watercraft is abandoned or unreleased;
 3. The watercraft is homemade; or
 4. The watercraft has a nonconforming HIN.
- G.** A watercraft agent issuing a temporary certificate of number to

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the purchaser of a watercraft shall comply with all the following:

1. The watercraft agent shall obtain a completed application that complies with the requirements established under R12-4-502.
 2. The watercraft agent shall identify to the applicant the state registration fee and the nonresident boating safety infrastructure fee, when applicable, separately from any other costs.
 3. The fees collected under subsection (E)(3) shall be submitted electronically to the Department prior to the submission of the documentation required under subsection (G)(4).
 4. Within five business days of issuing a temporary certificate of number, a watercraft agent shall deliver or mail the following documentation to the Arizona Game and Fish Department, Watercraft Agent Representative, 5000 W. Carefree Highway, Phoenix, AZ 85086:
 - a. For a new watercraft:
 - i. Original application;
 - ii. Original or copy of the bill of sale issued by the watercraft agent; and
 - iii. Original certificate of origin;
 - b. For a used watercraft:
 - i. Original application;
 - ii. Original or copy of the bill of sale issued by the watercraft agent;
 - iii. Ownership document, such as but not limited to a title, bill of sale, letter of gift or U.S. Coast Guard letter of deletion when the watercraft was previously documented by the U.S. Coast Guard; and
 - iv. Lien release, when applicable.
- H.** The Department may cancel the watercraft agent's authorization if the agent does any one of the following:
1. Fails to comply with the requirements established under this Article;
 2. Submits more than one electronic payment dishonored because of insufficient funds, payments stopped, or closed accounts to the Department within a calendar year;
 3. Predates, postdates, alters, or provides or knowingly allows false information to be provided on an application for a temporary certificate of number; or
 4. Falsifies the application for authorization as a watercraft agent.
- I.** The Department shall provide a written notice to the person stating the reason for the denial or cancellation of watercraft agent status, as applicable. The person may appeal the denial or cancellation to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

Adopted effective May 27, 1992 (Supp. 92-2). Amended by final rulemaking at 9 A.A.R. 1613, effective July 5, 2003 (Supp. 03-2). Amended by final rulemaking at 13 A.A.R. 4511, effective February 2, 2008 (Supp. 07-4). Amended by final rulemaking at 19 A.A.R. 597, effective July 1, 2013 (Supp. 13-1). Amended by final rulemaking at 23 A.A.R. 1732, effective August 5, 2017 (Supp. 17-2).

R12-4-510. Refund of Fees Paid in Error

- A.** The Department shall issue a refund for watercraft registration fees paid and, when applicable, the Nonresident Boating Safety Infrastructure fee when:
1. The registered owner has erroneously paid those fees twice for the same watercraft;

2. The registered owner has erroneously paid those fees for a watercraft that has already been sold to another individual; or
 3. The registered owner registered the watercraft in error.
- B.** To request a refund of fees paid in error, the person applying for the refund shall surrender all of the following to the Department:
1. Original certificate of number;
 2. Registration decals; and
 3. Nonresident Boating Safety Infrastructure Decal, when applicable.
- C.** A person requesting a refund of fees shall submit the request to the Department within 30 calendar days of the date the payment was received by the Department.
- D.** The Department shall not refund:
1. A late registration penalty fee.
 2. A fee collected by an authorized third-party provider. A person who paid their watercraft registration fee to a third-party provider shall request a refund of fees from that third-party provider.

Historical Note

Adopted effective May 27, 1992 (Supp. 92-2). Amended effective November 7, 1996 (Supp. 96-4). Amended by final rulemaking at 19 A.A.R. 597, effective July 1, 2013 (Supp. 13-1). Amended by final rulemaking at 23 A.A.R. 1732, effective August 5, 2017 (Supp. 17-2).

R12-4-511. Personal Flotation Devices

- A.** For the purpose of this Section, "wear" means:
1. The personal flotation device is worn according to the manufacturer's design or recommended use;
 2. All of the device's closures are fastened, snapped, tied, zipped, or secured according to the manufacturer's design or recommended use; and
 3. The device is adjusted for a snug fit.
- B.** The operator of a canoe, kayak, or other watercraft shall ensure the watercraft is equipped with at least one correctly-sized, U.S. Coast Guard-approved, wearable personal flotation device that is in good and serviceable condition for each person on board the watercraft. The operator of any watercraft shall also ensure the wearable personal flotation devices on board the watercraft are readily accessible and available for immediate use.
- C.** In addition to the personal flotation devices described under subsection (B), the operator of a watercraft that is 16 feet or more in length shall ensure the watercraft is also equipped with a U.S. Coast Guard-approved throwable personal flotation device: buoyant cushion, ring buoy, or horseshoe buoy. Canoes and kayaks are not subject to this subsection.
- D.** The operator of a watercraft shall ensure a person twelve years of age or under on board a watercraft shall wear a U.S. Coast Guard approved wearable personal flotation device whenever the watercraft is underway.
- E.** The operator of a personal watercraft shall ensure each person aboard the personal watercraft is wearing a wearable personal flotation device approved by the U.S. Coast Guard whenever the personal watercraft is underway.
- F.** Subsections (B), (C), and (D) do not apply to the operation of a racing shell or rowing skull during competitive racing or supervised training, if the racing shell or rowing skull is manually propelled, recognized by a national or international association for use in competitive racing, and designed to carry and does carry only equipment used solely for competitive racing.

Historical Note

Amended effective May 26, 1978 (Supp. 78-3). Former Section R12-4-80 renumbered as Section R12-4-511

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without change effective August 13, 1981 (Supp. 81-4). Amended effective May 27, 1992 (Supp. 92-2). Amended effective January 1, 1996; filed in the Office of the Secretary of State December 18, 1995 (Supp. 95-4). Amended by final rulemaking at 8 A.A.R. 3025, effective July 10, 2002 (Supp. 02-3). Amended by final rulemaking at 13 A.A.R. 4511, effective February 2, 2008 (Supp. 07-4). Amended by final rulemaking at 19 A.A.R. 597, effective July 1, 2013 (Supp. 13-1). Amended by final rulemaking at 23 A.A.R. 1732, effective August 5, 2017 (Supp. 17-2).

R12-4-512. Fire Extinguishers Required for Watercraft

- A. The operator of watercraft shall ensure all required fire extinguishers are readily accessible and available for immediate use.
- B. As prescribed under A.R.S. § 5-332, an operator of a:
 1. Watercraft less than 26 feet in length shall carry one U.S. Coast Guard-approved B-I type fire extinguisher on board if the watercraft has one or more of the following:
 - a. An inboard engine,
 - b. Closed compartments where portable fuel tanks may be stored,
 - c. Double bottoms not sealed to the hull or which are not completely filled with flotation materials,
 - d. Closed living spaces,
 - e. Closed stowage compartments in which combustible or flammable materials are stored,
 - f. Permanently installed fuel tanks (fuel tanks that cannot be moved in case of a fire or other emergency are considered permanently installed), and
 - g. A fixed fire extinguishing system installed in the engine compartment.
 2. Watercraft 26 feet to less than 40 feet shall carry on board the following equipment as designated and approved by the U.S. Coast Guard:
 - a. At least two B-I type hand-portable fire extinguishers or at least one B-II type hand-portable fire extinguisher, or
 - b. At least one B-I type approved hand-portable fire extinguisher if a fixed fire extinguishing system is installed in the engine compartment.
 3. Watercraft 40 feet to not more than 65 feet shall carry on board the following equipment as designated and approved by the U.S. Coast Guard:
 - a. At least three B-I type hand-portable fire extinguishers or at least one B-I and one B-II type hand-portable fire extinguishers, or
 - b. At least two B-I type hand-portable fire extinguishers or at least one B-II type hand-portable fire extinguisher when a fixed fire extinguishing system is installed in the engine compartment.

Historical Note

Former Section R12-4-81 renumbered as Section R12-4-512 without change effective August 13, 1981 (Supp. 81-4). Amended effective June 14, 1990 (Supp. 90-2). Amended by final rulemaking at 8 A.A.R. 3025, effective July 10, 2002 (Supp. 02-3). Amended by final rulemaking at 19 A.A.R. 597, effective July 1, 2013 (Supp. 13-1).

R12-4-513. Watercraft Incident and Casualty Reports

- A. The operator or owner of a watercraft involved in any collision, incident or other casualty resulting in injury, death, or property damage exceeding \$500 shall submit the report required under A.R.S. § 5-349 to the Department. The report shall be made on a form furnished by the Department or provided by the law enforcement officer investigating the collision, incident, or other casualty. The operator or owner of the

watercraft shall complete the form in full and clearly identify on the form any information that is either not applicable or unknown. The operator or owner of the watercraft submitting the report shall provide all of the information required under 33 C.F.R. 173.57.

- B. The person completing the form shall deliver, mail, or email the form to the Arizona Game and Fish Department, Law Enforcement Branch at 5000 W. Carefree Hwy, Phoenix, AZ 85086 or BoatAccidentReporting@azgfd.gov, as applicable.
- C. The operator or owner of a watercraft involved in any collision, incident or other casualty resulting in injury or death shall submit the report to the Department no later than 48 hours after the incident.
- D. The operator or owner of a watercraft involved in any collision, incident or other casualty resulting only in property damage exceeding \$500 shall submit the report to the Department no later than five days after the incident.

Historical Note

Adopted effective May 27, 1992 (Supp. 92-2). Amended by final rulemaking at 8 A.A.R. 3025, effective July 10, 2002 (Supp. 02-3). Amended by final rulemaking at 19 A.A.R. 597, effective July 1, 2013 (Supp. 13-1). Amended by final rulemaking at 23 A.A.R. 1732, effective August 5, 2017 (Supp. 17-2).

R12-4-514. Liveries

- A. A person who rents, leases, or offers any watercraft for compensation, with or without an operator, for recreational, non-commercial use shall register the watercraft as a livery as established under R12-4-502.
- B. A watercraft owned by a boat livery that requires registration and does not have the certificate of number on board shall be identified while in use by means of a:
 1. Placard or some other form of display that is affixed to the watercraft and is visible when the watercraft is underway. The placard or other form of display shall indicate the business name and current phone number of the livery.
 2. Receipt provided by the livery to the person operating the rented watercraft. The receipt shall contain the following information:
 - a. Business name and address of the livery as shown on the certificate of number,
 - b. Watercraft registration number as issued by the Department,
 - c. Beginning date and time of the rental period, and
 - d. Written acknowledgment on the receipt of compliance with the requirements prescribed under A.R.S. § 5-371, signed by both the livery operator or their agent and the renter.
- C. A person operating a rented or leased watercraft or operating a passenger for hire watercraft shall carry the registration or receipt onboard and produce it upon request to any peace officer.
- D. Failure to comply with the requirements prescribed under A.R.S. § 5-371 and this Section may result in the invalidation of the watercraft registration and decals as provided under A.R.S. § 5-391(A) and R12-4-506.

Historical Note

Adopted effective May 27, 1992 (Supp. 92-2). Amended by final rulemaking at 13 A.A.R. 4511, effective February 2, 2008 (Supp. 07-4). Amended by final rulemaking at 19 A.A.R. 597, effective July 1, 2013 (Supp. 13-1). Amended by final rulemaking at 23 A.A.R. 1732, effective August 5, 2017 (Supp. 17-2).

R12-4-515. Display of AZ Numbers and Registration Decals

- A. A person shall not use, operate, moor, anchor, or grant permission to use, operate, moor, or anchor a watercraft on the boundaries of this state unless such watercraft displays a valid number and current registration decal in the manner established under subsection (B). This Section does not apply to undocumented watercraft displaying a valid temporary numbering certificate authorized under R12-4-509 or exempt under A.R.S. § 5-322.
- B. The owner of a watercraft shall display the AZ number and registration decals as follows:
 - 1. The AZ numbers shall:
 - a. Be clearly visible and painted on or attached to each exterior side of the forward half of a non-removable portion of the watercraft;
 - b. Be in a color that contrasts with the watercraft's background color so as to be easily read from a distance;
 - c. Include the letters "AZ" and the suffix, separated by a hyphen or equivalent space between the letters "AZ" and the suffix; and
 - d. Read from left to right in well-proportioned block letters that are not less than three inches in height, excluding outline.
 - 2. The registration decals shall be affixed three inches in front of "AZ" on both sides of the forward half of a non-removable portion of the watercraft.
- C. On watercraft so constructed that it is impractical or impossible to display the AZ numbers in a prominent position on the forward half of the hull or permanent superstructure, the AZ numbers may be displayed on brackets or fixtures securely attached to the forward half of the watercraft.
- D. Persons possessing a dealer watercraft certificate of number issued under A.R.S. § 5-322(F) shall visibly display the AZ numbers and validating registration decals as established under this Section, except that the numbers and decals may be printed or attached to temporary, removable signs that are securely attached to the watercraft being demonstrated.
- E. Expired registration decals issued by any jurisdiction shall be covered or removed from the watercraft, so that only the current registration decals are visible.
- F. Invalid watercraft AZ numbers and registration decals shall not be displayed on any watercraft. The owner of the watercraft shall surrender the AZ numbers and registration decals to the Department in compliance with R12-4-506(C).

Historical Note

Section R12-4-515 renumbered from R12-4-501 and amended effective May 27, 1992 (Supp. 92-2). Amended by final rulemaking at 19 A.A.R. 597, effective July 1, 2013 (Supp. 13-1). Amended by final rulemaking at 23 A.A.R. 1732, effective August 5, 2017 (Supp. 17-2).

R12-4-516. Watercraft Sound Level Restriction

- A. A person shall not operate a watercraft upon the waters of this state if the watercraft emits a noise level that exceeds any of the following.
 - 1. A noise level of 86 dB(A), measured at a distance of 50 feet or more from the watercraft on the "A" weighted scale of a sound level instrument that conforms to recognized industry standards and is maintained according to the manufacturer's instructions.
 - 2. For engines manufactured:
 - a. Before January 1, 1993, a noise level of 90 dB(A) when subjected to the Society of Automotive Engineers Recommended Practice stationary sound level

test SAEJ2005, revised July 2004 and containing no later editions or amendments; and

- b. On or after January 1, 1993, a noise level of 88 dB(A) when subjected to the Society of Automotive Engineers Recommended Practice stationary sound level test SAEJ2005, revised July 2004 and containing no later editions or amendments; or
 - 3. A noise level of 75 dB(A) measured as specified in the Society of Automotive Engineers Recommended Practice shoreline sound test SAEJ1970, revised September 2003 and containing no later editions or amendments.
- B. The materials incorporated by reference in subsection (A) may be viewed at any Department office and are available for purchase from SAE International, 400 Commonwealth Dr., Warrendale, PA 15096-0001 or online at www.sae.org.
 - C. A measurement of noise level that is in compliance with this Section does not preclude the conducting of a test or multiple tests of noise levels.
 - D. A peace officer authorized to enforce the provisions of this Section who has reason to believe a watercraft is being operated in violation of the noise levels established in this Section may direct the operator of the watercraft to submit the watercraft to an onsite test to measure noise level.
 - E. An operator of a watercraft who receives a request from a peace officer to test the noise level of the watercraft under subsection (D) shall allow the watercraft to be tested. If, based on a measurement or test to determine the noise level of a watercraft administered under this Section, the noise level of the watercraft exceeds one or more of the decibel level standards in subsection (A), the operator of the watercraft shall take immediate measures to correct the violation as prescribed under A.R.S. § 5-391(C).
 - F. This Section shall not apply to watercraft operated under permits issued in accordance with A.R.S. § 5-336(C).

Historical Note

Former Section R12-4-82 renumbered as Section R12-4-516 without change effective August 13, 1981 (Supp. 81-4). Amended by final rulemaking at 13 A.A.R. 4511, effective February 2, 2008 (Supp. 07-4). Amended by final rulemaking at 19 A.A.R. 597, effective July 1, 2013 (Supp. 13-1).

R12-4-517. Watercraft Motor and Engine Restrictions

- A. A person operating a motorized watercraft on the following waters shall only use an electric motor not exceeding 10 manufacturer-rated horsepower:
 - 1. Ackre Lake
 - 2. Bear Canyon Lake
 - 3. Bunch Reservoir
 - 4. Carnero Lake
 - 5. Chaparral Park Lake
 - 6. Cluff Ponds
 - 7. Coconino Reservoir
 - 8. Coors Lake
 - 9. Dankworth Pond
 - 10. Dogtown Reservoir
 - 11. Fortuna Lake
 - 12. Goldwater Lake
 - 13. Granite Basin Lake
 - 14. Horsethief Basin Lake
 - 15. Hulsey Lake
 - 16. J.D. Dam Lake
 - 17. Knoll Lake
 - 18. Lee Valley Lake
 - 19. McKellips Park Lake
 - 20. Pratt Lake

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21. Quigley Lake
 22. Redondo Lake
 23. Riggs Flat Lake
 24. Roper Lake
 25. Santa Fe Lake
 26. Scott's Reservoir
 27. Sierra Blanca Lake
 28. Soldier Lake (in Coconino County)
 29. Stehr Lake
 30. Stoneman Lake
 31. Tunnel Reservoir
 32. Whitehorse Lake
 33. Willow Valley Lake
 34. Woodland Reservoir
 35. Woods Canyon Lake
- B.** A person operating a motorized watercraft on the following waters shall use only a single electric motor or single gasoline engine not exceeding 10 manufacturer-rated horsepower:
1. Arivaca Lake
 2. Ashurst Lake
 3. Becker Lake
 4. Big Lake
 5. Black Canyon Lake
 6. Blue Ridge Reservoir
 7. Cataract Lake
 8. Chevelon Canyon Lake
 9. Cholla Lake Hot Pond
 10. Concho Lake
 11. Crescent Lake
 12. Fool Hollow Lake
 13. Kaibab Lake
 14. Kinnikinick Lake
 15. Little Mormon Lake
 16. Lower Lake Mary
 17. Luna Lake
 18. Lynx Lake
 19. Marshall Lake
 20. Mexican Hay Lake
 21. Nelson Reservoir
 22. Parker Canyon Lake
 23. Peña Blanca Lake
 24. Rainbow Lake
 25. River Reservoir
 26. Show Low Lake
 27. Whipple Lake
 28. White Mountain Lake (in Apache County)
 29. Willow Springs Lake
- C.** A person shall not operate a watercraft on Frye Mesa Reservoir, Rose Canyon Lake, or Snow Flat Lake, except as authorized under subsection (D).
- D.** A person who possesses a valid use permit issued by the U.S. Forest Service may operate a non-motorized watercraft only on Rose Canyon Lake on any Tuesday, Wednesday, or Thursday during June and July from 9:30 a.m. to 4:30 p.m. Mountain Time Zone. This subsection does not exempt the person from complying with all applicable requirements imposed by federal or state laws, rules, regulations, or orders.
- E.** This Section does not apply to watercraft of governmental agencies or to Department-approved emergency standby watercraft operated by lake concessionaires if operating to address public safety or public welfare.

Historical Note

Amended as an emergency effective April 10, 1975 (Supp. 75-1). Amended effective May 3, 1976 (Supp. 76-3). Amended as an emergency effective July 9, 1976 (Supp. 76-4). Amended effective June 4, 1979 (Supp. 79-

3). Former Section R12-4-89 renumbered as Section R12-4-517 without change effective August 13, 1981 (Supp. 81-4). Amended subsections (A) and (C) effective December 17, 1981 (Supp. 81-6). Amended effective December 28, 1982 (Supp. 82-6). Amended subsections (A) through (C) effective December 4, 1984 (Supp. 84-6). Amended effective November 7, 1996 (Supp. 96-4). Amended by final rulemaking at 8 A.A.R. 3025, effective July 10, 2002 (Supp. 02-3). Amended by final rulemaking at 13 A.A.R. 4511, effective February 2, 2008 (Supp. 07-4). Amended by exempt rulemaking at 17 A.A.R. 1189, effective May 24, 2011 (Supp. 11-2). Subsection (A)(9) corrected clerical error (Supp. 11-3). Amended by final rulemaking at 23 A.A.R. 1732, effective August 5, 2017 (Supp. 17-2).

R12-4-518. Regattas

- A.** When a regatta permit is issued by the Coast Guard, the person in control of the regatta shall at all times be responsible for compliance with the stipulations as prescribed within the regatta permit. Such stipulations may include but not be limited to:
1. A specified number of patrol or committee boats and identified as such.
 2. Availability of emergency medical services.
 3. Spectator control if there exists a danger that life or property is in jeopardy.
- B.** Non-compliance with any stipulation of an authorized permit which jeopardizes the public welfare shall be cause to terminate the regatta until the person in control or a person designated by the one in control satisfactorily restores compliance.
- C.** When a regatta applicant is informed in writing by the Coast Guard that a permit is not required, such regatta may take place, but shall not relieve the regatta sponsor of any responsibility for the public welfare or confer any exemption from state boating and watersports laws and rules.
- D.** The regatta sponsor and all participants shall comply with aquatic invasive species requirements established under A.R.S. Title 17, Chapter 2, Article 3.1 and 12 A.A.C. 4, Article 11.

Historical Note

Adopted effective March 5, 1982 (Supp. 82-2). Amended by final rulemaking at 18 A.A.R. 196, effective January 10, 2012 (Supp. 12-1).

R12-4-519. Reciprocity

As authorized under A.R.S. § 5-322(E), all watercraft currently numbered or exempt from numbering under the provisions of their state of principal operation are exempt from numbering for a period of 90 days after entering this state.

Historical Note

Section R12-4-519 renumbered from R12-4-503 and amended effective May 27, 1992 (Supp. 92-2). Amended by final rulemaking at 19 A.A.R. 597, effective July 1, 2013 (Supp. 13-1).

R12-4-520. Arizona Aids to Navigation System

- A.** The Arizona aids to navigation system is the same as that prescribed under 33 C.F.R. 62, revised July 1, 2014, which is incorporated by reference in this Section. The incorporated material is available at any Department office, online at www.gpoaccess.gov, or may be ordered from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000. This Section does not include any later amendments or editions of the incorporated material.
- B.** A person shall not mark the waterways or their shorelines in

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this state with mooring buoys, regulatory markers, aids to navigation, lights, or other types of permitted waterway marking devices, without authorization from the governmental agency or the private interest having jurisdiction on such waters.

- C. A person shall not moor or fasten a watercraft to any marker not intended for mooring, or willfully damage, tamper with, remove, obstruct, or interfere with any aid to navigation, regulatory marker or other type of permitted waterway marking devices, except in the performance of authorized maintenance responsibilities or as authorized under R12-4-518 or this Section.
- D. If a government agency or private interest has not exercised its authority to control watercraft within its jurisdiction under A.R.S. § 5-361, or if waters are directly under the jurisdiction of the Commission, the Department has the authority to control watercraft within that jurisdiction in accordance with the following guidelines:
 1. The Department may place controlled-use markers only where controlled operation of watercraft is necessary to protect life, property, or habitat, and shall move or remove the markers only if the need for the protection changes.
 2. The restrictions imposed are clearly communicated to the public by wording on the markers, such as those defined under R12-4-501.
- E. A governmental agency, excluding federal agencies with jurisdiction over federal navigable waterways, has the authority to control watercraft within that jurisdiction in accordance with the following guidelines:
 1. A government agency may place controlled-use markers only where controlled operation of watercraft is necessary to protect life, property, or habitat, and shall move or remove the markers only if the need for the protection changes.
 2. The restrictions imposed are clearly communicated to the public by wording on the markers, such as those defined under R12-4-501.
- F. Any person may request establishment, change, or removal of controlled-use markers on waters under the jurisdiction of the Commission or on waters not under the jurisdiction of another government agency by submitting a written request providing the reasons for the request to the Arizona Game and Fish Department, 5000 W. Carefree Hwy, Phoenix, AZ 85086.
 1. The Department shall either approve or deny the request within 60 days of receipt.
 2. A person may appeal the Department's denial of a request to the Commission as an appealable agency action under A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

Section R12-4-520 adopted effective May 27, 1992 (Supp. 92-2). Amended by final rulemaking at 8 A.A.R. 3025, effective July 10, 2002 (Supp. 02-3). Amended by final rulemaking at 13 A.A.R. 4511, effective February 2, 2008 (Supp. 07-4). Amended by final rulemaking at 19 A.A.R. 597, effective July 1, 2013 (Supp. 13-1). Amended by final rulemaking at 23 A.A.R. 1732, effective August 5, 2017 (Supp. 17-2).

R12-4-521. Repealed**Historical Note**

Section R12-4-520 adopted effective May 27, 1992 (Supp. 92-2). Amended by final rulemaking at 19 A.A.R. 597, effective July 1, 2013 (Supp. 13-1). Repealed by final rulemaking at 23 A.A.R. 1732, effective August 5, 2017 (Supp. 17-2).

R12-4-522. Repealed**Historical Note**

Section R12-4-520 adopted effective May 27, 1992 (Supp. 92-2). Amended by final rulemaking at 8 A.A.R. 3025, effective July 10, 2002 (Supp. 02-3). Amended by final rulemaking at 19 A.A.R. 597, effective July 1, 2013 (Supp. 13-1). Repealed by final rulemaking at 23 A.A.R. 1732, effective August 5, 2017 (Supp. 17-2).

R12-4-523. Controlled Operation of Watercraft

- A. A person shall not operate any watercraft, or use any watercraft to tow a person on water skis, a surfboard, inflatable device, or similar object, device or equipment in a manner contrary to the area restrictions imposed by lawfully placed controlled-use markers, except for:
 1. Law enforcement officers acting within the scope of their lawful duties;
 2. Persons involved in rescue operations;
 3. Persons engaged in government-authorized activities; and
 4. Persons participating in a regatta, during the time limits of the event only.
- B. The exemptions listed under subsection (A) do not authorize any person to operate a watercraft in a careless, negligent, or reckless manner as prescribed under A.R.S. § 5-341.

Historical Note

Section R12-4-520 adopted effective May 27, 1992 (Supp. 92-2). Amended by final rulemaking at 8 A.A.R. 3025, effective July 10, 2002 (Supp. 02-3). Amended by final rulemaking at 19 A.A.R. 597, effective July 1, 2013 (Supp. 13-1).

R12-4-524. Towed Water Sports

- A. An operator of a watercraft shall ensure an observer is on duty at all times when a person is being towed behind the watercraft or is surfing a wake created by the watercraft. The observer shall:
 1. Be twelve years of age or older;
 2. Be physically capable and mentally competent to act as an observer; and
 3. Continually observe the person or persons being towed behind the watercraft or surfing a wake created by the watercraft.
- B. The operator of a watercraft shall ensure a person being towed behind the watercraft or riding a wake created by the watercraft is wearing a wearable personal flotation device approved by the U.S. Coast Guard whenever the watercraft is underway. This subsection applies to any contrivance designed for or used to tow a person behind a watercraft or ride the wake created by a watercraft regardless of whether or not the contrivance is attached to the watercraft. This includes, but is not limited to, boards, discs, hydrofoils, kites, inflatables, and water skis.
- C. A person shall not operate a watercraft while a person is holding onto or is physically attached to any transom structure of the watercraft, including but not limited to a swim platform, swim deck, swim step, and swim ladder. This subsection does not apply to a person who is:
 1. Assisting with docking or departure activities,
 2. Exiting or entering the watercraft, or
 3. Engaging in law enforcement or emergency rescue activity.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3025, effective July 10, 2002 (Supp. 02-3). Amended by final rulemaking at 13 A.A.R. 4511, effective February 2, 2008 (Supp. 07-4). Amended by final rulemaking at 23 A.A.R.

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1732, effective August 5, 2017 (Supp. 17-2).

R12-4-525. Revocation of Watercraft Certificate of Number, AZ Numbers, and Decals

- A. For the purposes of this Section, "person" has same meaning as prescribed under A.R.S. § 5-301.
- B. Upon notice of conviction of a person under A.R.S. § 5-391(G), the Department shall revoke for a period not to exceed two years the certificates of number, AZ numbers, registration decals, and Nonresident Boating Safety Infrastructure decals of any Arizona registered watercraft owned by that person and involved in the violation.
- C. Upon notice of conviction of a person under A.R.S. § 5-391(H), the Department shall revoke for a period not to exceed one year the certificates of number, AZ numbers, registration decals, and Nonresident Boating Safety Infrastructure decals for any Arizona registered watercraft owned by that person and involved in the violation.
- D. Upon receiving notice of conviction, the Department shall serve notice under A.R.S. §§ 41-1092.03 and 41-1092.04 on the person convicted that the certificates of number, AZ numbers, registration decals, and Nonresident Boating Safety Infrastructure decals of watercraft the person owns are subject to revocation.
- E. A person whose certificates of number, AZ numbers, registration decals, and Nonresident Boating Safety Infrastructure decals are subject to revocation may request a hearing. The person shall submit a written request to the Arizona Game and Fish Department, Director's Office, 5000 W. Carefree Hwy, Phoenix, AZ 85086, within 30 calendar days of receiving the notice described under subsection (D).
- F. If the person requests a hearing, the Department shall, within 60 days of receiving the request, schedule a hearing as prescribed under A.R.S. § 41-1092.05.
- G. After a final decision to revoke the person's certificates of number, AZ numbers, registration decals, and Nonresident Boating Safety Infrastructure decals, the Department shall serve upon the person an Order of Revocation. Within 15 calendar days of receipt of the notice, the person shall surrender to the Department the revoked certificates of number and decals.
- H. The revocation of the certificates of number, AZ numbers, registration decals, and Nonresident Boating Safety Infrastructure decals does not affect the legal title to or any property rights in the watercraft. Upon receipt of an application to transfer watercraft registration by the new watercraft owner, the Department shall terminate the revocation and allow the owner to transfer the owner's entire interest in the watercraft if the Department is satisfied the transfer is proposed in good faith and not for the purpose of defeating the revocation.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3025, effective July 10, 2002 (Supp. 02-3). Amended by final rulemaking at 19 A.A.R. 597, effective July 1, 2013 (Supp. 13-1).

R12-4-526. Unlawful Mooring

- A. A person, as defined under A.R.S. § 5-301, shall not moor, anchor, fasten to the shore, or otherwise secure a watercraft in any public body of water for more than 14 days within any period of 28 consecutive days unless:
 1. The waters are a special anchorage area as defined under A.R.S. § 5-301,
 2. Authorized for private dock or moorage, or
 3. Authorized by the government agency or private interest having jurisdiction over the waters.

- B. A person shall remove an abandoned or submerged watercraft from public waters within 72 hours of notice by registered mail or personal service of notice to remove such watercraft.
- C. The owner of any abandoned watercraft shall be responsible for all towing and storage fees resulting from the removal of the watercraft from public waters.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 4511, effective February 2, 2008 (Supp. 07-4). Amended by final rulemaking at 19 A.A.R. 597, effective July 1, 2013 (Supp. 13-1). Amended by final rulemaking at 23 A.A.R. 1732, effective August 5, 2017 (Supp. 17-2).

R12-4-527. Transfer of Ownership of a Towed Watercraft

- A. For the purpose of this Section, "towed watercraft" means a watercraft that has been impounded by or is in the possession of a towing company located in this state.
- B. Within 15 days of impounding a watercraft, a towing company shall submit a request to the Department for watercraft registration information as prescribed under A.R.S. § 5-324 and in compliance with A.R.S. § 5-399. The towing company shall present the towed watercraft to the closest Department office for identification if there is no discernible hull identification number or state-issued registration number.
- C. Within 15 days of receiving the watercraft registration information from the Department, the towing company shall provide written notification by certified mail return receipt requested to the owner and lienholder, if known, of the watercraft's location.
- D. If a watercraft remains unclaimed after mailing the notice required under subsection (C) of this Section, the towing company shall submit all of the following to the Department within 15 days of sending the written notification to the owner and lienholder, when known:
 1. Evidence of compliance with notification requirements prescribed under A.R.S. § 5-399 and subsection (C);
 2. A report on a form furnished by the Department and available at any Department office. The form shall include all of the following information:
 - a. Name of towing company;
 - b. Towing company's business address;
 - c. Towing company's business telephone number;
 - d. Towing company's Arizona Department of Public Safety tow truck permit number;
 - e. Towed watercraft's hull identification number;
 - f. Towed watercraft's state-issued registration number, registration decal, and year of expiration, if known;
 - g. Towed watercraft's trailer license number, if available;
 - h. State and year of trailer registration, if available;
 - i. Towed watercraft's color and manufacturer;
 - j. Towed watercraft's condition, whether intact, stripped, damaged, or burned, along with a description of any damage;
 - k. Date the watercraft was towed;
 - l. Location from which the towed watercraft was removed;
 - m. Entity that ordered the removal of the towed watercraft, and if a law enforcement agency, include officer badge number, jurisdiction, and copy of report or towing invoice;
 - n. Location where the towed watercraft is stored; and
 - o. Name and signature of towing company's authorized representative; and

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3. The unclaimed towed watercraft application fee authorized under A.R.S. § 5-399.03(2) and established under R12-4-504.
- E. The towing company shall notify the Department within 24 hours if the watercraft is released, returned to, redeemed, or repossessed by the owner, lienholder, or by a person identified in the Department's record as having an interest in the watercraft.
- F. If the Department is unsuccessful in its attempt to identify or contact the registered owner or lienholder of the towed watercraft and has determined the towed watercraft is not stolen, the towing company shall:
 1. Follow the application procedures established under A.R.S. § 5-399.02(B), and
 2. Apply for watercraft registration as established under R12-4-502.
- G. A towing company that obtains ownership of a watercraft pursuant to A.R.S. § 5-399.02 and this Section shall maintain the following records for a period of three years from the date the Department transferred ownership of the towed watercraft:
 1. The request made pursuant to A.R.S. § 5-324.
 2. The notification provided pursuant to A.R.S. § 5-399.
 3. The application for transfer of ownership pursuant to A.R.S. § 5-399.02.
 4. Any other documents required by the Department.

Historical Note

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 1241, effective May 26, 2003 for a period of 180 days (Supp. 03-1). Emergency rulemaking repealed under A.R.S. § 41-1026(E) and permanent new Section made by final rulemaking at 9 A.A.R. 1613, effective July 5, 2003 (Supp. 03-2). Amended by final rulemaking at 19 A.A.R. 597, effective July 1, 2013 (Supp. 13-1). Amended by final exempt rulemaking at 23 A.A.R. 1034; amended by final rulemaking at 23 A.A.R. 1732, both effective August 5, 2017 (Supp. 17-2).

R12-4-528. Watercraft Checkpoints

- A. A law enforcement agency may establish a watercraft checkpoint to ensure public safety on state waterways, to screen for unsafe or impaired watercraft operators, or to gather demographic, statistical, and compliance information related to watercraft activities.
- B. An individual may be required to perform the following during a watercraft stop or at a watercraft checkpoint:
 1. Stop or halt as directed when being hailed by a peace officer or entering the established checkpoint boundary as prescribed under A.R.S. § 5-391, and
 2. Provide evidence of required safety equipment and registration documentation prescribed under A.R.S. Title 5, Chapter 3, Boating and Water Sports.
- C. This Section does not limit any state peace officer's authority to conduct routine watercraft patrol efforts prescribed under A.R.S. Title 5, Chapter 3, Boating and Water Sports.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 4511, effective February 2, 2008 (Supp. 07-4). Amended by final rulemaking at 19 A.A.R. 597, effective July 1, 2013 (Supp. 13-1).

R12-4-529. Nonresident Boating Safety Infrastructure Fees; Proof of Payment

- A. Before placing that watercraft on the waterways of this State, a nonresident owner of a recreational watercraft who establishes this State as the state of principal operation shall pay the appli-

cable Nonresident Boating Safety Infrastructure Fee (NBSIF) as authorized under A.R.S. §§ 5-326 and 5-327:

1. Twelve feet and less: \$80
 2. Twelve feet one inch through sixteen feet: \$88
 3. Sixteen feet one inch through twenty feet: \$192
 4. Twenty feet one inch through twenty-six feet: \$224
 5. Twenty-six feet one inch through thirty-nine feet: \$253
 6. Thirty-nine feet one inch through sixty-four feet: \$286
 7. Sixty-four feet one inch and over: \$429
 8. For the purposes of this subsection, the length of the motorized watercraft shall be measured in the same manner prescribed under A.R.S. § 5-321(C).
- B. The nonresident recreational watercraft owner shall carry and display proof of payment of the fee while the watercraft is underway, moored, or anchored on the waterways of this State. Acceptable proof of payment includes any one of the following:
 1. A current Arizona Watercraft Certificate of Number indicating the NBSIF was paid,
 2. A current Arizona Watercraft Temporary Certificate of Number indicating the NBSIF was paid, or
 3. A current Arizona Watercraft Registration Decal indicating the NBSIF was paid.

Historical Note

Adopted effective October 22, 1976 (Supp. 76-5). Former Section R12-4-90 renumbered as Section R12-4-529 without change effective August 13, 1981 (Supp. 81-4). Repealed effective May 27, 1992 (Supp. 92-2). New Section made by final rulemaking at 19 A.A.R. 597, effective July 1, 2013 (Supp. 13-1). Amended by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3). Amended by final rulemaking at 23 A.A.R. 1732, effective August 5, 2017 (Supp. 17-2).

R12-4-530. Authorized Third-party Providers; Agents

- A. The Department may enter into a contract with a private entity to perform limited or specific services on behalf of the Department in accordance with State procurement laws and rules.
 1. The Department may authorize a person to be a third-party provider. An authorized third-party provider shall meet the requirements established by the Department and shall be selected through a competitive bid process.
 2. The Department may authorize a third-party provider to perform any one or more of the following services:
 - a. Watercraft transfer.
 - b. Watercraft registration renewal.
 - c. Duplicate watercraft registration and decal.
 - d. New watercraft registration.
- B. A person shall not engage in any business pursuant to this Section unless the Department authorizes the person to engage in the business.
- C. The Department shall establish minimum quality standards of service and a quality assurance program for authorized third-party providers to ensure that an authorized third-party provider is complying with the minimum standards.
- D. The Department may:
 1. Conduct investigations.
 2. Conduct audits.
 3. Make on-site inspections in compliance with A.R.S. § 41-1009.
 4. Require an authorized third-party or employees or agents of an authorized third-party be certified to perform the services prescribed in this Article.
- E. An authorized third-party provider shall remit to the Department all fees established under R12-4-504 and R12-4-529 it collects.

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1. An authorized third-party provider may collect and retain a reasonable and commensurate fee for its services.
 2. Each authorized third-party provider that holds itself out as providing services to the public shall identify to the applicant the Department's registration fee and the non-resident boating safety infrastructure fee, when applicable, separately from any other costs.
- F.** A third-party who is authorized pursuant to this Section shall:
1. Maintain records in a form and manner prescribed by the Department.
 2. Allow access to the records during regular business hours to authorized representatives of the Department or any law enforcement agency to ensure compliance with all applicable statutes and rules.
- G.** The Department may suspend or cancel an authorization or certification, or both, granted pursuant to this Section if the Department determines that the third-party provider or certificate holder has done any of the following:
1. Made a material misrepresentation or misstatement in the application for authorization or certification.
 2. Has been convicted of fraud or a watercraft related felony in any state or jurisdiction of the U.S. within the ten years immediately preceding the date a criminal records check is complete.
 3. Has been convicted of a felony, other than a felony described in subsection (2), in any state or jurisdiction of the U.S. within the five years immediately preceding the date a criminal records check is complete.
 4. Violated a rule or policy adopted by the Department.
 5. Failed to keep and maintain records required by this Section.
 6. Failed to remit to the Department all fees established under R12-4-504 and R12-4-529 it collects.
 7. Allowed an unauthorized person to engage in any business pursuant to this Section.
- K.** If the Department has reasonable grounds to believe that a certificate holder or other person employed by an authorized third-party provider has committed a serious violation, the Department may order a summary suspension of the third provider's authorization granted pursuant to this Section pending formal suspension or cancellation proceedings. For the purposes of this subsection, "serious violation" means:
1. Watercraft registration fraud.
 2. Improper disclosure of personal information.
 3. Bribery.
 4. Theft.
- L.** On determining that grounds for suspension or cancellation of an authorization or certification, or both, exist, the Department shall give written notice to the third-party provider or certificate holder to appear at a hearing before the Department to show cause why the authorization or certification should not be suspended or canceled.
1. After consideration of the evidence presented at the hearing, the Department shall serve notice of the finding and order to the third-party or certificate holder.
 2. If a third-party authorization or a certification is suspended or canceled, the third-party or certificate holder may appeal the decision pursuant to A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 1732, effective August 5, 2017 (Supp. 17-2).

R12-4-531. Reserved**R12-4-532. Reserved****R12-4-533. Reserved****R12-4-534. Reserved****R12-4-535. Reserved****R12-4-536. Reserved****R12-4-537. Reserved****R12-4-538. Reserved****R12-4-539. Reserved****R12-4-540. Reserved****R12-4-541. Repealed****Historical Note**

Former Section R12-4-88 renumbered as Section R12-4-541 without change effective August 13, 1981 (Supp. 81-4). Amended effective April 5, 1985 (Supp. 85-2). Repealed effective May 27, 1992 (Supp. 92-2).

R12-4-542. Repealed**Historical Note**

Adopted as an emergency effective August 31, 1981, valid for ninety (90) days after filing pursuant to A.R.S. § 41-1003 (Supp. 81-4). Former Section R12-4-542 adopted as an emergency now adopted as permanent with further amendment effective March 5, 1982 (Supp. 82-2). Amended effective March 29, 1985 (Supp. 85-2). Repealed effective May 27, 1992 (Supp. 92-2).

R12-4-543. Repealed**Historical Note**

Adopted effective January 29, 1982 (Supp. 82-1). Amended effective August 19, 1983 (Supp. 83-4). Amended subsection (A) effective July 3, 1984 (Supp. 84-4). Amended effective March 29, 1985 (Supp. 85-2). Correction, subsection (A), paragraph (2) as certified effective March 29, 1985 (Supp. 86-3). Amended subsection (A) effective June 18, 1987 (Supp. 87-2). Amended as an emergency effective May 15, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Amended and readopted as an emergency effective August 25, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Emergency expired. Emergency amendments adopted with changes effective January 5, 1990 (Supp. 90-1). Repealed effective May 27, 1992 (Supp. 92-2).

R12-4-544. Repealed**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Amended subsection (A) effective July 3, 1984 (Supp. 84-4). Amended subsection (A) effective June 18, 1987 (Supp. 87-2). Repealed effective May 27, 1992 (Supp. 92-2).

R12-4-545. Repealed**Historical Note**

Adopted effective April 5, 1985 (Supp. 85-2). Amended by emergency effective May 18, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-2). Emergency amendments readopted effective August 28, 1990,

pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-3). Emergency expired. Repealed effective May 27, 1992 (Supp. 92-2).

ARTICLE 6. RULES OF PRACTICE BEFORE THE COMMISSION

R12-4-601. Petition for Rule or Review of Practice or Policy

- A. Any individual, including any organization or agency, requesting that the Commission make, amend, or repeal a rule, shall submit a petition as prescribed under this Section.
- B. Any individual, including any organization or agency, requesting that the Commission review an existing Department practice or substantive policy that the petitioner alleges to constitute a rule under A.R.S. § 41-1033, as defined under A.R.S. § 41-1001, shall submit a petition as prescribed under this Section.
- C. A petitioner shall not address more than one rule, practice, or substantive policy in the petition.
- D. If the Commission has considered and denied a petition, and a petitioner submits a petition within the next year that addresses the same substantive issue, the petitioner shall provide a written statement that contains any reason not previously considered by the Commission in making a decision.
- E. A petitioner shall submit an original and one copy of a petition to the Arizona Game and Fish Department, Director's Office, 5000 W. Carefree Highway, Phoenix, AZ 85086. The Commission shall render a decision on the petition as required under A.R.S. § 41-1033.
- F. Within five working days after a petition is submitted, the Director shall determine whether the petition complies with this Section.
 1. If the petition complies with this Section, the Director shall place the petition on a Commission open meeting agenda. The petitioner may present oral testimony at that meeting, as established under R12-4-603.
 2. If a petition does not comply with subsections (G) through (L) of this Section, the Director shall return a copy of the petition as filed to the petitioner and indicate in writing why the petition does not comply with this Section. The Director shall not place the petition on a Commission agenda. The Department shall maintain the original petition on file for five years and consider the petition as a comment during the five-year review process.
- G. Petitions shall be typewritten, computer or word processor printed, or legibly handwritten, and double-spaced, on 8 1/2" x 11" paper; or typewritten, computer or word processor printed, or legibly handwritten on a form provided by the Department. The title shall be centered at the top of the first page and appear as "Petition to the Arizona Game and Fish Commission." The petition shall include the items listed in subsections (H) through (L). The items in the petition shall be presented in the order in which they are listed in this Section.
- H. The title of Part 1 shall be "Identification of Petitioner." The title shall be centered at the top of the first page of this part. Part 1 shall contain:
 1. If the petitioner is a private individual, the name, mailing address, and telephone number of the petitioner;
 2. If the petitioner is a private group or organization, the name and address of the group or organization; the name, mailing address, and telephone number of an individual who is designated as the representative or official contact for the petitioner; the total number of individuals, and the number of Arizona residents represented by the petitioner; or the names and addresses of all individuals represented by the petitioner; or
 3. If the petitioner is a public agency, the name and address of the agency and the name, title, and telephone number of the agency's representative.
- I. The title of Part 2 shall be "Request for Rule" or "Request for Review," as applicable. The title shall be centered at the top of the first page of this part. Part 2 shall contain:
 1. If the petition is for a new rule, a statement to this effect, followed by the heading and specific language of the proposed rule;
 2. If the request is for amendment of a current rule, a statement to this effect, followed by the *Arizona Administrative Code* number of the current rule proposed for amendment, the heading of the rule, the specific, clearly readable language of the rule, indicating language to be deleted with strikeouts, and language to be added with underlining;
 3. If the request is for repeal of a current rule, a statement to this effect, followed by the *Arizona Administrative Code* number of the rule proposed for repeal and the heading of the rule; or
 4. If the request is for review of an existing agency practice or substantive policy statement that the petitioner alleges qualifies as a rule, as defined under A.R.S. § 41-1001, a statement to this effect, followed by the practice or policy number, if any, the practice or policy heading, if any, or a brief description of the practice or policy subject matter.
- J. The title of Part 3 shall be "Reason for the Petition." The title shall be centered at the top of the first page of this part. Part 3 shall contain:
 1. The reason the petitioner believes rulemaking or review of a practice or policy is necessary;
 2. Any statistical data or other justification supporting rulemaking or review of the practice or policy, with clear reference to any exhibits that are attached to or included with the petition;
 3. An identification of any individuals or special interest groups the petitioner believes would be impacted by the rule or a review of the practice or policy, and how they would be impacted; and
 4. If the petitioner is a public agency, a summary of issues raised in any public meeting or hearing regarding the petition, or any written comments offered by the public.
- K. The title of Part 4 shall be "Statutory Authority." The title shall be centered at the top of the first page of this part. In Part 4, the petitioner shall identify any statute that authorizes the Commission to make the rule, if known, or cite A.R.S. § 41-1033 if the petition relates to review of an existing practice or substantive policy statement.
- L. The title of Part 5 shall be "Date and Signature." The title shall be centered at the top of the first page of this part. Part 5 shall contain:
 1. An original signature of the representative or official contact, if the petitioner is a private group or organization or private individual named under subsection (H)(1) or (2); or
 2. If the petitioner is a public agency, the signature of the agency head or the agency head's designee; and
 3. The month, day, and year that the petition is signed.

Historical Note

Adopted effective December 22, 1987 (Supp. 87-4).
Amended by final rulemaking at 10 A.A.R. 2245, effective July 6, 2004 (Supp. 04-2). Amended by final rulemaking at 16 A.A.R. 1465, effective July 13, 2010 (Supp. 10-3).

R12-4-602. Written Comments on Proposed Rules

Any individual may submit written statements, arguments, data, and views on proposed rules that have been filed with the Secretary of State under A.R.S. § 41-1022. An individual who submits written comments to the Commission may voluntarily provide their name and mailing address. To be placed into the rulemaking record and considered by the Commission for a final decision, the individual submitting the written comments shall ensure that they:

1. Are received before or on the closing date for written comments, as published by the Secretary of State in the Arizona Administrative Register;
2. Indicate, if expressed on behalf of a group or organization, whether the views expressed are the official position of the group or organization, the number of individuals represented are represented, types of membership available, and number of Arizona residents in each membership category; and
3. Are submitted to the employee designated by the Department to receive written comments, as published in the Arizona Administrative Register.

Historical Note

Adopted effective December 22, 1987 (Supp. 87-4).

Amended by final rulemaking at 10 A.A.R. 2245, effective July 6, 2004 (Supp. 04-2).

R12-4-603. Oral Proceedings Before the Commission

- A. For the purposes of this Section, “matter” or “proceeding” means any contested case, appealable agency action, rule or review petition hearing, rulemaking proceeding, or any public input at a Commission meeting.
- B. The Commission may allow an oral proceeding on any matter. At an oral proceeding:
 1. The Chair is responsible for conducting the proceeding. If an individual wants to speak, the individual shall first request and be granted permission by the Chair.
 2. Depending on the nature of the proceeding, the Chair may administer an oath to a witness before receiving testimony.
 3. The Chair may order the removal of any individual who is disrupting the proceeding.
 4. Based on the amount of time available, the Chair may limit the number of presentations or the time for testimony regarding a particular issue and shall prohibit irrelevant or immaterial testimony.
 5. Technical rules of evidence do not apply to an oral proceeding, and no informality in any proceeding or in the manner of taking testimony invalidates any order, decision, or rule made by the Commission.
- C. The Commission authorizes the Director to designate a hearing officer for oral proceedings to take public input on proposed rulemaking. The hearing officer has the same authority as the Chair in conducting oral proceedings, as provided in this Section.
- D. The Commission authorizes the Director to continue a scheduled proceeding to a later Commission meeting. To request a continuance, a petitioner shall:
 1. Deliver the request to the Director no later than 24 hours before the scheduled proceeding;
 2. Demonstrate that the proceeding has not been continued more than twice; and
 3. Demonstrate good cause for the continuance.

Historical Note

Adopted effective December 22, 1987 (Supp. 87-4).

Amended effective November 10, 1997 (Supp. 97-4).

Amended by final rulemaking at 10 A.A.R. 2245, effective July 6, 2004 (Supp. 04-2).

R12-4-604. Ex Parte Communication

- A. For purposes of this Section:
 1. “Individual outside the Commission” means any individual other than a Commissioner, personal aide to a Commissioner, Department employee, consultant of the Commission, or an attorney representing the Commission.
 2. “Ex parte communication” means any oral or written communication with the Commission that is not part of the public record and for which no reasonable prior written notice has been given to all interested parties.
- B. In any contested case (as defined in A.R.S. § 41-1001) or proceeding or appealable agency action (as defined in A.R.S. § 41-1092) before the Commission, except to the extent required for disposition of ex parte matters as authorized by law or these rules of procedure, the following prohibitions apply to ex parte communication:
 1. An interested individual outside the Commission shall not make or knowingly cause to be made to any Commissioner, Commission hearing officer, personal aide to a Commissioner, Department employee, or consultant who is or may reasonably be expected to be involved in the decision-making process of the proceeding, an ex parte communication relevant to the merits of the proceeding;
 2. A Commissioner, Commission hearing officer, personal aide to a Commissioner, Department employee, or consultant who is or may reasonably be expected to be involved in the decisional process of the proceeding, shall not make or knowingly cause to be made to any interested person outside the Commission an ex parte communication relevant to the merits of the proceeding.
- C. A Commissioner, Commission hearing officer, personal aide to a Commissioner, Department employee, or consultant who is or may be reasonably expected to be involved in the decisional process of the proceeding, who receives, makes, or knowingly causes to be made a communication prohibited by subsection (B)(1) or (B)(2) of this Section, shall place on the public record of the proceeding and serve on all interested parties to the proceeding:
 1. A copy of each written communication;
 2. A memorandum stating the substance of each oral communication; and
 3. A copy of each response and memorandum stating the substance of each oral response to any communication governed by subsections (C)(1) and (C)(2).
- D. Upon receipt of a communication made or knowingly caused to be made by a party in violation of this Section, the Commission or its hearing officer, to the extent consistent with equity and fairness, may require the party to show cause why the claim or interest in proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected because of the violation.
- E. The provisions of this Section apply from the date that a notice of hearing for a contested case is served, a notice of appealable agency action is served, or a request for hearing is filed, whichever comes first, unless the person responsible for the communication has knowledge that a proceeding will be noticed, in which case the prohibitions apply from the date that the individual acquired the knowledge.

Historical Note

Adopted effective December 22, 1987 (Supp. 87-4).

Amended by final rulemaking at 10 A.A.R. 2245, effective July 6, 2004 (Supp. 04-2).

R12-4-605. Standards for Revocation, Suspension, or Denial

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of a License

A. Under A.R.S. § 17-340, the Commission shall hold a hearing and may revoke, suspend, or deny any hunting, fishing, or trapping license for an individual who has been convicted of any of the following offenses:

1. Killing or wounding a big game animal during a closed season or possessing a big game animal taken during a closed season. Conviction for possession of a road-kill animal or an animal that was engaged in depredation is not considered "possessing during a closed season" for the purposes of this subsection.
2. Destroying, injuring, or molesting livestock, or damaging or destroying personal property, notices or signboards, other improvements, or growing crops while hunting, fishing, or trapping.
3. Careless use of a firearm while hunting, fishing, or trapping that results in the injury or death of any person, if the act of discharging the firearm was deliberate.
4. Applying for or obtaining a license or permit by fraud or misrepresentation in violation of A.R.S. § 17-341.
5. Entering upon a game refuge or other area closed to hunting, trapping or fishing and taking, driving, or attempting to drive wildlife from the area in violation of A.R.S. §§ 17-303 and 17-304.
6. Unlawfully posting state or federal lands in violation of A.R.S. § 17-304(B).

B. Under A.R.S. § 17-340, the Commission shall hold a hearing and may revoke, suspend, or deny any hunting fishing, or trapping license if the Department recommends revocation, suspension, or denial of the license for an individual convicted of any of the following offenses:

1. Unlawfully taking or possessing big game, if sufficient evidence, which may or may not have been introduced in the court proceeding, supports any of the following conclusions:
 - a. The big game was taken without a valid license or permit.
 - b. The unlawful taking was willful and deliberate.
 - c. The person in unlawful possession aided the unlawful taking or was, or should have been, aware that the taking was unlawful.
2. Unlawfully taking or possessing small game or fish, if sufficient evidence, which may or may not have been introduced in the court proceeding, supports any of the following conclusions:
 - a. The taking was willful and deliberate.
 - b. The possession was in excess of the lawful possession limit plus the daily bag limit.
3. Unlawfully taking wildlife species if sufficient evidence, which may or may not have been introduced in the court proceeding, indicates that the act of taking was willful and deliberate and showed disregard for state wildlife laws.
4. Littering a public hunting or fishing area while taking wildlife, if sufficient evidence, which may or may not have been introduced in the court proceeding, indicates that an individual littered the area, the amount of litter discarded was unreasonably large, and that the individual convicted made no reasonable effort to dispose of the litter in a lawful manner.
5. Careless use of a firearm while hunting, fishing, or trapping that resulted in injury or death to any person, if the act of discharging the firearm was not deliberate, but sufficient evidence, which may or may not have been introduced in the court proceeding, indicates that the careless

use demonstrated wanton disregard for the safety of human life or property.

6. Any violation for which a license can be revoked under A.R.S. § 17-340, if the person has been convicted of a revocable offense within the past three years.
7. Violation of A.R.S. § 17-306 for unlawful possession of wildlife.

C. Under A.R.S. §§ 17-238, 17-362, 17-363, 17-364, and 17-340, if the Department has made a recommendation to the Commission for license revocation, the Commission shall hold a hearing and may revoke any fur dealer, guide, taxidermy, or special license (as defined in R12-4-401) in any case where license revocation is authorized by law.

Historical Note

Adopted effective December 22, 1987 (Supp. 87-4).

Amended by final rulemaking at 10 A.A.R. 2245, effective July 6, 2004 (Supp. 04-2).

R12-4-606. Proceedings for License Revocation, Suspension, or Denial of Right to Obtain a License, and Civil Damages

- A. The Director may commence a proceeding for the Commission to revoke, suspend or deny a license under A.R.S. §§ 17-238, 17-340, 17-362, 17-363, 17-364, R12-4-105, and R12-4-605. The Director may also commence a proceeding for civil damages under A.R.S. § 17-314.
- B. The Commission shall conduct a hearing concerning revocation, suspension, or denial of the right to obtain a license in accordance with the Administrative Procedure Act, A.R.S. Title 41, Chapter 6, Article 10. A respondent shall limit testimony to facts that show why the license should not be revoked or denied. Because the Commission does not have the authority to consider or change the conviction, a respondent is not permitted to raise this issue in the proceeding. The Commission shall permit a respondent to offer testimony or evidence relevant to the Commission's decision to order recovery of civil damages or wildlife parts.
- C. If a respondent does not appear for a hearing on the date scheduled, at the time and location noticed, no further opportunity to be heard is provided, unless rehearing or review is granted under R12-4-607. If the respondent does not wish to attend the hearing, the respondent may submit written testimony to the Department before the hearing date designated in the Notice of Hearing required by A.R.S. § 17-340(D). The Commission shall ensure that written testimony received at the time of the hearing is read into the record at the hearing.
- D. The Commission shall base its decision on the officer's case report, a summary prepared by the Department, a certified copy of the court record, and any testimony presented at the hearing. With the notice of hearing required by A.R.S. § 17-340(D), the Department shall supply the respondent with a copy of each document provided to the Commission for use in reaching a decision.
- E. Any party may apply to the Commission for issuance of a subpoena to compel the appearance of any witness or the production of documents at any hearing or deposition. Not later than 10 calendar days before the hearing or deposition, the party shall file a written application that provides the name and address of the witness, the subject matter of the expected testimony, the documents sought to be produced, and the date, time, and place of the hearing or deposition. The Commission chair has the authority to issue the subpoenas.
1. A party shall have a subpoena served as prescribed in the Arizona Rules of Civil Procedure, Rule 45. An employee of the Department may serve a subpoena at the request of the Commission chair.

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2. A party may request that a subpoena be amended at any time before the deadline provided in this Section for filing the application. The party shall have the amended subpoena served as provided in subsection (E)(1).
- F. A license revoked by the Commission is suspended on the date of the hearing and revoked upon issuance of the findings of fact, conclusions of law, and order. If a respondent appeals the Commission's order revoking a license, the license is revoked after all appeals have been completed. A denial of the right to obtain a license is effective for a period not to exceed five years, as determined by the Commission, beginning on the date of the hearing.
- G. A license suspended by the Commission is suspended on the date of the hearing, and suspended upon issuance of the findings of fact, conclusions of law, and order. If a respondent appeals the Commission's order suspending a license, the license is suspended after all appeals have been completed. Under A.R.S. § 17-340(A), a suspension of a license is effective for a period not to exceed five years, as determined by the Commission, beginning on the date of the hearing.
- E. The Commission may affirm or modify the decision or grant a rehearing to all or any of the parties on all or part of the issues for any of the reasons in subsection (D). The Commission's order modifying a decision or granting a rehearing shall specify the grounds for the order, and any rehearing shall cover only those specified matters.
- F. Not later than 15 calendar days, after a decision, the Commission may grant a rehearing or review on its own initiative for any reason for which it might have granted relief on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Commission may grant a motion for rehearing or review for a reason not stated in the motion.
- G. When a motion for rehearing or review is based upon affidavits, the party shall serve the affidavits with the motion. An opposing party may, within 10 calendar days after service, serve opposing affidavits. The Commission may extend this period for no more than 20 calendar days for good cause shown or by written stipulation of the parties. The Commission has the authority to permit reply affidavits.

Historical Note

Adopted effective December 22, 1987 (Supp. 87-4).
 Amended effective November 10, 1997 (Supp. 97-4).
 Amended by final rulemaking at 10 A.A.R. 2245, effective July 6, 2004 (Supp. 04-2).

R12-4-607. Rehearing or Review of Commission Decisions

- A. For purposes of this Section the following terms apply:
 1. "Contested case" and "party" are defined as provided in A.R.S. § 41-1001;
 2. "Appealable agency action" is defined as provided in A.R.S. § 41-1092(3).
- B. Except as provided in subsection (G), any party in a contested case or appealable agency action before the Commission may file a motion for rehearing or review within 30 calendar days after service of the final administrative decision. For purposes of this subsection a decision is served when personally delivered or mailed by certified mail to the party's last known residence or place of business. The party shall attach a supporting memorandum, specifying the grounds for the motion.
- C. A party may amend a motion for rehearing or review at any time before the Commission rules upon the motion. An opposing party has 15 calendar days after service to respond to the motion or the amended motion. The Commission has the authority to require that the parties file written briefs on any issue raised in a motion or response, and allow for oral argument.
- D. The Commission has the authority to grant rehearing or review for any of the following causes materially affecting the moving party's rights:
 1. Irregularity in the proceedings of the Commission, or any order or abuse of discretion that deprived the moving party of a fair hearing;
 2. Misconduct of the Commission, its staff, an administrative law judge, or the prevailing party;
 3. Accident or surprise that could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the original hearing;
 5. Excessive or insufficient penalties;
 6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceeding; or
 7. That the findings of fact or decision is not justified by the evidence or is contrary to law.

Historical Note

Adopted effective June 13, 1977 (Supp. 77-3). Former Section R12-4-14 renumbered as Section R12-4-115 without change effective August 13, 1981 (Supp. 81-4). Former Section R12-4-115 renumbered without change as Section R12-4-607 effective December 22, 1987 (Supp. 87-4). Amended effective November 10, 1997 (Supp. 97-4). Amended by final rulemaking at 10 A.A.R. 2245, effective July 6, 2004 (Supp. 04-2).

R12-4-608. Expired**Historical Note**

Adopted effective April 28, 1989 (Supp. 89-2). Amended effective May 27, 1992 (Supp. 92-1). Amended effective November 10, 1997 (Supp. 97-4). Amended by final rulemaking at 6 A.A.R. 211, effective December 14, 1999 (Supp. 99-4). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 853, effective January 31, 2002 (Supp. 02-1).

R12-4-609. Commission Orders

- A. Except as provided in subsection (B):
 1. At least 20 calendar days before a meeting where the Commission will consider a Commission Order, the Department shall ensure that a public meeting notice and agenda for the public meeting is posted in accordance with A.R.S. § 38-431.02. The Department shall also issue a public notice of the recommended Commission Order to print and electronic media at least 20 calendar days before the meeting.
 2. The Department shall ensure that the public meeting notice and agenda contains the date, time, and location of the Commission meeting where the Commission Order will be considered and a statement that the public may attend and present written comments at or before the meeting.
 3. The Department shall also ensure that the public meeting notice and agenda states that a copy of the proposed Commission Order is available for public inspection at the Department offices in Phoenix, Pinetop, Flagstaff, Kingman, Yuma, Tucson, and Mesa 10 calendar days before the meeting. The Commission may make changes to the recommended Commission Order at the Commission meeting.
- B. The requirements of subsection (A) do not apply to Commission orders establishing:
 1. Supplemental hunts as prescribed in R12-4-115, and

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2. Special seasons for individuals that possess special license tags issued under A.R.S. § 17-346 and R12-4-120.
- C. The Department shall publish the content of all Commission orders and make them available to the public without charge.

Historical Note

Adopted effective March 1, 1991; filed February 28, 1991 (Supp. 91-1). Amended effective January 1, 1993; filed December 18, 1992 (Supp. 92-4). Amended effective November 10, 1997 (Supp. 97-4). Amended by final rulemaking at 9 A.A.R. 610, effective April 6, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 2245, effective July 6, 2004 (Supp. 04-2).

R12-4-610. Petitions for the Closure of State or Federal Lands to Hunting, Fishing, Trapping, or Operation of Motor Vehicles

- A. An individual or agency requesting that the Commission consider closing state or federal land to hunting, fishing, or trapping as provided under A.R.S. § 17-304(B) or R12-4-110; or closing roads or trails on state lands as provided under R12-4-110, shall submit a petition as prescribed in this Section before the Commission will consider the request.
- B. A petition shall not address more than one contiguous closure request.
- C. Once the Commission has considered and denied a petition, an individual who subsequently submits a petition that addresses the same contiguous closure request shall provide a written statement that contains any reason not previously considered by the Commission in making a decision.
- D. A petitioner shall submit an original and one copy of the petition to the Director of the Arizona Game and Fish Department, Director's Office, 5000 W. Carefree Highway, Phoenix, AZ 85086, not less than 60 calendar days before a scheduled Commission meeting to be placed on the agenda for that meeting. If the Commission receives a petition after that time it will be considered at the next regularly-scheduled open meeting. At any time, the petitioner may withdraw the petition or request delay to a later regularly-scheduled open meeting.
- E. Within 15 business days after the petition is filed, the Department shall determine whether the petition complies with the requirements established under A.R.S. § 17-452, R12-4-110, and this Section. Once the Department determines that the petition meets these requirements, and if the petitioner has not agreed to an alternative solution or withdrawn the petition, the Department, in accordance with the schedule in subsection (D), shall place the petition on the agenda for the Commission's next open meeting and provide written notice to the petitioner of the date that the Commission will consider the petition.
1. The petitioner may present oral testimony in support of the petition at the Commission meeting, in accordance with the provisions established under R12-4-603.
 2. If a petition does not meet the requirements prescribed under A.R.S. § 17-452, R12-4-110, and this Section, the Department shall return one copy of the petition as filed to the petitioner with the reasons why the petition does not meet the requirements, and not place the petition on a Commission agenda.
 3. If the Department returns a petition to a petitioner for a reason that cannot be corrected, the Department shall serve on the petitioner a notice of appealable agency action under A.R.S. § 41-1092.03.
- F. The petitioner shall submit a petition that:
1. Is typewritten, computer or word processor printed, or legibly handwritten, and double-spaced, on 8 1/2" x 11" paper;
 2. Has a concise map that shows the specific location of the proposed closure;
 3. Has the title "Petition for the Closure of Hunting, Fishing, or Trapping Privileges on Public Land" or "Petition for the Closure of Public Lands to the Operation of Motor Vehicles" at the top of the first page;
 4. Is in four parts, with titles designating each part as prescribed in this subsection;
 5. Has a "Part 1" with the title "Identification of Petitioner" and contains the following information, if applicable:
 - a. If the petitioner is the leaseholder of the area proposed for closure, the name, lease number, mailing address, and home telephone number of the petitioner;
 - b. If the petitioner is anyone other than the leaseholder, the name, mailing address, and telephone number of the leaseholder; the name, mailing address, and telephone number of the petitioner; and the name of each group or organization or organizations that the petitioner represents; or
 - c. If the petitioner is a public agency, the name and address of the agency and the name, title, and telephone number of the agency's representative regarding the petition.
 6. Has a "Part 2" with the title "Request for Closure" and contains all of the following information, if applicable:
 - a. The type of closure requested: either a hunting, fishing, or trapping closure, or closure to the operation of motor vehicles;
 - b. A complete legal description of the area to be closed;
 - c. The name or identifying number of any road and the portion of the road affected by the closure; and
 - d. The dates proposed for the closure:
 - i. If the closure is to the operation of motor vehicles, the actual time period of the closure (up to five years), and whether or not the closure is seasonal; or
 - ii. If the closure is for hunting, fishing, or trapping, whether or not the request is for a permanent closure or for some other period of time.
 7. Has a "Part 3" with the title "Reason for Closure" and contains all of the following information, if applicable:
 - a. Each reason why the closure should be considered under R12-4-110, A.R.S. § 17-304(B), or A.R.S. § 17-452(A);
 - b. Any data or other justification supporting the reasons for the closure with clear reference to any exhibits that may be attached to the petition;
 - c. Each individual or segment of the public the petitioner believes will be impacted by the closure, including any other valid licensees, lessees, or permittees that will or may be affected, and how they will be impacted, including both positive and negative impacts;
 - d. If the petitioner is a public agency, a summary of issues raised in any public hearing or public meeting regarding the petition and a copy of each written comment or document of concurrence authorized under A.R.S. § 17-452(A), received by the petitioning agency; and
 - e. A proposed alternate access route, under R12-4-110.
 8. Has a "Part 4" with the title "Dates and Signatures" and contains the following:
 - a. The original signature of the private party or the official contact named under subsection (F)(5)(a) or

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(b) of this Section, or, if the petitioner is a public agency, the signature of the agency head or the agency head's designee; and

- b. The month, day, and year when the petition was signed.

Historical Note

Adopted effective March 1, 1991; filed February 28, 1991 (Supp. 91-1). Amended effective January 1, 1993; filed December 18, 1992 (Supp. 92-4). Amended by final rulemaking at 10 A.A.R. 2245, effective July 6, 2004 (Supp. 04-2). Amended by final rulemaking at 16 A.A.R. 1465, effective July 13, 2010 (Supp. 10-3).

R12-4-611. Petition for Hearing Before the Commission When No Remedy is Provided in Statute, Rule, or Policy

- A. If no administrative remedy exists in statute, rule or policy, an aggrieved individual may request a hearing before the Commission by following the provisions of this Section.
- B. Any individual who requests a hearing under this Section shall submit a petition as prescribed in this Section before the request for a hearing will be considered by the Commission.
- C. A petitioner shall submit an original and one copy of a petition to the Arizona Game and Fish Department, Director's Office, 5000 W. Carefree Highway, Phoenix, AZ 85086.
- D. The petitioner shall ensure that the petition is typewritten, computer or word processor printed, or legibly handwritten, and double-spaced on 8 1/2" x 11" paper. The petitioner shall place the title "Petition for Hearing by the Arizona Game and Fish Commission" at the top of the first page. The petition shall include the items listed in subsections (E) through (H). The petitioner shall present the items in the petition in the order in which they are listed in this Section.
- E. The petitioner shall ensure that the title of Part 1 is "Identification of Petitioner" and that Part 1 includes the following information, as applicable:
1. If the petitioner is a private person, the name, mailing address, telephone number, and e-mail address (if available) of the petitioner;
 2. If the petitioner is a private group or organization, the name and address of the organization; the name, mailing address, telephone number, and e-mail address (if available) of one person who is designated as the official contact for the group or organization; the number of individuals or members represented by the private group or organization, and the number of these individuals or members who are Arizona residents. If the petitioner prefers, the petitioner may provide the names and addresses of all members; or
 3. If the petitioner is a public agency, the name and address of the agency and the name, title, telephone number, and e-mail address (if available) of the agency's representative.
- F. The petitioner shall ensure that the title of Part 2 is "Statement of Facts and Issues." Part 2 shall contain a description of the issue to be resolved, and a statement of the facts relevant to resolving the issue.
- G. The petitioner shall ensure that the title of Part 3 is "Petitioner's Proposed Remedy." Part 3 shall contain a full and detailed explanation of the specific remedy the petitioner is seeking from the Commission.
- H. The petitioner shall ensure that the title of Part 4 is "Date and Signatures." Part 4 shall contain:
1. The original signature of the private party or the official contact named in the petition, or, if the petitioner is a public agency, the signature of the agency head or the agency head's designee; and

2. The month, day, and year that the petition is signed.

- I. If a petition does not comply with this Section, the Director shall return the petition and indicate why the petition is deficient.
- J. After the Director receives a petition that complies with this Section, the Director shall place the petition on the agenda of a regularly scheduled Commission meeting.
- K. If the Commission votes to deny a petition, the Department shall not accept a subsequent petition on the same matter, unless the petitioner presents new evidence or reasons for considering the subsequent petition.
- L. This Section does not apply to the following:
1. A matter related to a license revocation or civil assessment;
 2. An unsuccessful hunt permit-tag computer draw application, where there was no error on the part of the Department; or
 3. The reinstatement of a bonus point, except as authorized under R12-4-107(M).

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2245, effective July 6, 2004 (Supp. 04-2). Amended by final rulemaking at 16 A.A.R. 1465, effective July 13, 2010 (Supp. 10-3). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).

ARTICLE 7. HERITAGE GRANTS**R12-4-701. Heritage Grant Definitions**

In addition to the definitions provided under A.R.S. §§ 17-101 and 17-296, the following definitions apply to this Article:

"Administrative subunit" means a branch, chapter, department, division, section, school, or other similar divisional entity of an eligible applicant. For example, an individual:

Administrative department, but not an entire city government;

Field office or project office, but not an entire agency; or

School, but not an entire school district.

"Eligible applicant" means any public agency, non-governmental organization, or nonprofit organization that meets the applicable requirements of this Article.

"Facilities" means any structure or site improvements.

"Fund" means the Arizona Game and Fish Commission Heritage Fund, established under A.R.S. § 17-297.

"Grant agreement" means a document that details the terms and conditions of a grant project.

"Grant effective date" means the date the Department Director signs the Grant Agreement.

"In-kind" means contributions other than cash, which include individual and material resources that the applicant makes available to the project, e.g. a public employee's salary, volunteer time, materials, supplies, space, or other donated goods and services.

"Participant" means an eligible applicant who has been awarded a grant from the Heritage Fund.

"Project" means an activity, or series of related activities, or services described in the specific project scope of work and results in specific end products.

"Project period" means the time during which a participant shall complete all approved work and related expenditures associated with an approved project.

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“Public agency” means the federal government or any federal department or agency, an Indian tribe, this state, all state departments, agencies, boards, and commissions, counties, school districts, public charter schools, cities, towns, all municipal corporations, administrative subunits, and any other political subdivision.

“Publicly held lands” means federal, public, and reserved land, State Trust Land, and other lands within Arizona that are owned, controlled, or managed by the federal government, a state agency, or political subdivision.

“Term of public use” means the time period during which the project or facility is expected to be maintained for public use.

Historical Note

Adopted effective July 12, 1996 (Supp. 96-3). Amended by final rulemaking at 8 A.A.R. 2692, effective June 6, 2002 (Supp. 02-2). Amended by final rulemaking at 13 A.A.R. 4587, effective February 2, 2008 (Supp. 07-4). Amended by final rulemaking at 19 A.A.R. 768, effective June 1, 2013 (Supp. 13-2). Amended by final rulemaking at 22 A.A.R. 2200, effective August 2, 2016 (Supp. 16-4).

R12-4-702. General Provisions; Heritage Grant Fund Requirements

- A.** The Department, in its sole discretion, may make Heritage Fund Grants available for projects that:
 1. Are located in Arizona or benefit Arizona wildlife or its habitat; and
 2. Meet the criteria established in the Heritage Grant application materials.
- B.** The Department shall:
 1. Provide public notice of the time, location, and due date for application submission; and
 2. Furnish materials necessary to complete the application.
- C.** An applicant seeking Heritage Grant funding shall submit to the Department a Heritage Fund Grant application according to a schedule of due dates determined by the Director. An applicant shall provide the following information on the Heritage Grant application form:
 1. The name of the applicant;
 2. Any county and legislative district where the project will be developed or upon which the project will have a direct impact;
 3. The name, title, mailing address, e-mail address, and telephone number of the individual responsible for the day-to-day management of the proposed project;
 4. Identification of the application criterion established in the Heritage Grant application materials;
 5. A descriptive project title;
 6. The name of the site, primary location, and any other locations of the project;
 7. Description of the:
 - a. Scope of work and the objective of the proposed project,
 - b. Methods for achieving the objective, and
 - c. Desired result of the project;
 8. The beginning and ending dates for the project;
 9. The resources needed to accomplish the project, including grant monies requested, and, if applicable, evidence of secured matching funds or contributions; and
 10. Any additional supporting information required by the Department.
 11. Signature and date. The person signing the grant application form shall have the authority to enter into agreements, accept funding, and fulfill the terms of the Grant Agreement on behalf of the applicant.
- D.** A person applying for multiple projects shall submit a separate application for each project.
- E.** An applicant shall demonstrate ownership or control of the project. Ownership or control may be demonstrated through fee title, lease, easement, or agreement. For all other project types related to sites not controlled by an applicant, an applicant shall provide written permission from the property owner authorizing the project activities and access. The applicant’s proof of ownership or control or written permission shall demonstrate:
 1. Permission for access is not revocable at will by the property owner, and
 2. Public access will be granted to the project site for the life of the project, unless the purpose of the project proposal is to limit access.
- F.** Heritage Grant proposals are competitive and the Department shall make awards based on a proposed project’s compatibility with the priorities of the Department, as approved by the Commission.
- G.** The Department may require an applicant to modify the application prior to awarding a Heritage Grant, if the Department determines that the modification is necessary for the successful completion of the project.
- H.** When applicable, the Department shall not release Heritage Grant funds until after the Department has consulted with the State Historic Preservation Office regarding the proposed project’s potential impact on historic and archaeological properties and resources.
- I.** The Department shall notify an applicant in writing of the results of the applicant’s submission and announce Heritage Grant awards at a regularly scheduled open meeting of the Commission.
- J.** A participant shall:
 1. Sign the Grant Agreement before the Department transfers any grant funds.
 2. Deposit transferred Heritage Grant funds in a dedicated account carrying the name and number of the project. In the event the funds are deposited in an interest-bearing account, any interest earned shall be:
 - a. Used for the purpose of furthering the project, with prior approval from the Department; or
 - b. Remitted to the Department upon completion of the project.
 3. Complete the project as specified under the terms and conditions of the Grant Agreement.
 4. Use awarded Heritage Grant funds solely for the project described in the application and as approved by the Department.
 5. Bear full responsibility for performance of its subcontractors to ensure compliance with the Grant Agreement.
 6. Pay all costs associated with the operation and maintenance of properties, facilities, equipment, services, publications, and other media funded by a Heritage Grant for the term of public use as specified in the Grant Agreement.
 7. Submit records that substantiate the expenditure of Heritage Grant funds. In addition, each participant shall retain and shall contractually require each subcontractor to retain all books, accounts, reports, files, and any other records relating to the acquisition and performance of the contract for a period of five years from the end date of the project period. The Department may inspect and audit participant and subcontractor records as prescribed under A.R.S. § 35-214. Upon the Department’s request, a participant or subcontractor shall produce a legible copy of these records.

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8. Allow Department employees or agents to conduct inspections and reviews:
 - a. To ensure compliance with all terms and conditions established under the Grant Agreement.
 - b. Before release of the final payment.
 9. Give public acknowledgment of Heritage Fund grant assistance for the term of public use of a project. If a project involves acquisition of property, development of public access, or renovation of a habitat site, the participant shall install a permanent sign describing the funding sources. The participant may include the cost of this signage as part of the original project. The participant is responsible for maintenance or replacement of the sign as required. For other project types, the participant shall include Heritage Fund grant funding acknowledgment on any publicly available or accessible products resulting from the project.
- K.** A participant shall not:
1. Begin a project described in the application until after the grant effective date.
 2. Use Heritage Grant funds for the purpose of producing income unless authorized by the Department. A participant shall use all income generated to further the purpose of the approved project or surrender the income to the original funding source.
 3. Comingle Heritage Grant funds with any other funds.
 4. Use Heritage Grant funds to pay the salary of any public agency employee. A participant may use a public agency's employee's time as in-kind match for the project specified in the Grant Agreement.
- L.** The parties may amend the terms of the Grant Agreement by mutual written consent. The Department shall prepare any approved amendment in writing, and both the Department and the Grantee shall sign the amendment.
- M.** The Department and the participant may amend the Grant Agreement during the project period. A participant seeking to amend the Grant Agreement shall submit a written request that includes justification to amend the Grant Agreement. The Department shall prepare any approved amendment in writing and both the Department and the participant shall sign the amendment.
- N.** A participant shall submit project status reports, as required in the Grant Agreement. If a participant fails to submit a project status report, the Department may not release any remaining grant monies until the participant has submitted all past due project status reports. The project status report shall include the following information, as applicable:
1. Progress in completing approved work;
 2. Itemized, cumulative project expenditures;
 3. A financial accounting of:
 - a. Heritage Grant Funds,
 - b. Matching funds,
 - c. Donations, and
 - d. Income derived from project funds;
 4. Any delays or problems that may prevent the on-time completion of the project; and
 5. Any other information required by the Department.
- O.** At the end of the project period and for each year until the end of the term of public use, a participant shall:
1. Certify compliance with the Grant Agreement, and
 2. Complete a post-completion report form furnished by the Department.
- P.** Upon completion of approved project elements, if a balance of awarded Heritage Grant funds remains, the participant may:
1. Use the unexpended funds for an additional project consistent with the original scope of work, when approved by the Department; or
 2. Surrender the unexpended funds to the Department.
- Q.** Upon completion of the project a participant shall:
1. Surrender equipment with an acquisition cost of more than \$500 to the Department upon completion, or
 2. Use equipment purchased with Heritage Grant funds in a manner consistent with the purposes of the Grant Agreement.
- R.** A participant may request an extension beyond the approved project period by writing to the Department.
1. Requests for an extension shall be submitted by the participant no later than 30 days before the end of the project period.
 2. If approved, an extension shall be signed by both the participant and the Department.
- S.** A participant that has a Heritage Grant funded project in extension shall not apply for, nor be considered for, further Heritage Grants until the administrative subunit's project under extension is completed.
- T.** In addition, the Department may administratively extend the project period for good cause such as, but not limited to, inclement weather, internal personnel changes, or to complete the final closure documents.
- U.** A participant that failed to comply with the terms and conditions of a Grant Agreement shall not apply for, nor be considered for, further Heritage Grants until the participant's project is brought into compliance.
- V.** If a participant is not in compliance with the Grant Agreement, the Department may:
1. Terminate the Grant Agreement,
 2. Seek recovery of grant monies awarded, and
 3. Classify the participant as ineligible for Heritage Fund Grants for a period of up to five years.

Historical Note

Adopted effective July 12, 1996 (Supp. 96-3). Amended by final rulemaking at 8 A.A.R. 2692, effective June 6, 2002 (Supp. 02-2). Amended by final rulemaking at 13 A.A.R. 4587, effective February 2, 2008 (Supp. 07-4). Amended by final rulemaking at 19 A.A.R. 768, effective June 1, 2013 (Supp. 13-2). Amended by final rulemaking at 22 A.A.R. 2200, effective August 2, 2016 (Supp. 16-4).

R12-4-703. Repealed**Historical Note**

Adopted effective July 12, 1996 (Supp. 96-3). Amended by final rulemaking at 8 A.A.R. 2692, effective June 6, 2002 (Supp. 02-2). Amended by final rulemaking at 13 A.A.R. 4587, effective February 2, 2008 (Supp. 07-4). R12-4-703 renumbered to R12-4-705; new Section R12-4-703 made by final rulemaking at 19 A.A.R. 768, effective June 1, 2013 (Supp. 13-2). Repealed by final rulemaking at 22 A.A.R. 2200, effective August 2, 2016 (Supp. 16-4).

R12-4-704. Repealed**Historical Note**

Adopted effective July 12, 1996 (Supp. 96-3). Amended by final rulemaking at 13 A.A.R. 4587, effective February 2, 2008 (Supp. 07-4). R12-4-704 repealed; new Section R12-4-704 renumbered from R12-4-709 and amended by final rulemaking at 19 A.A.R. 768, effective June 1, 2013 (Supp. 13-2). Repealed by final rulemaking at 22 A.A.R. 2200, effective August 2, 2016 (Supp. 16-4).

R12-4-705. Repealed**Historical Note**

Adopted effective July 12, 1996 (Supp. 96-3). Amended by final rulemaking at 8 A.A.R. 2692, effective June 6, 2002 (Supp. 02-2). Amended by final rulemaking at 13 A.A.R. 4587, effective February 2, 2008 (Supp. 07-4). R12-4-705 repealed; new Section R12-4-705 renumbered from R12-4-703 and amended by final rulemaking at 19 A.A.R. 768, effective June 1, 2013 (Supp. 13-2). Repealed by final rulemaking at 22 A.A.R. 2200, effective August 2, 2016 (Supp. 16-4).

R12-4-706. Repealed**Historical Note**

Adopted effective July 12, 1996 (Supp. 96-3). Amended by final rulemaking at 8 A.A.R. 2692, effective June 6, 2002 (Supp. 02-2). Amended by final rulemaking at 13 A.A.R. 4587, effective February 2, 2008 (Supp. 07-4). R12-4-706 repealed; new Section R12-4-706 renumbered from R12-4-710 and amended by final rulemaking at 19 A.A.R. 768, effective June 1, 2013 (Supp. 13-2). Repealed by final rulemaking at 22 A.A.R. 2200, effective August 2, 2016 (Supp. 16-4).

R12-4-707. Repealed**Historical Note**

Adopted effective July 12, 1996 (Supp. 96-3). Amended by final rulemaking at 13 A.A.R. 4587, effective February 2, 2008 (Supp. 07-4). R12-4-707 repealed; new Section R12-4-707 renumbered from R12-4-711 and amended by final rulemaking at 19 A.A.R. 768, effective June 1, 2013 (Supp. 13-2). Repealed by final rulemaking at 22 A.A.R. 2200, effective August 2, 2016 (Supp. 16-4).

R12-4-708. Repealed**Historical Note**

Adopted effective July 12, 1996 (Supp. 96-3). Amended by final rulemaking at 8 A.A.R. 2692, effective June 6, 2002 (Supp. 02-2). Amended by final rulemaking at 13 A.A.R. 4587, effective February 2, 2008 (Supp. 07-4). R12-4-708 repealed; new Section R12-4-708 renumbered from R12-4-712 and amended by final rulemaking at 19 A.A.R. 768, effective June 1, 2013 (Supp. 13-2). Repealed by final rulemaking at 22 A.A.R. 2200, effective August 2, 2016 (Supp. 16-4).

R12-4-709. Renumbered**Historical Note**

Adopted effective July 12, 1996 (Supp. 96-3). Amended by final rulemaking at 8 A.A.R. 2692, effective June 6, 2002 (Supp. 02-2). Amended by final rulemaking at 13 A.A.R. 4587, effective February 2, 2008 (Supp. 07-4). R12-4-709 renumbered to R12-4-704 by final rulemaking at 19 A.A.R. 768, effective June 1, 2013 (Supp. 13-2).

R12-4-710. Renumbered**Historical Note**

Adopted effective July 12, 1996 (Supp. 96-3). Amended by final rulemaking at 13 A.A.R. 4587, effective February 2, 2008 (Supp. 07-4). R12-4-710 renumbered to R12-4-706 by final rulemaking at 19 A.A.R. 768, effective June 1, 2013 (Supp. 13-2).

R12-4-711. Renumbered**Historical Note**

Adopted effective July 12, 1996 (Supp. 96-3). Amended by final rulemaking at 8 A.A.R. 2692, effective June 6, 2002 (Supp. 02-2). Amended by final rulemaking at 13 A.A.R. 4587, effective February 2, 2008 (Supp. 07-4). R12-4-711 renumbered to R12-4-707 by final rulemaking at 19 A.A.R. 768, effective June 1, 2013 (Supp. 13-2).

R12-4-712. Renumbered**Historical Note**

Adopted effective July 12, 1996 (Supp. 96-3). Amended by final rulemaking at 8 A.A.R. 2692, effective June 6, 2002 (Supp. 02-2). Amended by final rulemaking at 13 A.A.R. 4587, effective February 2, 2008 (Supp. 07-4). R12-4-712 renumbered to R12-4-708 by final rulemaking at 19 A.A.R. 768, effective June 1, 2013 (Supp. 13-2).

ARTICLE 8. WILDLIFE AREAS AND DEPARTMENT PROPERTY**R12-4-801. General Provisions****A. Wildlife Areas:**

1. Wildlife areas shall be established to:
 - a. Provide protective measures for wildlife, habitat, or both;
 - b. Allow for hunting, fishing, and other recreational activities that are compatible with wildlife habitat conservation and education;
 - c. Allow for special management or research practices; and
 - d. Enhance wildlife and habitat conservation.
2. Wildlife areas shall be:
 - a. Lands owned, leased, or otherwise managed by the Commission;
 - b. Federally-owned lands of unique wildlife habitat where cooperative agreements provide wildlife management and research implementation; or
 - c. Any lands with property interest conveyed to the Commission by any entity, through an approved land use agreement, including but not limited to deeds, patents, leases, conservation easements, special use permits, licenses, management agreements, inter-agency agreements, letter agreements, and right-of-entry, where the property interest conveyed is sufficient for management of the lands consistent with the objectives of the wildlife area.
3. Land qualified for wildlife areas shall be:
 - a. Lands with unique topographic or vegetative characteristics that contribute to wildlife,
 - b. Lands where certain wildlife species are confined because of habitat demands,
 - c. Lands that can be physically managed and modified to attract wildlife, or
 - d. Lands that are identified as critical habitat for certain wildlife species during critical periods of their life cycles.
4. The Department may restrict public access to and public use of wildlife areas and the resources of wildlife areas for up to 90 days when necessary to protect property, ensure public safety, or to ensure maximum benefits to wildlife. Closures or restrictions exceeding 90 days shall require Commission approval.
5. Closures of all or any part of a wildlife area to public entry, and any restriction to public use of a wildlife area, shall be listed in this Article or shall be clearly posted at each entrance to the wildlife area. No person shall con-

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duct an activity restricted by this Article or by such posting.

6. When a wildlife area is posted against travel except on existing roads, no person shall drive a motor-operated vehicle over the countryside except by road.
7. The Department may post signs that place additional restrictions on the use of wildlife areas. Such restrictions may include the timing, type, or duration of certain activities, including the prohibition of access or nature of use.

B. Commission-owned real property other than Wildlife Areas:

1. The Department may take action to manage public access and use of any Commission-owned real property or facilities. Such actions may include restrictions on the timing, type, or duration of certain activities, including the prohibition of access or nature of use.
2. No person shall access or use any Commission-owned real property or facilities in violation of any Department actions authorized under subsection (B)(1), if signs are posted providing notice of the restrictions.

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1731, effective May 1, 2000 (Supp. 00-2). Amended by exempt rulemaking at 17 A.A.R. 800, effective June 20, 2011 (Supp. 11-2). Amended by exempt rulemaking at 18 A.A.R. 1070, effective June 15, 2012 (Supp. 12-2). Amended by exempt rulemaking at 22 A.A.R. 951, effective June 7, 2016 (Supp. 16-2).

R12-4-802. Wildlife Area and Other Department Managed Property Restrictions

A. No person shall violate the following restrictions on Wildlife Areas:

1. Alamo Wildlife Area (located in Units 16A and 44A):
 - a. Wood collecting limited to dead and down material, for onsite noncommercial use only.
 - b. Overnight public camping in the wildlife area outside of Alamo State Park allowed for no more than 14 days within a 45-day period.
 - c. Motorized vehicle travel permitted on designated roads or areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
 - d. Posted portions closed to all public entry.
 - e. Open to all hunting in season as permitted under R12-4-304 and R12-4-318.
2. Allen Severson Wildlife Area (located in Unit 3B):
 - a. No open fires.
 - b. No firewood cutting or gathering.
 - c. No overnight public camping.
 - d. Motorized vehicle travel permitted on designated roads or areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
 - e. Posted portions closed to discharge of all firearms from April 1 through July 25 annually.
 - f. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except posted portions closed to hunting from April 1 through July 25 annually.
3. Aravaipa Canyon Wildlife Area (located in Units 31 and 32):
 - a. Access through the Aravaipa Canyon Wildlife Area within the Aravaipa Canyon Wilderness Area is by

permit only, available through the Safford Office of the Bureau of Land Management.

Motorized vehicle travel is not permitted on the wildlife area. This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.

- b. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except the wildlife area is closed to the discharge of all firearms.
4. Arlington Wildlife Area (located in Unit 39):
 - a. No open fires.
 - b. No firewood cutting or gathering.
 - c. No overnight public camping.
 - d. Motorized vehicle travel permitted on designated roads, trails, or areas only, except as permitted under R12-4-110(H). No motorized travel is permitted within agriculture and crop production areas. This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
 - e. Target or clay bird shooting permitted in designated areas only.
 - f. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except:
 - i. Posted portions around Department housing are closed to the discharge of all firearms; and
 - ii. Wildlife area is closed to the discharge of centerfire rifled firearms.
5. Base and Meridian Wildlife Area (located in Units 39, 26M, and 47M):
 - a. No open fires.
 - b. No firewood cutting or gathering.
 - c. No overnight public camping.
 - d. Motorized vehicle travel is not permitted on the wildlife area. This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
 - e. No target or clay bird shooting.
 - f. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except the wildlife area is closed to the discharge of rifled firearms.
6. Becker Lake Wildlife Area (located in Unit 1):
 - a. No open fires.
 - b. No overnight public camping.
 - c. Motorized vehicle travel permitted on designated roads, trails, or areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
 - d. The Becker Lake boat launch access road and parking areas along with any other posted portions of the wildlife area will be closed to all public entry from one hour after sunset to one hour before sunrise daily.
 - e. Posted portions closed to all public entry.
 - f. Posted portions closed to hunting.
 - g. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except the wildlife area is closed to the discharge of rifled firearms.
7. Bog Hole Wildlife Area (located in Unit 35B):
 - a. No open fires.
 - b. No firewood cutting or gathering.
 - c. No overnight public camping.
 - d. Motorized vehicle travel is not permitted on the wildlife area. This subsection does not apply to

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- Department authorized vehicles or law enforcement, fire response or other emergency vehicles.
- e. Open to all hunting in season, by foot access only, as permitted under R12-4-304 and R12-4-318.
8. Chevelon Canyon Ranches Wildlife Area (located in Unit 4A):
 - a. No open fires.
 - b. No firewood cutting or gathering.
 - c. No overnight public camping.
 - d. Motorized vehicle travel permitted on designated roads and areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
 - e. Open to all hunting in season as permitted under R12-4-304 and R12-4-318.
 9. Chevelon Creek Wildlife Area (located in Unit 4B):
 - a. No open fires.
 - b. No firewood cutting or gathering.
 - c. No overnight public camping.
 - d. Motorized vehicle travel permitted on designated roads and areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
 - e. Posted portions closed to all public entry.
 - f. Additional posted portions closed to all public entry from October 1 through February 1 annually.
 - g. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except posted portions closed to hunting from October 1 through February 1 annually.
 10. Cibola Valley Conservation and Wildlife Area (located in unit 43A):
 - a. No open fires.
 - b. No firewood cutting or gathering.
 - c. No overnight public camping.
 - d. Motorized vehicle travel permitted on designated and administrative roads and areas only, except as permitted under R12-4-110(H). No motorized travel is permitted within agriculture and crop production areas. This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
 - e. Posted portions closed to all public entry.
 - f. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except the wildlife area is closed to the discharge of rifled firearms.
 11. Clarence May and C.H.M. May Memorial Wildlife Area (located in Unit 29):
 - a. Closed to the discharge of all firearms, except as authorized under subsection (A)(11)(b).
 - b. Closed to hunting, except for predator hunts authorized by Commission Order.
 12. Cluff Ranch Wildlife Area (located in Unit 31):
 - a. Open fires allowed in designated areas only.
 - b. Wood collecting limited to dead and down material, for onsite noncommercial use only.
 - c. Overnight public camping allowed in designated areas only, for no more than 14 days within a 45-day period.
 - d. Motorized vehicle travel permitted on designated roads, trails, or areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
 - e. Posted portions around Department housing and Pond Three are closed to discharge of all firearms.
 - f. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except the wildlife area is closed to the discharge of centerfire rifled firearms.
 13. Colorado River Nature Center Wildlife Area (located in Unit 15D):
 - a. No open fires.
 - b. No firewood cutting or gathering.
 - c. No overnight public camping.
 - d. Motorized vehicle travel permitted on designated roads or areas only. This subsection does not apply to Department authorized vehicles, law enforcement, fire response, or other emergency vehicles.
 - e. Closed to hunting.
 14. Fool Hollow Lake Wildlife Area (located in Unit 3C):
 - a. No open fires.
 - b. No firewood cutting or gathering.
 - c. No overnight public camping.
 - d. Motorized vehicle travel permitted on designated roads, trails, or areas only. This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
 - e. The parking area adjacent to Sixteenth Avenue and other posted portions of the wildlife area will be closed to all public entry daily from one hour after sunset to one hour before sunrise, except for anglers possessing a valid fishing license accessing Fool Hollow Lake/Show Low Creek.
 - f. Open to all hunting in season as permitted under R12-4-304 and R12-4-318.
 15. House Rock Wildlife Area (located in Unit 12A):
 - a. Motorized vehicle travel permitted on designated roads, trails, or areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles, law enforcement, fire response, or other emergency vehicles.
 - b. Open to all hunting in season as permitted under R12-4-304 and R12-4-318.
 - c. Members of the public are prohibited from being within 1/4 mile of the House Rock bison herd while on House Rock Wildlife Area, except when taking bison or accompanied by Department personnel.
 16. Jacques Marsh Wildlife Area (located in Unit 3B):
 - a. No open fires.
 - b. No firewood cutting or gathering.
 - c. No overnight public camping.
 - d. Motorized vehicle travel permitted on designated roads or areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
 - e. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except the wildlife area is closed to the discharge of rimfire and centerfire rifled firearms.
 17. Lamar Haines Wildlife Area (located in Unit 7):
 - a. Wood cutting by permit only and collecting limited to dead and down material, for noncommercial use only. Upon request, a person may obtain a wood cutting permit from the Flagstaff Game and Fish Department regional office.
 - b. No overnight public camping.

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- c. Motorized vehicle travel permitted on designated roads or areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
 - d. Open to all hunting in season as permitted under R12-4-304 and R12-4-318.
18. Lower San Pedro River Wildlife Area (located in Units 32 and 37B):
- a. Open fires allowed in designated areas only. The following acts are prohibited:
 - i. Building, attending, maintaining, or using a fire without removing all flammable material from around the fire to adequately prevent the fire from spreading from the fire pit.
 - ii. Carelessly or negligently throwing or placing any ignited substance or other substance that may cause a fire.
 - iii. Building, attending, maintaining, or using a fire in any area that is closed to fires.
 - iv. Leaving a fire without completely extinguishing it.
 - b. Wood collecting limited to dead and down material, for onsite noncommercial use only.
 - c. Overnight public camping allowed in designated areas only, for no more than 14 days within a 45-day period.
 - d. Motorized vehicle travel permitted on designated roads, trails, or areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
 - e. Posted portions closed to all public entry.
 - f. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except posted portions closed to hunting.
 - g. Parking allowed within 300 feet of designated open roads and in designated areas only.
 - h. Discharge of a firearm or pre-charged pneumatic weapon prohibited within ¼ mile of buildings.
 - i. A person shall not use a metal detector or similar device except as authorized by the Department. This subsection does not apply to law enforcement officers in the scope of their official duties, or to persons duly licensed, permitted, or otherwise authorized to investigate historical or cultural artifacts by a government agency with regulatory authority over cultural or historic artifacts.
19. Luna Lake Wildlife Area (located in Unit 1):
- a. Motorized vehicle travel permitted on designated roads or areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
 - b. Posted portions closed to all public entry from February 15 through July 31 annually.
 - c. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except when closed to hunting from April 1 through July 31 annually.
20. Mittry Lake Wildlife Area (located in Unit 43B):
- a. Open fires allowed in designated areas only.
 - b. Overnight public camping allowed in designated areas only, for no more than 10 days per calendar year.
 - c. Motorized vehicle travel permitted on designated roads, trails, or areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
21. Planet Ranch Conservation and Wildlife Area (located in Units 16A and 44A):
- a. No open fires.
 - b. No firewood cutting or gathering.
 - c. Overnight public camping allowed in designated areas only, for no more than 14 days within a 45-day period.
 - d. Motorized vehicle travel:
 - i. Is permitted on designated roads, trails, or areas only, except as permitted under R12-4-110(H).
 - ii. Is prohibited within the posted Lower Colorado River Multi-Species Conservation Program habitat area.
 - iii. This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
 - e. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except posted portions closed to hunting.
22. Powers Butte (Mumme Farm) Wildlife Area (located in Unit 39):
- a. No open fires.
 - b. No firewood cutting or gathering.
 - c. No overnight public camping.
 - d. Motorized vehicle travel permitted on posted designated roads, trails, or areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
 - e. If conducted during an event approved under R12-4-125, target or clay bird shooting is permitted in designated areas only.
 - f. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except:
 - i. Posted portions around Department housing are closed to the discharge of all firearms; and
 - ii. Wildlife area is closed to the discharge of centerfire rifled firearms.
23. Quigley-Achee Wildlife Area (located in Unit 41):
- a. No open fires.
 - b. No overnight public camping.
 - c. Motorized vehicle travel permitted on designated roads, trails, or areas only, except as permitted under R12-4-110(H). No motorized travel is permitted within agriculture and crop production areas. This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
 - d. Posted portions closed to all public entry.
 - e. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except posted portions closed to hunting.
24. Raymond Wildlife Area (located in Unit 5B):
- a. Overnight public camping permitted in designated sites only, for no more than 14 days within a 45-day period.
 - b. Motorized vehicle travel permitted on designated roads, trails, or areas only, except as permitted under R12-4-110 (G). All-terrain and utility type vehicles

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- are prohibited. For the purpose of this subsection, all-terrain and utility type vehicle means a motor vehicle having three or more wheels fitted with large tires and is designed chiefly for recreational use over roadless, rugged terrain. This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
- c. Posted portions closed to all public entry from May 1 through July 29 annually.
 - d. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except posted portions closed to hunting periodically during hunting seasons.
 - e. Members of the public are prohibited from being within 1/4 mile of the Raymond bison herd while on Raymond Wildlife Area, except when taking bison or accompanied by Department personnel.
 - f. Prior to entering Raymond Wildlife Area, members of the public shall sign in at a posted sign-in kiosk and by doing so acknowledge they have read and shall comply with the posted Raymond Wildlife Areas restrictions.
25. Robbins Butte Wildlife Area (located in Unit 39):
 - a. No open fires.
 - b. No firewood cutting or gathering.
 - c. No overnight public camping.
 - d. Motorized vehicle travel permitted on designated roads, trails, or areas only from one hour before sunrise to one hour after sunset daily, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
 - e. Parking in designated areas only.
 - f. If conducted during an event approved under R12-4-125, target or clay bird shooting is permitted in designated areas only.
 - g. Open to all hunting in season as permitted under R12-4-304 and R12-4-318 except the wildlife area is closed to the discharge of centerfire rifled firearms.
 26. Roosevelt Lake Wildlife Area (located in Units 22, 23, and 24B):
 - a. Posted portions closed to all public entry from November 15 through February 15 annually.
 - b. Motorized vehicle travel permitted on designated roads, trails, or areas only, except as permitted under R12-4-110(H). No motorized travel is permitted within agriculture and crop production areas. This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
 - c. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except posted portions closed to hunting from November 15 through February 15 annually.
 27. Santa Rita Wildlife Area (located in Unit 34A):
 - a. Motorized vehicle travel permitted on designated roads or areas only, except as permitted under R12-4-110(H). Portions of the wildlife area may be posted as closed to motorized vehicle travel for periodical research purposes. This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
 - b. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except that the take of wildlife with firearms is prohibited from March 1 through August 31.
 28. Sipe White Mountain Wildlife Area (located in Unit 1):
 - a. No open fires.
 - b. No firewood cutting or gathering.
 - c. No overnight public camping.
 - d. Motorized vehicle travel permitted on designated roads or areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
 - e. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except posted portions around Department housing is closed to the discharge of all firearms.
 29. Springerville Marsh Wildlife Area (located in Unit 2B):
 - a. No open fires.
 - b. No firewood cutting or gathering.
 - c. No overnight public camping.
 - d. Motorized vehicle travel permitted on designated roads or areas only. This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
 - e. Closed to the discharge of all firearms.
 - f. Open to all hunting as permitted under R12-4-304 and R12-4-318, except the wildlife area is closed to the discharge of all firearms.
 30. Sunflower Flat Wildlife Area (located in Unit 8):
 - a. No overnight public camping.
 - b. Motorized vehicle travel permitted on designated roads or areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
 - c. Open to all hunting in season as permitted under R12-4-304 and R12-4-318.
 31. Three Bar Wildlife Area (located in Unit 22):
 - a. Motorized vehicle travel:
 - i. Is permitted on designated roads, trails, or areas only, except as permitted under R12-4-110(H).
 - ii. Is prohibited within the Three Bar Wildlife and Habitat Study Area.
 - iii. This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
 - b. Open to all hunting in season, as permitted under R12-4-304 and R12-4-318, except the area within the fenced enclosure inside the loop formed by Tonto National Forest Road 647, also known as the Walnut Canyon Enclosure, which is closed to hunting, unless otherwise provided under Commission Order.
 32. Tucson Mountain Wildlife Area (located in Unit 38M):
 - a. Motorized vehicle travel permitted on designated roads and trails as part of the road system managed and regulated by the City of Tucson and Pima County. This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
 - b. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except:
 - i. Portions posted as closed to hunting, and
 - ii. Wildlife area is closed to the discharge of all firearms.

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- c. Archery deer and archery javelina hunters must check in with the Arizona Game and Fish Tucson Regional Office prior to going afield.
- 33. Upper Verde River Wildlife Area (located in Unit 8 and 19A):
 - a. No open fires.
 - b. No firewood cutting or gathering.
 - c. No overnight public camping.
 - d. Motorized vehicle travel is not permitted. This subsection does not apply to Department authorized vehicles or law enforcement, fire department, or other emergency vehicles.
 - e. Open to all hunting in season as permitted under R12-4-304 and R12-4-318.
 - f. All dogs must remain on leash except for hunting dogs during a legal open season.
- 34. Wenima Wildlife Area (located in Unit 2B):
 - a. No open fires.
 - b. No firewood cutting or gathering.
 - c. No overnight public camping.
 - d. Motorized vehicle travel permitted on designated roads or areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
 - e. Open to all hunting in season as permitted under R12-4-304 and R12-4-318.
- 35. White Mountain Grasslands Wildlife Area (located in Unit 1):
 - a. No open fires.
 - b. No overnight public camping.
 - c. Motorized vehicle travel permitted on designated roads or areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
 - d. Posted portions closed to all public entry.
 - e. Open to all hunting in season as permitted under R12-4-304 and R12-4-318.
- 36. Whitewater Draw Wildlife Area (located in Unit 30B):
 - a. Open fires allowed in designated areas only.
 - b. Overnight public camping allowed in designated areas only, for no more than 14 days within a 45-day period.
 - c. Motorized vehicle travel permitted on designated roads, trails, or areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
 - d. Posted portions closed to all public entry from October 15 through March 15 annually.
 - e. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except the wildlife area is closed to the discharge of centerfire rifled firearms.
- 37. Willcox Playa Wildlife Area (located in Unit 30A):
 - a. Open fires allowed in designated areas only.
 - b. No firewood cutting or gathering.
 - c. Overnight public camping allowed in designated areas only, for no more than 14 days within a 45-day period.
 - d. Motorized vehicle travel permitted on designated roads, trails, or areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
 - e. Posted portions closed to all public entry from October 15 through March 15 annually.
 - f. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except posted portions closed to hunting from October 15 through March 15 annually.
- B. Notwithstanding Commission Order 40, public access and use of the Hirsch Conservation Education Area and Biscuit Tank is limited to activities conducted and offered by the Department and in accordance with the Department's special management objectives for the property, which include, but are not limited to, flexible harvest, season, and methods that:
 - 1. Allow for a variety of fishing techniques, fish harvest, fish consumption, and catch and release educational experiences;
 - 2. Maintain a healthy, productive, and balanced fish community and
 - 3. Provide public education activities and training courses that are compatible with the management of aquatic wildlife.

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1731, effective May 1, 2000 (Supp. 00-2). Amended by exempt rulemaking at 8 A.A.R. 2107, effective May 1, 2002 (Supp. 02-2). Amended by exempt rulemaking at 9 A.A.R. 3141, effective August 23, 2003 (Supp. 03-2). Amended by exempt rulemaking at 10 A.A.R. 1976, effective May 14, 2004 (Supp. 04-2). Amended by exempt rulemaking at 11 A.A.R. 1927, effective May 20, 2005 (Supp. 05-2). Amended by exempt rulemaking at 12 A.A.R. 1698, effective May 19, 2006 (Supp. 06-2). Amended by exempt rulemaking at 13 A.A.R. 1741, effective May 18, 2007 (Supp. 07-2). Amended by exempt rulemaking at 14 A.A.R. 1841, effective April 22, 2008 (Supp. 08-2). Amended by exempt rulemaking at 16 A.A.R. 397, effective March 5, 2010 (Supp. 10-1). Amended by exempt rulemaking at 17 A.A.R. 800, effective June 20, 2011 (Supp. 11-2). Amended by exempt rulemaking at 18 A.A.R. 1070, effective June 15, 2012 (Supp. 12-2). Amended by exempt rulemaking at 19 A.A.R. 931, effective June 17, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 841, effective June 17, 2014 (Supp. 14-1). Amended by exempt rulemaking at 22 A.A.R. 951, effective June 7, 2016 (Supp. 16-2). Amended by exempt rulemaking at 22 A.A.R. 2209, effective October 4, 2016 (Supp. 16-4).

R12-4-803. Wildlife Area and Other Department Managed Property Boundary Descriptions**A. For the purposes of this Section:**

- "B.C." means brass cap.
- "B.C.F." means brass cap flush.
- "G&SRB&M" means Gila and Salt River Base and Meridian.
- "M&B" means metes and bounds.
- "R" means Range line.
- "T" means Township line.

B. Wildlife Areas are described as follows:

- 1. Alamo Wildlife Area: The Alamo Wildlife Area shall be those areas described as follows:
T10N, R13W; Section 3 N1/2, SW1/4, SE1/4 Mohave County only; Section 4, E1/2SW1/4, SE1/4; Section 9, NE1/4, E1/2NW1/4; Section 10, NW1/4NW1/4, NE1/4NW1/4 within designated Wilderness Area. T11N, R11W; Section 7, S1/2SW1/4; Section 18, N1/2 NW1/4; T11N, R12W; Section 4, Lots 2, 3 and 4, SW1/4NE1/4, S1/2NW1/4, SW1/4, W1/2SE1/4; Section 5, Lot 1, SE1/

- 4NE1/4, E1/2SE1/4; Section 7, S1/2, SE1/4 NE1/4; Section 8, NE1/4, S1/2NW1/4, S1/2; Section 9; Section 10, S1/2NW1/4, S1/2; Section 11, S1/2S1/2; Section 12, S1/2S1/2; Section 13, N1/2, N1/2SW1/4, NW1/4SE1/4; Section 14, N1/2, E1/2SE1/4; Section 15, N1/2, SW1/4SW1/4, SW1/4SE1/4; Section 16, 17, 18 and 19; Section 20, N1/2, N1/2SW1/4; Section 21, NW1/4; Section 29, SW1/4, SW1/4SE1/4; Section 30; Section 31, N1/2, N1/2S1/2; Section 32, NW1/4, N1/2SW1/4; T11N, R13W; Section 12, SE1/4SW1/4, SW1/4SE1/4, E1/2SE1/4; Section 13; Section 14, S1/2NE1/4, SE1/4SW1/4, SE1/4; Section 22, S1/2SW1/4, SE1/4; Section 23, E1/2, E1/2NW1/4, SW1/4NW1/4, SW1/4; Section 24, 25 and 26; Section 27, E1/2, E1/2W1/2; Section 34, E1/2, E1/2NW1/4, SW1/4; Section 35 W1/2, W1/2NE1/4; T12N, R12W; Section 19, E1/2, SE1/4SW1/4; Section 20, NW1/4NW1/4, SW1/4SW1/4; Section 28, W1/2SW1/4; Section 29, W1/2NW1/4, S1/2, SE1/4NW1/4; Section 30, E1/2, E1/2NW1/4, NE1/4SW1/4; Section 31, NE1/4NE1/4; Section 32, N1/2, N1/2SE1/4, SE1/4SE1/4; Section 33, W1/2E1/2, W1/2; all in G&SRB&M, Mohave and La Paz Counties, Arizona.
2. Allen Severson Memorial Wildlife Area: The Allen Severson Memorial Wildlife Area shall be that area including Pintail Lake and South Marsh lying within the fenced and posted portions of:
T11N, R22E; Section 32, SE1/4; Section 33, S1/2SW1/4; T10N, R22E; Section 4, N1/2NW1/4; T10N, R22E; Section 4: the posted portion of the NW1/4SW1/4; all in G&SRB&M, Navajo County, Arizona, consisting of approximately 300 acres.
 3. Aravaipa Canyon Wildlife Area: The Aravaipa Canyon Wildlife Area shall be that area within the flood plain of Aravaipa Creek and the first 50 vertical feet above the streambed within the boundaries of the Aravaipa Canyon Wilderness Area administered by the Bureau of Land Management (BLM), Graham and Pinal Counties, Arizona.
 4. Arlington Wildlife Area: The Arlington Wildlife Area shall be those areas described as follows:
T1S, R5W, Section 33, E1/2SE1/4; T2S, R5W, Section 3, W1/2W1/2, Section 4, E1/2, and Parcel 401-58-001A as described by the Maricopa County Assessor's Office; a parcel of land lying within Section 4, T2S, R5W, more particularly described as follows: commencing at the southwest corner of said Section 4, 2-inch aluminum cap (A.C.) in pothole stamped "RLS 36562", from which the northwest corner of said Section, a 1 1/2-inch B.C. stamped "T1S R5W S32 S33 S5 S4 1968", bears N 00°09'36" E (basis of bearing) a distance of 4130.10 feet, said southwest corner being the point of beginning; thence along the west line of said Section, N 00°09'36" E a distance of 16.65 feet; thence leaving said west line, S 89°48'28" E a distance of 986.79 feet; thence N 00°47'35" E a distance of 2002.16 feet; thence N 01°07'35" E a distance of 2102.65 feet to the north line of said Section; thence along said north line S 89°18'45" E a distance of 1603.61 feet to the N1/4 corner of said Section, a 1/2-inch metal rod; thence leaving said north line, along the north-south midsection line of said Section, S 00°08'44" E a distance of 4608.75 feet to the S1/4 corner of said Section, a 3-inch B.C.F. stamped "T2S R5W 1/4S4 S9 RLS 46118 2008"; thence leaving said north-south midsection line, along the south line of said Section, N 79°10'54" W a distance of 2719.41 feet to the point of beginning. Subject to existing rights-of-way and easements. This parcel description is based on the Record of Survey for Alma Richardson Property, recorded in Book 996, page 25, Maricopa County Records and other client provided information. This parcel description is located within an area surveyed by Wood, Patel & Associates, Inc. during the month of April, 2008 and October, 2009 and any monumentation noted in this parcel description is within acceptable tolerance (as defined in Arizona Boundary Survey Minimum Standards dated 02/14/2002) of said positions based on said survey; all in G&SRB&M, Maricopa County, Arizona. Section 9; NW1/4 and SW1/4; Section 3; LOT 4 SW1/4NW1/4, W1/2SW1/4 NE1/4SE1/4; Section 3; M&B in LOT 1 SE1/4NE1/4E1/2SE1/4; Section 9; M&B in NE1/4NE1/4; Section 10; SW1/4NW1/4; Section 15; those portions of S1/2W1/4 and N1/2SW1/4 lying west of the primary through road; Section 16; W1/2 M&B in E1/2E1/2 W1/2E1/2; Section 21; NE1/4NW1/4 and Parcel 401-61-008D as described by the Maricopa County Assessor's Office, more particularly described as follows: commencing at the BLM B.C. marking the northeast corner of said Section 21, from which the BLM B.C. marking the northwest corner of said Section 21 bears N 82°26'05" W a distance of 5423.64 feet; thence N 82°26'05" W along the north line of Section 21 a distance of 2711.82 feet to the NW1/4 corner of said Section 21; thence S 00°33'45" W along the north-southerly midsection line of said Section 21 a distance of 33.25 feet to the True Point of Beginning; thence continuing S 00° 33'45" W along said north-south midsection line a distance of 958.00 feet to a point on a line which is parallel with and 983.85 feet southerly, as measured at right angles from the north line of said Section 21; thence N 82°26'05" W along said parallel line a distance of 925.54 feet; thence N 26°12'18" W a distance of 153.32 feet; thence N 13°26'18" W a distance of 303.93 feet; thence N 34°15'49" W a distance of 189.27 feet; thence N 21°32'45" W a distance of 215.60 feet; thence N 89°25'47" W a distance of 95.37 feet to a point on the west line of the NE1/4N1/4 of said Section 21; thence N 00°34'13" E, along said west line a distance of 223.54 feet to a point on a line which is parallel with and 33.00 feet southerly, as measured at right angles from the north line of said Section 21; thence S 82°26'05" E along said parallel line, a distance of 1355.91 feet to the True Point of Beginning; all in G&SRB&M, Maricopa County, Arizona.
 5. Base and Meridian Wildlife Area: The Base and Meridian Wildlife Area shall be those areas described as follows:
T1N, R1E, Section 31; Maricopa County APN 101-44-023, also known as Lots 3, 5, 6, 7, 8 and NE1/4SW1/4, and Maricopa County APN 101-44-003J, also known as the S1/2S1/2SW1/4NW1/4 except the west 55 feet thereof; and 101-44-003K, also known as the S1/2S1/2SW1/4NW1/4 except the west 887.26 feet thereof; and Maricopa County APN 104-44-002S, also known as that portion of the N1/2SE1/4, described as follows: commencing at the aluminum cap set at the E1/4 corner of said Section 31, from which the 3" iron pipe set at the southeast corner of said Section 31, S 00°20'56" W a distance of 2768.49 feet; thence S 00°20' 56" W along the east line of said SE1/4 of Section 31 a distance of 1384.25 feet to the southeast corner of said N1/2SE1/4; thence S 89°25'13" W along the south line of said N1/2SE1/4 a distance of 2644.35 feet to the southwest corner of said N1/2SE1/4 and the point of beginning; thence N 00°03'37" W along the west line of said SE1/4 a distance of 746.86 feet to the south line of the north 607.00 feet of

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said N1/2SE1/4; thence N 88°46' 12" E along said south line of the north 607.00 feet of the N1/2SE1/4 a distance of 656.09 feet; thence S 00°03'37" E parallel with said west line of the SE1/4 a distance of 754.31 feet to said south line of the N1/2SE1/4; Thence S 89°25' 13" W along said south line of the N1/2SE1/4 a distance of 655.98 feet to the point of beginning. T1N, R1W, Section 34, N1/2SE1/4; Section 35, S1/2; Section 36. The Maricopa County APN 500-69-099; the W1/2SE1/4NE1/4. APN 500-69-099, 500-69-100, also known as that portion of the SE1/4SE1/4NE1/4. 500-69-010C, also known as that portion of the W1/2SE1/4NE1/4, except any portion of said W1/2SE1/4NE1/4 of Section 36 lying within the following described four parcels: Exception 1: commencing at the northeast corner of said W1/2SE1/4NE1/4 of Section 36; thence along the east line thereof S 00°10' E a distance of 846.16 feet to the point of beginning; thence continuing S 00°18' E a distance of 141.17 feet; thence S 87°51'15" W a distance of 570.53 feet; thence S 00°29' E a distance of 310.00 feet to the south line of said W1/2SE1/4NE1/4 of Section 36; thence N 89°29' W along the west line of said W1/2SE1/4NE1/4 of Section 36 a distance of 425.93 feet; said point bears S 00°29' E a distance of 895.93 feet from the northwest corner of said W1/2SE1/4NE1/4 of Section 36; thence N 85°54'33" E a distance of 647.01 feet to the point of beginning. Exception 2: commencing at the northeast corner of said W1/2SE1/4NE1/4 of Section 36; thence along the east line thereof S 00°18' E a distance of 846.16 feet to the point of beginning; said point being on the northerly line of the Flood Control District of Maricopa County parcel as shown in Document 84-26119, Maricopa County Records; thence S 85°54'33" W a distance of 647.01 feet to the west line of said W1/2SE1/4NE1/4 of Section 36; thence N 00°29' W along said west line a distance of 30 feet; thence N 84°23'15" E a distance of 228.19 feet; thence N 87°17'06" E a distance of 418.85 feet to the east line of the W1/2SE1/4NE1/4 of Section 36; thence S 00°18' E along said east line a distance of 26.00 feet to the point of beginning. Exception 3: the South 37.6 feet of said W1/2SE1/4NE1/4 of Section 36. Except all oil, gas and other hydrocarbon substances, helium or other substance of gaseous nature, coal, metals, minerals, fossils, fertilizer of every name and description and except all materials which may be essential to the production of fissionable material as reserved in Arizona Revised Statutes. Exception 4: that part of the W1/2SE1/4NE1/4 of Section 36, T1N, R1W lying north of the following described line: commencing at the northeast corner of said W1/2SE1/4NE1/4 of Section 36; thence along the east line thereof S 00°18'00" E a distance of 820.16 feet, to the point of beginning; said point being on the northerly line of the Flood District of Maricopa County parcel as shown in Document 85-357813, Maricopa County Records; thence S 87°17'06" W a distance of 418.85 feet; thence S 84°23'15" W a distance of 228.19 feet to the west line of said W1/2SE1/4NE1/4 of Section 36 and the point of terminus. The above described parcel contains 162,550 sq. ft. or 3.7316 acres 500-69-001L and 500-69-001M, also known as the N1/2SE1/4, except the south 892.62 feet thereof. 500-69-001N, 500-69-001P, 500-69-001Q, 500-69-001R, 500-69-001T, 500-69-001X, 500-69-001Y, also known as that portion of the south 892.62 feet of the N1/2SE1/4. The SE1/4SE1/4NE1/4 of Section 36, T1N, R1W, except the south 37.6 feet of said SE1/4SE1/4NE1/4, and except the east 55 feet of said SE1/

4SE1/4NE1/4, and except that part of said SE1/4SE1/4NE1/4 lying north of the most southerly line of the parcel described in Record 84-026119, Maricopa County Records, said southerly line being described as follows: beginning at the NE1/4S1/2NE1/4SE1/4NE1/4 of said Section 36; thence S 00°07' E along the east line of Section 36, a distance of 50.70 feet; thence S 89°53' W a distance of 55.00 feet to a point on the west line of the east 55.00 feet of said Section 36; thence S 00°07' E along said line, a distance of 510.00 feet; thence S 81°4'43" W a distance of 597.37 feet to a terminus point on the west line of said SE1/4SE1/4NE1/4 of Section 36, and except that part of said SE1/4SE1/4NE1/4 described as follows: commencing at the E1/4 corner of said Section 36; thence N 89°37'23" W along the south line of said SE1/4SE1/4NE1/4 of Section 36, a distance of 241.25 feet; thence N 18°53'04" E a distance of 39.65 feet to the point of beginning; thence continuing N 18°53'04" E a distance of 408.90 feet; thence S 81°04'43" W a distance of 222.55 feet; thence S 18°53'04" W a distance of 370.98 feet; thence S 89°37'23" E a distance of 207.58 feet to the point of beginning. That portion of land lying within the SE1/4SE1/4NE1/4 of Section 36, T1N, R1W, and the S1/2SW1/4NW1/4 of Section 31, T1N, R1E, as described in Document Number 99-1109246. Except the west 22 feet of the property described in Recorder Number 97-0425420, also known as APN 101-44-003G; and except the west 22 feet of the property described in Recorder Number 97-566498, also known as APN 101-44-013; all in G&SRB&M, Maricopa County, Arizona.

6. Becker Lake Wildlife Area: The Becker Lake Wildlife Area shall be that area including Becker Lake lying within the fenced and posted portions of: T9N, R29E, Section 19, SE1/4SE1/4 also known as APN. 105-07-001; Section 20, SW1/4SW1/4; beginning at a point 1012 feet north of the southwest corner of the SE1/4SW1/4 of Section 20, T9N, R29E; thence north 1285 feet; thence east a distance of 462 feet; thence south a distance of 2122 feet, more or less to the center of U.S. Highway 60; thence in a northwesterly direction along the center of U.S. Highway 60 a distance of 944 feet, more or less; thence west a distance of 30 feet, more or less to the point of beginning, also known as APN 105-08-002; Section 29, W1/2NW1/4, NW1/4SW1/4, also known as APN 105-15-003; beginning at the S1/4 corner of said Section 29, said point being the True Point of Beginning; thence N 00°43'20" E along the western boundary of the SE1/4 of said Section 29, a distance of 1329.15 feet to the center-south 1/16 corner of said Section 29; thence S 89°53'01" W along the southern boundary of the NE1/4SW1/4 of said Section 29, a distance of 99.69 feet; thence N 00°43'20" E a distance of 417.54 feet; thence S 89°31'37" E a distance of 99.69 feet; thence N 00°43'20" E along the western boundary of the SE1/4 of said Section 29 a distance of 374.40 feet; thence N 88°49'48" E a distance of 474.94 feet; thence N 27°35'15" E a distance of 99.21 feet; thence N 04°13'26" W a distance of 160.59 feet; thence N 37°38'44" E a distance of 12.27 feet; thence S 26°22'25" E a distance of 371.13 feet; thence N 31°21'35" E a distance of 58.00 feet; thence S 26°22'27" E a distance of 1203.23 feet; thence S 63°58'58" W a distance of 200.00 feet; thence S 36°24'36" E a distance of 375.11 feet; thence S 00°24'06" W a distance of 490.79 feet; thence S 01°22'24" E a distance of 110.21 feet; thence S 22°27'23" E a distance of 44.27 feet; thence N 89°48'03" W a distance of 1331.98

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feet to the True Point of Beginning, also known as APN 105-15-014E; beginning at the corner of Sections 28, 29, 32 and 33, T9N, R29E of G&SRB&M, Apache County, Arizona; thence N 54°21'09" W a distance of 1623.90 feet; thence N 26°00'59" W a distance of 100.00 feet; thence N 26°22'14" W a distance of 1203.23 feet to the True Point of Beginning; thence N 26°22'27" W a distance of 351.19 feet; thence S 55°14'10" W a distance of 38.42 feet; thence S 37°38'44" W a distance of 12.38 feet; thence S 26°22'14" E a distance of 371.13 feet; thence N 31°21'35" E a distance of 58.00 feet to the True Point of Beginning, also known as APN 105-15-014C. S1/2SW1/4, except the following described parcel: commencing at a 2-inch aluminum cap monument stamped LS 8906 located at the Section corner common to Sections 29, 30, 31 and 32 of said Township and Range; thence bear S 89°46'16" E along the Section line common to Sections 29 and 32, a distance of 1038.05 feet to the True Point of Beginning; thence N 35°17'33" E along the northwest boundary of the Springerville Municipal Airport a distance of 328.32 feet; thence S 39°31'26" E a distance of 349.55 feet to a point on the Section line common to Sections 29 and 32; thence N 89°46'44" W a distance of 131.96 feet to the W1/16 corner of Sections 29 and 32; thence N 89°46'16" W a distance of 280.18 feet to the True Point of Beginning. Section 30, NE1/4SE1/4, E1/2NE1/4 also known as APN 105-16-001; W1/2NE1/4, W1/2NE1/4 also known as APN 105-16-002; Section 32, beginning at the N1/4 corner of said Section 32, said point being the True Point of Beginning; thence S 89°48'03" E along the north line of said Section 32 a distance of 1331.98 feet; thence S 21°49'15" E a distance of 198.07 feet; thence S 20°56'35" W a distance of 191.75 feet; thence S 19°53'23" W a distance of 24.65 feet; thence S 39°17'55" W a distance of 86.61 feet; thence S 01°41'36" E a distance of 13.60 feet; thence S 50°13'33" W a distance of 1.29 feet; thence S 02°24'23" E a distance of 906.39 feet; thence S 00°44'11" W a distance of 466.82 feet; thence S 35°26'56" W a distance of 218.51 feet; thence S 89°57'05" W a distance of 1141.87 feet; thence N 07°57'52" E a distance of 328.83 feet; thence N 77°39'30" W a distance of 68.79 feet; thence N 00°30'56" W a distance of 334.16 feet to a 1/16th section corner; thence N 00°30'56" W a distance of 1349.10 feet to the True Point of Beginning. Except therefrom any portion lying in the S1/2SW1/4NE1/4 of said Section 32 also known as APN 105-18-008A; all that portion of the NE1/4NW1/4 of Section 32, T9N, R29E of G&SRB&M, Apache County, Arizona, lying east of the Becker Lake Roadway; except for the following described parcel: from the NW1/16 corner of said Section 32; thence S 89°45'28" E along the 1/16 line a distance of 736.55 feet to the True Point of Beginning, said point being in the west rights-of-way limits of Becker Lake Rd.; thence N 06°09'00" W along the west line of said right-of-way a distance of 266.70 feet to a 1/2-inch rebar with a tag marked LS 13014; thence N 06°21'43" W a distance of 263.42 feet to a 1/2-inch rebar with a tag marked LS 13014; thence N 06°21'43" W a distance of 198.60 feet to a 5/8-inch rebar with a plastic cap marked LS 13014; thence N 78°43'10" E a distance of 158.40 feet to a 5/8-inch rebar with a plastic cap marked LS 13014; thence S 47°05'42" E a distance of 65.65 feet to a 5/8-inch rebar with a plastic cap marked LS 13014; thence S 29°24'20" E a distance of 202.48 feet to a 5/8-inch rebar with a plastic cap marked LS 13014; thence S 48°03'17" W a dis-

tance of 146.19 feet to a 5/8-inch rebar with a plastic cap marked LS 13014; thence South 19°36'10" West a distance of 115.75 feet to a 5/8-inch rebar with a plastic cap marked LS 13014; thence South 00°38'05" East a distance of 74.66 feet to a 5/8-inch rebar with a plastic cap marked LS 13014; thence S 14°52' 53" E a distance of 125.09 feet to a 5/8-inch rebar with a plastic cap marked LS 13014; thence S 15°08'20" E a distance of 136.60 feet to a 5/8-inch rebar with a plastic cap marked LS 13014; thence S 89°58'07" W a distance of 144.13 feet to the True Point of Beginning, also known as APN 105-18-012G.

7. Bog Hole Wildlife Area: The Bog Hole Wildlife Area lying in Sections 29, 32 and 33, T22S, R17E shall be the fenced and posted area described as follows: beginning at the southeast corner of Section 32, T22S, R17E, G&SRB&M, Santa Cruz County, Arizona; thence N 21°42'20" W a distance of 1394.86 feet to the True Point of Beginning; thence N 9°15'26" W a distance of 1014.82 feet; thence N 14°30'58" W a distance of 1088.82 feet; thence N 36°12'57" W a distance of 20.93 feet; thence N 50°16'38" W a distance of 1341.30 feet; thence N 57°51'08" W a distance of 1320.68 feet; thence N 39°03'53" E a distance of 1044.90 feet; thence N 39°07'43" E a distance of 1232.32 feet; thence S 36°38'48" E a distance of 1322.93 feet; thence S 43°03'17" E a distance of 1312.11 feet; thence S 38°19'38" E a distance of 1315.69 feet; thence S 13°11'59" W a distance of 2083.31 feet; thence S 69°42'45" W a distance of 920.49 feet to the True Point of Beginning.
8. Chevelon Canyon Ranches Wildlife Area: The Chevelon Canyon Ranches Wildlife Area shall be those areas described as follows:
 Duran Ranch: T12N, R14E; Sections 6 and 7, more particularly bounded and described as follows: beginning at Corner 1, from which the Standard Corner to Section 31 in T13N, R14E and Section 36 T13N, R13E, bears N 11°41' W 21.53 chains distant; thence S 26°5' E 6.80 chains to Corner 2; thence S 66° W 12.74 chains to Corner 3; thence S 19°16' W 13.72 chains to Corner 4; thence S 29°1' W 50.02 chains to Corner 5; thence N 64°15' W five chains to Corner 6; thence N 28°54' E 67.97 chains to Corner 7; thence N 55°36' E 11.02 to Corner 1; the place of beginning; all in G&SRB&M, Coconino County, Arizona. Dye Ranch: T12N, R14E Sections 9 and 16, more particularly described as follows: beginning at Corner 1 from which the Standard corner to Sections 32 and 33 in T13N, R14E, bears N 2° 24' E 127.19 chains distant; thence S 50°20' E 4.96 chains to corner 2; thence S 29°48' W 21.97 chains to Corner 3; thence S 14°45' W 21.00 chains to Corner 4; thence N 76°23' W 3.49 chains to Corner 5; thence N 10°13' W 14.02 chains to Corner 6; thence N 19°41' E 8.92 chains to Corner 7; thence N 38°2' E 24.79 chains to Corner 1, the place of beginning; all in G&SRB&M, Coconino County, Arizona. Tillman Ranch: T12N, R14E land included in H.E. Survey 200 embracing a portion of approximately Sections 9 and 10 in T12N, R14E of G&SRB&M; all in G&SRB&M, Coconino County, Arizona. Vincent Ranch: T12N, R13E; Sections 3 and 4, more particularly described as follows: beginning at Corner 1, from which the south corner to Section 33, T13N, R13E, bears N 40°53' W 16.94 chains distance; thence S 53° 08' E 2.98 chains to Corner 2; thence S 11°26' W 6.19 chains to Corner 3; thence S 49°43' W 22.41 chains to Corner 4; thence S 22°45' W

30.03 chains to Corner 5; thence N 67°35' W 6.00 chains to Corner 6; thence N 23° E 30.03 chains to Corner 7; thence N 42°18' E 21.19 chains to Corner 8; thence N 57°52' E 8.40 chains to Corner 1, the place of beginning; all in G&SRB&M, Coconino County, Arizona. Wolf Ranch: T12N, R14E, Sections 18 and 19, more particularly bounded and described as follows: beginning at Corner 1, from which the U.S. Location Monument 184 H. E. S. bears S 88°53' E 4.41 chains distant; thence S 34°4' E 11.19 chains to Corner 2; thence S 40°31' W 31.7 chains to Corner 3; thence S 63°3' W 7.97 chains to Corner 4; thence S 23°15' W 10.69 chains to Corner 5; thence N 59° W 2.60 chains to Corner 6; thence N 18°45' E 10.80 chains to Corner 7; thence N 51°26' E 8.95 chains to Corner 8; thence N 30°19' E 34.37 chains to Corner 1; the place of beginning; all in G&SRB&M, Coconino County, Arizona.

9. Chevelon Creek Wildlife Area: The Chevelon Creek Wildlife Area shall be those areas described as follows: Parcel 1: The S1/2S1/2NW1/4SW1/4 of Section 23, T18N, R17E of G&SRB&M; Parcel 2: Lots 1, 2, 3 and 4 of Section 26, T18N, R17E of G&SRB&M; Parcel 1: That portion of the NE1/4 of Section 26 lying northerly of Chevelon Creek Estates East Side 1 Amended, according to the plat of record in Book 5 of Plats, page 35, records of Navajo County, Arizona, all in T18N, R17E of G&SRB&M, Navajo County, Arizona. Parcel 2: That part of Tract A, Chevelon Creek Estates East Side 1 Amended, according to the plat of record in Book 5 of Plats, page 35, records of Navajo County, Arizona lying northerly of the following described line: beginning at the southwest corner of Lot 3 of said subdivision; thence southwesterly in a straight line to the southwest corner of Lot 6 of said subdivision.
10. Cibola Valley Conservation and Wildlife Area: The Cibola Valley Conservation and Wildlife Area shall be those areas described as follows: Parcel 1: this parcel is located in the NW1/4 of Section 36, T1N, R24W of G&SRB&M, La Paz County, Arizona, lying east of the right of way line of the "Cibola Channelization Project of the United States Bureau of Reclamation Colorado River Front Work and Levee System," as indicated on Bureau of Reclamation Drawing 423-300-438, dated March 31, 1964, and more particularly described as follows: beginning at the northeast corner of the NW1/4 of said Section 36; thence south and along the east line of the NW1/4 of said Section 36, a distance of 2646.00 feet to a point being the southeast corner of the NW1/4 of said Section 36; thence westerly and along the south line of the NW1/4 a distance of 1711.87 feet to a point of intersection with the east line of the aforementioned right of way; thence northerly and along said east line of the aforementioned right of way, a distance of 2657.20 feet along a curve concave easterly, having a radius of 9260.00 feet to a point of intersection with the north line of the NW1/4 of said Section 36; thence easterly and along the north line of the NW1/4 of said Section 36, a distance of 1919.74 feet to the point of beginning. Parcel 2: this parcel is located in the U.S. Government Survey of Lot 1 and the E1/2SW1/4 of Section 36, T1N, R24W of G&SRB&M, La Paz County, Arizona, lying east of the right of way line of the "Cibola Channelization Project of the United States Bureau of Reclamation Colorado River Front Work and Levee System," as indicated on Bureau of Reclamation Drawing 423-300-438, dated March 31, 1964, and more particularly described as fol-

lows: beginning at the S1/4 corner of said Section 36; thence westerly and along the south line of said Section 36, a distance of 610.44 feet to a point of intersection with the east line of the aforementioned right of way; thence northerly along said east line of the of the aforementioned right of way and along a curve concave southwesterly, having a radius of 17350.00 feet, a distance of 125.12 feet; thence continuing along said right of way line and along a reverse curve having a radius of 9260.00 feet, a distance of 2697.10 feet to a point of intersection with the east-west midsection line of said Section 36; thence easterly along said east-west midsection line, a distance of 1711.87 feet to a point being the center of said Section 36; thence south and along the north-south midsection line, a distance of 2640.00 feet to the point of beginning. Parcel 3: this parcel is located in the E1/2NE1/4 of Section 36, T1N, R24W of G&SRB&M, La Paz County, Arizona. Parcel 4: this parcel is located in the E1/2NW1/4SW1/4 of Section 21, T1N, R23W of G&SRB&M, La Paz County, Arizona, lying south of the south right of way line of U.S.A. Levee; except therefrom that portion lying within Cibola Sportsman's Park, according to the plat thereof recorded in Book 4 of Plats, Page 58, records of Yuma (now La Paz) County, Arizona; and further excepting the N1/2E1/2NW1/4SW1/4. Parcel 5: this parcel is located in the S1/2SW1/4 of Section 21, T1N, R23W of G&SRB&M, La Paz County, Arizona. Except the west 33.00 feet thereof; and further excepting that portion more particularly described as follows: the N1/2NW1/4SW1/4SW1/4 of said Section, excepting the north 33.00 feet and the east 33.00 feet thereof. Parcel 6: this parcel is located in the SW1/4SE1/4 of Section 21, T1N, R23W of G&SRB&M, La Paz County, Arizona. Parcel 7: this parcel is located in Sections 24 and 25, T1N, R24W of G&SRB&M, La Paz County, Arizona, lying south of the Colorado River and east of Meander line per BLM Plat 2647C. Parcel 8: this parcel is located in the W1/2 of Section 19, T1N, R23W of G&SRB&M, La Paz County, Arizona, lying south of the Colorado River. Except that portion in condemnation suit Civil 5188PHX filed in District Court of Arizona entitled USA -vs- 527.93 acres of land; and excepting therefrom any portion of said land lying within the bed or former bed of the Colorado River waterward of the natural ordinary high water line; and also excepting any artificial accretions to said line of ordinary high water. Parcel 9: this parcel is located in the N1/2NE1/4SE1/4; and the W1/2SW1/4NE1/4SE1/4; and that portion of the SE1/4NE1/4 of Section 20, T1N, R23W of G&SRB&M, La Paz County, Arizona, lying south of the south right of way line of the U.S.B.R. Levee; except the east 33.00 feet thereof; and further excepting that portion more particularly described as follows: commencing at the northeast corner of the SE1/4 of said Section 20; thence S 0°24'00" E along the east line, a distance of 380.27 feet; thence S 89°36'00" W a distance of 50.00 feet to the True Point of Beginning; thence continuing S 89°36'00" W a distance of 193.00 feet; thence N 0°24'00" W a distance of 261.25 feet; thence S 70°11'00" E a distance of 205.67 feet to the west line of the east 50.00 feet of said SE1/4 of Section 20; thence S 0°24'00" E a distance of 190.18 feet to the True Point of Beginning; excepting therefrom any portion of said land lying within the bed or former bed of the Colorado River waterward of the natural ordinary high water line; and also excepting any artificial accretions to said line of ordinary high water. Parcel 10: this parcel is

- located in the S1/2SE1/4 Section 20, T1N, R23W of G&SRB&M, La Paz County, Arizona; except the east 33.00 feet thereof. Parcel 11: This parcel is located in the SW1/4NE1/4; and the NW1/4SE1/4 of Section 20, T1N, R23W of G&SRB&M, La Paz County, Arizona, lying south of the Colorado River and west of the Meander line per BLM Plat 2546B; except any portion thereof lying within U.S.A. Lots 5 and 6 of said Section 20, as set forth on BLM Plat 2546B; and excepting therefrom any portion of said land lying within the bed or former bed of the Colorado River waterward of the natural ordinary high water line; and also excepting any artificial accretions to said line of ordinary high water. Parcel 12: this parcel is located in the SE1/4NE1/4SE1/4; and the E1/2SW1/4NE1/4SE1/4 of Section 20, T1N, R23W of G&SRB&M, La Paz County, Arizona. Parcel 13: this parcel is located in the E1/2 of Section 19, T1N, R23W of G&SRB&M, La Paz County, Arizona, lying south of the Colorado River; except the W1/2W1/2SE1/4SW1/4SE1/4; except the E1/2E1/2SW1/4SW1/4SE1/4; except the SW1/4SW1/4NE1/4; except the W1/2SE1/4SW1/4NE1/4; and excepting therefrom any portion of said land lying within the bed or former bed of the Colorado River waterward of the natural ordinary high water line; and also excepting any artificial accretions to said line of ordinary high water. Parcel 14: this parcel is located in the SW1/4SW1/4NE1/4; and the W1/2SE1/4SW1/4NE1/4 of Section 19, T1N, R23W of G&SRB&M, La Paz County, Arizona, lying south of the Colorado River and protection levees and front work, excepting therefrom any portion of said land lying within the bed or former bed of the Colorado River waterward of the natural ordinary high water line; and also excepting any artificial accretions to said line of ordinary high water. Parcel 15: this parcel is located in the W1/2 of Section 20, T1N, R23W of G&SRB&M, La Paz County, Arizona; except the west 133.00 feet thereof; except any portion lying within the U.S. Levee or Channel right of way or any portion claimed by the U.S. for Levee purposes or related works; and except the SE1/4SE1/4SW1/4 of said Section 20. Parcel 16: this parcel is located in the SE1/4SE1/4SW1/4 of Section 20, T1N, R23W of G&SRB&M, La Paz County, Arizona.
11. Clarence May and C.M.H. May Memorial Wildlife Area: Clarence May and C.M.H. May Memorial Wildlife Area: Clarence May and C.M.H. May Memorial Wildlife Area shall be the SE1/4 of Section 8 and N1/2NE1/4 of Section 17, T17S, R31E, and the W1/2SE1/4, S1/2NW1/4, and SW1/4 of Section 9, T17S, R31E, G&SRB&M, Cochise County, Arizona, consisting of approximately 560 acres.
 12. Cluff Ranch Wildlife Area: The Cluff Ranch Wildlife Area is that area within the fenced and posted portions of Sections 13, 14, 23, 24, and 26, T7S, R24E, G&SRB&M, Graham County, Arizona; consisting of approximately 788 acres.
 13. Colorado River Nature Center Wildlife Area: The Colorado River Nature Center Wildlife Area is Section 10 of T19N, R22W, bordered by the Fort Mojave Indian Reservation to the west, the Colorado River to the north, and residential areas of Bullhead City to the south and east, G&SRB&M, Mohave County, Arizona.
 14. Fool Hollow Lake Wildlife Area: The Fool Hollow Lake Wildlife Area shall be that area lying in those portions of the S1/2 of Section 7 and of the N1/2N1/2 of Section 18, T10N, R22E, G&SRB&M, described as follows: beginning at a point on the west line of the said Section 7, a distance of 990 feet south of the W1/4 corner thereof; thence S 86°12' E a distance of 2533.9 feet; thence S 41°02' E a distance of 634.7 feet; thence east a distance of 800 feet; thence south a distance of 837.5 feet, more or less to the south line of the said Section 7; thence S 89°53' W along the south line of Section 7 a distance of 660 feet; thence S 0°07' E a distance of 164.3 feet; thence N 89°32' W a distance of 804.2 feet; thence N 20°46' W a distance of 670 feet; thence S 88°12' W a distance of 400 feet; thence N 68°04' W a distance of 692 feet; thence S 2°50' W a distance of 581 feet; thence N 89°32' W a distance of 400 feet; thence N 12°40' W a distance of 370.1 feet, more or less, the north line of the SW1/4SW1/4SW1/4 of said Section 7; thence west a distance of 483.2 feet, more or less, along said line to the west line of Section 7; thence north to the point of beginning.
 15. House Rock Wildlife Area: House Rock Wildlife Area is that area described as follows: beginning at the common 1/4 corner of Sections 17 and 20, T36N, R4E; thence east along the south Section lines of Sections 17, 16, 15, 14, 13 T36N, R4E, and Section 18, T36N, R5E, to the intersection with the top of the southerly escarpment of Bedrock Canyon; thence southeasterly along the top of said escarpment to the top of the northerly escarpment of Fence Canyon; thence along the top of said north escarpment to its intersection with the top of the southerly escarpment of Fence Canyon; thence northeasterly along the top of said southerly escarpment to its intersection with the top of the escarpment of the Colorado River; thence southerly along top of said Colorado River escarpment to its intersection with Boundary Ridge in Section 29, T34N, R5E; thence westerly along Boundary Ridge to its intersection with the top of the escarpment at the head of Saddle Canyon; thence northerly along the top of the westerly escarpment to its intersection with a line beginning approximately at the intersection of the Cockscomb and the east fork of South Canyon extending southeast to a point approximately midway between Buck Farm Canyon and Saddle Canyon; thence northwest to the bottom of the east fork of South Canyon in the SW1/4SW1/4 of Section 16, T34N, R4E; thence northerly along the west side of the Cockscomb to the bottom of North Canyon in the SE1/4 of Section 12, T35N, R3E; thence northeasterly along the bottom of North Canyon to a point where the slope of the land becomes nearly flat; thence northerly along the westerly edge of House Rock Valley to the point of beginning; all in G&SRB&M, Coconino County, Arizona.
 16. Jacques Marsh Wildlife Area: The Jacques Marsh Wildlife Area is that area within the fenced and posted portions of the SE1/4, SW1/4SW1/4NE1/4, SE1/4NW1/4, SW1/4NW1/4, Section 11; and NE1/4NW1/4, NW1/4NE1/4, NE1/4NE1/4, Section 14; T9N, R22E, G&SRB&M, Navajo County, Arizona.
 17. Lamar Haines Wildlife Area: The Lamar Haines Wildlife Area is that area described as: T22N, R6E, Section 12 NW1/4, G&SRB&M, Coconino County, Arizona.
 18. Lower San Pedro River Wildlife Area: The Lower San Pedro River Wildlife Area shall be those areas described as follows:
For the Triangle Bar Ranch Property: Parcel 1: that portion of the SE1/4 of Section 22, T7S, R16E, G&SRB&M, Pinal County, Arizona, more particularly described as follows: beginning at the southeast corner of Section 22, to a point being a 2.5" Aluminum Cap stamped PLS 35235; thence N 00°38'57" W along the east line of the SE1/4 of

Section 22 a distance of 2626.86 feet to a point being the E1/4 corner of Section 22 a 2.5" Aluminum Cap stamped PLS 35235; thence S 89°00'32" W along the north line of the SE1/4 of Section 22 a distance of 1060.80 feet to a point being a 1/2" Iron Pin tagged PLS 35235; thence S 12°30'55" E a distance of 673.56 feet to a point being a 1/2" Iron Pin tagged PLS 35235; thence S 36°31'44" E a distance of 491.55 feet to a point being a 1/2" Iron Pin tagged PLS 35235; thence S 89°00'32" W a distance of 689 feet to a point being a 1/2" Iron Pin tagged PLS 35235; thence N 00°31'09" W a distance of 400.00 feet to a point being a 1/2" Iron Pin tagged PLS 35235; thence S 89°00'32" W a distance of 1320.00 feet to a point on the west line of the SE1/4 of Section 22 to a point being a 1/2" Iron Pin tagged PLS 35235; thence S 00°31'09" E a distance of 1454.09 feet to a point being a 1/2" Iron Pin tagged PLS 35235; thence N 88°51'39" E a distance of 1387.86 feet to a point being a 1/2" Iron Pin tagged PLS 35235; thence S 53°14'11" E a distance of 322.56 feet to a point being a 1/2" Iron Pin tagged PLS 35235; thence S 01°05'49" W a distance of 321.71 feet to a point being a 1/2" Iron Pin tagged PLS 35235; thence N 88°51'39" E along said South line of Section 22 a distance of 1011.31 feet to the point of beginning; containing 110.65 acres, more or less. Parcel 2: that portion of Sections 23 T7S, R16E of G&SRB&M, Pinal County, Arizona, more particularly described as follows: beginning at the point on the south line of Section 23, which point is 720 feet east of the southwest corner of Section 23, said point being a 1/2" Iron Pin tagged PLS 35235; thence N 23°45'32" W a distance of 1833.68 feet (N 22°28'00" W a distance of 1834 feet, record) to a point being a 1/2" Iron Pin tagged PLS 35235 on the west line of Section 23; thence S 00°38'57" E a distance of 1691.03 feet (south, record) to the southwest corner of Section 23 to a point being a 2.5" Aluminum Cap stamped PLS 35235; thence along the south line of Section 23 N 89°02'45" E a distance of 720.00 feet (east, a distance of 720.00 feet, recorded) to the point of beginning; containing 13.98 acres, more or less. Parcel 3: lots 2 and 3, and the NE1/4NW1/4, SE1/4NW1/4, and NE1/4SW1/4 of Sections 18 T7S, R16E of G&SRB&M, Pinal County, Arizona, more particularly described as follows: commencing at the northwest corner of Section 18, said point being a GLO B.C. stamped Sec 18 CC; thence S 89°47'17" E along the north line of Section 18, a distance of 1271.33 feet to a point being a 1/2" Iron Pin tagged PLS 35235, and being the point of beginning, said point is the northwest corner of the NE1/4NW1/4; thence S 89°47'17" E a distance of 1320.00 feet to a point being the N1/4 corner of Section 18, to a point being a found stone marked 1/4; thence S 01°35'23" E a distance of 4020.67 feet to a point being a found 1/2" Iron Pin with added tag of PLS 35235 to a point being the southeast corner or the NE1/4SW1/4 of Section 18; thence N 89°37'16" W a distance of 2610.28 feet to a point on the west line of Section 18 to a point being a 1/2" Iron Pin tagged PLS 35235, to a point being the southwest corner of Lot 3; thence N 01°17'05" W along the west line of Section 18, a distance of 1360.825 feet to a point being the W1/4 corner of Section 18, to a point being a found stone marked 1/4; thence N 01°20'34" W along the west line of Section 18 a distance of 1325.845 feet to a point being a 1/2" Iron Pin tagged PLS 35235, to a point being the northwest corner of Lot 2; thence S 89°32'47" E a distance of 1279.09 feet to a point being a found 1/2" Iron Pin with added tag of PLS 35235 approx-

imately 0.8 feet down from natural grade, to a point being the northeast corner of Lot 2; thence N 01°40'11" W along the west line of the NE1/4NW1/4 of Section 18, a distance of 1331.47 feet to a point on the north line of Section 18 and the point of beginning; containing 200.78 acres, more or less. Parcel 4: lots 3, 4, 5, 6, and 7 of Section 9, T7S, R16E, of G&SRB&M, Pinal County, Arizona more particularly described as follows: beginning at the S1/4 corner of said Section 9, to a point being a 1.5" Open Iron Pipe with added tag PLS 35235; thence N 00°00'03" E along the north-south midsection line a distance of 2641.16 feet (N 00°38'48" E a distance of 2641.20 feet, record) to the center section of Section 9 to a point being a 1/2" Iron Pin tagged PLS 35235; thence continuing N 00°00'03" E along the north-south midsection line, a distance of 1349.83 feet (N 00°38'48" E a distance of 1349.83 feet, record) to the northeast corner of Lot 5 to a point being a found 1/2" Iron Pin with added tag PLS 35235; thence S 89°09'38" W along the north line of Lot 5 a distance of 1346.80 feet (S 89°44'19" W a distance of 1347.21 feet, record) to a point being a 1/2" Iron Pin tagged PLS 35235, and the northwest corner of Lot 5 and the southeast corner of Lot 3; thence N 00°58'35" E along the east line of Lot 3 a distance of 1357.74 feet (N 00°37'27" E a distance of 1357.74 feet, record) to a point being a 1/2" Iron Pin tagged PLS 35235 and the northeast corner of Lot 3; thence N 89°24'33" W along the north line of Lot 3 a distance of 1323.90 feet (N 89°56'37" W a distance of 1323.945 feet, record) to the northwest corner of Section 9 to a point being a found Drill Steel with added tag PLS 35235; thence S 01°56'29" W along the west line of Section 9 a distance of 712.90 feet to a point on the west boundary line of Old Camp Grant and to a point being a 1/2" Iron Pin tagged PLS 35235; thence S 23°03'26" E along said west boundary line of Old Camp Grant, a distance of 5011.05 feet to a point on the south line of Section 9 to a point being a 1/2" Iron Pin tagged PLS 35235; thence N 89°13'21" E along the south line of Section 9 a distance of 709.50 feet (N 89°51'39" E a distance of 709.50 feet, record) to the point of beginning; containing 181.71 acres, more or less. Together with those parts of Sections 15 and 22, T7S, R16E, of G&SRB&M, Pinal County, Arizona, more particularly described as follows: beginning at a point being a 1/2" Iron Pin tagged PLS 35235, N 89°00'32" E along the south line of the NE1/4 of Section 22, a distance of 2251.00 feet (east a distance of 2251 feet, record) of the center section corner of Section 22; thence N 47°16'51" W a distance of 1275.05 feet (N 46°47'00" W a distance of 1275.00 feet, record) to a point being a 1/2" Iron Pin tagged PLS 35235; thence N 79°57'00" W a distance of 1344.00 feet (N 7°27'00" W a distance of 1344.00 feet, record) to a point being a 1/2" Iron Pin tagged PLS 35235; thence N 65°05'02" W a distance of 399.00 feet (N 59°46'00" W a distance of 399.00 feet, record) to a point being a 1/2" Iron Pin tagged PLS 35235; thence N 17°49'24" W a distance of 1382.47 feet (N 17°34'00" W a distance of 1385.00 feet, record) to a point on the Section line between Sections 15 and 22 to a point being a 1/2" Iron Pin tagged PLS 35235; thence N 21°43'45" W a distance of 1408.97 feet (N 20°49'00" W a distance of 1412.00 feet, record) to a point being a 1/2" Iron Pin tagged PLS 35235 and the Center corner of the SW1/4 of Section 15; thence S 01°06'32" W along the west line of the SE1/4SW1/4 of Section 15, a distance of 1317.07 feet (south, record) to a point on the south line of Section 15

and the southwest corner of the SE1/4SW1/4 of Section 15 to a point being a 1/2" Iron Pin tagged PLS 35235; thence S 00°27'15" E along the west line of the E1/2NW1/4 of Section 22, a distance of 2637.50 feet (south, record) to a point on the south line of the NW1/4 of Section 22 and the southwest corner of the E1/2NW1/4 of Section 22 to a point being a 1/2" Iron Pin tagged PLS 35235; thence N 89°00'56" E along said south line of the NW1/4 of Section 22 a distance of 1320.895 feet (east, record) to the center section corner of Section 22 to a point being a found 2.5" Aluminum Cap stamped C1/4 PLS 35235; thence N 89°00'32" E along the south line of the NE1/4 of Section 22 a distance of 2251.00 feet (east, record) to the point of beginning; containing 110.28 acres, more or less. Parcel 5: those parts of Sections 26 and 35 T7S, R16E of G&SRB&M, Pinal County, Arizona, more particularly described as follows: beginning at a point N 89°31'56" E a distance of 571.74 feet (record 572 a distance of feet east) of the center section of Section 35 said point being a 1/2" Iron Pin tagged PE 9626; thence N 16°07'19" W a distance of 1369.92 feet (N 15°44'00" W a distance of 1371 feet, record) to a point being a Power Pole tagged PLS 35235; thence N 46°55'33" W a distance of 279.77 feet (N 45°00'00" W a distance of 283.00 feet, record) to the center of a 6" hollow iron fence post filled with concrete approximately 6 feet tall, tagged PLS 35235; thence N 79°45'23" W a distance of 500.00 feet (N 80°00'00" W a distance of 500.00 feet, record) to the center of a 6" hollow iron fence post filled with concrete approximately 6 feet tall, tagged PLS 35235; thence N 21°10'05" W a distance of 1104.18 feet (N 20°38'00" W a distance of 1104.00 feet, record) to a point being a 1/2" Iron Pin tagged PLS 35235, said point being a distance of 3.55 feet south of the north line of Section 35; thence N 07°46'25" E a distance of 1334.00 feet (N 08°08'00" E a distance of 1334.00 feet, record) to a point being a 1/2" Iron Pin tagged PLS 35235; thence S 89°37'04" W a distance of 630.00 feet (west, a distance of 630.00 feet, record) to a point being a found 1/2" Iron Pin with added tag PLS 35235; thence N 01°11'34" W a distance of 1314.34 feet (north a distance of 1320.00 feet, record) to a point being a 1/2" Iron Pin tagged PLS 35235, said point being on the north line of the SW1/4; thence along the north line of the SW1/4 N 89°18'34" E a distance of 282.00 feet (east a distance of 282.00 feet, record) to a point being a 1/2" Iron Pin tagged PLS 35235, said point being S 89°18'34" W a distance of 992.74 from the center section corner of Section 26; thence N 13°48'15" W a distance of 1351.04 feet (N 13°40'00" W a distance of 1358.00 feet, record) to a point on the north line of the SE1/4NW1/4 of Section 26 to a point being a 1/2" Iron Pin tagged PLS 35235, said point being N 89°10'39" E a distance of 26.52 feet from the northwest corner of the SE1/4NW1/4 of Section 26; thence N 26°31'53" W a distance of 1458.00 feet (N 23°43'00" W a distance of 1442.00 feet, record) to a point being a 1/2" Iron Pin tagged PLS 35235, that is on the north line of Section 26 said point being N 89°02'45" E along the north line of Section 26, a distance of 720.00 feet from the northwest corner of Section 26; thence N 23°45'32" W a distance of 1833.68 feet (N 22°28'00" W a distance of 1834.00 feet, record) to a point being a 1/2" Iron Pin tagged PLS 35235, said point being on the west line of Section 23; thence S 00°38'57" E along the west line of Section 23, a distance of 1690.37 feet (south, record) to the southwest corner of Section 23 and north-

west corner of Section 26 to a point being a 2.5" Aluminum Cap stamped PLS 35235; thence continuing S 01°16'16" E along the west line of Section 26 a distance of 2625.56 feet (south a distance of 2640.00 feet, record) to the W1/4 corner of Section 26 to a point being a 2.5" Aluminum Cap stamped PLS 35235; thence S 01°16'16" E along the west line of Section 26, a distance of 2625.56 feet (south a distance of 2640.00 feet, record) to the southwest corner of Section 26 and northwest corner of Section 35 to a point being a 2.25" Capped Iron Pipe stamped with added tag PLS 35235; thence S 00°45'30" E along the west line of Section 35, a distance of 1317.94 feet (south a distance of 1320.00 feet, record) to a point being a 2.5" Capped Iron Pipe stamped with added tag PLS 35235, said point being the southwest corner of the N1/2NW1/4 of Section 35; thence N 89°41'45" E along the south line of the N1/2NW1/4 of Section 35, a distance of 2630.87 feet (east a distance of 2644.00 feet, record) to a point being an Oblong Iron Pin with added tag PLS 35235 said point being the southeast corner of the N1/2NW1/4 of Section 35; thence S 01°11'23" E a distance of 1319.08 (south a distance of 1320.00 feet, record) to a point being an Oblong Iron Pin, with added tag PLS 35235, said point being the center section corner of Section 35; thence N 89°31'56" E along the south line of the NE1/4 of Section 35 a distance of 571.74 feet (east a distance of 572.00 feet, record) to the point of beginning; excepting therefrom any portion of said lands lying and within Section 23, T7S, R16E, G&SRB&M; CONTAINING containing 249.46 acres, more or less. Parcel 6: that portion of Section 1, T8S, R16E of G&SRB&M, Pinal County, Arizona, more particularly described as follows: beginning at a point N 88°25'39" E a distance of 507.07 feet (east a distance of 510 feet record) of the southwest corner of the SE1/4SW1/4 of Section 1 said point being a 1/2" Iron Pin tagged RLS 10046; thence N 18°38'44" E a distance of 1399.18 feet (record N 19°41' E a distance of 1402 feet) to a point being a 1/2" Iron Pin tagged PLS 35235; thence N 03°51'10" W a distance of 1314.74 feet (record N 02°44' W a distance of 1321 feet) to a point being a 1/2" Iron Pin tagged RLS 10046; thence S 88°45'59" W a distance of 918.71 feet (record west, a distance of 919 feet) to a point being a 1/2" Iron Pin tagged RLS 10046; thence N 01°02'04" W a distance of 977.00 feet (record north a distance of 977 feet) to a point being a 1/2" Iron Pin tagged PLS 35235; thence N 72°26'42" W a distance of 1384.43 feet (record N 71°22' W a distance of 1393 feet) to a point on the west line of Section 1 to a point being a 1/2" Iron Pin PLS 35235; thence S 01°07'43" E along the west line of Section 1, a distance of 1422.00 feet (record south a distance of 1412 feet) to the W1/4 corner of Section 1, said point being a 2.5" Aluminum Cap stamped PLS 35235; thence continuing S 01°07'43" E along the west line of Section 1, a distance of 1320.00 feet (record south a distance of 1320 feet) to the southwest corner of the NW1/4SW1/4 of Section 1 to a point being a 1/2" Iron Pin tagged PLS 35235; thence N 88°37'29" E a distance of 1311.56 feet (record east to the southwest corner of the NE1/4SW1/4) to the southwest corner of the NE1/4SW1/4 of Section 1 to a point being a 1/2" Iron Pin tagged PLS 35235; thence S 01°05'24" E a distance of 1316.31 feet (record, south a distance of 1320 feet) to the southwest corner of the SE1/4SW1/4 of Section 1 to a point being a 1/2" Iron Pin tagged PLS 35235; thence N 88°25'39" E a distance of 507.07 feet (record, east a distance of 510 feet) to the point of beginning; con-

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- taining 126.84 acres, more or less. For the ASARCO Property: Parcel 1: Section 15: the W1/2SE1/4 and E1/2SW1/4 of Section 15, T7S, R16E of G&SRB&M, Pinal county, Arizona; except that portion of land situated in Government Lot 9 lying west of the center line of the San Pedro River, said portion being APN 300-35-002. Section 22: That portion of the NE1/4NW1/4 and the NE1/4 of Section 22 T7S, R16E of G&SRB&M, Pinal County, Arizona, lying east of the San Pedro River. Section 23: that portion of the SW1/4 of Section 23, T7S, R16E of G&SRB&M, Pinal County, Arizona, lying east of the San Pedro River. Section 26: that portion of the N1/2NW1/4 of Section 26, T7S, R16E of G&SRB&M, Pinal County, Arizona, lying east of the San Pedro River. Parcel 2: Section 15: Government Lots 1, 2, 3, 4, 5, 6, and 7 of Section 15, T7S, R16E of G&SRB&M, Pinal County, Arizona. Parcel 3: Section 4: Government Lots 5, 8, 9, 11, 12, and 13 of Section 4 except that portion of land situated in Government Lot 13 lying east of State Highway 77 right-of-way, said portion of land being APN 300-31-005B. Section 5: Government Lots 2, 3, 4 and 5, except that portion of land situated in Government Lot 2, more particularly described as follows: beginning at the northeast corner of said Lot 2; thence along the east boundary of said Lot 2 due south 599.94 feet; thence leaving said east boundary due west 283.27 feet to the County Rd. right-of-way (El Camino Rd.); thence along said County Rd. right-of-way N 04°18'56" E a distance of 95.16 feet; thence continuing along said County Rd. right-of-way N 16°30'21" E a distance of 384.05 feet; thence continuing along said County Rd. right-of-way N 14°33'05" E a distance of 141.35 feet to the north boundary of said County Rd. right-of-way due east a distance of 131.48 feet along the north boundary of Government Lot 1 to the point of beginning.
19. Luna Lake Wildlife Area: The Luna Lake Wildlife Area shall be the fenced, buoyed, and posted area lying north of U.S. Highway 180 T5N, R31E, Section 17 N1/2, G&SRB&M, Apache County, Arizona.
 20. Mitty Lake Wildlife Area: The Mitty Lake Wildlife Area shall be those areas described as follows: T6S, R21W, Section 31: All of Lots 1, 2, 3, 4, E1/2W1/2, and that portion of E1/2 lying westerly of Gila Gravity Main Canal Right-of-Way; T7S, R21W; Section 5: that portion of SW1/4SW1/4 lying westerly of Gila Gravity Main Canal Right-of-Way; Section 6: all of Lots 2, 3, 4, 5, 6, 7 and that portion of Lot 1, S1/2NE1/4, SE1/4 lying westerly of Gila Gravity Main Canal R/W; Section 7: all of Lots 1, 2, 3, 4, E1/2W1/2, W1/2E1/2, and that portion of E1/2E1/2 lying westerly of Gila Gravity Main Canal R/W; Section 8: that portion of W1/2W1/2 lying westerly of Gila Gravity Main Canal R/W; Section 18: all of Lots 1, 2, 3, 4, E1/2NW1/4, and that portion of NE1/4, E1/2SW1/4, NW1/4SE1/4 lying westerly of Gila Gravity Main Canal R/W; T6S, R22W; Section 36: all of Lot 1. T7S, R22W; Section 1: all of Lot 1; Section 12: all of Lots 1, 2, SE1/4SE1/4; Section 13: all of Lots 1, 2, 3, 4, 5, 6, 7, 8, NE1/4, N1/2SE1/4, and that portion of S1/2SE1/4 lying northerly of Gila Gravity Main Canal R/W; all in G&SRB&M, Yuma County, Arizona.
 21. Planet Ranch Conservation and Wildlife Area: The Planet Ranch Wildlife Area shall be those areas described as follows: Mohave County (Parcels 1 through 5) Parcel No. 1: the S1/2S1/2 of Section 28, T11N, R16W of the G&SRB&M, Mohave County, Arizona; except 1/16 of all oil, gases, and other hydrocarbon substances, coal, stone, metals, minerals, fossils and fertilizer of every name and description and except all materials which may be essential to production of fissionable material as reserved in Arizona Revised Statutes. Parcel No. 2: all of sections 32 and 34 T11N, R16W of the G&SRB&M, lying in Mohave County, Arizona; except 1/16 of all oil, gases, and other hydrocarbon substances, coal, stone, metals, minerals, fossils and fertilizer of every name and description and except all materials which may be essential to production of fissionable material as reserved in Arizona Revised Statutes. Parcel No. 3: the S1/2S1/2 of Section 27, T11N, R16W of the G&SRB&M, Mohave County, Arizona; except oil, gas, coal, and minerals as reserved in deed recorded in Book 64 of Deeds, Page 599, records of Mohave County, Arizona. Parcel No. 4: all of Section 33 and 35, T11N, R16W of the G&SRB&M, lying in Mohave County, Arizona; except oil, gas, coal, and minerals as reserved in deed recorded in Book 64 of Deeds, Page 599, records of Mohave County, Arizona. Parcel No. 5: the S1/2S1/2N1/2 and the S1/2 of Section 36, T11N, R16W of the G&SRB&M, lying in Mohave County, Arizona; except 1/16 of all oil, gases, and other hydrocarbon substances, coal, stone, metals, minerals, fossils and fertilizer of every name and description and except all materials which may be essential to production of fissionable material as reserved in Arizona Revised Statutes. La Paz County (Parcels 6 through 9) Parcel No. 6: that portion of the S1/2 of Lot 2, all of Lots 3, and 4, the S1/2SE1/4NW1/4 and the S1/2S1/2NE1/4 of Section 31, T11N, R16W of the G&SRB&M, lying in La Paz County, Arizona; except all oil, gas, coal, and minerals as set forth in instrument recorded in Book 57, of Dockets, Page 310. Parcel No. 7: all of Section 32, T11N, R16W of the G&SRB&M, lying in La Paz County, Arizona; except any part of Section 32 lying within the Copper Hill Mining Claim as shown on the Plat of Mineral Survey Number 2675; except that portion of the SW1/4 of Section 32, T11N, R16W of the G&SRB&M, lying in La Paz County, Arizona, described as follows: commencing at the S1/4 corner of Section 32; thence west along the south line of Section 32, a distance of 1270.58 feet to the point of beginning; thence north 634.31 feet; thence S 76°41'15" W a distance of 94.09 feet to the southeasterly line of the Planet Ranch Road; thence along said line S 28°55'W a distance of 101.23 feet; thence southwesterly 250.25 feet through an angle of 54°22', along a tangent curve concave to the northwest, having a radius of 263.73 feet to a point of tangency, from which a radial line bears N 07°05' W; thence along said line S 82°55' W a distance of 96.52 feet; thence westerly 184.42 feet through an angle of 17°40'14" along a tangent curve concave to the north, having a radius of 597.96 feet to a point of tangency from which a radial line bears N 10°35'14" E; thence N 79°24'46" W a distance of 260.38 feet; thence leaving the southwesterly line of said Planet Ranch Road, south a distance of 429.61 feet to the south line of said Section 32; thence south along said south line east a distance of 874.42 feet more or less back to the point of beginning; and except that portion of the SW1/4 of Section 32, T11N, R16W of the G&SRB&M, La Paz County, Arizona, described as follows: beginning at the S1/4 corner of Section 32; thence west along the south line of Section 32, a distance of 1270.58 feet; thence north a distance of 634.31 feet; thence S 76°41'15" W a distance of 214.08 feet; thence N 13°18'45" W a distance of 25 feet; thence N 76°41'15" E a distance of 220 feet; thence east a dis-

- tance of 1270.58 feet; thence south a distance of 660 feet back to the point of beginning. Parcel No. 8: those portions of Sections 33, 34, and 35, T11N, R16W of the G&SRB&M, lying in La Paz County, Arizona; except an undivided 1/16 of all oil, gases, and other hydrocarbon substances, coal or stone, metals, minerals, fossils and fertilizer of every name and description, together with all uranium, thorium, or any other material which is or may be determined by the laws of the production of fissionable materials, whether or not of commercial value, as reserved by the State of Arizona in Section 37-231, Arizona Revised Statutes, and in patent of record (Section 34); also except all oil, gas, coal, and minerals as set forth in instrument recorded in Book 57 of Dockets, Page 310 (Section 33 and 35). Parcel No. 9: the S1/2S1/2N1/2 and the S1/2 of Section 36, T11N, R16W of the G&SRB&M, lying in La Paz County, Arizona; except an undivided 1/16 of all oil, gases, and other hydrocarbon substances, coal or stone, metals, minerals, fossils and fertilizer of every name and description, together with all uranium, thorium, or any other material which is or may be determined by the laws of the production of fissionable materials, whether or not of commercial value, as reserved by the State of Arizona in Section 37-231, Arizona Revised Statutes, and in patent of record.
22. Powers Butte (Mumme Farm) Wildlife Area: The Powers Butte Wildlife Area shall be that area described as follows:
T1S, R5W, Section 25, N1/2SW1/4, SW1/4SW1/4; Section 26, S1/2; Section 27, E1/2SE1/4; Section 34. T2S, R5W Section 3, E1/2W1/2, W1/2SE1/4, NE1/4SE1/4, NE1/4; Section 10, NW1/4, NW1/4NE1/4; Section 15, SE1/4SW1/4; Section 22, E1/2NW1/4, NW1/4NW1/4; all in G&SRB&M, Maricopa County, Arizona.
 23. Quigley-Achee Wildlife Area: The Quigley-Achee Wildlife Area shall be those areas described as follows:
T8S, R17W; Section 13, W1/2SE1/4, SW1/4NE1/4, and a portion of land in the W1/2 of Section 13, more particularly described as follows: beginning at the S1/4 corner; thence S 89°17'09" W along the south line of said Section 13 a distance of 2627.50 feet to the southwest corner of said Section 13; thence N 41°49'46" E a distance of 3026.74 feet; thence N 0°13'30" W a distance of 1730.00 feet to a point on the north 1/16th line of said Section 13; thence N 89°17'36" E along said north 1/16th line a distance of 600.00 feet to the center of said Section 13; thence S 0°13'30" E. along the north-south midsection line a distance of 3959.99 feet to the point of beginning. Section 23, SE1/4NE1/4, and a portion of land in the NE1/4NE1/4 of Section 23, more particularly described as follows: beginning at the northeast corner; thence S 0°10'19" E along the east line of said Section 23, a distance of 1326.74 feet to a point on the south line of the NE1/4NE1/4 of said Section 23; thence S 89°29'58" W along said south line, a distance of 1309.64 feet; thence N 44°17'39" E a distance of 1869.58 feet to the point of beginning. Section 24, NW1/4, N1/2SW1/4, W1/2NE1/4; all in G&SRB&M, Yuma County, Arizona.
 24. Raymond Wildlife Area: The Raymond Wildlife Area is that area described as follows: All of Sections 24, 25, 26, 34, 35, 36, and the portions of Sections 27, 28, and 33 lying east of the following described line: beginning at the W1/4 corner of Section 33; thence northeasterly through the 1/4 corner common to Sections 28 and 33, 1/4 corner common to Sections 27 and 28 to the N1/4 corner of Section 27 all in T19N, R11E. All of Sections 15, 16, 17, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, and 34 all in T19N, R12E.; all in G&SRB&M, Coconino County, Arizona.
 25. Robbins Butte Wildlife Area: The Robbins Butte Wildlife Area shall be those areas described as follows:
T1S, R3W, Section 17, S1/2NE1/4, SE1/4, NW1/4SW1/4; Section 18, Lots 3, 4, and E1/2SW1/4, S1/2NE1/4, W1/2SE1/4, NE1/4SE1/4. T1S, R4W, Section 13, all except that portion of W1/2SW1/4SW1/4 lying west of State Route 85; Section 14, all except the W1/2NW1/4 and that portion of the SW1/4 lying north of the Arlington Canal; Section 19, S1/2SE1/4; Section 20, S1/2S1/2, NE1/4SE1/4; Section 21, S1/2, S1/2NE1/4, SE1/4NW1/4; Section 22, all except for NW1/4NW1/4; Section 23; Section 24, that portion of SW1/4, W1/2SW1/4NW1/4 lying west of State Route 85; Section 25, that portion of the NW1/4NW1/4 lying west of State Route 85; Section 26, NW1/4, W1/2NE1/4, NE1/4NE1/4; Section 27, N1/2, SW1/4; Section 28; Section 29, N1/2N1/2, SE1/4NE1/4; Section 30, Lots 5, 6, 7, 8, NE1/4, SE1/4SE1/4; all in G&SRB&M, Maricopa County, Arizona.
 26. Roosevelt Lake Wildlife Area: The Roosevelt Lake Wildlife Area is that area described as follows: beginning at the junction of A-Cross Rd. and Arizona Highway 188; south on Arizona Highway 188 to the main entrance of Roosevelt Lake Marina; northeast on this road towards the main marina launch; northeast across Roosevelt Lake to the south tip of Bass Point; northerly to Long Gulch Rd.; northeast on this road to the A-Cross Rd.; northwest on the A-Cross Rd. to the point of beginning; all in G&SRB&M, Gila County, Arizona.
 27. Santa Rita Wildlife Area: The Santa Rita Experimental Range is that area described as follows: Concurrent with the Santa Rita Experimental Range boundary and includes the posted portion of the following sections: Sections 33 through 36, T17S, R14E, Section 25, Section 35 and Section 36, T18S, R13E, Sections 1 through 4, Sections 9 through 16, and Sections 21 through 36, T18S, R14E, Sections 3 through 9, Sections 16 through 21, Sections 26 through 34, T18S, R15E, Sections 1 through 6, Sections 9 through 16, Section 23, T19S, R14E, Sections 3 through 10, Sections 16 through 18, T19S, R15E; all in G&SRB&M, Pima County, Arizona, and all being coincidental with the Santa Rita Experimental Range Area.
 28. Sipe White Mountain Wildlife Area: The Sipe White Mountain Wildlife Area shall be those areas described as follows:
T7N, R29E, Section 1, SE1/4, SE1/4NE1/4, S1/2NE1/4NE1/4, SE1/4SW1/4NE1/4, NE1/4SE1/4SW1/4, and the SE1/4NE1/4SW1/4. T7N, R30E, Section 5, W1/2W1/2SE1/4SW1/4, and the SW1/4SW1/4; Section 6, Lots 1, 2, 3, 7, and 8, SW1/4NW1/4NW1/4, S1/2NW1/4NE1/4SE1/4, N1/2SE1/4SE1/4, E1/2SE1/4SE1/4SE1/4, SW1/4SE1/4 and the SE1/4SW1/4; Section 7, Parcel 10: Lots 1 and 2, E1/2NW1/4, E1/2E1/2NE1/4NE1/4, W1/2SW1/4NE1/4, NW1/4SE1/4, W1/2NE1/4SE1/4, NE1/4SW1/4, E1/2NW1/4SW1/4, and the NW1/4NE1/4; Section 8, NW1/4NW1/4, and the W1/2W1/2NE1/4NW1/4. T8N, R30E; Section 31, SE1/4NE1/4, SE1/4, and the SE1/4SW1/4; all in G&SRB&M, Apache County, Arizona.
 29. Springerville Marsh Wildlife Area: The Springerville Marsh Wildlife Area shall be those areas described as follows: S1/2 SE1/4 Section 27 and N1/2 NE1/4 Section 34, T9N, R29E, G&SRB&M, Apache County, Arizona.
 30. Sunflower Flat Wildlife Area: The Sunflower Flat Wildlife Area shall be those areas described as follows:

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- T20N, R3E; Section 11, NE1/4SE1/4, N1/2NW1/4SE1/4, SE1/4NW1/4SE1/4, NE1/4SE1/4SE1/4, W1/2SE1/4NE1/4, S1/2SE1/4SE1/4NE1/4, E1/2SW1/4NE1/4; Section 12, NW1/4SW1/4SW1/4, NW1/4NE1/4SW1/4SW1/4, SW1/4NW1/4SW1/4, S1/2NW1/4NW1/4SW1/4, W1/2SE1/4NW1/4SW1/4, SW1/4NE1/4NW1/4 SW1/4; all in the G&SRB&M, Coconino County, Arizona.
31. Three Bar Wildlife Area: The Three Bar Wildlife Area shall be that area described as follows: beginning at Roosevelt Dam, northwesterly on 188 to milepost 252 (Bumble Bee Wash); westerly along the boundary fence for approximately 7 1/2 miles to the boundary of Gila and Maricopa counties; southerly along this boundary through Four Peaks to a fence line south of Buckhorn Mountain; southerly along the barbed wire drift fence at Ash Creek to Apache Lake; northeasterly along Apache Lake to Roosevelt Dam.
 32. Tucson Mountain Wildlife Area: The Tucson Mountain Wildlife Area shall be that area described as follows: beginning at the northwest corner of Section 33; T13S, R11E on the Saguaro National Monument boundary; due south approximately one mile to the El Paso Natural Gas Pipeline; southeast along this pipeline to Sandario Rd.; south on Sandario Rd. approximately two miles to the southwest corner of Section 15; T14S, R11E, east along the section line to the El Paso Natural Gas Pipeline; southeast along this pipeline to its junction with State Route 86, also known as the Ajo Highway; easterly along this highway to the Tucson city limits; north along the city limits to Silverbell Rd.; northwest along this road to Twin Peaks Rd.; west along this road to Sandario Rd.; south along this road to the Saguaro National Monument boundary; west and south along the monument boundary to the point of beginning, all in G&SRB&M, Pima County, Arizona.
 33. Upper Verde River Wildlife Area: The Upper Verde River Wildlife Area consists of eight parcels totaling 1102.54 acres located eight miles north of Chino Valley in Yavapai County, Arizona, along the upper Verde River and lower Granite Creek described as follows:
Sullivan Lake: located immediately downstream of Sullivan Lake, the headwaters of the Verde River: the NE1/4NE1/4 lying east of the California, Arizona, and Santa Fe Railway Company right-of-way in Section 15, T17N, R2W; and also the NW1/4NE1/4 of Section 15 consisting of approximately 80 acres. Granite Creek Parcel: includes one mile of Granite Creek to its confluence with the Verde River: The SE1/4SE1/4 of Section 11; the NW1/4SW1/4 and SW1/4NW1/4 of Section 13; the E1/2NE1/4 of Section 14; all in T17N, R1W consisting of approximately 239 acres. E1/2SW1/4SW1/4, SE1/4SW1/4, NE1/4SW1/4 and NW1/4SE1/4 of Section 12, NW1/4NW1/4 of Section 13, T17N, R2W consisting of approximately 182.26 acres. Campbell Place Parcel: NE1/4NW1/4, NW1/4NE1/4, NE1/4NE1/4, SE1/4NW1/4, SW1/4NE1/4, SE1/4NE1/4, NE1/4SW1/4, NW1/4SE1/4, NE1/4SE1/4, NW1/4SW1/4, NE1/4SW1/4, and NW1/4SE1/4 in Section 7, T17N, R1W and SE1/4SE1/4 Section 12, T17N, R2W consisting of 315 acres. Tract 39 Parcel: the E1/2 of Tract 39 within the Prescott National Forest boundary, SE1/2SW1/4 and SW1/4SE1/4 of Section 5, T18N, R1W; and the W1/2 of Tract 39 outside the Forest boundary, SW1/4SW1/4, and SW1/4SW1/4 of Section 5 and NW1/4NW1/4 of Section 8, T18N, R1W consisting of approximately 163 acres. Wells Parcels: Parcel 1 and Parcel 2: all that portion of Government Lots 9 and 10, Section 7, along with Lot 3 and the SW1/4NW1/4, Section 8, located in T17N, R1W, of G&SRB&M, Yavapai County, Arizona, also known as APN 306-39-004L and 306-39-004M. Parcel 3 and Parcel 4: all that portion of the NE1/4SW1/4, NW1/4SE1/4, SW1/4SW1/4, and E1/2SW1/4SW1/4 of Section 12 and the NW1/4NW1/4 of Section 13, T17N, R2W, of G&SRB&M, Yavapai County, Arizona.
 34. Wenima Wildlife Area: The Wenima Wildlife Area shall be those areas described as follows:
T9N, R29E; Section 5, SE1/4 SW1/4, and SW1/4 SE1/4 except E1/2 E1/2 SW1/4 SE1/4, Section 8, NE1/4 NW1/4, and NW1/4 NE1/4; Sections 8, 17 and 18, within the following boundary: From the 1/4 corner of Sections 17 and 18, the True Point of Beginning; thence N 00°12'56" E a distance of 1302.64 feet along the Section line between Sections 17 and 18 to the N1/16 corner; thence N 89°24'24" W a distance of 1331.22 feet to the NE1/16 corner of Section 18; thence N 00°18'02" E a distance of 1310.57 feet to the E1/16 corner of Sections 7 and 18; thence S 89°03'51" E a distance of 1329.25 feet to the northeast Section corner of said Section 18; thence N 01°49'10" E a distance of 1520.28 feet to a point on the Section line between Sections 7 and 8; thence N 38°21'18" E a distance of 370.87 feet; thence N 22°04'51" E a distance of 590.96 feet; thence N 57°24'55" E a distance of 468.86 feet to a point on the east-west midsection line of said Section 8; thence N 89°38'03" E a distance of 525.43 feet along said midsection line to the center W1/16 corner; thence S 02°01'25" W a distance of 55.04 feet; thence S 87°27'17" E a distance of 231.65 feet; thence S 70°21'28" E a distance of 81.59 feet; thence N 89°28'36" E a distance of 111.27 feet; thence N 37°32'54" E a distance of 310.00 feet; thence N 43°58'37" W a distance of 550.00 feet; thence N 27°25'53" W a distance of 416.98 feet to the NS1/16 line of said Section 8; thence N 02°01'25" E a distance of 380.04 feet along said 1/16 line to the NW1/16 corner of said Section 8; thence N 89°45'28" E a distance of 1315.07 feet along the east-west middle 1/16 line; thence S 45°14'41" E a distance of 67.69 feet; thence S 49°28'18" E a distance of 1099.72 feet; thence S 08°04'43" W a distance of 810.00 feet; thence S 58°54'47" W a distance of 341.78 feet; thence S 50°14'53" W a distance of 680.93 feet to a point in the center of that cul-de-sac at the end of Jeremy's Point Rd.; thence N 80°02'20" W a distance of 724.76 feet, said point lying N 42°15'10" W a distance of 220.12 feet from the northwest corner of Lot 72; thence N 34°19'23" E a distance of 80.64 feet; thence N 15°54'25" E a distance of 51.54 feet; thence N 29°09'53" E a distance of 45.37 feet; thence N 40°09'33" E a distance of 69.21 feet; thence N 25°48'58" E a distance of 43.28 feet; thence N 13°24'51" E a distance of 63.12 feet; thence N 16°03'10" W a distance of 30.98 feet; thence N 57°55'25" W a distance of 35.50 feet; thence N 80°47'38" W a distance of 48.08 feet; thence S 87°28'53" W a distance of 82.84 feet; thence S 72°07'06" W a distance of 131.85 feet; thence S 43°32'45" W a distance of 118.71 feet; thence S 02°37'48" E a distance of 59.34 feet; thence S 23°03'29" E a distance of 57.28 feet; thence S 28°30'39" E a distance of 54.75 feet; thence S 36°39'47" E a distance of 105.08 feet; thence S 24°55'07" West a distance of 394.78 feet; thence S 61°32'16" W a distance of 642.77 feet to the northwest corner of Lot 23; thence N 04°35'23" W a distance of 90.62 feet; thence S 85°24'37" W a distance of 26.00 feet; thence N 64°21'36" W a distance of 120.76

feet; thence S 61°07'57" W a distance of 44.52 feet; thence S 39°55'58" W a distance of 80.59 feet; thence S 11°33'07" W a distance of 47.21 feet; thence S 19°53'19" E a distance of 27.06 feet; thence S 54°26'36" E a distance of 62.82 feet; thence S 24°56'25" W a distance of 23.92 feet; thence S 48°10'38" W a distance of 542.79 feet; thence S 17°13'48" W a distance of 427.83 feet to the northwest corner of Lot 130; thence S 29°10'58" W a distance of 104.45 feet to the southwest corner of Lot 130; thence southwesterly along a curve having a radius of 931.52 feet, and arc length of 417.52 feet to the southwest corner of Lot 134; thence S 15°04'25" W a distance of 91.10 feet; thence S 04°29'15" W a distance of 109.17 feet; thence S 01°41'24" W a distance of 60.45 feet; thence S 29°16'05" W a distance of 187.12 feet; thence S 14°44'00" W a distance of 252.94 feet; thence S 15°42'24" E a distance of 290.09 feet; thence S 89°13'25" E a distance of 162.59 feet; thence S 37°19'54" E a distance of 123.03 feet to the southeast corner of Lot 169; thence S 20°36'30" E a distance of 706.78 feet to the northwest corner of Lot 189; thence S 04°07'31" W a distance of 147.32 feet; thence S 29°11'19" E a distance of 445.64 feet; thence S 00°31'40" E a distance of 169.24 feet to the east-west midsection line of Section 17 and the southwest corner of Lot 194; thence S 89°28'20" W a distance of 891.84 feet along said east-west midsection line to the True Point of Beginning; all in G&SRB&M, Apache County, Arizona.

35. White Mountain Grasslands Wildlife Area: The White Mountain Grasslands Wildlife Area shall be those areas described as follows:

Parcel 1 (CL1): the S1/2 of Section 24; the N1/2NW1/4 of Section 25; the NE1/4 and N1/2SE1/4 of Section 26; all in T9N, R27E of G&SRB&M, Apache County, Arizona; except all coal and other minerals as reserved to the U.S. in the Patent of said land. Parcel 2 (CL2): the SE1/4 and the SE1/4SW1/4 of Section 31, T9N, R28E of G&SRB&M, Apache County, Arizona. Parcel 3 (CL3): the NW1/4SW1/4 of Section 28; and the SW1/4S1/2SE1/4 and NE1/4SE1/4 of T9N, R28E of G&SRB&M, Apache County, Arizona. Parcel 4 (CL4): the SW1/4SW1/4 of Section 5; the SE1/4SE1/4 of Section 6; the NE1/4NE1/4 of Section 7; the NW1/4NW1/4, E1/2SW1/4NW1/4, W1/2NE1/4, SE1/4NW1/4, and that portion of the S1/2 which lies North of Highway 260, except the W1/2SW1/4 of Section 8; all in T8N, R28E of G&SRB&M, Apache County, Arizona. Parcel 1 (O1): the S1/2N1/2 of Section 10, T8N, R28E, of G&SRB&M, Apache County, Arizona; except that Parcel of land lying within the S1/2NE1/4 of Section 10, T8N, R28E, of G&SRB&M, Apache County, Arizona, more particularly described as follows: From the N1/16 corner of Sections 10 and 11, monumented with a 5/8-inch rebar with a cap marked LS 13014, said point being the True Point of Beginning; thence N 89°44'54" W a distance of 1874.70 feet along the east-west 1/16 line to a point monumented with a 1/2-inch rebar with a tag marked LS 13014; thence S 02°26'17" W a distance of 932.00 feet to a point monumented with a 1/2-inch rebar with a tag marked LS 13014; thence S 89°44'54" E a distance of 1873.69 feet to a point monumented with a 1/2-inch rebar with a tag marked LS 13014, said point being on the east line of Section 10; thence N 02°30'00" E a distance of 932.00 feet along said Section line to the True Point of Beginning. Parcel 2 (O2): the N1/2S1/2 of Section 10, T8N, R28E, of G&SRB&M, Apache County, Arizona. Except

for that portion lying South of State Highway 260. Parcel 3 (O3): the SE1/4 of Section 25, T9N, R27E, of G&SRB&M, Apache County, Arizona. Parcel 4 (O4): lots 3 and 4; the E1/2SW1/4; W1/2SE1/4; and NE1/4SE1/4 of Section 30, T9N, R28E, of G&SRB&M, Apache County, Arizona. Parcel 5 (O5): lots 1, 2 and 3; the S1/2NE1/4; NW1/4NE1/4; E1/2NW1/4; and NE1/4SW1/4 of Section 31, T9N, R28E, of G&SRB&M, Apache County, Arizona. Parcel 6 (O6): beginning at the northwest corner of the SE1/4 of Section 27, T9N, R28E, of G&SRB&M, Apache County, Arizona; thence east a distance of 1320.00 feet; thence south a distance of 925.00 feet; thence west a distance of 320.00 feet to the center of a stock watering tub; thence N 83° W a distance of 1000.00 feet; thence north a distance of 740.00 feet to the point of beginning. State Land Special Use Permit: SE1/4SW1/4 of Section 5; E1/2NE1/4 of Section 08; NE1/4NW1/4 of Section 8; M&B in N1/2NW1/4 north of Hwy 260 of Section 17, all in T8N, R28E of the G&SRB&M, Apache County, Arizona. S1/2NW1/4 and SW1/4 of Section 26; all of Section 36, all in T9N, R27E of the G&SRB&M, Apache County, Arizona. SE1/4 lying easterly of Carnero Creek in Section 18; Lots 3 and 4, E1/2SW1/4, SE1/4, NE1/4, and SE1/4NW1/4, lying southeasterly of Carnero Creek in Section 19; NW1/4SE1/4 of Section 29, Lots 1 and 2 and NE1/4 and E1/2NW1/4 and SE1/4SE1/4 of Section 30; and Lot 4, and the NE1/4NE1/4 of Section 31; all in T9N, R28E of the G&SRB&M, Apache County, Arizona. State Grazing Lease: Legal Description of the White Mountain Grassland State Land Grazing Lease. Lots 1 thru 4, and S1/2N1/2, SW1/4, N1/2N1/2SE1/4, S SW1/4NW1/4SE1/4, and W1/2SW1/4SE1/4 of Section 3; Lots 1 thru 4, and the S1/2N1/2 and S1/2 of Section 4; SE1/4SW1/4 of Section 5; E1/2NE1/4, NE1/4NW1/4 of Section 8; SE1/4NE1/4 and N1/2N1/2 of Section 9; S1/2NE1/4NE1/4, SE1/4NW1/4NE1/4, W1/2NW1/4NE1/4, N1/2NW1/4, all in Section 10; NE1/4NW1/4 lying north of the centerline of State Highway 260, in Section 17, T8N, R28E of the G&SRB&M, Apache County; NE1/4, S1/2NW1/4, and the SW1/4 of Section 25, and all of Section 36; in T9N, R27E of the G&SRB&M, Apache County; a portion of the SE1/4 of Section 18 lying southeasterly of Carnero Creek, Lots 3 and 4, E1/2SW1/4, SE1/4, NE1/4, and SE1/4NW1/4 lying southeast of Carnero Creek in Section 19; all of Section 20 and Section 21; SW1/4NE1/4, S1/2NW1/4, and M&B in N1/2SW1/4, of Section 27; N1/2E1/2SW1/4, SW1/4SW1/4 and SE1/4 of Section 28; Lots 1 and 2, and NE1/4, E1/2NW1/4, and SE1/4SE1/4 of Section 30; Lot 4 and NE1/4NE1/4 of Section 31; all of Section 32 and Section 33, in T9N, R28E, in the G&SRB&M, Apache County. SE1/4NE1/4SE1/4 of Section 31; T09N, R28E, G&SRB&M, Apache County, Arizona.

36. White Water Draw Wildlife Area: The White Water Draw Wildlife Area shall be those areas described as follows: T21S, R26E; Section 19, S1/2 SE1/4; Section 29, W1/2 NE1/4, and E1/2 NE1/4; Section 30, N1/2 NE1/4; Section 32; T22S, R26E; Section 4, Lots 3 and 4; T22S, R26E; Section 5, Lots 1 to 4, except an undivided 1/2 interest in all minerals, oil, and/or gas as reserved in Deed recorded in Docket 209, page 117, records of Cochise County, Arizona.
37. Willcox Playa Wildlife Area: The Willcox Playa Wildlife Area shall be that area within the posted Arizona Game and Fish Department fences enclosing the following

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described area: beginning at the Section corner common to Sections 2, 3, 10 and 11, T15S, R25E, G&SRB&M, Cochise County, Arizona; thence S 0°15'57" W a distance of 2645.53 feet to the east 1/4 corner of Section 10; thence S 89°47'15" W a distance of 2578.59 feet to the center 1/4 corner of Section 10; thence N 1°45'24" E a distance of 2647.85 feet to the center 1/4 corner of Section 3; thence N 1°02'42" W a distance of 2647.58 feet to the center 1/4 corner of said Section 3; thence N 89°41'37" E to the common 1/4 corner of Section 2 and Section 3; thence S 0°00'03" W a distance of 1323.68 feet to the south 1/16 corner of said Sections 2 and 3; thence S 44°46'30" E a distance of 1867.80 feet to a point on the common Section line of Section 2 and Section 11; thence S 44°41'13" E a distance of 1862.94 feet; thence S 44°42'35" E a distance of 1863.13 feet; thence N 0°13'23" E a distance of 1322.06 feet; thence S 89°54'40" E a distance of 1276.24 feet to a point on the west right-of-way fence line of Kansas Settlement Rd.; thence S 0°12'32" W a distance of 2643.71 feet along said fence line; thence N 89°55'43" W a distance of 2591.30 feet; thence N 0°14'14" E a distance of 661.13 feet; thence N 89°55'27" W a distance of 658.20 feet; thence N 0°14'39" E a distance of 1322.36 feet; thence N 44°41'19" West a distance of 931.44 feet; thence N 44°40'31" W a distance of 1862.85 feet to the point of beginning. Said wildlife area contains 543.10 acres approximately.

- C. Department Controlled Properties are described as follows: Hirsch Conservation Education Area and Biscuit Tank: The Hirsch Conservation Education Area and Biscuit Tank shall be that area lying in Section 3 T5N R2E, beginning at the northeast corner of Section 3, T5N, R2E, G&SRB&M, Maricopa County, Arizona; thence S 35°33'23.43" W a distance of 2938.12 feet; to the point of true beginning; thence S 81°31'35.45" W a distance of 147.25 feet; thence S 45°46'21.90" W a distance of 552.25 feet; thence S 21°28'21.59" W a distance of 56.77 feet; thence S 16°19'49.19" E a distance of 384.44 feet; thence S 5°27'54.02" W a distance of 73.43 feet; thence S 89°50'44.45" E a distance of 431.99 feet; thence N 4°53'57.68" W a distance of 81.99 feet; thence N 46°49'53.27" W a distance of 47.22 feet; thence N 43°3'3.68" E a distance of 83.74 feet; thence S 47°30'40.79" E a distance of 47.71 feet; thence N 76°2'59.67" E a distance of 105.91 feet; thence N 15°45'0.24" W a distance of 95.87 feet; thence N 68°48'27.79" E a distance of 69.79 feet; thence N 8°31'53.39" W a distance of 69.79 feet; thence N 30°5'32.34" E a distance of 39.8 feet; thence N 46°17'32.32" E a distance of 63.77 feet; thence N 22°17'26.17" W a distance of 517.05 feet to the point of true beginning.

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1731, effective May 1, 2000 (Supp. 00-2). Amended by exempt rulemaking at 9 A.A.R. 3141, effective August 23, 2003 (Supp. 03-2). Amended by exempt rulemaking at 11 A.A.R. 1927, effective May 20, 2005 (Supp. 05-2). Amended by exempt rulemaking at 16 A.A.R. 397, effective March 5, 2010 (Supp. 10-1). Amended by exempt rulemaking at 17 A.A.R. 800, effective June 20, 2011 (Supp. 11-2). Amended by exempt rulemaking at 18 A.A.R. 1070, effective June 15, 2012 (Supp. 12-2). Amended by exempt rulemaking at 19 A.A.R. 931, effective June 17, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 841, effective June 17, 2014 (Supp. 14-1). Amended by exempt rulemaking at 22 A.A.R. 951, effective June 7, 2016 (Supp. 16-2).

Amended by exempt rulemaking at 22 A.A.R. 2209, effective October 4, 2016 (Supp. 16-4).

R12-4-804. Renumbered**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 1424, effective June 14, 2003 (Supp. 03-2). Amended by exempt rulemaking at 17 A.A.R. 800, effective June 20, 2011 (Supp. 11-2). Section R12-4-804 renumbered to R12-4-125, by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).

ARTICLE 9. EXPIRED**R12-4-901. Expired****Historical Note**

New Section made by final rulemaking at 11 A.A.R. 1109, effective April 30, 2005 (Supp. 05-1). Amended by final rulemaking at 19 A.A.R. 768, effective June 1, 2013 (Supp. 13-2). Section R12-4-901 expired under A.R.S. § 41-1056(J) at 21 A.A.R. 757, effective March 31, 2015 (Supp. 15-2).

R12-4-902. Expired**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 1109, effective April 30, 2005 (Supp. 05-1). Amended by final rulemaking at 19 A.A.R. 768, effective June 1, 2013 (Supp. 13-2). Section R12-4-902 expired under A.R.S. § 41-1056(J) at 21 A.A.R. 757, effective March 31, 2015 (Supp. 15-2).

R12-4-903. Expired**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 1109, effective April 30, 2005 (Supp. 05-1). R12-4-903 renumbered to R12-4-904; new Section R12-4-903 renumbered from R12-4-904 and amended by final rulemaking at 19 A.A.R. 768, effective June 1, 2013 (Supp. 13-2). Section R12-4-903 expired under A.R.S. § 41-1056(J) at 21 A.A.R. 757, effective March 31, 2015 (Supp. 15-2).

R12-4-904. Expired**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 1109, effective April 30, 2005 (Supp. 05-1). R12-4-904 renumbered to R12-4-903; new Section R12-4-904 renumbered from R12-4-903 and amended by final rulemaking at 19 A.A.R. 768, effective June 1, 2013 (Supp. 13-2). Section R12-4-904 expired under A.R.S. § 41-1056(J) at 21 A.A.R. 757, effective March 31, 2015 (Supp. 15-2).

R12-4-905. Expired**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 1109, effective April 30, 2005 (Supp. 05-1). Amended by final rulemaking at 19 A.A.R. 768, effective June 1, 2013 (Supp. 13-2). Section R12-4-905 expired under A.R.S. § 41-1056(J) at 21 A.A.R. 757, effective March 31, 2015 (Supp. 15-2).

R12-4-906. Expired**Historical Note**

New Section made by final rulemaking at 11 A.A.R.

1109, effective April 30, 2005 (Supp. 05-1). Amended by final rulemaking at 19 A.A.R. 768, effective June 1, 2013 (Supp. 13-2). Section R12-4-906 expired under A.R.S. § 41-1056(J) at 21 A.A.R. 757, effective March 31, 2015 (Supp. 15-2).

ARTICLE 10. RESERVED

ARTICLE 11. AQUATIC INVASIVE SPECIES

R12-4-1101. Definitions

In addition to the definitions provided under A.R.S. §§ 5-301 and 17-255, the following definitions apply to this Article, unless otherwise specified:

“Aquatic invasive species” means those species listed in Director’s Order 1.

“Certified agent” means a person who meets Department standards to conduct inspections authorized under A.R.S. § 17-255.01(C)(1).

“Conveyance” means a device designed to carry or transport water. Conveyance includes, but is not limited to, dip buckets, water hauling tanks, and water bladders.

“Equipment” means an item used either in or on water; or to carry water. Equipment includes, but is not limited to, trailers used to launch or retrieve watercraft, rafts, inner tubes, kick boards, anchors and anchor lines, docks, dock cables and floats, buoys, beacons, wading boots, fishing tackle, bait buckets, skin diving and scuba diving equipment, submersibles, pumps, sea planes, and heavy construction equipment used in aquatic environments.

“Operator” means a person who operates or is in actual physical control of a watercraft, vehicle, conveyance or equipment.

“Owner” means a person who claims lawful possession of a watercraft, vehicle, conveyance, or equipment.

“Person” has the same meaning as defined under A.R.S. § 1-215.

“Release” means to place, plant, or cause to be placed or planted in waters.

“Transporter” means a person responsible for the overland movement of a watercraft, vehicle, conveyance, or equipment.

“Waters” means surface water of all sources, whether perennial or intermittent, in streams, canyons, ravines, drainage systems, canals, springs, lakes, marshes, reservoirs, ponds, and other bodies or accumulations of natural, artificial, public or private waters situated wholly or partly in or bordering this state.

Historical Note

New Section made by final rulemaking at 18 A.A.R. 196, effective January 10, 2012 (Supp. 12-1).

R12-4-1102. Aquatic Invasive Species; Prohibitions; Inspection, Decontamination Protocols

- A. A person shall not, unless authorized under Article 4:
1. Possess, import, ship, or transport into or within this state an aquatic invasive species, unless authorized by the Director.
 2. Sell, purchase, barter, or exchange in this state an aquatic invasive species.

3. Release an aquatic invasive species into waters or into any water treatment facility, water supply or water transportation facility, device or mechanism in this state.
- B. Upon removing a watercraft, vehicle, conveyance, or equipment from any waters listed in Director’s Order 2 and before leaving that location, a person shall:
1. Remove all clinging materials such as plants, animals, and mud.
 2. Remove any plug or other barrier that prevents water drainage or, where none exists, take reasonable measures to drain or dry all compartments or spaces that hold water. Reasonable measures include, but are not limited to, emptying bilges, application of absorbents, or ventilation.
- C. Before transporting a watercraft, vehicle, conveyance, or equipment to any waters located within or bordering this state from waters or locations where aquatic invasive species are suspected or known to be present, as listed in Director’s Order 2, a person shall comply with the mandatory conditions and protocols identified in Director’s Order 3 for decontamination of watercraft, vehicles, conveyances, and equipment.
- D. Department employees, certified agents, and Arizona peace officers authorized under A.R.S. § 17-104 may inspect a watercraft, vehicle, conveyance, or equipment for the purposes of determining compliance with A.R.S. Title 17, Chapter 2, Article 3.1 and this Section.
- E. If the presence of an aquatic invasive species is documented or suspected on or in a watercraft, vehicle, conveyance, or equipment, a Department employee or any Arizona peace officer may order the person to decontaminate or cause to be decontaminated such watercraft, vehicles, conveyances, and equipment using the mandatory protocols described in Director’s Order 3.
- F. The following Director’s Orders are available at any Department office and online at azgfd.gov:
1. Director’s Order 1 – Listing of Aquatic Invasive Species for Arizona;
 2. Director’s Order 2 – Designation of Waters or Locations Where Listed Aquatic Invasive Species are Present; and
 3. Director’s Order 3 – Mandatory Conditions on the Movement of Watercraft, Vehicles, Conveyances, or Other Equipment from Listed Waters Where Aquatic Invasive Species are Present.
- G. This Section does not apply to owners and operators exempt under A.R.S. § 17-255.04.

Historical Note

New Section made by final rulemaking at 18 A.A.R. 196, effective January 10, 2012 (Supp. 12-1).

R12-4-1103. Emergency Expired

Historical Note

New Section made by emergency rulemaking at 17 A.A.R. 1218, effective June 2, 2011 for 180 days (Supp. 11-2). Section renewed by emergency rulemaking at 17 A.A.R. 2376, effective November 3, 2011 (Supp. 11-4). Emergency expired (Supp. 14-1).

R12-4-1104. Emergency Expired

Historical Note

New Section made by emergency rulemaking at 17 A.A.R. 1218, effective June 2, 2011 for 180 days (Supp. 11-2). Section renewed by emergency rulemaking at 17 A.A.R. 2376, effective November 3, 2011 (Supp. 11-4). Emergency expired (Supp. 14-1).



Supplement to the
Arizona Administrative Code
The official compilation of Arizona Rules
Replacement Check List

For rules filed in the third quarter between
July 1 - September 30
2017

Within the stated calendar quarter, this Title contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information. Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

TITLE 12. Natural Resources

Chapter 15. Department of Water Resources

Sections, Parts, Exhibits, Tables or Appendices modified
R12-15-105 and R12-15-401

☐ REMOVE Supp. 16-4
Pages: 1 - 83

☐ REPLACE with Supp. 17-3
Pages: 1 - 83

The agency's contact person who can answer questions about rules in this Chapter:

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Disclaimer: Please be advised the person listed is the contact of record as submitted in the rulemaking package for this supplement. The contact and other information may change and is provided as a public courtesy.

PUBLISHER
Arizona Department of State
Office of the Secretary of State, Administrative Rules Division

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the Administrative Code. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION
September 30, 2017

RULES

A.R.S. § 41-1001(17) states: “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions. Virtually everything in your life is affected in some way by rules published in the Arizona Administrative Code, from the quality of air you breathe to the licensing of your dentist. This chapter is one of more than 230 in the Code compiled in 21 Titles.

ADMINISTRATIVE CODE SUPPLEMENTS

Rules filed by an agency to be published in the Administrative Code are updated quarterly. Supplement release dates are printed on the footers of each chapter:

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2017 is cited as Supp. 17-1.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the Arizona Administrative Register for recent updates to rule Sections.

ARTICLES AND SECTIONS

Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering system separated into subsections.

HISTORICAL NOTES AND EFFECTIVE DATES

Historical notes inform the user when the last time a Section was updated in the Administrative Code. Be aware, since the Office publishes each quarter by entire chapters, not all Sections are updated by an agency in a supplement release. Many times just one Section or a few Sections may be updated in the entire chapter.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in the introduction of a chapter can be found at the Secretary of State’s website, www.azsos.gov/services/legislative-filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the Arizona Administrative Register online at www.azsos.gov/rules, click on the Administrative Register link.

In the Administrative Code the Office includes editor’s notes at the beginning of a chapter indicating that certain rulemaking Sections were made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR

If you are researching rules and come across rescinded chapters on a different paper color, this is because the agency filed a Notice of Exempt Rulemaking. At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

PERSONAL USE/COMMERCIAL USE

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Public Services managing rules editor, Rhonda Paschal, assisted with the editing of this chapter.

TITLE 12. NATURAL RESOURCES**CHAPTER 15. DEPARTMENT OF WATER RESOURCES**

(Authority: A.R.S. § 45-101 et seq.)

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ARTICLE 1. FEES**R12-15-101. Definitions**

In addition to the definitions in A.R.S. §§ 45-101, 45-271, 45-402, 45-511, 45-561, 45-802.01, 45-1001, 45-1201 and R12-15-701, the following definitions apply to this Article:

1. "Application" means a written request submitted by an applicant to the Department for the purpose of obtaining a permit, license or other legal authorization issued by the Department.
2. "Fiscal year" means the year beginning July 1 and ending June 30.
3. "Mileage expenses" means the Department's mileage expenses for travelling to and from a site inspection calculated at the rate set by the Arizona Department of Administration for state travel by motor vehicle.
4. "Municipality" means an incorporated city or town.
5. "Pre-decision administrative hearing" means an administrative hearing held on an application before the Department makes any decision on the application.
6. "Population" means the population according to the most recent United States decennial census.
7. "Review hours" means the hours or portions of hours spent by Department employees in reviewing an application and making a decision thereon, including pre-application consultation time in excess of 60 minutes and site inspection time. Only time spent by the program staff members and technical review team members responsible for processing the application shall be included as review hours. Review hours do not include the first 60 minutes of pre-application consultation time, the time spent traveling to and from a site inspection, any time spent on a pre-decision administrative hearing and any time spent on the application after a party appeals the Director's decision on the application pursuant to A.R.S. § 41-1092.03(B).
8. "Site inspection" means an inspection conducted by the Department before issuing a decision on an application or before issuing a decision on whether water may be stored at an underground storage facility.
9. "Site inspection time" means time spent on a site inspection. Site inspection time includes the time spent conducting the inspection and the time spent preparing an inspection report following the inspection, but does not include the time spent traveling to and from the inspection.
10. "Water resources fund" means the water resources fund established by A.R.S. § 45-117.

Historical Note

New Section made by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by exempt rulemaking at 17 A.A.R. 776, effective April 15, 2011 with an automatic repeal date effective June 4, 2011; new Section made by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2). Amended by final rulemaking at 18 A.A.R. 203, effective July 1, 2012 (Supp. 12-1).

R12-15-102. Fees for Applications and Filings

- A. A person submitting an application or filing to the Department on or after the effective date of this Section shall pay an hourly application fee as provided in R12-15-103 or a fixed application or filing fee as provided in R12-15-104, whichever applies. Fees for applications and filings shall be paid in U.S. dollars by cash, check, cashier's check, money order, or any other method acceptable to the Department.

- B. A person with an application or filing pending before the Department prior to the effective date of this Section shall pay the application or filing fees and costs in effect when the application or filing was submitted to the Department.

Historical Note

New Section made by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by exempt rulemaking at 17 A.A.R. 776, effective April 15, 2011 with an automatic repeal date effective June 4, 2011; new Section made by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

R12-15-103. Applications Subject to Hourly Fee; Amount of Fee; Initial Fee; Billing and Payment; Request for Reconsideration of Fee; Past Due Fee

- A. The Department shall calculate the fee for an application listed in subsection (B) of this Section by multiplying the number of review hours for the application by an hourly rate of \$118.00, plus any mileage expenses and the actual cost of mailing or publishing any legal notice of the application.
- B. A person submitting an application listed below shall pay an hourly fee for the application, not to exceed the maximum fee shown for the application:
 1. Wells:

Type of Application	Maximum Fee
Variance from well construction requirements that has not been pre-approved by the Department	\$10,000.00

2. Groundwater:

Type of Application	Maximum Fee
a.Issuance, renewal or modification of groundwater withdrawal permit	\$10,000.00
b.Issuance of notice of authority to irrigate in an irrigation non-expansion area	\$10,000.00
c.Approval of contract by a city, town or private water company to supply groundwater to another city, town or private water company pursuant to A.R.S. § 45-492(C)	\$10,000.00
d.Notice of intent to establish new service area right by a city, town or private water company	\$10,000.00
e.Final petition to establish new service area right by a city, town or private water company	\$10,000.00
f.Extension of the service area of a city, town or private water company to furnish disproportionately large amounts of water to an industrial or other large water user pursuant to A.R.S. § 45-493(A)(2)	\$10,000.00
g.Addition and exclusion of area by an irrigation district pursuant to A.R.S. § 45-494.01	\$10,000.00
h.Delivery of groundwater by an irrigation district to an industrial user with a general industrial use permit pursuant to A.R.S. § 45-497(B)	\$10,000.00

Department of Water Resources

i.Determination of historically irrigated acres or annual transportation allotment for lands in McMullen valley groundwater basin pursuant to A.R.S. § 45-552	\$10,000.00
j.Determination of volume of groundwater that can be transported from lands in Harquahala irrigation non-expansion area to an initial active management area pursuant to A.R.S. § 45-554	\$10,000.00
k.Determination of historically irrigated acres or annual transportation allotment for lands in the Big Chino sub-basin of the Verde River groundwater basin pursuant to A.R.S. § 45-555	\$10,000.00
l.Permit to transport groundwater away from the Yuma groundwater basin pursuant to A.R.S. § 45-547	\$10,000.00
m.Drought emergency groundwater transfer away from a groundwater basin outside of an active management area	\$10,000.00

3. Grandfathered Rights:

Type of Application	Maximum Fee
a.Type 1 non-irrigation grandfathered right for land retired from irrigation after date of designation of active management area pursuant to A.R.S. § 45-469 or 45-472	\$10,000.00
b.Restoration of retired irrigation grandfathered right pursuant to A.R.S. § 45-469(O)	\$10,000.00

4. Substitution of Acres:

Type of Application	Maximum Fee
a.Substitution of flood damaged acres in an active management area or an irrigation non-expansion area	\$10,000.00
b.Substitution of acres to eliminate limiting condition impeding efficient irrigation in an active management area or an irrigation non-expansion area	\$10,000.00
c.Substitution of acres to allow irrigation with Central Arizona Project water in an active management area	\$10,000.00

5. Lakes:

Type of Application	Maximum Fee
a.Permit to fill body of water with poor quality water pursuant to A.R.S. § 45-132(C)	\$10,000.00
b.Permit for interim water use in a body of water	\$10,000.00
c.Temporary emergency permit for use of surface water or groundwater in a body of water	\$10,000.00

6. Water Exchange:

Type of Application	Maximum Fee
---------------------	-------------

a. Issuance, renewal or modification of water exchange permit	\$10,000.00
b. Notice of water exchange for which approval is required pursuant to A.R.S. § 45-1052(6)(b)	\$10,000.00

7. Water Exportation:

Type of Application	Maximum Fee
Permit to transport water from this state	\$25,000.00

8. Underground Water Storage, Savings and Replenishment:

Type of Application	Maximum Fee
a.Issuance, renewal or modification of an underground storage facility permit	\$25,000.00
b.Issuance, renewal or modification of a groundwater savings facility permit	\$10,000.00
c.Issuance, renewal or modification of a water storage permit	\$10,000.00
d.Recovery well permit, including an emergency temporary recovery well permit	\$10,000.00

9. Assured and Adequate Water Supply:

Type of Application	Maximum Fee
a.Physical availability determination	\$10,000.00
b.Analysis of assured or adequate water supply	\$10,000.00
c.Renewal of analysis of assured or adequate water supply	\$10,000.00
d.Certificate of assured water supply	\$10,000.00
e.Issuance or modification of designation of assured water supply	\$35,000.00
f.Issuance or modification of designation of adequate water supply	\$25,000.00
g.Water report (outside an AMA)	\$10,000.00
h.Assignment of Type A certificate of assured water supply	\$5,000.00
i.Assignment of Type B certificate of assured water supply	\$5,000.00
j.Classification of Type A certificate of assured water supply pursuant to R12-15-707	\$10,000.00
k.Review of revised plat to determine whether changes are material	\$10,000.00
l.New certificate of assured water supply pursuant to R12-15-704(G)	\$10,000.00
m.Letter stating that owner is not required to obtain a certificate of assured water supply pursuant to R12-15-704(M)	\$10,000.00

10. Surface Water:

Type of Application	Maximum Fee
a.Permit to appropriate public water	\$10,000.00
b.Certificate of water right	\$10,000.00

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c.Primary reservoir permit or secondary reservoir permit	\$10,000.00
d.Change in use of water	\$10,000.00
e.Severance and transfer of water right to land that is not within the same parcel or farm unit as the current use, or that includes a change in water source, use or ownership	\$25,000.00
f.Severance and transfer of water right to land that is within the same parcel or farm unit as the current use and that does not include a change in water source, use or ownership	\$2,500.00
g.Request for extension of time to complete construction	\$10,000.00

- C. A person filing an application that is subject to an hourly fee shall submit an initial fee at the time the application is submitted to the Department. The initial fee for applications described in subsections (B)(7), (B)(8)(a), (B)(9)(e), (f) and (B)(10)(e) of this Section shall be \$2,000.00. The initial fee for all other applications shall be \$1,000.00. If requested by the applicant, the Department may set a lower initial fee if the Department estimates that the total application fee will be less than the initial fee specified in this subsection. The Department shall not accept an application for which an initial fee is required under this subsection unless the initial fee is included with the application.
- D. The Department shall bill the applicant for processing the application no more than monthly, but at least quarterly. Each bill shall contain the following information for the billing period:
1. The number of review hours accrued by activity and sub-activity code during the billing period, the date of each activity, a description of each activity and the effective hourly rate for all activities;
 2. A description and amount of any mileage expenses charged for the application;
 3. A description and amount of the cost of mailing or publishing any legal notice of the application or notice of a pre-decision administrative hearing on the application; and
 4. The total fees paid to date, the total fees due for the billing period, the date when the fees are payable, which shall be at least 60 days after the date of the bill, and the maximum fee for the application.
- E. A bill for hourly fees becomes past due if the applicant does not pay the bill in full by the due date specified in the bill, unless the applicant submits a timely request for reconsideration of the bill pursuant to subsection (G) of this Section. If the applicant submits a timely request for reconsideration of the bill, the bill becomes past due if the applicant does not pay the amount due under the Director's decision on the request by the date specified in the decision. If a bill for hourly fees becomes past due, the following shall apply:
1. The applicable review time-frame shall be suspended from the date the bill became past due until the applicant pays the bill in full or the application is denied under subsection (E)(2) of this Section, whichever applies.
 2. The Department shall suspend its review of the application and send a written notice to the applicant that the bill is past due. If the applicant does not pay the outstanding bill by the date specified in the notice, which shall be at least 35 days from the date of the notice, the application shall be denied.
- F. After the Department makes a determination whether to grant or deny the application, or when an applicant withdraws the application, the Department shall prepare and send to the applicant a final itemized billing statement for the application fee.
1. If the total fee exceeds the amount of the initial fee paid plus all other payments made to date, the applicant shall pay the balance, up to the maximum fee for the application, plus any mileage expenses and the actual cost of mailing or publishing any legal notice of the application or notice of a pre-decision administrative hearing on the application, by the date specified in the statement, unless the applicant submits a timely request for reconsideration of the bill pursuant to subsection (G) of this Section. The statement shall specify a date, at least 60 days from the date of the statement, by which the applicant must pay the bill. If the applicant submits a timely request for reconsideration of the bill, the applicant shall pay the amount due under the Director's decision on the request by the date specified in the decision. The Department shall not release the final permit or approval until the final bill is paid in full.
 2. If the total fee is less than the initial fee plus all other payments made to date, the Department shall refund the difference to the applicant within 35 days of the date of the statement.
- G. An applicant may seek reconsideration of a bill for hourly fees by filing a written request for reconsideration with the Director. The request shall specify, in detail, why the bill is in dispute and shall include any supporting documentation. The written request for reconsideration shall be delivered to the Director in person, by mail, or by facsimile on or before the payment due date. The Director shall make a final decision on the request for reconsideration of the bill and mail a final written decision to the person within 20 business days after the date the Director receives the written request. The decision shall specify a date, at least 35 days from the date of the decision, by which the applicant must pay the bill. The Director may reduce the amount of any fees billed under this Section if the Director determines that the number of review hours or mileage expenses billed to the applicant was incorrect or that time spent by the Department to review the application and make a decision thereon was not necessary or advisable.
- H. If a person receives a bill under this Section and the bill becomes past due under subsection (E) or (F) of this Section, the Department shall not accept for filing any other application by that person until the person pays the past due amount in full.

Historical Note

New Section made by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by exempt rulemaking at 17 A.A.R. 776, effective April 15, 2011 with an automatic repeal date effective June 4, 2011; new Section made by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

R12-15-104. Applications and Filings Subject to Fixed Fee; Fixed Fee Schedule; Mileage Expenses; Costs for Legal Notices

- A. The Department shall not accept or take action on the following applications and filings unless the fee shown for the application or filing is paid at the time the application or filing is submitted:
1. Wells:

Type of Application or Filing	Fee
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a.Late registration of well	\$60.00
b.Well driller's license	\$50.00
c.Re-issuance, renewal, or amendment of well driller's license	\$50.00
d.Re-activation of expired well driller's license	\$50.00
e.Well assignment	\$30.00 per well
f.Notice of intention to abandon a well	\$150.00
g.Notice of intention to drill a well other than a well described in subsection (A)(1)(h) of this Section	\$150.00
h.Notice of intention to drill a well that will not be located in an active management area or irrigation non-expansion area, that will be used solely for domestic purposes and that will have a pump with a maximum capacity of not more than 35 gallons per minute	\$100.00
i.Re-issuance of drill card	\$120.00
j.Permit to drill non-exempt well in an active management area	\$150.00 application fee plus \$30.00 permit fee

2. Groundwater:

Type of Application or Filing	Fee
a.Conveyance of farm's flexibility account balance	\$250.00
b.Conveyance of notice of authority to irrigate in an irrigation non-expansion area	\$500.00
c.Conveyance of groundwater withdrawal permit	\$500.00

3. Grandfathered rights:

Type of Application	Fee
a.Late application for certificate of grandfathered right	\$100.00
b.Conveyance of certificate of grandfathered right	\$500.00
c.Issuance of revised certificate of grandfathered right following partial extinguishment of grandfathered right for assured water supply extinguishment credits	\$120.00
d.Revised certificate of Type 2 non-irrigation grandfathered right to reflect new or additional points of withdrawal or the deletion of a point of withdrawal	\$250.00
e.Approval of development plan to retire irrigation grandfathered right for a Type 1 non-irrigation grandfathered right	\$500.00
f.Re-issuance of certificate of grandfathered right to reflect a change in family circumstances or a transfer of the right from the rightholder to a trust in which the rightholder is a beneficiary or from a trust to a beneficiary of the trust	\$120.00

4. Underground water storage, savings and replenishment:

Type of Application or Filing	Fee
a.Conveyance of storage facility permit	\$500.00
b.Conveyance of water storage permit	\$500.00
c.Assignment of long-term storage credits	\$250.00

5. Assured water supply:

Type of Application or Filing	Fee
a.Extinguishment of grandfathered right for extinguishment credits	\$250.00
b.Conveyance of extinguishment credits	\$250.00

6. Surface water:

Type of Application or Filing	Fee
a.Re-issuance of a surface water permit or certificate (not associated with an assignment of the permit or certificate)	\$120.00
b.Claim of water right for a stockpond pursuant to A.R.S. § 45-273	\$10.00
c.Statement of claim for a water right pursuant to A.R.S. § 45-183	\$5.00
d.Assignment of application, permit, certificate or statement of claim	\$75.00
e.Certification of water right for a stockpond pursuant to A.R.S. § 45-275	\$120.00

7. Dams:

Type of Application	Fee
Approval of plans for construction, enlargement, repair, alteration or removal of dam	2 percent of the total project cost

8. Water Exchange:

Type of Filing	Fee
Notice of water exchange that does not require approval pursuant to A.R.S. § 45-1052(6)(b)	\$500.00

9. Weather modification:

Type of Application	Fee
a.License for weather control or cloud modification	\$100.00
b.Equipment license for weather control or cloud modification	\$10.00

- B.** In addition to the application or filing fee listed in subsection (A) of this Section, an applicant shall pay any mileage expenses and the actual cost of mailing or publishing any legal notice of the application.

Historical Note

New Section made by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by exempt rulemaking at 17 A.A.R. 776, effective April 15, 2011 with an automatic repeal date effective June 4, 2011; new Section made by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

R12-15-105. Fee for Dam Safety Inspection; Fee for Review of Dam Safety Inspection Report

- A. The owner of a high or significant hazard potential dam shall pay a fee for the Department's dam safety inspection pursuant to R12-15-1219(A). The fee shall be based on the total crest length of the dam plus appurtenant embankments and saddle dikes, as follows:

Length (feet)	Fee
0 up to and including 500	\$2,000.00
More than 500 up to and including 1,000	\$2,200.00
More than 1,000 up to and including 2,000	\$2,400.00
More than 2,000 up to and including 4,000	\$2,600.00
More than 4,000 up to and including 8,000	\$3,000.00
More than 8,000 up to and including 16,000	\$3,400.00
More than 16,000 up to and including 32,000	\$3,800.00
More than 32,000	\$4,200.00

- B. The owner of a low or very low hazard potential dam shall pay a fee for the Department's dam safety inspection pursuant to R12-15-1219(A). The fee shall be \$250.00.
- C. After conducting a dam safety inspection pursuant to R12-15-1219(A), the Director shall send to the dam owner a bill for the fee required by subsection (A) or (B) of this Section. The dam owner shall pay the fee by the date specified in the bill, which shall be at least 35 days from the date of the bill. Failure by a dam owner to pay a fee required by subsection (A) or (B) of this Section shall be considered a violation of R12-15-1219.
- D. The owner of a dam who submits a dam safety inspection report pursuant to R12-15-1219(E) shall pay a fee of \$750.00 if the dam is a high or significant hazard potential dam or a fee of \$250 if the dam is a low or very low hazard potential dam. The Department shall not accept a dam safety inspection report unless the fee is submitted with the report.

Historical Note

New Section made by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by exempt rulemaking at 17 A.A.R. 776, effective April 15, 2011 with an automatic repeal date effective June 4, 2011; new Section made by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2). Section amended by final rulemaking at 23 A.A.R. 2375, effective October 10, 2017 (Supp. 17-3).

R12-15-106. Fee for Well Capping

The owner of a well that is capped by the Department pursuant to A.R.S. § 45-594(C) shall pay to the Department a fee of \$300.00, plus actual expenses over \$300.00. After capping an open well, the Department shall send the owner of the well a bill for the fee under this Section. The owner of the well shall pay the fee by the date specified in the bill, which shall be at least 35 days after the date of the bill.

Historical Note

New Section made by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by exempt rulemaking at 17 A.A.R. 776, effective April 15, 2011 with an automatic repeal date effective June 4, 2011; new Section made by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

R12-15-107. Expired

Historical Note

New Section made by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by exempt rulemaking at 17 A.A.R. 776, effective April 15, 2011 with an automatic repeal date effective June 4, 2011 (Supp. 11-2). New Section made by exempt rulemaking at 17 A.A.R. 1769, effective August 10, 2011 with an automatic repeal date effective July 1, 2012 (Supp. 11-3). New Section made by final rulemaking at 18 A.A.R. 203, effective July 1, 2012 (Supp. 12-1). Section expired under A.R.S. § 41-1056(J) at 22 A.A.R. 3475, effective November 5, 2016 (Supp. 16-4).

R12-15-108. Reserved through

R12-15-150. Reserved

R12-15-151. Repealed

Historical Note

Adopted effective October 8, 1982 (Supp. 82-5). Amended effective June 29, 1994 (Supp. 94-2). Amended effective March 3, 1995 (Supp. 95-1). Amended by final rulemaking at 11 A.A.R. 5395, effective February 4, 2006 (Supp. 05-4). Amended by final rulemaking at 13 A.A.R. 3022, effective October 6, 2007 (Supp. 07-3). Section repealed by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). New Section made by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Section repealed by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

R12-15-152. Expired

Historical Note

Adopted effective October 8, 1982 (Supp. 82-5). Section expired under A.R.S. § 41-1056(E) at 13 A.A.R. 1647, effective May 31, 2006 (Supp. 07-2).

ARTICLE 2. PROCEDURAL RULES

R12-15-201. Expired

Historical Note

Adopted effective June 13, 1984 (Supp. 84-3). The reference to R12-14-223 in subsection (C) corrected to read R12-15-223 (Supp. 93-1). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

R12-15-202. Expired

Historical Note

Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

R12-15-203. Expired

Historical Note

Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

R12-15-204. Expired

Historical Note

Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159,

effective February 28, 2001 (Supp. 01-2).

R12-15-205. Expired**Historical Note**

Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

R12-15-206. Expired**Historical Note**

Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

R12-15-207. Correction of Clerical Mistakes

Upon a motion or on the initiative of the Director, the Director may correct clerical mistakes in decisions, orders, rulings, any process issued by the Department, or other parts of the record, and errors in the record arising from oversight or omission. The Director shall give all parties and the Chief Counsel notice of any corrections made pursuant to this Section.

Historical Note

Adopted effective June 13, 1984 (Supp. 84-3). Amended by final rulemaking at 13 A.A.R. 3022, effective October 6, 2007 (Supp. 07-3).

R12-15-208. Expired**Historical Note**

Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

R12-15-209. Expired**Historical Note**

Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

R12-15-210. Expired**Historical Note**

Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

R12-15-211. Expired**Historical Note**

Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

R12-15-212. Expired**Historical Note**

Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

R12-15-213. Expired**Historical Note**

Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

R12-15-214. Expired**Historical Note**

Adopted effective June 13, 1984 (Supp. 84-3). Section

expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

R12-15-215. Expired**Historical Note**

Adopted effective June 13, 1984 (Supp. 84-3). Section number corrected (Supp. 93-1). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

R12-15-216. Expired**Historical Note**

Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

R12-15-217. Expired**Historical Note**

Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

R12-15-218. Expired**Historical Note**

Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

R12-15-219. Expired**Historical Note**

Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

R12-15-220. Expired**Historical Note**

Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

R12-15-221. Expired**Historical Note**

Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

R12-15-222. Expired**Historical Note**

Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

R12-15-223. Expired**Historical Note**

Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

R12-15-224. Ex Parte Communications

- A. During the course of a contested case or appealable agency action, a party shall not make an ex parte communication or knowingly cause an ex parte communication to be made to the Director or other Department employee or consultant who is or may reasonably be expected to be involved in the decision-making process of the contested case or appealable agency action.

- B. During the course of a contested case or appealable agency action, the Department personnel listed in subsection (A) shall not make an ex parte communication or knowingly cause an ex parte communication to be made to a party or a person who will be materially and directly affected by the outcome of the contested case or appealable agency action.
- C. Any of the Department personnel listed in subsection (A) of this Section who receives a written communication prohibited by this Section shall file a copy of the communication in the public docket and serve a copy on the Director, the Chief Counsel, and all parties to the contested case or appealable agency action. Any of the Department personnel listed in subsection (A) of this Section who receives an oral communication prohibited by this Section shall file a summary, stating the substance of the communication, in the public docket and serve a copy on the Director, the Chief Counsel, and all parties to the contested case or appealable agency action.
- D. Upon receipt of an ex parte communication or a copy or summary of an ex parte communication made or knowingly caused to be made by a party in violation of this Section, the Director, to the extent consistent with the interests of justice and the policy of the underlying statutes and rules, may require the party to show cause why the party's claim or interest in the contested case or appealable agency action should not be dismissed, denied or disregarded because of the violation.
- E. For purposes of this Section, "ex parte communication" means any written or oral communication relating to the merits of a contested case or appealable agency action, except:
 1. Communications made in the course of official proceedings in the contested case or appealable agency action;
 2. Communications made in writing, if a copy of the communication is promptly served on the Director, the Chief Counsel, and all parties to the contested case or appealable agency action;
 3. Oral communications made after adequate notice, stating the substance of each communication, to all parties and the Chief Counsel;
 4. Communications relating solely to procedural matters; and
 5. As otherwise authorized by law.

Historical Note

Adopted effective June, 1984 (Supp. 84-3). Amended by final rulemaking at 13 A.A.R. 3022, effective October 6, 2007 (Supp. 07-3).

ARTICLE 3. STOCKPOND AND OTHER SURFACE WATER RULES

R12-15-301. Expired

Historical Note

Adopted effective October 8, 1982 (Supp. 82-5). Amended effective April 3, 1987 (Supp. 87-2). Amended effective May 7, 1990 (Supp. 90-2). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2012, effective February 28, 2001 (Supp. 01-2).

R12-15-302. Expired

Historical Note

Adopted effective October 8, 1982 (Supp. 82-5). Amended effective May 7, 1990 (Supp. 90-2). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2012, effective February 28, 2001 (Supp. 01-2).

R12-15-303. Multiple Applications for Water Rights

- A. If two or more applications are filed with the Director pursuant to A.R.S. §§ 45-152 or 45-273 or both by or for the same applicant and for a right to use the same water, the Director

shall consolidate the applications. If the applicant is otherwise entitled to both a permit to appropriate and a certificate of stockpond water right, the Director shall issue to the applicant either the permit to appropriate or the certificate of stockpond water right, whichever would give the applicant the higher priority.

- B. If one or more applications are filed with the Director pursuant to A.R.S. §§ 45-152 or 45-273 or both by or for the same applicant and for a right to use the same water for which the applicant holds a permit to appropriate, a certificate of water right or a certificate of stockpond water right, the Director shall deny the application or applications unless the applicant relinquishes every permit to appropriate, certificate of water right and certificate of stockpond water right which the applicant holds for that same water. The applicant may relinquish every permit to appropriate, certificate of water right and certificate of stockpond water right on the condition that the Director issues a permit to appropriate or certificate of stockpond water right to the applicant for the same water. In that case, the relinquishment shall be effective when the Director issues the permit to appropriate or certificate of stockpond water right.
- C. For purposes of this rule, "same water" means the same quantity of water from the same source for use at the same place for the same purpose. Water for which a right is applied or held pursuant to an application or permit to appropriate, certificate of water right or certificate of stockpond water right may be the same water in whole or in part as water for which a right is applied or held pursuant to a separate application or permit to appropriate, certificate of water right or certificate of stockpond water right.

Historical Note

Adopted effective April 3, 1987 (Supp. 87-2). Section R12-15-310 renumbered to R12-15-303 and amended effective May 7, 1990 (Supp. 90-2).

R12-15-304. Reserved

R12-15-305. Reserved

R12-15-306. Reserved

R12-15-307. Reserved

R12-15-308. Reserved

R12-15-309. Reserved

R12-15-310. Renumbered

Historical Note

Adopted effective April 3, 1987 (Supp. 87-2). Section R12-15-310 renumbered to R12-15-303 effective May 7, 1990 (Supp. 90-2).

ARTICLE 4. LICENSING TIME-FRAMES

R12-15-401. Licensing Time-frames

The following time-frames apply to licenses issued by the Department. In this Article, "license" has the meaning prescribed in A.R.S. § 41-1001. The licensing time-frames consist of an administrative completeness review time-frame, a substantive review time-frame, and an overall time-frame.

1. Within the administrative completeness review time-frames set forth in subsection (7), the Department shall notify the applicant in writing whether the application is complete or incomplete. If the application is incomplete, the notice shall specify what information or component is required to make the application complete.
2. An applicant with an incomplete application shall supply the missing information within 60 days from the date of

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the notice, or within such further time as the Director may specify, unless another time limit is specified by statute or applicable rule. If the applicant fails to complete the application within the specified time period, the Director may deny the application. Denial of an application under this provision does not preclude the applicant from filing a new application.

3. Within the overall time-frames set forth in subsection (7), unless extended by mutual agreement under A.R.S. § 41-1075, the Department shall notify the applicant in writing that the application is granted or denied. If the application is denied, the Department shall provide written justification for the denial and a written explanation of the applicant's right to a hearing or the applicant's right to appeal.
4. In computing any period of time prescribed by this rule, the day of the filing, notice or event from which the designated period of time begins to run shall not be included. The last day of the computed period shall be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. When

the prescribed administrative completeness review time-frame or substantive review time-frame is less than 11 days, intermediate Saturdays, Sundays and legal holidays shall be excluded from the computation. The overall time-frame is the sum of the administrative completeness review time-frame and the substantive review time-frame calculated as prescribed by this Section.

5. Except as otherwise noted, the licensing time-frames do not include time for hearings. Time-frames in cases where a hearing is held are increased by 120 days.
6. The licensing time-frame rules are effective after December 31, 1998, as prescribed by A.R.S. § 41-1073(A), and apply to all applications filed after that date.
7. The licensing time-frames are set forth in Table A.

Historical Note

Adopted effective December 31, 1998; filed with the Office of the Secretary of State July 28, 1998 (Supp. 98-3). Amended by final rulemaking at 11 A.A.R. 5395, effective February 4, 2006 (Supp. 05-4).

Table A. Licensing Time-frames

No.	License	Legal Authority	Completeness Review (Days)*	Substantive Review (Days)*	Overall Time-frame (Days)*
1	Filling a body of water with poor quality water	A.R.S. § 45-132(C)	30	60	90
2	Interim water use in body of water	A.R.S. § 45-133	30	60	90
3	Temporary emergency permit for use of surface water or groundwater in body of water	A.R.S. § 45-134	10	20	30
4	Permit to appropriate water (non-instream flow)	A.R.S. §§ 45-151, 45-152 and 45-153	30	420	450
5	Permit to appropriate water (instream flow)	A.R.S. §§ 45-151, 45-151.01 and 45-153	50	530	580
6	Change in use of water	A.R.S. § 45-156(B)	30	375	405
7	Exception to limitation on time of completion of construction	A.R.S. § 45-160	5	15	20
8	Primary reservoir permit	A.R.S. § 45-161	30	420	450
9	Secondary reservoir permit	A.R.S. § 45-161	30	420	450
10	Certificate of water right (non-instream flow)	A.R.S. § 45-162	20	100	120
11	Certificate of water right (instream flow)	A.R.S. § 45-162	20	190	210
12	Reissuance of permit or certificate held by the United States or State of Arizona	A.R.S. § 45-164(C)	10	80	90
13	Severance and transfer	A.R.S. § 45-172 (excluding § 172(A)(6))	30	390	420
14	Stockpond certificate	A.R.S. § 45-273	30	190	220

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No.	License	Legal Authority	Completeness Review (Days)*	Substantive Review (Days)*	Overall Time-frame (Days)*
15	Transporting water from this state **	A.R.S. § 45-292	120	300	420
16	Waiver of water conserving plumbing fixture requirement	A.R.S. § 45-315	10	3	13
17	Irrigated acreage in an irrigation non-expansion area	A.R.S. § 45-437	30	90	120
18	Substitution of acres in an irrigation non-expansion area/ flood damage	A.R.S. § 45-437.02	30	90	120
19	Substitution of acres in an irrigation non-expansion area/ impediments to efficient irrigation	A.R.S. § 45-437.03	30	90	120
20	Reversal of substitution of acres irrigated with Central Arizona Project water	A.R.S. § 45-452(G) and (F)	30	90	120
21	Type 1 non-irrigation grandfathered right associated with irrigation land retired 1965-1980	A.R.S. §§ 45-463, 45-476.01, and 45- 476	30	60	90
22	Type 2 non-irrigation grandfathered right	A.R.S. §§ 45-464, 45-476.01, and 45- 476	30	60	90
23	Irrigation grandfathered right	A.R.S. §§ 45-465, 45-476.01, and 45- 476	30	60	90
24	Substitution of acres in an active management area/flood damaged acres	A.R.S. § 45-465.01	30	90	120
25	Substitution of acres in an active management area/ impediments to efficient irrigation	A.R.S. § 45-465.02	30	90	120
26	Type 1 non-irrigation right retired after 6/12/80	A.R.S. § 45-469	30	90	120
27	Restoration of retired irrigation grandfathered right	A.R.S. § 45-469(O)	30	90	120
28	Revised certificate for new or additional points of withdrawal for a Type 2 right	A.R.S. § 45-471(C)	45	45	90
29	Conveyance of irrigation grandfathered right for electrical energy generation	A.R.S. § 45-472(B)(2)	30	90	120
30	Conveyance of irrigation grandfathered right for non-irrigation use within service area	A.R.S. § 45-472(C)	30	90	120
31	Contract to supply groundwater	A.R.S. § 45-492(C)	15	90	105

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No.	License	Legal Authority	Completeness Review (Days)*	Substantive Review (Days)*	Overall Time-frame (Days)*
32	Extension of service area to provide disproportionately large amount of water to large user	A.R.S. § 45-493(A)(2)	15	90	105
33	Addition/exclusion of acres by irrigation district	A.R.S. § 45-494.01(A)	30	90	120
34	Delivery of groundwater from an irrigation district to a general industrial use permit holder	A.R.S. § 45-497(B)	15	60	75
35	Issuance/renewal/modification of dewatering permit	A.R.S. §§ 45-513 and 45-527	30	70	100
36	Issuance/renewal/modification of mineral extraction and metallurgical processing permit	A.R.S. §§ 45-514 and 45-527	30	70	100
37	Issuance/renewal/modification of general industrial use permit	A.R.S. §§ 45-515, 45-521, 45-522, 45-523, 45-524, and 45-527	30	70	100
38	Issuance/renewal/modification of poor quality groundwater withdrawal permit	A.R.S. §§ 45-516 and 45-527	30	70	100
39	Issuance/renewal/modification of temporary permit for electrical energy generation	A.R.S. §§ 45-517 and 45-527	30	70	100
40	Issuance/extension/ modification of temporary dewatering permit	A.R.S. §§ 45-518 and 45-527	30	70	100
41	Emergency temporary dewatering permit	A.R.S. § 45-518(D)	3	7	10
42	Issuance/renewal/modification of drainage water withdrawal permit	A.R.S. §§ 45-519 and 45-527	30	70	100
43	Issuance/renewal/modification of hydrologic testing permit	A.R.S. §§ 45-519.01, 45-521, 45-522, 45-524, and 45-527	30	15	45
44	Change of location of use	A.R.S. §§ 45-520(A), 45-521, and 45-527	30	30	60
45	Conveyance of a groundwater withdrawal permit	A.R.S. § 45-520(B)	30	30	60
46	Transportation of groundwater withdrawn in McMullen Valley Basin to an active management area	A.R.S. § 45-552(B)	45	105	150
47	Transportation of groundwater withdrawn in Harquahala irrigation non-expansion area to an initial active management area	A.R.S. § 45-554(B)	45	105	150

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No.	License	Legal Authority	Completeness Review (Days)*	Substantive Review (Days)*	Overall Time-frame (Days)*
48	Transportation of groundwater withdrawn in Big Chino subbasin to an initial active management area	A.R.S. § 45-555(B)	45	105	150
49	Well spacing requirements for withdrawing groundwater for transportation to an active management area	A.R.S. § 45-559	45	105	150
50	Groundwater replenishment district's preliminary or long-term replenishment plan **	A.R.S. § 45-576.03	As prescribed by A.R.S. § 45-576.03(A)	As prescribed by A.R.S. § 45-576.03 (B), (C), (D), and (E)	As prescribed by A.R.S. § 45-576.03
51	Conservation district or water district long-term replenishment plan **	A.R.S. §§ 45-576.03, 45-576.02(C), and 45-576.02(E)	As prescribed by A.R.S. § 45-576.03(I)	As prescribed by A.R.S. § 45-576.03(J), (K), (L), and (M)	As prescribed by A.R.S. § 45-576.03
52	Notice of intent to abandon a well	A.R.S. § 45-594 and A.A.C. R12-15-816	15	15	30
53	Well construction request for variance	A.R.S. §§ 45-594, 45-596(D), and A.A.C. R12-15-820	15	30	45
54	Well driller license	A.R.S. § 45-595(C)	25	65	90
55	Single well license	A.R.S. § 45-595(D)	25	65	90
56	Renewal or reactivation of well drilling license	A.R.S. § 45-595(C) A.A.C. R12-15-806	25	15	40
57	Notice of intent to drill	A.R.S. § 45-596, and A.A.C. R12-15-810	15	0	15
58	Well construction permit	A.R.S. § 45-599	30	60	90
59	Alternative water measuring devices	A.R.S. § 45-604 and A.A.C. R12-15-909	15	60	75
60	Underground storage facility permit	A.R.S. §§ 45-811.01 and 45-871.01	As prescribed by A.R.S. § 45-871.01(B)	As prescribed by A.R.S. § 45-871.01(D), (G), and (H)	As prescribed by A.R.S. § 45-871.01
61	Groundwater savings facility permit	A.R.S. §§ 45-812.01 and 45-871.01	As prescribed by A.R.S. § 45-871.01(B)	As prescribed by A.R.S. § 45-871.01(D), (G), and (H)	As prescribed by A.R.S. § 45-871.01
62	Storage facility permit renewal/conveyance/ modification	A.R.S. §§ 45-814.01 and 45-871.01	As prescribed by A.R.S. § 45-871.01(B)	As prescribed by A.R.S. § 45-871.01(D), (G), and (H)	As prescribed by A.R.S. § 45-871.01
63	Water storage permit modification/conveyance	A.R.S. §§ 45-831.01 and 45-871.01	As prescribed by A.R.S. §§ 45-831.01(G) and 45-871.01(B) and (E)	As prescribed by A.R.S. §§ 45-831.01(G) and 45-871.01(D), (E), (G), and (H)	As prescribed by A.R.S. §§ 45-831.01(G) and 45-871.01
64	Recovery well permit	A.R.S. §§ 45-834.01 and 45-871.01	As prescribed by A.R.S. § 45-871.01(B)	As prescribed by A.R.S. § 45-871.01(F), (G), and (H)	As prescribed by A.R.S. § 45-871.01
65	Emergency temporary recovery well permit	A.R.S. § 45-834.01(D)	5	10	15

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No.	License	Legal Authority	Completeness Review (Days)*	Substantive Review (Days)*	Overall Time-frame (Days)*
66	Issuance/renewal/modification of water exchange permit	A.R.S. §§ 45-1041, 45-1042, and 45-1045	As prescribed by A.R.S. § 45-1042(A)	As prescribed by A.R.S. § 45-1042(B), (C), and (D)	As prescribed by A.R.S. § 45-1042
67	Modification of previously enrolled or permitted water exchange/non-Colorado River	A.R.S. § 45-1041(B)	60	90	150
68	Construction, enlargement, repair, alteration, or removal of a dam	A.R.S. §§ 45-1203, 45-1206, and 45-1207	120	60	180
69	Weather modification license	A.R.S. § 45-1601	15	60	75
70	Certificate of Assured Water Supply (CAWS)	A.A.C. R12-15-704, A.R.S. §§ 45-576 and 45-578	150	60	210
71	Designation or Modification of Designation of Assured Water Supply (DAWS)	A.A.C. R12-15-710 and R12-15-714; A.R.S. § 45-576	150	60	210
72	Analysis of Assured Water Supply	A.A.C. R12-15-703, A.R.S. § 45-576(H)	150	30	180
73	Water Report	A.A.C. R12-15-713, A.R.S. § 45-108	60	60	120
74	Designation or Modification of Designation of Adequate Water Supply	A.A.C. R12-15-714, A.A.C. R12-15-715 A.R.S. § 45-108	150	60	210
75	Analysis of Adequate Water Supply	A.R.S. § 45-108 A.A.C. R12-15-712	60	60	120

* The computation of days is prescribed by subsection (4).

** Hearing is required.

Historical Note

Adopted effective December 31, 1998; filed with the Office of the Secretary of State July 28, 1998 (Supp. 98-3). Table A amended by final rulemaking at 23 A.A.R. 2375, effective October 10, 2107 (Supp. 17-3).

ARTICLE 5. RESERVED

ARTICLE 6. RESERVED

ARTICLE 7. ASSURED AND ADEQUATE WATER SUPPLY

R12-15-701. Definitions - Assured and Adequate Water Supply Programs

In addition to any other definitions in A.R.S. Title 45 and the management plans in effect at the time of application, the following words and phrases in this Article shall have the following meanings, unless the context otherwise requires:

1. "Abandoned plat" means a plat for which a certificate or water report has been issued and that will not be developed because of one of the following:
 - a. The land has been developed for another use; or
 - b. Legal restrictions will preclude approval of the plat.
2. "ADEQ" means the Arizona Department of Environmental Quality.
3. "Adequate delivery, storage, and treatment works" means:

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- a. A water delivery system with sufficient capacity to deliver enough water to meet the needs of the proposed use;
 - b. Any necessary storage facilities with sufficient capacity to store enough water to meet the needs of the proposed use; and
 - c. Any necessary treatment facilities with sufficient capacity to treat enough water to meet the needs of the proposed use.
4. "Adequate storage facilities" means facilities that can store enough water to meet the needs of the proposed use.
 5. "Affiliate" means a person who, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with the person specified.
 6. "AMA" means an active management area as defined in A.R.S. § 45-402.
 7. "Analysis" means an analysis of assured water supply or an analysis of adequate water supply.
 8. "Analysis holder" means a person to whom an analysis of assured water supply or an analysis of adequate water supply is issued and any current owner of land included in the analysis.
 9. "Analysis of adequate water supply" means a determination issued by the Director stating that one or more criteria required for a water report pursuant to R12-15-713 have been demonstrated for a development.
 10. "Analysis of assured water supply" means a determination issued by the Director stating that one or more criteria required for a certificate of assured water supply pursuant to R12-15-704 have been demonstrated for a development.
 11. "Annual authorized volume" means, for an approved remedial action project, the annual authorized volume specified in a consent decree or other document approved by ADEQ or the EPA, except that:
 - a. If no annual authorized amount is specified in a consent decree or other document approved by ADEQ or the EPA, the annual authorized volume is the largest volume of groundwater withdrawn pursuant to the approved remedial action project in any year prior to January 1, 1999.
 - b. If the Director increases the annual authorized volume pursuant to R12-15-729(C), the annual authorized volume is the amount approved by the Director.
 12. "Annual estimated water demand" means the estimated water demand divided by 100.
 13. "Approved remedial action project" means a remedial action project approved by ADEQ under A.R.S. Title 49, or by the EPA under CERCLA.
 14. "Authorized remedial groundwater use" means, for any year, the amount of remedial groundwater withdrawn pursuant to an approved remedial action project and used by a municipal provider during the year, not to exceed the annual authorized volume of the project.
 15. "Build-out" means a condition in which all water delivery mains are in place and active water service connections exist for all lots.
 16. "CAP water" means:
 - a. All water from the Colorado River or from the Central Arizona Project works authorized in P.L. 90-537, excluding enlarged Roosevelt reservoir, which is made available pursuant to a subcontract with a multi-county water conservation district.
 - b. Any additional water not included in subsection 16(a) of this Section that is delivered by the United States Secretary of the Interior pursuant to an Indian water rights settlement through the Central Arizona Project.
 17. "Central Arizona Groundwater Replenishment District" or "CAGRDR" means a multi-county water conservation district acting in its capacity as the entity established pursuant to A.R.S. § 48-3771, et seq., and responsible for replenishing excess groundwater.
 18. "Central distribution system" means a water system that qualifies as a public water system pursuant to A.R.S. § 49-352.
 19. "CERCLA" or "Comprehensive Environmental Response, Compensation, and Liability Act of 1980" has the same meaning as prescribed in A.R.S. § 49-201.
 20. "Certificate" means a certificate of assured water supply issued by the Director for a subdivision pursuant to A.R.S. § 45-576 et seq. and this Article.
 21. "Certificate holder" means any person included on a certificate, except the following:
 - a. Any person who no longer owns any portion of the property included in the certificate, and
 - b. Any potential purchaser for whom the purchase contract has been terminated or has expired.
 22. "Certificate of convenience and necessity" means a certificate required by the Arizona Corporation Commission, pursuant to A.R.S. § 40-281, which allows a private water company to serve water to customers within its certificated area.
 23. "Colorado River water" means water from the main stream of the Colorado River. For purposes of this Article, Colorado River water does not include CAP water.
 24. "Committed demand" means the 100-year water demand at build-out of all recorded lots that are not yet served water within the service area of a designation applicant or a designated provider.
 25. "County water augmentation authority" means an authority formed pursuant to A.R.S. Title 45, Chapter 11.
 26. "Current demand" means the 100-year water demand for existing uses within the service area of a designation applicant or designated provider, based on the annual report for the previous calendar year.
 27. "Depth-to-static water level" means the level at which water stands in a well when no water is withdrawn by pumping or by free flow.
 28. "Designated provider" means:
 - a. A municipal provider that has obtained a designation of assured or adequate water supply; or
 - b. A city or town that has obtained a designation of adequate water supply pursuant to A.R.S. § 45-108(D).
 29. "Designation" means a decision and order issued by the director designating a municipal provider as having an assured water supply or an adequate water supply.
 30. "Determination of adequate water supply" means a water report, a designation of adequate water supply, or an analysis of adequate water supply.
 31. "Determination of assured water supply" means a certificate, a designation of assured water supply, or an analysis of assured water supply.
 32. "Development" means either a subdivision or an unplatted development plan.
 33. "Diversion works" means a structure or well that allows or enhances diversion of surface water from its natural course for other uses.

34. "Drought response plan" means a plan describing a variety of conservation and augmentation measures, especially the use of backup water supplies, that a municipal provider will utilize in operating its water supply system in times of a water supply shortage. The plan may include the following:
 - a. An identification of priority water uses consistent with applicable public policies.
 - b. A description of sources of emergency water supplies.
 - c. An analysis of the potential use of water pressure reduction.
 - d. Plans for public education and voluntary water use reduction.
 - e. Plans for water use bans, restrictions, and rationing.
 - f. Plans for water pricing and penalties for excess water use.
 - g. Plans for coordination with other cities, towns, and private water companies.
35. "Drought volume" means 80% of the volume of a surface water supply, determined by the director under R12-15-716 to be physically available on an annual basis to a certificate holder or a designated provider.
36. "Dry lot development" means a development or subdivision without a central water distribution system.
37. "EPA" means the United States Environmental Protection Agency.
38. "Estimated water demand" means:
 - a. For a certificate or water report, the Director's determination of the 100-year water demand for all uses included in the subdivision;
 - b. For a designation, the sum of the following:
 - i. The Director's determination of the current demand;
 - ii. The Director's determination of the committed demand; and
 - iii. The Director's determination of the projected demand during the term of the designation; or
 - c. For an analysis, the Director's determination of the water demand for all uses included in the development.
39. "Existing municipal provider" means a municipal provider that was in operation and serving water for non-irrigation use on or before January 1, 1990.
40. "Extinguish" means to cause a grandfathered right to cease to exist through a process established by the director pursuant to R12-15-723.
41. "Extinguishment credit" means a credit that is issued by the Director in exchange for the extinguishment of a grandfathered right and that may be used to make groundwater use consistent with the management goal of an AMA.
42. "Firm yield" means the minimum annual diversion for the period of record which may include runoff releases from storage reservoirs, and surface water withdrawn from a well.
43. "Management plan" means a water management plan adopted by the director pursuant to A.R.S. § 45-561 et seq.
44. "Master-planned community" has the same meaning as provided in A.R.S. § 32-2101.
45. "Median flow" means the flow which is represented by the middle value of a set of flow data that are ranked in order of magnitude.
46. "Member land" has the same meaning as provided in A.R.S. § 48-3701.
47. "Member service area" has the same meaning as provided in A.R.S. § 48-3701.
48. "Multi-county water conservation district" means a district established pursuant to A.R.S. Title 48, Chapter 22.
49. "Municipal provider" has the same meaning as provided in A.R.S. § 45-561.
50. "New municipal provider" means a municipal provider that began serving water for non-irrigation use after January 1, 1990.
51. "Owner" means:
 - a. For an analysis, certificate, or water report applicant, a person who holds fee title to the land described in the application; or
 - b. For a designation applicant, the person who will be providing water service pursuant to the designation.
52. "Perennial" means a stream that flows continuously.
53. "Persons per household" means a measure obtained by dividing the number of persons residing in housing units by the number of housing units.
54. "Physical availability determination" means a letter issued by the Director stating that an applicant has demonstrated all of the criteria in R12-15-702(C).
55. "Plat" means a preliminary or final map of a subdivision in a format typically acceptable to a platting entity.
56. "Potential purchaser" means a person who has entered into a purchase agreement for land that is the subject of an application for a certificate or an assignment of a certificate.
57. "Projected demand" means the 100-year water demand at build-out, not including committed or current demand, of customers reasonably projected to be added and plats reasonably projected to be approved within the designated provider's service area and reasonably anticipated expansions of the designated provider's service area.
58. "Proposed municipal provider" means a municipal provider that has agreed to serve a proposed subdivision.
59. "Purchase agreement" means a contract to purchase or acquire an interest in real property, such as a contract for purchase and sale, an option agreement, a deed of trust, or a subdivision trust agreement.
60. "Remedial groundwater" means groundwater withdrawn pursuant to an approved remedial action project, but does not include groundwater withdrawn to provide an alternative water supply pursuant to A.R.S. § 49-282.03.
61. "Service area" means:
 - a. For an application for an analysis of adequate water supply, a water report, or a designation of adequate water supply, the area of land actually being served water for a non-irrigation use by the municipal provider and additions to the area that contain the municipal provider's operating distribution system for the delivery of water for a non-irrigation use;
 - b. For an application for a designation of adequate water supply pursuant to A.R.S. § 45-108(D), the area of land actually being served water for a non-irrigation use by each municipal provider that serves water within the city or town, and additions to the area that contain each municipal provider's operating distribution system for the delivery of water for a non-irrigation use; or
 - c. For an application for a certificate or designation of assured water supply, "service area" has the same meaning as prescribed in A.R.S. § 45-402.
62. "Subdivision" has the same meaning as prescribed in A.R.S. § 32-2101.

63. "Superfund site" means the site of a remedial action undertaken pursuant to CERCLA.
64. "Surface water" means any surface water as defined in A.R.S. § 45-101, including CAP water and Colorado River water.
65. "Water Quality Assurance Revolving Fund site" or "WQARF site" means a site of a remedial action undertaken pursuant to A.R.S. Title 49, Chapter 2, Article 5.
66. "Water report" means a letter issued to the Arizona Department of Real Estate by the Director for a subdivision stating whether an adequate water supply exists pursuant to A.R.S. § 45-108 and this Article.

Historical Note

Adopted effective February 7, 1995 (Supp. 95-1).
Amended by emergency rulemaking at 11 A.A.R. 2706, effective June 29, 2005 for 180 days (Supp. 05-2). Emergency renewed for 180 days at 12 A.A.R. 144, effective December 23, 2005 (Supp. 05-4). Emergency expired.
Amended by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3).

R12-15-702. Physical Availability Determination

- A. A person may apply for a physical availability determination by submitting an application on a form prescribed by the Director with the initial fee required by R12-15-103(C), and providing the following information with the application:
 1. The proposed source of water for which the applicant is seeking a determination of physical availability,
 2. Evidence that the applicant has complied with subsection (C) of this Section, and
 3. Any other information that the Director reasonably deems necessary to determine whether water is physically available in the area that is the subject of the application.
- B. Each applicant shall sign an application for a physical availability determination. If an applicant is not a natural person, the applicant's authorized officer, managing member, partner, trust officer, trustee or other person who performs similar decision-making functions for the applicant shall sign the application. If the applicant submits a letter, signed by the applicant and dated within 90 days of the date the application is submitted, authorizing a representative to submit applications for permits regarding the land to be included in the determination, the authorized representative may sign the application on the applicant's behalf.
- C. An applicant for a physical availability determination shall demonstrate the following:
 1. The volume of water that is physically available for 100 years in the area that is the subject of the application, according to the criteria in R12-15-716.
 2. That the proposed sources of water will be of adequate quality, according to the criteria in R12-15-719.
- D. After a complete application is submitted, the Director shall review the application and associated evidence to determine whether the applicant has demonstrated all of the criteria in subsection (C) of this Section. If the Director determines that the applicant has demonstrated all of the criteria in subsection (C) of this Section, the Director shall issue a physical availability determination.
- E. Any person applying for a determination of assured water supply or a determination of adequate water supply may use an existing physical availability determination for purposes of R12-15-716. The Director shall consider any changes in hydrologic conditions for purposes of R12-15-716.
- F. The issuance of a physical availability determination does not reserve any water for purposes of this Article.

Historical Note

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3).
Amended by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

R12-15-703. Analysis of Assured Water Supply

- A. A person proposing to develop land that will not be served by a designated provider may apply for an analysis of assured water supply before applying for a certificate. An applicant for an analysis must be the owner of the land that is the subject of the application or have the written consent of the owner. The commissioner of the Arizona State Land Department may apply for an analysis for land owned by the state of Arizona or may consent to the inclusion of such land in an application.
- B. An applicant for an analysis shall submit an application on a form prescribed by the Director with the initial fee required by R12-15-103(C), and attach the following:
 1. A title report, condition of title report, limited search title report, or recorded deed, dated within 90 days of the date the application is submitted, demonstrating the ownership of the land that is the subject of the application;
 2. A description of the development, including:
 - a. A map of the land uses included in the development,
 - b. A list of water supplies proposed to be used by the development,
 - c. A summary of land use types included in the development, and
 - d. An estimate of the water demand for the land uses included in the development; and
 3. Evidence that the applicant has complied with subsection (E) of this Section.
- C. An applicant shall sign the application for an analysis. If an applicant is not a natural person, the applicant's authorized officer, managing member, partner, trust officer, trustee, or other person who performs similar decision-making functions for the applicant shall sign the application. If the applicant submits a letter, signed by the applicant and dated within 90 days of the date the application is submitted, authorizing a representative to submit applications for permits regarding the land to be included in the analysis, the authorized representative may sign the application on the applicant's behalf.
- D. After a complete application is submitted, the Director shall determine the estimated water demand of the development.
- E. The Director shall issue an analysis if an applicant demonstrates one or more of the following:
 1. Sufficient supplies of water are physically available to meet all or part of the estimated water demand of the development for 100 years, according to the criteria in R12-15-716.
 2. Sufficient supplies of water are continuously available to meet the estimated water demand of the development for 100 years, according to the criteria in R12-15-717.
 3. Sufficient supplies of water are legally available to meet the estimated water demand of the development for 100 years, according to the criteria in R12-15-718.
 4. The proposed sources of water are of adequate quality, according to the criteria in R12-15-719.
 5. Any proposed groundwater use is consistent with the management plan in effect at the time of the application, according to the criteria in R12-15-721.

6. Any proposed groundwater use is consistent with the management goal, according to the criteria in R12-15-722.
- F. For 10 years after the Director issues an analysis, or a longer period allowed under subsections (H) or (I) of this Section:
 1. If groundwater is a source of supply in the analysis and the applicant demonstrates that groundwater is physically available under subsection (E)(1) of this Section, the Director shall consider that supply of groundwater reserved for the use of the proposed development in subsequent determinations of physical availability pursuant to R12-15-716(B).
 2. If an analysis holder applies for a certificate for a subdivision located on land included in the analysis, the Director shall presume that a criterion demonstrated in the analysis remains satisfied with respect to the subdivision, unless the Director has received new evidence demonstrating that the criterion is not satisfied. If the Director issues the certificate, the Director shall reduce the volume of groundwater reserved pursuant to subsection (F)(1) of this Section by the amount of the estimated water demand for the certificate that will be met with groundwater.
- G. The Director shall reduce the amount of groundwater considered reserved for use of the development upon request by the analysis holder. If the analysis holder requesting a reduction is not the person to whom the analysis was issued, the Director shall reduce the amount of reserved groundwater only if the person to whom the analysis was issued or that person's designee consents to the request for reduction. The person to whom the analysis was issued shall notify the Director in writing of the name of the person's designee for purposes of this subsection.
- H. The analysis holder may apply to the Director for a five-year extension of the time period in subsection (F) of this Section by submitting an application on a form prescribed by the Director no earlier than 36 months before the end of the time period and no later than 30 days before the end of the time period. If an extension is granted, the analysis holder may apply to the Director for an additional five-year extension by submitting an application on a form prescribed by the Director no earlier than 36 months before the end of the extended time period and no later than 30 days before the end of the extended time period. The Director shall extend the time period for no more than two successive five-year periods under this subsection if the analysis holder demonstrates one of the following:
 1. The analysis holder has made a substantial capital investment in developing the land included in the analysis.
 2. The analysis holder has made material progress in developing the land included in the analysis.
 3. Progress in developing the land included in the analysis has been delayed for reasons outside the control of the analysis holder.
- I. After the Director grants two five-year extensions pursuant to subsection (H) of this Section, the Director may extend the time period for additional five-year periods if the analysis holder files a timely application pursuant to subsection (H) of this Section and demonstrates one of the criteria in subsections (H)(1), (2), or (3) of this Section.
- J. The Director shall review an application for an analysis or an application for an extension pursuant to subsections (H) or (I) of this Section pursuant to the licensing time-frame provisions in R12-15-401.

Historical Note

Adopted effective February 7, 1995 (Supp. 95-1).
Amended by emergency rulemaking at 11 A.A.R. 2706, effective June 29, 2005 for 180 days (Supp. 05-2). Emer-

gency renewed for 180 days at 12 A.A.R. 144, effective December 23, 2005 (Supp. 05-4). Emergency expired. Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3). Amended by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

R12-15-703.01. Repealed

Historical Note

New Section made by final rulemaking at 7 A.A.R. 3038, effective June 18, 2001 (Supp. 01-2). Section repealed by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3).

R12-15-704. Certificate of Assured Water Supply

- A. An application for a certificate shall be filed by the current owner of the land that is the subject of the application. Potential purchasers and affiliates may also be included as applicants.
- B. An applicant for a certificate shall submit an application on a form prescribed by the Director with the initial fee required by R12-15-103(C), and provide the following:
 1. One of the following forms of proof of ownership for each applicant to be listed on the certificate:
 - a. For an applicant that is the current owner, one of the following:
 - i. A title report, condition of title report, limited search title report, or recorded deed, dated within 90 days of the date the application is filed, demonstrating that the applicant is the owner of the land that is the subject of the application; or
 - ii. Evidence that the CAGRD has reviewed and approved evidence that the applicant is the owner of the land that is the subject of the application;
 - b. For an applicant that is a potential purchaser, evidence of a purchase agreement; or
 - c. For an applicant that is an affiliate of another applicant, a certification by the other applicant of the affiliate status;
 2. A plat of the subdivision;
 3. An estimate of the 100-year water demand for the subdivision;
 4. A list of all proposed sources of water that will be used by the subdivision;
 5. Evidence that the criteria in subsections (F) or (G) of this Section are met; and
 6. Any other information that the Director reasonably determines is necessary to decide whether an assured water supply exists for the subdivision.
- C. Each applicant shall sign the application for a certificate. If an applicant is not a natural person, the applicant's authorized officer, managing member, partner, trust officer, trustee, or other person who performs similar decision-making functions for the applicant shall sign the application. If an applicant submits a letter, signed by the applicant and dated within 90 days of the date the application is submitted, authorizing a representative to submit applications for permits regarding the land to be included in the certificate, the authorized representative may sign the application on the applicant's behalf.
- D. The Director shall give public notice of an application for a certificate as provided in A.R.S. § 45-578.

- E. After a complete application is submitted, the Director shall review the application and associated evidence to determine:
1. The estimated water demand of the subdivision;
 2. The amount of the groundwater allowance for the subdivision, as provided in R12-15-724 through R12-15-727; and
 3. Whether the applicant has demonstrated all of the requirements in subsection (F) or subsection (G) of this Section.
- F. Except as provided in subsection (G) of this Section, the Director shall issue a certificate if the applicant demonstrates all of the following:
1. Sufficient supplies of water are physically available to meet the estimated water demand of the subdivision, according to the criteria in R12-15-716;
 2. Sufficient supplies of water are continuously available to meet the estimated water demand of the subdivision, according to the criteria in R12-15-717;
 3. Sufficient supplies of water are legally available to meet the estimated water demand of the subdivision, according to the criteria in R12-15-718;
 4. The sources of water are of adequate quality, according to the criteria in R12-15-719;
 5. The applicant has the financial capability to construct adequate delivery, storage, and treatment works for the subdivision, according to the criteria in R12-15-720;
 6. The proposed use of groundwater withdrawn within an AMA is consistent with the management plan in effect at the time of the application, according to the criteria in R12-15-721; and
 7. The proposed use of groundwater withdrawn within an AMA is consistent with the achievement of the management goal, according to the criteria in R12-15-722.
- G. If the Director previously issued a certificate for the subdivision, the Director shall issue a new certificate to the applicant if the applicant demonstrates that all of the requirements in subsection (F) are met or that all of the following apply:
1. Any changes to the plat for which the previous certificate was issued are not material, according to the criteria in R12-15-708;
 2. If groundwater is a proposed source of supply for the subdivision, the proposed groundwater withdrawals satisfied the physical availability requirements in effect at the time the complete and correct application for the previous certificate was submitted;
 3. Any proposed sources of water, other than groundwater, are physically available to satisfy the estimated water demand that will not be satisfied with groundwater, according to the criteria in R12-15-716;
 4. Any proposed sources of water other than groundwater are continuously available to satisfy the estimated water demand that will not be satisfied with groundwater, according to the criteria in R12-15-717;
 5. The proposed uses of groundwater withdrawn within an AMA were consistent with the achievement of the management goal according to the criteria in effect at the time the complete and correct application for the previous certificate was submitted; and
 6. The applicant demonstrates that the requirements in subsections (F)(3) through (6) of this Section are met.
- H. Before issuing a certificate, the Director shall classify the certificate for the purposes of R12-15-705 and R12-15-706 as follows:
1. Type A certificate. The Director shall classify the certificate as a Type A certificate if the applicant meets the criteria in R12-15-720(A)(1) and all of the subdivision's estimated water demand will be met with one or more of the following:
 - a. Groundwater served by a proposed municipal provider pursuant to an existing service area right;
 - b. Groundwater served by a proposed municipal provider pursuant to a pending service area right, if the proposed municipal provider currently holds or will hold the well permit;
 - c. CAP water served by a municipal provider pursuant to the proposed municipal provider's non-declining, long-term municipal and industrial subcontract;
 - d. Surface water served by a proposed municipal provider pursuant to the proposed municipal provider's surface water right or claim;
 - e. Effluent owned and served by a proposed municipal provider; or
 - f. A Type 1 grandfathered right appurtenant to the land on which the groundwater will be used and held by a proposed municipal provider.
 2. Type B certificate. The Director shall classify all certificates that do not meet the requirements of subsection (H)(1) of this Section as Type B certificates.
- I. The Director shall review an application for a certificate pursuant to the licensing time-frame provisions in R12-15-401.
- J. An owner of six or more lots is not required to obtain a certificate if all of the following apply:
1. The lots comprise a subset of a subdivision for which:
 - a. A plat was recorded before 1980; or
 - b. A certificate was issued before February 7, 1995;
 2. No changes were made to the plat since February 7, 1995; and
 3. Water service is currently available to each lot.
- K. A new owner of all or a portion of a subdivision for which a plat has been recorded is not required to obtain a certificate if all of the following apply:
1. The Director previously issued a Type A certificate for the subdivision pursuant to subsection (H)(1) of this Section or R12-15-707;
 2. Water service is currently available to each lot; and
 3. There are no material changes to the plat for which the certificate was issued, according to the criteria in R12-15-708.
- L. An owner of six or more lots in the Pinal AMA is not required to obtain a certificate if all of the following apply:
1. A plat for the subdivision was recorded before October 1, 2007;
 2. There have been no material changes to the plat according to the criteria in R12-15-708, since October 1, 2007;
 3. The proposed municipal provider was designated as having an assured water supply when the plat was recorded, but is no longer designated as having an assured water supply; and
 4. Water service is currently available to each lot.
- M. A person may request a letter stating that the owner is not required to obtain a certificate pursuant to subsection (J), (K), or (L) of this Section by submitting an application on a form prescribed by the Director and attaching evidence that the criteria of subsection (J), (K), or (L) are met. Upon receiving an application pursuant to this subsection, the Director shall:
1. Review the application pursuant to the licensing time-frame provisions in R12-15-401.
 2. Determine whether the criteria of subsection (J), (K), or (L) of this Section are met.
 3. If the Director determines that the criteria of subsection (J) of this Section are met, issue a letter to the applicant

and the Arizona Department of Real Estate stating that the current owner is not required to obtain a certificate.

4. If the Director determines that the criteria of subsection (K) or (L) of this Section are met, issue a letter to the applicant and the Arizona Department of Real Estate stating that the current owner and any future owners are not required to obtain a certificate.

Historical Note

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3). Amended by final rulemaking at 13 A.A.R. 1394, effective October 1, 2007 (Supp. 07-2). Amended by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

R12-15-705. Assignment of Type A Certificate of Assured Water Supply

- A. The certificate holder of a Type A certificate and the assignee may apply for approval of an assignment of the Type A certificate within the time allowed by A.R.S. § 45-579(A). The assignee may file the application if there is no certificate holder. The application shall be submitted on a form prescribed by the Director with the initial fee required by R12-15-103(C), and the applicant shall provide the following:
 1. One of the following forms of proof of ownership for each assignee:
 - a. A title report, condition of title report, limited search title report, or recorded deed, dated within 90 days of the date the application is submitted to the Director and demonstrating that the assignee is the owner of the land that is the subject of the proposed assignment; or
 - b. If the assignee is a potential purchaser, evidence of a purchase agreement;
 2. A current plat of the subdivision;
 3. An estimate of the 100-year water demand for the subdivision, based on the current plat;
 4. Certification by each applicant that:
 - a. The proposed municipal provider has not changed and has agreed to continue to serve the subdivision after the assignment; and
 - b. All water supplies listed on the current certificate are physically, continuously, and legally available to meet the estimated water demand of the subdivision after the assignment.
- B. Each applicant shall sign the application for an assignment of a Type A certificate. If an applicant is not a natural person, the entity's authorized officer, managing member, partner, trust officer, trustee, or other person who performs similar decision-making functions for the applicant shall sign the application. If an applicant submits a letter, signed by the applicant and dated within 90 days of the date the application is submitted, authorizing a representative to submit applications for permits regarding the land included in the certificate, the authorized representative may sign the application on behalf of the applicant.
- C. Upon receiving an application for an assignment of a Type A certificate, the Director shall post the notice required by A.R.S. § 45-579(E).
- D. If the Director determines that the application meets the criteria of A.R.S. § 45-579(A), the Director shall issue a Type A certificate to each applicant. A Type A certificate issued under

this subsection shall retain the issue date, the number of lots, and the estimated water demand shown on the original certificate, except as provided in subsection (E) of this Section. The Director shall determine that the application meets the criteria of A.R.S. § 45-579(A) if all of the following apply:

1. The application is submitted within the time allowed by A.R.S. § 45-579(A);
 2. The assignee is the owner or a potential purchaser of the portion of the subdivision that is the subject of the assignment;
 3. There have been no material changes to the plat for which the original certificate was issued, according to the criteria in R12-15-708;
 4. Neither the applicant nor a predecessor in interest has impaired the manner in which consistency with management goal requirements were satisfied when the original certificate was issued; and
 5. The applicant makes the certifications required in subsection (A)(4) of this Section.
- E. In the case of a partial assignment, the Director shall determine whether changes to the plat are material according to R12-15-708. The Director shall issue a Type A certificate to the assignee for the portion of the subdivision that is the subject of the assignment and for the number of lots and the estimated water demand of the current plat of the portion of the subdivision that is the subject of the assignment. The Director shall issue a Type A certificate to the certificate holder for the portion of the subdivision retained by the certificate holder and for the remainder of the number of lots and the remainder of the estimated water demand. The sum of the number of lots and the sum of the amount of the estimated water demand shown on each certificate shall equal the total number of lots and the total estimated water demand shown on the certificate being assigned.
 - F. The Director shall review an application for an assignment of a Type A certificate of assured water supply pursuant to the licensing time-frame provisions in R12-15-401.

Historical Note

Adopted effective February 7, 1995 (Supp. 95-1). Amended by final rulemaking at 8 A.A.R. 4390, effective November 22, 2002 (Supp. 02-3). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3). Amended by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

R12-15-706. Assignment of Type B Certificate of Assured Water Supply

- A. The certificate holder of a Type B certificate or a certificate issued before the effective date of this Section that has not been classified pursuant to R12-15-707 and the assignee may apply for approval of an assignment of the certificate to another person within the time allowed by A.R.S. § 45-579(A). The assignee may file the application if there is no certificate holder. The application shall be submitted on a form prescribed by the Director with the initial fee required by R12-15-103(C), and the applicant shall provide the following:
 1. One of the following forms of proof of ownership for each assignee:
 - a. A title report, condition of title report, limited search title report, or recorded deed, dated within 90 days of the date the application is submitted to the Director and demonstrating that the assignee is the owner

- of the land that is the subject of the proposed assignment; or
- b. If the assignee is a potential purchaser, evidence of a purchase agreement;
 2. A current plat of the subdivision;
 3. An estimate of the 100-year water demand for the subdivision, based on the current plat;
 4. Evidence that all necessary water rights, permits, licenses, contracts, and easements have been or will be assigned to the assignee of the certificate;
 5. Evidence that the assignee has the financial capability to construct adequate delivery, storage, and treatment works for the subdivision according to the criteria in R12-15-720;
 6. Evidence that all water supplies listed on the current certificate are physically, continuously, and legally available to meet the estimated water demand of the subdivision after the assignment;
 7. Evidence that the proposed municipal provider has not changed and has agreed to serve the subdivision after the assignment;
 8. If the applicant requests that the Director classify the certificate pursuant to subsection (E) of this Section, evidence that the requirements of R12-15-704(H)(1) are satisfied;
 9. Any other information that the Director reasonably deems necessary to determine whether the application meets the criteria of A.R.S. § 45-579.
- B.** Each applicant shall sign the application for an assignment of a certificate. If an applicant is not a natural person, the entity's authorized officer, managing member, partner, trust officer, trustee, or other person who performs similar decision-making functions for the applicant shall sign the application. If an applicant submits a letter, signed by the applicant and dated within 90 days of the date the application is submitted, authorizing a representative to submit applications for permits regarding the land to be included in the certificate, the authorized representative may sign the application on the applicant's behalf.
- C.** Upon receiving an application for an assignment, the Director shall post the notice required by A.R.S. § 45-579(E).
- D.** Except as provided in subsection (E) of this Section, if the Director determines that the application meets the criteria of A.R.S. § 45-579(A), the Director shall issue a Type B certificate to each applicant. A Type B certificate issued under this subsection shall retain the issue date, the number of lots, and the estimated water demand shown on the original certificate, except as provided in subsection (F) of this Section. The Director shall determine that the application meets the criteria of A.R.S. § 45-579(A) if all of the following apply:
1. The application is submitted within the time allowed by A.R.S. § 45-579(A);
 2. The assignee is the owner or potential purchaser of the portion of the subdivision that is the subject of the assignment;
 3. There have been no material changes to the plat for which the original certificate was issued, according to the criteria in R12-15-708;
 4. The applicant demonstrates the financial capability to construct adequate delivery, storage, and treatment works for the subdivision according to the criteria in R12-15-720;
 5. All necessary water rights, permits, licenses, contracts, and easements have been or will be assigned to the assignee of the certificate;
 6. All water supplies listed on the current certificate are physically, continuously, and legally available to meet the estimated water demand of the subdivision after the assignment;
 7. Neither the applicant nor a predecessor in interest has impaired the manner in which consistency with management goal requirements were satisfied when the original certificate was issued; and
 8. The proposed municipal provider has agreed to serve the subdivision after the assignment.
- E.** The applicant may include in the application a request to classify the certificate as a Type A certificate. If the Director determines that the request meets the requirements of R12-15-704(H)(1), the Director shall classify the certificate as a Type A certificate.
- F.** In the case of a partial assignment, the Director shall determine whether changes to the plat are material according to R12-15-708. The Director shall issue a Type B certificate to the assignee for the portion of the subdivision that is the subject of the assignment and for the number of lots and the estimated water demand of the current plat of the portion of the subdivision that is the subject of the assignment. The Director shall issue a Type B certificate to the certificate holder for the portion of the subdivision retained by the certificate holder and for the remainder of the number of lots and the remainder of the estimated water demand. The sum of the number of lots and the sum of the amount of the estimated water demand shown on each certificate shall equal the total number of lots and the total estimated water demand shown on the certificate that is being assigned.
- G.** The Director shall review an application for an assignment of a Type B certificate pursuant to the licensing time-frame provisions in R12-15-401.

Historical Note

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3). Amended by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

R12-15-707. Application for Classification of a Type A Certificate

- A.** A holder of a Type B certificate or a certificate issued before the effective date of this Section may apply to the Director to classify the certificate as a Type A certificate by submitting an application on a form prescribed by the Director with the initial fee prescribed in R12-15-103(C), and attaching evidence that the certificate meets the requirements of R12-15-704(H)(1).
- B.** At least one certificate holder shall sign the application for classification of a certificate as a Type A certificate. If the applicant is not a natural person, the applicant's authorized officer, managing member, partner, trust officer, trustee, or other person who performs similar decision-making functions for the applicant shall sign the application. If the applicant submits a letter, signed by the applicant and dated within 90 days of the date the application is submitted, authorizing a representative to submit applications for permits regarding the land to be included in the certificate, the authorized representative may sign the application on behalf of the applicant.
- C.** If the applicant demonstrates that the requirements of R12-15-704(H)(1) are met, the Director shall classify the certificate as

a Type A certificate and issue a Type A certificate to each certificate holder.

Historical Note

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3). Amended by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

R12-15-708. Material Plat Change; Application for Review

- A. A certificate or a water report is applicable to the original plat for which the certificate or water report was issued and to a revised plat, unless the plat changes are material according to subsections (C) and (D) of this Section.
- B. If a plat is revised after the Director issues a certificate or a water report and the changes to the plat are material according to subsection (C) or (D) of this Section, the holder may:
 1. Apply for a new certificate or water report for the revised plat,
 2. Use the original plat for which the certificate or water report was issued, or
 3. Revise the plat so that any changes are not material according to subsections (C) and (D) of this Section.
- C. Changes to the plat for which a certificate or a water report has been issued are material if any of the following apply:
 1. The number of lots on the plat has increased by more than:
 - a. For subdivisions of six to 10 lots: one lot;
 - b. For subdivisions of 11 to 499 lots: 10%, rounding up to the nearest whole number; or
 - c. For subdivisions of 500 lots or more: 50 lots.
 2. The 100-year water demand for the revised plat exceeds the estimated water demand for the certificate, unless all of the following apply:
 - a. The 100-year water demand for the revised plat does not exceed the estimated water demand for the certificate by more than 10%, rounding to the nearest whole acre-foot, or by more than 25 acre-feet per year, whichever is less;
 - b. The 100-year water demand is not greater than the supply demonstrated to be physically, continuously, and legally available at the time of issuance of the certificate or water report, and that water supply remains physically, continuously, and legally available; and
 - c. For a certificate, one of the following applies:
 - i. The subdivision is enrolled as a member land in the CAGRD;
 - ii. Groundwater is not included as a source of supply; or
 - iii. The subdivision is located in the Pinal AMA and the 100-year water demand for the revised plat will not exceed the sum of the amount of the groundwater allowance and the amount of any extinguishment credits pledged to the certificate, including extinguishment credits pledged after the certificate was issued.
 3. For a certificate, additional land is included in the plat, unless all of the following apply:
 - a. The land included in the original plat for which the certificate was issued is located in a master-planned community;

- b. The outer boundaries of the master-planned community have not expanded;
- c. If the land included in the original plat for which the certificate was issued is enrolled as a member land in the CAGRD, the additional land has also been enrolled in the CAGRD; and
- d. A certificate has been issued for the additional land.

- D. Changes to a portion of a plat are not material if one of the following applies:
 1. The changes to the portion of the plat being reviewed are not material according to subsection (C) of this Section when compared to the equivalent portion of the plat for which the certificate was issued;
 2. The changes to the entire revised plat are not material according to subsection (C) of this Section when compared to the entire plat for which the certificate was issued; or
 3. For a partial assignment pursuant to R12-15-705 or R12-15-706, the plat for the portion of the subdivision retained by the certificate holder could be configured so that changes to the total number of lots and the estimated water demand for the entire subdivision, including the portion under consideration, are not material according to subsection (C) of this Section. For purposes of this subsection, the Director may require the applicant to submit evidence demonstrating whether changes to the plat are material. However, the Director shall not require the applicant to submit a plat for the retained portion of a subdivision, unless the materiality of changes to the plat cannot be determined with any other evidence.
- E. A person may apply for a review of a revised plat to determine whether any changes to the plat are material as follows:
 1. The applicant shall submit an application on a form prescribed by the Director with the initial fee required by R12-15-103(C), and shall attach the revised plat.
 2. The Director shall review the revised plat and the plat for which the certificate or water report was originally issued to determine whether any changes are material according to the criteria in subsections (C) and (D) of this Section.
 3. The Director shall issue a letter to the applicant stating whether any changes to the plat are material and identifying which changes, if any, are material. If the Director determines that the changes to the plat are not material, the Director's letter shall state that the certificate or water report is applicable to the revised plat.

Historical Note

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3). Amended by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

R12-15-709. Certificate of Assured Water Supply; Revocation

- A. The Director may revoke a certificate if an assured water supply does not exist.
- B. The Director shall not revoke a certificate if any of the residential lots within the plat have been sold.
- C. If the Director determines that a certificate should be revoked, the Director shall provide for an administrative hearing, in accordance with A.R.S. Title 41, Chapter 6, Article 10. To determine whether a certificate should be revoked, the Director shall use the standards in place at the time the original application was submitted for the certificate.

Historical Note

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3).

R12-15-710. Designation of Assured Water Supply

- A. A municipal provider applying for a designation of assured water supply shall submit an application on a form prescribed by the Director with the initial fee required by R12-15-103(C), and provide the following:
1. The applicant's current demand;
 2. The applicant's committed demand;
 3. The applicant's projected demand for the proposed term of the designation;
 4. The proposed term of the designation, which shall not be less than two years;
 5. Evidence that the criteria in subsection (E) of this Section are met; and
 6. Any other information that the Director determines is necessary to decide whether an assured water supply exists for the municipal provider.
- B. An application for a designation shall be signed by:
1. If the applicant is a city or town, the city or town manager or a person employed in an equivalent position. The application shall also include a resolution of the governing body of the city or town, authorizing that person to sign the application; or
 2. If the applicant is a private water company, the applicant's authorized officer, managing member, partner, trust officer, trustee, or other person who performs similar decision-making functions for the applicant.
- C. The Director shall give public notice of an application for designation in the same manner as provided for certificates in A.R.S. § 45-578.
- D. After a complete application is submitted, the Director shall review the application and associated evidence to determine:
1. The annual volume of water physically, continuously, and legally available for at least 100 years;
 2. The term of the designation, which shall not be less than two years;
 3. The applicant's estimated water demand;
 4. The applicant's groundwater allowance; and
 5. Whether the applicant has demonstrated compliance with all requirements in subsection (E) of this Section.
- E. The Director shall designate the applicant as having an assured water supply if the applicant demonstrates all of the following:
1. Sufficient supplies of water are physically available to meet the applicant's estimated water demand, according to the criteria in R12-15-716;
 2. Sufficient supplies of water are continuously available to meet the applicant's estimated water demand, according to the criteria in R12-15-717;
 3. Sufficient supplies of water are legally available to meet the applicant's estimated water demand, according to the criteria in R12-15-718;
 4. The proposed sources of water are of adequate quality, according to the criteria in R12-15-719;
 5. The applicant has the financial capability to construct adequate delivery, storage, and treatment works in a timely manner according to the criteria in R12-15-720;
 6. Any proposed groundwater use is consistent with the management plan in effect at the time of the application, according to the criteria in R12-15-721; and
 7. Any proposed use of groundwater withdrawn within an AMA is consistent with the management goal, according to the criteria in R12-15-722.

- F. The Director shall review an application for a designation of assured water supply pursuant to the licensing time-frame provisions in R12-15-401.

Historical Note

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3).

Amended by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

R12-15-711. Designation of Assured Water Supply; Annual Report Requirements, Review, Modification, Revocation

- A. A designated provider shall include in the annual report required by A.R.S. § 45-632 the following information for the preceding calendar year:
1. The designated provider's committed demand;
 2. The demand at build-out for customers with which the designated provider has entered into an agreement to serve water, other than committed demand;
 3. A report regarding the designated provider's compliance with water quality requirements;
 4. The depth-to-static water level of all wells from which the designated provider withdrew water; and
 5. Any other information the Director may reasonably require to determine whether the designated provider continues to meet the criteria for a designation of assured water supply.
- B. If there is a change of ownership, the subsequent owner of a designated provider shall notify the Director in writing of the change in ownership within 90 days.
- C. The Director shall review a designation at least every 15 years following issuance of the designation to determine whether the designation should be modified or revoked. To determine whether the designation should be modified or revoked, the Director shall use the standards in place at the time of review.
- D. The Director may modify a designation for good cause, including a merger, division of the designated provider, or a change in ownership of the designated provider.
- E. A designated provider may request a modification of the designation at any time pursuant to R12-15-710.
- F. The Director may revoke a designation if:
1. After notifying the designated provider and initiating a review of the designated provider's status, the Director determines that the designated provider has less water, according to the criteria in R12-15-710(E), than the amount required for a 100-year supply for the provider's:
 - a. Current demand,
 - b. Committed demand, and
 - c. Projected demand during the next two calendar years;
 2. The designated provider fails to construct adequate delivery, storage, and treatment works in a timely manner;
 3. ADEQ or another governmental entity with equivalent jurisdiction has determined, after notice and an opportunity for a hearing, that the designated provider is in significant noncompliance with A.A.C. Title 18, Chapter 4 and is not taking action to resolve the noncompliance; or
 4. The designated provider has violated its management plan requirements for two or more consecutive calendar years, and one of the following applies:
 - a. The provider fails to amend its water use plan in a manner that the Director determines will achieve compliance, or

- b. The provider fails to sign a stipulated agreement to remedy the violation.
- G. If the Director determines that a designation of assured water supply should be revoked, the Director shall provide for an administrative hearing, in accordance with A.R.S. Title 41, Chapter 6, Article 10.
- H. If a designated provider's designated status terminates, the provider may apply for re-designation at anytime after termination.
- I. Notwithstanding any other provision in this Article, a decision and order of the Director designating a city, town, or private water company as having an assured water supply is not affected by this Article solely because the rule numbers cited in the decision and order may have changed after the effective date of the decision and order.

Historical Note

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3).

R12-15-712. Analysis of Adequate Water Supply

- A. A person proposing to develop land outside an AMA that will not be served by a designated provider may apply for an analysis of adequate water supply before applying for a water report. An applicant for an analysis must be the owner of the land that is the subject of the application or have the written consent of the owner. The commissioner of the Arizona State Land Department may apply for an analysis for land owned by the state of Arizona outside an AMA or may consent to the inclusion of such land in an application.
- B. An applicant for an analysis shall submit an application on a form prescribed by the Director with the initial fee required by R12-15-103(C), and attach the following:
 - 1. A title report, condition of title report, limited search title report, or recorded deed, dated within 90 days of the date the application is submitted to the Director, demonstrating the ownership of the land that is the subject of the application;
 - 2. A description of the development, including:
 - a. A map of the land uses included in the development,
 - b. A list of water supplies proposed to be used by the development,
 - c. A summary of land use types included in the development, and
 - d. An estimate of the water demand for the land uses included in the development; and
 - 3. Evidence that the applicant has complied with subsection (E) of this Section.
- C. An applicant shall sign the application for an analysis. If an applicant is not a natural person, the applicant's authorized officer, managing member, partner, trust officer, trustee, or other person who performs similar decision-making functions for the applicant shall sign the application. If the applicant submits a letter, signed by the applicant and dated within 90 days of the date the application is submitted, authorizing a representative to submit applications for permits regarding the land that is the subject of the water report, the authorized representative may sign the application on the applicant's behalf.
- D. After a complete application is submitted, the Director shall determine the estimated water demand of the development.
- E. The Director shall issue an analysis if an applicant demonstrates one or more of the following:
 - 1. Sufficient supplies of water are physically available to meet all or part of the estimated water demand of the development for 100 years, according to the criteria in R12-15-716;
 - 2. Sufficient supplies of water are continuously available to meet the estimated water demand of the development for 100 years, according to the criteria in R12-15-717;
 - 3. Sufficient supplies of water are legally available to meet the estimated water demand of the development for 100 years, according to the criteria in R12-15-718;
 - 4. The proposed sources of water are of adequate quality, according to the criteria in R12-15-719.
- F. For 10 years after the Director issues an analysis, or a longer period allowed under subsections (H) or (I) of this Section:
 - 1. If groundwater is a source of supply in the analysis and the applicant demonstrates that groundwater is physically available under subsection (E)(1), the Director shall consider that supply of groundwater reserved for the use of the proposed development in subsequent determinations of physical availability pursuant to R12-15-716(B).
 - 2. If an analysis holder applies for a water report for a subdivision located on land included in the analysis, the Director shall presume that a criterion demonstrated in the analysis remains satisfied with respect to the subdivision, unless the Director has received new evidence demonstrating that the criterion is not satisfied. If the Director issues the water report, the Director shall reduce the volume of groundwater reserved pursuant to subsection (F)(1) of this Section by the amount of the estimated water demand for the water report that will be met with groundwater.
- G. The Director shall reduce the amount of water considered reserved for use of the development upon request by the analysis holder. If the analysis holder requesting a reduction is not the person to whom the analysis was issued, the Director shall reduce the amount of reserved groundwater only if the person to whom the analysis was issued or that person's designee consents to the request for reduction. The person to whom the analysis was issued shall notify the Director in writing of the person's designee for purposes of this subsection.
- H. The analysis holder may apply to the Director for a five-year extension of the time period in subsection (F) of this Section by submitting an application on a form prescribed by the Director no earlier than 36 months before the end of the time period and no later than 30 days before the end of the time period. If an extension is granted, the analysis holder may apply to the Director for an additional five-year extension by submitting an application on a form prescribed by the Director no earlier than 36 months before the end of the extended time period and no later than 30 days before the end of the extended time period. The Director shall extend the time period for no more than two successive five-year periods under this subsection if the analysis holder demonstrates one of the following:
 - 1. The analysis holder has made a substantial capital investment in developing the land included in the analysis.
 - 2. The analysis holder has made material progress in developing the land included in the analysis.
 - 3. Progress in developing the land included in the analysis has been delayed for reasons outside the control of the analysis holder.
- I. After the Director grants two five-year extensions pursuant to subsection (H) of this Section, the Director may extend the time period for additional five-year periods if the analysis holder files a timely application pursuant to subsection (H) of this Section and demonstrates one of the criteria in subsections (H)(1), (2), or (3) of this Section.
- J. The Director shall review an application for an analysis or an application for an extension pursuant to subsections (H) or (I) of this Section pursuant to the licensing time-frame provisions in R12-15-401.

Historical Note

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3).

Amended by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

R12-15-713. Water Report

- A. An application for a water report shall be filed by the current owner of the land that is the subject of the application.
- B. An applicant for a water report shall submit an application on a form prescribed by the Director with the initial fee required by R12-15-103(C), and provide the following:
 - 1. A title report, condition of title report, limited search title report, or recorded deed, dated within 90 days of the date the application is filed and demonstrating that the applicant is the owner of the land that is the subject of the application;
 - 2. A plat of the subdivision;
 - 3. An estimate of the 100-year water demand for the subdivision;
 - 4. A list of all proposed sources of water that will be used by the subdivision;
 - 5. If the applicant is seeking a finding that the subdivision has an adequate water supply, evidence that the criteria in subsection (E) of this Section are met; and
 - 6. Any other information that the Director reasonably determines is necessary to decide whether an adequate water supply exists for the subdivision.
- C. Each applicant shall sign the application for a water report. If an applicant is not a natural person, the applicant's authorized officer, managing member, partner, trust officer, trustee, or other person who performs similar decision-making functions for the applicant shall sign the application. If an applicant submits a letter, signed by the applicant and dated within 90 days of the date the application is submitted, authorizing a representative to submit applications for permits regarding the land to be included in the water report, the authorized representative may sign the application on the applicant's behalf.
- D. After a complete application is submitted, the Director shall review the application and associated evidence to determine:
 - 1. The estimated water demand of the subdivision,
 - 2. Whether the applicant has demonstrated all of the requirements in subsection (E) of this Section.
- E. The Director shall determine that the subdivision has an adequate water supply if the applicant demonstrates all of the following:
 - 1. Sufficient supplies of water are physically available to meet the estimated water demand of the subdivision, according to the criteria in R12-15-716;
 - 2. Sufficient supplies of water are continuously available to meet the estimated water demand of the subdivision, according to the criteria in R12-15-717;
 - 3. Sufficient supplies of water are legally available to meet the estimated water demand of the subdivision, according to the criteria in R12-15-718;
 - 4. The proposed sources of water will be of adequate quality, according to the criteria in R12-15-719;
 - 5. The applicant has the financial capability to construct adequate delivery, storage, and treatment works for the subdivision according to the criteria in R12-15-720.
- F. The Director shall issue a water report to the applicant that states whether the applicant has complied with the requirements in subsection (E) of this Section.

- G. The Director shall review an application for a water report pursuant to the licensing time-frame provisions in R12-15-401.
- H. The Director may review or modify a water report if the Director receives new evidence regarding the criteria in subsection (E) of this Section. The Director shall not modify a water report pursuant to this subsection if any of the residential lots included in the plat have been sold. To determine whether a water report should be modified pursuant to this subsection, the Director shall use the standards in place at the time the original application was submitted for the water report. If the Director modifies a water report, the Director shall:
 - 1. Provide for an administrative hearing pursuant to A.R.S. Title 41, Chapter 6, Article 10; and
 - 2. Notify the Arizona Department of Real Estate.
- I. An owner of land that is the subject of a water report may request a modification of the water report at any time by submitting an application in accordance with subsection (B) of this Section. To determine whether a water report should be modified pursuant to this Section, the Director shall use the standards in place at the time of review.
- J. A water report is subject to the provisions of R12-15-708.

Historical Note

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3).

Amended by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

R12-15-714. Designation of Adequate Water Supply

- A. A municipal provider applying for a designation of adequate water supply shall submit an application on a form prescribed by the Director with the initial fee required by R12-15-103(C), and the following:
 - 1. The applicant's current demand;
 - 2. The applicant's committed demand;
 - 3. The applicant's projected demand for the proposed term of the designation;
 - 4. The proposed term of the designation, which shall not be less than two years;
 - 5. Evidence that the criteria in subsection (E) of this Section are met; and
 - 6. Any other information that the Director determines is necessary to decide whether an adequate water supply exists for the municipal provider.
- B. A city or town, other than a municipal provider, that is applying for a designation shall submit an application on a form prescribed by the Director with the initial fee required in R12-15-103(C), and provide the following:
 - 1. The current demand of the applicant's service area;
 - 2. The committed demand of the applicant's service area;
 - 3. The projected demand of the applicant's service area for the proposed term of the designation;
 - 4. The proposed term of the designation, which shall not be less than two years; and
 - 5. Evidence that the requirements in A.R.S. § 45-108(D) are met.
- C. An application for a designation shall be signed by:
 - 1. If the applicant is a city or town, the city or town manager or a person employed in an equivalent position. The application shall also include a resolution of the governing body of the city or town, authorizing that person to sign the application; or

2. If the applicant is a private water company, the applicant's authorized officer, managing member, partner, trust officer, trustee, or other person who performs similar decision-making functions for the applicant.
- D. After a complete application is submitted, the Director shall review the application and associated evidence to determine:
 1. The annual volume of water that is physically, continuously, and legally available for at least 100 years;
 2. The term of the designation, which shall not be less than two years;
 3. The estimated water demand for the applicant's service area for 100 years; and
 4. Whether the applicant has demonstrated compliance with all requirements in subsection (E) or (F) of this Section.
- E. The Director shall designate the applicant as having an adequate water supply pursuant to subsection (A) of this Section if the applicant demonstrates all of the following:
 1. Sufficient supplies of water are physically available to meet the applicant's estimated water demand, according to the criteria in R12-15-716;
 2. Sufficient supplies of water are continuously available to meet the applicant's estimated water demand, according to the criteria in R12-15-717;
 3. Sufficient supplies of water are legally available to meet the applicant's estimated water demand, according to the criteria in R12-15-718;
 4. The proposed sources of water are of adequate quality, according to the criteria in R12-15-719; and
 5. The applicant has the financial capability to construct adequate delivery, storage, and treatment works in a timely manner according to the criteria in R12-15-720.
- F. The Director shall issue a designation pursuant to subsection (B) of this Section if the applicant demonstrates that the requirements of A.R.S. § 45-108(D) are met.
- G. The Director shall review an application for a designation of adequate water supply pursuant to the licensing time-frame provisions in R12-15-401.
- B. If there is a change of ownership, the subsequent owner of a designated provider shall notify the Director in writing of the change in ownership within 90 days.
- C. The Director shall review a designation at least every 15 years following issuance of the designation to determine whether the designation should be modified or revoked.
- D. The Director may modify a designation for good cause, including a merger, division of the designated provider, or a change in ownership of the designated provider. A designated provider may request a modification of the designation at any time pursuant to R12-15-714. To determine whether the designation should be modified, the Director shall use the standards in place at the time of review.
- E. The Director may revoke a designation if:
 1. After notifying the designated provider and initiating a review of the designated provider's status, the Director determines that the designated provider has less water, according to the criteria in R12-15-714(E), than the amount required for a 100-year supply for the provider's:
 - a. Current demand,
 - b. Committed demand, and
 - c. Projected demand for the next two calendar years;
 2. The designated provider fails to construct adequate delivery, storage, and treatment works in a timely manner; or
 3. ADEQ or another governmental entity with equivalent jurisdiction has determined, after notice and an opportunity for a hearing, that the designated provider is in significant noncompliance with A.A.C. Title 18, Chapter 4 and is not taking action to resolve the noncompliance.
- F. To determine whether the designation should be revoked, the Director shall use the standards in place at the time of review. If the Director determines that a designation of adequate water supply should be revoked, the Director shall provide for an administrative hearing, in accordance with A.R.S. Title 41, Chapter 6, Article 10.
- G. If a designated provider's designated status terminates, the provider may apply for re-designation at anytime after termination.
- H. Notwithstanding any other provision in this Article, a decision and order of the Director designating a city, town, or private water company as having an assured water supply is not affected by this Article solely because the rule numbers cited in the decision and order may have changed after the effective date of the decision and order.

Historical Note

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3). Amended by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

R12-15-715. Designation of Adequate Water Supply; Annual Report Requirements, Review, Modification, Revocation

- A. By March 31 of each calendar year, a designated provider shall submit the following information for the preceding calendar year on a form provided by the Director:
 1. The designated provider's committed demand;
 2. The demand at build-out for customers with which the designated provider has entered into an agreement to serve water, other than committed demand;
 3. A report regarding the designated provider's compliance with water quality requirements;
 4. The depth-to static water level of all wells from which the designated provider withdrew water;
 5. A report regarding volume of water withdrawn, diverted, or received from each source for delivery to customers;
 6. Any other information the Director may reasonably require to determine whether the designated provider continues to meet the criteria for a designation of adequate water supply.

Historical Head

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3).

R12-15-716. Physical Availability

- A. The volume of a proposed source of water that is physically available to an applicant for a determination of assured water supply or a determination of adequate water supply is the amount determined by the Director to be physically available pursuant to subsections (B) through (L) of this Section.
- B. If the proposed source is groundwater, the applicant shall submit a hydrologic study, using a method of analysis approved by the Director, that accurately describes the hydrology of the affected area. Except as provided in subsection (D) of this Section, the Director shall determine that the proposed volume of groundwater will be physically available for the proposed use if both of the following apply:
 1. The groundwater will be withdrawn as follows:
 - a. Except as provided in subsection (B)(1)(b) of this Section, from wells owned by the applicant or the proposed municipal provider that are located within

the service area of the applicant or the proposed municipal provider or from proposed wells that the Director determines are likely to be constructed for future uses of the applicant or the proposed municipal provider.

- b. If the application is for a dry lot development, from wells that the Director determines are likely to be constructed on individual lots.
2. Except as provided in subsection (C) of this Section, the groundwater will be withdrawn from depths that do not exceed the applicable maximum 100-year depth-to-static water level according to the following:

Type and location of development	Maximum 100-year depth-to-static water level
a. Developments in Phoenix, Tucson, or Prescott AMAs, except dry lot developments	1000 feet below land surface
b. Developments in Pinal AMA, except dry lot developments	1100 feet below land surface
c. Developments outside AMAs, except dry lot developments	1200 feet below land surface
d. Dry lot developments	400 feet below land surface

3. The Director shall calculate the projected 100-year depth-to-static water level by adding the following for the area where groundwater withdrawals are proposed to occur:
 - a. The depth-to-static water level on the date of application.
 - b. The projected declines caused by existing uses, using the projected decline in the 100-year depth-to-static water level during the 100-year period after the date of application, calculated using records of declines for the maximum period of time for which records are available up to 25 calendar years before the date of application. If evidence is provided to the Director of likely changes in pumpage patterns and aquifer conditions, as opposed to those patterns and conditions occurring historically, the Director may determine projected declines using a model rather than evidence of past declines.
 - c. The projected decline in the depth-to-static water level during the 100-year period after the date of application, calculated by adding the projected decline from each of the following that are not accounted for in subsection (B)(3)(b) of this Section:
 - i. The estimated water demand of issued certificates and water reports that will be met with groundwater or stored water recovered outside the area of impact of the stored water, not including the demand of subdivided lots included in abandoned plats;
 - ii. The estimated water demand of designations that will be met with groundwater or stored water recovered outside the area of impact of the stored water; and
 - iii. The groundwater reserved for developments for which the Director has issued an analysis pursuant to R12-15-703 or R12-15-712.
 - d. The projected decline in depth-to-static water level that the Director projects will result from the applicant's proposed use over a 100-year period.

- C. The Director shall lower the maximum 100-year depth-to-static water level requirement specified in subsection (B)(2) of this Section for an applicant seeking a determination of adequate water supply if the applicant demonstrates both of the following:
 1. Groundwater is available at the lower depth; and
 2. The applicant has the financial capability to obtain the groundwater at the lower depth, according to the criteria in R12-15-720.
- D. If the proposed source is groundwater that will be withdrawn from a groundwater basin outside an AMA and transported into an AMA, the Director shall determine that the proposed volume of groundwater will be physically available if both of the following apply:
 1. The groundwater will be withdrawn from wells owned by the applicant or the proposed municipal provider or from proposed wells that the Director determines are likely to be constructed for the future uses of the applicant or the proposed municipal provider.
 2. Withdrawal of the groundwater will comply with any depth-to-static water level criteria, decline rate criteria, and volume limitation criteria prescribed by statute. If there are no applicable depth-to-static water level criteria prescribed by statute, withdrawal of the groundwater shall comply with the depth-to-static water level criteria in subsection (B)(2) of this Section.
- E. Subject to subsection (L) of this Section, if the proposed source of water is surface water, other than CAP water, or Colorado River water, the Director shall determine the annual volume of water that is physically available for the proposed use, taking into consideration the priority date of the right or claim, by calculating 120% of the firm yield of the proposed source at the point of diversion as limited by the capacity of the diversion works; except that if the applicant demonstrates that an alternative source of water will be physically available during times of shortage in the proposed surface water supply, the Director shall determine the annual volume of water available by calculating 100% of the median flow of the proposed source at the point of diversion as limited by the capacity of the diversion works. The Director shall determine the firm yield or median flow as follows:
 1. By calculating the firm yield or median flow at the point of diversion based on at least 20 calendar years of flow records from the point of diversion, unless 20 calendar years of records are unavailable and the Director determines that a shorter period of record provides information necessary to determine the firm yield or median flow; or
 2. By calculating the firm yield or median flow at the point of diversion using a hydrologic model that projects the firm yield or median flow, taking into account at least 20 calendar years of historic river flows, changes in reservoir storage facilities, and projected changes in water demand. The yield available to any applicant may be composed of rights to stored water, direct diversion, or normal flow rights. If the permit for the water right was issued less than five years before the date of application, the Director shall require the applicant to submit evidence, as applicable, in accordance with this subsection.
- F. Subject to subsection (L) of this Section, if the proposed source of water is CAP water, the Director shall determine the annual volume of water that is physically available for the proposed use as follows:
 1. If the applicant or the proposed municipal provider has a non-declining, long-term municipal and industrial subcontract for CAP water, calculate 100% of the annual amount of water established in the subcontract.

2. If the applicant has a lease for Indian priority CAP water, calculate 100% of the annual amount of water established in the lease.
 3. If the applicant has a subcontract for CAP water other than a non-declining, long-term municipal and industrial subcontract or a lease for Indian priority CAP water:
 - a. If the applicant submits evidence of sufficient backup water supplies, calculate 100% of the annual amount of water established in the subcontract. The applicant may establish backup water supplies by one or more of the following:
 - i. A drought response plan;
 - ii. Long-term storage credits;
 - iii. A contract for water with a multi-county water conservation district; or
 - iv. Evidence of other backup supplies that are physically, continuously, and legally available.
 - b. If the applicant does not submit evidence of sufficient backup water supplies pursuant to subsection (F)(3)(a) of this Section, calculate the percentage of the annual amount of water established in the subcontract that reasonably reflects the reliability of the applicant's CAP water supply.
- G.** Subject to subsection (L) of this Section, if the proposed source of water is Colorado River water, the Director shall determine the annual volume of water that is physically available for the proposed use as follows:
1. If the priority of the contract for Colorado River water provides reliability equal to or better than CAP municipal and industrial water, calculate 100% of the annual amount of water established in the contract.
 2. If the contract for Colorado River water provides reliability that is less than CAP municipal and industrial water:
 - a. If the applicant submits evidence of sufficient backup water supplies, calculate 100% of the annual amount of water in the contract. The applicant may establish backup water supplies by one or more of the following:
 - i. A drought response plan;
 - ii. Long-term storage credits;
 - iii. A contract for water with a multi-county water conservation district; or
 - iv. Evidence of other backup supplies that are physically, continuously, and legally available.
 - b. If the applicant does not submit evidence of sufficient backup water supplies pursuant to subsection (G)(2)(a) of this Section, calculate the percentage of the annual amount of water established in the contract that reasonably reflects the reliability of the applicant's Colorado River water supply.
- H.** Subject to subsection (I) of this Section, if the proposed source of water is effluent, the Director shall determine the annual volume of water that will be physically available by evaluating the current, metered production or the projected production of effluent. The volume of effluent that is physically available shall not include the following:
1. If the effluent will be delivered directly from a wastewater treatment plant, the volume of effluent that exceeds the applicant's estimated water demand that will be met with effluent; and
 2. The volume of effluent that does not comply with any applicable water quality requirements for the proposed use of the effluent.
- I.** If the proposed source of water is stored water to be recovered from recovery wells, the Director shall determine the volume of water that is physically available for the proposed use as follows:
1. If the stored water is represented by long-term storage credits in existence on the date of application, the amount that is physically available is the amount that may be recovered pursuant to the credits in a manner consistent with A.R.S. Title 45, Chapter 3.1, subject to subsection (I)(3) of this Section.
 2. If the applicant proposes to use long-term storage credits that do not exist on the date of application or recover stored water on an annual basis pursuant to A.R.S. § 45-851.01, the Director shall evaluate the following in determining whether to include the proposed credits or the water proposed to be stored and recovered annually in the amount of water that is physically available for the applicant's proposed use:
 - a. The terms of a contract to obtain water to store in a storage facility;
 - b. The physical, continuous, and legal availability of the water proposed to be stored;
 - c. The presence of an existing storage facility that will be available for use for the proposed storage;
 - d. The existence of all required permits of an adequate duration; and
 - e. Whether recovery of the stored water will comply with subsection (I)(3) of this Section.
 3. If the applicant proposes to recover the stored water from recovery wells located outside the area of impact of storage, the stored water will be considered physically available only if sufficient water exists for the withdrawals consistent with both of the following:
 - a. The maximum 100-year depth-to-static water level requirements established in subsection (B)(2) of this Section; and
 - b. Any criteria for the withdrawals prescribed in the management plan in effect at the time of the application.
- J.** If the applicant will obtain the source of water through a water exchange agreement, the Director shall determine that the water is physically available for the proposed use if the applicant submits evidence that the source of water the applicant or the applicant's customers will use will be physically available in accordance with the terms of this Section.
- K.** In the case of two or more pending, conflicting, complete and correct applications for determinations of assured water supply or determinations of adequate water supply, the Director shall give priority to the application with the earliest priority date. The priority date of an application for a determination of assured water supply or determination of adequate water supply shall be the date that a complete and correct application is filed with the Director. The Director shall consider an application complete and correct if it contains all the information required and the Director verifies that the information is accurate.
- L.** For a certificate applicant that proposes to use surface water, the Director shall determine that the proposed source is physically available only if the applicant demonstrates one of the following:
1. The land that is the subject of the application is a member land of the CAGRD.
 2. The applicant has independently obtained the surface water supply.
 3. The proposed municipal provider would satisfy the criteria in R12-15-722 if the municipal provider were subject to those requirements.

Historical Note

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3).

R12-15-717. Continuous Availability

- A. The Director shall determine that an applicant will have sufficient supplies of water that will be continuously available for 100 years if the applicant submits sufficient evidence that adequate delivery, storage, and treatment works will be in place in a timely manner to make the water available to the applicant or the applicant's customers for 100 years and the applicant meets any applicable requirements in subsections (B) through (G) of this Section.
- B. If the proposed source of water is groundwater, the applicant shall demonstrate that wells of a sufficient capacity will be constructed in a timely manner to serve the proposed uses on a continuous basis for 100 years.
- C. If the proposed source of water is surface water other than CAP water or Colorado River water, the applicant shall demonstrate that a continuous supply will exist because of one or more of the following:
 1. The projected volume to be diverted from the source is perennial at the point of diversion;
 2. Adequate storage facilities will be available to the applicant in a timely manner to store water for use when a volume of surface water is not available at the point of diversion to satisfy the applicant's water demands;
 3. The applicant has presented evidence of supplies of other sources of water that the Director has determined will be physically, continuously, and legally available to supplement the applicant's proposed surface water supplies;
 4. The applicant or the proposed municipal provider will withdraw surface water from wells of sufficient capacity to meet the applicant's estimated water demand on a continuous basis for 100 years; or
 5. The applicant has submitted a drought response plan that the Director has determined will conserve or augment a volume of water equal to the volume of water that is subject to drought.
- D. If the proposed source of water is CAP water or Colorado River water, the applicant shall demonstrate that a continuous supply is available because of one or more of the following:
 1. Adequate storage facilities will be available to the applicant in a timely manner to store water when a volume of CAP water or Colorado River water is not available to meet the applicant's water demands;
 2. The applicant has presented evidence of supplies of other sources of water that the Director has determined will be physically, continuously, and legally available to the applicant to supplement the proposed CAP water or Colorado River water supplies; or
 3. The applicant has submitted a drought response plan that the Director has determined will conserve or augment a volume of water equal to the volume subject to drought.
- E. If the proposed source of water is effluent, the applicant shall demonstrate that the capability to use the effluent to meet the demands of the proposed use will not be affected by any fluctuations in the supply of the effluent.
- F. If the proposed source of water is stored water to be recovered from recovery wells, the applicant shall demonstrate that recovery wells of a sufficient capacity will be constructed in a timely manner to serve the proposed use on a continuous basis for 100 years.
- G. If an applicant will obtain the source of water through a water exchange agreement, the applicant shall demonstrate that the source of water the applicant or the applicant's customers will

use will be continuously available in accordance with the terms of this Section.

Historical Note

Adopted effective February 7, 1995 (Supp. 95-1). Amended by emergency rulemaking at 11 A.A.R. 2706, effective June 29, 2005 for 180 days (Supp. 05-2). Emergency renewed for 180 days at 12 A.A.R. 144, effective December 23, 2005 (Supp. 05-4). Emergency expired. Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3).

R12-15-718. Legal Availability

- A. The Director shall determine that an applicant will have sufficient supplies of water that will be legally available for at least 100 years if the applicant submits all of the applicable information required by this Section.
- B. If the applicant is an applicant for a certificate or a water report, the applicant shall submit the following, as applicable:
 1. A Notice of Intent to Serve agreement between the owner of the land to be included in the subdivision and the proposed municipal provider, stating the proposed municipal provider's intent to serve the subdivision;
 2. If the proposed municipal provider is a city or town, evidence indicating that the proposed subdivision is located within the incorporated limits of the city or town or evidence of the legal right of the city or town to serve water to the subdivision outside the city or town's incorporated limits; or
 3. If the proposed municipal provider is a private water company, one of the following:
 - a. Evidence that the proposed municipal provider has a certificate of convenience and necessity approved by the Arizona Corporation Commission and the subdivision is located within the geographic area described in the certificate of convenience and necessity or any other area in which the Arizona Corporation Commission authorizes the private water company to serve water;
 - b. Evidence that the proposed municipal provider has an order preliminary issued by the Arizona Corporation Commission authorizing the municipal provider to provide water service and the proposed subdivision is located within the area described in the order preliminary; or
 - c. Evidence that the proposed municipal provider is not a public service corporation regulated by the Arizona Corporation Commission.
- C. If the applicant is a private water company applying for a designation, the applicant shall submit evidence that the applicant has a certificate of convenience and necessity approved by the Arizona Corporation Commission, or has been issued an order preliminary by the Arizona Corporation Commission for a certificate of convenience and necessity, authorizing the applicant to serve the proposed use.
- D. If a proposed source of water is groundwater to be withdrawn within an AMA, the applicant shall submit evidence that the applicant or the proposed municipal provider has one or more of the following:
 1. A service area right;
 2. An applicable non-irrigation grandfathered right to withdraw groundwater, in an amount sufficient to serve the proposed use; or
 3. A pending notice of intent to establish a new service area and all of the following apply:

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- a. The notice of intent to establish a new service area identifies the proposed subdivision,
 - b. The applicant or the proposed municipal provider has obtained a permit for any wells used to establish the service area right,
 - c. The proposed municipal provider has obtained a water right or recovery well permit to establish the service area right, and
 - d. The water right is of sufficient volume and duration to meet the estimated water demand of the proposed subdivision until the anticipated date of issuance of a service area right.
- E. If a proposed source of water is surface water other than CAP water or Colorado River water:
 - 1. The applicant shall submit evidence that the applicant or the proposed municipal provider has a certificated surface water right, decreed water right, or a pre-1919 claim for the proposed source. If the applicant or the proposed municipal provider does not hold a surface water right or claim, but will receive water pursuant to a water right or claim that is appurtenant to the land that is the subject of the application, the applicant shall submit evidence of the water right or claim and evidence that the water right or claim may neither be legally withheld nor severed and transferred by the right holder or claimant.
 - 2. If the certificated surface water right or decreed water right pre-dates the date of application by at least five years, or the applicant submits a pre-1919 claim, the applicant shall submit one of the following:
 - a. Evidence that the surface water supply has been used pursuant to the applicable water right or claim within the five years before the date of application;
 - b. Evidence that a court has determined that the right has not been abandoned; or
 - c. Evidence that the non-use would not have resulted in an abandonment of the right pursuant to A.R.S. § 45-189.
 - 3. The Director shall determine that the volume of water that is legally available pursuant to a certificated surface water right, a decreed water right, or a pre-1919 claim is equal to the face value of the right or claim. If the right or claim is subsequently adjudicated, the Director shall determine the volume of water that is legally available based on the adjudicated amount of water.
- F. Subject to subsections (M) and (N) of this Section, if a proposed source of water is CAP water, the applicant shall submit evidence that the applicant or the proposed municipal provider has entered into a subcontract with a multi-county water conservation district for the proposed volume of CAP water. The Director shall presume that a 50-year long-term, non-declining municipal and industrial subcontract is sufficient evidence of the legal availability of the volume of CAP water specified in the subcontract for 100 calendar years.
- G. Subject to subsections (M) and (N) of this Section, if a proposed source of water is Colorado River water, the applicant shall submit evidence of one of the following:
 - 1. The applicant or the proposed municipal provider has a contract with the United States Secretary of the Interior for the proposed supply; or
 - 2. The applicant has obtained an allocation of Colorado River water from an entity to which all of the following apply:
 - a. The entity holds a contract for Colorado River water with the United States Secretary of the Interior;
 - b. The entity provides Colorado River water to the proposed municipal provider;
 - c. The entity has allocated a sufficient volume of the Colorado River water to the subdivision; and
 - d. The area that the entity may serve, described in the contract with the United States Secretary of the Interior, includes the subdivision.
- H. If a proposed source of water is effluent, the applicant shall submit evidence that the applicant or the proposed municipal provider has the legal right to use the effluent.
- I. If the applicant will obtain a proposed source of water through a written contract other than a water exchange agreement, a contract between a certificate applicant and the municipal provider proposed to serve the applicant, a contract with the United States Secretary of the Interior for Colorado River water, or a subcontract with a multi-county water conservation district, the applicant shall submit evidence that the person providing the water under the contract has a legal right to the water in accordance with the terms of this Section and that the terms of the contract will ensure that the proposed source of water will be delivered to the applicant or to the proposed subdivision. The Director shall determine the term of years for which the proposed source of water is legally available based on the term of years remaining in the contract. The Director shall determine the quantity of water legally available based on the volume established in the contract.
- J. If the applicant will obtain a proposed source of water through a water exchange agreement, the applicant shall submit evidence that the water exchange agreement satisfies the requirements of A.R.S. Title 45, Chapter 4.
- K. If the Director can determine the proposed source of water to be physically and continuously available only because of the use of storage facilities by the applicant or by the proposed municipal provider, the applicant shall submit evidence of the applicant's or the proposed municipal provider's legal right to store water in the storage facilities.
- L. If the applicant proposes to use long-term storage credits, the applicant shall submit evidence that the applicant or the proposed municipal provider has the legal right to use the credits under A.R.S. Title 45, Chapter 3.1.
- M. If a proposed supply of water is Colorado River water or CAP water leased from an Indian community, the applicant shall submit evidence that the water leased has a priority equal to or higher than CAP municipal and industrial water, evidence that the Indian community is expressly authorized by an Act of Congress to lease the water for use off Indian community lands, evidence of the lease, and evidence of one of the following:
 - 1. The proposed water supply is available under the lease for at least 100 years from any time during the year in which the applicant submits the application.
 - 2. The term of the lease has less than 100 years remaining in the year in which the applicant submits the application and a supplemental water supply, together with the leased water, provides a 100-year water supply. The applicant shall demonstrate that the supplemental water supply is physically, continuously, and legally available and, if such supplemental supply is groundwater, that use of the groundwater is consistent with the management goal of the AMA. If the supplemental supply is water recovered through the use of long-term storage credits, the applicant shall also submit the following, as applicable:
 - a. If the applicant is to use the long-term storage credits before the beginning of the lease term, evidence that the applicant or the proposed municipal provider has obtained a recovery well permit that allows the applicant or the proposed municipal provider to

recover water pursuant to the long-term storage credits; or

- b. If the long-term storage credits will be accrued in the future, evidence that the applicant or the proposed municipal provider will accrue the long-term storage credits within 20 years after the effective date of the designation, certificate, or water report by storing the water under an issued water storage permit at a permitted storage facility and that no more than 20 years of the applicant's supplemental water supply will be provided by the long-term storage credits.

N. If the Director previously determined that Colorado River water or CAP water leased from an Indian community was legally available to a designated provider for 100 years, the Director shall determine that the designated provider continues to have a legally available supply of water for 100 years for the annual amount of water available under the lease if:

1. The lease has at least 50 years remaining in its term or the lease has at least 40 years remaining in its term and the designated provider submits evidence to the Director of active and ongoing negotiations with the Indian community to renew or re-negotiate the lease; and
2. One of the following applies:
 - a. No more than 15% of the total water supplies that the designated provider establishes as physically, continuously, and legally available during any year are obtained through leases with Indian communities;
 - b. Groundwater will be physically, continuously, and legally available to the designated provider at the end of the lease term to substitute for the leased water for the remainder of the 100-year period, and the projected use of groundwater is consistent with the management goal of the AMA. For purposes of this subsection, the designated provider may demonstrate that the proposed use is consistent with the management goal by entering into a written agreement with the Director under which the designated provider agrees to replace through replenishment or underground storage any groundwater used at the end of the lease term if groundwater use is not consistent with the management goal. The written agreement shall provide that specific performance is the only remedy in the event of default;
 - c. A non-groundwater source of water will be physically, continuously, and legally available at the end of the lease term to substitute for the leased water for the remainder of the 100-year period; or
 - d. The designated provider's governing board or council submits a resolution requesting that the designated provider be allowed to increase its projected use of Indian lease water from 15%, as allowed by subsection (N)(2)(a) of this Section, to 20%, and the Director finds that all of the following apply:
 - i. No more than 20% of the total water supplies that the designated provider establishes as physically, continuously, and legally available during any year are obtained through leases with Indian communities;
 - ii. No more than 15% of the total water supplies that the designated provider establishes as physically, continuously, and legally available during any year are obtained through any single lease with an Indian community; and

- iii. The designated provider does not meet the requirements of subsections (N)(2)(a), (b), or (c) of this Section.

Historical Note

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3).

R12-15-719. Water Quality

A. Except as provided in subsection (B) of this Section, when reviewing an application for a determination of assured water supply or a determination of adequate water supply, the Director shall determine that the water supply is of adequate quality if one of the following applies:

1. The applicant certifies on the application that the applicant or the proposed municipal provider will be regulated by ADEQ, or another governmental entity with equivalent jurisdiction, as a public water system pursuant to A.R.S. § 49-351, et seq., unless ADEQ, or another governmental entity with equivalent jurisdiction, has determined, after notice and an opportunity for a hearing, that the public water system is in significant noncompliance with A.A.C. Title 18, Chapter 4 and is not taking action to resolve the noncompliance; or
 2. The applicant has submitted results of a lab analysis demonstrating that the water meets water quality requirements in accordance with A.A.C. Title 18, Chapter 4, or that the water will meet these requirements after treatment that is required by law. The lab analysis shall be based on water withdrawn from a well representative of the well or wells from which water will be withdrawn for the proposed use, conducted in compliance with sample collection and analysis requirements in A.A.C. Title 18, Chapter 4, and completed within 60 days of the date the application is submitted to the Director. If ADEQ waives any of the water quality or sample collection and analysis requirements in A.A.C. Title 18, Chapter 4, the Director shall not require the applicant to meet the waived requirements.
- B. If a well or a proposed well from which water will be withdrawn for the proposed use is located within one mile of a WQARF site or Superfund site, the Director shall determine that the water supply is of adequate quality only if the applicant submits a contaminant migration and mitigation analysis, demonstrating that the water supply will continue to meet the requirements in A.A.C. Title 18, Chapter 4 for 100 years. The contaminant migration and mitigation analysis may include the impact of any mitigation or treatment, including mitigation or treatment required pursuant to a consent decree.

Historical Note

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3).

R12-15-720. Financial Capability

A. The Director shall determine that an applicant for a certificate or a water report has the financial capability to construct adequate delivery, storage, and treatment works if the applicant demonstrates one or more of the following:

1. The applicant will submit its final plat to a qualified platting authority;
2. The applicant has constructed adequate delivery, storage, and treatment works, and water service is available to each lot; or

3. The applicant has posted a performance bond with the platting authority for the entire cost of adequate delivery, storage, and treatment works.
- B. Upon receiving evidence that a platting authority has established standards for proof of financial capability to construct adequate delivery, storage, and treatment works, pursuant to A.R.S. § 9-463.01(C)(8) or A.R.S. § 11-806.01(G), the Director shall classify the platting authority as a qualified platting authority. The Director shall maintain a list of qualified platting authorities.
- C. The Director shall determine that an applicant for a designation has the financial capability to construct adequate delivery, storage, and treatment works if the applicant demonstrates one or more of the following for each of those facilities:
 1. The applicant has constructed adequate delivery, storage, and treatment works;
 2. The applicant has entered into written agreements requiring a potential developer to construct adequate delivery, storage, and treatment works;
 3. If the applicant is a city or town, the applicant has:
 - a. Adopted a five year capital improvement plan that provides for the construction, or the commencement of construction, of adequate delivery, storage, and treatment works in a timely manner, and has submitted a certification by the applicant's chief financial officer that finances are available to implement that portion of the five-year plan; or
 - b. Submitted evidence demonstrating that financing mechanisms are in place to construct adequate delivery, storage, and treatment works in a timely manner; or
 4. If the applicant is a private water company, the applicant has received approval from the Arizona Corporation Commission for financing the construction of adequate delivery, storage, and treatment works.

Historical Note

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3).

R12-15-721. Consistency with Management Plan

- A. The Director shall determine whether a designation applicant's projected use of groundwater withdrawn within an active management area is consistent with the management plan as follows:
 1. If the applicant is providing water to customers as of the date of application, the applicant's projected water use is consistent with the management plan if either of the following apply:
 - a. The applicant is in compliance with its applicable management plan requirements in the most recent calendar year for which data is available before the date of application; or
 - b. The applicant has signed a stipulation and consent order that is in effect on the date of the application, or that becomes effective during the time of review of the application, to remedy non-compliance with the management plan requirements and the applicant is in compliance with the terms of the stipulation and consent order.
 2. If the applicant has not commenced serving water to customers as of the date of application, the applicant shall submit a water use plan that demonstrates to the Director that compliance with management plan requirements will be achieved through the use of conservation or augmentation measures.

3. If the applicant has a pending request for an administrative review or variance from its management plan requirements, the Director shall not make a finding regarding compliance with this Section until the Director has issued a final decision and order on the request or the request has been withdrawn.
- B. The Director shall determine that a certificate applicant's projected use of groundwater withdrawn within an AMA is consistent with the management plan if the applicant submits a water use plan for the subdivision that includes both of the following:
 1. Information demonstrating that compliance with management plan requirements will be achieved through conservation or augmentation measures; and
 2. All information required to calculate the water requirements for each proposed water use.
- C. A certificate applicant for a subdivision of 50 or fewer lots is exempt from the requirements of this rule.

Historical Note

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3).

R12-15-722. Consistency with Management Goal

- A. For the Phoenix, Prescott, or Tucson AMAs, the Director shall calculate the volume of groundwater that may be used consistent with the management goal of the AMA in which the proposed use is located for at least 100 years by adding the following:
 1. The amount of the groundwater allowance, according to R12-15-724(A), R12-15-726(A), or R12-15-727(A).
 2. The amount of any extinguishment credits pledged to the certificate or designation, according to R12-15-724(B), R12-15-726(B), or R12-15-727(B).
 3. Any groundwater that is consistent with the achievement of the management goal pursuant to A.R.S. Title 45, Chapter 2.
- B. The Director shall determine that a proposed groundwater use in the Phoenix, Prescott, or Tucson AMA is consistent with the management goal of the AMA if the volume calculated in subsection (A) of this Section is equal to or greater than the portion of the applicant's estimated water demand to be met with groundwater.
- C. For a certificate in the Pinal AMA, the Director shall calculate the volume of groundwater that may be used consistent with the management goal of the AMA for at least 100 years by adding the following:
 1. The amount of the groundwater allowance, according to R12-15-725(A)(1).
 2. The amount of any extinguishment credits pledged to the certificate for a grandfathered right that was extinguished on or after October 1, 2007, according to R12-15-725(B).
 3. The amount of any extinguishment credits pledged to the certificate for a grandfathered right that was extinguished before October 1, 2007. The Director shall calculate the amount of the extinguishment credits by multiplying the annual amount of the credits by 100.
 4. Any groundwater that is consistent with the achievement of the management goal pursuant to A.R.S. Title 45, Chapter 2.
- D. For a certificate in the Pinal AMA, the Director shall determine that the proposed groundwater use is consistent with the management goal of the AMA if the volume calculated in subsection (C) of this Section is equal to or greater than the portion of the applicant's estimated water demand to be met with groundwater.

- E. For a designation in the Pinal AMA, the Director shall calculate the volume of groundwater that may be used consistent with the management goal of the Pinal AMA on an annual basis by adding the following:
1. The amount of the groundwater allowance, according to R12-15-725(A)(2). If any of the groundwater allowance is not used during a year, the unused groundwater allowance shall not be added to the volume calculated under this subsection for the following year.
 2. The amount of any extinguishment credits pledged to the designation for a grandfathered right that was extinguished on or after October 1, 2007, according to R12-15-725(B), divided by 100. Extinguishment credits for a grandfathered right that was extinguished on or after October 1, 2007 may be used in any year.
 3. The annual amount of any extinguishment credits pledged to the designation for a grandfathered right that was extinguished before October 1, 2007. The following shall apply if any of the extinguishment credits are not used during a calendar year:
 - a. If the extinguishment credits were pledged to the designation before October 1, 2007, any extinguishment credits not used during a calendar year shall be added to the volume calculated under this subsection for the following calendar year.
 - b. If the extinguishment credits are pledged to the designation on or after October 1, 2007, any of the extinguishment credits not used during a calendar year shall not be added to the volume calculated under this subsection for the following calendar year, except that if the extinguishment credits were originally pledged to a certificate before October 1, 2007 and are used to support the municipal provider's designation pursuant to R12-15-723(G)(2), any of the extinguishment credits not used during a calendar year shall be added to the volume calculated under this subsection for the following calendar year.
 4. Any groundwater that is consistent with the achievement of the management goal pursuant to A.R.S. Title 45, Chapter 2.
- F. For a designation in the Pinal AMA, the Director shall determine that the proposed groundwater use is consistent with the management goal of the Pinal AMA if the annual volume calculated in subsection (E) of this Section is equal to or greater than the portion of the applicant's annual estimated water demand to be met with groundwater.
- G. Upon application, the following volumes of groundwater used by an applicant are considered consistent with the management goal:
1. If the Director determines that a surface water supply is physically available under R12-15-716 and the volume of the supply actually available during a calendar year is equal to or less than the drought volume for the supply, the volume of groundwater, other than the groundwater that is accounted for under subsection (A), (C), or (E) of this Section, withdrawn within the AMA that, when combined with the available surface water supply, is equal to or less than the drought volume.
 2. Any volume of groundwater withdrawn within a portion of an AMA that is exempt from conservation requirements under A.R.S. Title 45 due to waterlogging. The Director shall review the application of this exclusion on a periodic basis, not to exceed 15 years.
 3. Remedial groundwater that is consistent with the management goal according to the requirements of R12-15-729.
- H. An applicant for a certificate of assured water supply for a dry lot subdivision of 20 lots or fewer is exempt from the requirements of this Section.

Historical Note

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3). Amended by final rulemaking at 13 A.A.R. 1394, effective October 1, 2007 (Supp. 07-2).

R12-15-723. Extinguishment Credits

- A. Except as provided in subsection (D), the owner of a grandfathered right may extinguish the right in exchange for extinguishment credits by submitting the following:
1. A notarized statement of extinguishment of a grandfathered right on a form provided by the Director;
 2. The grandfathered right number;
 3. If the right being extinguished is a Type 1 non-irrigation grandfathered right or an irrigation grandfathered right, evidence of ownership of the land to which the grandfathered right is appurtenant;
 4. If the grandfathered right is located in the Prescott AMA, evidence that all of the following conditions are met:
 - a. The land to which the right is appurtenant has not been and will not be subdivided pursuant to a preliminary plat or a final plat that was approved by a city, town, or county before August 21, 1998; and
 - b. The land to which the right is appurtenant is not and will not be the location of a subdivision for which a complete and correct application for a certificate of assured water supply was submitted to the Director before August 21, 1998;
 5. If the right being extinguished is an irrigation grandfathered right, evidence that the development of the land to which the right is appurtenant is not completed; and
 6. Any additional information the Director may reasonably require to process the extinguishment.
- B. The Director shall calculate the amount of extinguishment credits pursuant to R12-15-724(B), R12-15-725(B), R12-15-726(B) or R12-15-727(B). The Director shall notify the owner of the amount of extinguishment credits in writing. If the owner is extinguishing only a portion of the right, the Director shall issue a new certificate of grandfathered right for the remainder of the right.
- C. A Type 1 non-irrigation grandfathered right or an irrigation grandfathered right may be extinguished in whole or in part. A Type 2 non-irrigation grandfathered right may be extinguished only in whole.
- D. The following rights may not be extinguished in exchange for extinguishment credits:
1. An irrigation grandfathered right that is appurtenant to land that has been physically developed for a non-irrigation use. The Director shall not consider the land to be physically developed until the development is completed.
 2. A Type 1 non-irrigation grandfathered right, if the Director determines that the holder is likely to continue to receive groundwater from an undesignated municipal provider for the same use pursuant to the provider's service area right or pursuant to a groundwater withdrawal permit.
 3. A Type 2 non-irrigation grandfathered right that was issued based on the withdrawal of groundwater for min-

- eral extraction or processing or for the generation of electrical energy.
4. On or after January 1, 2025, any grandfathered right that is in the Phoenix, Prescott, or Tucson AMAs.
 5. Any grandfathered right in the Pinal AMA beginning in the first calendar year in which the allocation factor for the extinguishment of a grandfathered right is zero, pursuant to R12-15-725(B)(3) or (4).
 6. A Type 1 non-irrigation grandfathered right that was requested to be included by a city or town in the Tucson AMA in the determination made under A.R.S. § 45-463(F).
- E.** The owner of extinguishment credits may pledge the credits to a certificate or to a designation before the certificate or designation is issued by submitting with the application for the certificate or designation a notice of intent to pledge extinguishment credits on a form provided by the Director. The extinguishment credits shall be pledged to the certificate or designation upon issuance of the certificate or designation.
- F.** The owner of extinguishment credits may pledge the credits to a certificate or to a designation after the certificate or designation is issued by submitting a notice of intent to pledge extinguishment credits on a form provided by the Director. The Director shall notify the owner of the extinguishment credits and the certificate holder or designated provider that the credits have been pledged to the certificate or designation.
- G.** Extinguishment credits that have not been pledged to a certificate or designation may be conveyed within the same AMA. Extinguishment credits pledged to a certificate or designation shall not be conveyed to another person, except that:
1. If extinguishment credits are pledged to a certificate that is later assigned or reissued, any unused credits are transferred, by operation of this subsection, to the assigned or reissued certificate. If the certificate is partially assigned or reissued, a pro rata share of the unused extinguishment credits is transferred to each assigned or reissued certificate according to the estimated water demand.
 2. If extinguishment credits are pledged to a certificate for a subdivision that is later served by a designated provider or a municipal provider that is applying for a designation, any unused extinguishment credits may be used to support the municipal provider's designation as long as the municipal provider serves the subdivision and remains designated. If the municipal provider is no longer serving the subdivision or if the municipal provider loses its designated status, any unused extinguishment credits shall revert, by operation of this subsection, to the certificate to which they were originally pledged.
- H.** The Director shall review a statement of extinguishment of a grandfathered right and a notice of intent to pledge extinguishment credits pursuant to the licensing time-frame provisions in R12-15-401.
- I.** A person may apply to the Director on or before December 31, 2015 for the restoration of all or a portion of an irrigation grandfathered right extinguished under this Section during calendar year 2005, 2006 or 2007 if all of the following conditions are met:
1. The person owns the land to which the right or portion of the right was appurtenant;
 2. The land to which the right or portion of the right was appurtenant is physically capable of being irrigated and the infrastructure for delivering water to the land for irrigation purposes remains intact and is operable;
 3. The person holds extinguishment credits that were issued for the extinguishment of a grandfathered right in the AMA in which the land is located and that have not been pledged to a certificate or designation under subsection (E) or (F) in the following amount, as applicable:
 - a. If the person seeks to restore the entire irrigation grandfathered right, an amount of extinguishment credits equal to the amount of extinguishment credits issued by the Director in exchange for extinguishment of the irrigation grandfathered right; or
 - b. If the person seeks to restore a portion of the irrigation grandfathered right, an amount of extinguishment credits equal to the result obtained by multiplying the percentage of the right sought to be restored by the amount of extinguishment credits issued by the Director in exchange for the extinguishment of the right.
- J.** An application to restore all or a portion of an irrigation grandfathered right under subsection (I) shall be on a form provided by the Director and include all of the following:
1. A fee of \$250.00;
 2. The irrigation grandfathered right number of the right sought to be restored;
 3. If a certificate of extinguishment credits was issued by the Director for the extinguishment credits described in subsection (I)(3), the original certificate or an affidavit stating that the certificate is lost;
 4. A copy of a deed showing that the applicant owns the land to which the right or portion of the right sought to be restored was appurtenant and, if the application seeks to restore only a portion of the right, the legal description of the land to which that portion of the right was appurtenant;
 5. A certification by the applicant that the conditions described in subsection (I) are met; and
 6. An agreement in writing that if the right or portion of the right is restored, the flexibility account for the land to which the right or portion of the right is appurtenant shall have an account balance of zero at the beginning of the calendar year in which the right or portion of the right is restored and that any credits registered to the flexibility account after the right is restored may not be conveyed or sold to any person, including the applicant.
- K.** The Director shall approve an application to restore all or a portion of an irrigation grandfathered right submitted under subsection (I) if the application includes the fee and the information required under subsection (J) and the Director determines that the information is correct. If the Director approves an application to restore all or a portion of an irrigation grandfathered right, all of the following apply:
1. The irrigation water duty for the land to which the right or portion of the right is restored shall be the same as it was when the right was extinguished, unless the irrigation water duty is changed in a management plan adopted after the right was extinguished or is modified pursuant to A.R.S. § 45-575;
 2. The flexibility account for the land to which the right or portion of the right is appurtenant shall have an account balance of zero at the beginning of the calendar year in which the right or portion of the right is restored and any credits registered to the flexibility account after the right is restored may not be conveyed or sold to any person, including the applicant.
 3. The applicant shall forfeit the extinguishment credits described in subsection (I)(3); and
 4. The restored irrigation grandfathered right may be extinguished in exchange for extinguishment credits under this Section. For purposes of calculating the amount of extinguishment credits under R12-15-724(B), R12-15-725(B),

R12-15-726(B) or R12-15-727(B), the calendar year of extinguishment is the calendar year in which the restored irrigation grandfathered right is extinguished.

- L. The Director shall review an application to restore an irrigation grandfathered right under subsection (I) pursuant to the licensing time-frame provisions in R12-15-401. The application shall have an administrative completeness review time-frame of 30 days, a substantive review time-frame of 90 days, and an overall time-frame of 120 days.

Historical Note

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3). Amended by final rulemaking at 13 A.A.R. 1394, effective October 1, 2007 (Supp. 07-2). Amended by final rulemaking at 17 A.A.R. 1989, effective September 13, 2011 (Supp. 11-3).

R12-15-724. Phoenix AMA Calculation of Groundwater Allowance and Extinguishment Credits

- A. The Director shall calculate the groundwater allowance for a certificate or designation in the Phoenix AMA as follows:
1. If the application is for a certificate, multiply the applicable allocation factor in the table below by the annual estimated water demand for the proposed subdivision.

MANAGEMENT PERIOD	ALLOCATION FACTOR
Third	4
Fourth	2
Fifth	1
After Fifth	0

2. If the application is for a designation and the applicant provided water to its customers prior to February 7, 1995, multiply 7.5 by the total volume of water provided by the applicant to its customers from any source during calendar year 1994, consistent with the municipal conservation requirements established for the applicant pursuant to Section 5-103(A)(1) of the Second Management Plan for the Phoenix AMA.
3. If the application is for a designation and the applicant commenced providing water to its customers on or after February 7, 1995, the applicant's groundwater allowance is zero acre-feet.
4. For each calendar year of a designation, the Director shall calculate the volume of incidental recharge for a designated provider within the Phoenix AMA and add that volume to the designated provider's groundwater allowance. The Director shall calculate the volume of incidental recharge by multiplying the provider's total water use from any source in the previous calendar year by the standard incidental recharge factor of 4%. A designated provider may apply for a variance from the standard incidental recharge factor as provided in A.R.S. § 45-566.01(E)(1). The Director may establish a different incidental recharge factor for the designated provider if the provider demonstrates to the satisfaction of the Director that the ratio of the average annual amount of incidental recharge expected to be attributable to the provider during the management period, to the average amount of water expected to be withdrawn, diverted, or received for delivery by the provider for use within its service area during the management period, is different than 4%.

- B. The Director shall calculate the extinguishment credits for the extinguishment of a grandfathered right in the Phoenix AMA as follows:

1. For the extinguishment of a type 2 non-irrigation grandfathered right, multiply the number of acre-feet indicated on the certificate by the difference between 2025 and the calendar year of extinguishment.
2. For the extinguishment of all or part of an irrigation grandfathered right, or all or part of a type 1 non-irrigation grandfathered right, multiply 1.5 acre-feet per acre by the number of irrigation acres associated with the extinguished irrigation grandfathered right or the number of acres to which the extinguished type 1 non-irrigation grandfathered right is appurtenant, and then multiply the product by the difference between 2025 and the calendar year of extinguishment, except that:
 - a. If only a portion of an irrigation grandfathered right or a type 1 non-irrigation grandfathered right is extinguished, the Director shall include in the calculation only those acres associated with the portion of the right that is extinguished; and
 - b. If an extinguished irrigation grandfathered right has a debit balance in the corresponding flexibility account established under A.R.S. § 45-467, the Director shall subtract the amount of the debit from the amount of the extinguishment.

Historical Note

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3).

R12-15-725. Pinal AMA – Groundwater Allowance

The Director shall calculate the groundwater allowance for a certificate or designation in the Pinal AMA as follows:

1. If the application is for a certificate, multiply the applicable allocation factor in the table below for the management period in effect on the date of application by the annual estimated water demand for the proposed subdivision.

MANAGEMENT PERIOD/ DATE OF APPLICATION	ALLOCATION FACTOR
Third	10
Fourth	10
Fifth	5
After Fifth	0

2. If the application is for a designation:
 - a. If the applicant was designated as having an assured water supply as of October 1, 2007:
 - i. Multiply the applicant's service area population as of October 1, 2007 by 125 gallons per capita per day and multiply the product by 365 days. The service area population shall be determined using the methodology set forth in Section 5-103(D) of the Third Management Plan for the Pinal AMA.
 - ii. Convert the number of gallons determined in subsection (A)(2)(a)(i) into acre-feet by dividing the number by 325,851 gallons.
 - iii. Determine the number of residential lots within plats that were recorded as of October 1, 2007 but not served water as of that date, and to

- which the applicant commenced water service by January 1, 2010.
- iv. Multiply the number of lots determined in subsection (A)(2)(a)(iii) of this Section by 0.35 acre-foot per lot.
 - v. Add the volume from subsection (A)(2)(a)(ii) of this Section and the volume from subsection (A)(2)(a)(iv) of this Section.
 - b. If the applicant provided water to its customers before October 1, 2007 but was not designated as having an assured water supply as of that date, and a complete and correct application for designation is filed before January 1, 2012, multiply the applicant's service area population as of October 1, 2007 by 125 gallons per capita per day and multiply the product by 365 days. The service area population shall be determined using the methodology in Section 5-103(D) of the Third Management Plan for the Pinal AMA.
 - c. If the applicant provided water to its customers before October 1, 2007 but was not designated as having an assured water supply as of that date, and a complete and correct application for designation is filed on or after January 1, 2012, the applicant's groundwater allowance is zero acre-feet.
 - d. If the applicant commenced providing water to its customers on or after October 1, 2007, the applicant's groundwater allowance is zero acre-feet.
 3. For each calendar year of a designation, the Director shall calculate the volume of incidental recharge for a designated provider within the Pinal AMA and add that volume to the designated provider's groundwater allowance. The Director shall calculate the volume of incidental recharge by multiplying the provider's total water use from any source in the previous calendar year by the standard incidental recharge factor of 4%. A designated provider may apply for a variance from the standard incidental recharge factor by submitting a hydrologic study demonstrating, to the satisfaction of the Director, that the ratio of the average annual amount of incidental recharge expected to be attributable to the designated provider during the management period to the average annual amount of water expected to be withdrawn, diverted or received for delivery by the designated provider for use within its service area during the management period is different than 4%. The hydrologic study shall include the amount of water withdrawn, diverted or received for delivery by the designated provider for use within its service area during each of the preceding five years and the amount of incidental recharge that was attributable to the designated provider during each of those years. The Director may establish a different incidental recharge factor for the designated provider upon such demonstration.

Historical Note

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3). Section repealed; new Section made by final rulemaking at 13 A.A.R. 1394, effective October 1, 2007 (Supp. 07-2). Amended by final rulemaking at 15 A.A.R. 1979, effective January 2, 2010 (Supp. 09-4). Amended by final rulemaking at 19 A.A.R. 4174, effective December 3, 2013 (Supp. 13-4).

R12-15-725.01.Pinal AMA – Extinguishment Credits Calcula-

tion

The Director shall calculate the extinguishment credits for the extinguishment of a grandfathered right in the Pinal AMA as follows:

1. For the extinguishment of a type 2 non-irrigation grandfathered right, multiply the number of acre-feet indicated on the certificate by the applicable allocation factor as determined under subsection (A)(3) or (A)(4) of this Section.
2. For the extinguishment of all or part of an irrigation grandfathered right, or all or part of a type 1 non-irrigation grandfathered right, an amount calculated by multiplying 1.5 acre-feet by the number of irrigation acres associated with the extinguished irrigation grandfathered right or the number of acres to which the extinguished type 1 non-irrigation grandfathered right is appurtenant, and then multiply that product by the applicable allocation factor as determined under subsection (A)(3) or (A)(4) of this Section, except that:
 - a. If only a portion of an irrigation grandfathered right or a type 1 non-irrigation grandfathered right is extinguished, the Director shall include in the calculation only those acres associated with the portion of the right that is extinguished; and
 - b. If an extinguished irrigation grandfathered right has a debit balance in the corresponding flexibility account established under A.R.S. § 45-467, the Director shall subtract the amount of the debit from the amount of the extinguishment credits.
3. Except as provided in subsection (A)(4) of this Section, in calculating the extinguishment credits for the extinguishment of a grandfathered right under subsection (A)(1) or (A)(2) of this Section, the Director shall use the allocation factor associated with the year in which the grandfathered right is extinguished, as shown in the table below.

Year	Allocation Factor
2010	100
2011	100
2012	100
2013	100
2014	100
2015	100
2016	100
2017	100
2018	100
2019	94
2020	88
2021	82
2022	76
2023	74
2024	72
2025	70
2026	68
2027	66
2028	64
2029	62
2030	60
2031	58
2032	56
2033	54
2034	52
2035	50
2036	48

2037	46
2038	44
2039	42
2040	40
2041	38
2042	36
2043	34
2044	32
2045	30
2046	28
2047	26
2048	24
2049	22
2050	20
2051	18
2052	16
2053	14
2054	12
2055	10
2056	8
2057	6
2058	4
2059	2
After 2059	0

4. If, before January 1, 2060, there is a moratorium on adding new member lands and member service areas in the Pinal AMA pursuant to A.R.S. § 45-576.06(A), in calculating the extinguishment credits for the extinguishment of a grandfathered right under subsection (A)(1) or (A)(2) of this Section, the Director shall use an allocation factor determined as follows:
- If the grandfathered right is extinguished while the moratorium is in effect, the Director shall use the allocation factor associated with the year in which the moratorium first became effective, as shown in the table in subsection (A)(3) of this Section.
 - If the grandfathered right is extinguished when the moratorium is no longer in effect, the Director shall use the allocation factor associated with the year determined pursuant to this subsection, as shown in the table in subsection (A)(3) of this Section. The Director shall determine the year as follows:
 - Subtract the year in which the moratorium first became effective from the year in which the moratorium ended.
 - Subtract the difference in subsection (A)(4)(b)(i) of this Section from the year in which the grandfathered right was extinguished.

Historical Note

New Section made by final rulemaking at 19 A.A.R. 4174, effective December 3, 2013; with automatic repeal date of September 15, 2014 (Supp. 13-4). Section amended with automatic repeal, removed by final rulemaking at 20 A.A.R. 2673; effective September 12, 2014 (Supp. 14-3).

R12-15-725.02.Repealed

Historical Note

New Section made by final rulemaking at 19 A.A.R. 4174, effective September 15, 2014 (Supp. 13-4). Repealed by final rulemaking at 20 A.A.R. 2673, effective September 12, 2014 (Supp. 14-3).

tive September 12, 2014 (Supp. 14-3).

R12-15-726. Prescott AMA Calculation of Groundwater Allowance and Extinguishment Credits

- A. The Director shall calculate the groundwater allowance for a certificate or designation in the Prescott AMA as follows:
- If the application is for a certificate of assured water supply, the Director shall:
 - Subtract the year of application from 2025,
 - Multiply the number determined in subsection (A)(1)(a) by the applicant's annual estimated water demand, and
 - Divide that product by two. The minimum volume that may be calculated in this subsection is zero acre-feet.
 - If the application is for a designation of assured water supply:
 - Except as provided in subsections (A)(3) and (A)(5), if the applicant was in existence as of January 12, 1999, and the application is filed before calendar year 2026, the Director shall:
 - Multiply by 100 the largest volume of groundwater determined by the Director to have been withdrawn by the applicant from within the Prescott AMA for use within the applicant's service area in any calendar year from 1995 through 1998, consistent with the municipal conservation requirements applicable under the second management plan for the Prescott active management area;
 - Determine the volume of the applicant's total water demand, from any source, for 1999, consistent with the municipal conservation requirements established for the applicant in the management plan in effect on the date of application;
 - Determine the volume of the applicant's total water demand, from any source, for 2014, consistent with the municipal conservation requirements established for the applicant in the management plan in effect on the date of application;
 - Subtract the volume calculated in subsection (A)(2)(a)(ii) from the volume calculated in subsection (A)(2)(a)(iii) and then multiply the difference by 26;
 - Divide the product obtained in subsection (A)(2)(a)(iv) by two;
 - If any residential groundwater uses, including residential groundwater uses served by an exempt well, in existence on August 21, 1998, have been replaced by permanent water service from the applicant after August 21, 1998, multiply one-half acre-foot of groundwater by the number of housing units receiving the service and then multiply that product by 100;
 - Determine the volume of groundwater withdrawn by the applicant from within the Prescott active management area during the period beginning January 1, 1999, and ending December 31 of the calendar year before the date of the application;
 - Multiply the volume of groundwater withdrawn by the applicant from within the Prescott active management area in 1999 by the number of calendar years in the period beginning with 1999

- and ending with the calendar year before the date of application;
- ix. Subtract from the volume calculated in subsection (A)(2)(a)(vii) the volume calculated in subsection (A)(2)(a)(viii). The volume calculated in this subsection shall not be less than zero; and
 - x. Add the volumes calculated in subsections (A)(2)(a)(i), (A)(2)(a)(v), and (A)(2)(a)(vi), and then subtract from the sum the volume calculated in subsection (A)(2)(a)(ix).
- b. If the applicant did not exist as of January 12, 1999, or the date of application occurs after calendar year 2025, the groundwater allowance is zero acre-feet, except that if any residential groundwater uses, including residential groundwater uses served by an exempt well, in existence on August 21, 1998, have been replaced by permanent water service from the applicant after August 21, 1998, the groundwater allowance is a volume of groundwater computed by multiplying one-half acre-foot of groundwater by the number of housing units receiving the service and multiplying that product by 100.
3. For the purpose of determining the groundwater allowance under subsection (A)(2)(a), at the request of the applicant, the Director shall replace the volume of groundwater calculated in subsection (A)(2)(a)(ii) through (v) with the amount of groundwater necessary for the applicant to serve the residential lots described in subsection (A)(4):
 - a. To compute this amount of groundwater, the Director shall:
 - i. Determine the average dwelling occupancy within the applicant's service area and multiply that average occupancy by an amount of groundwater, calculated by multiplying 150 gallons per capita per day by 365 days; and
 - ii. Multiply the product in subsection (A)(3)(a)(i) by the number of residential lots described in subsection (A)(4), and then multiply that product by 100.
 - b. The Director shall not include the amount computed in subsection (A)(3)(a) within the amount of groundwater that the applicant may use under subsection (A)(2)(a) until a final plat for the lots has been recorded.
 4. The Director shall include residential lots that will be served by the applicant in the calculation made under subsection (A)(3) if the lots meet all of the following criteria:
 - a. A preliminary plat for the lots was submitted to the city, town, or county on or before August 21, 1998, and the final plat is subsequently recorded;
 - b. The lots were not being served water on or before August 21, 1998; and
 - c. Any one of the following applies:
 - i. The lots were included within an application for certificate of assured water supply that was filed before August 21, 1998, the Director determined that the application was complete and correct as of August 21, 1998, and the Director subsequently issued a certificate of assured water supply for the lots.
 - ii. A preliminary plat for the lots was approved by a city, town, or county on or before August 21, 1998. At the time the preliminary plat was approved, the subdivider of the lots obtained a written commitment of water service from a municipal provider that was designated as having an assured water supply and the provider demonstrated to the satisfaction of the Director that sufficient water is physically available to serve the lots under the criteria in R12-15-716.
 5. For the purpose of determining the groundwater allowance under subsection (A)(2)(a), if the applicant makes the request described in subsection (A)(3), the Director shall replace the volume of groundwater calculated in subsection (A)(2)(a)(viii) with an amount of groundwater calculated as follows. The Director shall:
 - a. Determine the number of calendar years in the period beginning with 1999 and ending with the calendar year before the date of application and multiply that number of years by the largest volume of groundwater determined by the Director to have been withdrawn by the applicant from within the Prescott active management area for use within the applicant's service area in any calendar year from 1995 through 1998, consistent with the municipal conservation requirements applicable under the second management plan for the Prescott active management area;
 - b. Determine the average dwelling occupancy within the applicant's service area and multiply that average dwelling occupancy by an amount of groundwater calculated by multiplying 150 gallons per capita per day by 365 days;
 - c. For each year in the period beginning with 1999 and ending with the calendar year before the date of application, determine the number of the residential lots that meet the criteria in subsection (A)(4) and were served water by the applicant as of July 1 of the relevant year and add the number of these residential lots determined for each year;
 - d. Multiply the volume of groundwater calculated in subsection (A)(5)(b) by the number of residential lots in subsection (A)(5)(c); and
 - e. Add the volumes of groundwater from subsections (A)(5)(a) and (A)(5)(d).
- B.** The Director shall calculate the extinguishment credits for extinguishing a grandfathered right in the Prescott AMA as follows:
1. For the extinguishment of a type 2 non-irrigation grandfathered right, multiply the number of acre-feet indicated on the certificate by the difference between 2025 and the calendar year of extinguishment.
 2. For the extinguishment of an irrigation grandfathered right or a type 1 non-irrigation grandfathered right:
 - a. Through December 31, 2010:
 - i. If the irrigation acres associated with the extinguished right were irrigated for at least four of the six calendar years preceding January 1, 2000, multiply 1.5 acre-feet per acre by the number of irrigation acres associated with the extinguished right or the number of acres to which the extinguished right is appurtenant and multiply that product by 25.
 - ii. If the irrigation acres associated with the extinguished right were not irrigated for at least four of the six calendar years preceding January 1, 2000, multiply 1.5 acre-feet per acre by the number of irrigation acres associated with the extinguished right or the number of acres to

- which the extinguished right is appurtenant and multiply the product by the difference between 2025 and the year in which the statement of intent to extinguish is filed.
- b. After December 31, 2010, multiply 1.5 acre-feet per acre by the number of irrigation acres associated with the extinguished right or the number of acres to which the extinguished right is appurtenant and multiply the product by the difference between 2025 and the year in which the statement of intent to extinguish is filed.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3).

R12-15-727. Tucson AMA Calculation of Groundwater Allowance and Extinguishment Credits

- A. The Director shall calculate the groundwater allowance for a certificate or designation in the Tucson AMA as follows:
1. If the application is for a certificate, multiply the applicable allocation factor in the table below by the annual estimated water demand for the proposed subdivision.

MANAGEMENT PERIOD	ALLOCATION FACTOR
Third	8
Fourth	4
Fifth	2
After Fifth	0

2. If the application is for a designation and the applicant provided water to its customers before February 7, 1995, multiply 15 by the total volume of water provided by the applicant to its customers from any source during calendar year 1994, consistent with the municipal conservation requirements established for the applicant pursuant to Section 5-103(A)(1) of the Second Management Plan for the Tucson AMA.
 3. If the application is for a designation and the applicant commenced providing water to its customers on or after February 7, 1995, the applicant's groundwater allowance is zero acre-feet.
 4. For each calendar year of the designation, the Director shall calculate the volume of incidental recharge for a designated provider within the Tucson AMA and add that volume to the designated provider's groundwater allowance. The Director shall calculate the volume of incidental recharge by multiplying the provider's total water use from any source in the previous calendar year by the standard incidental recharge factor of 4%. A designated provider may apply for a variance from the standard incidental recharge factor as provided in A.R.S. § 45-566.01(E)(1). The Director may establish a different incidental recharge factor for the designated provider if the provider demonstrates to the satisfaction of the Director that the ratio of the average annual amount of incidental recharge expected to be attributable to the provider during the management period, to the average amount of water expected to be withdrawn, diverted, or received for delivery by the provider for use within its service area during the management period, is different than 4%.
- B. The Director shall calculate the extinguishment credits for the extinguishment of a grandfathered right in the Tucson AMA as follows:

1. For the extinguishment of a type 2 non-irrigation grandfathered right, multiply the number of acre-feet indicated on the certificate by the difference between 2025 and the calendar year of extinguishment.
2. For the extinguishment of all or part of an irrigation grandfathered right, or all or part of a type 1 non-irrigation grandfathered right, multiply 1.5 acre-feet per acre by the number of irrigation acres associated with the extinguished irrigation grandfathered right or the number of acres to which the extinguished type 1 non-irrigation grandfathered right is appurtenant, and then multiply the product by the difference between 2025 and the calendar year of extinguishment, except that:
 - a. If only a portion of an irrigation grandfathered right or a type 1 non-irrigation grandfathered right is extinguished, the Director shall include in the calculation only those acres associated with the portion of the right that is extinguished; and
 - b. If an extinguished irrigation grandfathered right has a debit balance in the corresponding flexibility account established under A.R.S. § 45-467, the Director shall subtract the amount of the debit from the amount of the extinguishment.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3).

R12-15-728. Reserved

R12-15-729. Remedial Groundwater; Consistency with Management Goal

- A. Use of remedial groundwater by a municipal provider before January 1, 2025, is deemed consistent with the management goal of the AMA in which the remedial groundwater is withdrawn and is excluded when determining compliance with management goal requirements in this Article if all of the following apply:
1. The Director determines that the remedial groundwater use is consistent with the management goal under subsection (F) or (H) of this Section or the remedial groundwater use is consistent with the management goal under subsection (J) of this Section; and
 2. The municipal provider complies with the metering and reporting requirements in subsection (K) of this Section.
- B. A municipal provider that is using remedial groundwater or that has agreed in a consent decree or other document approved by ADEQ or the EPA to use remedial groundwater may apply to the Director for a determination that the municipal provider's use of the remedial groundwater is consistent with the management goal of the active management area by submitting an application on a form provided by the Director with the information required in subsection (D) of this Section before January 1, 2010.
- C. A municipal provider filing an application under subsection (B) of this Section for remedial groundwater use associated with a treatment plant in operation before June 15, 1999, may request an increase in the project's annual authorized volume at the time the application is filed. The Director shall grant the request and increase the annual authorized volume up to the maximum treatment capacity of the treatment plant if the municipal provider submits evidence that an increase in the annual authorized volume is necessary to further the purpose of the remedial action project and that the increase is not in violation of the consent decree or other document approved by ADEQ or the EPA for the remedial action project.
- D. An applicant shall provide the following with an application submitted under subsection (B) of this Section:

1. A document evidencing ADEQ's or EPA's approval of the municipal provider's withdrawal and use of remedial groundwater, such as a remedial action plan, record of decision, or consent decree;
 2. The volume of remedial groundwater that will be withdrawn and used annually by the municipal provider and the purpose for which the remedial groundwater will be used;
 3. The time period during which the remedial groundwater will be withdrawn and used by the municipal provider;
 4. A reference to the annual authorized volume provided in the document submitted pursuant to subsection (D)(1) of this Section or, if the document submitted pursuant to subsection (D)(1) does not specify the annual authorized volume for the project, the annual authorized volume claimed by the municipal provider and a written justification for that volume;
 5. If the approved remedial action project is currently operating, the volume of remedial groundwater withdrawn pursuant to the project for each year before the year in which the application is filed;
 6. The designated provider or certificate to which the remedial groundwater will be pledged;
 7. If the municipal provider is requesting an increase in the annual authorized volume of the project pursuant to subsection (C) of this Section, evidence that the increase is necessary to further the purpose of the remedial action project and that the increase is not in violation of the consent decree or other document approved by ADEQ or the EPA for the project;
 8. The name and telephone number of a person the Department may contact regarding the application; and
 9. Any other information reasonably required to assist the Director in making the determination under subsection (F) of this Section.
- E.** After receiving an application under subsection (B) of this Section, the Director shall determine that the application is complete and correct if it contains all the information required in subsection (D) of this Section and the Director verifies that the information is accurate. If the Director determines that the application is complete and correct, the Director shall assign a priority date to the application according to the following:
1. If the Director determines that the application was complete and correct when filed, the priority date of the application is the date the application was filed.
 2. If the Director determines that the application was not complete or correct when filed because of minor deficiencies, the Director shall notify the applicant of the deficiencies in writing and give the applicant 30 days to correct the deficiencies. If the applicant submits the necessary information to correct the deficiencies within 30 days after the date of the notice, the priority date of the application is the date the application was filed.
 3. If the Director determines that the application was not complete or correct when filed and that the deficiencies are not minor, the Director shall notify the applicant of the deficiencies and give the applicant at least 60 days to submit the necessary information to correct the deficiencies. If the applicant submits the necessary information to correct the deficiencies within the time allowed by the Director, the priority date of the application is the date the applicant submits the necessary information to correct the deficiencies.
- F.** The Director shall approve a complete and correct application filed under subsection (B) of this Section if the Director determines that the applicant will use remedial groundwater before January 1, 2025. If the Director approves a municipal provider's application, the Director shall calculate the annual amount of remedial groundwater use that is deemed consistent with the management goal of the AMA as follows:
1. The Director shall determine the total annual amount of remedial groundwater use in all AMAs that is deemed to be consistent with the management goal under this subsection and subsections (H) and (I) of this Section for applications with a priority date earlier than the priority date of the municipal provider's application.
 2. If the amount determined in subsection (F)(1) of this Section is less than 65,000 acre-feet and the difference between those amounts is equal to or greater than the municipal provider's authorized remedial groundwater use during the year, the amount of remedial groundwater use by the municipal provider that is deemed to be consistent with the management goal during the year is the amount of the municipal provider's authorized remedial groundwater use during the year.
 3. If the amount determined in subsection (F)(1) of this Section is less than 65,000 acre-feet and the difference between those amounts is less than the municipal provider's authorized remedial groundwater use during the year, the amount of remedial groundwater use by the municipal provider that is deemed consistent with the management goal during the year is the amount of the municipal provider's authorized remedial groundwater use during the year up to the difference between the amount determined in subsection (F)(1) and 65,000 acre-feet, plus a percentage of the municipal provider's authorized remedial groundwater use during the year that exceeds the difference. The percentage is 50 percent for calendar years 2000 through 2009, 25 percent for calendar years 2010 through 2019, and 10 percent for calendar years 2020 through 2024.
 4. If the amount determined in subsection (F)(1) of this Section is equal to or greater than 65,000 acre-feet, the amount of remedial groundwater use by the municipal provider that is deemed consistent with the management goal during the year is a percentage of the municipal provider's authorized remedial groundwater use during the year. The percentage is 50 percent for calendar years 2000 through 2009, 25 percent for calendar years 2010 through 2019, and 10 percent for calendar years 2020 through 2024.
- G.** If the Director determines that remedial groundwater use by a municipal provider is consistent with the management goal of the active management area under subsection (F) of this Section, the determination shall apply to remedial groundwater used by the municipal provider between the priority date of the application and January 1, 2025.
- H.** If, before the effective date of this Section, a municipal provider filed an application with the Director requesting that the Director determine that the provider's use of remedial groundwater pursuant to an approved remedial action project is consistent with the management goal of the active management area under Laws 1997, Ch. 287, § 52, as amended by Laws 1999, Ch. 295, § 50, the following shall apply:
1. If the Director approved the application before the effective date of this Section and determined the annual amount of remedial groundwater use by the applicant that will be considered consistent with the management goal, the Director's determination shall apply after the effective date of this Section and the Director shall include the annual amount of remedial groundwater use determined by the Director to be consistent with the management

goal in the total amount of remedial groundwater determined in subsection (F)(1) of this Section.

2. If the Director did not approve the application before the effective date of this Section, the Director shall process the application under subsections (E) and (F) of this Section. If the Director approves the application, the Director's determination shall apply to remedial groundwater withdrawn and used by the municipal provider pursuant to the approved remedial action project from the priority date of the application until January 1, 2025.
- I.** A municipal provider that is using remedial groundwater that has been determined by the Director to be consistent with the management goal under subsection (F) or (H) of this Section may apply to the Director for an increase in the annual authorized volume of the approved remedial action project as follows:
1. The applicant shall submit an application on a form provided by the Director.
 2. The Director shall determine that the application is complete and correct if it contains all of the required information and the Director verifies that the information is accurate.
 3. If the Director determines that an application filed under this subsection is complete and correct, the Director shall assign a priority date to the application using the criteria in subsection (E) of this Section.
 4. The Director shall approve the application if the municipal provider submits information that demonstrates one of the following:
 - a. The annual authorized volume of the approved remedial action project has been increased in a consent decree or other document approved by ADEQ or the EPA; or
 - b. An increase is necessary to further the purpose of the approved remedial action project, and the increase is not in violation of the consent decree or other document approved by ADEQ or the EPA for the project.
 5. If the Director approves the application, the Director shall determine the additional annual amount of remedial groundwater use by the municipal provider that is deemed consistent with the management goal of the active management area, using the criteria in subsections (F) and (G) of this Section. The Director shall include the annual amount of remedial groundwater use determined by the Director to be consistent with the management goal under this subsection in the total amount of remedial groundwater determined in subsection (F)(1) of this Section.
- J.** Until January 1, 2025, use of remedial groundwater by a municipal provider during a year is deemed consistent with the management goal of the AMA in which the remedial groundwater was withdrawn without approval of the Director under subsection (F) or (H) of this Section if:
1. The total annual amount of remedial groundwater withdrawn from all wells pursuant to the approved remedial action project does not exceed 250 acre-feet; and
 2. If remedial groundwater withdrawals pursuant to the approved remedial action project commenced before June 15, 1999, the municipal provider notified the Director in writing of the volume and duration of the anticipated withdrawals on or before August 15, 1999. If remedial groundwater withdrawals pursuant to the approved remedial action project commenced on or after June 15, 1999, the municipal provider gave written notice of the volume and duration of the anticipated withdrawals on or before August 15, 1999, or before the date the withdrawals com-

menced, whichever is later. If the municipal provider gives notice after the effective date of this Section, the municipal provider shall include or attach all of the following:

- a. A copy of a document evidencing ADEQ's or EPA's approval of the municipal provider's withdrawal and use of remedial groundwater, such as a remedial action plan, record of decision, or consent decree;
 - b. The volume of remedial groundwater that will be withdrawn and used annually by the municipal provider and the purpose for which the remedial groundwater will be used;
 - c. The time period during which the remedial groundwater will be withdrawn and used by the municipal provider;
 - d. If the approved remedial action project is currently operating, the volume of remedial groundwater withdrawn pursuant to the project for each year before the year in which the application is filed;
 - e. The designated provider or certificate of assured water supply to which the remedial groundwater will be pledged; and
 - f. The name and telephone number of a person the Department may contact regarding the exemption.
- K.** A municipal provider withdrawing remedial groundwater that has been determined to be consistent with the management goal under subsection (F) or (H) of this Section or that is consistent with the management goal under subsection (J) of this Section shall meter the remedial groundwater withdrawals separately from groundwater withdrawn pursuant to another groundwater withdrawal authority. The municipal provider shall include in its annual reports, filed under A.R.S. § 45-632, the amount of remedial groundwater withdrawn during the reporting year that is consistent with the management goal under this Section and the purposes for which the remedial groundwater was used.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3).

R12-15-730. Repealed

Historical Note

New Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3). Section repealed by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). New Section made by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Section repealed by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

ARTICLE 8. WELL CONSTRUCTION AND LICENSING OF WELL DRILLERS

R12-15-801. Definitions

In addition to the definitions set forth in A.R.S. §§ 45-101, 45-402, and 45-591 and in R12-15-202, the following words and phrases in this Article shall have the following meanings, unless the context otherwise requires:

1. "Annular space" means the space between the outer well casing and the borehole wall. An annular space also means the space between an inner well casing and outer well casing.
2. "Aquifer" means an underground formation capable of yielding or transmitting usable quantities of water.
3. "Artesian aquifer" means an aquifer which is overlain by a confining formation and which contains groundwater

- under sufficient pressure for the water to rise above the top of the aquifer.
4. "Artesian well" means a well that penetrates an artesian aquifer.
 5. "Bentonite" means a colloidal clay composed mainly of sodium montmorillonite, a hydrated aluminum silicate.
 6. "Cap" means a tamper-resistant, watertight steel plate of at least one-quarter inch thickness on the top of all inside and outside casings of a well.
 7. "Casing" means the tubing or pipe installed in the borehole during or after drilling to support the sides of the well and prevent caving.
 8. "Confining formation" means the relatively impermeable geologic unit immediately overlying an artesian aquifer.
 9. "Consolidated formation" means a naturally occurring geologic unit through or into which a well is drilled, having a composition, density, and thickness which will provide a natural hydrologic barrier.
 10. "Department" means the Arizona Department of Water Resources.
 11. "Director" means the Director of the Arizona Department of Water Resources.
 12. "Drilling card" means a card which is issued by the Director to the well drilling contractor or single well licensee designated in the notice of intent or permit, authorizing the well drilling contractor or licensee to drill the specific well or wells in the specific location as noticed or permitted.
 13. "Exploration well" means a well drilled in search of geophysical, mineralogical or geotechnical data.
 14. "Flowing artesian well" means an artesian well in which the pressure is sufficient to cause the water to rise above the land surface.
 15. "Grout" or "cement grout" means cement mixed with no more than 50% sand by volume, and containing no more than six gallons of water per 94 pound sack of cement.
 16. "Mineralized water" means any groundwater containing over 3000 milligrams per liter (mg/l) of total dissolved solids or containing any of the following chemical constituents above the indicated concentrations:

Constituent	Concentration (mg/l)
Arsenic	0.05
Barium	1.0
Cadmium	0.01
Chromium (total)	0.05
Fluoride	4.0
Lead	0.05
Mercury	0.002
Nitrate (as N)	10.0
Selenium	0.01
Silver	0.05
 17. "Monitor well" means a well designed and drilled for the purpose of monitoring water quality within a specific depth interval.
 18. "Open well" means a well which is not equipped with either a cap or a pump.
 19. "Perforations" means a series of openings in a casing, made either before or after installation of the casing, to permit the entrance of water into the well.
 20. "Piezometer well" means a well that is designed and drilled for the purpose of monitoring water levels within a specific depth interval.
 21. "Pitless adaptor" means a commercially manufactured watertight unit or device designed for attachment to a steel well casing which permits discharge from the well below the land surface and allows access into the well casing while preventing contaminants from entering the well.
 22. "Polluted water" means water whose chemical, physical, biological, or radiological integrity has been degraded through the artificial or natural infusion of chemicals, radionuclides, heat, biological organisms, or mineralogical or other extraneous matter.
 23. "Pressure grouting" means a process by which a grout is confined within the borehole or casing of a well by the use of retaining plugs, packers, or a displacing fluid by which sufficient pressure is applied to drive the grout into and within the annular space or interval to be grouted.
 24. "Qualifying party" means a partner, officer, or employee of a well drilling contractor, who has significant supervisory responsibilities and who has been designated to take the licensing examination for that well drilling contractor.
 25. "Single well license" means a license issued to a person which allows the drilling or modification of a single exempt well on land owned by that person.
 26. "Vadose zone well" means a well constructed in the interval between the land surface and the top of the static water level.
 27. "Vault" means a tamper-resistant watertight structure used to complete a well below the land surface.
 28. "Well abandonment" means the modification of the structure of a well by filling or sealing the borehole so that water may not be withdrawn or obtained from the well.
 29. "Well drilling" means the construction or repair of a well, or the modification, except for abandonment, of a well, regardless of whether compensation is involved, including any deepening or additional perforating, any addition of casing or change to existing casing construction, and any other change in well construction not normally associated with well maintenance, pump replacement, or pump repair.
 30. "Well drilling contractor" means an individual, public or private corporation, partnership, firm, association, or any other public or private organization or enterprise that holds a well driller's license pursuant to A.R.S. § 45-595(B).

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2).

R12-15-802. Scope of Article

This Article shall apply to man-made openings in the earth through which water may be withdrawn or obtained from beneath the surface of the earth, including all water wells, monitor wells and piezometer wells. It shall also apply to geothermal wells to the extent provided by A.R.S. § 45-591.01, and all exploration wells and grounding or cathodic protection holes greater than 100 feet in depth. However, this Article shall not apply to the following:

1. Man-made openings in the earth not commonly considered to be wells, such as construction and mining blast holes, underground mines and mine shafts, open pit mines, tunnels, septic tank systems, caissons, basements, and natural gas storage cavities.
2. Injection wells and vadose zone wells which are subject to regulation by the Arizona Department of Environmental Quality.
3. Oil, gas, and helium wells drilled pursuant to the provisions of A.R.S. Title 27.
4. Drilled boreholes in the earth less than 100 feet in depth which are made for purposes other than withdrawing or encountering groundwater, such as exploration wells and grounding or cathodic protection holes; except that in the

event that groundwater is encountered in the drilling of a borehole, this Article shall apply.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2).

R12-15-803. Well Drilling and Abandonment Requirements; Licensing and Supervision Requirements

- A. A person shall not drill or abandon a well, or cause a well to be drilled or abandoned, in a manner which is not in compliance with A.R.S. Title 45, Chapter 2, Article 10, and the rules adopted thereunder.
- B. A person, other than a single well licensee or a bona fide employee of a well drilling contractor, shall not engage in well drilling or abandonment without first securing a well drilling license in accordance with R12-15-804, R12-15-805 and R12-15-806.
- C. A qualifying party of a well drilling contractor shall provide direct and personal supervision of the contractor's employees to ensure that all wells are constructed and abandoned in accordance with this Article.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Section 12-15-803 amended and the text of former Section R12-15-804 renumbered to subsections (B) and (C) and amended effective June 18, 1990 (Supp. 90-2).

R12-15-804. Application for well drilling license

- A. An applicant for a well drilling license shall submit a verified application of a form prescribed and furnished by the Director which contains the following information:
 - 1. A designation of the classification of license sought by the applicant.
 - 2. If the applicant is an individual, the individual's name, address and telephone number.
 - 3. If the applicant is a partnership, the names, addresses, and telephone numbers of all partners, with a designation of any limited partners.
 - 4. If the applicant is a corporation, association or other organization, the names, addresses and telephone numbers of the directors and of the president, vice president, secretary and treasurer, or the names, addresses and telephone numbers of the functional equivalent of such officers.
 - 5. The address or location of the applicant's place of business, the mailing address if it is different from the applicant's place of business, and if applicant is a corporation, the state in which it is incorporated.
 - 6. The name, address and telephone number of each qualifying party, the qualifying party's relationship to the applicant, and a detailed history of each qualifying party's supervisory responsibilities and well drilling experience, including previous employers, job descriptions, duties and types of equipment utilized.
 - 7. The names, addresses and telephone numbers of three persons not members of each qualifying party's immediate family, who can attest to each qualifying party's good character and reputation, experience in well drilling, and qualifications for licensing.
 - 8. Such additional information relevant to the applicant's or qualifying party's experience and qualifications in well drilling as the Director may require.
- B. An applicant shall notify the Director in writing of any change in the information contained in the application within 30 days after such change.

- C. The Director shall not issue a license under this Article if the applicant or a qualifying party lacks good character and reputation.
- D. Prior to the issuance of a license, a qualifying party shall demonstrate three years of experience, dealing specifically with the type of drilling for which the applicant is applying for a license. This experience requirement may be reduced if the Director finds that the qualifying party has clearly and convincingly demonstrated a high degree of understanding and knowledge of well drilling techniques for the type of drilling for which the applicant is applying for a license. In no case, however, shall the practical experience requirement be less than two years.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Former Section R12-15-804 renumbered to R12-15-803(B) and (C), new Section R12-15-804 adopted effective June 18, 1990 (Supp. 90-2).

R12-15-805. Examination for Well Drilling License

- A. The Director shall offer an examination for a well drilling license no less than six times yearly. The examination shall be administered to those eligible applicants whose applications were submitted at least 20 days prior to the date of the examination. The examination shall consist of a section on legal requirements, a section on general knowledge and one or more of six specialized sections. The section on legal requirements shall test the qualifying party's knowledge of A.R.S. Title 45, Chapter 2, Article 10, and the rules adopted thereunder. The section on general knowledge shall test the qualifying party's knowledge of general hydrologic concepts, principles, and practices in the well construction industry, and shall test knowledge of groundwater protection, pollution, water quality and public health effects. The specialized sections shall test the qualifying party's knowledge in the following classifications:
 - 1. Cable tool drilling in rock and unconsolidated material.
 - 2. Air rotary drilling in rock and unconsolidated material.
 - 3. Mud rotary drilling in rock and unconsolidated material.
 - 4. Reverse rotary drilling in rock and unconsolidated material.
 - 5. Jetting and driving wells in unconsolidated material.
 - 6. Boring and augering in unconsolidated material.
- B. Only the qualifying party, department personnel, and persons having the express permission of the Director shall be permitted in the examination room while the examination is in progress. The qualifying party shall not bring books or notes into the examination room, or communicate by any means whatsoever while the examination is in progress without the express permission of the presiding examiner. The qualifying party shall not leave the examination room while the examination is in progress without first obtaining the permission of the presiding examiner. The Director may disqualify an applicant for violation of this subsection.
- C. To obtain a well drilling license, a qualifying party of the applicant shall pass the section on legal requirements, the section on general knowledge, and one or more specialized sections. Each section of the examination shall be graded separately. The passing grade on each section shall be 70 percent.
- D. No person may take the examination more than twice during any 12 months.
- E. The Director may exempt a qualifying party from taking the section on general knowledge, and one or more of the specialized sections, if the qualifying party provides proof of passing an equivalent examination given by the National Ground Water Association.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Section repealed, new Section adopted effective June 18, 1990 (Supp. 90-2). Amended by final rulemaking at 13 A.A.R. 3022, effective October 6, 2007 (Supp. 07-3).

R12-15-806. License Fee; Issuance and Term of Licenses; Renewal; Display of License

- A. The fee for a well driller's license shall be \$50.00.
- B. Upon submittal of the license fee and satisfactory completion of an examination, the Director shall issue the applicant a well drilling license. The license shall be numbered and shall state the specialized classifications of drilling activities for which the applicant is qualified and licensed. The applicant shall be licensed in only those classifications for which the qualifying party has passed the specialized sections of the examination. If the qualifying party subsequently passes other specialized sections, the applicant's license shall be amended. The applicant shall pay a fee of \$50.00 for the amendment of a well driller's license.
- C. A well drilling contractor shall notify the Director in writing within 30 days of the date on which the well drilling contractor no longer has a qualifying party for one or more of its specialized drilling classifications. Upon such notification, the Director may revoke or suspend part or all of the well drilling license of the well drilling contractor and require a new qualifying party to take and pass the examination.
- D. A well drilling license shall expire each year on June 30th, unless renewed pursuant to subsection (E).
- E. A person may renew a well drilling license by submitting an application for renewal on forms prescribed and furnished by the Director and a fee of \$50.00. If the application and renewal fee are postmarked on or before June 30, the well drilling contractor may operate as a licensee until actual issuance of the renewal license. A license which has expired may be reactivated and renewed within one year of its expiration by filing the required application and a reactivation fee of \$50.00. If a license has been expired for one or more years for failure to renew, the well drilling contractor shall apply for a new license and repeat the examination.
- F. A well drilling contractor shall prominently display the well drilling license number on all well drilling rigs owned or operated by the contractor in this state. Good quality paint or commercial decal numbers shall be used in placing each identification number on the drilling rig. The license number shall not be inscribed in crayon, chalk, pencil, or other temporary markings.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2). Amended by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

R12-15-807. Single Well License

- A. An applicant for a single well license pursuant to A.R.S. § 45-595(D) shall submit a verified application on forms prescribed and furnished by the Director, which shall include:
 1. The name and address of the applicant.
 2. The location of the well and whether the applicant owns the land.
 3. The type of drill rig to be used and the owner of the rig.
 4. The proposed design of the well or method of abandonment.

5. The names of any people who will be assisting the applicant in the drilling or abandonment of the well, and whether the applicant will compensate them for their efforts.
 6. The applicant's experience, if any, in well drilling or abandonment.
 7. Such other information as the Director may require relevant to the applicant's experience and qualifications in well drilling or abandonment.
- B. The Director shall offer the single well examination no less than six times yearly and shall administer the examination to those eligible applicants whose applications were submitted at least 20 days prior to the date of the examination.
 - C. The single well examination shall be of a form prescribed and furnished by the Director and shall test the applicant's knowledge of abandonment techniques, or those minimum well construction requirements and drilling techniques applicable to the proposed design of the well. The passing grade on the sections of the examination dealing with construction requirements and drilling techniques, respectively, shall be 70 percent.
 - D. Rule R12-15-805 relating to testing procedures shall be fully applicable.
 - E. Applicants who twice fail the examination shall wait a minimum of 90 days before re-testing.
 - F. Upon passing the examination, the applicant shall be issued a single well license, authorizing the applicant to drill or abandon one exempt well at the location specified in the application. The license shall be valid for a period of one year from issuance.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2).

R12-15-808. Revocation of License

The Director may revoke, suspend, or place on probationary status a well drilling license issued pursuant to R12-15-806, or a single well license, for good cause, including:

1. Intentionally making a misstatement of fact on any filing with the Department.
2. Violating any provision of A.R.S. Title 45, Chapter 2, Article 10, and the rules promulgated thereunder, or aiding and abetting in such a violation.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2). Section number corrected (Supp. 93-1).

R12-15-809. Notice of Intention to Drill

A notice of intention to drill required to be filed pursuant to A.R.S. § 45-596 shall be signed by the owner or lessee of the property upon which the well is to be drilled.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2).

R12-15-810. Authorization to Drill

- A. A well drilling contractor or single well licensee may commence drilling a well only if the well drilling contractor or licensee has possession of a drilling card at the well site issued by the Director in the name of the well drilling contractor or licensee, authorizing the drilling of the specific well in the specific location.
- B. In extraordinary situations not requiring a permit but only a notice of intention to drill, the Director may grant a request by telephone for emergency authorization of commencement of drilling prior to the actual receipt by the well driller of the

drilling card. Within seventy-two hours after such a request is granted, the well driller shall file a written statement indicating the nature and reasons for the request, and the date, time and Department employee granting the request, and the well owner shall file a notice of intent to drill if such a notice has not previously been filed.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2). Amended to correct typographical error under A.A.C. R1-1-109 (Supp. 01-2). Amended by final rulemaking at 13 A.A.R. 3022, effective October 6, 2007 (Supp. 07-3).

R12-15-811. Minimum Well Construction Requirements

A. Well casing

1. Casing shall be of a sufficient strength and wall thickness to hold the borehole open and survive any necessary grouting. A person shall use only steel or thermoplastic casing in the construction of a well, unless the person has received a variance from the Director pursuant to R12-15-820. The well casing or an extension of the casing shall extend a minimum of one foot above ground level. When installing a pitless adaptor, the casing may be terminated below ground level for aesthetic reasons or freeze protection purposes. Casing made of, or which has been exposed to, hazardous or potentially harmful materials, such as asbestos, shall not be used.
2. All well casing joints or overlaps shall be made watertight to prevent the degradation of the water supply by the migration of inferior quality water. Except as provided in subsection (H) of this rule, any openings in the casing that will be above the water level in the well, such as bar holes, cracks or perforations, shall be completely plugged or sealed.
3. Thermoplastic casing shall be installed only in an over sized drillhole without driving. Thermoplastic casing shall conform with American Society for Testing and Materials Standard Specification F480-89 (1989), which is incorporated herein by reference and is on file with the Office of the Secretary of State. Rivets or screws used in the casing joints shall not penetrate the inside of the casing.
4. Steel casing shall be new or in like-new condition, free from pits or breaks, and shall conform with American Society for Testing and Materials Standard Specification A53-89a (1989), A139-89b (1989) or A312/A312M-89a (1989), whichever is applicable, all of which are incorporated herein by reference and are on file with the Office of the Secretary of State.
5. Copies of The American Society for Testing and Materials standard specifications referred to in subsections (3) and (4) above may be obtained with these rules at the Office of the Secretary of State of the State of Arizona, State Capitol, West Wing, Phoenix, Arizona 85007; from the Department of Water Resources, 3550 N. Central Avenue, Phoenix, AZ 85012; and from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959. This rule does not include any later amendments or editions of those standard specifications.

B. Surface seal

1. Except as provided in subsections (2) and (4) of this subsection, and R12-15-817(B)(1), all wells shall be constructed with a surface seal as herein provided. The seal shall consist of steel casing, one foot of which shall extend above ground level, and cement grout placed in

one continuous application from the bottom of the zone to be grouted to the land surface. If a pitless adaptor is utilized, the cement grout may terminate at the bottom of the pitless adaptor. The minimum length of the steel casing shall be 20 feet. The minimum annular space between the casing and the borehole for placement of grout shall be one and one-half inches. Curing additives, such as calcium chloride, shall not exceed ten percent of the total volume of grout. Bentonite as an additive shall not exceed five percent of the total volume. The minimum length of the surface seal shall be 20 feet. Any annular space between the outer casing and an inner casing shall be completely sealed to prevent contamination of the well.

2. All hand-dug wells shall be constructed with a watertight curbing extending, at a minimum, from one foot above the natural ground level to the static water level, or into the confining formation if the aquifer is artesian. The curbing shall consist of poured cement grout or casing surrounded by cement grout. Concrete block with cement grout and rock with cement grout may also be used. The poured cement grout shall not be less than six inches thick. If casing is to be used, the minimum annular space between the casing and the borehole shall be three inches. Hand-dug wells shall be sealed at the surface with a watertight, tamper-resistant cover to prevent contaminants from entering the well.
3. All wells constructed by jetting or driving shall have cement grout placed in the annular space to a minimum depth of six feet. The minimum annular space between the casing and the borehole for placement of the grout shall be one and one-half inches.
4. All horizontal wells, to prevent leakage, shall be constructed with a surface seal consisting of steel casing and cement grout extending a minimum of ten feet into the land surface.

- C. Access port. Every well with casing four inches in diameter or larger shall be equipped with a functional watertight access port with a minimum diameter of one-half inch so that the water level or pressure head in the well can be monitored at all times.

D. Gravel packed wells

1. If a gravel pack has been installed, the annular space between the outer casing and the inner casing shall be sealed, either by welding a cap at the top or by filling with cement grout from the bottom of the outer casing to the surface.
2. If a gravel tube is installed, it shall be sealed with a cap.

- E. Vents. All vents installed in the well casing shall open downward and be screened to prevent the entrance of foreign material.

F. Removal of drilling materials

1. In constructing a water well, the well driller shall take all reasonable precautions to protect the producing aquifer from contamination by drilling materials. Upon completion of the well, the well driller shall remove all foreign substances and materials introduced into the aquifer or aquifers during well construction. For purposes of this subsection, "substances and materials" means all drilling fluids, filter cake, lost circulation materials, and any other organic or inorganic substances.
2. Materials known to present a health hazard, such as chrome-based mud thinners, asbestos products, and petroleum-based fluids, shall not be used as construction, seal or fill materials or drilling fluids.

3. Drilling fluids and cuttings shall be contained in a manner which prevents discharge into any surface water.
- G. Repair of existing wells**
 1. If, in the repair of a well, the old casing is withdrawn, the well shall be recased in conformance with these rules.
 2. If an inner casing is installed to prevent leakage of undesirable water into a well, the annular space between the casings shall be completely sealed by packers, casing wedging, pressure grouting or other methods which will prevent the movement of water between the casings.
- H. Monitor wells**
 1. A monitor well may be screened up to ten feet above the highest seasonal static water level of record for the purpose of monitoring contaminants.
 2. A monitor well shall be identified as such on the vault cover or at the top of the steel casing. Identification information shall include the well registration number.
- I. Completion at the surface.** In areas of traffic or public rights-of-way, wells may be constructed below the land surface in a vault. All other requirements in this Article shall apply.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2). The reference to R12-14-817(B)(1) in subsection (B)(1) corrected to read R12-15-817(B)(1) (Supp. 93-1). Amended by final rulemaking at 11 A.A.R. 5395, effective February 4, 2006 (Supp. 05-4).

R12-15-812. Special Aquifer Conditions

- A. Artesian wells**
 1. The well casing shall extend into the confining formation immediately overlying the artesian aquifer and shall be grouted from a minimum of ten feet into the confining formation to the land surface to prevent surface leakage into and subsurface leakage from the artesian aquifer.
 2. If leaks occur adjacent to the well or around the well casing, within 30 days the well shall be completed with the seals, packers, or casing and grouting necessary to eliminate such leakage or the well shall be abandoned according to R12-15-816.
 3. If the well flows at land surface, the well shall be equipped with a control valve, or suitable alternative means of completely controlling the flow, which must be available for inspection at the well site at all times.
- B. Mineralized or polluted water.** In all water-bearing geologic units containing mineralized or polluted water as indicated by available data, the borehole shall be cased and grouted so that contamination of the overlying or underlying groundwater zones will not occur.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2).

R12-15-813. Unattended Wells

All wells, when unattended during well drilling, shall be securely covered for safety purposes and to prevent the introduction of foreign substances into the well.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Section number corrected (Supp. 93-1).

R12-15-814. Disinfection of Wells

A well drilling contractor shall disinfect any well from which the water to be withdrawn is intended to be utilized for human consumption or culinary purposes without prior treatment before removing the drill rig from the well site in accordance with the

requirements contained in Engineering Bulletin No. 8, "Disinfection of Water Systems", issued by the Arizona Department of Health Services in August 1978, and Engineering Bulletin No. 10, "Guidelines for the Construction of Water Systems", issued by the Arizona Department of Health Services in May 1978, both of which are incorporated by reference and are on file with the Office of the Secretary of State. Copies of the Engineering Bulletins referred to above may be obtained with these rules at the Office of the Secretary of State of the State of Arizona, State Capitol, West Wing, Phoenix, Arizona 85007, and from the Department of Water Resources, 3550 N. Central Avenue, Phoenix, AZ 85012. This rule does not include any later amendments or editions of those Bulletins.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2). Amended by final rulemaking at 11 A.A.R. 5395, effective February 4, 2006 (Supp. 05-4).

R12-15-815. Removal of Drill Rig from Well Site

The drilling rig shall not be removed from the well site unless the well is in one of the following conditions:

1. Constructed in full conformance with R12-15-811 and R12-15-812 and either sealed with a cap or equipped with a pump.
2. Abandoned in accordance with R12-15-816.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2).

R12-15-816. Abandonment

- A.** Well abandonment shall be performed only by a licensed well drilling contractor or single well licensee.
- B.** Except as provided in subsection (F) of this Section, the owner of a well shall file a notice of intent to abandon the well prior to abandonment, on a form prescribed and furnished by the Director, which shall include:
 1. The name and mailing address of the person filing the notice.
 2. The legal description of the land upon which the well proposed to be abandoned is located and the name and mailing address of the owner of the land.
 3. The legal description of the location of the well on the land.
 4. The depth, diameter and type of casing of the well.
 5. The well registration number.
 6. The materials and methods to be used to abandon the well.
 7. When abandonment is to begin.
 8. The name and well drilling license number of the well drilling contractor or single well licensee who is to abandon the well.
 9. The reason for the abandonment.
 10. Such other information as the Director may require.
- C.** The Director shall, upon receipt of a proper notice of intent to abandon, mail a well abandonment authorization card to the designated well drilling contractor or single well licensee.
- D.** Except as described in subsection (F) of this Section, a well drilling contractor or single well licensee may commence abandoning a well only if the driller has possession of an abandonment card at the well site, issued by the Director in the name of the driller, authorizing the abandonment of that specific well or wells in that specific location.
- E.** Within 30 days after a well is abandoned pursuant to this Section, the well drilling contractor or single well licensee shall file with the Director a Well Abandonment Completion Report

on a form prescribed and furnished by the Director which shall include the date the abandonment of the well was completed and such other information as the Director may require.

- F. In the course of drilling a new well, the well may be abandoned without first filing a notice of intent to abandon and without an abandonment card. If the well is abandoned pursuant to this subsection without first filing a notice of intent to abandon and without an abandonment card, the well drilling contractor or single well licensee shall provide the following information in the Well Abandonment Completion Report:
 1. The legal description of the land upon which the well was abandoned and the name and mailing address of the owner of the land.
 2. The legal description of the location of the well on the land.
 3. The depth, diameter and type of casing of the well prior to abandonment.
 4. The well registration number.
 5. The materials and methods used to abandon the well.
 6. The name and well drilling license number of the well drilling contractor or single well licensee who abandoned the well.
 7. The date of completion of the abandonment of the well.
 8. The reason for the abandonment.
 9. Such other information as the Director may require.
- G. The abandonment of a well shall be accomplished through filling or sealing the well so as to prevent the well, including the annular space outside the casing, from being a channel allowing the vertical movement of water.
- H. A well drilling contractor or single well licensee shall construct a surface seal for a well that does not penetrate an aquifer, as follows:
 1. If the casing is removed from the top 20 feet of the well, a cement grout plug shall be set extending from two feet below the land surface to a minimum of 20 feet below the land surface, and the well shall be backfilled above the top of the cement grout plug to the original land surface.
 2. If the casing is not removed from the top 20 feet of the well, a cement grout plug shall be set extending from the top of the casing to a minimum of 20 feet below the land surface and the annular space outside the casing shall be filled with cement from the land surface to a minimum of 20 feet below the land surface.
- I. In addition to the surface seal required in subsection (H):
 1. A well penetrating a single aquifer system with no vertical flow components shall be filled with cement grout, concrete, bentonite drilling muds, clean sand with bentonite, or cuttings from the well.
 2. A well penetrating a single or multiple aquifer system with vertical flow components shall be sealed with cement grout or a column of bentonite drilling mud of sufficient volume, density, and viscosity to prevent fluid communication between aquifers.
- J. Materials containing organic or toxic matter shall not be used in the abandonment of a well.
- K. The owner or operator of the well shall notify the Director in writing no later than 30 days after abandonment has been completed. The notification shall include the well owner's name, the location of the well, and the method of abandonment.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2). Amended by final rulemaking at 13 A.A.R. 3022, effective October 6, 2007 (Supp. 07-3).

R12-15-817. Exploration Wells

- A. Notification. Prior to drilling one or more exploration wells, the well owner, lessee, or exploration firm shall file a notice of intention to drill on forms provided by the Director. If the notice of intention to drill is filed for the project as a whole, the drilling card shall be issued for the project as a whole.
- B. Construction and abandonment.
 1. If an exploration well which is to be left open for re-entry at a later date encounters groundwater, it shall be cased and capped in accordance with R12-15-811, R12-15-812, and R12-15-822. The minimal length of surface seal shall be either 20 feet, or five feet into the first encountered consolidated formation, whichever is less. If no groundwater is encountered, the well shall be cased, grouted and capped in such a manner so as to prevent contamination of the well bore from the surface.
 2. Exploration wells not left open for re-entry shall be abandoned in accordance with R12-15-816.
- C. Completion report. Within 30 days of project completion, the well owner, lessee, or exploration firm shall submit a project completion report on forms provided by the Director. The report shall include:
 1. The exact number of wells drilled.
 2. The depth to water encountered or detected, with reference to specific wells.
 3. The abandonment method utilized, or construction details if completed for re-entry.
 4. Any other information which the Director may require.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2).

R12-15-818. Well Location

Except for monitor wells and piezometer wells, no well shall be drilled within 100 feet of any septic tank system, sewage disposal area, landfill, hazardous waste facility, storage area of hazardous materials or petroleum storage areas and tanks, unless authorized in writing by the Director.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2).

R12-15-819. Use of Well as Disposal Site

No well may be used as a storage or disposal site for sewage, toxic industrial waste, or other materials that may pollute the groundwater, except as authorized by the Arizona Department of Environmental Quality.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2).

R12-15-820. Request for Variance

- A. If extraordinary or unusual conditions exist, a well drilling contractor or owner may request a variance from the provisions of this Article.
- B. The request for variance shall be in writing and shall set forth the location of the well site, the reasons for the request, and the recommended requirements to be applied. The Director may approve the request only if the well drilling contractor or owner has clearly demonstrated that the variance will not adversely affect other water users or the local aquifers.
- C. A variance shall not be effective until the well drilling contractor or owner receives from the Director a written approval of the variance and a new drilling card stamped "variance issued."

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2).

R12-15-821. Special Requirements

If the Director determines that the literal application of the minimum well construction requirements contained in this Article would not adequately protect the aquifer or other water users, the Director may require that further additional measures be taken, such as increasing the length of the surface seal or increasing the well's minimum distance from a potential source of contamination.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2).

R12-15-822. Capping of Open Wells

- A. The owner of an open well shall either install a cap on the well or abandon the well in accordance with R12-15-816. Within five days after capping the well, the owner of the well shall file with the Department a notice of well capping on a form approved by the Director which shall include the following information:
 1. The name and address of the well owner.
 2. The name and address of the person installing the cap.
 3. The well registration number.
 4. The legal description of the location of the well.
 5. The date the well was capped.
 6. The method of capping.
 7. The type and diameter of casing.
- B. If no casing exists in an open well, or if the integrity of the existing casing is insufficient to allow installation of a cap, the well owner shall install a surface seal in accordance with R12-15-811(B) prior to capping.
- C. The owner of a well on which a cap is installed shall make the cap tamper resistant by welding the cap to the top of the casing by the electric arc method of welding, except that the owner of a well may make the cap tamper resistant by securing the cap to the top of the casing with a lock during temporary periods of well maintenance, modification or repair, not to exceed 30 days, or at any time if the well is a monitor well or piezometer well.

Historical Note

Adopted as an emergency effective March 2, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective June 2, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective September 5, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Emergency expired. Readopted without change as an emergency effective December 1, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-4). Emergency expired. Readopted without change as an emergency effective March 23, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-1). Permanent rule adopted with changes effective June 18, 1990 (Supp. 90-2). Amended by final rulemaking at 13 A.A.R. 3022, effective October 6, 2007 (Supp. 07-3).

R12-15-823. Reserved

through

R12-15-849. Reserved**R12-15-850. Evaluation of Notices of Intention to Drill; Notification of Registered Site Locations; Vertical Cross-Contamina-****tion Evaluation**

- A. The Director shall, upon receipt of a complete and correct notice of intention to drill form required under A.R.S. § 45-596, or upon receipt of an application for a permit under A.R.S. § 45-597 through 45-599, identify whether the proposed well will be drilled within a groundwater basin or sub-basin in which there exists a site listed on the registry established under A.R.S. § 49-287.01(D). If the proposed well is situated within such a groundwater basin or subbasin, the Director shall notify the applicant and the authorized well drilling contractor in writing of the existence of the site and shall enclose a map indicating the boundaries of all listed sites within the groundwater basin or subbasin. The notification letter shall include the name, address, and telephone number of a Department contact person, along with a reference to the provision in R12-15-851 that requires the applicant to notify the Department in advance of the date drilling of the well will commence. The Department shall also specify in the notification letter whether the applicant is subject to the requirements of R12-15-851.
- B. The Director shall, upon receipt of a complete and correct notice of intention to drill form required under A.R.S. § 45-596, or upon receipt of an application for a permit under A.R.S. § 45-597 through 45-599, identify whether the proposed well will be drilled within an area where existing or anticipated future groundwater contamination presents a risk of vertical cross-contamination, as defined in A.R.S. § 49-281(15). If the Director determines that the proposed well will be drilled in such an area, and if the Director finds that the requirements of R12-15-811 are insufficient to prevent the risk of vertical cross-contamination, the Director shall establish site-specific requirements pursuant to R12-15-812 and R12-15-821.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 469, effective January 3, 2000 (Supp. 00-1).

R12-15-851. Notification of Well Drilling Commencement

A well owner who has been issued a drilling card for a notice of intent to drill authorizing the drilling of a well located within a site listed on the registry established under A.R.S. § 49-287.01, shall provide written notice to the Director indicating the date drilling will commence. The well owner shall coordinate with the contracted well driller to ensure that the Department receives proper notification under this Section. This notification shall consist of a letter or facsimile transmission received by the Department at least 2 business days before drilling commences at the well site. The Department shall use notification letters required by R12-15-850(A) to inform well owners whether they are subject to the requirements of this Section.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 469, effective January 3, 2000 (Supp. 00-1).

R12-15-852. Notice of Well Inspection; Opportunity to Comment

- A. At least 30 days before the beginning of a well inspection under A.R.S. § 45-605(A), the Director shall notify in writing all potentially affected well owners of record within a community involvement area established under A.R.S. § 49-289.02 or within other areas that the Director has selected for inspection of wells that may be contributing to vertical cross-contamination. The notices shall include a map of the community involvement area, remedial site, or a subsection of either, that the Department intends to inspect, indicating the location of affected wells of record. The notice shall indicate the approxi-

mate date the inspection will start, the approximate duration of the inspection, an access agreement defining what specific activities will occur during a well inspection, and the name, address, and telephone number of a Department contact person.

- B.** Once the Director has given notice of a well inspection under A.R.S. § 45-605(A), potentially affected well owners have 30 days from the date the letter is postmarked to comment on the proposed inspection. The Director, upon receiving a written request, may extend the comment period for a maximum of 30 additional days.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 469, effective January 3, 2000 (Supp. 00-1).

ARTICLE 9. WATER MEASUREMENT

R12-15-901. Definitions

In addition to the definitions set forth in A.R.S. §§ 45-101 and 45-402, the following words and phrases shall have the following meanings, unless the context otherwise requires:

1. "Approved measuring device" means an instrument, approved by the Director pursuant to R12-15-903 or R12-15-909(A) which measures the volume or flow rate of water withdrawn, delivered, received, transported, recharged, stored, recovered, or used, and which measurements, when used with an approved measuring method, allow for accurate computation of a volume of water.
2. "Approved measuring method" means a procedure, approved by the Director in R12-15-903 or R12-15-909(A), which, when used with an approved measuring device, will accurately calculate a volume of water.
3. "Flow rate" or "discharge" means the volume of water, including any sediment or other solids that may be dissolved or mixed with it, which passes through a particular reference section in a unit of time.
4. "Measured system" means a system through which water passes for the purpose of withdrawal, delivery, receipt, transportation, recharge, storage, replenishment, recovery or use.
5. "Responsible party" means an irrigation district or a person required by A.R.S. Title 45 or by a permit, rule, or order issued pursuant to A.R.S. Title 45, to use a measuring device or method approved by the Director.

Historical Note

Adopted effective December 27, 1982 (Supp. 82-6).
Amended effective June 15, 1995 (Supp. 95-2). Amended to correct typographical error under A.A.C. R1-1-109 (Supp. 01-2).

R12-15-902. Installation of Approved Measuring Devices

- A.** A responsible party shall install an approved measuring device to monitor the volume of water withdrawn, delivered, transported, recharged, stored, replenished, recovered, and used.
- B.** A responsible party shall install and use a sufficient number of approved measuring devices to allow for the separate monitoring and reporting of the volume of water passing through the measured system pursuant to the following categories of rights:
1. Irrigation grandfathered rights,
 2. Non-irrigation grandfathered rights,
 3. Service area rights,
 4. Groundwater withdrawal permits, and
 5. Recovery well permits or water storage permits.

This subsection does not require separate measuring devices for rights within each category unless otherwise required by A.R.S. Title 45, a permit, rule, or order pursuant to that Title.

- C.** An approved measuring device which measures groundwater withdrawals shall be installed as close to the wellhead as is practical, consistent with the manufacturer's instructions. An approved measuring device which measures another point in the measured system shall be installed as close as is practical to the point of delivery, receipt, transportation, recharge, storage, replenishment, recovery, or use which the device is intended to measure, consistent with the manufacturer's instructions.

Historical Note

Adopted effective December 27, 1982 (Supp. 82-6).
Amended effective June 15, 1995 (Supp. 95-2). Amended to correct typographical error under A.A.C. R1-1-109 (Supp. 01-2).

R12-15-903. Approved Water Measuring Devices and Methods

- A.** Any measuring device is approved by the Director if it is installed, maintained, and used in accordance with the manufacturer's recommendations, and if it meets the accuracy requirements set forth in R12-15-905(A).
- B.** An approved measuring device shall be used with an approved measuring method set forth in R12-15-903(C) or an alternative measuring method approved by the Director as provided in R12-15-909(A).
- C.** The following water measuring methods are approved by the Director:
1. Totalizing measuring method: This method requires an approved measuring device which continuously records the volume of water passing through the measured system;
 2. Electrical consumption measuring method: This method requires measurements of either pipeflow rates or open-channel flow rates used in combination with electrical energy records;
 3. Natural gas consumption measuring method: This method requires measurements of either pipe flow rates or open channel flow rates used in combination with natural gas energy records;
 4. Hour meter measuring method: This method requires measurements of either pipe flow rates or open-channel flow rates used in combination with hour meter readings;
 5. Elapsed time of flow method: This method requires measurements of flow rates used in combination with elapsed time of the flow. This method may be used only by a responsible party who receives water from an open channel or by a person or entity who delivers water in an open channel to one or more grandfathered rightholders or permit holders, if it is not possible to use the electrical or gas consumption measurement methods or hour meter measuring method.

Historical Note

Adopted effective December 27, 1982 (Supp. 82-6).
Amended effective June 15, 1995 (Supp. 95-2).

R12-15-904. Water Measuring Method Reporting Requirements

- A.** A responsible party using one of the water measuring methods described in R12-15-903 shall file, with the annual report required by A.R.S. Title 45 and on a form prescribed by the Director, the following information, unless that information has not changed from that submitted in the annual report filed in the previous calendar year.

1. The approved measuring method used;
 2. The type of approved measuring device used;
 3. The make, model, and size of the approved measuring device used.
- B.** Except as provided in R12-15-904(B)(5) and R12-15-909(B) and (D), a responsible party shall file with the annual report the information required in subsection (A) of this Section and the following information on a form prescribed by the Director:
1. Totalizing measuring method:
 - a. The initial totalizing meter reading for the reporting year taken prior to the first use of the measured system during the reporting year;
 - b. The end totalizing meter reading for the year taken subsequently to the last use of the measured system during the reporting year;
 - c. The units in which the water is measured;
 - d. Whether the power meter serves uses other than the pump motor or engine;
 - e. An estimate of the amount of any water passing through the measured system during measuring device malfunctions;
 - f. If the well is in operation for more than a 30-day period, the results of a minimum of two flow-rate measurements per reporting year taken under normal system operating conditions. The responsible party shall not submit the results of the flow-rate measurements with the annual report unless a meter malfunction continues longer than 72 hours during the reporting year;
 - g. The installation or overhaul date of the totalizing meter; and
 - h. The name of the energy company supplying energy to the responsible party's measured system, its power account number, meter number, total energy consumption for the year, and the type of energy unit.
 2. Electrical consumption measuring method:
 - a. The results of a minimum of two flow-rate measurements per reporting year taken at least 30 days apart and under normal system operating conditions or, if the measured system is used during a single period of 30 days or less during the year, the result of one flow-rate measurement taken during that single period in that year under normal system operating conditions;
 - b. The dates of the measurements;
 - c. The discharges in gallons per minute;
 - d. The time, in seconds, of ten cycles of the electric meter disk, power indicator pulse, or an alternative measurement, provided that the alternative means of measurement is approved in advance by the Director;
 - e. The inside diameter of the discharge pipe;
 - f. The multiplier (K_r) and disk constant (K_h) of the electric meter; and
 - g. The name of the energy company supplying energy to the responsible party's measured system, its power account number, meter number, total energy consumption for the year, and the type of energy unit.
 3. Natural gas consumption measuring method:
 - a. The results of a minimum of two flow-rate measurements per reporting year taken at least 30 days apart and under normal system operating conditions or, if the measured system is used during a single period of 30 days or less during the year, the result of one flow-rate measurement taken during that single period in that year under normal system operating conditions;
 - b. The dates of the measurements;
 - c. The discharges in gallons per minute;
 - d. The amounts of gas per second in cubic feet indicated by the gas meter;
 - e. The billing factors (F);
 - f. The inside diameter of the discharge pipe; and
 - g. The name of the energy company supplying energy to the responsible party's measured system, its power account number, meter number, total energy consumption for the year, and the type of energy unit.
 4. Hour meter measuring method:
 - a. The results of a minimum of two flow-rate measurements per reporting year taken at least 30 days apart and under normal system operating conditions or, if the measured system is used during a single period of 30 days or less during the year, the result of one flow-rate measurement taken during that single period in that year under normal system operating conditions;
 - b. The dates of the measurements;
 - c. The discharges in gallons per minute;
 - d. The initial hour meter reading for the reporting year taken prior to the first use of the measured system during the reporting year;
 - e. The end hour meter reading taken subsequently to the last use of the measured system during the reporting year;
 - f. Whether the energy meter serves uses other than the pump motor or engine;
 - g. The installation or overhaul date of the hour meter; and
 - h. The name of the energy company supplying energy to the responsible party's measured system, its power account number, meter number, total energy consumption for the year, and the type of energy unit.
 5. Elapsed time of flow measuring method: A responsible party using this measuring method shall not be required to submit the following information with the annual report but instead shall record and retain it for three years after the reporting year.
 - a. The responsible party or agent shall measure and record an initial flow rate taken at the start of flow for each delivery of water;
 - b. If the flow rate continues for more than eight hours, a subsequent measured flow-rate measurement shall be taken. If any subsequently measured flow-rate differs by more than 10% from the initial flow rate, and the delivery is not adjusted to conform with the initial flow rate, the responsible party or agent shall record the subsequent flow rate;
 - c. The time the flow begins and the time the flow ends for each delivery of water; and
 - d. The dates of the measurements.
- C.** A responsible party or person or entity who uses an approved measuring method or an approved alternative water measurement method shall save the records required by subsections (A) and (B) of this Section for three years after the reporting year.

Historical Note

Adopted effective December 27, 1982 (Supp. 82-6). For-

mer Section R12-15-904 renumbered to R12-15-905, new Section adopted effective June 15, 1995 (Supp. 95-2). Amended by final rulemaking at 11 A.A.R. 5395, effective February 4, 2006 (Supp. 05-4).

R12-15-905. Accuracy of Approved Measuring Devices

- A. A responsible party shall install, maintain, and use an approved measuring device and method in a manner which will ensure that its measurement error does not exceed 10% of the actual flow rate.
- B. All measured systems shall be installed or constructed and thereafter maintained so as to allow the Director, using another measuring device, to check readily the accuracy of the measuring device utilized by the responsible party.

Historical Note

Adopted effective December 27, 1982 (Supp. 82-6). Former Section R12-15-905 renumbered to R15-15-906, new Section R12-15-905 renumbered from R12-15-904 and amended effective June 15, 1995 (Supp. 95-2).

R12-15-906. Repair and Replacement of Approved Measuring Devices

If an approved measuring device fails to perform its designated function for more than 72 hours, the responsible party shall notify the Director of the failure, in writing, within seven calendar days after the discovery of the failure of the device. The reason for such failure shall be stated, as well as the estimated date of return to service of the device. If the malfunction is discovered by the Director and the malfunction does not appear to be the result of an attempt to render the device inaccurate, the Director shall notify the responsible party of the malfunction. The responsible party shall return the measuring device to full service within 30 days of either original notice by the responsible party to the Director or by the Director to the responsible party, unless repair or replacement service or parts are not available. In such case, the responsible party shall notify the Director of the delay within seven days and the reasons for it. The responsible party shall take corrective action in such cases as soon as practical. In all cases, the responsible party shall notify the Director within seven days when the measuring device is returned to full service and shall submit on a form prescribed by the Director estimates of the volume of water, if any, passing through the measured system during the period the measuring device was out of service and a description of the method used to calculate the estimates.

Historical Note

Section R12-15-906 renumbered from R12-15-905 and amended effective June 15, 1995 (Supp. 95-2).

R12-15-907. Calculation of Irrigation Water Deliveries

If one or more irrigation grandfathered rights receive water by a common distribution system where water is measured with an approved device or method at the point of delivery to the common distribution system, but not at a point of delivery to each irrigation grandfathered right, each irrigation grandfathered rightholder or agent shall report the water used by either of the following methods:

1. Estimate the amount of water used based on a pro rata share of the acres irrigated, or
2. Estimate the amount of water used based on a combination of the pro rata share of the acres irrigated and the consumptive use of each crop grown.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R12-15-908. Measurement of Water by One Person on Behalf of Another

A responsible party shall be liable for any fines, penalties, or other sanctions resulting from the installation, monitoring, use, or accuracy of any measuring device, method, or recordkeeping, notwithstanding that the installation, monitoring, use, or recordkeeping may have been done by an agent of the responsible party.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R12-15-909. Alternative Water Measuring Devices, Methods, and Reporting

- A. A responsible party may use an alternative water measuring device or method that differs from those described in R12-15-903 provided the device or method is approved in advance by the Director. The Director shall approve an alternative water measuring device or method if the device meets the requirements of R12-15-905. The Director may require from the responsible party such information as may be necessary to demonstrate that the alternative device or method meets the requirements of R12-15-905.
- B. Responsible parties may substitute equivalent information for the information required on the annual report form or use reporting formats that differ from that required in R12-15-904, provided the substituted information or format is approved in advance by the Director.
- C. Responsible parties may use estimation methods that differ from those described in R12-15-907 provided they are approved in advance by the Director.
- D. A municipal provider is exempted from the reporting requirements under R12-15-904 and the provisions under R12-15-906 pertaining to notification to the Director of measuring device malfunctions regarding metered service connections, unless required to report by A.R.S. Title 45 or by a permit, rule, or order issued pursuant to A.R.S. Title 45.
- E. Municipal providers and irrigation districts may notify the Director of measuring device malfunctions at the time of filing the annual report and in a manner that differs from the requirements of R12-15-906, provided the municipal provider or irrigation district implements a schedule of regular maintenance of measuring devices, repairs or replaces malfunctioning measuring devices within seven days of discovery of the malfunction, and the alternative notification is approved in advance by the Director.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

ARTICLE 10. REPORTING REQUIREMENTS FOR ANNUAL REPORTS, ANNUAL ACCOUNTS, OPERATING FLEXIBILITY ACCOUNTS, AND CONVEYANCES OF GROUNDWATER RIGHTS

R12-15-1001. Definitions

In addition to the definitions in A.R.S. §§ 45-101 and 45-402, the following words and phrases in this Article have the following meanings, unless the context otherwise requires:

1. "Annual account" means an accounting of water required to be filed pursuant to A.R.S. § 45-468.
2. "Annual report" means an annual report of water withdrawn, delivered, received, transported, recharged, stored, recovered, replenished or used as required by A.R.S. §§ 45-437, 45-467, 45-632, 45-875.01, 45-876.01, 45-877.01, 45-878.01 or 45-1004.
3. "Central Arizona project water" means Colorado River water delivered through the facilities of the central Arizona project, and surface water from any other source conserved and developed by dams and reservoirs in the central Arizona project and lawfully delivered by the United States or a multi-county conservation district.

4. "Decreed or appropriative surface water" means surface water which is delivered or used pursuant to a decreed or appropriative water right, except any such water which is included in central Arizona project water.
5. "Farm" means an area of irrigated land under the same ownership as defined in A.R.S. § 45-402, including the area of land described in a certificate of irrigation grandfathered right, as well as contiguous land that the owner is legally entitled to irrigate only with decreed or appropriative surface water.
6. "Maximum annual groundwater allotment" means the quantity of water in acre-feet obtained by multiplying the number of water duty acres for a farm by the current irrigation water duty for the farm unit.
7. "Normal flow" means water delivered or used pursuant to a right to appropriate an unstored, natural flow of surface water.
8. "Operating flexibility account" means an accounting of water use pursuant to an irrigation grandfathered right as provided in A.R.S. § 45-467.
9. "Responsible party" means a person required by law to file an annual account or annual report.
10. "Spillwater" means surface water, other than Colorado River water, released for beneficial use from storage, diversion, or distribution facilities to avoid spilling that would otherwise occur due to uncontrolled surface water inflows that exceed facility capacity and to which one of the following applies:
 - a. The water is released from the facility under written criteria for releasing water to avoid spilling that have been approved in writing by the Director.
 - b. The water is released from the facility because an unreasonable risk exists that the storage capacity of the facility will be exceeded within the next 30 days because the facility is near capacity and either the inflow to the facility or the forecast runoff into the facility is equal to or greater than the quantity of water ordered from the facility.
 - c. The water is released from the facility because an unreasonable risk exists that the storage capacity of the facility will be exceeded more than 30 days in the future because the forecast runoff into the facility exceeds current unused storage capacity and projected water demand during the forecast period, provided that the Director has made a written finding before the release that the forecast is reasonable.
11. "Surface water right acre" means land to which the owner is legally entitled to apply decreed or appropriative surface water.
12. "Tailwater" means water which, after having been applied to a farm for irrigation purposes,
 - a. Is subsequently used for the irrigation of a different farm, without having entered the distribution system of a city, town, private water company or irrigation district, or
 - b. Is delivered to an irrigation district in accordance with R12-15-1010. Such water, once having entered the distribution system of the irrigation district, loses its characterization as tailwater.
13. "Water deliverer" means a city, town, private water company or irrigation district delivering a combination of groundwater and any other type of water for irrigation purposes.

Historical Note

Adopted effective December 27, 1982 (Supp. 82-6). Section R12-15-1001 renumbered to R12-15-1003, new Sec-

tion R12-15-1001 adopted effective December 12, 1990 (Supp. 90-4). Amended to correct typographical error under A.A.C. R1-1-109 (Supp. 01-2). Amended by final rulemaking at 11 A.A.R. 5395, effective February 4, 2006 (Supp. 05-4).

R12-15-1002. Form of Annual Account or Annual Report

- A. A person filing an annual account or an annual report shall do so on a form prescribed by the Director, unless the person has requested and received the Director's prior written approval to use an alternative form.
- B. A person may file both an annual account and an annual report in one document. A person required to file an annual account shall designate in the annual account whether the annual account is being filed also as an annual report.

Historical Note

Adopted effective December 12, 1990 (Supp. 90-4).

R12-15-1003. Accuracy of Annual Reports

The quantity of water a responsible party reports in an annual report as having been withdrawn, delivered, received, transported, recharged, replenished, stored, recovered, or used during a year shall not deviate from the quantity of water actually withdrawn, delivered, received, transported, recharged, replenished, stored, recovered, or used by the responsible party during the year unless both of the following apply:

1. The deviation is 10 percent or less.
2. The deviation is not the result of an intentional act of misrepresentation by the responsible party.

Historical Note

Section R12-15-1003 renumbered from R12-15-1001 effective December 12, 1990 (Supp. 90-4). Amended by final rulemaking at 11 A.A.R. 5395, effective February 4, 2006 (Supp. 05-4).

R12-15-1004. Annual Reports Filed on Behalf of a Responsible Party

- A. A responsible party is liable for any fines, penalties, or other sanctions resulting from or attributable to the filing or content of an annual report filed on behalf of the responsible party by an irrigation district pursuant to A.R.S. § 45-632, or by another person in a form acceptable to the Director.
- B. If a responsible party has not filed an annual report for a calendar year, and the Department receives an annual report for that calendar year purportedly filed on behalf of the responsible party by an irrigation district pursuant to A.R.S. § 45-632, or by another person in a form acceptable to the Director, there is a rebuttable presumption that the annual report was filed with the responsible party's knowledge, consent, and authorization.

Historical Note

Adopted effective December 12, 1990 (Supp. 90-4). Amended to correct typographical error under A.A.C. R1-1-109 (Supp. 01-2). Amended by final rulemaking at 11 A.A.R. 5395, effective February 4, 2006 (Supp. 05-4).

R12-15-1005. Management Plan Monitoring and Reporting Requirements

A responsible party who is required by a provision of a management plan to comply with monitoring and reporting requirements shall comply with such requirements and shall include all such information in an annual account or annual report.

Historical Note

Adopted effective December 12, 1990 (Supp. 90-4).

R12-15-1006. Reporting Requirements for Holders of Recovery Well Permits

A responsible party recovering water during a year pursuant to a recovery well permit shall include in the annual report required by A.R.S. § 45-875.01 the names of any persons, other than non-irrigation customers of cities, towns, private water companies and irrigation districts, to whom the responsible party delivered the recovered water during the year, the quantity of recovered water delivered to each person named, and the uses to which the recovered water was applied. If the recovered water included commingled groundwater, decreed or appropriative surface water other than spillwater, central Arizona project water, effluent or spillwater, the responsible party shall include in the annual report an estimate of the quantity of each type of water delivered to each person named in the annual report or put to a specific use by the responsible party.

Historical Note

Adopted effective December 12, 1990 (Supp. 90-4).
Amended by final rulemaking at 11 A.A.R. 5395, effective February 4, 2006 (Supp. 05-4).

R12-15-1007. Reporting Requirements for Annual Account

A person required to file an annual account pursuant to A.R.S. § 45-468 shall account for water provided to the following classes of users:

1. Cities and towns,
2. Private water companies,
3. Irrigation districts,
4. Dairies,
5. Metal mining facilities,
6. Cattle feed lots,
7. Turf-related facilities,
8. Sand and gravel facilities,
9. Electrical power generation facilities,
10. Other industrial users.

Historical Note

Adopted effective December 12, 1990 (Supp. 90-4).

R12-15-1008. Information Required to Maintain an Operating Flexibility Account

A. A responsible party who withdraws, receives, or uses groundwater during a calendar year pursuant to an irrigation grandfathered right, including any in lieu water received pursuant to a groundwater savings facility permit issued pursuant to A.R.S. § 45-812.01, shall include the following information for the calendar year in an annual report filed pursuant to A.R.S. § 45-467 or 45-632:

1. The quantity of groundwater withdrawn from each well.
2. The quantity of groundwater withdrawn and delivered to another person for irrigation purposes.
3. The quantity of groundwater received from a city, town, private water company, or irrigation district, including any in lieu water received pursuant to a groundwater savings facility permit issued pursuant to A.R.S. § 45-812.01.
4. The quantity of groundwater received from a person other than a city, town, private water company, or irrigation district, including any in lieu water received pursuant to a groundwater savings facility permit issued pursuant to A.R.S. § 45-812.01.
5. The quantity of effluent received.
6. The quantity of decreed or appropriative surface water received, other than normal flow and spillwater.
7. The quantity of normal flow received.
8. The quantity of spillwater received.
9. The quantity of tailwater used.
10. The quantity of tailwater delivered in accordance with the provisions of R12-15-1010(A), and the farm or irrigation district to which the tailwater was delivered.

11. The quantity of central Arizona project water received.
12. The quantity of any surface water received and not accounted for pursuant to subsections (6) through (11) of this subsection.
13. The number of surface water right acres in the farm to which the irrigation grandfathered right is appurtenant.
14. The quantity of water used for the legal irrigation of acres in the farm to which irrigation grandfathered rights are not appurtenant. If the responsible party omits this information, the Director shall presume that the total amount of water received or used for the irrigation of the farm was applied to acres to which irrigation grandfathered rights are appurtenant.
15. Any other information the Director may reasonably require to accomplish the management goals of the applicable active management area.

B. A water deliverer shall include the following information for an accounting period in an annual account filed pursuant to A.R.S. § 45-468:

1. The quantity of groundwater delivered to each farm, including any in lieu water delivered pursuant to a groundwater savings facility permit issued pursuant to A.R.S. § 45-812.01.
2. The quantity of normal flow delivered to each farm.
3. The quantity of spillwater delivered to each farm.
4. The quantity of decreed or appropriative surface water, other than normal flow and spillwater, delivered to each farm.
5. The quantity of central Arizona project water delivered to each farm.
6. The quantity of decreed or appropriative surface water, other than normal flow and spillwater, delivered for use within the service area of the water deliverer, including all farm and non-farm deliveries.
7. The number of surface water right acres within the service area of the water deliverer.
8. The quantity of effluent delivered to each farm.
9. Any other information the Director may reasonably require to accomplish the purposes of A.R.S. § 45-468.

Historical Note

Adopted effective December 12, 1990 (Supp. 90-4).
Amended by final rulemaking at 11 A.A.R. 5395, effective February 4, 2006 (Supp. 05-4).

R12-15-1009. Credits to Operating Flexibility Account

- A. Except as provided in subsection (B) of this Section and in R12-15-1010, if the total amount of water from all sources other than spillwater used by a farm for irrigation purposes in a calendar year is less than the farm's maximum annual groundwater allotment for the year, the Director shall register the difference as a credit to the farm's operating flexibility account.
- B. If a farm is within the service area of a water deliverer, the Director shall reduce the credit as calculated pursuant to subsection (A) of this Section by an amount equal to the difference between the farm's pro rata share of the total quantity of decreed or appropriative surface water, other than normal flow or spillwater, delivered by the water deliverer during the year for use within its service area, and the quantity of water actually received by the farm during the year. The Director shall determine the farm's pro rata share by dividing the number of surface water right acres in the farm that are within the service area of the water deliverer by the total number of surface water right acres within the service area of the water deliverer, and multiplying the quotient by the total quantity of decreed or appropriative surface water, other than normal flow or spillwa-

ter, delivered by the water deliverer during the year for use within its service area.

Historical Note

Adopted effective December 12, 1990 (Supp. 90-4).
Amended by final rulemaking at 11 A.A.R. 5395, effective February 4, 2006 (Supp. 05-4).

R12-15-1010. Operating Flexibility Account; Tailwater

- A. When calculating credits or debits to a farm's operating flexibility account for a year, the Director shall exclude from the total amount of water used on the farm during that year the amount of any tailwater that originated on the farm and that was delivered from the farm to another farm or to an irrigation district for irrigation purposes during the year if all of the following apply:
1. Prior to January 1 of the year in which the deliveries of tailwater take place, the Director approves a written plan to measure and record the tailwater deliveries. The plan shall include:
 - a. The installation and use of a totalizing water measuring device that will record tailwater deliveries with no greater than a 10 percent margin of error.
 - b. Procedures for keeping accurate records of the tailwater deliveries.
 - c. A description of how the tailwater will be delivered.
 - d. An identification of the farm or irrigation district to which the tailwater will be delivered.
 2. The person has measured, recorded, and delivered the tailwater in accordance with the plan approved under subsection (A)(1) of this Section.
 3. The tailwater was delivered directly from the farm on which it originated to:
 - a. A specified farm that used the tailwater for the legal irrigation of irrigation acres or surface water right acres on that farm, or
 - b. A specified irrigation district that delivered the tailwater for the legal irrigation of irrigation acres or surface water right acres within that district.
- B. A person who delivers tailwater in accordance with subsection (A) of this Section, and a person who directly receives and uses the tailwater pursuant to subsection (A)(3)(a) of this Section, shall account for and report the tailwater as if it were comprised of a mixture of groundwater, decreed and appropriate surface water other than normal flow, central Arizona project water, spillwater, other surface water, and effluent, as applicable, in the same proportions as those types of water comprise the total amount of water other than normal flow received or withdrawn for irrigation use during the calendar year on the farm on which the tailwater originated.
- C. A person who uses tailwater that has not been delivered and accounted for as provided in subsections (A) and (B) of this Section may credit against the person's use of groundwater in a calendar year the amount of the tailwater used during the calendar year if the use of such tailwater would cause a debit to be incurred. The credit shall be applied only against the person's operating flexibility account debits that otherwise would have been incurred that year and shall not be used to discharge debits from prior years or accumulate credits for future years. For purposes of calculating credits to the person's operating flexibility account, the Director shall treat tailwater as groundwater, unless reported otherwise according to its source.
- D. An irrigation district that receives tailwater pursuant to subsection (A)(3)(b) shall account for the water in the same manner as other water in the district's distribution system.

Historical Note

Adopted effective December 12, 1990 (Supp. 90-4).

Amended by final rulemaking at 11 A.A.R. 5395, effective February 4, 2006 (Supp. 05-4).

R12-15-1011. Statement of Operating Flexibility Account

- A. The Director shall annually issue to each owner or user of an irrigation grandfathered right for which a current annual report has been filed a statement of the operating flexibility account setting forth the status of the operating flexibility account for the farm, based on the information submitted in the annual report filed for the right.
- B. Upon a motion or on the initiative of the Director, the Director may amend a statement of operating flexibility account at any time to correct clerical mistakes or to adjust the balance of the account based on information submitted in an amended or late annual report. The Director shall give written notice of any amendments made pursuant to this subsection to the person to whom the statement of operating flexibility account was issued.

Historical Note

Adopted effective December 12, 1990 (Supp. 90-4).
Amended by final rulemaking at 11 A.A.R. 5395, effective February 4, 2006 (Supp. 05-4).

R12-15-1012. Rule of Construction

Nothing in A.A.C. R12-15-1001 through R12-15-1011 shall be construed to determine the legality of any water use for which an accounting is required under these rules.

Historical Note

Adopted effective December 12, 1990 (Supp. 90-4).

R12-15-1013. Retention of Records for Annual Accounts and Annual Reports

The responsible party shall keep and maintain, for at least three calendar years following the filing of an annual account or an annual report, all records which may be necessary to verify the information and data contained therein.

Historical Note

Adopted effective December 12, 1990 (Supp. 90-4).

R12-15-1014. Late Filing or Payment of Fees; Extension Penalties

- A. An annual account, an annual report, or a request for extension pursuant to subsection (E) of this rule shall be deemed to be filed at the time a complete annual account, a complete annual report or a request for extension is hand-delivered to any Department office, or at the time the envelope in which it is mailed is postmarked.
- B. Except as provided in subsection (C) of this Section, groundwater withdrawal fees and long-term storage credit recovery fees are deemed paid at the time the fees are hand-delivered to any Department office, or at the time the envelope in which they are mailed is postmarked.
- C. If any groundwater withdrawal fees or long-term storage credit recovery fees are paid with a negotiable instrument that is not honored and paid upon the Department's initial demand, the fees are deemed paid at the time the Department actually receives the fees in cash or when the negotiable instrument is honored and paid to the Department.
- D. If an annual account or an annual report filed on or before the date required by the applicable statute is found by the Director to be incomplete, the Director shall notify the responsible party of the inadequacies and allow the responsible party 30 days from the date of the notice to provide the missing information in a form prescribed by the Director. If the responsible party does not provide the missing information within 30 days from the date of the notice, late penalties under A.R.S. §§ 45-

437, 45-632, 45-875.01, 45-876.01, 45-877.01, 45-878.01 or 45-1004 shall begin to accrue on the 31st day following the date of the notice. The Director shall not recommend to a court, pursuant to A.R.S. §§ 45-634, 45-635, 45-881.01, 45-882.01, 45-1062 or 45-1063, that civil penalties be imposed through the first 30 days following the date of the notice. However, if the inadequacy included the failure to pay all groundwater withdrawal fees due or all long-term storage credit recovery fees due, late penalties under A.R.S. §§ 45-614 or 45-874.01 shall begin to accrue on April 1, except as provided in subsection (E) of this Section.

- E. A responsible party required to file an annual account or annual report for a year may request a 30-day extension of the first day of accrual of the late penalties under A.R.S. §§ 45-437, 45-614, 45-632, 45-874.01, 45-875.01, 45-876.01, 45-877.01, 45-878.01 or 45-1004 and of the civil penalties that the Director may recommend that a court impose pursuant to A.R.S. §§ 45-634, 45-635, 45-881.01, 45-882.01, 45-1062 or 45-1063. The request shall be filed no later than the date the annual account or annual report is required to be filed under the applicable statute. The Director shall grant a request for a 30-day extension if good cause is shown. If the Director grants the request, the late penalties and civil penalties shall begin to accrue on the first day after the 30-day extension period, except that if the Director finds that the person making the request presented false or misleading information to the Director and the Director relied on that information in granting the request, the late penalties and civil penalties shall begin to accrue as if the request was not granted. The Director shall not grant an extension to a responsible party who was granted an extension in the preceding calendar year and who subsequently failed to file a complete annual account or annual report and pay all groundwater withdrawal fees and all long-term storage credit recovery fees due within the 30-day extension period.

Historical Note

Adopted effective December 12, 1990 (Supp. 90-4).
Amended by final rulemaking at 11 A.A.R. 5395, effective February 4, 2006 (Supp. 05-4).

R12-15-1015. Reporting Requirements for Conveyances of Grandfathered Rights and Groundwater Withdrawal Permits

- A. A person who is required by A.R.S. § 45-482 to notify the Director of a conveyance of a grandfathered right shall file a notice of conveyance, on a form prescribed by the Director, within 30 days of the conveyance. All parties to the conveyance may use a single form for the required notice. Except provided in subsection (B) of this rule, the notice of conveyance shall include an accounting of the amount of water withdrawn or received pursuant to that grandfathered right from January 1 to the date of conveyance for that calendar year.
- B. If the person to whom a grandfathered right is conveyed is unable, because of extraordinary circumstances and good cause shown, to perform the accounting otherwise required by subsection (A) of this rule, the Director may waive the requirement for that person.
- C. If a person, including a person who is granted a waiver pursuant to subsection (B) of this rule, fails to include the required accounting in a timely filed notice of conveyance pursuant to subsection (A) of this rule, the Director shall determine the amount of groundwater withdrawn or received pursuant to the grandfathered right from January 1 to the date of conveyance for that calendar year. Such a person shall bear the burden, in any subsequent administrative or judicial proceeding, of establishing by clear and convincing evidence that the Director's determination was incorrect.

- D. A person requesting the Director's approval of a proposed conveyance of a groundwater withdrawal permit pursuant to A.R.S. § 45-520(B) shall include with such request the quantity of groundwater withdrawn pursuant to the groundwater withdrawal permit for that calendar year and all other information required to be submitted pursuant to A.R.S. § 45-632.

Historical Note

Adopted effective December 12, 1990 (Supp. 90-4).

R12-15-1016. Spillwater Reporting by Water Deliverers

A water deliverer that delivers spillwater during a year shall include the following information in the annual account or annual report submitted by the water deliverer for that year:

1. The total quantity of spillwater delivered for non-irrigation uses during the year.
2. The total quantity of spillwater delivered for irrigation uses during the year.
3. Any other information the Director may reasonably require to determine whether the water qualifies as spillwater under R12-15-1001(10).

Historical Note

New Section made by final rulemaking at 11 A.A.R. 5395, effective February 4, 2006 (Supp. 05-4).

R12-15-1017. Maintenance and Filing of Annual Reports Required by A.R.S. § 45-343

A community water system required to file an annual report under A.R.S. § 45-343 shall maintain the report on a calendar year basis and shall file the report with the Director no later than June 1 of each year for the preceding calendar year.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 5395, effective February 4, 2006 (Supp. 05-4).

ARTICLE 11. INSPECTIONS AND AUDITS

R12-15-1101. Inspections

- A. For the purpose of this rule, "inspection" means an entry by the Director at reasonable times onto private or public property for any of the following purposes:
1. To obtain factual data or access to records required to be kept under A.R.S. §§ 45-632, 45-879.01, or 45-1004.
 2. To inspect a well or another facility for the withdrawal, transportation, use, measurement, or recharge of groundwater under A.R.S. § 45-633.
 3. To inspect a facility that is used for the purpose of water storage, stored water recovery, or stored water use under A.R.S. § 45-880.01(A).
 4. To inspect a body of water under A.R.S. § 45-135 or to ascertain compliance with A.R.S. Title 45, Chapter 1, Article 3.
 5. To inspect or to obtain factual data or access to records pursuant to any Section of A.R.S. Title 45 that requires the Director to adopt rules for conducting inspections, examining records, and obtaining warrants.
 6. To inspect facilities used for the withdrawal, diversion, or use of water pursuant to a water exchange under A.R.S. § 45-1061.
- B. Not less than seven days prior to an inspection, the Director shall mail notice of the inspection by first class letter to the owner, manager or occupant of the property. The notice shall include the statutory authorization and purpose for the inspection. The notice shall specify a date and time certain or a seven-day period within which the inspection may take place. If a request is made before the seven-day period, the Director shall schedule the inspection for a time certain within the seven-day period to allow an opportunity for a representative

of the property to be present at the inspection. The notice shall include the name and telephone number of a Department employee who may be contacted to arrange such an appointment.

- C. Whenever practical, Department employees shall minimize disruptions to on-going operations caused by an inspection.
- D. If the property is controlled or secured against entry at the time specified in the notice of inspection but consent to the inspection was not denied, the Director shall give a second notice in the manner prescribed in subsection (B) before seeking a search warrant or its equivalent. The second notice shall request that a representative of the property be present at the inspection to accompany Department personnel.
- E. If the Director gives notice of an inspection and is not permitted to conduct an inspection, the Director may apply for and obtain a search warrant or its equivalent.
- F. Notice of inspection shall not be required under subsections (B) and (D) of this rule if the Director reasonably believes that notice would frustrate the enforcement of A.R.S. Title 45, or where entry is sought for the sole purpose of inspecting water measuring devices required pursuant to A.R.S. § 45-604.
- G. The Director shall mail a copy of the report of the inspection either to the person to whom the notice of inspection was directed, or to the owner, manager or occupant of the property if no notice of inspection was given. The report shall include the date of the inspection and a short summary of the findings. If no notice was given, the report shall include an explanation of the reason for determining that notice would not be given, unless providing the explanation would frustrate enforcement of A.R.S. Title 45. An aggrieved person may file with the Director written comments on the report within 30 days after the report is mailed.
- H. The owner, manager or occupant of the property may waive the provisions for notice contained in this rule.
- I. The Director shall comply with the requirements of A.R.S. § 41-1009 when conducting inspections under this Section.

Historical Note

Adopted effective August 31, 1992 (Supp. 92-3).
Amended effective July 22, 1994 (Supp. 94-3). Amended
by final rulemaking at 11 A.A.R. 5395, effective
February 4, 2006 (Supp. 05-4).

R12-15-1102. Audits

- A. For the purpose of this rule, "representative" means
 - 1. An officer or director of a corporation subject to the audit,
 - 2. A general partner of a partnership subject to the audit, or
 - 3. A person who appears at an audit and produces a signed authorization to act on behalf of the person subject to the audit.
- B. This rule applies to audits conducted pursuant to A.R.S. §§ 45-633(C), 45-880.01, and any other Section of A.R.S. Title 45 that authorizes the Director to require a person to appear at the Director's office and produce records and information and that also requires the Director to adopt rules for conducting inspections, examining records, and obtaining warrants.
- C. No less than 20 days prior to an audit, the Director shall mail notice of the audit by first class letter to the person that is the subject of the audit. The notice shall state the date, time and place of the audit. The notice shall specify the records or information which the person must produce. The notice shall also include the statutory authorization and purpose for the audit and the name and telephone number of a Department employee who may be contacted for further information. The audit shall be held at the Department's offices, unless the Director grants a request to have the audit conducted at a different location.

- D. The person subject to the audit or a representative shall appear at the scheduled time and shall produce the records and information specified in the notice. The person subject to the audit or a representative may make one request to reschedule the audit, which the Department shall grant if practicable.
- E. The Director shall mail a copy of the report of the audit to the person subject to the audit. An aggrieved person may file with the Director written comments on the report within 30 days after the report is mailed.
- F. The person subject to the audit may waive the provisions for notice contained in this rule.

Historical Note

Adopted effective August 31, 1992 (Supp. 92-3).
Amended effective July 22, 1994 (Supp. 94-3).

ARTICLE 12. DAM SAFETY PROCEDURES

R12-15-1201. Applicability

- A. This Article applies to any artificial barrier meeting the specifications of A.R.S. § 45-1201(1) as interpreted by R12-15-1204. This Article applies to an application for the construction of a dam and reservoir; an application to reconstruct, repair, alter, enlarge, breach, or remove an existing dam and reservoir, including a breached or damaged dam; operation and maintenance of an existing dam and reservoir; and enforcement. A structure identified in R12-15-1203 is exempt from this Article.
- B. This Article is applicable to any dam regardless of hazard potential classification, with the following exceptions:
 - 1. R12-15-1208, R12-15-1209, R12-15-1213, R12-15-1221, R12-15-1225, and R12-15-1226 apply only to a dam classified as a high or significant hazard potential dam.
 - 2. R12-15-1210 applies only to a dam classified as a low hazard potential dam. A low hazard potential dam is exempt from R12-15-1208, R12-15-1209, R12-15-1211, R12-15-1213, R12-15-1221, R12-15-1225, and R12-15-1226.
 - 3. R12-15-1211 applies only to a dam classified as a very low hazard potential dam. A very low hazard potential dam is exempt from R12-15-1208, R12-15-1209, R12-15-1210, R12-15-1212, R12-15-1213, R12-15-1215, R12-15-1216, R12-15-1221, R12-15-1225, and R12-15-1226.
 - 4. R12-15-1216(B) applies only to an embankment dam.

Historical Note

Adopted effective November 2, 1978 (Supp. 78-6). Former Section R12-15-01 renumbered without change as Section R12-15-1201 effective October 8, 1982 (Supp. 82-5). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

R12-15-1202. Definitions

In addition to the definitions provided in A.R.S. § 45-1201, the following definitions are applicable to this Article:

- 1. "Alteration or repair of an existing dam or appurtenant structure" means to make different from the originally approved construction drawings and specifications or current condition without changing the height or storage capacity of the dam or reservoir, except for ordinary repairs and general maintenance as prescribed in R12-15-1217.
- 2. "Appurtenant structure" means any structure that is contiguous and essential to the safe operation of the dam including embankments, saddle dikes, outlet works and controls, diversion ditches, spillway and controls, access structures, bridges, and related housing at a dam.

3. "Classification of dams" means the placement of dams into categories based upon an evaluation of the size and hazard potential, regardless of the condition of the dam.
4. "Concrete dam" means any dam constructed of concrete, including arch, gravity, arch-gravity, slab and buttress, and multiple arch dams. A dam that only has a concrete facing is not a concrete dam.
5. "Construction" means any activity performed by the owner or someone employed by the owner that is related to the construction, reconstruction, repair, enlargement, removal, or alteration of any dam, unless the context indicates otherwise. Construction is performed after approval of an application and before issuance of a license.
6. "Dam failure inundation map" means a map depicting the maximum area downstream from a dam that would be flooded in the event of the worst condition failure of the dam.
7. "Department" means the Arizona Department of Water Resources.
8. "Director" means the Director of the Arizona Department of Water Resources or the Director's designee.
9. "Embankment dam" means a dam that is constructed of earth or rock material.
10. "Emergency spillway" means a spillway designed to safely pass the inflow design flood routed through the reservoir. If the flow is controlled by gates, it is a controlled spillway. If the flow is not controlled by gates, it is an uncontrolled spillway.
11. "Engineer" means a Professional Engineer registered and licensed in accordance with A.R.S. Title 32, Chapter 1, with proficiency in engineering and knowledge of dam technology.
12. "Enlargement to an existing dam or appurtenant structure" means any alteration, modification, or repair that increases the vertical height of a dam or the storage capacity of the reservoir.
13. "Flashboards" mean timber, concrete, or steel sections placed on the crest of a spillway to raise the retention water level that may be quickly removed at time of flood either by a tripping device or by designed failure of the flashboards or their supports.
14. "Flood control dam" means a dam that uses all of its reservoir storage capacity for temporary impoundment of flood waters and collection of sediment or debris.
15. "Hazard potential" means the probable incremental adverse consequences that result from the release of water or stored contents due to failure or improper operation of a dam or appurtenances.
16. "Hazard potential classification" means a system that categorizes dams according to the degree of probable incremental adverse consequences of failure or improper operation of a dam or appurtenances. The hazard potential classification does not reflect the current condition of the dam with regard to safety, structural integrity, or flood routing capacity.
17. "Height" means the vertical distance from the lowest elevation of the outside limit of the barrier at its intersection with the natural ground surface to the spillway crest elevation. For the purpose of determining jurisdictional status, the lowest elevation of the outside limit of the barrier may be the outlet pipe invert elevation if the outlet is constructed below natural ground.
18. "Impound" means to cause water or a liquid to be confined within a reservoir and held with no discharge.
19. "Incremental adverse consequences" means under the same loading conditions, the additional adverse consequences such as economic, intangible, lifeline, or human losses, that would occur due to the failure or improper operation of the dam over those that would have occurred without failure or improper operation of the dam.
20. "Inflow design flood" or "IDF" means the reservoir flood inflow magnitude selected on the basis of size and hazard potential classification for emergency spillway design requirements of a dam.
21. "Intangible losses" means incremental adverse consequences to property that are not economic in nature, including property related to social, cultural, unique, or resource-based values, including the loss of irreplaceable and unique historic and cultural features; long-lasting pollution of land or water; or long-lasting or permanent changes to the ecology, including fish and endangered species habitat identified and evaluated by a public natural resource management or protection agency.
22. "Jurisdictional dam" means a barrier that meets the definition of a dam prescribed in A.R.S. § 45-1201 that is not exempted by R12-15-1203 over which the Department of Water Resources exercises jurisdiction.
23. "Levee" means an embankment of earth, concrete, or other material used to prevent a watercourse from spreading laterally or overflowing its banks. A levee is not used to impound water.
24. "License" means license of final approval issued by the Director upon completion or enlargement of a dam under A.R.S. § 45-1209.
25. "Lifeline losses" mean disruption of essential services such as water, power, gas, telephone, or emergency medical services.
26. "Liquid-borne material" means mine tailings or other milled ore products transported in a slurry to a storage impoundment.
27. "Maximum credible earthquake" means the most severe earthquake that is believed to be possible at a point on the basis of geologic and seismological evidence.
28. "Maximum water surface" means the maximum elevation of the reservoir water level attained during routing of the inflow design flood.
29. "Natural ground surface" means the undisturbed ground surface before excavation or filling, or the undisturbed bed of the stream or river.
30. "Outlet works" means a closed conduit under or through a dam or through an abutment for the controlled discharge of the contents normally impounded by a dam and reservoir. The outlet works include the inlet and outlet structures appurtenant to the conduit. Outlet works may be controlled or uncontrolled.
31. "Probable" means likely to occur, reasonably expected, and realistic.
32. "Probable maximum flood" or "PMF" means the flood runoff expected from the most severe combination of critical meteorologic and hydrologic conditions that are reasonably possible in the region, including rain and snow where applicable. 1/2 PMF is that flood represented by the flood hydrograph with ordinates equal to 1/2 the corresponding ordinates of the PMF hydrograph.
33. "Probable maximum precipitation" means the greatest depth of precipitation for a given duration that is theoretically physically possible over a particular size storm area at a particular geographical location at a particular time of year.
34. "Reservoir" means any basin that contains or is capable of containing water or other liquids impounded by a dam.

35. "Residual freeboard" means the vertical distance between the highest water surface elevation during the inflow design flood and the lowest point at the top of the dam.
36. "Restricted storage" means a condition placed on a license by the Director to reduce the storage level of a reservoir because of a safety deficiency.
37. "Saddle dike or saddle dam" means any dam constructed in a topographically low area on the perimeter of a reservoir, required to contain the reservoir at the highest water surface elevation.
38. "Safe" means that a dam has sufficient structural integrity and flood routing capacity to make failure of the dam unlikely.
39. "Safe storage level" means the maximum reservoir water surface elevation at which the Director determines it is safe to impound water or other liquids in the reservoir.
40. "Safety deficiency" means a condition at a dam that impairs or adversely affects the safe operation of the dam.
41. "Safety inspection" means an investigation by an engineer or a person under the direction of an engineer to assess the safety of a dam and determine the safe storage level for a reservoir, which includes review of design reports, construction documents, and previous safety inspection reports of the dam, spillways, outlet facilities, seepage control and measurement systems, and permanent monument or monitoring installations.
42. "Spillway crest" means the highest elevation of the floor of the spillway along a centerline profile through the spillway.
43. "Storage capacity" means the maximum volume of water, sediment, or debris that can be impounded in the reservoir with no discharge of water, including the situation where an uncontrolled outlet becomes plugged. The storage capacity is reached when the water level is at the crest of the emergency spillway, or at the top of permanently mounted emergency spillway gates in the closed position. Storage capacity excludes dead storage below the natural ground surface.
44. "Surcharge storage" means the additional water storage volume between the emergency spillway crest or closed gates, and the top of the dam.
45. "Total freeboard" means the vertical distance between the emergency spillway crest and the top of the dam.
46. "Unsafe" means that safety deficiencies in a dam or spillway could result in failure of the dam with subsequent loss of human life or significant property damage.

Historical Note

Adopted effective November 2, 1978 (Supp. 78-6). For-

mer Section R12-15-02 renumbered without change as Section R12-15-1202 effective October 8, 1982 (Supp. 82-5). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2). Amended to correct typographical error under A.A.C. R1-1-109 (Supp. 01-2).

R12-15-1203. Exempt Structures

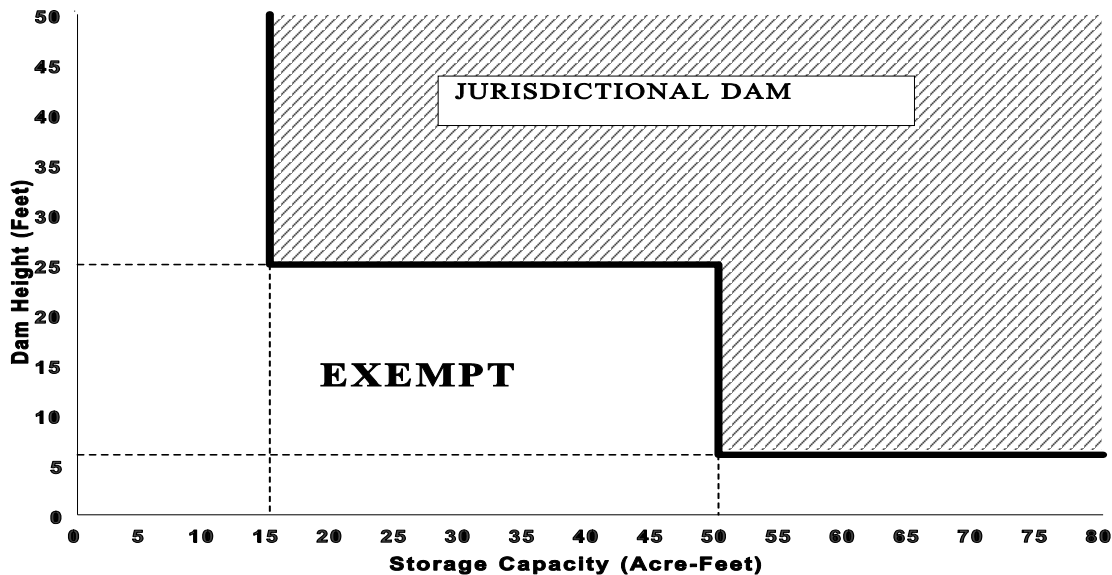
The following structures are exempt from regulation by the Department:

1. Any artificial barrier identified as exempt on Table 1 and defined as follows:
 - a. Less than 6 feet in height, regardless of storage capacity.
 - b. Between 6 and 25 feet in height with a storage capacity of less than 50 acre-feet.
 - c. Greater than 25 feet in height with 15 acre-feet or less of storage capacity.
2. A dam owned by the federal government. A dam designed by the federal government for any non-federal entity or person that will subsequently be owned or operated by a person or entity defined as an owner in A.R.S. § 45-1201 is subject to jurisdiction, beginning with design and construction of the dam.
3. A dam owned or operated by an agency or instrumentality of the federal government, if a dam safety program at least as stringent as this Article is applicable to and enforced against the agency or instrumentality.
4. A transportation structure such as a highway, road, or railroad fill that exists solely for transportation purposes. A transportation structure designed, constructed, or modified with the intention of impounding water on an intermittent or permanent basis and meeting the definition of dam in A.R.S. § 45-1201 is subject to jurisdiction.
5. A levee constructed adjacent to or along a watercourse, primarily to control floodwater.
6. A self-supporting concrete or steel water storage tank.
7. An impoundment for the purpose of storing liquid-borne material.
8. A release-contained barrier as defined by A.R.S. § 45-1201(5).

Historical Note

Adopted effective November 2, 1978 (Supp. 78-6). Former Section R12-15-03 renumbered without change as Section R12-15-1203 effective October 8, 1982 (Supp. 82-5). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

Table 1. Exempt Structures

**Historical Note**

New Table adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

R12-15-1204. Provision for Guidelines

The Department may develop and adopt substantive policy statements that serve as dam safety guidelines to aid a dam owner or engineer in complying with this Article. The Department recommends that dam owners and engineers consult design guidelines published by agencies of the federal government, including the U.S. Bureau of Reclamation, the U.S. Army Corps of Engineers, the Natural Resources Conservation Service, and the Federal Energy Regulatory Commission, for the design of concrete, roller compacted concrete, stone masonry, timber, inflatable rubber, and mechanically-stabilized earth dams. The Director may require that other criteria be used or revise any of the specific criteria for the purpose of dam safety. An owner shall obtain advance approval by the Director of design criteria.

Historical Note

Adopted effective November 2, 1978 (Supp. 78-6). Former Section R12-15-04 renumbered without change as Section R12-15-1204 effective October 8, 1982 (Supp. 82-5). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

R12-15-1205. General Responsibilities

- A. Each owner is responsible for the safe design, operation, and maintenance of a dam. The owner shall operate, maintain, and regularly inspect a dam so that it does not constitute a danger to human life or property. The owner of a high or significant hazard potential dam shall provide timely warning to the Department and all other persons listed in the emergency action plan of problems at the dam. The owner shall develop and maintain effective emergency action plans and coordinate those plans with local officials as prescribed in R12-15-1221.
- B. The owner shall conduct frequent observation of the dam, as prescribed in the emergency action plan and as follows:
 1. The owner shall increase the frequency of observation when the reservoir is full, during heavy rains or flooding, and following an earthquake.
 2. The owner shall report to the Director any condition that threatens the safety of the dam as prescribed in

R12-15-1224(A). The owner shall make the report as soon as possible, but not later than 12 hours after discovery of the conditions.

3. If dam failure appears imminent, the owner shall notify the county sheriff or other emergency official immediately.
 4. The owner is responsible for the safety of the dam and shall take action to lower the reservoir if it appears that the dam has weakened or is in danger of failing.
- C. The owner of a dam shall install, maintain, and monitor instrumentation to evaluate the performance of the dam. The Director shall require site-specific instrumentation that the Director deems necessary for monitoring the safety of the dam when failure may endanger human life and property. Conditions that may require monitoring include land subsidence, earth fissures, embankment cracking, phreatic surface, seepage, and embankment movements.
 - D. The owner shall perform timely maintenance and ordinary repair of a dam. The owner shall implement an annual plan to inspect the dam and accomplish the maintenance and ordinary repairs necessary to protect human life and property.
 - E. If a change of ownership of a dam occurs, the new owner shall notify the Department within 15 days after the date of the transaction and provide the mailing address and telephone number where the new owner can be contacted. Within 90 days after the date of the transaction, the new owner shall provide the name and telephone number of the individual or individuals who are responsible for operating and maintaining the dam.

Historical Note

Adopted effective November 2, 1978 (Supp. 78-6). Former Section R12-15-05 renumbered without change as Section R12-15-1205 effective October 8, 1982 (Supp. 82-5). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

R12-15-1206. Classification of Dams

Department of Water Resources

- A. Size Classification.** Dams are classified by size as small, intermediate, or large. Size is determined with reference to Table 2. An owner or engineer shall determine size by storage capacity or height, whichever results in the larger size.
- B. Hazard Potential Classification**
1. The Department shall base hazard potential classification on an evaluation of the probable present and future incremental adverse consequences that would result from the release of water or stored contents due to failure or improper operation of the dam or appurtenances, regardless of the condition of the dam. The evaluation shall include land use zoning and development projected for the affected area over the 10 year period following classification of the dam. The Department considers all of the following factors in hazard potential classification: probable loss of human life, economic and lifeline losses, and intangible losses identified and evaluated by a public resource management or protection agency.
 - a. The Department bases the probable incremental loss of human life determination primarily on the number of permanent structures for human habitation that would be impacted in the event of failure or improper operation of a dam. The Department considers loss of human life unlikely if:
 - i. Persons are only temporarily in the potential inundation area;
 - ii. There are no residences or overnight campsites; and
 - iii. The owner has control of access to the potential inundation area and provides an emergency action plan with a process for warning in the event of a dam failure or improper operation of a dam.
 - b. The Department bases the probable economic, lifeline, and intangible loss determinations on the property losses, interruptions of services, and intangible losses that would be likely to result from failure or improper operation of a dam.
 2. The 4 hazard potential classification levels are very low, low, significant, and high, listed in order of increasing probable adverse incremental consequences, as prescribed in Table 3. The Director shall classify intangible losses by considering the common or unique nature of features or habitats and temporary or permanent nature of changes.
 - a. Very Low Hazard Potential. Failure or improper operation of a dam would be unlikely to result in loss of human life and would produce no lifeline losses and very low economic and intangible losses. Losses would be limited to the 100 year floodplain or property owned or controlled by the dam owner under long-term lease. The Department considers loss of life unlikely because there are no residences or overnight camp sites.
 - b. Low Hazard Potential. Failure or improper operation of a dam would be unlikely to result in loss of human life, but would produce low economic and intangible losses, and result in no disruption of lifeline services that require more than cosmetic repair. Property losses would be limited to rural or agricultural property, including equipment, and isolated buildings.
 - c. Significant Hazard Potential. Failure or improper operation of a dam would be unlikely to result in loss of human life but may cause significant or high economic loss, intangible damage requiring major

mitigation, and disruption or impact on lifeline facilities. Property losses would occur in a predominantly rural or agricultural area with a transient population but significant infrastructure.

- d. High Hazard Potential. Failure or improper operation of a dam would be likely to cause loss of human life because of residential, commercial, or industrial development. Intangible losses may be major and potentially impossible to mitigate, critical lifeline services may be significantly disrupted, and property losses may be extensive.
3. An applicant shall demonstrate the hazard potential classification of a dam before filing an application to construct. The Department shall review the applicant's demonstration early in the design process at pre-application meetings prescribed in R12-15-1207(D).
4. The Department shall review the hazard potential classification of each dam during each subsequent dam safety inspection and revise the classification in accordance with current conditions.

Historical Note

Adopted effective November 2, 1978 (Supp. 78-6). Former Section R12-15-06 renumbered without change as Section R12-15-1206 effective October 8, 1982 (Supp. 82-5). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

Exhibit A. Repealed**Historical Note**

Exhibit repealed by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000; a Historical Note for Exhibit A did not exist before this date (Supp. 00-2).

Table 2. Size Classification

Category	Storage Capacity (acre-feet)	Height (feet)
Small	50 to 1,000	25 to 40
Intermediate	greater than 1,000 and not exceeding 50,000	higher than 40 and not exceeding 100
Large	greater than 50,000	higher than 100

Historical Note

New Table adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

Table 3. Downstream Hazard Potential Classification

Hazard Potential Classification	Probable Loss of Human Life	Probable Economic, Lifeline, and Intangible Losses
Very Low	None expected	Economic and lifeline losses limited to owner's property or 100-year floodplain. Very low intangible losses identified.
Low	None expected	Low

Significant	None expected	Low to high
High	Probable - One or more expected	Low to high (not necessary for this classification)

Historical Note

New Table adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

R12-15-1207. Application Process

- A. An applicant shall obtain written approval from the Director before constructing, reconstructing, repairing, enlarging, removing, altering, or breaching a dam. Application requirements differ according to the hazard potential of the dam.
 1. To construct, reconstruct, repair, enlarge, or alter a high or significant hazard potential dam, the applicant shall comply with R12-15-1208.
 2. To breach or remove a high or significant hazard potential dam, the applicant shall comply with R12-15-1209.
 3. To construct, reconstruct, repair, enlarge, alter, breach, or remove a low hazard potential dam, the applicant shall comply with R12-15-1210.
 4. To construct, reconstruct, repair, enlarge, alter, breach, or remove a very low hazard potential dam, the applicant shall comply with R12-15-1211.
- B. An application shall not be filed with the Director under the following circumstances:
 1. The dam is exempt under R12-15-1203;
 2. A dam owner starts repairs to an existing dam that are necessary to safeguard human life or property and the Director is notified without delay;
 3. The owner performs general maintenance or ordinary repairs as prescribed in R12-15-1217(A) or (B); or
 4. Breach, removal, or reduction of a very low hazard dam as prescribed in R12-15-1211(C).
- C. An applicant is not required to comply with a requirement in this Article if the Director finds that, considering the site characteristics and the proposed design, the requirement is unduly burdensome or expensive and is not necessary to protect human life or property. The Director shall consider the size, hazard potential classification, physical site conditions, and applicability of a requirement to a proposed dam. The Director shall state in writing the reason or reasons the applicant is not required to comply with a requirement.
- D. An applicant shall schedule pre-application conferences with the Department to discuss the requirements of this Article and to resolve issues essential to the design of a dam while the design is in preliminary stages. The Director shall view the dam site during the pre-application process. The following are examples of issues for pre-application conferences: the hazard potential classification, the approximate inflow design flood, the basic design concepts, and any requirements that may be found by the Director to be unduly burdensome or expensive and not necessary to protect human life or safety. In addition, the applicant may submit preliminary design calculations to the Department for review and comment. The Department shall comment as soon as practicable, depending on the size of the submittal and the current workload.
- E. The Department shall review applications as follows:
 1. Applications will be received by appointment. During this meeting the Department shall make a brief review of the application to determine that the application contains each of the items required by R12-15-1208, R12-15-1209, R12-15-1210, or R12-15-1211.
 2. Following receipt of an application submitted under R12-15-1208, R12-15-1209, R12-15-1210, or R12-15-1211, the Director shall complete an administrative review as prescribed in R12-15-401(1) and notify the applicant in writing whether the application is administratively complete. If the application is not administratively complete, the notification shall include a list of additional information that is required to complete the application.
 3. After finding the application submitted under R12-15-1208, R12-15-1209, R12-15-1210, or R12-15-1211 administratively complete, the Director shall complete a substantive review as prescribed in R12-15-401(3) and notify the applicant in writing of the Director's approval or disapproval. If during this review period, the Director determines that there are defects in the application that would impact human life and property, a written notice of the defects shall be sent to the applicant.
 4. An applicant may request in writing that the Director expedite the review of an application by employing an expert consultant on a contract basis under A.R.S. § 45-104(D). The Director shall establish on-call contracts with expert consultants to facilitate the process of expediting review. The Director may retain a consultant to review all or a portion of the application as necessary to expedite the process in response to an owner's request or to comply with time-frame rules. Before conducting the review, the consultant shall provide the Director and the applicant with a proposed time schedule and cost estimate. If the applicant agrees to the consultant's proposal for an expedited review of an application and the Director employs the consultant, the applicant shall pay to the Department the cost of the consultant's services in addition to the application fees. The Director retains the authority to review and approve, disapprove, or modify the findings and recommendations of the consultant.
 5. The Director shall not approve an application in less than 10 days from the date of receipt.
 6. If the Director disapproves the application, the Director shall provide the applicant with a statement of the Director's objections.
 7. If the Director approves an application, the applicant shall submit in triplicate revised drawings and specifications that incorporate any required changes.
 - a. The Director shall return to the applicant 1 set of final construction drawings and specifications with the Department's approval stamp to be retained onsite during construction;
 - b. The Director shall retain for permanent state record 1 set of final construction drawings and specifications with the Department's approval stamp; and
 - c. The Director shall retain for use by the Department during construction the 3rd set of final construction drawings and specifications with the Department's approval stamp.
 8. The Director shall impose conditions and limitations that the Director deems necessary to safeguard human life and property. Examples of the conditions of approval include but are not limited to:
 - a. The applicant shall not cover the foundation or abutment with the material of the dam until the Department has been given notice and a reasonable time to inspect and approve them.
 - b. The applicant shall start construction within 1 year from the date of approval.

- c. The applicant shall maintain a safe storage level for an existing dam being reconstructed, repaired, enlarged, altered, or breached.
- F. An approval to construct a new dam or repair, enlarge, alter, breach, or remove an existing dam is valid for 1 year.
 - 1. If construction does not begin within 1 year, the approval is void.
 - 2. Upon written request and good cause shown by the owner, the time for commencing construction may be extended. An applicant shall not start construction before the Director reviews the application for changes and grants approval.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

R12-15-1208. Application to Construct, Reconstruct, Repair, Enlarge, or Alter a High or Significant Hazard Potential Dam

- A. An application package to construct, reconstruct, repair, enlarge, or alter a high or significant hazard potential dam shall include the following prepared by or under the supervision of an engineer as defined in R12-15-1202(11):
 - 1. A completed application filed in duplicate on forms provided by the Director.
 - 2. A design information summary or checklist of items prepared in duplicate on forms provided by the Director.
 - 3. An initial application fee based on the total estimated project cost and computed in accordance with A.R.S. § 45-1204 and R12-15-104(A)(7).
 - 4. A detailed estimate of project costs. Project costs are all costs associated with construction of the dam and appurtenant works including preliminary investigations and surveys, engineering design, supervision of construction, and any other engineering costs.
 - 5. Two complete sets of construction drawings as prescribed in R12-15-1215(1).
 - 6. Two complete sets of construction specifications as prescribed in R12-15-1215(2).
 - 7. An engineering design report that includes information needed to evaluate all aspects of the design of the dam and appurtenances, including references with page numbers to support any assumptions used in the design, as prescribed in R12-15-1215(3). The engineering design report shall recommend a safe storage level for existing dams being reconstructed, repaired, enlarged, or altered.
 - 8. A construction quality assurance plan describing all aspects of construction supervision.
 - 9. A description of the use for the impounded or diverted water, proof of a right to appropriate, and a permit to store water as prescribed in A.R.S. §§ 45-152 and 45-161.
 - 10. A long-term budget plan and evidence of financing, prepared using customary accounting principles, that demonstrate that the applicant has the financial capability to construct, operate, and maintain the dam in a safe manner. If the applicant does not have evidence that can be verified by an independent audit of the financial capability to construct, operate, and maintain the dam in a safe manner, the Director may require a performance bond for the entire cost of the proposed construction work.
- B. The following may be submitted with the application or during construction.
 - 1. An emergency action plan as prescribed in R12-15-1221.
 - 2. An operation and maintenance plan to accomplish the annual maintenance.
 - 3. An instrumentation plan regarding instruments that evaluate the performance of the dam.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2). Amended by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

R12-15-1209. Application to Breach or Remove a High or Significant Hazard Potential Dam

- A. An applicant shall excavate the dam down to the level of the natural ground at the maximum section. Upon approval of the Director, additional breaches may be made. This provision shall not be construed to require more than total removal of the dam regardless of the flood magnitude. The breach or breaches shall be of sufficient width to pass the greater of:
 - 1. The 100 year flood at a depth of less than 5 feet, or
 - 2. The 100 year flood at a normal flood depth of not more than 2 feet at a distance of 2,000 feet downstream of the dam.
- B. The sides of each breach shall be excavated to a slope ratio that is stable and not steeper than 1 horizontal to 1 vertical.
- C. Each breach shall be designed to prevent silt that has previously been deposited on the reservoir bottom and the excavated material from the breach from washing downstream.
- D. Before breaching the dam, the reservoir shall be emptied in a controlled manner that will not endanger lives or damage downstream property. The applicant shall obtain approval from the Director for the method of breaching or removal.
- E. An application package to breach or remove a high or significant hazard potential dam shall include the following prepared by or under the supervision of an engineer as defined in R12-15-1202(11).
 - 1. The construction drawing or drawings for the breach or removal of a dam, including the location, dimensions, and lowest elevation of each breach.
 - 2. A long-term budget plan and evidence of financing, prepared using customary accounting principles, that demonstrate that the applicant has the financial capability to breach or remove the dam in a safe manner. If the applicant does not have evidence that can be verified by an independent audit of the financial capability to breach or remove the dam in a safe manner, the Director may require a performance bond for the entire cost of the proposed construction work.
 - 3. A construction quality assurance plan describing all aspects of construction supervision.
- F. Reduction of a high or significant downstream hazard potential dam to nonjurisdictional size may be approved by letter under the following circumstances:
 - 1. The owner shall submit a completed application form and construction drawings for the reduction and the appropriate specifications, prepared by or under the supervision of an engineer as defined in R12-15-1202(11).
 - 2. The construction drawings and specifications shall contain sufficient detail to enable a contractor to bid on and complete the project.
 - 3. The plans shall comply with all requirements of this Section except that the breach is not required to be to natural ground.
 - 4. Upon completion of an alteration to nonjurisdictional size, the engineer shall file as constructed drawings and specifications with the Department.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R.

2558, effective June 12, 2000 (Supp. 00-2).

R12-15-1210. Application to Construct, Reconstruct, Repair, Enlarge, Alter, Breach, or Remove a Low Hazard Potential Dam

- A.** An application package to construct, reconstruct, repair, enlarge, or alter a low hazard potential dam shall include the following prepared by or under the supervision of an engineer as defined in R12-15-1202(11):
1. A completed application filed in duplicate on forms provided by the Director.
 2. An initial application fee based on the total estimated project cost, computed in accordance with A.R.S. § 45-1204 and R12-15-104(A)(7).
 3. A detailed estimate of project costs. Project costs are all costs associated with construction of the dam and appurtenant works, including preliminary investigations and surveys, engineering design, supervision of construction, and any other engineering costs.
 4. The seal and signature of the responsible engineer in accordance with A.A.C. R4-30-304.
 5. A statement by the responsible engineer that classifies the dam as low hazard in accordance with R12-15-1206(B). The responsible engineer shall submit a map of the area that would be inundated by failure or improper operation of the dam. The responsible engineer shall demonstrate that failure or improper operation of the dam would be unlikely to result in:
 - a. Loss of human life. The demonstration may be based on an emergency action plan for persons who may be in the area of inundation;
 - b. Significant incremental adverse consequences; or
 - c. Significant intangible losses, as defined in R12-15-1202(21) and identified and evaluated by a public natural resource management or protection agency.
 6. Two complete sets of construction drawings as prescribed by R12-15-1215(1).
 7. Two complete sets of construction specifications as prescribed by R12-15-1215(2).
 8. An engineering design report that includes information needed to evaluate all aspects of the design of the dam and appurtenances, including references with page numbers to support any assumptions used in the design, as prescribed in R12-15-1215(3).
 9. A description of the use for the impounded or diverted water, proof of a right to appropriate, and a permit to store water as prescribed in A.R.S. §§ 45-152 and 45-161.
 10. A construction quality assurance plan clearly describing all aspects of construction supervision.
 11. A long-term budget plan and evidence of financing, prepared using customary accounting principles, that demonstrate that the applicant has the financial capability to construct, operate, and maintain the dam in a safe manner. If the applicant does not have evidence that can be verified by an independent audit of the financial capability to construct, operate, and maintain the dam in a safe manner, the Director may require a performance bond for the entire cost of the proposed construction work.
- B.** An application package for the breach or removal of a low hazard potential dam shall include the following:
1. A completed application filed in duplicate on forms provided by the Director that contains the following information:
 - a. The name and address of the owner of the dam or the agent of the owner.
 - b. A description of the proposed removal.
 - c. The proposed time for beginning and completing the removal.
 2. An initial application fee based on the total estimated project cost and computed in accordance with A.R.S. § 45-1204 and R12-15-104(A)(7).
 3. A statement by the responsible engineer demonstrating both of the following:
 - a. That the dam will be excavated to the level of natural ground at the maximum section; and
 - b. That the breach or breaches will be of sufficient width to pass the greater of:
 - i. The 100 year flood at a depth of less than 5 feet, or
 - ii. The 100 year flood at a normal flood depth of not more than 2 feet at a distance of 2,000 feet downstream of the dam,
 - iii. Subsection (B)(3)(b) shall not be construed to require more than a total removal of the dam regardless of flood magnitude.
 - c. That the sides of the breach will be excavated to a slope ratio that is stable and not steeper than 1 horizontal to 1 vertical.
 4. A detailed estimate of project costs. Project costs are all costs associated with the removal of the dam and appurtenant works, including preliminary investigations and surveys, engineering design, supervision of removal, and any other engineering costs.
- C.** An applicant intending to reduce a low hazard potential dam to nonjurisdictional size shall submit a written notice to the Director at least no less than 60 days before the date that construction begins.
- D.** Within 45 days after receipt of a complete application package as prescribed by subsection (A) or (B), the Director shall either:
1. Determine that the dam falls within the low hazard potential classification, or
 2. Issue a written notice that the dam does not fall within the low hazard potential classification.
- E.** The Director's determination that the proposed dam does not fall within the low hazard classification is an appealable agency action and subject to administrative and judicial review under A.R.S. Title 41, Chapter 6, Article 10.
- F.** Upon completion of construction, the owner shall notify the Department in writing. The owner shall not use the dam or reservoir before issuance of a license unless the Director issues written approval.
- G.** Within 90 days after completing construction, reconstruction, repair, enlargement, or alteration of a low hazard potential dam, the owner shall file the following:
1. An affidavit showing the actual cost of construction, reconstruction, repair, enlargement, or alteration of the dam. The owner shall submit a detailed accounting of the costs, including all engineering costs.
 2. An additional fee or refund request computed in accordance with A.R.S. § 45-1209 and R12-15-104(A)(7), based on the actual cost of construction, reconstruction, repair, enlargement, or alteration.
 3. A brief completion report summarizing the salient features of the project, including a description of the causes for any changes or deviations from the approved application package prepared by the engineer who supervised the construction, in accordance with A.R.S. Title 32, Chapter 1. The engineer shall indicate:
 - a. That the dam has been designed and constructed in compliance with basic principles of dam construction currently being practiced in the industry;

- b. That the dam as constructed has structural integrity and flood routing capacity consistent with its hazard potential classification; and
 - c. That the as constructed drawings and the report accurately represent the construction of the dam.
 - 4. As constructed drawings prepared and sealed by the engineer who supervised the construction. The owner and the engineer shall maintain a record of the drawings.
 - H. Upon receiving the Director's written approval, the owner may operate the dam and appurtenant works. Within 30 days after receipt of the information in subsection (G), the Director shall issue to the owner either a license or a notice that the dam and appurtenant works shall not be operated because the dam and appurtenant works do not qualify as low hazard or were not built according to the submitted design. The license shall include conditions of operation, including:
 - 1. The safe storage level of the reservoir,
 - 2. A requirement that the dam be operated and maintained so that it does not constitute a danger to human life and property,
 - 3. A requirement that the conditions resulting in the low hazard classification be maintained throughout the life of the dam, and
 - 4. A requirement that the owner demonstrate in writing the low hazard classification in the manner prescribed by subsection (A)(5) every five years.
 - I. Within 90 days after completing removal of a low hazard potential dam, the owner shall file the following. The Director shall remove the dam from jurisdiction upon approval of the submittal.
 - 1. An affidavit showing the actual cost of removal of the dam. The owner shall submit a detailed accounting of the costs, including all engineering costs.
 - 2. An additional fee or refund request computed in accordance with A.R.S. § 45-1204 and R12-15-104(A)(7), based on the actual cost of removal.
 - 3. A brief completion report, including a description of the causes for any changes or deviations from the approved application package prepared by the engineer who supervised the construction, in accordance with A.R.S. Title 32, Chapter 1. The engineer shall certify that the as removed drawings and the report accurately represent the actual removal of the dam.
 - 4. As-removed drawings prepared and sealed by the engineer who supervised the removal. The owner and the engineer shall maintain a record of the drawings.
 - J. An owner shall immediately commence repairs necessary to safeguard human life and property and prevent failure and improper operation of a low hazard potential dam. The owner shall notify the Department as soon as reasonably possible and in all cases within 10 days of commencing the required repairs.
- Historical Note**
- New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2). Amended by final rulemaking at 13 A.A.R. 3022, effective October 6, 2007 (Supp. 07-3). Amended by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).
- R12-15-1211. Application to Construct, Reconstruct, Repair, Enlarge, Alter, Breach, or Remove a Very Low Hazard Potential Dam**
- A. An application package to construct, reconstruct, repair, enlarge, or alter a very low hazard potential dam shall include the following prepared by an engineer or a person under the supervision of an engineer as defined in R12-15-1202(11):
 - 1. A completed application filed in duplicate on forms provided by the Director that contains the following information:
 - a. The name and address of the owner of the dam or the agent of the owner.
 - b. The location, type, size, and height of the proposed dam and appurtenant works.
 - c. The storage capacity of the reservoir associated with the proposed dam.
 - d. The proposed time for beginning and completing construction.
 - e. A description of the use for the impounded or diverted water and proof of a right to impound that water.
 - 2. The means, plans, and specifications by which the stream or body of water is to be dammed, by-passed, or controlled during construction.
 - 3. Maps, drawings, and specifications of the proposed dam.
 - 4. An initial application fee based on the total estimated project cost and computed in accordance with A.R.S. § 45-1204 and R12-15-104(A)(7).
 - 5. A detailed estimate of project costs. Project costs are all costs associated with construction of the dam and appurtenant works, including preliminary investigations and surveys, engineering design, supervision of construction, and any other engineering costs.
 - 6. A statement by the responsible engineer that classifies the dam as very low hazard in accordance with R12-15-1206(B). The responsible engineer shall submit a map of the area that would be inundated by failure or improper operation of the dam. The responsible engineer shall demonstrate that failure or improper operation would be unlikely to result in:
 - a. Loss of human life. The demonstration may be based on an emergency action plan for persons who may be in the area of inundation;
 - b. Significant incremental adverse consequences; or
 - c. Significant intangible losses, as defined in R12-15-1202(21) and identified and evaluated by a public natural resource management protection agency, because the dam has a size classification of either small or intermediate under R12-15-1206(A) and any release would be limited to the 100 year flood-plain or property owned or controlled by the dam owner under long-term lease.
 - 7. The seal and signature of the responsible engineer in accordance with A.R.S. Title 32, Chapter 1.
 - 8. The drawings required by subsection (A)(3) shall include a plan view and maximum section of the dam; the outlet works; and the spillway plan, profile, and cross section.
 - 9. The specifications required by subsection (A)(3) shall include the construction materials, testing criteria, and installation techniques.
 - B. The Director may make other requirements for drawings and specifications for the proposed repair or alteration of a very low hazard potential dam. In determining other requirements, the Director shall consider the size and extent of the repair or alteration, the portions of the dam that will be repaired or altered, and whether the requirements elicit a description of the proposed construction work that is adequate to allow the Director to evaluate the repair or alteration.

- C. An owner intending to breach, remove, or reduce a very low hazard potential dam to nonjurisdictional size shall submit written notice to the Director at least 60 days before the date that construction begins.
- D. After receipt of a complete application package as prescribed by subsection (A), the Director shall either:
 1. Determine that the dam falls within the very low hazard classification and approve the application in writing; or
 2. Issue a written notice that the dam does not fall within the very low hazard classification.
- E. The Director's determination that the proposed dam does not fall within the very low hazard classification is an appealable agency action and subject to administrative and judicial review under A.R.S. Title 41, Chapter 6, Article 10.
- F. Upon completion of construction, the owner shall notify the Department in writing. The owner shall not use the dam and reservoir before receipt of a license unless the Director issues written approval.
- G. Within 90 days after completion of the construction, reconstruction, repair, enlargement, or alteration of a very low hazard potential dam, the owner shall file the following:
 1. An affidavit showing the actual cost of construction, reconstruction, repair, enlargement, or alteration of the dam. The owner shall submit a detailed accounting of the costs, including all engineering costs.
 2. An additional fee or refund request computed in accordance with A.R.S. § 45-1209 and R12-15-104(A)(7), based on the actual cost of construction, reconstruction, repair, enlargement, or alteration.
 3. A brief completion report summarizing the salient features of the project, including a description of the causes for any changes or deviations from the approved application package prepared by the engineer who supervised the construction in accordance with A.R.S. Title 32, Chapter 1. The report shall include:
 - a. That the dam has been designed and constructed in compliance with basic principles of dam construction currently being practiced in the industry;
 - b. That the dam as constructed has structural integrity and flood routing capacity consistent with its hazard potential classification; and
 - c. That the as constructed drawings and the report accurately represent the construction of the dam.
 4. As constructed drawings prepared by the engineer who supervised the construction. The owner and the engineer shall maintain a record of the drawings.
- H. Within 30 days after receipt of the information in subsection (G), the Director shall issue to the owner either a license or a notice that the dam and appurtenant works shall not be operated because the dam and appurtenant works do not qualify as very low hazard or were not built according to the submitted design. Upon receiving the Director's written approval, the owner may operate the dam and appurtenant works. The license shall include conditions of operation, including:
 1. The safe storage level of the reservoir;
 2. A requirement that the conditions resulting in the very low hazard classification be maintained throughout the life of the dam, and
 3. A requirement that the owner demonstrate in writing the very low hazard classification in the manner prescribed by subsection (A)(6) every five years.
- I. An owner shall immediately commence repairs necessary to safeguard human life and property and prevent failure or improper operation of a very low hazard potential dam. The owner shall notify the Department as soon as reasonably possi-

ble and in all cases within 10 days of commencing the required repairs.

- J. The Department may periodically inspect construction to confirm that it is proceeding according to the approved design and that proper construction quality assurance is being exercised by the owner's engineer. The owner, or the owner's engineer under the direction of the owner, shall remedy any unsatisfactory condition using the contractor.
- K. The owner shall provide the Department access to the dam site for purposes of inspecting all phases of construction, including the foundation, embankment and concrete placement, inspection and test records, and mechanical installations.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2). Amended by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

R12-15-1212. Construction of a High, Significant, or Low Hazard Potential Dam

- A. Before commencement of construction activities, the owner shall invite to a pre-construction conference all involved regulatory agencies, the prime contractor, and all subcontractors. At this meeting the Department shall identify, to the extent possible, the key construction stages at which an inspection will be made. At least 48 hours before each key construction stage identified for inspection, the owner or the owner's engineer shall provide notice to the Department.
- B. The owner and the owner's engineer shall oversee construction of a new dam or reconstruction, repair, enlargement, alteration, breach, or removal of an existing dam. Failure to perform the work in accordance with the construction drawings and specifications approved by the Director renders the approval revocable. The owner's engineer shall exercise professional judgment independent of the contractor.
- C. A professional engineer with proficiency in engineering and knowledge of dam technology shall supervise or direct the supervision of construction in accordance with the construction quality assurance plan.
- D. The owner's engineer shall submit summary reports of construction activities and test results according to a schedule approved by the Department.
- E. The owner shall immediately report to the Department any condition encountered during construction that requires a deviation from the approved plans and specifications.
- F. The owner shall promptly submit a written request for approval of any necessary change and sufficient information to justify the proposed change. The owner shall not commence construction without the written approval of the Director unless the change is a minor change. A minor change is a change that complies with the requirements of this Article and provides equal or better safety performance.
- G. Upon completion of construction, the owner shall notify the Department in writing. The Department shall make a final inspection. The owner shall correct any deficiencies noted during the inspection.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

R12-15-1213. Completion Documents for a Significant or High Hazard Potential Dam

Within 90 days after completion of the construction or removal work for a significant or high hazard potential dam and final inspection by the Department, the owner shall file the following:

1. An affidavit showing the actual cost of the construction. The owner shall submit a detailed accounting of the costs, including all engineering costs.
2. An additional fee or refund request based on the actual cost of the construction, computed in accordance with A.R.S. § 45-1209 and R12-15-104(A)(7).
3. One set of full sized as constructed drawings prepared and sealed by the engineer who supervised the construction. If changes were made during construction, the owner shall file supplemental drawings showing the dam and appurtenances as actually constructed.
4. Construction records, including grouting, materials testing, and locations and baseline readings for permanent bench marks and instrumentation, initial surveys, and readings.
5. Photographs of construction from exposure of the foundation to completion of construction.
6. A brief completion report summarizing the salient features of the project, including a description of the causes for any changes or deviations from the approved drawings and specifications that were made during the construction phase.
7. A schedule for filling the reservoir, specifying fill rates, water level elevations to be held for observation, and a schedule for inspecting and monitoring the dam. The owner shall monitor the dam monthly during the first filling.
8. An operating manual for the dam and its appurtenant structures. The operating manual shall include a process for safety inspections prescribed in R12-15-1219. The operating manual shall include schedules for surveillance activities and baseline information for any installed instrumentation as follows:
 - a. The frequency of monitoring,
 - b. The data recording format,
 - c. A graphical presentation of data, and
 - d. The person who will perform the work.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2). Amended by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

R12-15-1214. Licensing

- A. Upon review and approval of the documents filed under R12-15-1213 and finding that the construction at the dam has been completed in accordance with the approved plans and specifications and finding that the dam is safe, the Director shall issue a license. The license shall specify the safe storage level for the reservoir and shall specify conditions for the safe operation of the dam. The dam and reservoir shall not be used before issuance of a license unless the Director issues written approval. Procedures for issuance of a license for low and very low hazard potential dams are prescribed in R12-15-1210(H) and R12-15-1211(H), respectively.
- B. A new license shall be issued in the following instances:
 1. Upon change of ownership of a dam.
 2. Upon change of the safe storage level.
 3. Upon expiration of time to appeal a notice issued under R12-15-1223(B).

4. Upon expiration of time to appeal an order issued by the Director under R12-15-1223(D).
5. Upon expiration of time to appeal an order of a court.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

R12-15-1215. Construction Drawings, Construction Specifications, and Engineering Design Report for a High, Significant, or Low Hazard Potential Dam

The owner and engineer are responsible for complete and adequate design of a dam and for including in the application all aspects of the design pertaining to the safety of the dam.

1. Construction Drawing Requirements. The construction drawings required by R12-15-1208(5), R12-15-1209(E)(1), and R12-15-1210(A)(6) shall include the following:
 - a. The seal and signature of the responsible engineer in accordance with A.A.C. R4-30-304.
 - b. One or more topographic maps of the dam, spillway, outlet works, and reservoir on a scale large enough to accurately locate the dam and appurtenances, indicate cut and fill lines, and show the property lines and ownership status of the land. Contour intervals shall be compatible with the height and size of the dam and its appurtenances and shall show design and construction details.
 - c. A reservoir area and capacity curve that reflect area in acres and capacity in acre-feet in relation to depth of water and elevation in the reservoir. The construction drawings shall show the spillway invert and top of dam elevations. The construction drawings shall also show the reservoir volume and space functional allocations. The construction drawings may include alternate scales as required for the owner's use.
 - d. Spillway and outlet works rating curves and tables at a scale or scales that allow determination of discharge rate in cubic feet per second at both low and high flows as measured by depth of water passing over the spillway control section.
 - e. A location map showing the dam footprint and all exploration drill holes, test pits, trenches, adits, borrow areas, and bench marks with elevations, reference points, and permanent ties. This map shall use the same vertical and horizontal control as the topographic map.
 - f. Geologic information including 1 or more geologic maps, profile along the centerline, and other pertinent cross sections of the dam site, spillway or spillways, and appurtenant structures, aggregate and material sources, and reservoir area at 1 or more scales compatible with the site and geologic complexity, showing logs of exploration drill holes, test pits, trenches, and adits.
 - g. One or more plans of the dam to delineate design and construction details.
 - h. Foundation profile along the dam centerline at a true scale where the vertical scale is equal to the horizontal scale, showing the existing ground and proposed finished grade at cut and fill elevations, including anticipated geologic formations. The foundation profile shall include any proposed grout and drain holes.
 - i. Profile and a sufficient number of cross sections of the dam to delineate design and construction details. The drawings shall illustrate and show dimensions

- of camber, details of the top, core zone, interior filters and drains, and other zone details. The profile of the dam may be drawn to different horizontal and vertical scales if required for detail. A maximum section of the dam shall be drawn to a true scale, where the vertical scale is equal to the horizontal scale. The outlet conduit may be shown on the maximum section if this is typical of the proposed construction.
- j. One or more dam foundation plans showing excavation grades and cut slopes with any proposed foundation preparation, grout and drain holes, and foundation dewatering requirements.
 - k. Plan, profile, and details of the outlet works, including the intake structure, the gate system, conduit, trashrack, conduit filter diaphragm, conduit concrete encasement, and the downstream outlet structure. The drawings shall include all connection and structural design details.
 - l. Plan, profile, control section, and cross sections of the spillway, including details of any foundation preparation, grouting, or concrete work that is planned. A complex control structure, a concrete chute, or an energy dissipating device for a terminal structure shall include both hydraulic and structural design details.
 - m. Hydrologic data, drainage area and flood routing, and diversion criteria.
2. Construction Specification Requirements. The construction specifications required by R12-15-1208(6) and R12-15-1210(A)(7) shall include the following:
 - a. The seal and signature of the responsible engineer in accordance with A.A.C. R4-30-304.
 - b. The statement that the construction drawings and specifications shall not be materially changed without the prior written approval of the Director.
 - c. A detailed description of the work to be performed and a statement of the requirements for the various types of materials and installation techniques that will enter into the permanent construction.
 - d. The statement that construction shall not be considered complete until the Director has approved the construction in writing.
 - e. The statement that the owner's engineer shall control the quality of construction.
 - f. The following construction information:
 - i. All earth and rock material descriptions, placement criteria, and construction requirements for all elements of the dam and related structures.
 - ii. All concrete, grout, and shotcrete material and mix descriptions, placement and consolidation criteria, temperature controls, and construction requirements for all elements of the dam and related structures.
 - iii. Material criteria and material testing, cleaning, and treatment. If foundation or curtain grouting is required, the specifications shall describe the type of grout, grouting method, special equipment necessary, recording during grouting, and foundation monitoring to avoid disturbance from grouting.
 - iv. All materials testing that will be performed by the contractor for pre-qualification of materials, including special performance testing, such as water pressure tests in conduits. The Director shall accept materials that are pre-tested successfully and constructed in-place in accordance with specifications.
 - g. A plan for control or diversion of surface water during construction. The design engineer may determine frequency of storm runoff to be controlled during construction, commensurate with the risk of economic loss during construction.
 - vi. Criteria for blast monitoring and acceptable blast vibration levels, including particle velocities for the dam and other critical appurtenances. Monitoring equipment and monitoring locations shall be specified.
 - vii. Instrumentation material descriptions, placement criteria, and construction requirements and a statement that instrumentation shall be installed by experienced speciality subcontractors.
 3. Engineering Design Report Requirements. The engineering design report required by R12-15-1208(7) and R12-15-1210(A)(8) shall include the following:
 - a. The seal and signature of the responsible engineer in accordance with A.A.C. R4-30-304.
 - b. The classification under R12-15-1206 of the proposed dam, or for the proposed enlargement of an existing dam or reservoir.
 - c. Hydrologic considerations, including calculations and a summary table of data used in determining the required emergency spillway capacity and freeboard, and design of any diversion or detention structures. The design report shall include input and output listings on both hard copy and computer diskette.
 - d. Hydraulic characteristics, engineering data, and calculations used in determining the capacities of the outlet works and emergency spillway. The design report shall include input and output listings on both hard copy and computer diskette.
 - e. Geotechnical investigation and testing of the dam site and reservoir basin. Results and analysis of subsurface investigations, including logs of test borings and geologic cross sections.
 - f. Guidelines and criteria for blasting to be used by the contractor in preparing the blasting plan.
 - g. Details of the plan for control or diversion of surface water during construction.
 - h. Details of the dewatering plan for subsurface water during construction.
 - i. Testing results of earth and rock materials, including the location of test pits and the logs of these pits.
 - j. Discussion and design of the foundation blanket grouting, grout curtain, and grout cap based on foundation stability and seepage considerations.
 - k. Calculations and basic assumptions on loads and limiting stresses for reinforced concrete design. The design report shall include input and output listings on both hard copy and computer diskette.
 - l. A discussion and stability analysis of the dam including appropriate seismic loading, safety factors, and embankment zone strength characteristics. Analyses shall include both short-term and long-term loading on upstream and downstream slopes. The design report shall include input and output listings on both hard copy and computer diskette.
 - m. A discussion of seismicity of the project area and activity of faults in the vicinity. The design report shall use both deterministic and statistical methods

- and identify the appropriate seismic coefficient for use in analyses.
- n. Discussion and design of the cutoff trench based on seepage and other considerations.
- o. Permeability characteristics of foundation and dam embankment materials, including calculations for seepage quantities through the dam, the foundation, and anticipated in the internal drain system. The design report shall include input and output listings on both hard copy and computer diskette. The design report shall include copies of any flow nets used.
- p. Discussion and design of internal drainage based on seepage quantity calculations. The design report shall include instrumentation necessary to monitor the drainage system and filter design calculations for protection against piping of foundation and embankment.
- q. Erosion protection against waves and rainfall runoff for both the upstream and downstream slopes, as appropriate.
- r. Discussion and design of foundation treatment to compensate for geological weakness in the dam foundation and abutment areas and in the spillway foundation area.
- s. Post-construction vertical and horizontal movement systems.
- t. Discussion of foundation conditions including the potential for subsidence, fissures, dispersive soils, collapsible soils, and sink holes.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

R12-15-1216. Design of a High, Significant, or Low Hazard Potential Dam

A. General Requirements.

1. Emergency Spillway Requirements. An applicant shall:
 - a. Construct each spillway in a manner that avoids flooding in excess of the flooding that would have occurred in the same location under the same conditions before construction. The owner of a dam shall demonstrate that a spillway discharge would not result in incremental adverse consequences. In determining whether a spillway discharge of a dam would result in incremental adverse consequences, the Director shall evaluate whether the owner has taken any or all of the following actions: issuing public notice to downstream property owners, complying with flood insurance requirements, adopting emergency action plans, conducting mock flood drills, acquiring flow easements or other acquisitions of real property, or other actions appropriate to safeguard the dam site and flood channel.
 - b. Include a control structure to avoid head cutting and lowering of the spillway crest for spillways excavated in soils or soft rock. In the alternative, the design may provide evidence acceptable to the Director that erosion during the inflow design flood will not result in a sudden release of the reservoir.
 - c. Provide each spillway and channel with a minimum width of 10 feet and suitable armor to prevent erosion during the discharge resulting from the inflow design flood.

- d. Ensure that downstream spillway channel flows do not encroach on the dam unless suitable erosion protection is constructed.
- e. Ensure that each spillway, in combination with outlets, is able to safely pass the peak discharge flow rate, as calculated on the basis of the inflow design flood.
- f. Not construct bridges or fences across a spillway unless the construction is approved in writing by the Director. The Director's approval may include conditions regarding the design and operation of the spillway and fencing, based on safety concerns.
- g. Not use a pipe or culvert as an emergency spillway unless the Director approves the use following review of the dam design and site characteristics.
2. Inflow Design Flood Requirements
 - a. Unless directed otherwise in writing by the Director, the inflow design flood requirements for determining the spillway minimum capacity are stated in Table 4.
 - b. As an alternative to the requirements prescribed in Table 4, the Director may accept an inflow design flood determined by an incremental damage assessment study, based on the relative safety of the alternatives.
 - c. The Director may accept site-specific probable maximum precipitation studies in determination of the inflow design flood.
 - d. An applicant shall ensure that the total freeboard is the largest of the following:
 - i. The sum of the inflow design flood maximum water depth above the spillway crest plus wave run up.
 - ii. The sum of the inflow design flood maximum water depth above the spillway crest plus 3 feet.
 - iii. A minimum of 5 feet.
3. Outlet Works Requirements. An applicant shall ensure that a dam has a low level outlet works that:
 - a. Is capable of draining the reservoir to the sediment pool level. A low level outlet works for a high or significant hazard potential dam shall be a minimum of 36 inches in diameter. A low level outlet works for a low hazard potential dam shall be a minimum of 18 inches in diameter.
 - b. For a high or significant hazard potential dam, has the capacity to evacuate 90% of the storage capacity of the reservoir within 30 days, excluding reservoir inflows.
 - c. Has a filter diaphragm or other current practice measures to reduce the potential for piping along the conduit.
 - d. Has accessible outlet controls when the spillway is in use.
 - e. Has an emergency manual override system or can be operated manually.
 - f. Is constructed of materials appropriate for loading condition, seismic forces, thermal expansion, cavitation, corrosion, and potential abrasion. The applicant shall not use corrugated metal pipes or other thin-walled pipes except as a form for a cast-in-place concrete conduit. The applicant shall construct outlet conduits of cast-in-place reinforced concrete. The applicant shall design each outlet to maintain water tightness. The applicant shall construct each outlet

- to prevent the occurrence of piping adjacent to the outlet.
- g. Has an operating or guard gate on the upstream end of any gated outlet.
 - h. Has an outlet conduit near the base of 1 of the abutments on native bedrock or other competent material. The applicant shall support the entire length of the conduit on foundation materials of uniform density and consistency to prevent adverse differential settlement.
 - i. Has an upstream valve or gate capable of controlling the discharge through all ranges of flow on any gated outlet conduit.
 - j. Has a trashrack designed for a minimum of 25% of the reservoir head to which it would be subjected if completely clogged at the upstream end of the outlet.
 - k. Has an air vent pipe just downstream of the control gate. The applicant shall include a blow-off valve at or near the downstream toe of the dam for an outlet conduit that is connected directly to a distribution system.
 - l. Has an outlet conduit designed for internal pressure equal to the full reservoir head and for superimposed embankment loads, acting separately.
4. Dam Site And Reservoir Area Requirements
 - a. An applicant shall demonstrate that reservoir storage during the inflow design flood will not result in incremental adverse consequences and that the design will not result in the inundation or wave damage of properties within the reservoir, except marina-type structures, during the inflow design flood. In determining whether a discharge will result in incremental adverse consequences, the Director shall evaluate whether the owner has taken any or all of the following actions: issuing public notice to upstream affected property owners, complying with flood insurance requirements, adopting emergency action plans, conducting mock flood drills, acquiring flood easements or other acquisitions of real property, or other actions appropriate to safeguard the dam site and reservoir. Permanent habitations are not allowed within the reservoir below the spillway elevation.
 - b. The applicant shall clear the reservoir storage area of logs and debris.
 - c. The applicant shall place borrow areas a safe distance from the upstream toe and the downstream toe of the dam to prevent a piping failure of the dam.
 - d. The applicant shall keep the top of the dam and appurtenant structures accessible by equipment and vehicles for emergency operations and maintenance.
 5. Geotechnical Requirements
 - a. The applicant shall provide an evaluation of the static stability of the foundation, dam, and slopes of the reservoir rim and demonstrate that sufficient material is available to construct the dam as designed.
 - b. The applicant shall not construct a dam on active faults, collapsible soils, dispersive soils, sink holes, or fissures, unless the applicant demonstrates that the dam can safely withstand the anticipated offset or other unsafe effects on the dam.
 6. Seismic Requirements
 - a. The applicant shall submit a review of the seismic or earthquake history of the area around the dam within a radius of 100 miles to establish the relationship of the site to known faults and epicenters. The review shall include any known earthquakes and the epicenter locations and magnitudes of the earthquakes.
 - b. The applicant shall identify the location of active or potentially active faults that have experienced Holocene or Late Pleistocene displacement within a radius of 100 miles of the site.
 - c. For a high or significant hazard potential dam, the applicant shall design the dam to withstand the maximum credible earthquake.
 - d. For a low hazard potential dam, the applicant shall use probabilistic or deterministic methods to determine the design earthquake. The magnitude of the design earthquake shall vary with the size of the dam, site condition, and specific location.
- B. Embankment Dam Requirements.
 1. Geotechnical Requirements. Table 5 states minimum factors of safety for embankment stability under various loading conditions. For an embankment dam an applicant shall provide a written analysis of minimum factors of safety for stability.
 - a. The analysis of minimum factors of safety shall include the effects of anisotropy on the phreatic surface position by using a ratio of horizontal permeability to vertical permeability of at least 10. The Director may require ratios of up to 100 if the material types and construction techniques will cause excessive stratification.
 - b. The applicant shall use tests modeling the conditions being analyzed to determine the strengths used in the stability analysis. The stability analysis shall include total and effective stress strengths appropriate for the different material zones and conditions analyzed. The stability analysis shall use undrained strengths or strength parameters for all saturated materials.
 - c. The applicant shall perform an analysis of the upstream slope stability for a partial pool with steady seepage considering the reservoir level that provides the lowest factor of safety.
 - d. A stability analysis is not required for low hazard potential dams if the owner or the owner's engineer demonstrates that conservative slopes and competent materials are included in the design.
 2. Seismic Requirements
 - a. The applicant shall determine the seismic characteristics of the site as prescribed in subsection (A)(6).
 - b. The applicant shall determine the liquefaction susceptibility of the embankment, foundation, and abutments. The applicant shall use standard penetration testing, cone penetration testing, shear wave velocity measurements, or a combination of these methods to make this determination. The applicant shall compute the minimum factor of safety against liquefaction at specific points and make a determination of whether the overall site is subject to liquefaction.
 - c. The applicant shall determine the safety of the dam under seismic loading using a pseudo static stability analysis, computing the minimum factor of safety if the embankment, foundation or abutment is not subject to liquefaction and has a maximum peak acceleration of 0.2g or less, or a maximum peak acceleration of 0.35g or less, and consists of clay on a clay or bedrock foundation. The applicant shall use in the pseudo static stability analysis a pseudo static

- coefficient that is at least 60% of the maximum peak bedrock acceleration at the site.
- d. The applicant shall compute a minimum factor of safety against overtopping due to deformation and settlement in each of the following cases. The minimum factor of safety against overtopping can be no less than 2.5, determined by dividing the total pre-earthquake freeboard by the estimated vertical settlement in feet. The applicant shall determine the total vertical settlement by adding the settlement values of the upstream and downstream slopes.
 - i. The minimum factor of safety in a pseudo static analysis is less than 1.0;
 - ii. An embankment, foundation, or abutment is not subject to liquefaction, has a maximum peak acceleration of more than 0.2g or a maximum peak acceleration of more than 0.35g and consists of clay on a clay or bedrock foundation; or
 - iii. The embankment, foundation or abutment is subject to liquefaction.
 - e. The applicant shall perform a liquefaction analysis to establish approximate boundaries of liquefiable zones and physical characteristics of the soil following liquefaction for an embankment, foundation, or abutment subject to liquefaction. The applicant shall perform an analysis of the potential for flow liquefaction.
 - f. Other, more sophisticated analytical procedures may be required by the Director for sites with high seismicity or low strength embankment or foundation soils.
3. Miscellaneous Design Requirements
- a. The design of any significant or high hazard potential dam shall provide seepage collection and prevent internal erosion or piping due to embankment cracking or other causes.
 - b. The Director shall review the filter and permeability design for a chimney drain, drain blanket, toe drain, or outlet conduit filter diaphragms on the basis of unique site characteristics.
 - i. The minimum thickness of an internal drain is 3 feet.
 - ii. The minimum width of a chimney drain is 6 feet.
 - iii. The applicant shall filter match an internal drain to its adjacent material.
 - iv. The applicant shall design internal drains with sufficient capacity for the expected drainage without the use of drainpipes using only natural granular materials.
 - c. The use of a geosynthetic is not permitted in a design if it serves as the sole defense against dam failure. The use of geotextiles and geonets as a filter or drain material or a geomembrane liner is permitted only in a location that is easily accessible for repair or if its excavation cannot create an unsafe condition at the dam. A geosynthetic liner is allowed under special conditions and in specific situations if it is subject to monitoring and redundant safety controls. The Director may impose conditions, including monitoring appropriate to the hazard classification, inspection, and necessary repairs, each performed every 5 years.
 - d. The applicant shall use armoring on any upstream slope of an embankment dam that impounds water

for more than 30 days at a time. If the applicant uses rock riprap, it shall be well-graded, durable, sized to withstand wave action, and placed on a well-graded pervious sand and gravel bedding or geotextile with filtering capacity appropriate for the site.

- e. The applicant shall protect the downstream slopes and groins of an embankment dam from erosion.
- f. The minimum width of the top of an embankment dam is equal to the structural height of the dam divided by 5 plus an additional 5 feet. The required minimum width for any embankment dam is 12 feet. The maximum width for any embankment dam is 25 feet.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

Table 4. Inflow Design Flood

Dam Hazard Class	Dam Size Classification	IDF Magnitude
Very Low	All Sizes	100-year
Low	All Sizes	0.25 PMF
Significant	Small Intermediate Large	0.25 PMF 0.5 PMF 0.5 PMF
High*	All Sizes	*

* For a high hazard potential dam, the applicant shall design the dam to withstand an inflow design flood that varies from .5 PMF to the full PMF, with size increasing based on persons at risk and potential for downstream damage. The applicant shall consider foreseeable future conditions.

Historical Note

New Table adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

Table 5. Minimum Factors of Safety for Stability¹

Embankment Loading Condition	Minimum Factor of Safety
End of construction case – upstream and downstream slopes	1.3
End of construction case for embankments greater than 50 feet in height on weak foundations	1.4
Steady state seepage - upstream (critical partial pool) and downstream slope (full pool)	1.5
Instantaneous drawdown - upstream slope	1.2

¹ Not applicable to an embankment on a clay shale foundation.

Historical Note

New Table adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

R12-15-1217. Maintenance and Repair; Emergency Actions

- A. An owner shall perform general maintenance and ordinary repairs that do not impair the safety of the dam. General maintenance and ordinary repair activities listed under this subsection do not require prior approval of the Director. These repair activities include:
 1. Removing brush or tall weeds.

2. Cutting trees and removing slash from the embankment or spillway. Small stumps may be removed provided no excavation into the embankment occurs.
 3. Exterminating rodents by trapping or other methods. Rodent damage may be repaired provided it does not involve excavation that extends more than 2 feet into the embankment and replacement materials are compacted as they are placed.
 4. Repairing erosion gullies less than 2 feet deep on the embankment or in the spillway.
 5. Grading the surface on the top of the dam embankment or spillway to eliminate potholes and provide proper drainage, provided the freeboard is not reduced.
 6. Placing additional riprap and bedding on the upstream slope, or in the spillway in areas that have sustained minor damage and restoring the original riprap protection where the damage has not yet resulted in erosion and weakening of the dam.
 7. Painting, caulking, or lubricating metal structures.
 8. Patching or caulking spalled or cracked concrete to prevent deterioration.
 9. Removing debris, rock, or earth from outlet conduits or spillway channels and basins.
 10. Patching to prevent deterioration within outlet works.
 11. Replacing worn or damaged parts on outlet valves or controls to restore them to original condition or its equivalent.
 12. Repairing or replacing fences intended to keep traffic or livestock off the dam or spillway.
- B.** General maintenance and ordinary repair that may impair or adversely effect safety, such as excavation into or near the toe of the dam, construction of new appurtenant structures for the dam, and repair of damage that has already significantly weakened the dam shall be performed in accordance with this Article. The Director may approve maintenance performed according to a standard detail or method of repair on file with the Department upon submittal of a letter. The Director shall determine whether general maintenance and ordinary repair activities not listed in subsection (A) will impair safety.
- C.** Emergency actions not impairing the safety of the dam may be taken before guidance can be provided by an engineer and do not require prior approval of the Director. Emergency actions do not excuse an owner's responsibility to promptly undertake a permanent solution. Emergency actions include:
1. Stockpiling materials such as riprap, earth fill, sand, sandbags, and plastic sheeting.
 2. Lowering the reservoir level by making releases through the outlet or a gated spillway, by pumping, or by siphoning.
 3. Armoring eroded areas by placing sandbags, riprap, plastic sheeting, or other available material.
 4. Plugging leakage entrances on the upstream slope.
 5. Increasing freeboard by placing sandbags or temporary earth fill on the dam.
 6. Diverting flood waters to prevent them from entering the reservoir basin.
 7. Constructing training berms to control flood waters.
 8. Placing sandbag ring dikes or reverse filter materials around boils at the downstream toe to provide back pressure.
 9. Removing obstructions from outlet or spillway flow areas.
- D.** Emergency actions impairing the safety of the dam require prior approval of the Director. An owner shall not lower the water level by excavating the spillway or embankment unless failure is imminent.
- E.** For all high and significant hazard potential dams, the emergency action plan shall be implemented with any emergency actions taken at the dam.
- F.** The owner shall notify the Director immediately of any emergency condition that exists and any emergency action taken.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

R12-15-1218. Safe Storage Level

The Director has the authority to determine the safe storage level for the reservoir behind each dam, including the storage level of an existing dam while it is being repaired, enlarged, altered, breached, or removed. The elevation of the safe storage level is stated on the license. The owner shall not store water in excess of the level determined by the Director to be safe. The owner shall not place flashboards or other devices in the emergency spillway without approval of an alteration of the dam in accordance with this Article.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

R12-15-1219. Safety Inspections; Fees

- A.** Except as provided in subsection (E), the Director shall conduct a dam safety inspection annually or more frequently for each high hazard potential dam, triennially for each significant hazard potential dam, and once every five years for each low and very low hazard potential dam. An owner of a dam shall pay the inspection fee required by R12-15-105 for each inspection of the dam pursuant to this subsection.
- B.** An engineer is considered qualified to provide information to the Director regarding the safe storage level of a reservoir if the engineer:
1. Meets the criteria in R12-15-1202(11),
 2. Has three years of experience in the field of dam safety, and
 3. Has actual experience in conducting dam safety inspections.
- C.** A dam safety inspection includes:
1. Review of previous inspections, reports, and drawings;
 2. Inspection of the dam, spillways, outlet facilities, seepage control, and measurement systems;
 3. Inspection of any permanent monument or monitoring installations;
 4. Assessment of all parts of the dam that are related to the dam's safety; and
 5. A recommendation regarding the safe storage level of the reservoir.
- D.** The engineer shall submit a safety inspection report that describes the findings and lists actions that will improve the safety of the dam. The report shall include the engineer's recommendation of the safe storage level. The engineer shall use a report form approved by the Director.
- E.** Inspections by the Owner
1. An owner may provide to the Director, at the owner's expense, a safety inspection report that complies with the requirements of subsections (B), (C), and (D) in place of an inspection by the Department. The owner's engineer shall notify the Director and submit a written summary of the engineer's qualifications at least 14 days before the scheduled safety inspection.
 2. The Director may refuse to accept an inspection that does not conform to this Article.
 3. A safety inspection report submitted pursuant to this subsection shall include the fee required by R12-15-105(D).
- F.** Inspections by the Department

1. The Director may enter at reasonable times upon private or public property and the owner shall permit such entry, where a dam is located, including a dam under construction, reconstruction, repair, enlargement, alteration, breach, or removal, for any of the following purposes:
 - a. To enforce the conditions of approval of the construction drawings and specifications related to an application for construction, reconstruction, repair, enlargement, alteration, breach, or removal.
 - b. To inspect a dam that is subject to this Article.
 - c. To investigate or assemble data to aid review and study of the design and construction of dams, reservoirs, and appurtenances or make watershed investigations to facilitate decisions on public safety to fulfill the duties of A.R.S. § 45-1214.
 - d. To ascertain compliance with this Article and A.R.S. Title 45, Chapter 6.
2. Upon receipt of a complaint that a dam is endangering people or property:
 - a. The Director shall inspect the dam unless there is substantial cause to believe the complaint is without merit.
 - b. If the complainant files a complaint in writing and deposits with the Director sufficient funds to cover the costs of the inspection, the Director shall make an inspection.
 - c. The Director shall provide a written report of the inspection to the complainant and the dam owner.
 - d. If an unsafe condition is found, the Director shall cause it to be corrected and return the deposit to the complainant. If the complaint was without merit the deposit shall be paid into the general fund.
3. The Director may employ qualified on-call consultants to conduct inspections.
4. Inspections under subsection (A) shall comply with the requirements of A.R.S. § 41-1009.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2). Amended by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

R12-15-1220. Existing Dams

- A. The requirements of this Article apply to existing dams, except as provided in subsections (B) and (C).
- B. If the Director has determined that an existing dam is in a safe condition, the owner is not required to comply with R12-15-1216 unless the Director determines that it is cost effective to upgrade the dam to comply with the requirements of R12-15-1216 at the time a major alteration or major repair is planned. In determining whether it is cost effective to upgrade a dam, the Director shall consider:
 1. The hazard potential classification of the dam;
 2. Whether the cost of the upgrade would exceed 25% of the total cost of the major alteration or major repair; and
 3. Whether there is a more cost effective alternative that would provide an equivalent increase in safety.
- C. If the Director has determined that a dam is in an unsafe condition, the owner shall comply with the requirements in R12-15-1216. The owner is not required to comply with a requirement in this Article if the Director finds that, considering the site characteristics and the proposed design, the requirement is unduly burdensome or expensive and is not necessary to pro-

tect human life or property. The Director shall consider the size, hazard potential classification, physical site conditions, and applicability of a requirement to the dam. The Director shall state in writing the reason or reasons the owner is not required to comply with a requirement.

- D. The owner shall ensure that installation of utilities beneath or through an existing dam is accomplished by open cuts or jacking and boring methods.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

R12-15-1221. Emergency Action Plans

- A. Each owner of a high or significant hazard potential dam shall prepare, maintain, and exercise a written emergency action plan for immediate defensive action to prevent failure of the dam and minimize any threat to downstream development. The emergency action plan shall contain a:
 1. Notification chart showing the priority for notification in an emergency situation. The owner shall notify local emergency response agencies, affected downstream populations, county emergency management agencies, and affected flood control districts;
 2. Description of the demand reservoir and scope of the emergency action plan;
 3. Delineation of potentially unsafe conditions, evaluation procedures, and triggering events that require the initiation of partial or full emergency notification procedures, based on the urgency of the situation;
 4. Delineation of areas of responsibility of the owner and other parties. The emergency action plan shall clearly identify individuals responsible for notifications and declaring an emergency;
 5. Specific notification procedure for each emergency situation anticipated;
 6. Description of emergency supplies and resources, equipment access to the site, and alternative means of communication. The emergency action plan shall also identify specific preparedness activities required, such as annual full or partial mock exercises and updates of the emergency action plan; and
 7. Map showing the area that would be subject to flooding due to spillway flows and dam failures.
- B. The owner shall use the Director's model emergency action plan, which is available at no cost, or an equivalent model, for guidance in preparing the emergency action plan.
- C. The owner shall submit a copy of the proposed emergency action plan for review by the Arizona Division of Emergency Management and all local emergency coordinators involved in the plan. The owner shall incorporate appropriate recommendations generated by the reviews and submit the revised emergency action plan to the Department.
- D. The owner shall review and update the emergency action plan annually or more frequently to incorporate changes such as new personnel, changing roles of emergency agencies, emergency response resources, conditions of the dam, and information learned from mock exercises. The owner shall send updated portions of the plan to persons and agencies holding copies of the plan within 15 days after preparation of an update.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

R12-15-1222. Right of Review

- A. An applicant or owner aggrieved by a decision of the Director regarding the determination of hazard classification, jurisdictional status, or the Director's application of this Article may seek review of an appealable agency action under A.R.S. Title 41, Chapter 6, Article 10.
- B. An applicant or owner aggrieved by a decision of the Director that requires the exercise of professional engineering judgment or discretion or the assessment of risk to human life or property, such as the adequacy of an applicant's project documentation, dam design, safe storage level, requirements for existing dams, or maintenance, may seek review by a board of review under A.R.S. §§ 45-1210 and 45-1211.
- C. The following actions are not subject to review:
 1. Emergency measures taken under A.R.S. §§ 45-1212 or 45-1221.
 2. Agency decisions made under A.R.S. §§ 41-1009(E) or (F).
 3. Agency actions made exempt from review by law.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

R12-15-1223. Enforcement Authority

- A. The Department may exercise its discretion to take action necessary to prevent danger to human life or property. The Director may take any legal action that is proper and necessary for the enforcement of this Chapter.
- B. If the Director has cause to believe that a dam is unsafe or a person is violating or has violated a provision of this Article or A.R.S. Title 45, Chapter 6, Article 1, the Director may issue a notice directing the owner to remedy the safety deficiency or correct the violation. The owner may appeal a notice issued under this subsection as an appealable agency action in accordance with A.R.S. Title 41, Chapter 6, Article 10. If the owner does not appeal within 30 days after the date on the notice, the notice becomes final and may be incorporated as a condition of any license based on the duration of the requirement.
- C. If the Director has cause to believe that a dam is unsafe or a person is violating or has violated a provision of this Article or A.R.S. Title 45, Chapter 6, Article 1, the Director may proceed under A.R.S. § 45-1221 to initiate a contested case under A.R.S. Title 41, Chapter 6, Article 10 by requesting an administrative hearing.
- D. Following a written decision by an administrative law judge, the Director shall issue a decision and order accepting, rejecting, or modifying the administrative law judge's decision. Upon expiration of time to appeal, the decision and order becomes final and may be incorporated as a condition of any license based on the duration of the requirement.
- E. If the Director has cause to believe that a dam is unsafe or a person is violating or has violated a provision of this Article or A.R.S. Title 45, Chapter 6, Article 1 the Director may commence an action in a court of appropriate jurisdiction if:
 1. The violation is an emergency requiring appropriate steps to be taken without delay; or
 2. The Director has cause to believe that use of the administrative procedure would be ineffective or that delay would ensue and a deterioration in the safety of the dam would occur.
- F. If the Director commences an action it shall be brought in a court of appropriate jurisdiction in which:
 1. The cause or some part of the cause arose; or
 2. The owner or person complained of has his or her place of business; or
 3. The owner or person complained of resides.
- G. A person determined to be in violation of this Article; A.R.S. Title 45, Chapter 6; a license; or order may be assessed a civil penalty not exceeding \$1,000 per day of violation. The Director may offer evidence relating to the amount of the penalty in accordance with A.R.S. § 45-1222.
- H. A violation of A.R.S. Title 45, Chapter 6, Article 1 regarding Supervision of Dams, Reservoirs, and Projects is a class 2 misdemeanor, in accordance with A.R.S. § 45-1216.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

R12-15-1224. Emergency Procedures

- A. The owner of a dam shall immediately notify the Department and responsible authorities in adjacent and downstream communities, including emergency management authorities, of a condition that may threaten the safety of the dam. The owner shall take necessary actions to protect human life and property, including action required under an emergency action plan or order issued under this Article.
 1. A condition that may threaten the safety of a dam includes:
 - a. Sliding of upstream or downstream slopes or abutments contiguous to the dam;
 - b. Sudden subsidence of the top of the dam;
 - c. Longitudinal or transverse cracking of the top of the dam;
 - d. Unusual release of water from the downstream slope or face of the dam;
 - e. Other unusual conditions at the downstream slope of the dam;
 - f. Significant landslides in the reservoir area;
 - g. Increasing volume of seepage;
 - h. Cloudy seepage or recent deposits of soil at seepage exit points;
 - i. Sudden cracking or displacement of concrete in a concrete or masonry dam spillway or outlet works;
 - j. Loss of freeboard or dam cross section due to storm wave erosion;
 - k. Flood waters overtopping an embankment dam; or
 - l. Spillway backcutting that threatens evacuation of the reservoir.
 2. In case of an emergency, the owner shall telephone the Arizona Department of Public Safety's emergency numbers at (800) 411-2336 or (602) 223-2000.
- B. The Director shall issue an emergency approval to repair, alter, or remove an existing dam if the Director finds that immediate remedial action is necessary to alleviate an imminent threat to human life or property.
 1. The emergency approval shall be provided in writing on a form developed for this purpose.
 2. The emergency approval may contain conditions the Director determines are appropriate to protect human life or property.
 3. The emergency approval is effective immediately for 30 days after notice is issued unless extended in writing by the Director. The Director shall also send notice to the county flood control district of the county in which the dam is located, all municipalities within 5 miles downstream of the dam, and any additional persons identified in the emergency action plan.
 4. The Director may institute legal or administrative proceedings that the Director deems appropriate for violations of the emergency approval or conditions of the emergency approval.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

R12-15-1225. Emergency Repairs

- A. The Director shall use monies from the dam repair fund, established under A.R.S. § 45-1212.01 to employ any remedial measure necessary to protect human life and property resulting from a condition that threatens the safety of a dam if the dam owner is unable or unwilling to take action and there is not sufficient time to issue and enforce an order.
- B. The deputy director may authorize an expenditure not to exceed \$10,000 from the dam repair fund for remedial measures under A.R.S. § 45-1212. The expenditure of any additional funds shall be approved by the Director.
- C. The Director shall hold a lien against all property of the owner in accordance with A.R.S. § 45-1212.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

R12-15-1226. Non-Emergency Repairs; Loans and Grants

- A. If the Director determines that a dam represents a threat to human life and property but is not in an emergency condition, the Director may use the dam repair fund, established under A.R.S. § 45-1212.01, as prescribed in this Article to defray the costs of repair.
- B. Monies from the dam repair fund may be used for loans and grants to owners as provided in A.R.S. §§ 45-1218 and 45-1219.
- C. To qualify for a loan or grant from the dam repair fund, a dam shall be classified as unsafe by the Director.
- D. The Director may authorize grant funds for all or part of the cost of engineering studies or construction needed to mitigate the threat to human life and property created by a dam.
 1. The Director and the grantee shall execute a financial assistance agreement that includes terms of financial assistance, the work progress, and payment schedule.
 2. The Director shall disburse grant funds in accordance with the financial assistance agreement.
 3. The Director shall establish a priority ranking for grants based on factors including the potential for failure of a dam, the number of lives at risk, and the capability of the owner to pay a portion of the costs.
- E. The Director may loan funds for engineering studies or for all or part of construction as prescribed in A.R.S. § 45-1218.
 1. The Director and the dam owner shall execute a loan repayment agreement. The loan repayment agreement shall be delivered to and held by the Department.
 2. The Director shall establish a priority ranking for loans based on factors including the potential for failure of a dam, the number of human lives at risk, and the capability of the owner to pay a portion of the costs.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

**ARTICLE 13. WELL SPACING REQUIREMENTS;
REPLACEMENT WELLS IN APPROXIMATELY THE
SAME LOCATION**

R12-15-1301. Definitions

In addition to the definitions in A.R.S. §§ 45-101, 45-402, and 45-591, the following words and phrases in this Article shall have the following meanings, unless the context otherwise requires:

1. "Abandoned well" means a well for which a well abandonment completion report has been filed pursuant to

R12-15-816(E) or for which a notification of abandonment has been filed pursuant to R12-15-816(K).

2. "Additional drawdown" means a lowering in the water levels surrounding a well that is the result of the operation of the well and that is not attributable to existing regional rates of decline or existing impacts from other wells.
3. "Applicant" means any of the following:
 - a. A person who has filed an application for a permit to construct a new well or a replacement well in a new location under A.R.S. § 45-599;
 - b. A person who has filed an application for a recovery well permit under A.R.S. § 45-834.01 for a new well as defined in A.R.S. § 45-591 or, except as provided in A.R.S. § 45-834.01(B)(2) or (3), an existing well as defined in A.R.S. § 45-591;
 - c. A person who has filed an application for approval to use a well to withdraw groundwater for transportation to an active management area under A.R.S. § 45-559; or
 - d. A person, other than a city, town, private water company, or irrigation district, who has filed an application for a water exchange permit under A.R.S. § 45-1041.
4. "ADEQ" means the Arizona Department of Environmental Quality.
5. "Contaminated groundwater" means groundwater that has been contaminated by a release of a hazardous substance, as defined in A.R.S. § 49-201, or a pollutant, as defined in A.R.S. § 49-201.
6. "DOD" means the United States Department of Defense.
7. "EPA" means the United States Environmental Protection Agency.
8. "LCR plateau groundwater transporter" means a person transporting groundwater from the Little Colorado River plateau groundwater basin to another groundwater basin pursuant to A.R.S. § 45-544(B)(1).
9. "Notice of water exchange participant" means a person, other than a city, town, private water company, or irrigation district, named as a participant in a water exchange in a notice of water exchange filed under A.R.S. § 45-1051.
10. "Original well" means the well replaced by a replacement well in approximately the same location, except that if the replacement well is the latest in a succession of two or more wells drilled as replacement wells in approximately the same location under R12-15-1308 or temporary rule R12-15-840 adopted by the director on March 11, 1983, "original well" means the well replaced by the first replacement well in approximately the same location.
11. "Remedial action site" means any of the following:
 - a. The site of a remedial action undertaken pursuant to the comprehensive environmental response, compensation, and liability act ("CERCLA") of 1980, as amended, 42 U.S.C. 9601, et seq., commonly known as a "superfund" site;
 - b. The site of a corrective action undertaken pursuant to A.R.S. Title 49, Chapter 6, commonly known as a leaking underground storage tank ("LUST") site;
 - c. The site of a voluntary remediation action undertaken pursuant to A.R.S. Title 49, Chapter 1, Article 5;
 - d. The site of a remedial action undertaken pursuant to A.R.S. Title 49, Chapter 2, Article 5, commonly known as a water quality assurance revolving fund ("WQARF") site;

- e. The site of a remedial action undertaken pursuant to the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6901, et seq.; or
 - f. The site of remedial action undertaken pursuant to the Department of Defense Environmental Restoration Program, 10 U.S.C. 2701, et seq., commonly known as a "Department of Defense site" or a "DOD site."
12. "Replacement well" means a well drilled for the purpose of replacing another well.
13. "Replacement well in a new location" means a replacement well that does not qualify as a replacement well in approximately the same location under R12-15-1308.
14. "Replacement well in approximately the same location" means a replacement well that qualifies as a replacement well in approximately the same location under R12-15-1308.
15. "Well" has the meaning prescribed in A.R.S. § 45-402. An abandoned well is not a well.
16. "Well of record" means, with respect to an applicant, an LCR plateau groundwater transporter, or a notice of water exchange participant, any well or proposed well not owned by the applicant, LCR plateau groundwater transporter, or notice of water exchange participant, or proposed to be drilled by the applicant, LCR plateau groundwater transporter, or notice of water exchange participant, to which any of the following apply:
- a. The well is an existing well as defined in A.R.S. § 45-591 and the owner or operator has registered the well with the Department, unless the current well information on file with the Department identifies the sole purpose or purposes of the well as one or more of the following:
 - i. Cathodic protection;
 - ii. Use as a sump pump or heat pump;
 - iii. Air sparging;
 - iv. Injection of liquids or gasses into the aquifer or vadose zone, including injection wells that are part of an underground storage facility permitted under A.R.S. Title 45, Chapter 3.1;
 - v. Monitoring water levels or water quality, including a piezometer well;
 - vi. Obtaining geophysical, mineralogical, or geotechnical data;
 - vii. Grounding;
 - viii. Soil vapor extraction;
 - ix. Electrical energy generation pursuant to a temporary permit for electrical energy generation issued under A.R.S. § 45-517;
 - x. Dewatering pursuant to a dewatering permit issued under A.R.S. § 45-513 or a temporary dewatering permit issued under A.R.S. § 45-518;
 - xi. Drainage pursuant to a drainage water withdrawal permit issued under A.R.S. § 45-519; or
 - xii. Hydrologic testing pursuant to a hydrologic testing permit issued under A.R.S. § 45-519.01.
 - b. The well is a new well as defined in A.R.S. § 45-591 for which a notice of intention to drill was not filed pursuant to A.R.S. § 45-596 and for which a permit was not issued pursuant to A.R.S. §§ 45-599 or 45-834.01, and the owner or operator has registered the well with the Department, unless the current well information on file with the Department identifies the sole purpose or purposes of the well as one or more of the purposes in subsection (16)(a)(i) through (xii) of this Section;
 - c. A filing has been made for the well pursuant to A.R.S. § 45-596(A) or (B), unless any of the following apply:
 - i. The filing has expired pursuant to A.R.S. § 45-596(E);
 - ii. The filing identifies the sole purpose or purposes of the well as one or more of the purposes in subsection (16)(a)(i) through (xii) of this Section; or
 - iii. The well is an exempt well and the director is prohibited by A.R.S. § 45-454(D)(4) from considering impacts on the well when determining whether to approve or reject a permit application filed under A.R.S. § 45-599.
 - d. An application for a permit to drill the well has been received by the Department pursuant to A.R.S. § 45-599, unless the application has been rejected after exhaustion of all administrative and judicial appeals or the permit issued pursuant to the application has been revoked or has expired according to its terms or for failure to complete the well in a timely manner pursuant to A.R.S. § 45-599(G);
 - e. An application for a permit pursuant to A.R.S. §§ 45-514 or 45-516 has been received by the Department pursuant to A.R.S. § 45-521, unless the application has been rejected after exhaustion of all administrative and judicial appeals or the permit issued pursuant to the application has been revoked or has expired according to its terms or for failure to complete the well before expiration of the drilling authority; or
 - f. An application for a permit to drill a recovery well has been received by the Department pursuant to A.R.S. § 45-834.01, unless the application has been rejected after exhaustion of all administrative and judicial appeals or the permit issued pursuant to the application has been revoked or has expired according to its terms or for failure to complete the well in a timely manner pursuant to A.R.S. § 45-834.01(F).

Historical Note

New Section made by final rulemaking at 12 A.A.R. 2193, effective August 7, 2006 (Supp. 06-2).

R12-15-1302. Well Spacing Requirements - Applications to Construct New Wells or Replacement Wells in New Locations Under A.R.S. § 45-599

- A.** The director shall not approve an application for a permit to construct a new well or a replacement well in a new location under A.R.S. § 45-599 if the director determines that the withdrawals from the proposed well or wells will cause unreasonably increasing damage to surrounding land or other water users from the concentration of wells under subsection (B) of this Section.
- B.** The director shall determine that the withdrawals from the proposed well or wells will cause unreasonably increasing damage to surrounding land or other water users from the concentration of wells if any of the following apply:
 - 1. Except as provided in subsection (D) of this Section, the director determines that the probable impact of the withdrawals from the proposed well or wells on any well of record in existence as of the date of receipt of the application will exceed 10 feet of additional drawdown after the first five years of operation of the proposed well or wells. To assist the director in making a determination under

this subsection, the applicant may submit a hydrological study delineating those areas surrounding the proposed well or wells in which the projected impacts on water levels will exceed 10 feet of additional drawdown after the first five years of operation of the proposed well or wells. The director may require the applicant to submit such a hydrological study if the director determines that the study will assist the director in making a determination under this subsection;

2. The director determines that the proposed well or wells will be located in an area of known land subsidence and the withdrawals from the proposed well or wells will likely cause unreasonably increasing damage from additional regional land subsidence. To assist the director in making a determination under this subsection, the applicant may submit a hydrological study, which may include a geophysical evaluation, demonstrating the impact of the withdrawals from the proposed well or wells on regional land subsidence. The director may require the applicant to submit such a hydrological study if the director determines that the study will assist the director in making a determination under this subsection; or
 3. Except as provided in subsection (E) of this Section, the director determines, after consulting with ADEQ, that withdrawals from the proposed well or wells will likely cause the migration of contaminated groundwater from a remedial action site to a well of record in existence as of the date of the receipt of the application, resulting in a degradation of the quality of the water withdrawn from the well of record so that the water will no longer be usable for the purpose for which it is currently being used without additional treatment, and that the damage to the owner of the well of record will not be prevented or adequately mitigated through the implementation of a program regulated under Title 49 of the Arizona Revised Statutes, or a program regulated by EPA or DOD. To assist the director in making a determination under this subsection, the applicant may submit a hydrological study demonstrating whether the withdrawals from the proposed well or wells will have the effect described in this subsection. The director may require the applicant to submit such a hydrological study if the director determines that the study will assist the director in making a determination under this subsection.
- C. In making a determination under subsection (B)(1), (B)(2), or (B)(3) of this Section, if the proposed well is a replacement well in a new location, the director shall take into account the collective effects of reducing or terminating withdrawals from the well being replaced combined with the proposed withdrawals from the replacement well if the applicant submits a hydrological study demonstrating those collective effects to the satisfaction of the director.
- D. If the director determines under subsection (B)(1) of this Section that the probable impact of the withdrawals from the proposed well or wells on one or more wells of record in existence as of the date of receipt of the application will exceed 10 feet of additional drawdown after the first five years of operation of the proposed well or wells, the director shall notify the applicant in writing of the location of the wells of record and the names and addresses of the owners of the wells as shown in the Department's well registry. The director shall not determine that the withdrawals from the proposed well or wells will cause unreasonably increasing damage to surrounding land or other water users from the concentration of wells under subsection (B)(1) of this Section if within 60 days after the date on the notice, or a longer time period approved by the director,

the applicant submits one of the following for each well of record identified in the notice:

1. A signed and notarized consent form from the owner of the well of record consenting to the withdrawals from the proposed well or wells. The applicant shall use the consent form furnished by the director; or
 2. Evidence satisfactory to the director that the address of the owner of the well of record as shown in the Department's well registry records is inaccurate and that the applicant made a reasonable attempt to locate the current owner of the well of record but was unable to do so.
- E. If the director determines that withdrawals from the proposed well or wells will have the effect described in subsection (B)(3) of this Section on one or more wells of record in existence as of the date of receipt of the application, the director shall notify the applicant in writing of the location of the wells of record and the names and addresses of the owners of the wells as shown in the Department's well registry. The director shall not determine that the withdrawals from the proposed well or wells will cause unreasonably increasing damage to surrounding land or other water users from the concentration of wells under subsection (B)(3) of this Section if within 60 days after the date on the notice, or a longer time period approved by the director, the applicant submits one of the following for each well of record identified in the notice:
1. A signed and notarized consent form from the owner of the well of record consenting to the withdrawals from the proposed well or wells. The applicant shall use the consent form furnished by the director; or
 2. Evidence satisfactory to the director that the address of the owner of the well of record as shown in the Department's well registry records is inaccurate and that the applicant made a reasonable attempt to locate the current owner of the well of record but was unable to do so.
- F. At any time before a final determination under this Section, the applicant may:
1. Amend the application to change the location of the proposed well or wells or the amount of groundwater to be withdrawn from the proposed well or wells to lessen the degree of impact on wells of record or regional land subsidence; or
 2. Agree to construct or operate the proposed well or wells in a manner that lessens the degree of impact on wells of record or regional land subsidence. The director shall indicate in the well permit that compliance with the agreement is a condition of the well permit.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 2193, effective August 7, 2006 (Supp. 06-2).

R12-15-1303. Well Spacing Requirements - Applications for Recovery Well Permits Under A.R.S. § 45-834.01

- A. The director shall not approve an application for a recovery well permit under A.R.S. § 45-834.01 that is filed for a new well as defined in A.R.S. § 45-591 or, except as provided in A.R.S. § 45-834.01(B)(2) or (3), for an existing well as defined in A.R.S. § 45-591, if the director determines that the recovery of stored water from the proposed well or wells will cause unreasonably increasing damage to surrounding land or other water users from the concentration of wells under subsection (B) of this Section.
- B. The director shall determine that the recovery of stored water from the proposed well or wells will cause unreasonably increasing damage to surrounding land or other water users from the concentration of wells if any of the following apply:

1. Except as provided in subsection (D) of this Section, the director determines that the probable impact of the recovery of stored water from the proposed well or wells on any well of record in existence as of the date of receipt of the application will exceed 10 feet of additional drawdown after the first five years of the recovery of stored water from the proposed well or wells. To assist the director in making a determination under this subsection, the applicant shall submit with the application a hydrological study delineating those areas surrounding the proposed well or wells in which the projected impacts on water levels will exceed 10 feet of additional drawdown after the first five years of the recovery of stored water from the proposed well or wells;
 2. The director determines that the proposed recovery well or wells will be located in an area of known land subsidence and the recovery of stored water from the proposed well or wells will likely cause unreasonably increasing damage from additional regional land subsidence. To assist the director in making a determination under this subsection, the applicant may submit a hydrological study, which may include a geophysical evaluation, demonstrating the impact of the recovery of stored water from the proposed recovery well or wells on regional land subsidence. The director may require the applicant to submit such a hydrological study if the director determines that the study will assist the director in making a determination under this subsection; or
 3. Except as provided in subsection (E) of this Section, the director determines, after consulting with ADEQ, that the recovery of stored water from the proposed well or wells will likely cause the migration of contaminated groundwater from a remedial action site to a well of record in existence as of the date of receipt of the application, resulting in a degradation of the quality of the water withdrawn from the well of record so that the water will no longer be usable for the purpose for which it is currently being used without additional treatment, and that the damage to the owner of the well of record will not be prevented or adequately mitigated through the implementation of a program regulated under Title 49 of the Arizona Revised Statutes, or a program regulated by EPA or DOD. To assist the director in making a determination under this subsection, the applicant may submit a hydrological study demonstrating whether the recovery of stored water from the proposed well or wells will have the effect described in this subsection. The director may require the applicant to submit such a hydrological study if the director determines that the study will assist the director in making a determination under this subsection.
- C. In making a determination under subsection (B)(1), (B)(2), or (B)(3) of this Section:
1. If the proposed recovery well is a replacement well in a new location, the director shall take into account the collective effects of reducing or terminating withdrawals from the well being replaced combined with the proposed recovery of stored water from the replacement well if the applicant submits a hydrological study demonstrating those collective effects to the satisfaction of the director.
 2. If the proposed recovery well will be located within the area of impact, as defined in A.R.S. § 45-802.01, of an underground storage facility and the applicant will account for all of the water recovered from the well as water stored at the facility, the director shall take into account the effects of water storage at the facility on the proposed recovery of stored water from the recovery well if the applicant submits a hydrological study demonstrating those effects to the satisfaction of the director.
- D. If the director determines under subsection (B)(1) of this Section that the probable impact of the recovery of stored water from the proposed recovery well or wells on any well of record in existence as of the date of receipt of the application will exceed 10 feet of additional drawdown after the first five years of operation of the proposed well or wells, the director shall notify the applicant in writing of the location of the wells of record and the names and addresses of the owners of the wells as shown in the Department's well registry. The director shall not determine that the recovery of stored water from the proposed recovery well or wells will cause unreasonably increasing damage to surrounding land or other water users from the concentration of wells under subsection (B)(1) of this Section if within 60 days after the date on the notice, or a longer time period approved by the director, the applicant submits one of the following for each well of record identified in the notice:
1. A signed and notarized consent form from the owner of the well of record consenting to the recovery of stored water from the proposed recovery well or wells. The applicant shall use the consent form furnished by the director; or
 2. Evidence satisfactory to the director that the address of the owner of the well of record as shown in the Department's well registry records is inaccurate and that the applicant made a reasonable attempt to locate the current owner of the well of record but was unable to do so.
- E. If the director determines that the recovery of stored water from the proposed recovery well or wells will have the effect described in subsection (B)(3) of this Section on one or more wells of record in existence as of the date of receipt of the application, the director shall notify the applicant in writing of the location of the wells of record and the names and addresses of the owners of the wells as shown in the Department's well registry. The director shall not determine that the recovery of stored water from the proposed recovery well or wells will cause unreasonably increasing damage to surrounding land or other water users from the concentration of wells under subsection (B)(3) of this Section if within 60 days after the date on the notice, or a longer time period approved by the director, the applicant submits one of the following for each well of record identified in the notice:
1. A signed and notarized consent form from the owner of the well of record consenting to the recovery of stored water from the proposed recovery well or wells. The applicant shall use the consent form furnished by the director; or
 2. Evidence satisfactory to the director that the address of the owner of the well of record as shown in the Department's well registry records is inaccurate and that the applicant made a reasonable attempt to locate the current owner of the well of record but was unable to do so.
- F. At any time before a final determination under this Section, the applicant may:
1. Amend the application to change the location of the proposed recovery well or wells or the amount of stored water to be recovered from the proposed recovery well or wells to lessen the degree of impact on wells of record or regional land subsidence; or
 2. Agree to construct or operate the proposed recovery well or wells in a manner that lessens the degree of impact on wells of record or regional land subsidence. The director shall indicate in the recovery well permit that compliance with the agreement is a condition of the recovery well permit.

Historical Note

New Section made by final rulemaking at 12 A.A.R.
2193, effective August 7, 2006 (Supp. 06-2).

R12-15-1304. Well Spacing Requirements - Wells Withdrawing Groundwater From the Little Colorado River Plateau Groundwater Basin for Transportation to Another Groundwater Basin Under A.R.S. § 45-544(B)(1)

- A.** An LCR plateau groundwater transporter may not withdraw groundwater from a well or wells drilled in the Little Colorado river plateau groundwater basin after January 1, 1991, except a replacement well in approximately the same location or a well drilled after that date pursuant to a notice of intention to drill filed on or before that date, for transportation away from the basin pursuant to A.R.S. § 45-544(B)(1) if the director determines that the withdrawals for that purpose will cause unreasonably increasing damage to surrounding land or other water users from the concentration of wells under subsection (B) of this Section.
- B.** The director shall determine that the withdrawals of groundwater from the well or wells will cause unreasonably increasing damage to surrounding land or other water users from the concentration of wells if any of the following apply:
1. Except as provided in subsection (D) of this Section, the director determines that the probable impact of the withdrawals of groundwater from the well or wells on any well of record in existence when the withdrawals commenced or are proposed to commence will exceed 10 feet of additional drawdown after the first five years of the withdrawals. To assist the director in making a determination under this subsection, the LCR plateau groundwater transporter may submit to the director a hydrological study delineating those areas surrounding the LCR plateau groundwater transporter's well or wells in which the projected impacts on water levels will exceed 10 feet of additional drawdown after the first five years of the withdrawals. The director may require the LCR plateau groundwater transporter to submit such a hydrological study if the director determines that the study will assist the director in making a determination under this subsection;
 2. The director determines that the well or wells from which the groundwater is withdrawn are located in an area of known land subsidence and the withdrawals of groundwater will likely cause unreasonably increasing damage from additional regional land subsidence. To assist the director in making a determination under this subsection, the LCR plateau groundwater transporter may submit to the director a hydrological study, which may include a geophysical evaluation, demonstrating the impact of the withdrawals on regional land subsidence. The director may require the LCR plateau groundwater transporter to submit such a hydrological study if the director determines that the study will assist the director in making a determination under this subsection; or
 3. Except as provided in subsection (E) of this Section, the director determines, after consulting with ADEQ, that the withdrawals of groundwater from the well or wells will likely cause the migration of contaminated groundwater from a remedial action site to a well of record in existence when the groundwater withdrawals commenced or are proposed to commence, resulting in a degradation of the quality of the water withdrawn from the well of record so that the water will no longer be usable for the purpose for which it is currently being used without additional treatment, and that the damage to the owner of the well of record will not be prevented or adequately mitigated through the implementation of a program regulated under Title 49 of the Arizona Revised Statutes, or a program regulated by EPA or DOD. To assist the director in making a determination under this subsection, the LCR plateau groundwater transporter may submit to the director a hydrological study demonstrating whether the withdrawals of groundwater will have the effect described in this subsection. The director may require the LCR plateau groundwater transporter to submit such a hydrological study if the director determines that the study will assist the director in making a determination under this subsection.
- C.** In making a determination under subsection (B)(1), (B)(2), or (B)(3) of this Section, if a well from which the groundwater is withdrawn is a replacement well in a new location, the director shall take into account the collective effects of reducing or terminating withdrawals from the well being replaced combined with the withdrawals from the replacement well if the LCR plateau groundwater transporter submits a hydrological study demonstrating those collective effects to the satisfaction of the director.
- D.** If the director determines under subsection (B)(1) of this Section that the probable impact of the withdrawals of groundwater from the well or wells on any well of record in existence when the withdrawals commenced or are proposed to commence will exceed 10 feet of additional drawdown after the first five years of the withdrawals, the director shall notify the LCR plateau groundwater transporter in writing of the location of the wells of record and the names and addresses of the owners of the wells as shown in the Department's well registry. The director shall not determine that the withdrawals will cause unreasonably increasing damage to surrounding land or other water users from the concentration of wells under subsection (B)(1) of this Section if within 60 days after the date on the notice, or a longer time period approved by the director, the LCR plateau groundwater transporter submits one of the following for each well of record identified in the notice:
1. A signed and notarized consent form from the owner of the well of record consenting to the withdrawals. The LCR plateau groundwater transporter shall use the consent form furnished by the director; or
 2. Evidence satisfactory to the director that the address of the owner of the well of record as shown in the Department's well registry records is inaccurate and that the LCR plateau groundwater transporter made a reasonable attempt to locate the current owner of the well of record but was unable to do so.
- E.** If the director determines that the withdrawals of groundwater from the well or wells will have the effect described in subsection (B)(3) of this Section on one or more wells of record in existence when the groundwater withdrawals commenced or are proposed to commence, the director shall notify the LCR plateau groundwater transporter in writing of the location of the wells of record and the names and addresses of the owners of the wells as shown in the Department's well registry. The director shall not determine that the withdrawals will cause unreasonably increasing damage to surrounding land or other water users from the concentration of wells under subsection (B)(3) of this Section if within 60 days after the date on the notice, or a longer time period approved by the director, the LCR plateau groundwater transporter submits one of the following for each well of record identified in the notice:
1. A signed and notarized consent form from the owner of the well of record consenting to the withdrawals. The LCR plateau groundwater transporter shall use the consent form furnished by the director; or

2. Evidence satisfactory to the director that the address of the owner of the well of record as shown in the Department's well registry records is inaccurate and that the LCR plateau groundwater transporter made a reasonable attempt to locate the current owner of the well of record but was unable to do so.
- F. At any time before a final determination under this Section, the LCR plateau groundwater transporter may agree to construct or operate the well or wells in a manner that lessens the degree of impact on wells of record or regional land subsidence. Compliance with the agreement is a condition for the use of the well or wells to withdraw groundwater for transportation away from the basin pursuant to A.R.S. § 45-544(B)(1).

Historical Note

New Section made by final rulemaking at 12 A.A.R. 2193, effective August 7, 2006 (Supp. 06-2).

R12-15-1305. Well Spacing Requirements - Applications to Use a Well to Withdraw Groundwater for Transportation to an Active Management Area Under A.R.S. § 45-559

- A. The director shall not approve an application to use a well or wells constructed after September 21, 1991, to withdraw groundwater for transportation to an active management area under A.R.S. § 45-559 if the director determines that the withdrawals for that purpose will cause unreasonably increasing damage to surrounding land or other water users from the concentration of wells under subsection (B) of this Section.
- B. The director shall determine that the withdrawals of groundwater will cause unreasonably increasing damage to surrounding land or other water users from the concentration of wells if any of the following apply:
1. Except as provided in subsection (C) of this Section, the director determines that the probable impact of the groundwater withdrawals on any well of record in existence as of the date of receipt of the application will exceed 10 feet of additional drawdown after the first five years of the withdrawals. To assist the director in making a determination under this subsection, the applicant may submit a hydrological study delineating those areas surrounding the proposed well or wells in which the projected impacts of the groundwater withdrawals on water levels will exceed 10 feet of additional drawdown after the first five years of the withdrawals. The director may require the applicant to submit such a hydrological study if the director determines that the study will assist the director in making a determination under this subsection;
 2. The director determines that the proposed well or wells will be located in an area of known land subsidence and the groundwater withdrawals will likely cause unreasonably increasing damage from additional regional land subsidence. To assist the director in making a determination under this subsection, the applicant may submit a hydrological study, which may include a geophysical evaluation, demonstrating the impact of the groundwater withdrawals on regional land subsidence. The director may require the applicant to submit such a hydrological study if the director determines that the study will assist the director in making a determination under this subsection; or
 3. Except as provided in subsection (D) of this Section, the director determines, after consulting with ADEQ, that the groundwater withdrawals will likely cause the migration of contaminated groundwater from a remedial action site to a well of record in existence as of the date of receipt of the application, resulting in a degradation of the quality of the water withdrawn from the well of record so that the water will no longer be usable for the purpose for which it is currently being used without additional treatment, and that the damage to the owner of the well of record will not be prevented or adequately mitigated through the implementation of a program regulated under Title 49 of the Arizona Revised Statutes, or a program regulated by EPA or DOD. To assist the director in making a determination under this subsection, the applicant may submit a hydrological study demonstrating whether the groundwater withdrawals will have the effect described in this subsection. The director may require the applicant to submit such a hydrological study if the director determines that the study will assist the director in making a determination under this subsection.
- C. If the director determines under subsection (B)(1) of this Section that the probable impact of the groundwater withdrawals on any well of record in existence as of the date of receipt of the application will exceed 10 feet of additional drawdown after the first five years of the withdrawals, the director shall notify the applicant in writing of the location of the wells of record and the names and addresses of the owners of the wells as shown in the Department's well registry. The director shall not determine that the groundwater withdrawals will cause unreasonably increasing damage to surrounding land or other water users from the concentration of wells under subsection (B)(1) of this Section if within 60 days after the date on the notice, or a longer time period approved by the director, the applicant submits one of the following for each well of record identified in the notice:
1. A signed and notarized consent form from the owner of the well of record consenting to the withdrawals. The applicant shall use the consent form furnished by the director; or
 2. Evidence satisfactory to the director that the address of the owner of the well of record as shown in the Department's well registry records is inaccurate and that the applicant made a reasonable attempt to locate the current owner of the well of record but was unable to do so.
- D. If the director determines that the groundwater withdrawals will have the effect described in subsection (B)(3) of this Section on one or more wells of record in existence as of the date of receipt of the application, the director shall notify the applicant in writing of the location of the wells of record and the names and addresses of the owners of the wells as shown in the Department's well registry. The director shall not determine that the groundwater withdrawals will cause unreasonably increasing damage to surrounding land or other water users from the concentration of wells under subsection (B)(3) of this Section if within 60 days after the date on the notice, or a longer time period approved by the director, the applicant submits one of the following for each well of record identified in the notice:
1. A signed and notarized consent form from the owner of the well of record consenting to the withdrawals. The applicant shall use the consent form furnished by the director; or
 2. Evidence satisfactory to the director that the address of the owner of the well of record as shown in the Department's well registry records is inaccurate and that the applicant made a reasonable attempt to locate the current owner of the well of record but was unable to do so.
- E. At any time before a final determination under this Section, the applicant may:
1. Amend the application to change the location of the proposed well or wells or the amount of groundwater to be withdrawn from the proposed well or wells to lessen the

degree of impact on wells of record or regional land subsidence; or

2. Agree to construct or operate the proposed well or wells in a manner that lessens the degree of impact on wells of record or regional land subsidence. The director shall indicate in the permit that compliance with the agreement is a condition of the permit to use the well or wells to withdraw groundwater for transportation to an active management area under A.R.S. § 45-559.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 2193, effective August 7, 2006 (Supp. 06-2).

R12-15-1306. Well Spacing Requirements - Applications for Water Exchange Permits Under A.R.S. § 45-1041

- A. The director shall not approve an application for a water exchange permit filed under A.R.S. § 45-1041 by a person other than a city, town, private water company or irrigation district if the director determines that any new or increased pumping by the applicant from a well or wells within an active management area pursuant to the water exchange will cause unreasonably increasing damage to surrounding land or other water users under subsection (B) of this Section.
- B. The director shall determine that new or increased pumping by the applicant from a well or wells within an active management area will cause unreasonably increasing damage to surrounding land or other water users if any of the following apply:
 1. Except as provided in subsection (C) of this Section, the director determines that the probable impact of the new or increased pumping on any well of record in existence as of the date of receipt of the application will exceed 10 feet of additional drawdown after the first five years of the pumping. To assist the director in making a determination under this subsection, the applicant may submit a hydrological study delineating those areas surrounding the proposed well or wells in which the projected impacts of the new or increased pumping on water levels will exceed 10 feet of additional drawdown after the first five years of the pumping. The director may require the applicant to submit such a hydrological study if the director determines that the study will assist the director in making a determination under this subsection;
 2. The director determines that the new or increased pumping will occur in an area of known land subsidence and the pumping will likely cause unreasonably increasing damage from additional regional land subsidence. To assist the director in making a determination under this subsection, the applicant may submit a hydrological study, which may include a geophysical evaluation, demonstrating the impact of the new or increased pumping on regional land subsidence. The director may require the applicant to submit such a hydrological study if the director determines that the study will assist the director in making a determination under this subsection; or
 3. Except as provided in subsection (D) of this Section, the director determines, after consulting with ADEQ, that the new or increased pumping will likely cause the migration of contaminated groundwater from a remedial action site to a well of record in existence as of the date of receipt of the application, resulting in a degradation of the quality of the water withdrawn from the well of record so that the water will no longer be usable for the purpose for which it is currently being used without additional treatment, and that the damage to the owner of the well of record will not be prevented or adequately mitigated through the implementation of a program regulated under Title 49 of the Arizona Revised Statutes, or a program regulated by EPA or DOD. To assist the director in making a determination under this subsection, the applicant may submit with the application a hydrological study demonstrating whether the new or increased pumping will have the effect described in this subsection. If the applicant does not submit such a hydrological study with the application, the director may require the applicant to submit the study if the director determines that the study will assist the director in making a determination under this subsection.
- C. If the director determines under subsection (B)(1) of this Section that the probable impact of the new or increased pumping on any well of record in existence as of the date of receipt of the application will exceed 10 feet of additional drawdown after the first five years of the pumping, the director shall notify the applicant in writing of the location of the wells of record and the names and addresses of the owners of the wells as shown in the Department's well registry. The director shall not determine that the new or increased pumping will cause unreasonably increasing damage to surrounding land or other water users under subsection (B)(1) of this Section if within 60 days after the date on the notice, or a longer time period approved by the director, the applicant submits one of the following for each well of record identified in the notice:
 1. A signed and notarized consent form from the owner of the well of record consenting to the new or increased pumping. The applicant shall use the consent form furnished by the director; or
 2. Evidence satisfactory to the director that the address of the owner of the well of record as shown in the Department's well registry records is inaccurate and that the applicant made a reasonable attempt to locate the current owner of the well of record but was unable to do so.
- D. If the director determines that the new or increased pumping will have the effect described in subsection (B)(3) of this Section on one or more wells of record in existence as of the date of receipt of the application, the director shall notify the applicant in writing of the location of the wells of record and the names and addresses of the owners of the wells as shown in the Department's well registry. The director shall not determine that the new or increased pumping will cause unreasonably increasing damage to surrounding land or other water users from the concentration of wells under subsection (B)(3) of this Section if within 60 days after the date on the notice, or a longer time period approved by the director, the applicant submits one of the following for each well of record identified in the notice:
 1. A signed and notarized consent form from the owner of the well of record consenting to the new or increased pumping. The applicant shall use the consent form furnished by the director; or
 2. Evidence satisfactory to the director that the address of the owner of the well of record as shown in the Department's well registry records is inaccurate and that the applicant made a reasonable attempt to locate the current owner of the well of record but was unable to do so.
- E. At any time before a final determination under this Section, the applicant may:
 1. Amend the application to change the location of the proposed well or wells or the amount of the new or increase pumping to lessen the degree of impact on wells of record or regional land subsidence; or
 2. Agree to construct or operate the proposed well or wells in a manner that lessens the degree of impact on wells of record or regional land subsidence. The director shall

indicate in the water exchange permit that compliance with the agreement is a condition of the water exchange permit.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 2193, effective August 7, 2006 (Supp. 06-2).

R12-15-1307. Well Spacing Requirements - Notices of Water Exchange Under A.R.S. § 45-1051

- A. A notice of water exchange participant may not participate in a water exchange for which a notice is filed under A.R.S. § 45-1051 if the director determines that any new or increased pumping by the person from a well or wells within an active management area pursuant to the water exchange will cause unreasonably increasing damage to surrounding land or other water users under subsection (B) of this Section.
- B. The director shall determine that new or increased pumping from the well or wells in an active management area will cause unreasonably increasing damage to surrounding land or other water users if any of the following apply:
 1. Except as provided in subsection (C) of this Section, the director determines that the probable impact of the new or increased pumping on any well of record in existence when the pumping commenced or is proposed to commence will exceed 10 feet of additional drawdown after the first five years of the pumping. To assist the director in making a determination under this subsection, the notice of water exchange participant may submit to the director a hydrological study delineating those areas surrounding the notice of water exchange participant's well or wells in which the projected impacts of the new or increased pumping on water levels will exceed 10 feet of additional drawdown after the first five years of the pumping. The director may require the notice of water exchange participant to submit such a hydrological study if the director determines that the study will assist the director in making a determination under this subsection;
 2. The director determines that the new or increased pumping is in an area of known land subsidence and the pumping will likely cause unreasonably increasing damage from additional regional land subsidence. To assist the director in making a determination under this subsection, the notice of water exchange participant may submit to the director a hydrological study, which may include a geophysical evaluation, demonstrating the impact of the pumping on regional land subsidence. The director may require the notice of water exchange participant to submit such a hydrological study if the director determines that the study will assist the director in making a determination under this subsection; or
 3. Except as provided in subsection (D) of this Section, the director determines, after consulting with ADEQ, that the new or increased pumping will likely cause the migration of contaminated groundwater from a remedial action site to a well of record in existence when the pumping commenced or is proposed to commence, resulting in a degradation of the quality of the water withdrawn from the well of record so that the water will no longer be usable for the purpose for which it is currently being used without additional treatment, and that the damage to the owner of the well of record will not be prevented or adequately mitigated through the implementation of a program regulated under Title 49 of the Arizona Revised Statutes, or a program regulated by EPA or DOD. To assist the director in making a determination under this subsection, the notice of water exchange participant may submit to the director a hydrological study demonstrating whether the new or increased pumping will have the effect described in this subsection. The director may require the notice of water exchange participant to submit such a study if the director determines that the study will assist the director in making a determination under this subsection.
- C. If the director determines under subsection (B)(1) of this Section that the probable impact of the new or increased pumping on any well of record in existence when the pumping commenced or is proposed to commence will exceed 10 feet of additional drawdown after the first five years of the pumping, the director shall notify the notice of water exchange participant in writing of the location of the wells of record and the names and addresses of the owners of the wells as shown in the Department's well registry. The director shall not determine that the new or increased pumping will cause unreasonably increasing damage to surrounding land or other water users from the concentration of wells under subsection (B)(1) of this Section if within 60 days after the date on the notice, or a longer time period approved by the director, the notice of water exchange participant submits one of the following for each well of record identified in the notice:
 1. A signed and notarized consent form from the owner of the well of record consenting to the new or increased pumping. The notice of water exchange participant shall use the consent form furnished by the director; or
 2. Evidence satisfactory to the director that the address of the owner of the well of record as shown in the Department's well registry records is inaccurate and that the notice of water exchange participant made a reasonable attempt to locate the current owner of the well of record but was unable to do so.
- D. If the director determines that the new or increased pumping will have the effect described in subsection (B)(3) of this Section on one or more wells of record in existence when the pumping commenced or is proposed to commence, the director shall notify the notice of water exchange participant in writing of the location of the wells of record and the names and addresses of the owners of the wells as shown in the Department's well registry. The director shall not determine that the new or increased pumping will cause unreasonably increasing damage to surrounding land or other water users from the concentration of wells under subsection (B)(3) of this Section if within 60 days after the date on the notice, or a longer time period approved by the director, the notice of water exchange participant submits one of the following for each well of record identified in the notice:
 1. A signed and notarized consent form from the owner of the well of record consenting to the new or increased pumping. The notice of water exchange participant shall use the consent form furnished by the director; or
 2. Evidence satisfactory to the director that the address of the owner of the well of record as shown in the Department's well registry records is inaccurate and that the notice of water exchange participant made a reasonable attempt to locate the current owner of the well of record but was unable to do so.
- E. At any time before a final determination under this Section, the notice of water exchange participant may agree to construct or operate the well or wells in a manner that lessens the degree of impact on wells of record or regional land subsidence. Compliance with the agreement is a condition for the use of the well to pump water for the water exchange.

Historical Note

New Section made by final rulemaking at 12 A.A.R.

2193, effective August 7, 2006 (Supp. 06-2).

R12-15-1308. Replacement Wells in Approximately the Same Location

A. For purposes of A.R.S. §§ 45-544, 45-596, and 45-597, a replacement well in approximately the same location is a proposed well to which all of the following apply:

1. The proposed well will be located no greater than 660 feet from the original well, and the location of the original well can be determined at the time the notice of intention to drill the proposed well is filed;
2. Except as provided in subsections (A)(3) and (A)(4) of this Section, the proposed well will not annually withdraw an amount of water in excess of the maximum annual capacity of the original well. The director shall determine the maximum annual capacity of the original well by multiplying the maximum pump capacity of the original well in gallons per minute by 525,600, and then converting the result into acre-feet by dividing the result by 325,851 gallons. The director shall presume that the maximum pump capacity of the original well is the maximum pump capacity of the well in gallons per minute as shown in the Department's well registry records, except that:
 - a. If the director has reason to believe that the maximum pump capacity as shown in the Department's well registry records is inaccurate, or if the applicant submits evidence demonstrating that the maximum pump capacity as shown in the Department's well registry records is inaccurate, the director shall determine the maximum pump capacity by considering all available evidence, including the depth and diameter of the well and any evidence submitted by the applicant; or
 - b. If the Department's well registry records do not show the maximum pump capacity of the original well, the director shall not approve the proposed well as a replacement well in approximately the same location unless the applicant demonstrates to the director's satisfaction the maximum pump capacity of the original well;
3. If a well permit was issued for the original well under A.R.S. § 45-599, the proposed well will not annually withdraw an amount of groundwater in excess of the maximum annual volume set forth in the well permit;
4. If a recovery well permit was issued for the well to be replaced pursuant to A.R.S. § 45-834.01(B) and the per-

mit sets forth a maximum annual volume of stored water that may be recovered from the well, the proposed well will not annually recover an amount of stored water in excess of the maximum annual volume set forth in the recovery well permit;

5. If the well to be replaced has been physically abandoned in accordance with R12-15-816, a notice of intention to drill the proposed well is filed no later than 90 days after the well to be replaced was physically abandoned; and
6. If the proposed well will be used to withdraw groundwater from the Little Colorado river plateau groundwater basin for transportation away from the basin pursuant to A.R.S. § 45-544(B)(1), one of the following applies:
 - a. The original well was drilled on or before January 1, 1991, or was drilled after that date pursuant to a notice of intention to drill that was on file with the Department on that date; or
 - b. The director previously determined that the withdrawal of groundwater from the original well for transportation away from the Little Colorado river plateau groundwater basin complies with R12-15-1304.
- B. After a replacement well in approximately the same location is drilled, the replacement well may be operated in conjunction with the original well and any other wells that replaced the original well if the total annual withdrawals from all wells do not exceed the maximum amount allowed under subsection (A)(2), (A)(3), or (A)(4) of this Section, whichever applies.
- C. A proposed well may be drilled as a replacement well in approximately the same location for more than one original well if the criteria in subsections (A)(1), (A)(5), and (A)(6) of this Section are met with respect to each original well and if the total annual withdrawals from the proposed well will not exceed the combined maximum annual amounts allowed for each original well under subsections (A)(2), (A)(3), or (A)(4) of this Section, whichever apply.
- D. The director may include conditions in the approval of the notice of intention to drill the replacement well to ensure that the drilling and operation of the replacement well meets the requirements of this Section.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 2193, effective August 7, 2006 (Supp. 06-2).

Supplement Separator Page



Supplement to the
Arizona Administrative Code
 The official compilation of Arizona Rules
Replacement Check List

For rules filed in the third quarter between
 July 1 - September 30
 2017

Within the stated calendar quarter, this Title contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information. Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

TITLE 13. Public Safety

Chapter 05. Law Enforcement Merit System Council

Sections, Parts, Exhibits, Tables or Appendices modified

R13-5-101, R13-5-102, R13-5-402, R13-5-701 through R13-5-704, R13-5-706

☐ REMOVE Supp. 06-2
 Pages: 1 - 22

☐ REPLACE with Supp. 17-3
 Pages: 1 - 25

The agency's contact person who can answer questions about rules in this Chapter:

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Disclaimer: Please be advised the person listed is the contact of record as submitted in the rulemaking package for this supplement. The contact and other information may change and is provided as a public courtesy.

PUBLISHER
Arizona Department of State
Office of the Secretary of State, Administrative Rules Division

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the Administrative Code. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION
September 30, 2017

RULES

A.R.S. § 41-1001(17) states: “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions. Virtually everything in your life is affected in some way by rules published in the Arizona Administrative Code, from the quality of air you breathe to the licensing of your dentist. This chapter is one of more than 230 in the Code compiled in 21 Titles.

ADMINISTRATIVE CODE SUPPLEMENTS

Rules filed by an agency to be published in the Administrative Code are updated quarterly. Supplement release dates are printed on the footers of each chapter:

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2017 is cited as Supp. 17-1.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the Arizona Administrative Register for recent updates to rule Sections.

ARTICLES AND SECTIONS

Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering system separated into subsections.

HISTORICAL NOTES AND EFFECTIVE DATES

Historical notes inform the user when the last time a Section was updated in the Administrative Code. Be aware, since the Office publishes each quarter by entire chapters, not all Sections are updated by an agency in a supplement release. Many times just one Section or a few Sections may be updated in the entire chapter.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in the introduction of a chapter can be found at the Secretary of State’s website, www.azsos.gov/services/legislative-filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the Arizona Administrative Register online at www.azsos.gov/rules, click on the Administrative Register link.

In the Administrative Code the Office includes editor’s notes at the beginning of a chapter indicating that certain rulemaking Sections were made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR

If you are researching rules and come across rescinded chapters on a different paper color, this is because the agency filed a Notice of Exempt Rulemaking. At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

PERSONAL USE/COMMERCIAL USE

This chapter is posted as a public courtesy online, and is for private use only. Those who wish to use the contents for resale or profit should contact the Office about Commercial Use fees. For information on commercial use fees review A.R.S. § 39-121.03 and 1 A.A.C. 1, R1-1-113.

Public Services managing rules editor, Rhonda Paschal, assisted with the editing of this chapter.

TITLE 13. PUBLIC SAFETY**CHAPTER 5. LAW ENFORCEMENT MERIT SYSTEM COUNCIL**

Authority: A.R.S. §§ 41-1830.11 through 41-1830.15

Editor's Note: The former rules in this Chapter, which were repealed effective May 10, 2000, were codified under the old numbering system in the Arizona Administrative Code. The Historical Notes for the former rules therefore do not appear here. Editor's Notes at the beginning of Articles 1 through 9, however, indicate the location of the former rules in those Articles, and the rescinded rules are on file in the Office of the Secretary of State (Supp. 00-2).

ARTICLE 1. GENERAL PROVISIONS

Editor's Note: Former Article 1, consisting of Sections R13-5-01 through R13-5-04, repealed by final rulemaking at 6 A.A.R. 1982, effective May 10, 2000; new Article 1, consisting of Sections R13-5-101 through R13-5-104, adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

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Editor's Note: Former Article 2, consisting of Sections R13-5-10 and R13-5-11, repealed by final rulemaking at 6 A.A.R. 1982, effective May 10, 2000; new Article 2, consisting of Sections R13-5-201 through R13-5-204, adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

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Editor's Note: Former Article 3, consisting of Section R13-5-15, repealed by final rulemaking at 6 A.A.R. 1982, effective May 10, 2000; new Article 1, consisting of Sections R13-5-301 through R13-5-317, adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

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Editor's Note: Former Article 4, consisting of Section R13-5-20, repealed by final rulemaking at 6 A.A.R. 1982, effective May 10, 2000; new Article 4, consisting of Sections R13-5-401 through R13-5-403, adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

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Editor's Note: Former Article 8, consisting of Sections R13-5-45 through R13-5-48, repealed by final rulemaking at 6 A.A.R.

Law Enforcement Merit System Council

1982, effective May 10, 2000; new Article 8, consisting of Sections R13-5-801 through R13-5-804, adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

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Editor's Note: Article 9, consisting of Section R13-5-50, repealed effective June 7, 1978 (Supp. 78-3).

ARTICLE 1. GENERAL PROVISIONS

Editor's Note: Former Article 1, consisting of Sections R13-5-01 through R13-5-04, repealed by final rulemaking at 6 A.A.R. 1982, effective May 10, 2000; new Article 1, consisting of Sections R13-5-101 through R13-5-104, adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-101. Definitions

In this Chapter, unless otherwise specified, the following terms mean:

"Abandonment of position" means failure of an employee to report to work for a period of five consecutive working days without authorization from the employee's supervisor or manager and without good cause.

"Abilities" means general traits or capabilities an individual possesses when beginning the performance of a task.

"Agency" means any governmental organization subject to the rules of the Law Enforcement Merit System Council.

"Agency head" means the chief executive officer or director of any agency placed under the rules of the Law Enforcement Merit System Council.

"Allocate or allocation" means the placement of a position to a classification based on the duties and responsibilities of the position.

"Annual leave" means the leave time accrued biweekly by an employee based on the number of years of state service and may include holiday leave and recognition leave.

"Appeal" means an employee's request for Council review of a disciplinary action.

"Applicant" means a person who has applied for an opportunity to compete for a position.

"Appointment" means the placement of a candidate or employee into a classified position.

"Background investigation" means an inquiry to determine the character of a potential employee and may include verification and review of identity, education, employment history, personal references, credit rating, criminal history, and driving record.

"Break-in-service" means a period of absence from agency service of more than 240 consecutive working hours resulting from an employee's resignation, retirement, suspension, lay-off, or leave of absence without pay.

"Business day" means the hours between 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding observed state holidays.

"Business manager" means the individual responsible for administering the affairs of the Council.

"Candidate" means an applicant who qualifies for a place on an eligibility list.

"Certified list" means the names of qualified candidates on an eligibility list who are willing to accept an appointment.

"Civilian employee" means a person who is appointed to a classification that does not require peace officer status.

"Classification" means one or more positions requiring the same minimum qualifications, knowledge, skills, and abilities that have the same title and pay range.

"Classification date" means the effective date of an employee's appointment to a classification.

"Classification specification" means the classification's title or rank, classification code, typical duties and responsibilities,

essential functions, minimum qualifications, required knowledge, skills and abilities.

"Classified position" means a position that is allocated to a classification.

"Commissioned employee" means a person who is appointed to a classification that requires Arizona Peace Officer Standards and Training Board certification as a peace officer.

"Compensation" means the amount of money paid for each hour worked and paid leave taken and includes time off received for overtime and holidays worked or accrued.

"Compensatory time" means leave received for overtime worked.

"Competitor" means an applicant who has met the minimum qualifications for a classification and is competing in an employment or promotional examination.

"Contested case" has the same meaning as in A.R.S. § 41-1001 (4).

"Council" means the Arizona Law Enforcement Merit System Council.

"Covered employee" means a full authority peace officer as certified by the Arizona Peace Officer Standards and Training Board and who is appointed to a position (outside of Department of Public Safety and Arizona Peace Officers Standards and Training Board) that requires such a certification in the covered service, as defined in A.R.S. § 41-741(5)(c)(e) and who have completed their original probationary period.

"Covered position" means any position within an agency that is not appointed by the Governor or by the agency head with the concurrence of the Governor and is subject to the rules of the Council.

"Covered service" means that employment status conferring rights of appeal as prescribed in A.R.S. § 41-782 and A.R.S. § 41-783 or A.R.S. § 41-1830.16, as applicable, as defined in A.R.S. § 41-741(6).

"Days" means full calendar days unless otherwise specified in the text of a rule.

"Demotion" means the disciplinary appointment of an employee to a classification with a lower pay range.

"Dismissal" means an agency-initiated removal of an employee from state service.

"Duties" means actions or tasks required under the circumstances by an employee's position or classification.

"Eligibility list" means the names of candidates for a classification in descending order of their final scores in preparation for a selection process.

"Employee" means a person who is appointed to a position, subject to the terms and conditions of the appointment within the Department of Public Safety or the Arizona Peace Officers Standards and Training Board.

"Employing agency" means the agency in the state personnel system where the covered employee is, or in the case of dismissal, was employed as prescribed in A.R.S. § 41-1830.16(H)(3).

"Entrance rate" means the lowest rate of pay within the pay range of a classification.

"Examination" means an evaluation or test to determine if an applicant's qualifications comply with the specifications for a classification.

"Examination plan" means a description of each phase of an examination, the weight applied to each phase of the examina-

tion, the criteria for moving from one phase of the examination to another and any limitations as to the number of names to appear on the eligibility list.

“Exempt employee” means an employee who is not subject to the overtime provisions of the Fair Labor Standards Act, Title 29 U.S.C Chapter 8.

“External employment list” means an eligibility list of candidates seeking employment with an agency.

“Fair Labor Standards Act” (FLSA) means those federal statutes at Title 29 U.S.C. 201-219 and 251-262.

“Family and Medical Leave Act FMLA leave” means a leave of absence, with or without pay, taken by an employee under a policy adopted by an agency head from options authorized in the Family and Medical Leave Act. 29 U.S.C. 2611, et. seq.

“For cause” means disciplinary action or dismissal for any reason listed in A.R.S. § 41-1830.15 or this Chapter.

“Full authority peace officer” means a peace officer whose authority to enforce the laws of this state is not limited by the rules adopted by the Arizona Peace Officer Standards and Training Board as prescribed in A.R.S. § 41-1830.16(H)(4).

“Full-time employee” means an employee appointed to work 40 hours a week or 160 hours in a 28 day cycle.

“Grievance” means a work-related complaint by an employee regarding classification, compensation, performance evaluation, or violation of law or Council rules.

“Holiday leave” means the leave time accrued by working a state holiday or accrued when the holiday falls on a day the employee is not scheduled to work or is on paid sick leave. Holiday leave may be included in annual leave time.

“Human Resources” means an agency department responsible for personnel administration.

“Individual with a disability” means anyone who has a physical or mental impairment that substantially limits one or more major life activities, or who has a record of an impairment, or is regarded as having an impairment.

“Initial probation” means a probationary period required of a new employee to an agency, an employee appointed to a classification as a special limited term employee, or an employee appointed to the classification of officer who has completed the terms of a special limited term appointment.

“Intermittent appointment” means the appointment of an employee to work on an irregular basis.

“Internal list” means an eligibility list of internal candidates seeking promotional positions or reassignments.

“Just Cause” means all of the following:

The employing agency informed the employee of the possible disciplinary action resulting from the employee’s conduct through agency manuals, employee handbooks, the employer’s rules and regulations or other communications to the employee, or the conduct on which disciplinary action was based such that the employee should have reasonably known disciplinary action could occur;

The disciplinary action is reasonably related to the standards of conduct for a professional law enforcement officer, the mission of the agency, the orderly, efficient or safe operation of the agency or the employee’s fitness for duty;

The discipline is supported by a preponderance of the evidence establishing that the conduct on which the disciplinary action was based occurred; and

The discipline is not excessive and is reasonably related to the seriousness of the offense and the employee’s service record.

“Knowledge” means a body of information, usually of a factual or procedural nature, that makes for successful performance of a task.

“Limited duty” means a short-term assignment to a physically less demanding position while the employee recovers from a temporary medical condition or disability.

“Limited-term appointment” means an appointment to a position that is designated as temporary.

“Limited-term employee” means an employee in a limited-term appointment who has not achieved the status of a regular employee.

“Manifest error” means an erroneous act or failure to act in administering the provisions of Article 3 of this Chapter.

“Non-exempt employee” means an employee who is subject to the overtime provisions of the Fair Labor Standards Act, Title 29 U.S.C Chapter 8.

“Original probationary period” means the specified period following initial appointment to covered service as defined in A.R.S. § 41-741(10).

“Overtime” means time worked by a non-exempt employee in excess of 40 hours in a work week or in excess of 160 hours in a 28-day cycle.

“Part-time appointment” means the appointment of an employee to work a schedule of less than 40 hours per week.

“Part-time employee” means an employee appointed to work less than 40 scheduled hours per week.

“Pay range” means the difference between the lowest and highest pay rates for a classification.

“Pay status” means an employee’s right to receive compensation for time worked or leave taken, except when absent on leave-without-pay or suspension without pay.

“Permanent employee” means an employee who has successfully completed an initial probation with an agency.

“Permanent status” means the employment rights achieved after satisfactorily completing the probationary period for a classification.

“Personnel Rules” means the rules adopted by the Arizona Department of Administration, human resources division as prescribed in A.R.S. § 41-1830.16(H)(7).

“Position” means a job or function, whether occupied or vacant, that is assigned a number, classification, funding source, pay range, and location code.

“Position audit” means an examination of the duties and responsibilities of a position to determine the appropriate classification.

“Promotional Probation” means a period of 12 months established for evaluating an employee’s performance to determine if the employee should be retained in a classification.

“Promotion” means the appointment of an employee to a position in another classification with a higher maximum pay level.

“Provisional appointment” means an appointment to a position in a classification for which there is no eligibility list.

“Qualifications Appraisal Board” means a group of raters who evaluate a competitor’s qualifications based upon the competitor’s written or oral responses.

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“Qualifying pay period” means a pay period for qualifying service in which an employee is in pay status for at least one-half of the employee’s normally scheduled work week.

“Qualifying service” means part-time or full-time service as an employee of an agency, excluding any break-in-service.

“Reallocation” means a change in the classification of a position, based upon an analysis of the duties and responsibilities of the position.

“Reappointment” means appointment to a classification previously held by an employee who was reassigned to a different classification.

“Reassignment” means an appointment, at the employee’s request, to a position in a different classification with the same or a lower pay range.

“Recall” means the appointment of a former employee who was separated by a reduction in force.

“Reclassification” means the change in classification of an employee due to the employee’s movement to a position in a different classification or a reallocation of the employee’s position to a different classification.

“Recognition leave” means leave time given an employee under a formal awards program as an incentive for continued superior performance. Recognition leave is added to annual leave.

“Reduction in force” means an action taken by an agency head to involuntarily transfer, reclassify, or lay-off an employee as a result of a legislative or executive mandate; reduction of funds; or decrease in the number of authorized positions, service area, or program responsibilities.

“Regular-employee” means an employee, except a limited term-employee, who achieves permanent status.

“Reinstatement” means an appointment of a former employee to the classification or a similar classification held when the employee separated from the agency.

“Rejection of probation” means an action taken by an agency head to reclassify an employee on a promotional probation or to separate an employee on an initial probation for failure to achieve and sustain the required level of performance for the classification.

“Responsibilities” means actions or tasks for which an employee is accountable in a position or classification.

“Retirement” means a voluntary separation from an agency by an employee who is eligible for an immediate disbursement from a retirement plan.

“Separation” means the close of an employee’s term of employment with an agency.

“Skill” means an individual’s level of proficiency or competency in performing a specific task.

“Special duty assignment” means an employee’s temporary assignment of more responsibilities or duties or an assignment to a position with special work or living requirements.

“Special limited term appointment” means an appointment to the classification of cadet officer or officer trainee pending the completion of requirements for the classification of officer.

“State” means the State of Arizona.

“Standard performance” means a rating given to an employee who meets the expected level of performance needed to accomplish the objectives of a position.

“State personnel system” means all state agencies and employees of those agencies that are not exempted by this article as prescribed in A.R.S. § 41-741(17).

“Standardized scoring” means a statistical method used to ensure that the various components of a multi-phased examination receive their proper weights.

“Suspension of pay” means the disciplinary action of withholding an employee’s pay for a specified period.

“Telecommuting” means an employee performing assigned work at a location other than the employee’s regular work location.

“Time-in-grade” means time spent in a classification.

“Transfer” means the movement of an employee from the employee’s current position to another position in the same classification.

“Uncovered appointment” means an appointment to a job or function by the Governor or by an agency head with the concurrence of the Governor.

“Uncovered employee” means an employee who serves at the pleasure of the Governor.

“Veteran” means an individual who served in the armed forces of the United States and was discharged from military service under honorable conditions after more than six months of active duty and as defined in 37 U.S.C. 101 and A.R.S. § 38-492.

“Working day” means the same as business day.

“Work week” means the 40-hour time period an employee works between Saturday and Friday, including any leave time taken.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 5373, effective November 6, 2001 (Supp. 01-4). Amended by final rulemaking at 9 A.A.R. 1619, effective July 5, 2003 (Supp. 03-2).

Amended by emergency rulemaking at 10 A.A.R. 1163, effective March 4, 2004 (Supp. 04-1). Emergency expired after 180 days; the Section on file prior to the emergency has been restored (Supp. 05-4). Amended by final rulemaking at 12 A.A.R. 1756, effective July 2, 2006 (Supp. 06-2). Amended by final rulemaking at 23 A.A.R. 2564, effective November 5, 2017 (Supp. 17-3).

R13-5-102. Law Enforcement Merit System Council

- A. Authority. The statutory authority of the Law Enforcement Merit System Council is found in A.R.S. § 41-1830.11 through § 41-1830.16.
- B. Decisions of the business manager are subject to review by the Council.
- C. Selection of officers. The Council shall select a Chair and Vice-Chair from its members at a regular meeting in November or December of even-numbered years. The Chair and Vice-Chair shall hold office for a period of two years, or until their successors are selected.
- D. Meetings. The Chair, or in the Chair’s absence the Vice-Chair, shall call a meeting of the Council when a meeting is needed. The Council shall hold meetings at a location convenient to the participants whenever possible. Except for the Council’s executive sessions, the Council’s meetings shall remain open to the public and the Chair shall give interested parties an opportunity to be heard.

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- E. Quorum. Three members are required for a quorum, and concurring members must equal a majority of those voting in order to take action.
- F. Minutes. The Council shall keep minutes of its proceedings and official actions. The Council's records and minutes are open to public review during normal business hours.
- G. Council rules. An agency shall provide employees with a copy of the Council's rules.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 9 A.A.R. 1619, effective July 5, 2003 (Supp. 03-2). Amended by final rulemaking at 23 A.A.R. 2564, effective November 5, 2017 (Supp. 17-3).

R13-5-103. Personnel Administration

- A. Separation of powers. The agency head shall staff and maintain a human resources function responsible for personnel administration consistent with these rules and under the jurisdiction of the Council as provided for in statute and this Chapter. The business manager shall provide oversight to Human Resources in administering this Chapter.
- B. Personnel records. Human Resources shall maintain employment records on each agency employee, including the employee's:
 1. Employment application;
 2. Examination scores;
 3. Signed oath of office;
 4. Date of initial appointment;
 5. Other appointment orders;
 6. Performance reports;
 7. Transfers;
 8. Commendations;
 9. Leaves-of-absence without pay;
 10. Disciplinary actions;
 11. Separation from the agency;
 12. Reinstatement to the agency, and
 13. Any other appropriate employment records.
- C. Confidentiality. Human Resources shall preserve the confidentiality of personnel records. Persons authorized to access personnel records are:
 1. The employee;
 2. A person authorized by the employee;
 3. A person with an official court order;
 4. A person authorized by the agency head;
 5. A person authorized by the chair of the Council; and
 6. A law enforcement agency with authorized access to such records under A.R.S. § 41-1828.01.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-104. General Information

- A. Delegating authority. The agency head may delegate to other agency personnel the authority and duties imposed by this Chapter upon the agency head, unless otherwise prohibited by statute or rule.
- B. Reports. The agency head shall provide information requested by the Council on matters relating to this Chapter. The agency shall present the information in the format requested by the Council.
- C. Restricted information. The Council shall safeguard confidential information given to the Council by any employee or former employee. The Council shall not allow inspection of such information except under conditions prescribed by the Council.

- D. Service of notice. The agency or the Council shall serve notice upon an employee personally or by the U.S. Postal Service. Postal service shall be made by certified mail, return receipt requested, to an employee's last known home or business address, and is complete upon mailing. Service as provided for in this Section is required for the following:
 1. Notice of an employee's rejection from probation;
 2. Notice of a charge in a disciplinary proceeding;
 3. Notice of an employee's suspension, layoff, or dismissal; and
 4. Other notices required by these rules.
- E. Proof of service. The agency shall provide proof of service by affidavit.
- F. Availability of funds. Reference in these rules to employee pay is contingent upon availability of funds, as determined by the agency head.
- G. Compliance with federal rules and regulations. Any federal regulation or standard governing the granting of federal funds to an agency under the Law Enforcement Merit System Council takes precedence over any of these rules which conflict with the control and expenditure of federal funds.
- H. Validity and separation. If any provision or application of the rules in this Chapter is held invalid by a court of competent jurisdiction, the remainder of the rules in this Chapter and application of the rules to other persons or circumstances are not affected by the court decision.
- I. Equal employment. The Council, the agency head, and agency employees shall not discriminate in any aspect of employment on the basis of race, color, religion, sex, national origin, age, disability, or pregnancy.
- J. Accommodation. The Council and the agency head shall make reasonable accommodations to enable a person with a disability to use agency facilities, services, and programs. A person requesting accommodation shall notify the agency or the business manager as soon as reasonably possible in order to allow the agency time to arrange the accommodation.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

ARTICLE 2. CLASSIFICATION AND COMPENSATION

Editor's Note: Former Article 2, consisting of Sections R13-5-10 and R13-5-11, repealed by final rulemaking at 6 A.A.R. 1982, effective May 10, 2000; new Article 2, consisting of Sections R13-5-201 through R13-5-204, adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-201. Classification

- A. Classification Plan. The Council shall adopt and revise the classification of positions for use by an agency. Collectively, classifications adopted by the Council comprise the classification plan of the Council. Each classification in the classification plan includes:
 1. A descriptive title;
 2. A description of the scope of duties, typical responsibilities, and essential functions;
 3. The minimum qualifications required of an applicant; and
 4. A determination of non-exempt or exempt status under the Fair Labor Standards Act.
- B. Classification specifications. The business manager shall document the date of adoption and the latest revision of each classification specification, and shall maintain the master set of all approved classification specifications. Human Resources shall also maintain a set of all approved classification specifications. Copies of a classification specification are open for

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inspection by an employee and the public and are available on the DPS web site.

- C. Allocating positions. The Council shall allocate positions to the appropriate classification in the Classification Plan. The Council shall allocate positions to the same classification when:
 - 1. The duties and responsibilities are substantially similar;
 - 2. The education, experience, knowledge, skills, and abilities required are substantially similar;
 - 3. The examinations used in choosing qualified candidates are substantially similar; and
 - 4. The pay range may be applied equitably to all positions in the classification.
- D. Compensation Maintenance Review Plan: The Council shall adopt and revise guidelines for a classification and compensation maintenance review plan. An employee shall be placed in a classification in accordance with this plan.
- E. Assignment. Except in an emergency, or as otherwise provided by this Chapter, an agency shall not assign an employee to perform the duties of any classification other than the classification to which the employee's position is allocated.
- F. Modification. The Council may establish a new classification and revise or abolish an existing classification. The Council shall decide when a position in an affected classification needs to be reallocated, taking into account the factors in subsection (C). The Council shall also determine the probationary or permanent status of an employee affected by reallocation.
- G. Reviewing allocations. An employee affected by reallocation of the employee's position shall have the opportunity to be heard by the Council under R13-5-602.
- H. Changes in positions. The Council shall reallocate an existing position when a material and permanent change occurs in the duties and responsibilities of the position.
 - 1. If an employee is in a position that is reallocated, an agency shall reclassify the employee in that position if the employee:
 - a. Has been in the position at least six months;
 - b. Has occupied the position during the change in duties; and
 - c. Meets the minimum qualifications of the new classification.
 - 2. A position shall not be reallocated while undergoing a classification and compensation review, except that the Council may reallocate a position that is undergoing a classification and compensation review when an agency head can show that the reallocation is necessary for the continued operation of the agency.
- I. Time in grade. The Council shall credit an employee reclassified as a result of a reallocation with time-in-grade as follows:
 - 1. The employee is credited with time-in-grade for the time spent in the position if no significant changes are made to the duties and responsibilities of the position to qualify for the higher classification and if the employee continues to perform the duties previously performed in the position.
 - 2. Time-in-grade status is calculated on the basis of actual hours worked.
- J. New positions. An agency head shall establish positions in the agency as authorized by law, subject to budgetary authorization and availability of funds. An agency head shall notify the Council when a new position is established. The Council shall allocate a new position to the appropriate classification.
- K. Classification titles. An agency shall use a classification title approved by the Council in all communications regarding personnel, budget, and financial records.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R.

2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 9 A.A.R. 1619, effective July 5, 2003 (Supp. 03-2). Amended by final rulemaking at 12 A.A.R. 1756, effective July 2, 2006 (Supp. 06-2).

R13-5-202. Compensation

- A. Compensation plan. The Council shall adopt compensation levels for all classifications. Collectively, compensation levels adopted by the Council comprise the compensation plan of the Council. An agency shall periodically revise the compensation plan for a covered position, based on the principle that like salaries are paid for comparable duties and responsibilities, and shall submit the agency's recommendations to the Council for approval.
- B. Hearings. If an agency recommends a change in a pay range, the Council shall grant any adversely affected employee an opportunity to be heard.
- C. Pay Levels. The Council shall specify all pay levels. The Council may also establish more than one pay range, hourly rate, or method of compensation for classifications and positions with unusual hours, conditions of work, or when necessary to compete with other employers.
- D. Lack of Funds. If an agency lacks sufficient funds to pay an employee's salary, the agency shall consider an alternative method of reducing costs, including those described in R13-5-802(B). If an alternative method is not adequate or available, the agency shall assign an employee to a leave of absence without pay under the layoff procedure in R13-5-802. The agency shall recall the laid off employee when sufficient funds become available.
- E. Entrance rate. The minimum pay rate for each classification is the entry rate, unless otherwise provided in these rules. The agency shall maintain a record of each employee's employment date and entrance into a classification.
- F. Special pay adjustments. When making an appointment, promotion, reinstatement, recall, transfer, reclassification or reassignment, an agency head may authorize pay anywhere within the pay range to meet recruiting and retention needs, and to give credit for prior agency service.
- G. Rate above maximum. When a position is reallocated resulting in the reclassification of an employee to a lower classification or the pay range of a classification is reduced, the agency head may authorize a pay rate for the employee above the maximum for the classification. While an employee's pay remains above the maximum rate for the employee's classification, the employee shall not receive any pay increases except those required by law.
- H. Rate on movement to a classification with a lower pay range. An employee who accepts reassignment to a classification with a lower pay range may receive a rate above the minimum, if authorized by the agency head. The agency shall then establish a new classification date for the employee.
- I. Rate on movement to a classification with the same range. When an employee moves to another classification with the same range, the employee shall retain the employee's current rate of pay.
- J. Rate on movement to a classification with a higher pay range. When an employee moves to another classification with a higher pay range, the employee shall receive pay at the entry level of the new classification. If the employee's current pay is greater than the entry level of the new classification, the employee shall receive no less than a \$500 annual increase. In no case shall an employee's salary exceed the maximum for the new classification.
- K. Rate upon reinstatement. Upon reinstatement, a former employee shall receive the entrance rate for the employee's

classification, unless the agency head authorizes a higher rate or as directed by the Council following a disciplinary hearing.

- L. Rate upon recall. A former employee who is recalled after a layoff shall receive the same pay rate as that held before the layoff. If the Council approved a general pay adjustment or classification adjustment while the employee was on leave of absence without pay, the employee shall receive the adjustment.
- M. Automatic pay adjustment. A classification pay range adjustment applies equally to all employees within the classification and does not alter an employee's classification date for a pay adjustment.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-203. Pay Administration

- A. Base pay adjustment. An agency head may modify base pay by adding cost-of-living and other adjustment appropriated by the state Legislature. An agency head may also request that the Council revise the compensation plan to include other changes to base pay, as needed. After base pay adjustments are completed, an agency head may add special duty pay before computing an employee's pay rate.
- B. Appropriated pay adjustment. Upon approval by the Council the agency head may apply some or all the appropriated funds to the compensation plan, if the appropriation bill does not include specific allocation instructions for an employee pay raise, or if the instructions are not applicable to the agency.
- C. Special duty assignment. An agency head may supplement the base pay of an employee on a special duty assignment. Time spent on a special duty assignment counts toward an employee's length of service. An employee may receive special duty pay only for the period when the employee performs the required duties of the special duty assignment.
- D. Return from special duty assignment or uncovered appointment. When an employee returns to a regular appointment from a special duty assignment or an uncovered appointment, the agency shall return the employee's pay to the employee's base pay earned before being assigned to a special duty assignment or uncovered appointment. If general pay adjustments or classification adjustments are approved while an employee is on a special duty assignment or serving in an uncovered appointment, the employee shall receive the adjustments.
- E. Overtime pay. The agency head shall adopt an overtime policy and procedure consistent with federal regulations under the Fair Labor Standards Act, Arizona Revised Statutes, and this Chapter. Compensatory leave is accrued and used as provided by R13-5-505.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-204. Work Hours and Work Options

Work hours and work breaks. An agency head may establish different working hours for certain work groups and shifts in order to meet the needs of the agency. In doing this, the agency head should consider such factors as clean air directives, telecommuting, and flexible work hours. An agency head shall establish a policy for "on-duty" and "off-duty" time consistent with federal regulations under the Fair Labor Standards Act, Arizona Revised Statutes, and this Chapter and provide procedures for recording time worked and leave taken by an employee.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

ARTICLE 3. EMPLOYMENT

Editor's Note: Former Article 3, consisting of Section R13-5-15, repealed by final rulemaking at 6 A.A.R. 1982, effective May 10, 2000; new Article 1, consisting of Sections R13-5-301 through R13-5-317, adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-301. Recruitment

- A. Recruiting an external applicant. When authorized by an agency head, Human Resources shall seek qualified applicants through open recruiting and competitive employment opportunities. Human Resources shall publish and distribute job announcements that include:
 1. The classification title and pay;
 2. The minimum qualifications;
 3. The location of the assignment, if known;
 4. Special requirements, if any;
 5. Location of forms; and
 6. The application deadline.
- B. Applications. Human Resources shall establish procedures for distributing and receiving an application. Human Resources shall screen all applications and may reject any that are incomplete, illegible, or received after the deadline.
- C. Disqualifying an applicant or candidate. An agency head or the agency's Human Resources unit may disqualify any applicant or candidate based upon information in an application, statements made by the applicant's references, and a background investigation by the agency. The agency shall also disqualify any applicant who:
 1. Lacks the required qualifications for the classification;
 2. Was convicted of a disqualifying offense;
 3. Was dismissed by a previous employer for a reason that is cause for dismissal from the agency;
 4. Practiced deception or failed to give complete and accurate information; or
 5. Failed to meet selection guidelines as established by the Council.
- D. Reapplying. A candidate who fails any portion of the background investigation, with the exception of medical only, shall be precluded from reapplying for a period of two years from the date of disqualification.
- E. Notifying an applicant. After completing a qualification review, Human Resources shall notify an applicant of the agency's acceptance or rejection of the employee's application.
- F. Retaining an application. Human Resources shall retain all applications under a records retention and disposition schedule approved by the Department of Library, Archives, and Public Records.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-302. Examinations

- A. Examination plan. Human Resources shall develop an examination plan for each selection process. The business manager shall review and approve each examination plan. An applicant for the examination shall be notified of the examination plan. Once an examination begins, changes will not be made to the plan. If an examination plan needs to be altered, Human Resources shall terminate the current examination and initiate a new examination.
- B. Examination guidelines. Human Resources shall obtain or develop a valid examination for each classification, and establish a weight and minimum qualifying requirement for each phase of the exam. The business manager shall review and

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approve each examination before the examination is administered. A competitor shall achieve the minimum requirements on each phase of an examination before progressing to the next phase. A competitor shall achieve a passing score on each phase before qualifying for a classification.

- C. Notifying an applicant. Human Resources shall notify a qualified applicant of the following information:
 1. The date, time, and location of each examination;
 2. The number of phases included in the examination;
 3. Other pre-employment requirements; and
 4. How to request special accommodations for persons with a disability.
- D. Type and content of examination. Human Resources shall ensure that each examination is valid, non-discriminatory, and fairly and accurately measures an applicant's ability to perform the functions and duties listed in the classification specifications.
- E. Conducting an examination.
 1. Human Resources, or a person designated by Human Resources, shall administer the examination.
 2. The business manager shall oversee all elements of, but not actively participate in, the examination process to ensure that each component is administered, scored, evaluated, and interpreted fairly and accurately.
 3. Human Resources shall permanently disqualify an applicant from taking any employment or promotional examination if it has been established that the applicant is guilty of copying, collusion, unauthorized access, or other acts of dishonesty relating to an official examination.
- F. Scoring an examination. Human Resources shall oversee the scoring of the examination.
 1. Human Resources may use a rater for a qualifications appraisal board from within or outside of an agency to score an examination. Human Resources shall select an examination rater who is qualified to appraise the education, experience, and personal qualifications of a competitor.
 2. Human Resources shall provide a rater with scoring guidelines and exam answer keys to ensure consistency of scoring, evaluation, and interpretation of test results. All phases of an examination shall have predetermined and clearly defined scoring criteria.
 3. If a majority of the raters on a qualifications appraisal board give the competitor a passing score, the competitor shall receive a minimum rating of "pass" even if the competitor's average score is below the passing level. If a majority of the raters on a qualifications appraisal board gives the competitor a score below the passing level, the competitor shall be disqualified, even if the competitor's average score is above the passing level.
 4. Human Resources shall apply standardized scoring to a multi-phased examination when the number of competitors is five or more.
- G. Validating an examination result. If Human Resources finds that an examination is incorrectly scored or that a portion of an examination is defective, Human Resources shall:
 1. Correct all scoring errors, or
 2. Eliminate the defective portion of an examination and revise the score of each competitor.
- H. Examination results notification. Human Resources shall mail notification of examination results to each competitor.
- I. Review of examinations. Any employee who has tested for promotion may request an examination review under R13-5-305(G).

- J. Retaining test scores. Human Resources shall retain all examination materials and test scores under a records retention and disposition schedule approved by the Department of Library, Archives, and Public Records.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 5373, effective November 6, 2001 (Supp. 01-4). Amended by final rulemaking at 9 A.A.R. 1619, effective July 5, 2003 (Supp. 03-2). Amended by final rulemaking at 12 A.A.R. 1756, effective July 2, 2006 (Supp. 06-2).

R13-5-303. Applicant Preference Points

If an applicant receives a passing score on an examination and has qualified for placement on an employment list, Human Resources shall add the preference points authorized by A.R.S. § 38-492 to the applicant's final score, provided the applicant submits official documentation of eligibility for preference points. Preference points shall not apply to a promotional examination.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-304. Employment

- A. Establishing an employment eligibility list. Human Resources shall develop, and the business manager shall establish, employment eligibility lists for various classifications, as needed. For each list, Human Resources shall arrange the names of competitors in descending order of the competitors' final examination scores.
- B. Establishing a list in case of ties. If two or more competitors receive the same rating in an examination, the competitor's names shall be placed on the list according to their respective ratings on the portion of the examination with the greatest weight. If a tie still exists, the names shall be placed on the list at the same position, in alphabetical order.
- C. Reviewing the employment eligibility list. Human Resources shall submit an employment eligibility list to the business manager for approval and certification.
- D. Notification to candidate. When an employment eligibility list is certified by the business manager, Human Resources shall notify a candidate of the candidate's relative ranking on the list.
- E. Duration of an eligibility list. Each new or merged list remains in effect for 18 months from its effective date. Before a list expires, the Council may cancel the list.
 1. Restoring a list. If a need arises and a current list is not available, the Council may restore a list that expired or was canceled within the past six months.
 2. Merging a list. Except for the classifications described in subsection (E)(3), if three or fewer candidates remain on an existing list, Human Resources may establish a new list and merge the existing list with the new list. When the merged list is established, Human Resources shall rearrange the names in descending order of the candidates' final scores and notify each candidate of the candidate's relative ranking. Human Resources shall remove a candidate's name from the new list on the expiration date of the candidate's original list.
 3. Conducting continuous or periodic testing. If the Council determines that a classification requires continuous or periodic testing, the business manager may authorize Human Resources to conduct examinations regardless of the existence of an employment list in that classification. Human Resources shall merge the names of candidates

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tested with names on the existing employment list for that classification as described in subsection (E)(2).

4. Retesting a merged candidate. If another examination for the same classification is held before the prior list expires, a merged candidate from the prior list may take the examination. If the candidate passes the test, Human Resources shall place the candidate on the list according to the new score. The candidate shall remain on the list for its duration.
- F. Removing a candidate. The business manager shall remove a candidate from an eligibility list for any of the following reasons:
 1. Human Resources is unable to contact the candidate by phone or mail;
 2. The Council abolishes the classification for which the list was developed; or
 3. The candidate withdraws from the selection process.
- G. Correcting a manifest error. The business manager shall correct a manifest error that occurs in developing, using, or maintaining an eligibility list. The business manager shall not change the effective date of an eligibility list to correct a manifest error discovered after posting the list.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 6 A.A.R. 4495, effective November 7, 2000 (Supp. 00-4). Amended by final rulemaking at 7 A.A.R. 5373, effective November 6, 2001 (Supp. 01-4). Amended by final rulemaking at 9 A.A.R. 1619, effective July 5, 2003 (Supp. 03-2). Amended by final rulemaking at 12 A.A.R. 1756, effective July 2, 2006 (Supp. 06-2).

R13-5-305. Promotion

- A. Announcing a promotional examination. Human Resources shall publish an agency-wide announcement when initiating development of an internal eligibility list. An announcement shall include the information in R13-5-301(A).
- B. Applying for promotion. An employee may compete for a place on an internal eligibility list by submitting an internal application form to Human Resources by the application filing deadline.
 1. An employee is eligible to take a promotional examination if the employee:
 - a. Satisfactorily completes initial probation by the application filing deadline;
 - b. Meets or exceeds the minimum qualifications for the classification; and
 - c. Receives a standard or above standard performance evaluation for the latest rating period.
 2. An employee who participates in developing an examination for an internal classification is not eligible to take the examination for that classification.
- C. Processing an application. Human Resources shall process an application consistent with the procedures in R13-5-301(B), (C), and (F).
- D. Business manager review. Within 10 days after a notice of rejection of an application has been mailed to the employee, an employee may request that the business manager review a rejected application. The business manager may review and overturn or concur with the decision of Human Resources. An employee may also request that the Council review the business manager's decision.
- E. Promotional examination. Human Resources shall conduct a promotional examination consistent with R13-5-302. An employee eligible to take a promotional examination shall notify the employee's supervisor of the time and date of the examination as soon as it is known. A supervisor shall authorize an employee to participate in a promotional examination while on duty.
- F. Scoring and validating an examination. Human Resources shall score and validate an examination under R13-5-302(F) and (G).
- G. Inspection of examination results. Within 10 days after the examination results are mailed, a competitor may file a written notice with the business manager requesting an opportunity to review the examination for the purpose of determining whether the competitor has a reason for challenging the competitive examination. A competitor requesting a review shall outline the specific areas the competitor believes are in error. The competitor shall be allowed to review the examination in the presence of the business manager or an employee authorized by the business manager to determine whether the competitor has a valid basis for a challenge to the examination.
 1. The business manager or the authorized employee shall oversee the competitor's examination inspection.
 2. An employee shall not copy questions or answers, nor make any alterations to the examination papers.
 3. Within 10 days of a review, a competitor may file a written notice with the business manager challenging the examination results on the basis of irregularity, bias, fraud, or scoring error and explaining the basis for any challenge. The business manager shall review the competitor's challenge to determine if the challenge is valid.
 4. If the business manager's review discloses an error, the business manager shall return the examination to Human Resources for correction.
 5. If an error affects the scores of other competitors, Human Resources shall revise all incorrect scores.
 6. If the business manager determines the error is not correctable and the defective portion of the exam is critical to the examination process, Human Resources shall re-administer that portion of the examination under guidelines provided by the business manager.
 7. Only the Council, a business manager, competitor, competitor's attorney, or an agency head may inspect a competitor's examination.
- H. Grievance of business manager's decision. An employee who is aggrieved by a decision of the business manager may grieve the decision to the Council. A grievance of the business manager's decision shall be filed with the Council office no later than 20 days after notice of the decision is given. The Council shall review the grievance as outlined in R13-5-602 (E).
- I. Military leave. Human Resources shall allow an employee returning from military leave to take any examination that the employee could have taken if military service had not intervened. If the employee passes the examination, the business manager shall add the employee's name to the appropriate internal eligibility list based on the employee's score.
- J. Establishing an internal list. Human Resources shall prepare an internal list for a promotional classification with competitor's names arranged in descending order of the competitor's final score.
- K. Establishing a list in case of a tie. If two or more competitors receive the same rating in an examination, the competitor's names shall be placed on the list according to their respective ratings on the portion of the examination with the greatest weight. If a tie still exists, the names shall be placed on the list at the same position, in alphabetical order.
- L. Approval of list. Human Resources shall submit the internal list to the business manager for approval and certification.
- M. Notifying a candidate. When the list is certified by the business manager, Human Resources shall notify a candidate of

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the exam results and the candidate's relative ranking on the list.

- N. Duration of a list. A list shall remain in force consistent with R13-5-304(E).
- O. Removing a candidate from an internal list. The business manager shall remove a candidate from an internal list if:
 1. The candidate fails to maintain required qualifications for the classification, or
 2. The candidate resigns or is terminated from agency service.
- P. Promotion to the classification of officer. The business manager shall reclassify an employee to the classification of officer upon certification by the Peace Officer Standards and Training Board.
- Q. Promotion for a commissioned classification. An agency may establish a job-interest card system for a promotion in a commissioned classification. If a candidate submits a job-interest card indicating interest in only a specified position, that candidate shall not be considered for any other position except as outlined in this subsection.
 1. An agency head shall offer a promotional position to a candidate ranking highest on the promotional eligibility list who filed a job-interest card for that position.
 2. If there are no job-interest cards for a specific position, an agency head shall offer a promotional position to the candidate ranking highest on the promotional eligibility list. If the employee highest on the promotional list declines the promotion, the agency head shall offer the position to the employee next highest on the list until all candidates on the promotion list are offered the position.
 3. For a location that has two or fewer positions, an agency head may appoint any promotional candidate residing in that location.
 4. If a candidate declines an offer of promotion, the business manager shall move that candidate's name to the bottom of the promotional eligibility list.
 5. If all candidates on a promotional eligibility list decline a promotion, an agency head shall make a second offer to all candidates on the list.
 6. If all candidates on the list decline the second offer, the business manager shall cancel the list. Human Resources shall then initiate a process to create a new list for the classification.
- R. Promotion for a civilian classification. Civilian promotions are conducted under R13-5-308 and R13-5-309.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 5373, effective November 6, 2001 (Supp. 01-4). Amended by final rulemaking at 12 A.A.R. 1756, effective July 2, 2006 (Supp. 06-2).

R13-5-306. Reassignment

- A. Reassignment application. An employee may request reassignment to a different classification with the same or a lower pay range by submitting an application to Human Resources documenting the employee's qualifications. An application for reassignment can be obtained from Human Resources.
- B. Qualification screening. Human Resources shall determine whether the employee meets the minimum qualifications of the classification. Unless the employee has previously held permanent status in a classification, Human Resources shall require the employee to pass an examination for the requested classification. Any employee required to test may request an examination review under R13-5-305(D), (F), and (H).

- C. Eligibility list. If the employee qualifies, Human Resources shall place the candidate's name on an appropriate internal eligibility list under R13-5-305 (J) and (K).

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-307. Reinstatement

- A. Reinstatement list. An employee may apply for reinstatement within one year from the date of separation. Upon approval of the agency head, Human Resources shall place the former employee's name at the bottom of a reinstatement list for the last classification held by the employee and any previous or closely related classifications for which the employee is qualified.
- B. Duration of the list. A reinstatement list shall remain in force for a maximum of 18 months.
- C. Background investigation. All candidates for reinstatement shall pass a background investigation.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 6 A.A.R. 4495, effective November 7, 2000 (Supp. 00-4). Amended by final rulemaking at 12 A.A.R. 1756, effective July 2, 2006 (Supp. 06-2).

R13-5-308. Hiring Preference

- A. Order of lists. When an agency head authorizes filling a vacant position, Human Resources shall notify the manager who is filling the vacancy of any employees requesting a transfer to the vacant position. After considering a transfer request, or if there are none, the manager may request a list of candidates for the position from available eligibility lists in the following order of preference:
 1. Reappointment list,
 2. Reassignment list,
 3. Recall list,
 4. Internal list,
 5. Reinstatement list, and
 6. Employment list.
- B. Referring candidates. Except for the classification of cadet officer, Human Resources shall contact eligible candidates in the order of preference specified in subsection (A) to be interviewed. Candidates shall advise Human Resources if they wish to be interviewed.
 1. If there is one vacant position, Human Resources shall refer the three interested candidates standing highest on each of the lists. Human Resources may refer fewer than three names if there are fewer than three candidates on the lists.
 2. For multiple vacancies, Human Resources shall refer one more candidate for each additional vacant position from the lists.
 3. If a list is not available, the business manager may refer candidates from lists of the same or higher level as the position being filled.
- C. Referring candidates for cadet officer. Human Resources shall make a job offer conditional on passing a background investigation to as many of the highest ranking candidates on the list as Human Resources deems necessary to fill existing positions.
- D. Canceling a list. If all candidates on the promotional eligibility list advise Human Resources that they are not interested in a position, Human Resources shall make a second offer to all candidates on the list. The second offer shall include a notification to each candidate that if all candidates decline the posi-

tion, the list will be cancelled. If all candidates on the list decline the second offer, the business manager shall cancel the list. Human Resources shall then initiate a process to create a new list for the classification.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 9 A.A.R. 1619, effective July 5, 2003 (Supp. 03-2).

R13-5-309. Selection

- A. Selecting a candidate. The manager shall follow the interview and selection policy provided by Human Resources.
- B. Interviewing. A manager who is filling a vacancy shall interview all candidates requesting a transfer, and may interview up to three candidates from each certified list.
- C. Additional names. If the manager rejects all initial candidates, the manager shall document job-related reasons for their rejection and submit the interview forms to Human Resources. If Human Resources agrees with the manager's reason for rejection, Human Resources shall refer up to 3 more names from each certified list.
- D. Selection of cadet officer. A candidate who receives a job offer for a position covered under R13-5-312(E) and is not disqualified during the background investigation shall be appointed to the classification by the agency head.
- E. Documenting the selection. Upon making a selection, the hiring manager shall complete the documentation and return all interview and selection materials to Human Resources.
- F. Record retention. Human Resources shall retain interview and selection records under a records retention and disposition schedule approved by the Department of Library, Archives, and Public Records.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 9 A.A.R. 1619, effective July 5, 2003 (Supp. 03-2). Amended by final rulemaking at 12 A.A.R. 1756, effective July 2, 2006 (Supp. 06-2).

R13-5-310. Pre-employment Processing

- A. Pre-employment screening. Before appointment to a position, a candidate shall successfully pass a background investigation and any other examination considered appropriate by the agency head.
- B. Withdrawal from selection process. If a candidate elects to withdraw from the selection process, Human Resources shall document the candidate's withdrawal.
- C. Failing to successfully complete an examination. If a candidate fails to successfully complete any of the requirements in subsection (A), Human Resources shall document the failure and disqualify the candidate.
- D. Final processing. When a candidate passes all the pre-employment requirements, Human Resources shall prepare and submit the appropriate forms to the agency head for approval.
- E. Declining position offers. Human Resources may remove from a certified list any candidate who declines an appointment offer.
- F. Requesting accommodation. If a selected candidate requests a special accommodation under state or federal law, Human Resources shall confer with appropriate personnel to determine if a reasonable accommodation is possible.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R.

2090, effective May 10, 2000 (Supp. 00-2).

R13-5-311. Appointments

- A. Required oath of office. An appointee shall read the oath described in A.R.S. § 38-231(G) and agree in writing to uphold the office before the agency head, or a designee authorized to administer an oath.
- B. Refusal to take oath. Any person who refuses or fails to take the oath required by this Section within the time provided shall forfeit the right to the position.
- C. Filing of oath. When the oath is signed by an appointee, Human Resources shall file the oath in the employee's personnel file.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-312. Limited-Term Appointments

- A. Limited-term appointment. After successfully completing initial probation, an appointee to a limited-term position obtains the rights of a permanent employee, except for the opportunity to compete for retention against regular employees in a case of layoff due to a reduction-in-force.
- B. Employing a limited-term candidate. An eligible candidate is employed based upon the candidate's position on the eligibility list and the candidate's willingness to accept a limited-term appointment.
- C. Separation. The agency may separate a limited-term employee at the expiration of the appointment by notifying the employee in writing. If a provisional or an intermittent employee remains employed in the same classification, the agency shall not separate a limited-term employee except for reasons listed in A.R.S. § 41-1830.15.
- D. Effect of transfer or promotion.
 1. A limited-term employee who transfers or promotes from a limited-term position to a non-limited-term position shall obtain the rights of a permanent employee. Time spent in a limited term position is counted as service time in cases of layoff due to a reduction-in-force.
 2. An employee who transfers or promotes from a non-limited-term position to a limited-term position shall retain the rights of a permanent employee. Time spent in a limited-term position is counted as service time in case of layoff due to a reduction-in-force.
- E. Special limited term. A candidate for the classification of officer may be employed in a special limited-term position as a cadet officer or officer trainee for a maximum of three years pending completion of requirements for the classification of officer.
 1. Cadet officer. A candidate who is appointed to attend an agency's training academy shall be employed as a cadet officer. Upon successful completion of the training academy and certification as a peace officer by the Peace Officers Standards and Training Board, the candidate shall be reclassified to the classification of officer.
 2. Officer trainee. A candidate who is not appointed to a training academy shall be employed as an officer trainee if:
 - a. The candidate is between 18 and 21 years of age. If while employed as an officer trainee, the candidate reaches the age of 21 years, and has achieved a performance rating of standard or above for the prior year, the employee shall be promoted to the classification of cadet officer when an opening in the training academy is available.
 - b. The candidate is 21 years of age or older, is on the employment list for the classification of cadet offi-

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cer, and is waiting for an opening in the agency's training academy. The candidate shall remain on the cadet officer employment list and shall be appointed to the classification of cadet officer when an opening in the training academy is available.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 5373, effective November 6, 2001 (Supp. 01-4). Amended by final rulemaking at 12 A.A.R. 1756, effective July 2, 2006 (Supp. 06-2).

R13-5-313. Provisional appointments

- A. Provisional appointment. When no employment or internal list is available, an agency head may make a provisional appointment. A provisional appointment continues only until an eligibility list is certified by the business manager.
- B. Length of appointment. Within 12 months of a provisional appointment, Human Resources shall conduct an appropriate examination and establish an eligibility list for a classification with a provisional appointee.
- C. Separation. Upon separation from a provisional appointment, an employee shall have no right of appeal to the Council for review of the agency head's action.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-314. Intermittent Appointment

- A. Intermittent position. When an agency head needs a person to work on an intermittent or irregular basis, the agency head shall request a list of candidates for intermittent appointment. An applicant who meets the minimum qualifications and indicates willingness to accept the terms of intermittent employment shall be placed on an eligibility list for selection to an intermittent position.
- B. For the purposes of this Section, an intermittent employee means an employee in an intermittent position.
- C. Establishing an intermittent employment list. The business manager shall establish an intermittent employment list, as follows:
 - 1. An employee who leaves an agency may be placed on an intermittent employment list for a classification the employee previously held. The employee shall not be required to take an examination to be placed on an intermittent employment list if the request is received within one year from the time the employee left that classification and the employee's last evaluation in that classification was standard or above.
 - 2. An employee who is reassigned or promoted to another classification may be placed on an intermittent employment list for the classification previously held. The employee shall not be required to take an examination to be placed on an intermittent employment list if the request is received within one year from the time the employee left that classification and the employee's last evaluation in that classification was standard or above.
 - 3. The business manager shall establish an intermittent employment list in the same manner as an employment eligibility list.
- D. Benefits for an intermittent employee. An employee in an intermittent position shall not receive the benefits afforded a full or part-time employee. An intermittent employee shall not acquire annual or sick leave benefits and shall not receive credit for time in the intermittent position for the purposes of pay adjustments in the classification.

- E. Eligibility for promotion. An intermittent employee shall not compete in a promotional process.
- F. Rate of pay. The agency head shall determine the rate of pay for an intermittent employee.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 5373, effective November 6, 2001 (Supp. 01-4).

R13-5-315. Employee Conduct

- A. Standards of conduct. An employee shall perform the duties and responsibilities of the employee's assigned classification and position. An employee shall comply with applicable laws, rules, and agency policy. An employee shall demonstrate respect, fairness, diligence, impartiality, courtesy, efficiency, and integrity in all contacts with the public and other employees.
- B. Fitness for duty. If a supervisor has reasonable doubt that an employee is psychologically or physically able to perform the essential duties of the position, the supervisor shall request the agency head's permission to have the employee evaluated by a psychologist or physician determined by the agency. Upon approval, Human Resources shall schedule an appointment, and the employee shall submit to an evaluation. The examiner shall provide the agency head with conclusions, recommendations, and other information necessary to decide whether the employee is fit for duty.
- C. Political activity. An agency employee shall not violate the provisions of A.R.S. § 41-772 concerning permissible and improper political activity.
- D. Conflict of interest. An agency employee shall not violate the conflict of interest provisions of A.R.S. §§ 38-501, 38-502, 38-503, and 38-504 while engaged in outside activities or employment.
- E. Nepotism. An employee or candidate for employment shall not be appointed to any position in violation of A.R.S. § 38-481, nor shall an employee misuse or abuse appointment privileges.
- F. Attending Council meetings. With supervisory approval, an employee may attend a meeting of the Council during working hours if the employee is an interested party in a matter scheduled for consideration. The employee may have another representative assist in the presentation before the Council.
- G. Employee organization attendance at Council meetings. The agency head may authorize a recognized employee organization to send at least one representative to each Council meeting during working hours.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 9 A.A.R. 1619, effective July 5, 2003 (Supp. 03-2).

R13-5-316. Probation

- A. Initial probation. An employee shall serve an initial probationary period of 12 months. Time spent in a special limited term position does not count toward the initial probation in an officer classification.
- B. Promotional probation. An employee shall serve a promotional probationary period of 12 months.
- C. Effects of reclassification on probation. The probationary status of an employee reclassified as a result of a classification and compensation maintenance review under R13-5-201(H) is as follows:

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1. A permanent status employee shall not be required to serve a new probationary period if the employee continues to perform the same duties previously performed in the reclassified position.
 2. A probationary employee shall continue to serve the probationary period.
- D.** Effect of military service on probation. If a probationer is called into active military service and returns to the agency and satisfactorily completes probation, the employee's personnel record shall show that the employee achieved permanent status on the date the employee would have completed probation if military service had not intervened.
- E.** Extension of probation. An agency head may extend an employee's probationary period by adding a period equal to the time the employee was absent from work or when the employee's performance was below standard. If the probationary period is extended, the manager shall notify the employee of the extension before the end of the probationary period.
- F.** Satisfying probation. A probationer who achieves a standard or higher performance evaluation by the end of the probationary period shall obtain permanent status in the appointed classification.
- G.** Permanent status by default. An employee shall achieve permanent status by default if the employee's manager either fails to extend or reject the probationary period prior to the last day of the employee's probation.
- H.** Rejection of a probationer. An agency head may, at any time during the probationary period, reject a probationer without cause and without the right to Council review.
- I.** Effect of rejection of initial probationer. If an employee is rejected during initial probation the employee shall be separated from the agency.
- J.** Effect of rejection of promotional probationer. If a regular employee is rejected during promotional probation or probation for a different but equal classification, the agency head shall reappoint the employee to a vacant position in the employee's former classification or an equal position for which the employee is qualified. If there is no vacancy in an appropriate classification, the agency head may temporarily assign the employee until a vacancy is available.
- K.** Notice of rejection of probation. An agency shall notify a rejected probationer as follows:
1. The employee's manager shall prepare a notice, stating the effective date of the rejection. The manager shall ensure that this date is no later than the last day of the probationary period.
 2. The employee's manager shall obtain the agency head's signature on the notice of rejection.
 3. The employee's manager shall serve the probationer with the notice, either in person or by mail, on or before the effective date of rejection.
 4. The employee's manager shall submit a copy of the rejection notice to the business manager within 20 days after the notice is served.
- L.** Review of rejection of promotional probation. Within 20 days after the employee's manager delivers or mails the notice, a rejected promotional probationer may file a written request with the Council for review of the rejection. The Council may review the procedures utilized by the agency to assure conformity with Council rules and statutes.
- M.** Withdrawal of rejection. At any time before the Council acts on a probationer's rejection, the agency head may withdraw the notice of rejection and restore the employee to the previous position or another position for which the employee is qualified.
- N.** Probation for a returning employee. If a separated employee is reinstated to a classification previously held with permanent status, the agency head may require the employee to serve a probationary period. If a separated employee is recalled or reinstated into a classification different from any classification previously held with permanent status, the employee shall serve a probationary period. If an employee is separated from an agency while serving an initial probation, the employee shall be required to serve an initial probation upon being recalled or reinstated.
- O.** Probation not required. If an employee is recalled or reappointed within two years after undergoing a reduction-in-force, the employee shall not be required to serve a probationary period if reappointed to the same classification previously held with permanent status. An employee shall not be required to serve another probationary period if the employee is:
1. Reinstated by the Council, or
 2. Reassigned or demoted by the agency head into a classification previously held by the employee.
- P.** Probation for a special limited term employee. An employee in a special limited term position pending completion of requirements for the classification of officer shall serve an initial probation throughout the duration of the special limited term appointment. An employee promoted to officer from a special limited term position shall serve a one-year initial probation in the officer classification.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 6 A.A.R. 4495, effective November 7, 2000 (Supp. 00-4). Amended by final rulemaking at 7 A.A.R. 5373, effective November 6, 2001 (Supp. 01-4). Amended by final rulemaking at 9 A.A.R. 1619, effective July 5, 2003 (Supp. 03-2).

R13-5-317. Performance Evaluations

- A.** Establishing a performance evaluation program. The Council shall adopt and an agency shall administer a performance evaluation program. The program shall include a rating system that informs the agency head and the employee of the employee's relative level of performance. The evaluation program shall include training on how to achieve and maintain standard performance and how to improve performance.
- B.** Performance evaluation manual. The Council shall provide a manual that provides clear and concise guidelines for objectively measuring and reporting employee performance. Only the Council may authorize a revision of the manual. Each employee shall receive a copy of the manual, which includes evaluation procedures and forms.
- C.** Frequency of evaluation. A supervisor shall evaluate and give each permanent-status employee a written performance evaluation at least one time in each 12 month period. A supervisor shall evaluate a probationary employee at least one time in each six-month period.
- D.** Effect of failure to evaluate. If an employee's supervisor fails to evaluate the employee, or fails to evaluate the employee by the end of the rating period, the employee shall be given no less than a standard evaluation for that period.
- E.** Grieving an evaluation. An employee who receives a less than standard rating may file a grievance with the agency head. If the grievance is denied by the agency head, the employee may grieve to the Council any overall rating that:
1. Is less than standard,
 2. Would cause a reduction in pay, or
 3. Would result in withholding or postponing a salary adjustment.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

ARTICLE 4. ASSIGNMENTS

Editor's Note: Former Article 4, consisting of Section R13-5-200, repealed by final rulemaking at 6 A.A.R. 1982, effective May 10, 2000; new Article 4, consisting of Sections R13-5-401 through R13-5-403, adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-401. Special Duty Assignment

- A. General. An agency head may assign an employee to a special duty assignment in the employee's current classification or a higher classification. A special duty assignment is temporary and is not a promotion.
- B. Pay and eligibility. An agency head may add special-duty pay to the employee's base pay. If the special duty assignment is for a different or higher classification, the agency head may authorize a pay rate within that classification. A special duty assignment is subject to the following conditions:
 - 1. The assigned employee meets the minimum requirements of the special duty classification; and
 - 2. The assigned employee performs the duties of the assigned classification.
- C. Review by Council. Special duty assignments shall be biennially reviewed by the Council no later than September in even numbered years.
- D. Return to regular duty. Upon completion of a special duty assignment, the agency head shall discontinue special duty pay and reassign the employee to the previously held position or to a similar position in the same classification at the employee's normal pay level.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-402. Uncovered Appointments

- A. Authorization. An agency head may authorize an employee to temporarily accept an uncovered appointment within:
 - 1. The agency,
 - 2. Another state agency,
 - 3. The Governor's office,
 - 4. The Legislature, or
 - 5. Another government agency.
- B. Employee rights. An employee in an uncovered appointment shall retain all employee rights except for the right to appeal removal from the uncovered appointment.
- C. Returning to regular duty. Upon completion of an uncovered appointment, the agency head shall reassign the employee to the previously held position or to a similar position in the same classification.
- D. Leave policy for an uncovered employee accepting a covered position: An uncovered employee of a state agency or any state budget unit may transfer accrued annual and sick leave when accepting a covered position with an agency under the jurisdiction of the Council.
 - 1. Annual leave.
 - a. Up to 360 hours of annual leave may be transferred at the gaining agency's discretion.
 - b. Annual leave in excess of 360 hours shall be paid off by the losing agency.
 - c. An employee shall be paid for any annual leave that is not accepted by the gaining agency.
 - 2. Sick leave. All accrued sick leave hours shall be accepted by and transferred to the agency.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 23 A.A.R. 2564, effective November 5, 2017 (Supp. 17-3).

R13-5-403. Transfer of an External Function

- A. Transferring a function. If a state program is transferred into an agency, the losing agency shall pay a transferring employee for all accrued compensatory leave as of the date of the transfer. Effective on the date of transfer, the losing agency shall also transfer sufficient funds to the receiving agency to pay for accrued annual leave, recognition leave, and sick leave of a transferring employee.
- B. Council action. The business manager shall determine the classification of a transferring employee and recommend that the Council adopt other classifications that need to be added or revised.
- C. Transferee status. A transferee shall retain accrued annual leave, recognition leave, sick leave, and length of state service. A transferee shall also retain the transferee's current rate of pay until the Council reviews and approves a new or existing compensation schedule.
- D. Appointing a transferee. An agency head shall determine the organizational placement of a transferred program and appoint each transferee to an appropriate position.
- E. Probation. A transferee on probation at the time of the transfer shall complete the transferee's probationary period under R13-5-316 before obtaining permanent status.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

ARTICLE 5. EMPLOYEE LEAVE

Editor's Note: Former Article 5, consisting of Sections R13-5-25 through R13-5-28, repealed by final rulemaking at 6 A.A.R. 1982, effective May 10, 2000; new Article 5, consisting of Sections R13-5-501 through R13-5-513, adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-501. Employee Leave Guidelines

- A. Accrual of leave. An employee may accrue the following types of paid leave:
 - 1. Annual leave,
 - 2. Holiday leave, and
 - 3. Sick leave.
- B. Accruing leave. An employee shall accrue leave for a pay period if the employee is in pay status for at least one-half of the employee's normal scheduled work week.
- C. Part-time employees. A part-time employee scheduled to work 20 or more hours in a week shall accrue leave based on the percentage of full-time hours specified in the appointment. An employee scheduled to work less than 20 hours in a week shall not accrue leave.
- D. Leave request. An employee shall not use leave before it is accrued. An employee shall obtain supervisory approval before taking leave. An agency may establish a policy allowing delayed notice to the employee's supervisor in emergency situations.
- E. Time accounting record. An agency shall maintain a record of time worked, leave earned, leave taken, and accrued leave balances for an employee. A non-exempt employee shall report all time worked and all leave taken on a weekly basis. An exempt employee shall report leave taken as directed by agency policy.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 12 A.A.R. 1756, effective July 2, 2006 (Supp. 06-2).

R13-5-502. Administrative Leave

An agency head may authorize administrative leave with pay:

1. During a disaster, state of emergency, or a day of mourning declared by the Governor;
2. When an employee is instructed to not report for duty, or to return home because of a hazardous condition; or
3. To temporarily relieve an employee from duty for the good of the agency or the employee.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-503. Annual Leave

- A. Computing length of service. For determining an annual leave accrual rate, an employee's length of service shall begin on the first day of the first qualifying pay period of employment. Only a qualifying pay period is counted before and after a break-in-service. Previous periods of service as a state employee are counted toward annual leave accrual. Periods of military leave and active military service are included in computing annual leave if the employee meets the requirements of A.R.S. § 38-610.
- B. Accruing annual leave. A full-time employee shall accrue annual leave under the following schedule:

Beginning	Completion	Biweekly accrual rate
1st year	5th year	4.62 hours
6th year	10th year	5.54 hours
11th year	20th year	6.47 hours
21st year		7.39 hours

- C. Progression of annual leave. An employee shall progress to the next higher accrual rate on the first day of the pay period following completion of the required length of service.
- D. Using annual leave. An employee may use accrued annual leave under state and federal law and agency policy. The employee shall schedule the use of accrued annual leave through the employee's supervisor.
- E. Maximum accumulation and disposition. An employee may accumulate annual leave without limit during a year. At the end of each year, an employee's annual leave balance shall not exceed 360 hours. It shall be the responsibility of each employee to schedule annual leave to avoid having a balance over 360 hours at the end of the year. If an employee's annual leave balance on January 1 exceeds 360 hours, the agency head may withdraw the excess and deposit the hours as sick leave in the employee's sick leave balance. The agency head may authorize a later date for conversion of excess annual leave if an employee's duty assignment, receipt of recognition leave, injury, or illness prevents timely use of annual leave.
- F. Compensation for unused leave. Upon separation from agency employment, an employee is paid for any unused annual leave remaining in the employee's account at the average rate received by the employee in the last three years of the employee's employment or the employee's current rate of pay, whichever is higher.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by

final rulemaking at 6 A.A.R. 4495, effective November 7, 2000 (Supp. 00-4). Amended by emergency rulemaking at 10 A.A.R. 1163, effective March 4, 2004 (Supp. 04-1).

Emergency expired after 180 days; the Section on file prior to the emergency has been restored (Supp. 05-4). Amended by final rulemaking at 12 A.A.R. 1756, effective July 2, 2006 (Supp. 06-2).

R13-5-504. Civic Duty

- A. Voting. Under conditions outlined in A.R.S. § 16-402, an employee may be absent with pay for the time required to vote.
- B. Jury duty. An employee shall report for jury duty as directed by a summons unless officially excused by the Jury Commissioner for reasons under A.R.S. § 21-202. When summoned, the employee shall notify or provide the immediate supervisor with a copy of the summons.
 1. While on jury duty, an employee is considered absent with pay.
 2. Upon receipt of a summons for jury duty, a commissioned employee shall notify the Jury Commissioner of the employee's peace officer status.
- C. Witness. An employee subpoenaed as a witness is considered absent with pay, unless the subpoena is unrelated to agency business.
- D. Fees. An employee paid for civic duty under this Section shall forward all jury duty or witness fees to the agency.
- E. Vehicle mileage reimbursement. An employee may retain any mileage reimbursement paid by the court for the use of a privately owned vehicle. An employee shall remit to the agency any mileage reimbursement for use of a state-owned vehicle.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 9 A.A.R. 1619, effective July 5, 2003 (Supp. 03-2).

R13-5-505. Compensatory Leave

- A. Compensatory leave. An agency shall establish policies and guidelines for accruing compensatory leave under the overtime provisions of the Fair Labor Standards Act.
- B. Using compensatory leave. An employee may use accrued compensatory leave under state and federal law and agency policy. The employee shall schedule the use of accrued compensatory leave through the employee's supervisor.
- C. Payment upon separation. Upon separation from an agency, an employee shall be paid for any accrued compensatory leave remaining in the employee's account at the average rate received by the employee in the last three years of the employee's employment or the employee's current rate of pay, whichever is higher.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-506. Donated Annual Leave

- A. Definitions for purposes of this Section:
 1. "Recipient" means an employee in the same agency as a donating employee or a family member of the donating employee who is employed in another agency, department, board, or commission.
 2. "Family member" means a spouse, natural child, adopted child, foster child, stepchild, natural parent, stepparent, adoptive parent, grandparent, grandchild, brother, sister, sister-in-law, brother-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law.

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3. "Immediate family" means a spouse, child, brother, sister, natural parent, stepparent, adoptive parent, or an individual for whom a recipient has legal guardianship.
 4. "Extended illness or injury" means a period of at least three consecutive weeks to a maximum of six consecutive months.
 5. "Seriously incapacitating" means an illness or injury that renders an employee unable to perform the employee's duties, or that confines an immediate family member to home or hospital.
- B. Donating leave.** An employee may donate accrued annual leave to a recipient who qualifies for donated leave under the personnel rules of the agency where the recipient is employed and who has exhausted all available leave balances. An employee may donate accrued annual leave by submitting a written notice to the Human Resources section of the donating agency with the information required under the agency's policies.
- C. Qualifying for donated leave.** An employee may request and use donated annual leave if the employee has a seriously incapacitating or extended illness or injury or a member of the employee's immediate family has a seriously incapacitating and extended illness or injury and the employee has exhausted all available leave balances.
1. An employee requesting donated leave shall submit a written request for donated leave under the agency's policy. An agency shall approve only those requests that qualify for donated leave under this Section.
 2. Except as provided in subsection (C)(3), an employee receiving donated leave shall not use more than six consecutive months of donated leave per illness or injury.
 3. If an employee who has a seriously incapacitating or extended illness or injury applies for long-term disability (LTD) insurance by the end of the fifth month of leave, the employee may continue to use donated leave until an LTD determination is made.
- D. Calculating donated leave.** An agency shall convert the number of hours of annual leave donated in proportion to the hourly rate of pay of the donating employee and the recipient. Donated hours are converted by multiplying the number of hours donated by the donating employee's hourly rate of pay and dividing the result by the recipient employee's hourly rate of pay. An agency shall add hours converted to the recipient's sick leave balance as needed.
- E. Distributing unused leave.** If a recipient separates from state service before the recipient uses all donated leave, no longer qualifies for donated leave, or otherwise no longer needs donated leave, the agency shall return unused leave to the contributor of the donated leave on a pro-rata basis, unless a contributor gives written notice to Human Resources to deposit the unused leave into an agency "donated-leave bank" for use of other employees in the future.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 5373, effective November 6, 2001 (Supp. 01-4). Amended by final rulemaking at 9 A.A.R. 1619, effective July 5, 2003 (Supp. 03-2).

R13-5-507. Holiday Leave

- A. Paid holidays.** An agency shall observe the holidays authorized under A.R.S. § 1-301.
- B. Eligibility.** To be eligible for holiday leave, a full-time employee shall be in pay status for 10 or more hours in the work week in which the holiday occurs. A part-time employee shall be in pay status for five or more hours in the work week.

The holiday hours that would be accrued cannot be used to satisfy any part of this requirement.

1. If a holiday occurs on an employee's regular work day, the employee may be absent with pay for the number of hours the employee is regularly scheduled to work, up to a maximum of eight hours, unless the employee is required to work to maintain essential state services.
 2. An employee required to work on a holiday shall receive pay for the time worked, and leave hours for the number of hours regularly scheduled to work on that day, up to a maximum of eight hours.
 3. If a holiday occurs on a day when an employee is scheduled to work, but the employee is unable to work because of an illness or injury, the employee may take sick leave and accrue holiday leave credits as provided under subsection (C) for the number of hours regularly scheduled to work on that day, up to a maximum of eight hours.
 4. An employee not scheduled to work on a holiday shall receive leave credits up to a maximum of eight hours.
- C. Accruing holiday leave.** An agency may credit holiday leave to the employee's annual leave balance or establish a separate balance for holiday leave. The agency shall add accrued holiday leave to an employee's annual or holiday leave balance.
- D. Using holiday leave.** An employee may use accrued holiday leave under state and federal law and agency policy. The employee shall schedule the use of accrued holiday leave through the employee's supervisor.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 12 A.A.R. 1756, effective July 2, 2006 (Supp. 06-2).

R13-5-508. Industrial Leave

An agency shall establish policies and procedures to comply with statutes regulating industrial leave under A.R.S. § 23-901, et seq. and A.R.S. § 23-1043.02.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-509. Leave Amortization

An agency may provide a leave amortization plan for an employee planning to retire.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-510. Leave Without Pay

- A. Short-term leave without pay.**
 1. An agency head shall place an employee on leave without pay when the employee is unable to report to work due to illness or non-industrial injury and the employee has no accrued or donated leave balance to cover the absence. The supervisor may require the employee to submit supporting documentation for sick leave without pay. If the absence exceeds five working days, the employee must request leave without pay as outlined in subsection (A)(2) of this Section.
 2. An employee may request a leave of absence without pay of 30 working days or less by notifying the employee's manager as soon as possible and submitting a signed memorandum. The employee shall include the reason for the request and the employee's intended departure and return-to-duty dates. The agency head may approve or deny the request and may set a date for the employee's

return. If the leave is approved, the employee's manager shall notify the employee in writing, including any stipulation of approval. If the employee returns on schedule, the employee shall retain the position held before the leave of absence.

- B. Extended leave without pay.** An employee may request an extended leave-of-absence without pay of over 30 working days by notifying the employee's manager as soon as possible and submitting a written request under the agency's policies and procedures.
1. **Approval.** An agency head may approve an extended leave without pay. If extended leave without pay is approved, an employee shall sign a leave of absence agreement with the agency. The leave-of-absence agreement shall outline the conditions of the leave and the employee's return to work.
 2. **Cancellation.** An agency head may cancel a leave-of-absence without pay for any of the following reasons:
 - a. The employee violates any condition of the leave-of-absence agreement, including failure to return to work on schedule;
 - b. The agency head directs the employee to return to duty because of a need for the employee's services; or
 - c. The employee requests to return early from the leave-of-absence.
 3. **Return to work.** An employee shall return to duty on schedule from any approved leave of absence unless an extension is approved by the agency. When an employee returns from an extended leave without pay, the agency head shall return the employee to the same position, to another position in the same classification, or to a position in a similar classification for which the employee is qualified, provided:
 - a. The employee complied with all terms of the leave-of-absence agreement, and
 - b. The employee passes background screening by the agency head.
- C. Disposition of accrued leave.** An employee may retain annual and sick leave balances while on an extended leave-of-absence. An employee shall be paid for any unused compensatory or holiday leave balances at the beginning of an extended leave-of-absence. If an employee is granted leave without pay to accept an uncovered appointment with the Governor, the Legislature, or another state agency, the agency head shall transfer the employee's accumulated sick leave to the receiving agency. The employee's annual leave may also be transferred if the employee and both agencies agree.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-511. Military Leave of Absence

- A. Privileges of military service.** An employee shall receive all rights provided by state and federal law for a military leave-of-absence under A.R.S. § 26-168 and A.R.S. § 38-610.
- B. Notifying the agency.** An employee expecting an assignment to military duty shall notify the immediate supervisor as soon as possible. Upon receiving orders to report, the employee shall submit a copy of the orders and a written request for military leave to the employee's supervisor. The supervisor shall process the request under the agency's policy and procedure for a military leave-of-absence.
- C. Extended military leave.** If an employee's orders for active duty exceed the time limit for paid military leave, the

employee may request to use accrued leave or leave without pay for the remainder of the military leave.

- D. Returning to position.** Upon return from military leave-of-absence, an agency head shall restore an employee to the position held before the military leave-of-absence, or to a similar position within the employee's classification.
- E. Promotion.** Upon return from a military leave-of-absence, an employee may be promoted by the agency head if the employee's name was on a promotional list at the time of activation into military service.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-512. Recognition Leave

- A. Employee recognition.** An agency head may grant paid time off as part of recognition given to worthy employees under a formal awards program, or as an incentive for continued superior performance. The agency shall publish recognition leave guidelines for annual nominations, selections, and awards.
- B. Adding to leave balance.** An employee awarded recognition leave shall receive annual leave hours added to the employee's leave balance.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-513. Sick Leave

- A. Definitions.** The following definitions shall apply in this Section:
1. "Family sick leave" means:
 - a. Providing personal care or attending to an employee's family member who has a serious illness, injury, or temporary disability;
 - b. A medical appointment for a family member or transporting of a family member to a medical appointment by a licensed health care provider; or
 - c. Attendance at the death or funeral of an employee's family member.
 2. "Family member" means a spouse, natural child, adopted child, foster child, stepchild, natural parent, stepparent, adoptive parent, grandparent, grandchild, brother, sister, sister-in-law, brother-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law.
- B. Accruing sick leave.**
1. A full-time employee shall receive 4.62 hours of sick leave biweekly.
 2. The following employees are not eligible for sick leave:
 - a. A part-time employee working less than 20 hours in a week,
 - b. An intern, and
 - c. An intermittent employee.
 3. An employee shall receive sick leave credit if the employee is in pay status for at least one-half of the employee's normally scheduled work week.
 4. Sick leave may be accrued without limit.
- C. Using sick leave.** A supervisor shall authorize sick leave if an employee is absent because of:
1. An illness that makes the employee unable to perform official duties,
 2. An appointment with a licensed health care provider, or
 3. Family sick leave.
- D. Family sick leave limits.** Family sick leave shall not exceed 40 hours in a year. An employee may use annual leave to supplement or instead of family sick leave. If an employee has used the authorized 40 hours of family sick leave and exhausted all

compensatory and annual leave, the agency head may authorize the employee to use the employee's sick leave.

- E. Supervisory review of sick leave. A supervisor may require supporting documentation for any sick leave. If the employee fails to provide necessary documentation of the use of sick leave or violates any provision of this Section, the employee's supervisor may disapprove the sick leave and charge the absence to the employee's annual leave or leave without pay. When an employee has been on sick leave for five or more consecutive days, the supervisor may require the employee to submit evidence that the employee consulted a doctor.
- F. Returning from sick leave. An employee shall return to duty or to limited duty as soon as the employee is able to do so with permission of the employee's physician and without posing a risk to the employee or others.
- G. Medical review. If a supervisor is concerned about a returning employee's fitness for duty, the supervisor may request a medical evaluation under R13-5-315(B), or request that the employee be temporarily assigned to limited duty.
- H. Forfeiture of sick leave. An employee shall forfeit accumulated sick leave upon separation from state service, unless eligible for payment under the provisions of A.R.S. § 38-615.
- I. Restoring sick leave. If a former employee is recalled, reinstated, or rehired within two years, an agency shall restore the employee's previous sick leave balance. Sick leave for which the employee received compensation under A.R.S. § 38-615 is excluded from restoration.
- J. Sick leave credit for Arizona state service. Upon appointment to an agency, an Arizona state employee with previously accrued sick leave may have the sick leave credit added to the employee's leave balance, provided:
 1. The employee does not receive compensation for accrued sick leave upon separating from a state agency;
 2. The employee is hired within two years of separating from a state agency; and
 3. The employee was hired after December 31, 1996.
- K. Agency leave policy. An agency shall establish a sick leave policy that complies with all of the provisions of the Family and Medical Leave Act.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 6 A.A.R. 4495, effective November 7, 2000 (Supp. 00-4). Amended by emergency rulemaking at 10 A.A.R. 1163, effective March 4, 2004 (Supp. 04-1). Emergency expired after 180 days; the Section on file prior to the emergency has been restored (Supp. 05-4). Amended by final rulemaking at 12 A.A.R. 1756, effective July 2, 2006 (Supp. 06-2).

ARTICLE 6. GRIEVANCES

Editor's Note: Former Article 6, consisting of Sections R13-5-30 through R13-5-36, repealed by final rulemaking at 6 A.A.R. 1982, effective May 10, 2000; new Article 6, consisting of Sections R13-5-601 and R13-5-602, adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-601. Agency Grievance System

- A. General. The agency shall provide a system for considering and responding to an employee grievance regarding classification, compensation, performance evaluation, and application of Council rules.
- B. Denial. When an agency head denies an employee grievance regarding classification, compensation, performance evaluation, or application of Council rules, the agency head shall notify the Council.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-602. Council Review

- A. General. The Council shall only review a grievance related to classification, compensation, employee appraisal system, and application of Council rules after the employee exhausts the remedies in the agency's grievance process. If the grievance remains unresolved, the employee may file a request for Council review within 20 days after the employee receives the agency's notice of denial of the grievance.
- B. Procedure. An employee shall submit a written request for Council review of a grievance.
 1. The employee's request shall include:
 - a. The specific relief sought by the employee;
 - b. The asserted factual basis for relief, and
 - c. An account of the agency's response during the internal grievance process.
 2. Upon receipt of the request, the Council shall send a copy of the request to the agency head.
- C. Response. The agency may file a written response with the Council at any time before the Council reviews the grievance. The agency head shall send a copy of the response to the employee at least 10 days before the Council reviews the grievance. At the employee's request, the 10 days may be waived.
- D. Informal dispositions. The Council may informally dispose of a grievance without further review of the merits, under any of the following methods:
 1. By withdrawal, if the employee withdraws the grievance in writing or on the record at any time before a decision is issued;
 2. By default to the appearing party, if the employee or the agency, fails to appear at the meeting; or
 3. By stipulation, if the parties agree on the record or in writing at any time before the Council issues a decision on the grievance.
- E. Council review. The Council shall review an employee's grievance in an open meeting. The Council shall allow the employee to make a statement in support of the grievance, and shall allow the agency an opportunity to respond. The Council may limit the length of the parties' statements. In its discretion, the Council may allow the employee or the agency to present testimonial or documentary evidence on the issue. If the Council allows a party to offer evidence, the Council shall allow the other party an opportunity to respond with argument or evidence. The Council may limit the time parties are allowed to present evidence.
- F. Scheduling of Council review. An employee's grievance shall be scheduled for the next available business meeting of the Council but no sooner than 20 days after the grievance was received by the business manager. At the employee's request, the 20 days may be waived.
- G. Representation by counsel. Both the agency and the employee may have counsel present during the Council's review of the grievance.
- H. Decision. The Council shall state its decision in an open meeting. The Council shall sustain the agency's action on the grievance unless it finds the agency's denial is not supported by substantial evidence or is inconsistent with Council rules.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

ARTICLE 7. DISCIPLINE AND APPEALS

Editor's Note: Former Article 7, consisting of Sections R13-5-40 through R13-5-43, repealed by final rulemaking at 6 A.A.R. 1982, effective May 10, 2000; new Article 7, consisting of Sections R13-5-701 through R13-5-705, adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-701. Causes for Discipline

- A. The causes for discipline for employees are found in A.R.S. § 41-1830.15.
- B. The causes for discipline for covered employees are found in A.R.S. § 41-773.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 23 A.A.R. 2564, effective November 5, 2017 (Supp. 17-3).

R13-5-702. Disciplinary Procedures

- A. Receiving a complaint. A person may file a complaint with an agency asserting that an employee engaged in activity constituting cause for discipline and requesting that the agency head take appropriate disciplinary action against the employee or covered employee.
- B. Initiating disciplinary action. An agency head may take appropriate disciplinary action against an employee for any cause listed in A.R.S. § 41-1830.15 or against a covered employee for any cause listed in A.R.S. § 41-773.
- C. Interview of an employee. In conducting an interview of an employee being investigated for possible disciplinary action, an agency shall comply with A.R.S. § 38-1104.
- D. Time limit for filing a disciplinary action. An agency shall not file a disciplinary action later than 180 days after the date the agency discovers or should have discovered that the employee engaged in alleged activity constituting cause for discipline. The disciplinary action is deemed to be filed when the notice is filed with the Council.
- E. Exceptions to the 180-day rule.
 - 1. The time limit in subsection (D) does not run:
 - a. During the time that any criminal investigation or prosecution is pending in connection with the act, omission or other allegation of misconduct; or
 - b. During the period of time in which an employee or covered employee who is involved in the investigation is incapacitated or otherwise unavailable; or
 - c. During the period prescribed in a written waiver of the limitation by the employee or covered employee; or
 - d. During emergencies or natural disasters during the time period in which the governor has declared a state of emergency within the jurisdictional boundaries of the concerned employer; or
 - e. During a multijurisdictional investigation, the time limit may be extended for a period of time reasonably necessary to facilitate the coordination of the employers involved.
 - 2. At the request of an agency, the Council may, upon a showing of good cause, extend the time for an agency to file a disciplinary action up to a maximum of 90 days beyond the original 180-day period.
 - 3. If a manager or supervisor is aware of an employee's alleged actions that constitute a criminal offense but fails to act, the time limit does not run during the period of the manager or supervisor's inaction if the supervisor or manager is disciplined for failure to act and:
 - a. The offense is a misdemeanor involving theft or moral turpitude and is discovered within 180 days after the 180-day period for taking disciplinary action, or
 - b. The offense is a felony.

- 4. The agency shall maintain documentation to support any exception to the 180-day time limit, including the dates during which the time limit does not run.
- F. Notice of disciplinary action. An agency head shall serve a written notice on the employee or covered employee within 10 days after the agency files the notice of disciplinary action with the Council. Service shall be completed in accordance with R13-5-104(D). The agency head's notice shall include:
 - 1. A statement of the nature of the disciplinary action;
 - 2. Any prior disciplinary action on which the current discipline is based;
 - 3. The effective date of the action;
 - 4. A specific statement of the causes; and
 - 5. A statement of the employee's or covered employee's right to appeal and the time limit in which the employee or covered employee must file an appeal with the Council under R13-5-703(A), (B), and (C).
- G. Amended notice of disciplinary action before appeal is filed. At any time before an employee or covered employee files an appeal, the agency head may file with the Council and serve the employee or covered employee or former employee or former covered employee with an amended or supplemental notice of disciplinary action.
- H. Effect of dismissal. An employee's or covered employee's dismissal from the agency shall entail:
 - 1. Dismissal from all positions held by the employee or covered employee,
 - 2. Removal of the employee's or covered employee's name from all employment or promotional lists, and
 - 3. Termination of the employee's or covered employee's pay on the date of dismissal.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 12 A.A.R. 1756, effective July 2, 2006 (Supp. 06-2). Amended by final rulemaking at 23 A.A.R. 2564, effective November 5, 2017 (Supp. 17-3).

R13-5-703. Appeal to the Council by Employees

- A. Appealable actions by employees. An employee may appeal any disciplinary action that results in the employee's dismissal, demotion, suspension without pay, forfeiture of accrued leave time, or reduction of pay.
- B. Form of appeal. To initiate an appeal, an employee shall submit a signed written appeal to the business manager and the agency head. The appeal must state specific facts relating directly to the charges on which the appeal is based.
- C. Time for appeal. An employee shall file an appeal within 30 days after being served with the notice of disciplinary action.
- D. Agency responsibility. An agency shall have the burden of going forward with the case once an appeal has been filed. An agency must prove by a preponderance of the evidence that it had just cause to discipline the employee.
- E. Effect of appeal. The Council shall determine whether the employing agency has proven by a preponderance of the evidence that the employing agency had just cause to discipline the employee. The Council shall reverse the decision of the agency head if the Council finds that just cause did not exist for any discipline to be imposed and, in the case of dismissal or demotion, return the employee to the same position the employee held before the dismissal or demotion with or with-

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out back pay. On a finding that the agency has not proven just cause to discipline the employee by a preponderance of the evidence, the Council may recommend a proposed disciplinary action in light of the facts proven.

- F. Agency action after receiving a decision or recommendation. The agency head or the agency head's designee shall accept, modify or reverse the Council's decision or accept, modify or reject the Council's recommendation within 14 days of receipt of the findings or recommendation from the Council. The decision of the agency head is final and binding. The agency head shall send a copy of the agency's final determination to the employee.
- G. Amended notice of disciplinary action after employee files an appeal. If good cause exists, an agency head may file with the Council a motion to amend the notice of disciplinary action. The motion shall be filed no later than 14 days before the hearing.
- H. Notice of hearing. The Council shall notify the parties of the time and place of the hearing.
- I. Failure to appear. If a party, without good cause, fails to appear at the time and place set for a hearing, the Council may find in favor of the appearing party.
- J. Conduct of hearings. The Council shall sit as a whole at a hearing, unless a Council member declares a conflict or is unable to attend. Only a Council member who was present at a hearing may participate in making the decision. Council members may administer oaths, issue subpoenas for the attendance of witnesses and the production of books or papers, and cause the depositions of witnesses residing within or outside the state to be taken in the manner prescribed by law for depositions in civil cases in the Superior Court of this state.
- K. Witness fees. Witnesses at a hearing, other than employees, are entitled to the fees allowed witnesses under A.R.S. § 12-303.
- L. Payment of witness fees. If the Council subpoenas a witness on its own initiative, the Council shall pay the witness' fees and mileage. The requesting party shall pay the fees for subpoenaed witnesses. An employee appearing as a witness on duty shall receive travel expenses from the agency and shall not be entitled to witness fees.
- M. Discovery.
 1. Within three business days after receiving a written request from the employee, the agency shall provide a complete copy of the investigative file, as well as the names and home or work mailing addresses of all persons interviewed during the course of the investigation, to the employee. For the purpose of this subsection, hand-written notes substantially incorporated within a report are not considered part of the investigation file.
 2. Within 20 days after receiving the investigative file, the employee shall provide all material relating to the defense of the employee to the agency head.
 3. After initial discovery, each party shall provide all new material relating to the case to the other party within 10 days after receipt.
 4. No later than five business days before the hearing, or if the hearing is scheduled more than 20 days after the notice of appeal was filed, no later than 10 business days before the hearing, the agency and the employee shall exchange copies of any documents that may be introduced at the hearing and that have not been previously disclosed.
 5. No later than five business days before the hearing, or if the hearing is scheduled more than 20 days after the notice of appeal is filed, no later than 10 business days before the hearing, the agency and the employee shall exchange the names of all witnesses who may be called to testify. A witness may be interviewed at the discretion of the witness. The parties shall not interfere with any decision of a witness regarding whether to be interviewed. An agency shall not discipline, retaliate against, or threaten to retaliate against, any witness for agreeing or not agreeing to be interviewed or for testifying or providing evidence in the hearing.
 6. No later than five business days before the hearing, or if the hearing is scheduled more than 20 days after the notice of appeal was filed, no later than 10 business days before the hearing, the agency and the employee shall provide all documents that will be used at the hearing and a list of intended witnesses to the office of the Council.
 7. If a party fails to provide material as required, the Council may preclude its use at the hearing.
- N. Motions. All motions shall be in writing and filed no later than 20 days prior to the hearing. A response shall be filed in writing within 10 days after service of the motion. The chair may designate one or more members of the Council to hear and rule on a motion, except a motion to dispose of the case requires a vote of a majority of the Council.
- O. Pleadings. The Council may strike a pleading not filed in accordance with this Section.
- P. Depositions:
 1. On the motion of a party, the Council may order the deposition of a witness under the following circumstances:
 - a. The witness does not reside within the State or is out of state,
 - b. The witness is too ill to attend the action before the Council, or
 - c. The deposition is for the purpose of discovery in preparing a case before the Council.
 2. The requesting party shall pay the expense of any deposition. An employee of the agency is not entitled to a witness fee for giving a deposition.
 3. The deposition of a witness who is unavailable to appear at a hearing may be used in evidence by either party or the Council.
- Q. Open hearings. The Council's hearings shall be open to the public. The Council may, upon request of a party, exclude non-testifying witnesses from the hearing. The Council may keep excluded witnesses separated and prevent them from communicating with each other until all are examined.
- R. Minor discipline hearings. When the Council hears appeals of suspension without pay of 24 hours or less or the deduction of 24 hours or less from an employee's annual leave balance, each party shall have no more than three hours to present evidence unless the Council allows more time to assure a fair hearing.
- S. Legal counsel or representative. Before the hearing of any appeal, each party shall designate its legal counsel or representative for the record. The Council shall advise each party without legal counsel that the party may obtain and be represented by counsel at the hearing. At the request of a party, the Council may postpone the hearing for a reasonable length of time to allow a party to obtain legal counsel.
- T. Presentation of evidence. Both parties may present evidence and witnesses either personally or through a representative. The Council shall exclude evidence irrelevant to the causes set forth in the notice of disciplinary action.
- U. Settlement of disputes. If requested by the employee, the parties shall submit the terms of settlement to the Council. If the Council approves the settlement, the settlement becomes final. If no settlement is reached, or if the proposed settlement is revoked or rejected by the Council, or withdrawn by either party, or if the settlement agreement is later vacated or

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reversed by a court, neither the settlement discussion nor any resulting agreement shall be admissible against the employee in any hearing before the Council on the matter.

- V. Decision. In arriving at a decision, the Council may consider any disciplinary action taken within the previous 10 years against the employee, if the information is introduced at the hearing. The Council's decision shall contain findings of fact and its order for disposition of the case.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 9 A.A.R. 1619, effective July 5, 2003 (Supp. 03-2). Amended by final rulemaking at 12 A.A.R. 1756, effective July 2, 2006 (Supp. 06-2). Amended by final rulemaking at 23 A.A.R. 2564, effective November 5, 2017 (Supp. 17-3).

R13-5-704. Rehearing of Council Decision Regarding Employees

- A. Motion for rehearing.
1. Except as provided in subsection (C), any party in a contested case or appealable agency action may file a written motion for rehearing within 30 days after service of the decision. The requesting party shall specify the grounds for a rehearing, as provided in subsection (B). A respondent may file a response to the motion within 15 days after service.
 2. A party filing a post-hearing motion shall include references to the record where appropriate.
 3. The Council may require the parties to file written memoranda upon the issues raised in the motion and may permit oral argument.
 4. The Council may grant a rehearing on all or part of the issues. If a rehearing is granted, the Council shall specify the grounds for the rehearing, and the rehearing shall cover only those matters.
- B. Basis for a rehearing. The Council may grant a rehearing for any of the following causes:
1. The Council acted in an arbitrary or capricious manner or abused its discretion;
 2. Misconduct of the Council or the prevailing party;
 3. Newly discovered material evidence which, with reasonable diligence, could not have been discovered and produced at the original hearing;
 4. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the action;
 5. The decision was not supported by the evidence; or
 6. The decision is contrary to law.
- C. Decisions not subject to rehearing. The Council may issue a decision as final upon making a specific finding that a decision's immediate effectiveness is necessary for the preservation of the public peace, health, or safety, or that a rehearing of the decision is impractical, unnecessary, or contrary to the public interest.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 9 A.A.R. 1619, effective July 5, 2003 (Supp. 03-2). Amended by final rulemaking at 23 A.A.R. 2564, effective November 5, 2017 (Supp. 17-3).

R13-5-705. Time Limits

Computation of time limits. In computing any period of time prescribed or allowed by this Chapter the day of the act or event from which the designated period or time begins to run shall not be

included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-706. Appeal to the Council by Covered Employees

- A. Appealable actions by covered employees. A covered employee may appeal dismissal from covered service, suspension for more than 40 working hours, or involuntary demotion resulting from disciplinary action.
- B. Form of appeal. To initiate an appeal, a covered employee shall submit a signed written appeal to the business manager and the agency head. The appeal must state specific facts relating directly to the charges on which the appeal is based.
- C. Time for appeal. A covered employee shall file an appeal within 10 working days after the effective date of the action.
- D. Agency responsibility.
1. When a covered employee is dismissed, involuntarily demoted, or suspended for more than 40 working hours, the employing agency shall notify the Business Manager in writing of this action and provide related documentation within 5 business days.
 2. An agency shall have the burden of going forward with the case once an appeal has been filed.
 3. An agency must prove by a preponderance of the evidence that it had just cause to discipline the covered employee.
- E. Effect of appeal. The Council shall determine whether the employing agency has proven by a preponderance of the evidence that the employing agency had just cause to discipline the covered employee. The Council shall reverse the decision of the agency head if the Council finds that just cause did not exist for any discipline to be imposed and, in the case of dismissal or demotion, return the covered employee to the same position the covered employee held before the dismissal or demotion with or without back pay. On a finding that the agency has not proven just cause to discipline the covered employee by a preponderance of the evidence, the Council may recommend a proposed disciplinary action in light of the facts proven.
- F. Agency action after receiving a decision or recommendation. The agency head or the agency head's designee shall accept, modify or reverse the Council's decision or accept, modify or reject the Council's recommendation within 14 days of receipt of the findings or recommendation from the Council. The decision of the agency head is final and binding. The agency head shall send a copy of the agency's final determination to the covered employee.
- G. Notice of hearing. The Council shall notify the parties of the time and place of the hearing.
- H. Failure to appear. If a party, without good cause, fails to appear at the time and place set for a hearing, the Council may find in favor of the appearing party.
- I. Conduct of hearings. The Council shall hear the appeal within 30 days of the receipt of the appeal. The Council shall sit as a whole at a hearing, unless a Council member declares a conflict or is unable to attend. Only a Council member who was present at a hearing may participate in making the decision. Council members may administer oaths, issue subpoenas for the attendance of witnesses and the production of books or papers, and cause the depositions of witnesses residing within or outside the state to be taken in the manner prescribed by law for depositions in civil cases in the Superior Court of this state.

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- J.** Witness fees. Witnesses at a hearing, other than covered employees, are entitled to the fees allowed witnesses under A.R.S. § 12-303.
- K.** Payment of witness fees. If the Council subpoenas a witness on its own initiative, the Council shall pay the witness' fees and mileage. The requesting party shall pay the fees for subpoenaed witnesses. A covered employee appearing as a witness on duty shall receive travel expenses from the agency and shall not be entitled to witness fees.
- L.** Discovery.
1. Within three business days after receiving a written request from the covered employee, the agency shall provide a complete copy of the investigative file, as well as the names and home or work mailing addresses of all persons interviewed during the course of the investigation, to the covered employee. For the purpose of this subsection, hand-written notes substantially incorporated within a report are not considered part of the investigation file.
 2. Within 20 days after receiving the investigative file, the covered employee shall provide all material relating to the defense of the covered employee to the agency head.
 3. After initial discovery, each party shall provide all new material relating to the case to the other party within 10 days after receipt.
 4. No later than five business days before the hearing, or if the hearing is scheduled more than 20 days after the notice of appeal was filed, no later than 10 business days before the hearing, the agency and the covered employee shall exchange copies of any documents that may be introduced at the hearing and that have not been previously disclosed.
 5. No later than five business days before the hearing, or if the hearing is scheduled more than 20 days after the notice of appeal is filed, no later than 10 business days before the hearing, the agency and the covered employee shall exchange the names of all witnesses who may be called to testify. A witness may be interviewed at the discretion of the witness. The parties shall not interfere with any decision of a witness regarding whether to be interviewed. An agency shall not discipline, retaliate against, or threaten to retaliate against, any witness for agreeing or not agreeing to be interviewed or for testifying or providing evidence in the hearing.
 6. No later than five business days before the hearing, or if the hearing is scheduled more than 20 days after the notice of appeal is filed, no later than 10 business days before the hearing, the agency and the covered employee shall provide all documents that will be used at the hearing and a list of intended witnesses to the office of the Council.
 7. If a party fails to provide material as required, the Council may preclude its use at the hearing.
- M.** Motions. All motions shall be in writing and filed no later than 20 days prior to the hearing. A response shall be filed in writing within 10 days after service of the motion. The chair may designate one or more members of the Council to hear and rule on a motion, except a motion to dispose of the case requires a vote of a majority of the Council.
- N.** Pleadings. The Council may strike a pleading not filed in accordance with this Section.
- O.** Depositions:
1. On the motion of a party, the Council may order the deposition of a witness under the following circumstances:
 - a. The witness does not reside within the State or is out of state,
 - b. The witness is too ill to attend the action before the Council, or
 - c. The deposition is for the purpose of discovery in preparing a case before the Council.
 2. The requesting party shall pay the expense of any deposition. A covered employee of the agency is not entitled to a witness fee for giving a deposition.
 3. The deposition of a witness who is unavailable to appear at a hearing may be used in evidence by either party or the Council.
- P.** Open hearings. The Council's hearings shall be open to the public. The Council may, upon request of a party, exclude non-testifying witnesses from the hearing. The Council may keep excluded witnesses separated and prevent them from communicating with each other until all are examined.
- Q.** Legal counsel or representative. Before the hearing of any appeal, each party shall designate its legal counsel or representative for the record. The Council shall advise each party without legal counsel that the party may obtain and be represented by counsel at the hearing. At the request of a party, the Council may postpone the hearing for a reasonable length of time to allow a party to obtain legal counsel.
- R.** Presentation of evidence. Both parties may present evidence and witnesses either personally or through a representative. The Council shall exclude evidence irrelevant to the causes set forth in the notice of disciplinary action.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2564, effective November 5, 2017 (Supp. 17-3).

ARTICLE 8. SEPARATION FROM EMPLOYMENT; RETIREMENT SYSTEM ELIGIBILITY

Editor's Note: Former Article 8, consisting of Sections R13-5-45 through R13-5-48, repealed by final rulemaking at 6 A.A.R. 1982, effective May 10, 2000; new Article 8, consisting of Sections R13-5-801 through R13-5-804, adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-801. Resignation or Retirement

- A.** Notice of resignation or retirement. An employee shall resign or retire from the agency by submitting a letter addressed to the agency head and stating the effective date of the separation.
- B.** Oral resignation or retirement. If an employee resigns or retires orally rather than in writing, the employee's manager shall document the employee's stated separation date and forward the notice through the chain-of-command to the agency head.
- C.** Abandonment of position. If an employee abandons a position, it shall be deemed to be a voluntary resignation from the agency. The employee's manager shall document the employee's failure to show up for work and forward the notice through the chain-of-command to the agency head.
- D.** Refusal of resignation. An agency head may refuse to accept a resignation and may dismiss an employee under R13-5-701(B).
- E.** Withdrawal of resignation. An employee may withdraw a resignation only by submitting to the agency head a written notice of withdrawal before the employee's separation date. If a withdrawal is not submitted before the separation date, the resignation is final unless both the agency head and the employee agree to withdraw the resignation.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R.

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2090, effective May 10, 2000 (Supp. 00-2).

R13-5-802. Reduction in Force

- A.** General. The agency head may conduct a reduction in force when necessary because of a decrease in authorized positions, service area, funding, program responsibilities, or because of a legislative or executive mandate. If the reduction in force involves removal of a filled position, the agency shall not re-establish the position for two years, unless removal of the position was caused by fiscal constraints, legislative action, or court order.
- B.** Alternate methods. An agency head may pursue alternative methods of reducing costs without reducing the number of employees. Council approval will be required when:
 1. Temporarily reducing all employees' pay, or
 2. Assigning all employees time off without pay.
- C.** Order of layoff. An employee shall be separated from an agency in the following order of preference:
 1. Internship appointment,
 2. Intermittent appointment,
 3. Part-time appointment,
 4. Provisional appointment,
 5. Probationary limited-term appointment who has not established permanent status,
 6. Limited-term appointment who has completed a probationary period but has not established permanent status,
 7. Probationary appointment in a non-limited term position, and
 8. Permanent status appointment.
- D.** Laying off a probationer and special duty assignee. An employee on promotional probation or special duty shall compete for retention in the highest classification for which the probationer or assignee hold permanent status.
- E.** Laying off a limited-term employee. A limited-term employee shall compete for retention only against other limited-term employees.
- F.** Laying off a permanent status employee. If it becomes necessary to reduce the number of full-time employees holding regular appointments, an agency shall use the following method:
 1. An employee with the least seniority within a classification shall be the first employee reduced from that classification.
 2. An employee who is declared surplus to a classification may displace only the least senior employee in other classifications in which the employee previously held seniority rights.
- G.** Determining seniority. Seniority within a classification shall be determined by the number of retention points of an employee. An employee with a greater number of retention points will be senior to another employee with lesser retention points within a classification.
- H.** Using retention points. Regular employees who have the least retention points shall be considered first for transfer, classification reduction, or separation.
- I.** Calculation of retention points within a classification. An employee shall receive one retention point for each month of service within the employee's classification.
- J.** Calculation of retention points in a classification for which the employee has established rights. If an employee is transferred to a classification previously held by the employee, the employee shall receive one retention point for each month of service in that classification and one retention point for each month of service in a higher or equal classification.
- K.** Eligibility for retention points. The following guidelines shall be used in determining an employee's eligibility for retention points:
 1. If the employee was in pay status for at least half of the employee's working days in that month.
 2. An employee shall receive credit for agency service before a separation if the separation was less than two years.
 3. An employee shall receive credit for periods of military leave under 38 U.S.C. 4311.
 4. An employee shall receive credit for periods of uncovered appointments with the agency.
 5. An employee's prior state service in a position transferred to the agency shall be counted.
 6. An employee shall not receive credit for periods constituting a break-in-service. However, periods of time before and after such break-in-service shall be counted.
- L.** Resolution of a tie. If employees have the same number of retention points, the agency shall resolve tied scores by applying the following tie-breakers in the following order of precedence:
 1. The employee with the greatest length of qualifying service with the agency,
 2. The employee with the greatest length of qualifying service with the state,
 3. The employee who placed highest on the eligibility list for the classification, or
 4. If a tie continues to exist, it shall be broken by a lottery system.
- M.** Offer of a position in a different classification. An employee who meets the qualification for a different classification but has not previously established displacement rights may be offered reassignment to a position within that classification provided that such reassignment does not displace another employee in that classification.
- N.** Notifying employees. An agency shall give written notice at least 20 days in advance to each employee being reassigned or separated. The Council may waive the 20 day notice upon proper justification for a reduced time limit. The agency's notice shall include the number of retention points assigned to the employee, the effective date of the action, the new job classification, the pay rate, the location of the position, the employee's right to request a review of the action, and the employee's recall rights, if applicable.
- O.** Employee request for review.
 1. Within five days of receipt of a reassignment or separation notice, an employee may submit a written request to the agency head for a review of the procedures resulting in the employee's reassignment or separation. The employee's request shall contain information concerning any errors in the calculation of retention points and a proposed resolution. The agency head shall review the request and respond to the employee within five days after receipt of the request.
 2. An employee who wishes further review may submit a written request to the Council within 20 days after receiving the agency head's response. The Council shall investigate and respond to the employee and the agency head by submitting a final decision on the review within 30 days after receiving the employee's request.
- P.** Employee assistance. An agency shall establish a plan to assist all employees who are separated from the agency through a reduction in force.
- Q.** Reappointment list. If a permanent status employee is appointed to a lower classification as a result of a reduction in force or reallocation, Human Resources shall place the employee's name on a reappointment list for the last classification held and any previously held classification for which the employee is still qualified.

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- R. Recall list. If an employee is laid off due to a reduction in force, Human Resources shall place the former employee's name on a recall list for the last classification held and any previously held classification for which the former employee qualifies.
- S. Order of names. On both recall and reappointment lists, Human Resources shall arrange the names of former employees in descending order of their retention points. If candidates have the same number of retention points, Human Resources shall resolve tied scores by applying the following tie-breakers in the following order of precedence:
 1. The employee with the greatest length of qualifying service with the agency,
 2. The employee with the greatest length of qualifying service with the state,
 3. The employee who placed highest on the eligibility list for the classification, or
 4. If a tie continues to exist, it shall be broken by a lottery system.
- T. Duration of list. A former employee's name shall remain on a recall list for up to three years from the date of separation. The name of a reappointment candidate shall remain on the reappointment list until promoted or the employee separates from the agency.
- U. Background screening. A candidate on a recall list shall be subject to a background screening process.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-803. Disability

An agency head shall establish policies and procedures for discontinuing the employment of an employee who becomes disabled and is unable to perform the essential functions of the job. Such policies and procedures shall comply with the applicable state and federal laws.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-804. Public Safety Personnel Retirement System Eligibility

- A. Membership in the Arizona Public Safety Personnel Retirement System is designated by the Council under A.R.S. § 38-842(20)(a) Commissioned employees are eligible for membership in the Public Safety Personnel Retirement System.
- B. Employees who were in the following non-commissioned classifications on December 1, 1972, shall be eligible for membership in the Public Safety Personnel Retirement System:
 1. Communications Technician, and
 2. Radio Mechanic.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 5373, effective November 6, 2001 (Supp. 01-4). Amended by final rulemaking at 12 A.A.R. 1756, effective July 2, 2006 (Supp. 06-2).

ARTICLE 9. REPEALED

Editor's Note: Article 9, consisting of Section R13-5-50, repealed effective June 7, 1978 (Supp. 78-3).

Supplement Separator Page



Supplement to the
Arizona Administrative Code
The official compilation of Arizona Rules
Replacement Check List

For rules filed in the third quarter between
July 1 - September 30
2017

Within the stated calendar quarter, this Title contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information. Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

TITLE 14. Public Service Corporations; Corporations and Associations; Securities Regulation

Chapter 02. Corporation Commission - Fixed Utilities

Sections, Parts, Exhibits, Tables or Appendices modified

R14-2-1201 through R14-2-1217, R14-2-A1201 through R14-2-A1217, R14-2-B1218 through R14-2-B1223

☐ REMOVE Supp. 17-1
Pages: 1 - 204

☐ REPLACE with Supp. 17-3
Pages: 1 - 200

The agency's contact person who can answer questions about rules in this Chapter:

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Disclaimer: Please be advised the person listed is the contact of record as submitted in the rulemaking package for this supplement. The contact and other information may change and is provided as a public courtesy.

PUBLISHER
Arizona Department of State
Office of the Secretary of State, Administrative Rules Division

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the Administrative Code. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION
September 30, 2017

RULES

A.R.S. § 41-1001(17) states: “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions. Virtually everything in your life is affected in some way by rules published in the Arizona Administrative Code, from the quality of air you breathe to the licensing of your dentist. This chapter is one of more than 230 in the Code compiled in 21 Titles.

ADMINISTRATIVE CODE SUPPLEMENTS

Rules filed by an agency to be published in the Administrative Code are updated quarterly. Supplement release dates are printed on the footers of each chapter:

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2017 is cited as Supp. 17-1.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the Arizona Administrative Register for recent updates to rule Sections.

ARTICLES AND SECTIONS

Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering system separated into subsections.

HISTORICAL NOTES AND EFFECTIVE DATES

Historical notes inform the user when the last time a Section was updated in the Administrative Code. Be aware, since the Office publishes each quarter by entire chapters, not all Sections are updated by an agency in a supplement release. Many times just one Section or a few Sections may be updated in the entire chapter.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in the introduction of a chapter can be found at the Secretary of State’s website, www.azsos.gov/services/legislative-filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the Arizona Administrative Register online at www.azsos.gov/rules, click on the Administrative Register link.

In the Administrative Code the Office includes editor’s notes at the beginning of a chapter indicating that certain rulemaking Sections were made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR

If you are researching rules and come across rescinded chapters on a different paper color, this is because the agency filed a Notice of Exempt Rulemaking. At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

PERSONAL USE/COMMERCIAL USE

This chapter is posted as a public courtesy online, and is for private use only. Those who wish to use the contents for resale or profit should contact the Office about Commercial Use fees. For information on commercial use fees review A.R.S. § 39-121.03 and 1 A.A.C. 1, R1-1-113.

Public Services managing rules editor, Rhonda Paschal, assisted with the editing of this chapter.

**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS;
SECURITIES REGULATION**

CHAPTER 2. CORPORATION COMMISSION - FIXED UTILITIES

Authority: Article XV, § 3, Constitution of Arizona and A.R.S. § 40-202 et seq.

Editor's Note: The Office of the Secretary of State publishes all Code Chapters on white paper (Supp. 02-1).

The Corporation Commission has determined that rules in this Chapter are exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)). This exemption means that the rule was not certified by the Attorney General. Because this Chapter was filed under a rulemaking exemption, as determined by the Corporation Commission, other than a statutory exemption, the Chapter is printed on green paper.

Chapter 2, consisting of Sections R14-2-104, R14-2-105, R14-2-201 through R14-2-213, R14-2-301 through R14-2-313, R14-2-401 through R14-2-411, R14-2-501 through R14-2-510, and R14-2-601 through R14-2-610, adopted effective March 2, 1982.

ARTICLE 1. GENERAL PROVISIONS

Former Sections R14-2-103, R14-2-127, and R14-2-128, renumbered as Sections R14-2-101 through R14-2-103 respectively and former Section R14-2-135 renumbered as Section R14-2-314 effective March 2, 1982.

Former Sections R14-2-101, R14-2-102, R14-2-104, R14-2-106 through R14-2-126, R14-2-129, R14-2-130, R14-2-132 through R14-2-134 repealed effective March 2, 1982.

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Editor's Note: The following Article had rules made, amended and renumbered by final rulemaking before the expiration of the emergency as noted in Supp. 17-1. The rules have an immediate effective date of September 20, 2017. Section numbers in some rules were updated to reflect the renumbering scheme in Part A (Supp. 17-3).

Editor's Note: The following Article was amended by emergency rulemaking effective March 29, 2017, for 180 days (Supp. 17-1).

ARTICLE 12. ARIZONA UNIVERSAL SERVICE FUND

Article 12, consisting of Sections R14-2-1201 through R14-2-1217, adopted effective April 26, 1996, pursuant to an exemption from the regular rulemaking process as determined by the Arizona Corporation Commission (Supp. 96-2).

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Article 14, consisting of Sections R14-2-1401 through R14-2-1409, emergency expired (Supp. 97-1).

Article 14, consisting of Sections R14-2-1401 through R14-2-1409, adopted December 22, 1995, effective for a maximum of 180 days, pursuant to an exemption from the regular rulemaking process as determined by the Arizona Corporation Commission (Supp. 95-4).

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Article 15, consisting of Sections R14-2-1501 through R14-2-1507, emergency expired; new Article 15, consisting of Sections R14-2-1501 through R14-2-1509, adopted effective August 27, 1997, pursuant to an exemption as determined by the Arizona Corporation Commission (Supp. 97-3).

Article 15, consisting of Sections R14-2-1501 through R14-2-1507, adopted January 17, 1997, effective for a maximum of 180 days, pursuant to an exemption from the regular rulemaking process as determined by the Arizona Corporation Commission (Supp. 97-1).

Article 15, consisting of Sections R14-2-1501 through R14-2-1507, adopted July 23, 1996, effective for a maximum of 180 days, pursuant to an exemption from the regular rulemaking process as determined by the Arizona Corporation Commission; filed with the Office of the Secretary of State July 15, 1996 (Supp. 96-3). Emergency expired.

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Arizona Corporation Commission (Supp. 96-4).

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ARTICLE 1. GENERAL PROVISIONS**R14-2-101. Accident reports**

- A. Where not otherwise specifically prescribed by rule with respect to particular classes of public service corporations, all public service corporations shall report in writing by the end of the next working day to the Commission all accidents in which such public service corporations are involved, which result in death, personal injury to any person necessitating off-site medical attention, or property damage exceeding \$5,000.00. For purposes of this rule, off-site medical attention includes any medical treatment provided by medical professionals which requires transportation of the patient by ambulance, or treatment of the patient in an emergency room, or in-patient hospitalization. For those accidents in which it is not readily determinable if the property damage exceeds \$5,000.00, the public service corporation will have an additional two working days in which to submit its report. Any associated personal injuries requiring off-site medical attention would still have to be reported within the initial business day.
- B. This report shall state, as accurately as possible, the dollar amount of the damage. If this amount is not known immediately, or if investigation discloses a 15% or greater variation from the amount in this report, a follow-up report shall be submitted.
- C. If such accidents result in death or injury likely to result in death, a report shall also be made within 24 hours by telegraph or telephone stating the essential facts.

Historical Note

Former Section R14-2-101 repealed, former Section R14-2-103 renumbered as Section R14-2-101 without change effective March 2, 1982 (Supp. 82-2). Amended effective February 3, 1989 (Supp. 89-1).

R14-2-102. Treatment of depreciation

- A. The following definitions shall apply in this Section unless the context otherwise requires:
1. "Accumulated depreciation" means the summation of the annual provision for depreciation from the time that the asset is first devoted to public service.
 2. "Cost of removal" means the cost of demolishing, dismantling, removing, tearing down, or abandoning of physical assets, including the cost of transportation and handling incidental thereto.
 3. "Depreciation" means an accounting process which will permit the recovery of the original cost of an asset less its net salvage over the service life.
 4. "Depreciation rate" means the percentage rate applied to the original cost of an asset to yield the annual provision for depreciation.
 5. "Net salvage" means the salvage value of property retired less the cost of removal.
 6. "Original cost" means the cost of property at the time it was first devoted to public service.
 7. "Property retired" means assets which have been removed, sold, abandoned, destroyed, or which for any cause have been withdrawn from service and books of account.
 8. "Salvage value" means the amount received for assets retired, less any expenses incurred in selling or preparing the assets for sale; or if retained, the amount at which the material recoverable is chargeable to materials and supplies, or other appropriate accounts.
 9. "Service life" means the period between the date an asset is first devoted to public service and the date of its retirement from service.

- B. All public service corporations shall maintain adequate accounts and records related to depreciation practices, subject to the following:
1. Annual depreciation accruals shall be recorded.
 2. A separate reserve for each account or functional account shall be maintained.
 3. The cost of depreciable plant adjusted for net salvage shall be distributed in a rational and systemic manner over the estimated service life of such plant.
 4. Public service corporations having less than \$250,000 in annual revenue shall not be required to maintain depreciation records by separate accounts but shall make annual composite accruals to accumulated depreciation for total depreciable plant.
- C. Requests for depreciation rate changes and methods for estimating depreciation rates shall be as follows:
1. If a public service corporation seeks a change in its depreciation rates, it shall submit a request for such as part of a rate application in accordance with the requirements of R14-2-103.
 2. A public service corporation may propose any reasonable method for estimating service lives, salvage values, and cost of removal. The method shall be fully described in a request to change depreciation rates.
 3. Data and analyses supporting the change shall be submitted, including engineering data and assessment of the impact and appropriateness of the change for ratemaking purposes.
 4. Changed depreciation rates shall not become effective until the Commission authorizes such changes.
- D. Upon the motion of any party or upon its own motion, the Commission may determine that good cause exists for granting a waiver from one or more of the requirements of this Section.

Historical Note

Former Section R14-2-102 repealed, former Section R14-2-127 renumbered as Section R14-2-102 without change effective March 2, 1982 (Supp. 82-2). Forward to the rule corrected as filed April 13, 1973 (Supp. 89-1). Section R14-2-102 repealed, new Section adopted effective April 9, 1992 (Supp. 92-2).

R14-2-103. Defining Filing Requirements in Support of a Request by a Public Service Corporation Doing Business in Arizona for a Determination of the Value of Property of the Corporation and of the Rate of Return Thereon, or in Support of Proposed Increased Rates or Charges

- A. Purpose and definitions
1. Purpose: The purpose of this General Order is to define the specific financial and statistical information required to be filed with a request by a public service corporation doing business in Arizona for a determination of the value of the property of the corporation and of the rate of return to be earned thereon, with regard to proposed increased rates or charges. This General Order does not apply to the implementation of previously approved adjustment or escalation clauses.
 2. Applicability of rules: These rules shall apply to all electric, gas, telephone, telegraph, water and private fire protection public service corporations under the jurisdiction of the Commission. These rules are applicable both to all filings made after the effective date of this General Order and to any rate proceeding pending on the effective date of this General Order in which the Commission has issued no final decision. These rules are not intended to prohibit utilities from filing additional schedules, exhibits

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and other documents in which the Commission has issued no final decision. These rules are not intended to prohibit utilities from filing additional schedules, exhibits and other documents which may be material to the rate proceeding, nor are they intended to prohibit the Commission from considering such schedules, exhibits or other documents in making its determination. In pending proceedings, to the extent that the information required by this General Order is not included in the public service corporation's exhibits or is not otherwise in the record, such information shall be supplied as soon as possible unless a waiver is requested and granted pursuant to subsection (B)(5).

3. Definitions: Terminology used in this General Order is defined as follows:

- a. "Accounting method" -- the accounting method prescribed or recognized by the Commission.
- b. "Commission" -- The Arizona Corporation Commission.
- c. "Cost of service" -- The total cost of providing service to a defined segment of customers, as determined by the application of logical and generally accepted cost analysis and allocation techniques.
- d. "Department" -- A responsibility center within a combination utility where revenues and costs are accumulated by commodity or service rendered.
- e. "Depreciated original cost" -- The cost of property to the person first devoting it to public service, less the depreciation reserve, which shall include accrued depreciation and amortization calculated in accordance with General Order R14-2-102. Depreciated original cost shall not include any goodwill or going concern value, nor shall it include certificate value in excess of payment made or costs incurred in the initial acquisition thereof.
- f. "Exhibit" -- One or more schedules which support a rate filing or testimony in a rate proceeding.
- g. "Filing" -- An application and required schedules, exhibits or other documents filed by a public service corporation to initiate any rate proceeding under this Section. For all Class A and B utilities and for Class C electric and gas utilities, the filing shall include direct testimony in support of the application. For Class C water, sewer, and telephone utilities and for all Class D and E utilities, the filing shall include a written description of the components of the application. Nothing in this Section shall be construed to prohibit a public service corporation, prior to making a filing, from giving the Commission informal pre-filing notice of its intent to make a filing. Such pre-filing notice would permit the Commission, on a tentative basis, to assign a hearing date and would permit agreement on an appropriate test year.

- h. "Original cost rate base" -- An amount consisting of the depreciated original cost, prudently invested, of the property (exclusive of contributions and/or advances in aid of construction) at the end of the test year, used or useful, plus a proper allowance for working capital and including all applicable pro forma adjustments.
- i. "Pro forma adjustments" -- Adjustments to actual test year results and balances to obtain a normal or more realistic relationship between revenues, expenses and rate base.
- j. "Projected year" -- The year immediately following the test year.
- k. "Projections" -- Estimate of future results of operations based upon known facts or logical assumptions concerning future events.
- l. "Prudently invested" -- Investments which under ordinary circumstances would be deemed reasonable and not dishonest or obviously wasteful. All investments shall be presumed to have been prudently made, and such presumptions may be set aside only by clear and convincing evidence that such investments were imprudent, when viewed in the light of all relevant conditions known or which in the exercise of reasonable judgment should have been known, at the time such investments were made.
- m. "Rate schedule" -- A schedule of rates and conditions for a specific classification of customer or for other specific services.
- n. "Reconstructed Cost New (RCND) Rate Base" -- An amount consisting of the depreciated reconstruction cost new of the property (exclusive of contributions and/or advances in aid of construction) at the end of the test year, used and useful, plus a proper allowance for working capital and including all applicable pro forma adjustments. Contributions and advances in aid of construction, if recorded in the accounts of the public service corporation, shall be increased to a reconstruction new basis.
- o. "Staff" -- The staff of the Commission or its designated representatives.
- p. "Test year" -- The one-year historical period used in determining rate base, operating income and rate of return. The end of the test year shall be the most recent practical date available prior to the filing.
- q. "Utilities" -- For purposes of the Section, utilities are electric, gas, telephone, water, sewer or any other that may be supplying service and/or commodities which in the future may be adjudged a public service corporation and under the jurisdiction of this Commission, are classified as follows:

	Annual Operating Revenue				
	Class A	B	C	D	E
Electric & Gas	Exceeding 10,000,000	3,000,000 to 10,000,000	1,000,000 to 2,999,999	250,000 to 999,999	Less than 250,000
Water & Sewer	Exceeding 10,000,000	3,000,000 to 10,000,000	1,000,000 to 2,999,999	250,000 to 999,999	Less than 250,000
Telephone	Exceeding 10,000,000	3,000,000 to 10,000,000	1,000,000 to 2,999,999	250,000 to 999,999	Less than 250,000

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Annual operating revenues are those gross utility operating revenues derived from jurisdictional operations, including the requested rate relief. A combination utility is a utility which provides more than one of the commodities or services enumerated in this subsection. For combination utilities, the annual operating revenue, including the requested rate relief, for the specific subsidiary, department, or operating division requesting the rate change shall be used for classification purposes.

- r. "Working capital" -- A proper allowance for cash, materials and supplies and prepayments.

B. Filing requirements:

1. Information required from Class A, B, C and D Utilities: The information required to be prepared and submitted by Class A, B, C and D Utilities in conjunction with a filing is presented below. Corresponding schedule formats are contained in the Appendix of this General Order and

denoted. These formats are not applicable to Class E utilities. The Appendix schedule formats A-1 through A-5 are a part of this General Order, and the Applicant's schedules should conform to these formats. All other Appendix schedule formats and descriptions are illustrative and the applicant's specific formats may vary from that suggested in the Appendix. The substantive information requested, both on the Appendix schedule and in the body of this General Order, however, must be contained on the applicant's schedules together with the titles and schedule numbers provided in the Appendix. Specific information items requested on the Appendix schedules may be omitted without formal waiver, from the filing where it is evident that said items are not applicable to the applicant's business. The instructions and notes contained on the Appendix schedules shall be followed where applicable. Reconstruction Cost New Depreciated information not filed by the applicant shall be deemed waived.

	Information	Filing Required by	Appendix Schedule Reference(s)
A.	Summary Information:		
1.	A summary of the increase in revenue requirements and the spread of the revenue increase by customer classification.	All classes	A-1
2.	A summary of the results of operations for the test year and for the test year and the 2 fiscal years ended prior to the end of the test year, compared with the projected year.	All classes	A-2
3.	A summary of the capital structure for the test year and the 2 fiscal years ended prior to the end of the test year, compared with the projected year.	Classes A & B	A-3
4.	Construction expenditures and gross utility plant in service for the test year and the 2 fiscal years ended prior to the end of the test year, compared with the projected year.	All classes	A-4
5.	A summary of changes in financial position for the test year and the 2 fiscal years ended prior to the end of the test year, compared with the projected year.	Classes A & B	A-5
B.	Rate Base Information:		
1.	A schedule showing the elements of original cost and RCND rate bases.	All classes	B-1
2.	A schedule listing pro forma adjustments to gross plant in service and accumulated depreciation for the original cost rate base.	All classes	B-2
3.	A schedule showing pro forma adjustments to gross plant in service and accumulated depreciation for the RCND rate base.	All classes	B-3
4.	A schedule demonstrating the determination of reproduction cost new less depreciation at the end of the test period.	All classes	B-4
5.	A schedule showing the computation of working capital allowance.	All classes	B-5
C.	Test Year Income Statements:		
1.	A test year income statement, with pro form adjustments.	All classes	C-1
2.	A schedule showing the detail of all pro forma adjustments.	All classes	C-2
3.	A schedule showing the incremental taxes and other expenses on gross revenues and the computation of an incremental gross revenue conversion factor.	All classes	C-3
D.	Cost of Capital Information:		
1.	A schedule summarizing the elements in the capital structure at the end of the test year and the projected year, their related costs and the computation of the total cost of capital.	All classes	D-1
2.	A schedule showing the detail of long-term and short-term debt at the end of the test year and the projected year and their total cost.	Classes A & B	D-2
3.	A schedule showing the detail of preferred stock at the end of the test year and the projected year, and their total cost.	Classes A & B	D-3
4.	A schedule summarizing conclusions of the required return on the common equity as of the end of the test year and the projected year.	Classes A & B	D-4
E.	Financial Statements and Statistical Data:		
1.	Comparative balance sheets for the end of the test year and the 2 fiscal years ended prior to the end of the test year.	All classes	E-1
2.	Comparative income statements for the test year and the 2 fiscal years ended prior to the end of the test year.	All classes	E-2
3.	Comparative statements of changes in financial position for the test year and the 2 fiscal years ended prior to the end of the test year.	Classes A & B	E-3
4.	Statements of changes in stockholder's equity for the test year and the 2 fiscal years ended prior to the end of the test year.	Classes A & B	E-4
5.	A comparative schedule showing by detail account number, utility plant balances at the end of the test year and the end of prior fiscal year.	All classes	E-5
6.	Comparative departmental statements of operating income for the test year and the 2 fiscal years ended prior to the end of the test year.	All classes of combination utilities	E-6

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Information		Filing Required by	Appendix Schedule Reference(s)
7.	Comparative operating statistics on customers, consumption, revenues, and expenses for the test year and the 2 fiscal years ended prior to the end of the test year.	All classes	E-7
8.	A comparative schedule of all significant taxes charged to operations for the test year and the 2 fiscal years ended prior to the end of the test year.	All classes except Class D	E-8
9.	Audited financial statements, if available, for the test year and the 2 fiscal years ended prior to the end of the test year. If the financial statements have not been audited, notes to the financial statements should be provided to indicate accounting method, depreciation lives and methods, income tax treatment and other important disclosures.	All classes	E-9
F.	Projections and Forecasts:		
1.	A projected income statement for the projected year compared with actual test year results, at present rates and proposed rates.	All classes	F-1
2.	Projected changes in financial position for the projected year compared with the test year, at present rates and proposed rates.	Classes A & B	F-1
3.	Projected annual construction requirements, by property classification, for 1 to 3 years subsequent to the test year, compared with the test year.	Classes A & B 3 years Classes C & D 1 year	F-3
4.	Important assumptions used in preparing forecasts and projections.	All classes	F-4
G.	Cost of Service Information		
	A utility shall submit cost of service analyses and studies if all of the following conditions prevail:		
1.	The utility is in a segment of the utility industry that recognizes cost of service studies as important tools for rate design.		
2.	Costs incurred by the utility are likely to vary significantly from 1 defined segment of customers to another.		
	A historical accounting period other than the test year may be used for cost of service purposes provided that customer mix in the historical period used is representative of the test year. When a cost of service analysis is required, the following information shall be submitted:		
1.	Schedule showing rates of return by customer classification at present and proposed rates.	Classes A, B and C if applicable	G-1 G-2
2.	Schedules showing the approach used in allocating or assigning plant and expenses to classes of service and defined functions.	Classes A, B and C if applicable	G-3 G-4 G-5 G-6
3.	Schedules showing the development of all allocation factors used in the all allocation factors used in the cost of service study.	Classes A, B and C if applicable	G-7
H.	Effect of Proposed Rate Schedules:		
1.	A comparison of revenues by customer classification or other classification of revenues for the test year, at present and proposed rates.	All classes	H-1
2.	A comparison of revenues by class of service and by rate schedule for the test year, at present and proposed rates.	Classes A & B	H-2
3.	A comparison of present and proposed rate schedules or representative rate schedules.	Class A representative schedules; Classes B, C and D - all schedules	H-3
4.	Typical bill analysis	All classes	H-4
5.	Bill count	All classes	H-5
2.	Information required from Class E Utilities: The information required to be prepared and submitted by a Class E Utility in support of a filing is as follows:		
a.	A statement of income for the test year similar in format to Schedule C-1 or E-2.		
b.	A balance sheet as of the end of the test year similar in format to Schedule E-1.		
c.	Utility plant account balances at the end of the test year similar in format to Schedule E-5.		
d.	An estimate of new investment in utility plant to be added in the projected year.		
e.	A schedule of current rates and proposed rates and the additional revenues to be derived from the proposed rates.		
	The appendix schedules shall be used as guides in presenting the information specified in this subsection.		
3.	A cooperative, as defined in R14-2-107, may initiate a rate proceeding by preparing and submitting a filing under this Section or, if eligible, by following the requirements of R14-2-107.		
4.	Separation of nonjurisdictional properties, revenues and expenses associated with the rendition of utility service not subject to the jurisdiction of the Commission must be identified and properly separated in a recognized manner when appropriate. In addition, all nonutility properties, revenues and expenses shall likewise be segregated. If nonutility operations are significant, appropriate allocations of capital should be made.		
5.	Additional information: The Commission may request that supplementary information in addition to that specifically required in subsection (B)(1) and (2) of this General Order be submitted by a utility either prior to or after a filing.		
6.	Waiver of requirements: Either prior to the filing or within 15 days from the date thereof, the Commission, after determining the existence of reasonable cause, by order may waive compliance with any or all of the requirements of this General Order. Such Waiver will be granted only upon written petition to the Commission. In said petition, the utility must demonstrate that the requirements sought to be waived are either not applica-		

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ble to the rate matter which is the subject of the filing or that compliance therewith would place an undue burden on the utility.

7. Notice of sufficiency of a utility's filing: The staff will review each filing to ascertain whether it is in compliance with the provisions of this Section, including the instructions contained in subsection (B)(9) or in forms prescribed by the Commission. Within 30 days after receipt of the utility's filing, the staff shall file with Docket Control and serve on the utility a notice that the filing either is in compliance with the Commission's requirements or is deficient. A notice of deficiency must include an explanation of the defect found. If the staff fails to file any notice within the 30-day period, the utility's filing shall be deemed accepted as of the 31st day.
8. Production of out-of-state books and records: A utility shall produce or deliver in this state all or any of its formal accounting records and related documents requested by the Commission. It may, at its option, provide verified copies of original records and documents.
9. General filing instructions: In preparing the information specified in subsection (B)(1) and (2) of this General Order, the following instructions are applicable:
 - a. All schedules shall be mathematically correct and properly cross-referenced. The applicant shall ascertain that adequate detail has been provided to explain and support all significant items and amounts.
 - b. Amounts may be rounded, where appropriate, to the nearest thousand dollars for Class A utilities, to the nearest hundred dollars for Class B and C utilities and to the nearest dollar for Class D and E utilities.
 - c. Except for Class E utilities, all schedules shall be numbered as provided in the Appendix. Schedules prepared by all classes of utilities shall contain a date -- generally the preparation date or the filing date.
 - d. Headings on schedules shall clearly indicate the nature and intent of the schedule and the dates or time periods covered.

At the date of filing, a minimum of 10 complete sets of the applicant's schedules and exhibits shall be provided to the Commission.
10. Staff assistance in preparing a filing: The staff will, consistent with other workload requirements, be available to provide assistance to an applicant in preparing a filing.
11. Timing of Commission action on a filing:
 - a. For all Class A and B utilities and for Class C electric and gas utilities, the Hearing Officer shall issue a procedural schedule in the rate case within 30 days from the date that a filing is accepted pursuant to subsection (B)(7).
 - b. Unless otherwise ordered by the Commission, the staff shall file its Staff Report and/or testimony within the following number of days from the date that a filing is accepted pursuant to subsection (B)(7):
 - i. For Class A utilities, within 180 days.
 - ii. For Class B utilities, within 180 days.
 - iii. For Class C utilities, within 135 days.
 - iv. For Class D utilities, within 75 days.

- v. For Class E utilities, within 60 days.
- c. For all Class A utilities, the Hearing Officer shall issue a recommended order in the rate case at least 20 days prior to the last regularly scheduled open meeting in the time period calculated pursuant to subsection (B)(11)(d). For all other utilities, the Hearing Officer shall issue a recommended order at least 10 days prior to the last regularly scheduled open meeting in the time period calculated pursuant to subsection (B)(11)(d).
- d. The Commission shall issue a final order that disposes of all issues involved in all parts or phases of the proceeding within the following number of days from the date that a filing is accepted pursuant to subsection (B)(7):
 - i. For Class A utilities, within 360 days.
 - ii. For Class B utilities, within 360 days.
 - iii. For Class C utilities, within 270 days.
 - iv. For Class D utilities, within 180 days.
 - v. For Class E utilities, within 120 days.
- e. Upon motion of any party to the matter or on its own motion, the Commission or the Hearing Officer may determine that the time periods prescribed by subsection (B)(11)(d) should be extended or begin again due to:
 - i. Any amendment to a filing which changes the amount sought by the utility or substantially alters the facts used as a basis for the requested change in rates or charges; or
 - ii. An extraordinary event, not otherwise provided for by this subsection.
- f. If a hearing is conducted to evaluate a filing, the time periods prescribed by subsection (B)(11)(a) shall be extended three days for each one day of actual hearing on the merits of the filing.
- g. The time periods prescribed by subsection (B)(11)(a) shall not be applicable to any filing submitted by a utility which has more than one rate application before the Commission at the same time.
- h. In the event no final order has been issued within the time periods specified in this subsection, the utility may request any time thereafter that the Commission schedule a hearing to consider putting new rates or charges into effect, on an interim basis subject to refund, for all consumption thereafter. To put such rates or charges into effect, the utility would be required to file a bond to be approved by the Commission payable to the state of Arizona in such amount and with sufficient security to insure prompt payment of any refunds to the persons entitled thereto, including an interest rate as determined by the Commission not to exceed the maximum interest otherwise allowable by law, if the rates or charges so put into effect are finally determined by the Commission to be excessive. The utility may substitute for the bond other arrangements satisfactory to the Commission for the protection of the parties involved. The Commission shall issue a final order on a request for interim rates within 60 days plus the number of interim hearing days from the filing date of the request.

Appendix. Index of Schedules

**ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
RATE APPLICATION FILING REQUIREMENTS**

APPENDIX

**ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
INDEX OF SCHEDULES**

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A-2	Summary Results of Operations	All classes
A-3	Summary of Capital Structure	Classes A & B
A-4	Construction Expenditures and Gross Utility Plant in Service	All classes
A-5	Summary Changes in Financial Position	Classes A & B
B. Rate Base Schedules		
B-1	Summary of Original Cost and RCND Rate Base Elements	All classes
B-2	Original Cost Rate Base Pro forma Adjustments	All classes
B-3	RCND Rate Base Pro forma Adjustments	All classes
B-4	RCND by Major Plant Accounts	All classes
B-5	Computation of Working Capital	All classes
C. Test Year Income Statements		
C-1	Adjusted Test Year Income Statement	All classes
C-2	Income Statement Pro forma Adjustments	All classes
C-3	Computation of Gross Revenue Conversion Factor	All classes
D. Cost of Capital		
D-1	Summary Cost of Capital	All classes
D-2	Cost of Long Term and Short Term Debt	Classes A & B
D-3	Cost of Preferred Stock	Classes A & B
D-4	Cost of Common Equity	Classes A & B
E. Financial Statements and Statistical Schedules		
E-1	Comparative Balance Sheets	All classes
E-2	Comparative Income Statements	All classes
E-3	Comparative Statement of Changes in Financial Position	Classes A & B
E-4	Statement of Changes in Stockholders' Equity	Classes A & B
E-5	Detail of Utility Plant	Classes A & B
E-6	Comparative Departmental Operating Income Statements	All classes of combination utilities
E-7	Operating Statistics	All classes
E-8	Taxes Charged to Operations	Classes, A, B & C
E-9	Notes to Financial Statements	All classes

Appendix. Index of Schedules (Continued)

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103

APPENDIX

INDEX OF SCHEDULES
(Continued)

Schedule No.	Title	Filing Required By
F. Projections and Forecasts		
F-1	Projected Income Statements - Present and Proposed Rates	All classes
F-2	Projected Charges in Financial Position - Present and Proposed Rates	Classes A & B
F-3	Projected Construction Requirements	Classes A & B - (3 years) Classes C & D - (1 year)
F-4	Assumptions Used in Developing Projections	All classes
G. Cost of Service Analyses		
G-1	Cost of Service Summary - Present Rates	Special requirement
G-2	Cost of Service Summary - Proposed Rates	Special requirement
G-3	Rate Base Allocation to Classes of Service	Special requirement
G-4	Expense Allocation to Classes of Service	Special requirement
G-5	Distribution of Rate Base by Function	Special requirement
G-6	Distribution of Expenses by Function	Special requirement
G-7	Development of Allocation Factors	Special requirement
H. Effect of Proposed Tariff Schedules		
H-1	Summary of Revenues by Customer Classification - Present and Proposed Rates	All classes
H-2	Analysis of Revenues by Detailed Class of Service - Present and Proposed Rates Classes	Classes A & B
H-3	Changes in Representative Rate Schedules	Class A, representative schedules; Classes B, C, & D all schedules
H-4	Typical Bill Analysis	All classes
H-5	Bill Count	All classes

Corporation Commission - Fixed Utilities

Appendix A. Summary Schedules

Schedule A-1. Computation of Increase in Gross Revenue Requirements

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103APPENDIX A.
SUMMARY SCHEDULES

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: <u> A-1 </u> Title: <u>Computation of Increase in Gross Revenue Requirements</u>
Explanation: Schedule showing computation of increase in gross revenue requirements and spread of revenue increase by customer classification.	Required For: All Utilities <input checked="" type="checkbox"/> Special Reqmt. <input type="checkbox"/> Class A <input type="checkbox"/> Class B <input type="checkbox"/> Class C <input type="checkbox"/> Class D <input type="checkbox"/>

	<u>Original Cost RCND</u>	
1. Adjusted Rate Base	\$ _____ (a)	\$ _____ (a)
2. Adjusted Operating Income	\$ _____ (b)	\$ _____ (b)
3. Current Rate of Return	_____ %	_____ %
4. Required Operating Income	\$ _____	\$ _____
5. Required Rate of Return	_____ %	_____ %

6. Operating Income Deficiency (4 - 2)	\$ _____
7. Gross Revenue Conversion Factor	_____ (c)
8. Increase in Gross Revenue Requirements (6 x 7)	\$ _____

<u>Customer Classification</u>	<u>Projected Revenue Increase Due to Rates</u>	<u>% Dollar Increase</u>
Residential	\$ _____	_____ %
		(d)
	\$ _____	_____ %

Note: For combination utilities, the above information should be presented in total and by department.

Supporting Schedules:

(a) B-1 (c) C-3

(b) C-1 (d) H-1

Corporation Commission - Fixed Utilities

Schedule A-2. Summary Results of Operations

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: <u> A-2 </u> Title: <u>Summary Results of Operations</u>																				
Explanation: Schedule showing comparative operating results for the test year and the 2 fiscal years ended prior to the end of the test year, compared with the projected year.	Required For: <table style="width: 100%;"> <tr> <td style="width: 50%;">All Utilities</td> <td style="width: 10%;"><input checked="" type="checkbox"/></td> <td style="width: 10%;">Special Reqmt.</td> <td style="width: 10%;"><input type="checkbox"/></td> </tr> <tr> <td>Class A</td> <td><input type="checkbox"/></td> <td></td> <td></td> </tr> <tr> <td>Class B</td> <td><input type="checkbox"/></td> <td></td> <td></td> </tr> <tr> <td>Class C</td> <td><input type="checkbox"/></td> <td></td> <td></td> </tr> <tr> <td>Class D</td> <td><input type="checkbox"/></td> <td></td> <td></td> </tr> </table>	All Utilities	<input checked="" type="checkbox"/>	Special Reqmt.	<input type="checkbox"/>	Class A	<input type="checkbox"/>			Class B	<input type="checkbox"/>			Class C	<input type="checkbox"/>			Class D	<input type="checkbox"/>		
All Utilities	<input checked="" type="checkbox"/>	Special Reqmt.	<input type="checkbox"/>																		
Class A	<input type="checkbox"/>																				
Class B	<input type="checkbox"/>																				
Class C	<input type="checkbox"/>																				
Class D	<input type="checkbox"/>																				

Prior Years	Test Year				Projected Year	
	Y/E	Y/E	Actual	Adjusted	Present	Proposed
Description	(a)	(a)	(a)	(b)	Rates	Rates
					(c)	(c)
1. Gross Revenues						
2. Revenue Deductions & Operating Expenses						
3. Operating Income	\$	\$	\$	\$	\$	\$
4. Other Income and Deductions						
5. Interest Expense						
6. Net Income	\$	\$	\$	\$	\$	\$
7. Earned Per Average Common Share*						
8. Dividends Per Common Share*						
9. Payout Ratio*						
10. Return on Average Invested Capital						
11. Return on Year End Capital						
12. Return on Average Common Equity						
13. Return on Year End Common Equity						
14. Times Bond Interest Earned - Before Income Taxes						
15. Times Total Interest and Preferred Dividends Earned - After Income Taxes						

Supporting Schedules:

- (a) E-2
 (b) C-1
 (c) F-1

*Optional for projected year

Schedule A-3. Summary of Capital Structure

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: <u> A-3 </u> Title: <u>Summary of Capital Structure</u>
Explanation: Schedule showing comparative capital structures for the last 3 historical years, including the test year, and the projected year.	Required For: <div style="display: flex; justify-content: space-between;"> <div> All Utilities <input type="checkbox"/> Class A <input checked="" type="checkbox"/> Class B <input checked="" type="checkbox"/> Class C <input type="checkbox"/> Class D <input type="checkbox"/> </div> <div> Special Reqmt <input type="checkbox"/> </div> </div>

Description	Prior Years		Test Year		Projected Year
	At ____ (a)	At ____ (a)	At ____ (a)	At ____ (c)	
1. Short-Term Debt					
2. Long-Term Debt					
3. TOTAL DEBT\$ _____	\$ _____	\$ _____			\$ _____
4. Preferred Stock					
5. Common Equity	_____	_____	_____		_____
6. Total Capital	\$ _____	\$ _____	\$ _____		\$ _____
<u>Capitalization Ratios:</u>					
7. Short-Term Debt					
8. Long-Term Debt					
9. TOTAL DEBT	_____ %	_____ %	_____ %		_____ %
10. Preferred Stock					
11. Common Equity	<u>100%</u>	<u>100%</u>	<u>100%</u>		<u>100%</u>
12. Weighted Cost of Short-Term Debt	_____ %	_____ %	_____ %		_____ %
13. Weighted Cost of long-Term Debt	_____ %	_____ %	_____ %		_____ %
14. Weighted Cost of Senior Capital	_____ %	_____ %	_____ %		_____ %

Supporting Schedules:

- (a) E-1
 (b) D-1

Corporation Commission - Fixed Utilities

Schedule A-4. Construction Expenditures and Gross Utility Plant in Service

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: <u> A-4 </u> Title: <u>Construction Expenditures and Gross</u> <u>Utility Plant in Service</u>																				
Explanation: Schedule showing construction expenditures, plant placed in service and gross utility plant in service for the test year and the 2 fiscal years ended prior to the end of the test year, compared with the projected year.	Required For: <table style="width: 100%;"> <tr> <td style="width: 50%;">All Utilities</td> <td style="width: 10%; text-align: center;"><input checked="" type="checkbox"/></td> <td style="width: 40%;">Special Reqmt.</td> <td style="width: 10%; text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>Class A</td> <td style="text-align: center;"><input type="checkbox"/></td> <td></td> <td></td> </tr> <tr> <td>Class B</td> <td style="text-align: center;"><input type="checkbox"/></td> <td></td> <td></td> </tr> <tr> <td>Class C</td> <td style="text-align: center;"><input type="checkbox"/></td> <td></td> <td></td> </tr> <tr> <td>Class D</td> <td style="text-align: center;"><input type="checkbox"/></td> <td></td> <td></td> </tr> </table>	All Utilities	<input checked="" type="checkbox"/>	Special Reqmt.	<input type="checkbox"/>	Class A	<input type="checkbox"/>			Class B	<input type="checkbox"/>			Class C	<input type="checkbox"/>			Class D	<input type="checkbox"/>		
All Utilities	<input checked="" type="checkbox"/>	Special Reqmt.	<input type="checkbox"/>																		
Class A	<input type="checkbox"/>																				
Class B	<input type="checkbox"/>																				
Class C	<input type="checkbox"/>																				
Class D	<input type="checkbox"/>																				

Year	Construction Expenditures (a)	Net Plant Placed In Service (b)	Gross Utility Plant In Service
1. 19 ____	\$ ____	\$ ____	\$ ____
2. 19 ____			
3. Test Year			
4. Projected Year			
5. Projected ____ *			
6. Projected ____ *			

* Required only for Class A and B Utilities

NOTE: For combination utilities, above information should be presented in total and by department.

Supporting Schedules:

(a) F-3

(b) E-5

Schedule A-5. Summary Changes In Financial Position

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: <u> A-5 </u> Title: <u>Summary Changes In Financial Position</u>
Explanation: Schedule showing sources and application of funds in summary format.	Required For: <div style="display: flex; align-items: center; gap: 10px;"> <div style="display: flex; flex-direction: column; gap: 5px;"> <div>All Utilities <input type="checkbox"/></div> <div>Class A <input checked="" type="checkbox"/></div> <div>Class B <input checked="" type="checkbox"/></div> <div>Class C <input type="checkbox"/></div> <div>Class D <input type="checkbox"/></div> </div> <div>Special Reqmt <input type="checkbox"/></div> </div>

Description	Prior Years (a)		Test Year (a)	Projected	
	Y/E	Y/E	Y/E	Present Rates (b)	Proposed Rates (b)
<u>Sources of Funds:</u>					
1. Operations	\$	\$	\$	\$	\$
2. Outside Financing					
3. Total Funds Provided	\$	\$	\$	\$	\$
<u>Application of Funds:</u>					
4. Construction Expenditures	\$	\$	\$	\$	\$
5. Other					
6. Total Funds Applied	\$	\$	\$	\$	\$

Supporting Schedules:

(a) E-3

(b) F-2

Corporation Commission - Fixed Utilities

Appendix B. Rate Base Schedules

Schedule B-1. Summary of Original Cost and RCND Base Elements

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103APPENDIX B
RATE BASE SCHEDULES

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: <u>B-1</u> Title: <u>Summary of Original Cost and RCND Base Elements</u>															
Explanation: Schedule showing elements of adjusted original cost and RCND rate bases.	Required For: <table style="width: 100%;"> <tr> <td style="width: 50%;">All Utilities</td> <td style="width: 10%;"><input checked="" type="checkbox"/></td> <td style="width: 40%;">Special Reqmt. <input type="checkbox"/></td> </tr> <tr> <td>Class A</td> <td><input type="checkbox"/></td> <td></td> </tr> <tr> <td>Class B</td> <td><input type="checkbox"/></td> <td></td> </tr> <tr> <td>Class C</td> <td><input type="checkbox"/></td> <td></td> </tr> <tr> <td>Class D</td> <td><input type="checkbox"/></td> <td></td> </tr> </table>	All Utilities	<input checked="" type="checkbox"/>	Special Reqmt. <input type="checkbox"/>	Class A	<input type="checkbox"/>		Class B	<input type="checkbox"/>		Class C	<input type="checkbox"/>		Class D	<input type="checkbox"/>	
All Utilities	<input checked="" type="checkbox"/>	Special Reqmt. <input type="checkbox"/>														
Class A	<input type="checkbox"/>															
Class B	<input type="checkbox"/>															
Class C	<input type="checkbox"/>															
Class D	<input type="checkbox"/>															

	Original Cost Rate Base*	RCND Rate Base*
1. Gross Utility Plant in Service	\$ _____	\$ _____
2. Less: Accumulated Depreciation	_____	_____
3. Net Utility Plant in Service	\$ (a)	\$ (b)
Less:		
4. Customers' Advances for Construction	(c)	(c)
5. Contributions in Aid of Construction	_____ (c)	_____ (c)
Add:		
6. Allowance for Working Capital	(d)	(d)
	_____	_____
7. Total Rate Base	\$ _____ (e)	\$ _____ (e)
* Including pro forma adjustments	_____	_____

Note: For combination utilities, above information should be presented in total and by department.

Supporting Schedules:

- (a) B-2 (d) B-5
 (b) B-3
 (c) E-1

Recap Schedules:

- (e) A-1

Schedule B-2. Original Cost Rate Base Pro forma Adjustments

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: <u>B-2</u> Title: <u>Original Cost Rate Base Pro forma Adjustments</u>
Explanation: Schedule showing pro forma adjustments to gross plant in service and accumulated depreciation for the original cost rate base.	Required For: All Utilities <input checked="" type="checkbox"/> Special Reqmt. <input type="checkbox"/> Class A <input type="checkbox"/> Class B <input type="checkbox"/> Class C <input type="checkbox"/> Class D <input type="checkbox"/>

	Actual at End of Test Year	<u>Pro forma Adjustments</u>			Adjusted at End of Test Year
	<u>(a)</u>	<u>A</u>	-	<u>B</u>	<u>(b)</u>
1. Gross Utility Plant in Service	\$ _____	\$ _____		\$ _____	\$ _____
2. Less: Accumulated Depreciation	_____	_____		_____	_____
3. Net Utility Plant in Service	\$ _____	\$ _____		\$ _____	\$ _____

All pro forma adjustments should be adequately explained on this schedule or on attachments hereto.

Note: For combination utilities, above information should be presented in total and by department.

Supporting Schedules:

(a) E-1

Recap Schedules:

(b) B-1

Corporation Commission - Fixed Utilities

Schedule B-3. RCND Rate Base Pro forma Adjustments

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: <u> B-3 </u> Title: <u>RCND Rate Base Pro forma</u> <u>Adjustments</u>
Explanation: Schedule showing pro forma adjustments to gross plant in service and accumulated depreciation for the RCN rate base.	Required For: <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> All Utilities <input checked="" type="checkbox"/> Class A <input type="checkbox"/> Class B <input type="checkbox"/> Class C <input type="checkbox"/> Class D <input type="checkbox"/> </div> <div style="width: 35%;"> Special Reqmt. <input type="checkbox"/> </div> </div>

	Actual at End of Test Year	Pro forma Adjustments				Adjusted at End of Test Year
	(a)	A	B	Z		(b)
1. Gross Utility Plant in Service	\$ _____	\$ _____	\$ _____	\$ _____		\$ _____
2. Less: Accumulated Depreciation	_____	_____	_____	_____		_____
3. Net Utility Plant in Service	\$ _____	\$ _____	\$ _____	\$ _____		\$ _____

All pro forma adjustments should be adequately explained on this schedule or on attachments hereto.

Note: For combination utilities, above information should be presented in total and by department.

Supporting Schedules:

(a) B-4

Recap Schedules:

(b) B-1

Schedule B-4. RCND by Major Plant Accounts

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
ILLUSTRATIVE SCHEDULE FORMAT

Schedule: B-4Title: RCND by Major Plant Accounts

Explanation:

Schedule showing the determination of Reproduction
Cost New Less Depreciation at end of Test Period.

Required For:

All Utilities ☒ Special Reqmt. ☐
Class A ☐
Class B ☐
Class C ☐
Class D ☐

Plant

AccountDescriptionRCN

Condition

PercentRCND

Total (a)

Note: For combination utilities, above information should be presented in total and by department.

Supporting Schedules:

RCND Study

Recap Schedules:

a) B-3

Schedule B-5. Computation of Working Capital

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: <u> B-5 </u> Title: <u> Computation of Working Capital </u>
Explanation: Schedule showing computation of working capital allowance.	Required For: All Utilities <input checked="" type="checkbox"/> Special Reqmt. <input type="checkbox"/> Class A <input type="checkbox"/> Class B <input type="checkbox"/> Class C <input type="checkbox"/> Class D <input type="checkbox"/>

	<u>Amount</u>
1. Cash working capital	\$
2. Materials and Supplies Inventories	(a)
3. Prepayments	_____ (a)
4. Total Working Capital Allowance	\$ _____ (b)

NOTES:

1. Adequate detail should be provided to determine the bases for the above computations.
2. Adjusted test year operating expenses should be used in computing cash working capital requirements.
3. Combination utilities should compute working capital allowances for each department.

Supporting Schedules:

(a) E-1

Recap Schedules:

b) B-1

Appendix C. Test Year Income Statements

Schedule C-1. Adjusted Test Year Income Statement

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103APPENDIX C.
TEST YEAR INCOME STATEMENTS

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: <u> C-1 </u> Title: <u>Adjusted Test Year Income Statement</u>															
Explanation: Schedule showing statement of income for the test year, including pro forma adjustments.	Required For: <table style="width: 100%;"> <tr> <td style="width: 50%;">All Utilities</td> <td style="width: 10%;"><input checked="" type="checkbox"/></td> <td style="width: 40%;">Special Reqmt. <input type="checkbox"/></td> </tr> <tr> <td>Class A</td> <td><input type="checkbox"/></td> <td></td> </tr> <tr> <td>Class B</td> <td><input type="checkbox"/></td> <td></td> </tr> <tr> <td>Class C</td> <td><input type="checkbox"/></td> <td></td> </tr> <tr> <td>Class D</td> <td><input type="checkbox"/></td> <td></td> </tr> </table>	All Utilities	<input checked="" type="checkbox"/>	Special Reqmt. <input type="checkbox"/>	Class A	<input type="checkbox"/>		Class B	<input type="checkbox"/>		Class C	<input type="checkbox"/>		Class D	<input type="checkbox"/>	
All Utilities	<input checked="" type="checkbox"/>	Special Reqmt. <input type="checkbox"/>														
Class A	<input type="checkbox"/>															
Class B	<input type="checkbox"/>															
Class C	<input type="checkbox"/>															
Class D	<input type="checkbox"/>															

<u>Description</u>	(a) Actual For The Test Year <u>Ended</u> \$	Pro forma <u>Adjustments</u> \$	Test Year Results After Pro forma <u>Adjustments</u> \$
Revenues:			
~			
Expenses:			
~			
Operating Income	\$ _____	\$ _____	\$ _____ (c)
~			
Net Income	\$ _____	\$ _____	\$ _____

Note: For combination utilities, above information should be presented in total and by department.

Supporting Schedules:

- (a) E-2
(b) C-2







Recap Schedules:

- (c) A-1

Corporation Commission - Fixed Utilities

Schedule C-2. Income Statement Pro forma Adjustments

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: <u>C-2</u> Title: <u>Income Statement Pro forma Adjustments</u>
Explanation: Schedule itemizing pro forma adjustments to the test year income statement.	Required For: All Utilities <input checked="" type="checkbox"/> Special Reqmt. <input type="checkbox"/> Class A <input type="checkbox"/> Class B <input type="checkbox"/> Class C <input type="checkbox"/> Class D <input type="checkbox"/>

<u>Description</u>	<u>A</u>	<u>B</u>	<u>Z</u>	<u>Total (a)</u> <u>Adjustments</u>
Revenues:	\$	\$	\$	\$
				
Expenses:				
				
Operating Income				
				
Net Income				

Note: All pro forma adjustments should be adequately explained on this schedule or on attachments thereto.

Supporting Schedules:

Recap Schedules:

(a) C-1

Corporation Commission - Fixed Utilities

Schedule C-3. Computation of Gross Revenue Conversion Factor

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: <u>C-3</u> Title: <u>Computation of Gross Revenue Conversion Factor</u>																				
Explanation: Schedule showing incremental taxes on gross revenues and the development of a gross revenue conversion factor.	Required For: <table style="width: 100%;"> <tr> <td style="width: 50%;">All Utilities</td> <td style="width: 10%; text-align: center;"><input checked="" type="checkbox"/></td> <td style="width: 40%;">Special Reqmt.</td> <td style="width: 10%; text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>Class A</td> <td style="text-align: center;"><input type="checkbox"/></td> <td></td> <td></td> </tr> <tr> <td>Class B</td> <td style="text-align: center;"><input type="checkbox"/></td> <td></td> <td></td> </tr> <tr> <td>Class C</td> <td style="text-align: center;"><input type="checkbox"/></td> <td></td> <td></td> </tr> <tr> <td>Class D</td> <td style="text-align: center;"><input type="checkbox"/></td> <td></td> <td></td> </tr> </table>	All Utilities	<input checked="" type="checkbox"/>	Special Reqmt.	<input type="checkbox"/>	Class A	<input type="checkbox"/>			Class B	<input type="checkbox"/>			Class C	<input type="checkbox"/>			Class D	<input type="checkbox"/>		
All Utilities	<input checked="" type="checkbox"/>	Special Reqmt.	<input type="checkbox"/>																		
Class A	<input type="checkbox"/>																				
Class B	<input type="checkbox"/>																				
Class C	<input type="checkbox"/>																				
Class D	<input type="checkbox"/>																				

Description	Percentage of Incremental Gross Revenues
Federal Income Taxes	%
State Income Taxes	
Other Taxes and Expenses: (Specify):	

Total Tax Percentage	_____ %
Operating Income % = 100% - Tax Percentage	
$\frac{1}{\text{Operating Income \%}} = \text{Gross Revenue Conversion Factor}$	

Note: All tax percentages shall include the effect of other taxes upon the incremental rate. The applicant may use other formulas in developing the conversion factor.

Supporting Schedules:

Recap Schedules:

A-1

Corporation Commission - Fixed Utilities

Appendix D. Cost of Capital

Schedule D-1. Summary Cost of Capital

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103APPENDIX D.
COST OF CAPITAL

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: <u> D-1 </u> Title: <u>Summary Cost of Capital</u>
Explanation: Schedule showing elements of capital structure and the related cost.	Required For: All Utilities <input checked="" type="checkbox"/> Special Reqmt. <input type="checkbox"/> Class A <input type="checkbox"/> Class B <input type="checkbox"/> Class C <input type="checkbox"/> Class D <input type="checkbox"/>

<u>End of Test Year</u>					<u>End of Projected Year</u>			
<u>Invested Capital</u>	<u>Amount</u>	<u>%</u>	<u>Cost Rate (e)</u>	<u>Com- posite Cost</u>	<u>Amount</u>	<u>%</u>	<u>Cost Rate (e)</u>	<u>Com- posite Cost</u>
Long-Term Debt (a)	\$		%	%	\$		%	%
Preferred Stock (b)								
Common Equity (c)								
Short Term Debt (a)								
Deferrals (d)			-0-				-0-	
	\$	100%	%	%	\$	100%	%	%

Supporting Schedules:

- (a) D-2
- (b) D-3
- (c) D-4
- (d) E-1

Recap Schedules:

- (e) A-3

Schedule D-2. Cost of Long-Term and Short-Term Debt

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: <u> D-2 </u> Title: <u>Cost of Long-Term and Short-Term Debt</u>															
Explanation: Schedule showing computation of cost of long and short term debt.	Required For: <table style="width: 100%;"> <tr> <td style="width: 50%;">All Utilities</td> <td style="width: 10%;"><input type="checkbox"/></td> <td style="width: 40%;">Special Reqmt <input type="checkbox"/></td> </tr> <tr> <td>Class A</td> <td><input checked="" type="checkbox"/></td> <td></td> </tr> <tr> <td>Class B</td> <td><input checked="" type="checkbox"/></td> <td></td> </tr> <tr> <td>Class C</td> <td><input type="checkbox"/></td> <td></td> </tr> <tr> <td>Class D</td> <td><input type="checkbox"/></td> <td></td> </tr> </table>	All Utilities	<input type="checkbox"/>	Special Reqmt <input type="checkbox"/>	Class A	<input checked="" type="checkbox"/>		Class B	<input checked="" type="checkbox"/>		Class C	<input type="checkbox"/>		Class D	<input type="checkbox"/>	
All Utilities	<input type="checkbox"/>	Special Reqmt <input type="checkbox"/>														
Class A	<input checked="" type="checkbox"/>															
Class B	<input checked="" type="checkbox"/>															
Class C	<input type="checkbox"/>															
Class D	<input type="checkbox"/>															

<u>Description of Debt</u>	<u>End of Test Year</u>		<u>End of Projected Year</u>	
	<u>Outstanding</u>	<u>Annual Interest</u>	<u>Outstanding</u>	<u>Interest*</u>
Long-Term:	\$	\$	\$	\$
<div style="font-size: 4em; position: absolute; left: 0; top: 50%; transform: translateY(-50%);">}</div>	_____	_____	_____	_____
Total Long-Term (a)	\$ _____ (b)	\$ _____	\$ _____	\$ _____
Cost Rate (a)	_____ %		_____ %	
Short Term:	\$	\$	\$	\$
<div style="font-size: 4em; position: absolute; left: 0; top: 50%; transform: translateY(-50%);">}</div>	_____	_____	_____	_____
Total Short-Term (a)	\$ _____ (b)	\$ _____	\$ _____	\$ _____
Cost Rate (a)	_____ %		_____ %	

* Including amortization of discount, premium and expense.

Supporting Schedules:

(b) E-1

Recap Schedules:

(a) D-1

Corporation Commission - Fixed Utilities

Schedule D-3. Cost of Preferred Stock

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: <u> D-3 </u> Title: <u>Cost of Preferred Stock</u>
Explanation: Schedule showing computation of cost of preferred stock.	Required For: All Utilities <input type="checkbox"/> Special Reqmt <input type="checkbox"/> Class A <input checked="" type="checkbox"/> Class B <input checked="" type="checkbox"/> Class C <input type="checkbox"/> Class D <input type="checkbox"/>

Description of Issue	End of Test Year			End of Projected Year		
	Shares		Dividend	Shares		Dividend
	<u>Outstanding</u>	<u>Amount</u>	<u>Requirement</u>	<u>Outstanding</u>	<u>Amount</u>	<u>Requirement</u>
		\$	\$		\$	\$
	_____	_____	_____	_____	_____	_____
Total (a)	_____	\$ _____ (b)	\$ _____		\$ _____	\$ _____
Cost Rate (a)		_____ %			_____ %	

Supporting Schedules:

(b) E-1

Recap Schedules:

(a) D-1

Schedule D-4. Cost of Common Equity

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
ILLUSTRATIVE SCHEDULE FORMAT

Schedule: D-4 Title: Cost of Common Equity

Explanation:

Schedule summarizing conclusions on the required rate of return on common equity as of the end of the test year and the projected year or exhibits in support thereof.

Required For:

All Utilities	<input type="checkbox"/>	Special Reqmt <input type="checkbox"/>
Class A	<input checked="" type="checkbox"/>	
Class B	<input checked="" type="checkbox"/>	
Class C	<input type="checkbox"/>	
Class D	<input type="checkbox"/>	

Supporting Schedules:

Special Studies

Recap Schedules:

(D-1)

Appendix E. Financial and Statistical Schedules

Schedule E-1. Comparative Balance Sheet

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103APPENDIX E.
FINANCIAL STATEMENTS AND STATISTICAL SCHEDULES

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: <u> E-1 </u> Title: <u>Comparative Balance Sheet</u>															
Explanation: Schedule showing comparative balance sheets at the end of the test year and the 2 fiscal years ended prior to the test year.	Required For: <table style="width: 100%;"> <tr> <td style="width: 50%;">All Utilities</td> <td style="width: 10%;"><input checked="" type="checkbox"/></td> <td style="width: 40%;">Special Reqmt. <input type="checkbox"/></td> </tr> <tr> <td>Class A</td> <td><input type="checkbox"/></td> <td></td> </tr> <tr> <td>Class B</td> <td><input type="checkbox"/></td> <td></td> </tr> <tr> <td>Class C</td> <td><input type="checkbox"/></td> <td></td> </tr> <tr> <td>Class D</td> <td><input type="checkbox"/></td> <td></td> </tr> </table>	All Utilities	<input checked="" type="checkbox"/>	Special Reqmt. <input type="checkbox"/>	Class A	<input type="checkbox"/>		Class B	<input type="checkbox"/>		Class C	<input type="checkbox"/>		Class D	<input type="checkbox"/>	
All Utilities	<input checked="" type="checkbox"/>	Special Reqmt. <input type="checkbox"/>														
Class A	<input type="checkbox"/>															
Class B	<input type="checkbox"/>															
Class C	<input type="checkbox"/>															
Class D	<input type="checkbox"/>															

<u>ASSETS</u>	Test Year <u>At</u>	Prior Year <u>At</u>	Prior Year <u>At</u>
Property, plant & equipment: (a)	\$	\$	\$
Current Assets:			
	\$ <u> </u>	\$ <u> </u>	\$ <u> </u>
<u>LIABILITIES and STOCKHOLDERS' EQUITY</u>			
Capitalization: (b)	\$	\$	\$
Current Liabilities:			
	\$ <u> </u>	\$ <u> </u>	\$ <u> </u>
<u>Supporting Schedules:</u>			
(a) E-5			

Recap Schedules:
(b) A-3

Schedule E-2. Comparative Income Statements

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: <u>E-2</u> Title: <u>Comparative Income Statements</u>
Explanation: Schedule showing comparative income statements for the test year and the 2 fiscal years ended prior to the test year.	Required For: All Utilities <input checked="" type="checkbox"/> Special Reqmt. <input type="checkbox"/> Class A <input type="checkbox"/> Class B <input type="checkbox"/> Class C <input type="checkbox"/> Class D <input type="checkbox"/>

	Test Year Ended	Test Year Ended	Test Year Ended
Revenues: (a)	\$	\$	\$
Operating Expenses: (a)			
Current Assets:			
Operating Income (a)	\$	\$	\$
Other income and deductions:			
Interest			
Net Income	\$	\$	\$
Preferred Dividends			
Earnings Available for Common Stock			
Earnings Per Share of Average Common Stock Outstanding			

Supporting Schedules:

(a) E-6

Recap Schedules:

A-2

Schedule E-3. Comparative Statement of Changes in Financial Position

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: <u> E-3 </u> Title: <u>Comparative Statement of Changes</u> <u>in Financial Position</u>															
Explanation: Schedule showing comparative changes in financial position for the test year and the 2 years ended prior to the test year.	Required For: <table style="width: 100%;"> <tr> <td>All Utilities</td> <td><input type="checkbox"/></td> <td>Special Reqmt <input type="checkbox"/></td> </tr> <tr> <td>Class A</td> <td><input checked="" type="checkbox"/></td> <td></td> </tr> <tr> <td>Class B</td> <td><input checked="" type="checkbox"/></td> <td></td> </tr> <tr> <td>Class C</td> <td><input type="checkbox"/></td> <td></td> </tr> <tr> <td>Class D</td> <td><input type="checkbox"/></td> <td></td> </tr> </table>	All Utilities	<input type="checkbox"/>	Special Reqmt <input type="checkbox"/>	Class A	<input checked="" type="checkbox"/>		Class B	<input checked="" type="checkbox"/>		Class C	<input type="checkbox"/>		Class D	<input type="checkbox"/>	
All Utilities	<input type="checkbox"/>	Special Reqmt <input type="checkbox"/>														
Class A	<input checked="" type="checkbox"/>															
Class B	<input checked="" type="checkbox"/>															
Class C	<input type="checkbox"/>															
Class D	<input type="checkbox"/>															

	Test Year Ended	Test Year Ended	Test Year Ended
<u>Source of Funds</u>	\$	\$	\$
From Operations:			
Financing:			
Total Funds Provided	\$	\$	\$
<u>Application of Funds:</u>	\$	\$	\$
Construction Expenditures			
Dividends			
Other Items:			
	\$	\$	\$

Supporting Schedules:

Recap Schedules:
A-5

Schedule E-4. Statement of Change in Stockholders' Equity

<p style="text-align: center;">ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT</p>	<p>Schedule: <u> E-4 </u></p> <p>Title: <u>Statement of Change in Stockholders' Equity</u></p>															
<p>Explanation: Schedule showing changes in stockholders' equity for the test year and the 2 years ended prior to the test year.</p>	<p>Required For:</p> <table style="width: 100%;"> <tr> <td>All Utilities</td> <td><input type="checkbox"/></td> <td>Special Reqmt. <input type="checkbox"/></td> </tr> <tr> <td>Class A</td> <td><input checked="" type="checkbox"/></td> <td></td> </tr> <tr> <td>Class B</td> <td><input checked="" type="checkbox"/></td> <td></td> </tr> <tr> <td>Class C</td> <td><input type="checkbox"/></td> <td></td> </tr> <tr> <td>Class D</td> <td><input type="checkbox"/></td> <td></td> </tr> </table>	All Utilities	<input type="checkbox"/>	Special Reqmt. <input type="checkbox"/>	Class A	<input checked="" type="checkbox"/>		Class B	<input checked="" type="checkbox"/>		Class C	<input type="checkbox"/>		Class D	<input type="checkbox"/>	
All Utilities	<input type="checkbox"/>	Special Reqmt. <input type="checkbox"/>														
Class A	<input checked="" type="checkbox"/>															
Class B	<input checked="" type="checkbox"/>															
Class C	<input type="checkbox"/>															
Class D	<input type="checkbox"/>															

	<u>Preferred Shares</u>	<u>Stock Amount</u>	<u>Common Shares</u>	<u>Stock Amount</u>	<u>Additional Paid-In Capital</u>	<u>Retained Earnings</u>
Balance, Jan. 1, 19 ____		\$		\$	\$	\$
Net Earnings						
Cash Dividends-Preferred						
Cash Dividends-Common						
Preferred Stock Issued:						
Common Stock Issued:	_____	\$ _____	_____	\$ _____	\$ _____	\$ _____
Balance, Dec. 31, 19 ____	_____	\$ _____	_____	\$ _____	\$ _____	\$ _____
}						
Balance, Dec. 31, 19 ____	_____	\$ _____	_____	\$ _____	\$ _____	\$ _____
}						
Balance, Dec. 31, 19 ____ (End of Test Year)	_____	\$ _____	_____	\$ _____	\$ _____	\$ _____

Supporting Schedules:Recap Schedules:

Corporation Commission - Fixed Utilities

Schedule E-5. Detail of Utility Plant

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: <u> E-5 </u> Title: <u>Detail of Utility Plant</u>
Explanation: Schedule showing utility plant balance, by detailed account number, at the end of the test year and the end of the prior fiscal year.	Required For: All Utilities <input checked="" type="checkbox"/> Special Reqmt. <input type="checkbox"/> Class A <input type="checkbox"/> Class B <input type="checkbox"/> Class C <input type="checkbox"/> Class D <input type="checkbox"/>

Account Number	Description	End of Test Year At _____	Net Additions	End of Prior Year At _____
	Production Plant-Steam:			
XXX	Land & Land Rights	\$	\$	\$
XXX	Structures and Improvements			
	Total Plant in Service	_____	_____	_____
		\$		
	Accumulated Depreciation	_____	_____	_____
		\$	\$	\$
	Net Plant in Service	\$	\$	\$
	Construction Work In Progress	_____	_____	_____
	Total Net Plant	\$ _____	\$ _____	\$ _____

Note: For combination utilities, the above information should be presented by department.

Supporting Schedules:



Recap Schedules:

E-1

A-4

Schedule E-6. Comparative Departmental Operating Income Statements

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: <u> E-6 </u> Title: <u>Comparative Departmental Operating</u> <u>Income Statements</u>
Explanation: Schedule showing comparative departmental statements of operating income for the test year and the 2 fiscal years ended prior to the test year.	<div style="text-align: right; margin-bottom: 10px;">Required For:</div> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> All Utilities <input type="checkbox"/> x Class A <input type="checkbox"/> Class B <input type="checkbox"/> Class C <input type="checkbox"/> </div> <div style="width: 45%;"> Special Reqmt. <input type="checkbox"/> All <input type="checkbox"/> classes of Combinatic nUtilities </div> </div>

	Department _____		
	Test Year Ended _____	Prior Year Ended _____	Prior Year Ended _____
Revenues:	\$ _____	\$ _____	\$ _____
Residential			
			
Total Revenues	\$ _____	\$ _____	\$ _____
Operating Expenses*:			
			
Total Operating Expenses	\$ _____	\$ _____	\$ _____
Operating Income	\$ _____	\$ _____	\$ _____

* Including allocation of general and administrative expenses.

Supporting Schedules:

Recap Schedules:
E-2

Corporation Commission - Fixed Utilities

Schedule E-7. Operating Statistics

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: <u> E-7 </u> Title: <u>Operating Statistics</u>																				
Explanation: Schedule showing key operating statistics in comparative format, for the test year and the 2 fiscal years ended prior to the test year.	Required For: <table style="width: 100%;"> <tr> <td style="width: 50%;">All Utilities</td> <td style="width: 10%; text-align: center;"><input checked="" type="checkbox"/></td> <td style="width: 40%;">Special Reqmt.</td> <td style="width: 10%; text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>Class A</td> <td style="text-align: center;"><input type="checkbox"/></td> <td></td> <td></td> </tr> <tr> <td>Class B</td> <td style="text-align: center;"><input type="checkbox"/></td> <td></td> <td></td> </tr> <tr> <td>Class C</td> <td style="text-align: center;"><input type="checkbox"/></td> <td></td> <td></td> </tr> <tr> <td>Class D</td> <td style="text-align: center;"><input type="checkbox"/></td> <td></td> <td></td> </tr> </table>	All Utilities	<input checked="" type="checkbox"/>	Special Reqmt.	<input type="checkbox"/>	Class A	<input type="checkbox"/>			Class B	<input type="checkbox"/>			Class C	<input type="checkbox"/>			Class D	<input type="checkbox"/>		
All Utilities	<input checked="" type="checkbox"/>	Special Reqmt.	<input type="checkbox"/>																		
Class A	<input type="checkbox"/>																				
Class B	<input type="checkbox"/>																				
Class C	<input type="checkbox"/>																				
Class D	<input type="checkbox"/>																				

Electric Statistics

Test Year	Prior Year	Prior Year	
<u>Ended</u>	<u>Ended</u>	<u>Ended</u>	

KWH Sales-By Class of Service
 Avg. No. of Customers-By Class of Service
 Avg. KWH Use-By Class of Service
 Avg. Annual Revenue Per Residential Customer
 KWH Production Expense
 KWH Trans. Expense

Gas Statistics:

MCF or Therm Sales-By Class of Service
 Avg. No. of Customers-By Class of Service
 Avg. MCF or Therm Use-By Class of Service
 Avg. Annual Revenue Per Residential Customer
 Production Expense Per MCF or Therm
 Storage and Trans. Expense Per MCF or Therm

Water Statistics:

Gallons Sold-By Class of Service
 Avg. No. of Customers-By Class of Service
 Avg. Annual Gallons Per Residential Customer
 Avg. Annual Revenue Per Residential Customer
 Pumping Cost Per 1,000 Gallons

Telephone Statistics:

Main Telephones
 Company Telephones
 Revenue Per Main Telephone
 Messages
 Net Plant in Service Per Telephone

Corporation Commission - Fixed Utilities

Schedule E-8. Taxes Charged to Operations

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: <u> E-8 </u> Title: <u>Taxes Charged to Operations</u>															
Explanation: A schedule showing all significant taxes charged to operations for the test year and the 2 fiscal years ended prior to the test year.	Required For: <table style="width: 100%;"> <tr> <td style="width: 60%;">All Utilities</td> <td style="width: 10%; text-align: center;"><input type="checkbox"/></td> <td style="width: 30%;">Special Reqmt <input type="checkbox"/></td> </tr> <tr> <td>Class A</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td></td> </tr> <tr> <td>Class B</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td></td> </tr> <tr> <td>Class C</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td></td> </tr> <tr> <td>Class D</td> <td style="text-align: center;"><input type="checkbox"/></td> <td></td> </tr> </table>	All Utilities	<input type="checkbox"/>	Special Reqmt <input type="checkbox"/>	Class A	<input checked="" type="checkbox"/>		Class B	<input checked="" type="checkbox"/>		Class C	<input checked="" type="checkbox"/>		Class D	<input type="checkbox"/>	
All Utilities	<input type="checkbox"/>	Special Reqmt <input type="checkbox"/>														
Class A	<input checked="" type="checkbox"/>															
Class B	<input checked="" type="checkbox"/>															
Class C	<input checked="" type="checkbox"/>															
Class D	<input type="checkbox"/>															

<u>Description</u>	Test Year Ended _____	Prior Year Ended _____	Prior Year Ended _____
Federal Taxes:	\$ _____	\$ _____	\$ _____
	\$ _____	\$ _____	\$ _____
State Taxes	\$ _____	\$ _____	\$ _____
	\$ _____	\$ _____	\$ _____
Local Taxes:	\$ _____	\$ _____	\$ _____
	\$ _____	\$ _____	\$ _____
Total Taxes	\$ _____	\$ _____	\$ _____

NOTE: For combination utilities, the above should be presented in total and by department.

Supporting Schedules:

Recap Schedules:

Schedule E-9. Notes to Financial Statements

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: <u> E-9 </u> Title: <u>Notes to Financial Statements</u>
Explanation: Disclosure of important facts pertaining to the understanding of the financial statements.	<div style="text-align: right; margin-bottom: 5px;">Required For:</div> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> All Utilities <input checked="" type="checkbox"/> Class A <input type="checkbox"/> Class B <input type="checkbox"/> Class C <input type="checkbox"/> Class D <input type="checkbox"/> </div> <div style="width: 35%;"> Special Reqmt. <input type="checkbox"/> </div> </div>

Disclosures should include, but not be limited to the following:

1. Accounting method.
2. Depreciation lives and methods employed by major classifications of utility property.
3. Income tax treatment - normalization or flow through.
4. Interest rate used to charge interest during construction, if applicable.

Supporting Schedules:

Recap Schedules:

Appendix F. Projections and Forecasts

Schedule F-1. Projected Income Statements - Present and Proposed Rate

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103APPENDIX F.
PROJECTIONS AND FORECASTS

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: <u> F-1 </u> Title: <u>Projected Income Statements - Present and Proposed Rate</u>																				
Explanation: Schedule showing an income statement for the projected year, compared with actual test year results, at present rates proposed rates.	Required For: <table style="width: 100%;"> <tr> <td style="width: 50%;">All Utilities</td> <td style="width: 10%; text-align: center;"><input checked="" type="checkbox"/></td> <td style="width: 40%;">Special Reqmt.</td> <td style="width: 10%; text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>Class A</td> <td style="text-align: center;"><input type="checkbox"/></td> <td></td> <td></td> </tr> <tr> <td>Class B</td> <td style="text-align: center;"><input type="checkbox"/></td> <td></td> <td></td> </tr> <tr> <td>Class C</td> <td style="text-align: center;"><input type="checkbox"/></td> <td></td> <td></td> </tr> <tr> <td>Class D</td> <td style="text-align: center;"><input type="checkbox"/></td> <td></td> <td></td> </tr> </table>	All Utilities	<input checked="" type="checkbox"/>	Special Reqmt.	<input type="checkbox"/>	Class A	<input type="checkbox"/>			Class B	<input type="checkbox"/>			Class C	<input type="checkbox"/>			Class D	<input type="checkbox"/>		
All Utilities	<input checked="" type="checkbox"/>	Special Reqmt.	<input type="checkbox"/>																		
Class A	<input type="checkbox"/>																				
Class B	<input type="checkbox"/>																				
Class C	<input type="checkbox"/>																				
Class D	<input type="checkbox"/>																				

	<u>Projected Year</u>		
	Actual Test Year Ended _____ (a) \$ _____	At Present <u>Rates</u> Year Ended _____ (b) \$ _____	At Proposed <u>Rates</u> Year Ended _____ (b) \$ _____
Revenues:			
Operating Expenses:			
Operating Income	\$ _____	\$ _____	\$ _____
Other Income & Deductions:			
Interest	_____	_____	_____
Net Income	\$ _____	\$ _____	\$ _____
	_____	_____	_____
Earnings per share of average Common Stock Outstanding	\$ _____	\$ <u>Optional</u>	\$ <u>Optional</u>
% Return on Common Equity	_____ %	_____ %	_____ %
<u>Supporting Schedules:</u> (a) E-2		<u>Recap Schedules:</u> (b) A-2	

Schedule F-2. Projected Changes In Financial Present and Proposed Rates

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: <u>F-2</u> Title: <u>Projected Changes In Financial Present and Proposed Rates</u>
Explanation: Schedule showing projected changes in financial position for projected year compared with the test year, at present and proposed rates.	Required For: <div style="display: flex; justify-content: space-between;"> <div> All Utilities <input type="checkbox"/> Class A <input checked="" type="checkbox"/> Class B <input checked="" type="checkbox"/> Class C <input type="checkbox"/> Class D <input type="checkbox"/> </div> <div> Special Reqmt. <input type="checkbox"/> </div> </div>

	Test Year Ended (a)	At Present <u>Rates</u> Year Ended (b)	<u>Projected Year</u> At Proposed <u>Rates</u> Year Ended (b)
<u>Source of Funds:</u>	\$ _____	\$ _____	\$ _____

Total Funds Provided	\$ _____	\$ _____	\$ _____
----------------------	----------	----------	----------

Application of Funds:

Total Funds Provided	\$ _____	\$ _____	\$ _____
----------------------	----------	----------	----------

Details of Financing:

Changes in Short-term Debt:

Changes in Long-term Debt:

Changes in Preferred Stock:

Changes in Common Equity:

Supporting Schedules:

(a) E-3

(c) F-3

Recap Schedules:

(b) A-5

Corporation Commission - Fixed Utilities

Schedule F-3. Projected Construction Requirements

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: <u> F-3 </u> Title: <u>Projected Construction Requirements</u>																	
Explanation: Schedule showing projected annual construction requirements, by property classification, for 1 to 3 years subsequent to the test year compared with the test year.	<div style="text-align: right; margin-bottom: 10px;">Required For:</div> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%;">All Utilities</td> <td style="width: 10%; text-align: center;"><input type="checkbox"/></td> <td style="width: 10%;"></td> <td style="width: 50%;">Special Reqmt <input type="checkbox"/></td> </tr> <tr> <td>Class A</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td rowspan="4" style="font-size: 3em; vertical-align: middle;">}</td> <td>3 yrs.</td> </tr> <tr> <td>Class B</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>projected</td> </tr> <tr> <td>Class C</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>1 yrs.</td> </tr> <tr> <td>Class D</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>projected</td> </tr> </table>	All Utilities	<input type="checkbox"/>		Special Reqmt <input type="checkbox"/>	Class A	<input checked="" type="checkbox"/>	}	3 yrs.	Class B	<input checked="" type="checkbox"/>	projected	Class C	<input checked="" type="checkbox"/>	1 yrs.	Class D	<input checked="" type="checkbox"/>	projected
All Utilities	<input type="checkbox"/>		Special Reqmt <input type="checkbox"/>															
Class A	<input checked="" type="checkbox"/>	}	3 yrs.															
Class B	<input checked="" type="checkbox"/>		projected															
Class C	<input checked="" type="checkbox"/>		1 yrs.															
Class D	<input checked="" type="checkbox"/>		projected															

<u>Property Classification</u>	Actual	Projected		
	Test Year Ended _____	Test Year Ended_____	Test Year Ended_____	Test Year Ended_____
Production Plant	\$ _____	\$ _____	\$ _____	\$ _____
Transmission Plant				
Total Plant (a)	\$ _____	\$ _____	\$ _____	

NOTE:

For combination utilities, the above should be presented by department.

Supporting Schedules:

Recap Schedules:

(a) F-2 & A-4

Schedule F-4. Assumptions Used in Developing Projection

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: <u> F-4 </u> Title: <u>Assumptions Used in Developing Projection</u>
Explanation: Documentation of important assumptions used in preparing forecasts and projections.	<div style="text-align: right; margin-bottom: 5px;">Required For:</div> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> All Utilities <input checked="" type="checkbox"/> Class A <input type="checkbox"/> Class B <input type="checkbox"/> Class C <input type="checkbox"/> Class D <input type="checkbox"/> </div> <div style="width: 35%; text-align: right;"> Special Reqmt. <input type="checkbox"/> </div> </div>

Important assumptions used in preparing projections should be explained.

Areas covered should include:

1. Customer growth
2. Growth in consumption and customer demand
3. Changes in expenses
4. Construction requirements, including production reserves and changes in plant capacity
5. Capital structure changes
6. Financing costs, interest rates

Supporting Schedules:

Recap Schedules:

Appendix G. Cost of Service Analyses

Schedule G-1. Cost of Service Summary-Present Rates

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103APPENDIX G
COST OF SERVICE ANALYSES

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: <u> G-1 </u> Title: <u>Cost of Service Summary-Present Rates</u>
Explanation: Schedule showing rates of return by customer classification at present rates.	Required For: All Utilities <input type="checkbox"/> Special Reqmt. <input checked="" type="checkbox"/> Class A <input type="checkbox"/> Class B <input type="checkbox"/> Class C <input type="checkbox"/> Class D <input type="checkbox"/>

	Customer Classification			
	<u>Total</u>	<u>A</u>	<u>B</u>	<u>Z</u>
Revenues (a)	\$ _____	\$ _____	\$ _____	\$ _____
Expenses (b)				
Operating Income before Income Taxes				
Income Taxes	_____	_____	_____	_____
Net Operating Income	\$ _____	\$ _____	\$ _____	\$ _____
Rate Base (c)	\$ _____	\$ _____	\$ _____	\$ _____
Rate of Return	% _____	% _____	% _____	% _____

Supporting Schedules:(a) H-1 (c) G-3
(b) G-4Recap Schedules:

Schedule G-2. Cost of Service Summary-Proposed Rates

<p align="center">ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT</p>	<p>Schedule: <u> G-2 </u></p> <p>Title: <u>Cost of Service Summary-Proposed Rates</u></p>
<p>Explanation: Schedule showing rates of return by customer classification at proposed rates.</p>	<p align="right">Required For:</p> <p>All Utilities <input type="checkbox"/> Special Reqmt. <input checked="" type="checkbox"/></p> <p>Class A <input type="checkbox"/></p> <p>Class B <input type="checkbox"/></p> <p>Class C <input type="checkbox"/></p> <p>Class D <input type="checkbox"/></p>

	Customer Classification			
	<u>Total</u>	<u>A</u>	<u>B</u>	<u>Z</u>
Revenues (a)	\$ _____	\$ _____	\$ _____	\$ _____
Expenses (b)				
Operating Income before Income Taxes				
Income Taxes	_____	_____	_____	_____
Net Operating Income	\$ _____	\$ _____	\$ _____	\$ _____
Rate Base (c)	\$ _____	\$ _____	\$ _____	\$ _____
Rate of Return	%	%	%	%

Supporting Schedules:

(a) H-1 (c) G-3
(b) G-4

Recap Schedules:

Schedule G-3. Rate Base Allocation to Classes of Service

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: <u>G-3</u> Title: <u>Rate Base Allocation to Classes of Service</u>																				
Explanation: Schedule showing allocation of plant at original cost less depreciation to class of service.	Required For: <table style="width: 100%;"> <tr> <td style="width: 50%;">All Utilities</td> <td style="width: 10%;"><input type="checkbox"/></td> <td style="width: 35%;">Special Reqmt.</td> <td style="width: 5%;"><input checked="" type="checkbox"/></td> </tr> <tr> <td>Class A</td> <td><input type="checkbox"/></td> <td></td> <td></td> </tr> <tr> <td>Class B</td> <td><input type="checkbox"/></td> <td></td> <td></td> </tr> <tr> <td>Class C</td> <td><input type="checkbox"/></td> <td></td> <td></td> </tr> <tr> <td>Class D</td> <td><input type="checkbox"/></td> <td></td> <td></td> </tr> </table>	All Utilities	<input type="checkbox"/>	Special Reqmt.	<input checked="" type="checkbox"/>	Class A	<input type="checkbox"/>			Class B	<input type="checkbox"/>			Class C	<input type="checkbox"/>			Class D	<input type="checkbox"/>		
All Utilities	<input type="checkbox"/>	Special Reqmt.	<input checked="" type="checkbox"/>																		
Class A	<input type="checkbox"/>																				
Class B	<input type="checkbox"/>																				
Class C	<input type="checkbox"/>																				
Class D	<input type="checkbox"/>																				

Class of Service	Demand					Commodity				Customer	
	PlantFunction					Plant Function					
	Total (a)	1	2	3	etc.	1	2	3	etc.	Gen.	Specific
	\$ %	\$(b) %	(c)								
A											
B											
⋮											
Z	\$										
TOTAL	\$ %	\$(b) %	(c)								

Supporting Schedules:

- (b) G-5
(c) G-7

Recap Schedules:

- (a) G-1 & G-2

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Schedule G-4. Expense Allocation to Classes of Service

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
ILLUSTRATIVE SCHEDULE FORMATSchedule: G-4Title: Expense Allocation to Classes
of Service

Explanation:

Schedule showing allocation of operating expenses
to class of service.

Required For:

All Utilities	<input type="checkbox"/>	Special Reqmt.	<input checked="" type="checkbox"/>
Class A	<input type="checkbox"/>		
Class B	<input type="checkbox"/>		
Class C	<input type="checkbox"/>		
Class D	<input type="checkbox"/>		

Class of Service	<u>Demand</u>						<u>Commodity</u>				<u>Customer</u>		<u>Other</u>
	<u>Total (a)</u>		<u>Plant Function</u>				<u>Plant Function</u>						
			<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>etc.</u>			
	<u>\$</u>	<u>%</u>	<u>\$(b)</u>	<u>%(c)</u>			<u>1</u>	<u>2</u>	<u>3</u>	<u>etc.</u>		<u>Gen.</u>	<u>Specific</u>
A													
B													
⋮													
Z	<u>\$</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
TOTAL	<u>\$</u>	<u> </u> %	<u>\$(b)</u>	<u>%(c)</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>

Supporting Schedules:

(b) G-5

(c) G-7

Recap Schedules:

(a) G-1 & G-2

Corporation Commission - Fixed Utilities

Schedule G-6. Distribution of Expenses by Function

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: <u> G-6 </u> Title: <u>Distribution of Expenses by Function</u>
Explanation: Schedule showing allocation of operating expenses to defined functions.	Required For: All Utilities <input type="checkbox"/> Special Reqmt. <input checked="" type="checkbox"/> Class A <input type="checkbox"/> Class B <input type="checkbox"/> Class C <input type="checkbox"/> Class D <input type="checkbox"/>

Expense Classification	Total \$ %	Function*				Customer		
		Demand				Commodity	Gen.	Specific
		1*	2*	3*	4*			
Production:								
Transmission:								
Sales:								
Administrative:								
Total Operating Expenses (a)	\$ %	\$ %						

* Production Transmission, primary, secondary, etc.

Supporting Schedules:

Recap Schedules:
 (a) G-4

Schedule G-7. Development of Allocation Factors

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: <u>G-7</u> Title: <u>Development of Allocation Factors</u>
Explanation: Schedule(s) showing development of all allocation factors used in the cost of service study.	Required For: All Utilities <input type="checkbox"/> Special Reqmt. <input checked="" type="checkbox"/> Class A <input type="checkbox"/> Class B <input type="checkbox"/> Class C <input type="checkbox"/> Class D <input type="checkbox"/>

Schedules should be provided to indicate how demand, commodity and customer allocation factors were developed. Demand method employed, e.g., peak, average and excess, non-coincident peak, should be disclosed supported with adequate detail.

Supporting Schedules:

Recap Schedules:

G-4

G-3


Corporation Commission - Fixed Utilities

Appendix H. Effect of Proposed Tariff Schedules

Schedule H-1. Summary of Revenues by Customer Classification-Present and Proposed Rates

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103APPENDIX H.
EFFECT OF PROPOSED TARIFF SCHEDULES

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: <u> H-1 </u> Title: <u>Summary of Revenues by Customer Classification-Present and Proposed Rates</u>																				
Explanation: Schedule comparing revenues by customer classification for the test year, at present and proposed rates.	<table style="width: 100%;"> <tr> <td style="width: 40%;">All Utilities</td> <td style="width: 10%; text-align: center;">x</td> <td style="width: 10%;"><input type="checkbox"/></td> <td style="width: 40%; text-align: right;">Required For:</td> </tr> <tr> <td>Class A</td> <td></td> <td><input type="checkbox"/></td> <td>Special <input type="checkbox"/> Reqmt.</td> </tr> <tr> <td>Class B</td> <td></td> <td><input type="checkbox"/></td> <td></td> </tr> <tr> <td>Class C</td> <td></td> <td><input type="checkbox"/></td> <td></td> </tr> <tr> <td>Class D</td> <td></td> <td><input type="checkbox"/></td> <td></td> </tr> </table>	All Utilities	x	<input type="checkbox"/>	Required For:	Class A		<input type="checkbox"/>	Special <input type="checkbox"/> Reqmt.	Class B		<input type="checkbox"/>		Class C		<input type="checkbox"/>		Class D		<input type="checkbox"/>	
All Utilities	x	<input type="checkbox"/>	Required For:																		
Class A		<input type="checkbox"/>	Special <input type="checkbox"/> Reqmt.																		
Class B		<input type="checkbox"/>																			
Class C		<input type="checkbox"/>																			
Class D		<input type="checkbox"/>																			

<u>Customer Classification</u>	<u>Revenues in the Test Year (a)</u>		<u>Proposed Increase (b)</u>	
	<u>Present Rates</u>	<u>Proposed Rates</u>	<u>Amount</u>	<u>%</u>
Residential	\$ _____	\$ _____	\$ _____	
Industrial				
				
Total Revenues	\$ _____	\$ _____	\$ _____	\$ _____

Note: For combination utilities, above information should be presented in total and by department.

Supporting Schedules:

(a) H-2

Recap Schedules:

(b) A-1

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Schedule H-2. Analysis of Revenue by Detailed Class

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
ILLUSTRATIVE SCHEDULE FORMAT

Schedule: H-2Title: Analysis of Revenue by Detailed Class

Explanation:

Schedule comparing revenues by detailed class of service, for the test year, at present and proposed rates.

Required For:

All Utilities

☐Special Reqmt. ☐

Class A

☒

Class B

☒

Class C

☐

Class D

☐

<u>Class of Service</u>	<u>Average Number of Customers</u>	<u>Average Consumption</u>	<u>Revenues</u>		<u>Proposed</u>	
			<u>Present Rates</u>	<u>Proposed Rates</u>	<u>Increase Amount</u>	<u>%</u>
Residential:			\$	\$	\$	
General						
Limited Service						
	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Total Residential	<u> </u>	<u> </u>	<u>\$ (a)</u>	<u>\$ (a)</u>	<u>\$ (a)</u>	<u>\$ (a) %</u>
Industrial:						
General service						
Optional service						
	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Total Company	<u> </u>	<u> </u>	<u>\$</u>	<u>\$</u>	<u>\$</u>	<u>%</u>

Note: For combination utilities, above information should be presented by department.

Supporting Schedules:

Recap Schedules:

(a) H-1

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Schedule H-3. Changes In Representative Rate Schedules

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
ILLUSTRATIVE SCHEDULE FORMATSchedule: H-3Title: Changes In Representative Rate Schedules

Explanation:

Schedule(s) comparing present rate schedules
with proposed rate schedule.

Required For:

All Utilities ☐Class A ☒Class B ☒Class C ☒Class D ☒Special Reqmt. ☐

} Representative Schedules

} All Schedules

Rate Schedule	Description	Block	Present Rate	Proposed Rate	Change
1	Residential-Gen. Service	First 1,000 gal. Next 1,000 gal.	\$1.00 \$.08/100	\$1.25 \$.10/100	\$.25 \$.02/100

{

{

{

{

{

12 Industrial-Gen. Service

{

Supporting Schedules:

Corporation Commission - Fixed Utilities

Schedule H-4. Typical Bill Analysis

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: <u> H-4 </u> Title: <u>Typical Bill Analysis</u>
Explanation: Schedule(s) comparing typical customer bills at varying consumption levels at present and proposed rates.	Required For: All Utilities <input checked="" type="checkbox"/> Special Reqmt. <input type="checkbox"/> Class A <input type="checkbox"/> Class B <input type="checkbox"/> Class C <input type="checkbox"/> Class D <input type="checkbox"/>

Rate Schedule	Description	Monthly Consumption	Present Bill	Proposed Bill	% Increase
1	Residential-Gen. Service	1,000 gal. or less	\$1.00	\$1.25	25.0%
		5,000 gal.	\$3.30	\$ 3.80	15.2%
		{	{	{	{
		{	{	{	{
		{	{	{	{
		{	{	{	{
		{	{	{	{
		{	{	{	{

Supporting Schedules:

Corporation Commission - Fixed Utilities

Schedule H-5. Bill Count

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: <u> H-5 </u> Title: <u> Bill Count </u>
Explanation: Schedule(s) showing billing activity by block for each rate schedule.	Required For: All Utilities <input checked="" type="checkbox"/> Special Reqmt. <input type="checkbox"/> Class A <input type="checkbox"/> Class B <input type="checkbox"/> Class C <input type="checkbox"/> Class D <input type="checkbox"/>

Rate Schedule: _____

Description: _____

<u>Block</u>	<u>Number of Bills by Block</u>	<u>Consumption By Blocks</u>	<u>Cumulative Bills No. % of Total</u>	<u>Cumulative Consumption Amount % of Total</u>
--------------	---	----------------------------------	--	---

Average Number of Customers _____

Average Consumption _____

Median Consumption _____

Supporting Schedules:Recap Schedules:**Historical Note**

Former Section R14-2-103 renumbered as Section R14-2-101, former Section R14-2-128 renumbered as Section R14-2-103 with-out change effective March 2, 1982 (Supp. 82-2). Amended subsection (B) effective June 18, 1987 (Supp. 87-2). Amended effective August 31, 1992 (Supp. 92-3). Amended by final rulemaking at 19 A.A.R. 397, effective April 9, 2013 (Supp. 13-1). Amended by final rulemaking at 20 A.A.R. 3439, effective January 16, 2015 (Supp. 14-4).

R14-2-104. Inspection of annual reports

Pursuant to A.R.S. § 40-204(C), all utility annual reports and attachments thereto required to be filed pursuant to this Chapter shall be open to public inspection without further or special order of the Arizona Corporation Commission.

Historical Note

Former Section R14-2-104 repealed, new Section R14-2-104 adopted effective March 2, 1982 (Supp. 82-2).

R14-2-105. Notice of rate hearings

- A.** Every public service corporation shall give notice to customers affected of any hearing at which the fair value of that corporation's property is to be determined and just and reasonable rates and charges are to be established.
- B.** The form and manner of such notice shall be as the Commission may direct by procedural order.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-106. Commission Color Code to Identify Location of Underground Facilities

- A.** If the location of an underground facility is marked with stakes, paint, or in some customary manner pursuant to A.R.S. § 40-360.21(13), the facility owner will use the following color code:

Facility Type	Specific Color
Electric Power Distribution and Transmission	Safety Red
Gas Distribution and Transmission; Oil Product and Transmission; Dangerous Materials, Product Lines	High Visibility Yellow
Telephone and Telegraph System; Cable Television	Safety Alert Orange

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Fiber Optics Communication Lines	The Letter "F" in Safety Alert Orange
Water Systems; Slurry Pipelines	Safety Precaution Blue
Reclaimed Water Systems	Purple
Sanitary Sewer Systems	Safety Green

UNACCEPTABLE FACILITY LOCATION COLORS:

Fluorescent Pink - This shall be considered a land surveyor marking.

White - This shall be reserved for excavator markings.

- B.** Excavators and Underground Facility Owners shall consider use of the color fluorescent pink to be indicative of land survey markings and not location markings for any underground facility. Surveyors may place aerial photogrammetric markings (targets) using the color white; such marking shall have a fluorescent pink dot not less than two inches in diameter placed within one foot of any edge of the aerial marking. Fluorescent pink shall not be used by excavators or Underground Facility Owners.
- C.** Excavators making markings pursuant to A.R.S. § 40-360.22(C) are required to use the color white.
- D.** Colors similar to those listed in R14-2-106(A) through R14-2-106(C) shall not be used for other than their listed purpose.

Historical Note

Adopted effective September 5, 1986 (Supp. 86-5).

Amended effective June 4, 1993, under an exemption from the Attorney General certification requirements of the Arizona Administrative Procedure Act (Supp. 93-2).

Amended effective August 16, 1996 (Supp. 96-3).

Amended by final rulemaking at 8 A.A.R. 971, effective February 19, 2002 (Supp. 02-1).

R14-2-107. Electric or Natural Gas Cooperative Alternative Rate Application Filing Requirements and Process**A.** Definitions. In this Section, unless otherwise specified:

- "Base revenue" means the revenue generated by permanent rates and charges, excluding:
 - Revenue generated through adjustor mechanisms, and
 - Revenue generated through miscellaneous service charges.
- "CFC" means the National Rural Utilities Cooperative Finance Corporation.
- "Commission" means the Arizona Corporation Commission.
- "Cooperative" means a legal entity that is:
 - A domestic corporation or a foreign corporation authorized to transact business in this state;
 - Operated as a not-for-profit or non-profit;
 - Owned and controlled by its members; and
 - Operating as a public service corporation in this state by providing either electric utility services or natural gas utility services.
- "Docket Control" means the organizational unit within the Commission's Hearing Division that accepts, records, and maintains filings.
- "FERC" means the Federal Energy Regulatory Commission.
- "File" means to submit to Docket Control, with the required number of copies and in an acceptable format, for recording under an appropriate docket number.
- "Full permanent rate case decision" means a Commission decision:

- Issued on an application filed under R14-2-103 and not under this Section,
 - In which the Commission ascertained the fair value of a public service corporation's property within Arizona and established a schedule of rates and charges for the public service corporation's provision of utility services within Arizona, and
 - Not issued under A.R.S. § 40-252.
- "Non-price tariff change" means modification of one or more tariff provisions, either through altering existing tariff language or adding new tariff language, in a manner that substantively alters a requirement other than a rate or charge.
 - "Rate schedule" means a schedule of rates and conditions for a specific classification of customer or for other specific services.
 - "Rate structure change" means any of the following:
 - Introduction of a new rate schedule;
 - Elimination of an existing rate schedule;
 - A change in base revenue generated by any one rate class greater than 150% of the overall base revenue increase;
 - A change greater than 25% in the customer charge within a rate schedule for residential customers; or
 - A change in the rate blocks or the percentage relationship of the prices among rate blocks.
 - "RUS" means United States Department of Agriculture, Rural Utilities Service.
 - "Staff" has the same meaning as in R14-2-103.
 - "Test year" means the one-year historical period used in determining rate base, operating income, and rate of return, which shall have an ending date within nine months before the filing date for a rate application under this Section and shall include at least six months during which a cooperative's current rates and charges were in effect.
 - "Timely" means in the manner and before the deadline prescribed in this Section.
- B.** Eligibility Requirements. A cooperative may file and pursue a rate application under this Section rather than R14-2-103 if all of the following eligibility requirements are met:
- The cooperative is classified as a Class A, B, or C utility under R14-2-103(A)(3)(q);
 - A full permanent rate case decision for the cooperative has been issued within the 180-month period immediately preceding the filing of the cooperative's rate application;
 - The cooperative has not filed a rate application under this Section within the 12 months immediately preceding the filing of the cooperative's rate application;
 - The cooperative's rate application is the first, second, third, fourth, or fifth rate application filed by the cooperative under this Section since its last full permanent rate case decision was issued;
 - The cooperative is required by law or contract to make a certified annual financial and statistical report to a federal agency, such as RUS or FERC, or an established national non-profit lender that specializes in the utility industry, such as CFC or CoBank.
 - The test year used in the cooperative's rate application complies, without waiver, to the definition of a test year in subsection (A);
 - The cooperative's rate application includes audited financials for a period ending no more than nine months before the beginning of the test year;

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8. The cooperative's rate application does not propose an increase in total base revenue amounting to more than 6% of the actual test year total base revenue;
 9. The cooperative's rate application uses its original cost rate base as its fair value rate base;
 10. The cooperative's rate application proposes only a change in rates and charges and does not propose any of the following:
 - a. A change in an existing adjustor or surcharge mechanism;
 - b. Adoption of a new adjustor or surcharge mechanism, unless incorporating a charge or charges otherwise previously approved by the Commission; or
 - c. Adoption of a new hook-up fee or another new type of fee;
 11. The cooperative's rate application does not propose a rate structure change or a non-price tariff change;
 12. The cooperative's rate application does not request financing approval or other approvals and does not request consolidation with another docket;
 13. The customer notice provided by the cooperative conformed to the requirements of subsection (D) and was approved by Staff;
 14. For a distribution cooperative, the objections timely submitted by the cooperative's customers represent no more than 5% of all customer accounts or no more than 1,000 customer accounts, whichever is fewer; and
 15. For a generation or transmission cooperative, no member distribution cooperative has filed a timely objection to the application, and the objections timely submitted by retail customers served by member distribution cooperatives represent no more than 3,000 customer accounts.
- C. Pre-Filing Requirements.** Before filing a rate application under this Section, a cooperative shall:
1. Analyze the cooperative's eligibility under subsection (B);
 2. Submit to Staff, in both hard copy and electronic (with formulae intact) formats, a Request for Pre-Filing Eligibility Review, which shall include a draft application including the items and information described in subsections (E)(1) through (6), a copy of the Proposed Form of Notice to be sent to the cooperative's customers, and a Proposed Form of Recommended Order;
 3. No sooner than 30 days after the date Staff receives the Request for Pre-Filing Eligibility Review, meet with Staff to discuss the cooperative's eligibility under subsection (B) and any Staff modifications to the Proposed Form of Notice;
 4. After meeting with Staff, if the cooperative decides to pursue a rate application under this Section, file a Request for Docket Number and Proposed Form of Notice for Staff approval; and
 5. At least 20 days before filing a rate application under this Section, provide Notice of the application, conforming to the requirements of subsection (D) and as approved by Staff, as follows:
 - a. If a distribution cooperative, by sending the Notice, by First Class Mail, to each of the cooperative's customers; and
 - b. If a generation or transmission cooperative, by publishing the Notice in at least one newspaper of general circulation in the service territory of each member distribution cooperative served and by sending the Notice, by First Class Mail, to each member distribution cooperative served.
- D. Notice Requirements.** A cooperative shall ensure that the Notice sent as required under subsection (C)(5) is in a form approved by Staff and that it includes, at a minimum, all of the following:
1. The cooperative's name and contact information;
 2. The docket number assigned to the cooperative's rate application proceeding;
 3. A summary of the rate relief requested by the cooperative in its rate application;
 4. For a distribution cooperative, the monthly bill impact to a residential customer with average usage and to a residential customer with median usage if the requested rate relief were granted by the Commission;
 5. For a distribution cooperative, the monthly bill impact to a residential customer with average usage and to a residential customer with median usage if the cooperative were granted rate relief equal to a 6% increase of the actual test year total base revenue;
 6. For a generation or transmission cooperative, the estimated rate and revenue impact to each member distribution cooperative served if the requested rate relief were granted by the Commission;
 7. Instructions for viewing or obtaining filed documents;
 8. Information regarding the Commission's process under this Section;
 9. The deadline to file intervention requests and objections, which shall be a date no earlier than 30 days after the date Notice is mailed to customers;
 10. Instructions for requesting intervention and submitting objections; and
 11. Information regarding disability accommodations.
- E. Filing Requirements.** No later than 50 days after completing the provision of Notice as required by subsection (C)(5), a cooperative may file in the assigned docket a rate application under this Section, which shall include the following:
1. The legal name of the cooperative and identification of the test year;
 2. A waiver of the use of reconstruction cost new rate base to determine the cooperative's fair value rate base;
 3. A copy of the most recent certified annual financial and statistical report submitted by the cooperative to a federal agency, such as RUS or FERC, or an established national non-profit lender that specializes in the utility industry, such as CFC or CoBank;
 4. A copy of audited financials for the cooperative, for a period ending no earlier than nine months before the beginning of the test year;
 5. The information listed in the table in R14-2-103(B)(1) for Schedules A-1, A-4, and A-5, which shall be submitted in the format provided in Appendix Schedules A-1, A-4, and A-5;
 6. The information listed in the table in R14-2-103(B)(1) for Schedules B-2, B-5, C-1, C-2 (if applicable), C-3 (if a taxable entity), D-2, E-1, E-2 (with the same year-ending date as the test year and the same level of detail as shown for the test year in Schedule C-1), E-5 through E-7, E-8 (if a taxable entity), E-9, F-1, F-2, F-3, F-4, and H-1 through H-5, which:
 - a. Shall be included on schedules labeled consistently with and containing the substantive information corresponding to the Appendix Schedules,
 - b. Shall conform to the instructions and notes contained on the corresponding Appendix Schedules,
 - c. May be submitted in the format provided in the Appendix Schedules or formatted in an alternate manner, and

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- d. May omit information that is not applicable to the cooperative's operations;
- 7. A copy of the Notice sent and, if applicable, published, as required under subsection (C)(5); and
- 8. Proof that the Notice was sent and, if applicable, published, as required under subsection (C)(5), at least 20 days, and no more than 50 days, before the date the rate application is filed.
- F. Pre-Eligibility-Review Objections and Requests.** Any person desiring to object to the cooperative's rate application or to request intervention in the cooperative's rate case shall file an objection or request no later than the date specified in the Notice provided pursuant to subsection (C)(5).
- G. Late Objections.** In determining the cooperative's eligibility to proceed with its rate application under this Section, Staff shall not consider any objection that is filed after the deadline in the Notice provided pursuant to subsection (C)(5).
- H. Eligibility and Sufficiency Review.** Within 14 days after the deadline for objections and intervention requests specified in the Notice provided pursuant to subsection (C)(5), Staff shall:
 - 1. Review the cooperative's rate application, along with any objections timely filed under subsection (F), to determine whether the cooperative is eligible, under subsection (B), to pursue its rate application under this Section;
 - 2. File either a Notice of Eligibility or a Notice of Ineligibility;
 - 3. If the cooperative is eligible, complete the following:
 - a. Conduct a sufficiency review of the cooperative's rate application;
 - b. Determine whether the rate application complies with the requirements of subsection (E); and
 - c. File either a Notice of Sufficiency that classifies the cooperative as provided in R14-2-103(A)(3)(q) or a Notice of Deficiency that lists and explains each defect in the rate application that must be corrected to make the rate application sufficient.
- I. Eligibility and Sufficiency Determinations.** Staff's determinations of eligibility, ineligibility, sufficiency, and deficiency are final and are not Commission decisions or Commission orders under A.R.S. §§ 40-252 and 40-253.
- J. Request for Processing under R14-2-103.** Within 30 days after a Notice of Ineligibility is filed, a cooperative may file a Request for Processing under R14-2-103. If a cooperative files a Request for Processing under R14-2-103, all further activity under this Section shall cease, and the cooperative's rate application shall be deemed a new rate application, filed under R14-2-103, on the date the Request for Processing under R14-2-103 is filed.
- K. Docket Closure.** If a Request for Processing under R14-2-103 is not filed within 30 days after a Notice of Ineligibility is filed, the Hearing Division shall issue a procedural order administratively closing the docket.
- L. Action on Notice of Deficiency.** After Staff files a Notice of Deficiency:
 - 1. The cooperative shall promptly address each defect listed in the Notice of Deficiency and file all necessary corrections and information to bring the rate application to sufficiency; and
 - 2. Within 14 days after receiving the cooperative's corrections and information, Staff shall again take the actions described in subsections (H)(3) through (5).
- M. Substantive Review and Staff Report.** After Staff files a Notice of Sufficiency, Staff shall:
 - 1. Conduct a substantive review of the rate application;
 - 2. Prepare a Staff Report that shall include Staff's recommendations and may include a Request for Hearing that complies with subsection (O);
 - 3. If including a Request for Hearing, file the Staff Report within the following number of days after the Notice of Sufficiency is filed:
 - a. If the cooperative is a Class A utility, 100 days;
 - b. If the cooperative is a Class B utility, 100 days; and
 - c. If the cooperative is a Class C utility, 75 days; and
 - 4. If not including a Request for Hearing, file the Staff Report and a Recommended Order within the following number of days after the Notice of Sufficiency is filed:
 - a. If the cooperative is a Class A utility, 120 days;
 - b. If the cooperative is a Class B utility, 120 days; and
 - c. If the cooperative is a Class C utility, 95 days.
- N. Responses to Staff Report.** Within 10 days after Staff files a Staff Report:
 - 1. The cooperative shall file a Response to the Staff Report, which may include a Request for Hearing that complies with subsection (O) or a Request for Withdrawal; and
 - 2. Each intervenor shall file a Response to the Staff Report, which may include a Request for Hearing that complies with subsection (O).
- O. Request for Hearing.** A Request for Hearing shall include, at a minimum, an explanation of the requesting party's reasons for believing that an evidentiary hearing should be held; a summary of each issue on which the party believes evidence should be provided; and a recitation of the witnesses and documentary evidence that the requesting party believes could be produced to provide evidence on each issue.
- P. Action on Request for Hearing.** The Hearing Division shall rule on each Request for Hearing and may require party responses, including oral argument, or other proceedings at its discretion in considering a Request for Hearing. If a hearing is granted, the Hearing Division shall preside over all further proceedings in the case.
- Q. Action on Request for Withdrawal.** The Hearing Division shall rule on each Request for Withdrawal and may require party responses, including oral argument, or other proceedings at its discretion in considering a Request for Withdrawal. If withdrawal is granted, the Hearing Division shall issue a procedural order administratively closing the docket.
- R. Requirement for Service.** A party that files a document under this Section shall also serve a copy of the document on each other party to the case, by a method conforming to the requirements of A.A.C. R14-3-107(B) and (C).
- S. Revenue Increase Cap.** No Commission decision issued under this Section shall increase a cooperative's base revenue by more than 6% of the cooperative's actual test year total base revenue.
- T. The Commission may, at any stage in the processing of a cooperative's rate application under this section, determine that the rate application shall instead proceed under R14-2-103.**

Historical Note

New Section made by final rulemaking at 19 A.A.R. 397, effective April 9, 2013 (Supp. 13-1).

ARTICLE 2. ELECTRIC UTILITIES

Editor's Note: The following Section was amended under an exemption from the Attorney General approval provisions of the Arizona Administrative Procedure Act (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)), as determined by the Corporation Commission. This

exemption means that the rules as amended were not approved by the Attorney General.

R14-2-201. Definitions

In this Article, unless the context otherwise requires, the following definitions shall apply. In addition, the definitions contained in Article 16, Retail Electric Competition, shall apply in this Article unless the context otherwise requires.

1. "Advance in aid of construction." Funds provided to the utility by the applicant under the terms of a line extension agreement the value of which may be refundable.
2. "Applicant." A person requesting the utility to supply electric service.
3. "Application." A request to the utility for electric service, as distinguished from an inquiry as to the availability or charges for such service.
4. "Arizona Corporation Commission." The regulatory authority of the state of Arizona having jurisdiction over public service corporations operating in Arizona.
5. "Billing month." The period between any two regular readings of the utility's meters at approximately 30 day intervals.
6. "Billing period." The time interval between two consecutive meter readings that are taken for billing purposes.
7. "Contributions in aid of construction." Funds provided to the utility by the applicant under the terms of a line extension agreement or service connection tariff the value of which is not refundable.
8. "Curtailed priority." The order in which electric service is to be curtailed to various classifications of customers, as set forth in the utility's filed tariffs.
9. "Customer." The person or entity in whose name service is rendered, as evidenced by the signature on the application or contract for that service, or by the receipt and/or payment of bills regularly issued in his name regardless of the identity of the actual user of the service.
10. "Customer charge." The amount the customers must pay the utility for the availability of electric service, excluding any electricity used, as specified in the utility's tariffs.
11. "Day." Calendar day.
12. "Demand." The rate at which power is delivered during any specified period of time. Demand may be expressed in kilowatts, kilovolt-amperes, or other suitable units.
13. "Distribution lines." The utility lines operated at distribution voltage which are constructed along public roadways or other bona fide rights-of-way, including easements on customer's property.
14. "Elderly." A person who is 62 years of age or older.
15. "Energy." Electric energy, expressed in kilowatt-hours.
16. "Handicapped." A person with a physical or mental condition which substantially contributes to the person's inability to manage his or her own resources, carry out activities of daily living, or protect oneself from neglect or hazardous situations without assistance from others.
17. "Illness." A medical ailment or sickness for which a residential customer obtains a verified document from a licensed medical physician stating the nature of the illness and that discontinuance of service would be especially dangerous to the customer's health.
18. "Inability to pay." Circumstances where a residential customer:
 - a. Is not gainfully employed and unable to pay, or
 - b. Qualifies for government welfare assistance, but has not begun to receive assistance on the date that he receives his bill and can obtain verification of that fact from the government welfare assistance agency.
- c. Has an annual income below the published federal poverty level and can produce evidence of this, and
- d. Signs a declaration verifying that the customer meets one of the above criteria and is either elderly, handicapped, or suffers from illness.
19. "Interruptible electric service." Electric service that is subject to interruption as specified in the utility's tariff.
20. "Kilowatt (kw)." A unit of power equal to 1,000 watts.
21. "Kilowatt-hour (kwh)." Electric energy equivalent to the amount of electric energy delivered in one hour when delivery is at a constant rate of 1 kilowatt.
22. "Line extension." The lines and equipment necessary to extend the electric distribution system of the utility to provide service to additional customers.
23. "Master meter." A meter for measuring or recording the flow of electricity that has passed through it at a single location where said electricity is distributed to tenants or occupants for their individual usage.
24. "Megawatt (Mw)." A unit of power equal to 1,000,000 watts.
25. "Meter." The instrument for measuring and indicating or recording the flow of electricity that has passed through it.
26. "Meter tampering." A situation where a meter has been illegally altered. Common examples are meter bypassing, use of magnets to slow the meter recording, and broken meter seals.
27. "Minimum charge." The amount the customer must pay for the availability of electric service, including an amount of usage, as specified in the utility's tariffs.
28. "Permanent customer." A customer who is a tenant or owner of a service location who applies for and receives permanent electric service.
29. "Permanent service." Service which, in the opinion of the utility, is of a permanent and established character. The use of electricity may be continuous, intermittent, or seasonal in nature.
30. "Person." Any individual, partnership, corporation, governmental agency, or other organization operating as a single entity.
31. "Point of delivery." The point where facilities owned, leased, or under license by a customer connects to the utility's facilities.
32. "Power." The rate of generating, transferring, or using electric energy, usually expressed in kilowatts.
33. "Premises." All of the real property and apparatus employed in a single enterprise on an integral parcel of land undivided by public streets, alleys or railways.
34. "Residential subdivision development." Any tract of land which has been divided into four or more contiguous lots with an average size of one acre or less for use for the construction of residential buildings or permanent mobile homes for either single or multiple occupancy.
35. "Residential use." Service to customers using electricity for domestic purposes such as space heating, air conditioning, water heating, cooking, clothes drying, and other residential uses and includes use in apartment buildings, mobile home parks, and other multiunit residential buildings.
36. "Service area." The territory in which the utility has been granted a Certificate of Convenience and Necessity and is authorized by the Commission to provide electric service.
37. "Service establishment charge." The charge as specified in the utility's tariffs which covers the cost of establishing a new account.

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38. "Service line." The line extending from a distribution line or transformer to the customer's premises or point of delivery.
39. "Service reconnect charge." The charge as specified in the utility's tariffs which must be paid by the customer prior to reestablishment of electric service each time the electricity is disconnected for nonpayment or whenever service is discontinued for failure otherwise to comply with the utility's tariffs.
40. "Service reestablishment charge." A charge as specified in the utility's tariffs for service at the same location where the same customer had ordered a service disconnection within the preceding 12-month period.
41. "Single family dwelling." A house, an apartment, a mobile home permanently affixed to a lot, or any other permanent residential unit which is used as a permanent home.
42. "Tariffs." The documents filed with the Commission which list the services and products offered by the utility and which set forth the terms and conditions and a schedule of the rates and charges, for those services and products.
43. "Temporary service." Service to premises or enterprises which are temporary in character, or where it is known in advance that the service will be of limited duration. Service which, in the opinion of the utility, is for operations of a speculative character is also considered temporary service.
44. "Third-party notification." A notice sent to an individual or a public entity willing to receive notification of the pending discontinuance of service of a customer of record in order to make arrangements on behalf of said customer satisfactory to the utility.
45. "Utility." The public service corporation providing electric service to the public in compliance with state law, except in those instances set forth in R14-2-1612(A) and (B).
46. "Weather especially dangerous to health." That period of time commencing with the scheduled termination date when the local weather forecast, as predicted by the National Oceanographic and Administration Service, indicates that the temperature will not exceed 32 degrees Fahrenheit for the next day's forecast. The Commission may determine that other weather conditions are especially dangerous to health as the need arises.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended by exempt rulemaking at 5 A.A.R. 3933, effective September 24, 1999 (Supp. 99-3). Amended by exempt rulemaking at 6 A.A.R. 4180, effective October 13, 2000 (Supp. 00-4).

Editor's Note: The following Section was amended under an exemption from the Attorney General approval provisions of the Arizona Administrative Procedure Act (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)), as determined by the Corporation Commission. This exemption means that the rules as amended were not approved by the Attorney General.

R14-2-202. Certificate of Convenience and Necessity for Electric Utilities

- A. Application for new Certificate of Convenience and Necessity. Six copies of each application for a new Certificate of Convenience and Necessity shall be submitted to the Commission, through Docket Control, in a form prescribed by the Commis-

sion and shall include, at a minimum, the following information:

1. The proper name and correct address of the proposed utility company and its owner, if a sole proprietorship, each partner, if a partnership, or the President and Secretary if a corporation.
2. The rates proposed to be charged for the service that will be rendered.
3. A financial statement setting forth the financial condition of the applicant.
4. Maps of the proposed service area or a description of the area proposed to be served.
5. Appropriate city, county and/or state agency approvals, where appropriate.
6. The actual number of customers within the service area as of the time of filing and the estimated number of customers to be served for each of the first five years of operation.
7. Such other information as the Commission by order or the staff of the Utilities Division by written directive may request.

B. Application for discontinuance or abandonment of utility service

1. Any utility proposing to discontinue or abandon utility service currently in use by the public shall prior to such action obtain authority therefor from the Commission.
2. The utility shall include in the application, studies of past, present and prospective customer use of the subject service, plant, or facility as is necessary to support the application.
3. An application shall not be required to remove individual facilities where a customer has requested service discontinuance.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended by exempt rulemaking at 5 A.A.R. 3933, effective September 24, 1999 (Supp. 99-3). Amended by exempt rulemaking at 6 A.A.R. 4180, effective October 13, 2000 (Supp. 00-4).

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R14-2-203. Establishment of Service**A. Information from new applicants**

1. A utility may obtain the following minimum information from each new applicant for service:
 - a. Name or names of applicant or applicants.
 - b. Service address or location and telephone number.
 - c. Billing address/telephone number, if different than service address.
 - d. Address where service was provided previously.
 - e. Date applicant will be ready for service.
 - f. Indication of whether premises have been supplied with utility service previously.
 - g. Purpose for which service is to be used.
 - h. Indication of whether applicant is owner or tenant of or agent for the premises.
 - i. Information concerning the energy and demand requirements of the customer.
 - j. Type and kind of life-support equipment, if any, used by the customer.

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2. Customer-specific information shall not be released without specific prior written customer authorization unless the information is requested by a law enforcement or other public agency, or is requested by the Commission or its staff, or is reasonably required for legitimate account collection activities, or is necessary to provide safe and reliable service to the customer.
 3. A utility may require a new applicant for service to appear at the utility's designated place of business to produce proof of identity and sign the utility's application form.
 4. Where service is requested by two or more individuals the utility shall have the right to collect the full amount owed to the utility from any one of the applicants.
- B. Deposits**
1. A utility shall not require a deposit from a new applicant for residential service if the applicant is able to meet any of the following requirements:
 - a. The applicant has had service of a comparable nature with the utility within the past two years and was not delinquent in payment more than twice during the last 12 consecutive months or disconnected for nonpayment.
 - b. The applicant can produce a letter regarding credit or verification from an electric utility where service of a comparable nature was last received which states applicant had a timely payment history at time of service discontinuance.
 - c. In lieu of a deposit, a new applicant may provide a Letter of Guarantee from a governmental or non-profit entity or a surety bond as security for the utility.
 2. The utility may issue a nonnegotiable receipt to the applicant for the deposit. The inability of the customer to produce such a receipt shall in no way impair his or her right to receive a refund of the deposit which is reflected on the utility's records.
 3. Deposits shall be interest bearing; the interest rate and method of calculation shall be filed with and approved by the Commission in a tariff proceeding.
 4. Each utility shall file a deposit refund procedure with the Commission, through Docket Control, subject to Commission review and approval during a tariff proceeding. However, each utility's refund policy shall include provisions for residential deposits and accrued interest to be refunded or letters of guarantee or surety bonds to expire after 12 months of service if the customer has not been delinquent more than twice in the payment of utility bills.
 5. A utility may require a residential customer to establish or reestablish a deposit if the customer becomes delinquent in the payment of two bills within a 12-consecutive-month period or has been disconnected for service during the last 12 months.
 6. The amount of a deposit required by the utility shall be determined according to the following terms:
 - a. Residential customer deposits shall not exceed two times that customer's estimated average monthly bill.
 - b. Nonresidential customer deposits shall not exceed 2 1/2 times that customer's estimated maximum monthly bill.
 7. The utility may review the customer's usage after service has been connected and adjust the deposit amount based upon the customer's actual usage.
 8. A separate deposit may be required for each meter installed.
 9. If a utility Distribution Company's customer with an established deposit elects to take competitive services from an Electric Service Provider, and is not currently delinquent in payments to the Utility Distribution Company, the Utility Distribution Company will refund a portion of the customer's deposit in proportion to the expected decrease in monthly billing. A customer returning to Standard Offer Service may be required to increase an established deposit in proportion to the expected increase in monthly billing.
- C. Grounds for refusal of service.** A utility may refuse to establish service if any of the following conditions exist:
1. The applicant has an outstanding amount due for the same class of utility service with the utility, and the applicant is unwilling to make arrangements with the utility for payment.
 2. A condition exists which in the utility's judgment is unsafe or hazardous to the applicant, the general population, or the utility's personnel or facilities.
 3. Refusal by the applicant to provide the utility with a deposit when the customer has failed to meet the credit criteria for waiver of deposit requirements.
 4. Customer is known to be in violation of the utility's tariffs filed with the Commission.
 5. Failure of the customer to furnish such funds, service, equipment, or rights-of-way necessary to serve the customer and which have been specified by the utility as a condition for providing service.
 6. Applicant falsifies his or her identity for the purpose of obtaining service.
- D. Service establishments, re-establishments or reconnection charge**
1. Each utility may make a charge as approved by the Commission for the establishment, reestablishment, or reconnection of utility services, including transfers between Electric Service Providers.
 2. Should service be established during a period other than regular working hours at the customer's request, the customer may be required to pay an after-hour charge for the service connection. Where the utility scheduling will not permit service establishment on the same day requested, the customer can elect to pay the after-hour charge for establishment that day or the customer's service will be established on the next available normal working day.
 3. For the purpose of this rule, the definition of service establishments are where the customer's facilities are ready and acceptable to the utility and the utility needs only to install a meter, read a meter, or turn the service on.
 4. Service establishments with an Electric Service Provider will be scheduled for the next regular meter read date if the direct access service request is provided 15 calendar days prior to that date and appropriate metering equipment is in place. If a direct access service request is made in less than 15 days prior to the next regular read date, service will be established at the next regular meter read date thereafter. The utility may offer after-hours or earlier service for a fee. This Section shall not apply to the establishment of new service but is limited to a change of providers of existing electric service.
- E. Temporary service**
1. Applicants for temporary service may be required to pay the utility, in advance of service establishment, the estimated cost of installing and removing the facilities necessary for furnishing the desired service.

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2. Where the duration of service is to be less than one month, the applicant may also be required to advance a sum of money equal to the estimated bill for service.
3. Where the duration of service is to exceed one month, the applicant may also be required to meet the deposit requirements of the utility.
4. If at any time during the term of the agreement for services the character of a temporary customer's operations changes so that in the opinion of the utility the customer is classified as permanent, the terms of the utility's line extension rules shall apply.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency amendment replaced by exempt permanent amendment effective December 31, 1998 (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 3933, effective September 24, 1999 (Supp. 99-3). Amended by exempt rulemaking at 6 A.A.R. 4180, effective October 13, 2000 (Supp. 00-4).

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R14-2-204. Minimum Customer Information Requirements**A. Information for residential customers**

1. A utility shall make available upon customer request not later than 15 days from the date of request a concise summary of the rate schedule applied for by such customer. The summary shall include the following:
 - a. The monthly minimum or customer charge, identifying the amount of the charge and the specific amount of usage included in the minimum charge, where applicable.
 - b. Rate blocks, where applicable.
 - c. Any adjustment factor and method of calculation.
2. The utility shall to the extent practical identify its tariff that is most advantageous to the customer and notify the customer of such prior to service commencement.
3. In addition, a utility shall make available upon customer request, not later than 60 days from date of service commencement, a concise summary of the utility's tariffs or the Commission's rules and regulations concerning:
 - a. Deposits
 - b. Termination of service
 - c. Billing and collection
 - d. Complaint handling.
4. Each utility upon request of a customer shall transmit a written statement of actual consumption by such customer for each billing period during the prior 12 months unless such data is not reasonably ascertainable.
5. Each utility shall inform all new customers of their right to obtain the information specified above.

B. Information required due to changes in tariffs

1. Each utility shall transmit to affected customers a concise summary of any change in the utility's tariffs affecting those customers.
2. This information shall be transmitted to the affected customer within 60 days of the effective date of the change.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency amendment replaced by exempt permanent amendment effective December 31, 1998 (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 3933, effective September 24, 1999 (Supp. 99-3).

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R14-2-205. Master Metering**A. Mobile home parks -- new construction/expansion**

1. A utility shall refuse service to all new construction or expansion of existing permanent residential mobile home parks unless the construction or expansion is individually metered by the utility. Line extensions and service connections to serve such expansion shall be governed by the line extension and service connection tariff of the appropriate utility.
2. Permanent residential mobile home parks for the purpose of this rule shall mean mobile home parks where, in the opinion of the utility, the average length of stay for an occupant is a minimum of six months.
3. For the purpose of this rule, expansion means the acquisition of additional real property for permanent residential spaces in excess of that existing at the effective date of this rule.

B. Residential apartment complexes, condominiums, and other multiunit residential buildings

1. Master metering shall not be allowed for new construction of apartment complexes and condominiums unless the building or buildings will be served by a centralized heating, ventilation or air conditioning system and the contractor can provide to the utility an analysis demonstrating that the central unit will result in a favorable cost/benefit relationship.
2. At a minimum, the cost/benefit analysis should consider the following elements for a central unit as compared to individual units:
 - a. Equipment and labor costs,
 - b. Financing costs,
 - c. Maintenance costs,
 - d. Estimated kwh usage,
 - e. Estimated kw demand on a coincident demand and noncoincident demand basis (for individual units),
 - f. Cost of meters and installation, and
 - g. Customer accounting cost (one account vs. several accounts).

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended by exempt rulemaking at 5 A.A.R. 3933, effective September 24, 1999 (Supp. 99-3).

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exemption means that the rules as amended were not approved by the Attorney General.

R14-2-206. Service Lines and Establishments

A. Priority and timing of service establishments

1. After an applicant has complied with the utility's application and deposit requirements and has been accepted for service by the utility, the utility shall schedule that customer for service establishment.
2. Service establishments shall be scheduled for completion within five working days of the date the customer has been accepted for service, except in those instances when the customer requests service establishment beyond the five working day limitation.
3. When a utility has made arrangements to meet with a customer for service establishment purposes and the utility or the customer cannot make the appointment during the prearranged time, the utility shall reschedule the service establishment to the satisfaction of both parties.
4. A utility shall schedule service establishment appointments within a maximum range of four hours during normal working hours, unless another time-frame is mutually acceptable to the utility and the customer.
5. Service establishments shall be made only by qualified utility service personnel.
6. For the purposes of this rule, service establishments are where the customer's facilities are ready and acceptable to the utility and the utility needs only to install or read a meter or turn the service on.

B. Service lines

1. Customer provided facilities
 - a. Each applicant for services shall be responsible for all inside wiring including the service entrance and meter socket.
 - b. Meters and service switches in conjunction with the meter shall be installed in a location where the meters will be readily and safely accessible for reading, testing and inspection and where such activities will cause the least interference and inconvenience to the customer. However, the meter locations shall not be on the front exterior wall of the home; or in the carport or garage, unless mutually agreed to between the home builder or customer and the utility. The customer shall provide, without cost to the utility, at a suitable and easily accessible location, sufficient and proper space for installation of meters.
 - c. Where the meter or service line location on the customer's premises is changed at the request of the customer or due to alterations on the customer's premises, the customer shall provide and have installed at his expense all wiring and equipment necessary for relocating the meter and service line connection and the utility may make a charge for moving the meter or service line.
2. Company provided facilities
 - a. Each utility shall file, in Docket Control, for Commission approval, a service line tariff which defines the maximum footage or equipment allowance to be provided by the utility at no charge. The maximum footage or equipment allowance may be differentiated by customer class.
 - b. The cost of any service line in excess of that allowed at no charge shall be paid for by the customer as a contribution in aid of construction.
 - c. A customer requesting an underground service line in an area served by overhead facilities shall pay for the difference between an overhead service connec-

tion and the actual cost of the underground connection as a nonrefundable contribution.

C. Easements and rights-of-way

1. Each customer shall grant adequate easement and right-of-way satisfactory to the utility to ensure that customer's proper service connection. Failure on the part of the customer to grant adequate easement and right-of-way shall be grounds for the utility to refuse service.
2. When a utility discovers that a customer or customer's agent is performing work or has constructed facilities adjacent to or within an easement or right-of-way and such work, construction or facility poses a hazard or is in violation of federal, state or local laws, ordinances, statutes, rules or regulations, or significantly interferes with the utility's access to equipment, the utility shall notify the customer or customer's agent and shall take whatever actions are necessary to eliminate the hazard, obstruction, or violation at the customer's expense.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended by exempt rulemaking at 5 A.A.R. 3933, effective September 24, 1999 (Supp. 99-3). Amended by exempt rulemaking at 6 A.A.R. 4180, effective October 13, 2000 (Supp. 00-4).

Editor's Note: The following Section was amended under an exemption from the Attorney General certification provisions of the Arizona Administrative Procedure Act (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)), as determined by the Corporation Commission. This exemption means that the rules as amended were not certified by the Attorney General.

R14-2-207. Line Extensions

A. General requirements

1. Each utility shall file, in Docket Control, for Commission approval, a line extension tariff which incorporates the provisions of this rule and specifically defines the conditions governing line extensions.
2. Upon request by an applicant for a line extension, the utility shall prepare, without charge, a preliminary sketch and rough estimate of the cost of installation to be paid by said applicant.
3. Any applicant for a line extension requesting the utility to prepare detailed plans, specifications, or cost estimates may be required to deposit with the utility an amount equal to the estimated cost of preparation. The utility shall, upon request, make available within 90 days after receipt of the deposit referred to above, such plans, specifications, or cost estimates of the proposed line extension. Where the applicant authorizes the utility to proceed with construction of the extension, the deposit shall be credited to the cost of construction; otherwise the deposit shall be nonrefundable. If the extension is to include oversizing of facilities to be done at the utility's expense, appropriate details shall be set forth in the plans, specifications and cost estimates. Subdivisions providing the utility with approved plans shall be provided with plans, specifications, or cost estimates within 45 days after receipt of the deposit referred to above.
4. Where the utility requires an applicant to advance funds for a line extension, the utility shall furnish the applicant with a copy of the line extension tariff of the appropriate utility prior to the applicant's acceptance of the utility's extension agreement.
5. All line extension agreements requiring payment by the applicant shall be in writing and signed by each party.

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6. The provisions of this rule apply only to those applicants who in the utility's judgment will be permanent customers of the utility. Applications for temporary service shall be governed by the Commission's rules concerning temporary service applications.
- B. Minimum written agreement requirements**
 1. Each line extension agreement shall, at a minimum, include the following information:
 - a. Name and address of applicant or applicants;
 - b. Proposed service address or location;
 - c. Description of requested service;
 - d. Description and sketch of the requested line extension;
 - e. A cost estimate to include materials, labor, and other costs as necessary;
 - f. Payment terms;
 - g. A concise explanation of any refunding provisions, if applicable;
 - h. The utility's estimated start date and completion date for construction of the line extension; and
 - i. A summary of the results of the economic feasibility analysis performed by the utility to determine the amount of advance required from the applicant for the proposed line extension.
 2. Each applicant shall be provided with a copy of the written line extension agreement.
- C. Line extension requirements.** Each line extension tariff shall include the following provisions:
 1. A maximum footage or equipment allowance to be provided by the utility at no charge. The maximum footage or equipment allowance may be differentiated by customer class.
 2. An economic feasibility analysis for those extensions which exceed the maximum footage or equipment allowance. Such economic feasibility analysis shall consider the incremental revenues and costs associated with the line extension. In those instances where the requested line extension does not meet the economic feasibility criteria established by the utility, the utility may require the customer to provide funds to the utility, which will make the line extension economically feasible. The methodology employed by the utility in determining economic feasibility shall be applied uniformly and consistently to each applicant requiring a line extension.
 3. The timing and methodology by which the utility will refund any advances in aid of construction as additional customers are served off the line extension. The customer may request an annual survey to determine if additional customers have been connected to and are using service from the extension. In no case shall the amount of the refund exceed the amount originally advanced.
 4. All advances in aid of construction shall be noninterest bearing.
 5. If after five years from the utility's receipt of the advance, the advance has not been totally refunded, the advance shall be considered a contribution in aid of construction and shall no longer be refundable.
- D. Residential subdivision development and permanent mobile home parks.** Each utility shall submit as a part of its line extension tariff separate provisions for residential subdivision developments and permanent mobile home parks.
- E. Single phase underground extensions in subdivision developments**
 1. Extensions of single phase electric lines necessary to furnish permanent electric service to new residential buildings or mobile homes within a subdivision, in which facilities for electric service have not been constructed, for which applications are made by a developer shall be installed underground in accordance with the provisions set forth in this rule except where it is not feasible from an engineering, operational, or economic standpoint.
2. Rights-of-way easements
 - a. The utility shall construct or cause to be constructed and shall own, operate, and maintain all underground electric distribution and service lines along public streets, roads, and highways and on public lands and private property which the utility has the legal right to occupy.
 - b. Rights-of-way and easements suitable to the utility must be furnished by the developer at no cost to the utility and in reasonable time to meet service requirements. No underground electric facilities shall be installed by a utility until the final grades have been established and furnished to the utility. In addition, the easement strips, alleys and streets must be graded to within six inches of final grade by the developer before the utility will commence construction. Such clearance and grading must be maintained by the developer during construction by the utility.
 - c. If, subsequent to construction, the clearance or grade is changed in such a way as to require relocation of the underground facilities or results in damage to such facilities, the cost of such relocation or resulting repairs shall be borne by the developer.
3. Installation of single phase underground electric lines within a subdivision
 - a. The developer shall provide the trenching, backfill (including any imported backfill required), compaction, repaving, and any earthwork for pull boxes and transformer pad sites required to install the underground electric system all in accordance with the specifications and schedules of the utility.
 - b. Each utility shall inspect the trenching provided by the developer within 24 hours after a mutually agreed upon trench opening date, and allow for phased inspection of trenching as mutually agreed upon by the developer and utility. In all cases, the utility shall make every effort to expedite the inspection of developer provided trenching. The utility shall assume responsibility for the trench within three working days after the utility has inspected and approved the trenching.
 - c. The utility shall install or cause to be installed underground electric lines and related equipment with sufficient capacity and suitable materials that ensure adequate and reasonable electric service in the foreseeable future and in accordance with the applicable provisions of Institute of Electrical and Electronic Engineers, Inc., Pub. No. C2-2007, The National Electrical Safety Code (2007), including no future editions or amendments, which is incorporated by reference, on file with the Commission, and published by and available from the Institute of Electrical and Electronic Engineers, Inc., 3 Park Avenue, 17th Floor, New York, New York 10016, and through <http://ieeexplore.ieee.org>.
 - d. Underground service lines from underground residential distribution systems shall be owned, operated and maintained by the utility, and shall be installed pursuant to its effective underground line

extension and service connection tariffs on file with the Commission.

4. Special conditions

- a. When the application of any of the provisions of subsection (E) appears to either party not to be feasible from an engineering, operational, or economic standpoint, the utility or the developer may refer the matter to the Commission for a determination as to whether an exception to the underground policy expressed within the provisions of this rule is warranted. Interested third parties may present their views to the Commission in conjunction with such referrals.
- b. Notwithstanding any provision of this regulation to the contrary, no utility shall construct overhead single phase electric lines in any new subdivision to which this rule is applicable and which is contiguous to another subdivision in which electric service is furnished underground without the approval of the Commission.
- c. Underground service lines installed pursuant to subsection (E) and accepted by the utility shall not be replaced with an overhead distribution pole line except upon a verified application of the utility, as stated in subsection (E)(4)(a).

5. Nonapplicability

- a. Any underground electric distribution system requiring more than single phase service is not covered by this regulation and shall be constructed pursuant to the effective line extension rules and regulations or policies of the affected utility on file with the Commission.
- b. If there are one or more existing distribution pole lines or lines on or across a recorded subdivision at the time of the application for electrical service for the subdivision and the line will be utilized in the subdivision. (This would not apply if the pole line were serving a building or groups of buildings or any other type of service which would be removed before construction is finished.)
- c. A distribution pole line that parallels a boundary of a subdivision and this line can serve lots within the subdivision.
- d. Subdivisions recorded prior to the effective date of this rule shall be governed by the terms and conditions of subsection (E).

F. Ownership of facilities. Any facilities installed hereunder shall be the sole property of the utility.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended subsection (E)(3)(c) effective April 1, 1986 (Supp. 86-2).

Amended effective August 6, 1991 (Supp. 91-3).

Amended effective August 16, 1996 (Supp. 96-3).

Amended by exempt rulemaking at 5 A.A.R. 2054, effective June 4, 1999 (Supp. 99-2). Amended by exempt rulemaking at 5 A.A.R. 3933, effective September 24, 1999 (Supp. 99-3). Amended to correct subsection numbering (Supp. 99-4). Amended by exempt rulemaking at 6 A.A.R. 4180, effective October 13, 2000 (Supp. 00-4). Amended by final rulemaking at 15 A.A.R. 1933, effective December 27, 2009 (Supp. 09-4).

Editor's Note: The following Section was amended under an exemption from the Attorney General approval provisions of the Arizona Administrative Procedure Act (*State ex. rel. Corbin v. Arizona Corporation Commission*, 174 Ariz. 216 848 P.2d 301

(App. 1992)), as determined by the Corporation Commission. This exemption means that the rules as amended were not approved by the Attorney General.

R14-2-208. Provision of Service

A. Utility responsibility

1. Each utility shall be responsible for the safe transmission and distribution of electricity until it passes the point of delivery to the customer.
2. The entity having control of the meter shall be responsible for maintaining in safe operating condition all meters, equipment, and fixtures installed on the customer's premises by the entity for the purposes of delivering electric service to the customer.
3. The Utility Distribution Company may, at its option, refuse service until the customer has obtained all required permits and inspections indicating that the customer's facilities comply with local construction and safety standards.

B. Customer responsibility

1. Each customer shall be responsible for maintaining all customer facilities on the customer's side of the point of delivery in safe operating condition.
2. Each customer shall be responsible for safeguarding all utility property installed in or on the customer's premises for the purpose of supplying utility service to that customer.
3. Each customer shall exercise all reasonable care to prevent loss or damage to utility property, excluding ordinary wear and tear. The customer shall be responsible for loss of or damage to utility property on the customer's premises arising from neglect, carelessness, or misuse and shall reimburse the utility for the cost of necessary repairs or replacements.
4. Each customer shall be responsible for payment for any equipment damage and estimated unmetered usage resulting from unauthorized breaking of seals, interfering, tampering, or bypassing the utility meter.
5. Each customer shall be responsible for notifying the utility of any equipment failure identified in the utility's equipment.

C. Continuity of service. Each utility shall make reasonable efforts to supply a satisfactory and continuous level of service. However, no utility shall be responsible for any damage or claim of damage attributable to any interruption or discontinuation of service resulting from:

1. Any cause against which the utility could not have reasonably foreseen or made provision for, that is, force majeure.
2. Intentional service interruptions to make repairs or perform routine maintenance.
3. Curtailment.

D. Service interruptions

1. Each utility shall make reasonable efforts to reestablish service within the shortest possible time when service interruptions occur.
2. Each utility shall make reasonable provisions to meet emergencies resulting from failure of service, and each utility shall issue instructions to its employees covering procedures to be followed in the event of emergency in order to prevent or mitigate interruption or impairment of service.
3. In the event of a national emergency or local disaster resulting in disruption of normal service, the utility may, in the public interest, interrupt service to other customers to provide necessary service to civil defense or other

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emergency service agencies on a temporary basis until normal service to these agencies can be restored.

4. When a utility plans to interrupt service for more than four hours to perform necessary repairs or maintenance, the utility shall attempt to inform affected customers at least 24 hours in advance of the scheduled date and estimated duration of the service interruption. Such repairs shall be completed in the shortest possible time to minimize the inconvenience to the customers of the utility.
 5. The Commission, Consumer Services Section, shall be notified of interruption in service affecting the entire system or any significant portion thereof. The interruption of service and cause shall be reported by telephone to the Commission within two hours after the responsible representative of the utility becomes aware of said interruption and followed by a written report to the Commission.
- E. Curtailment. Each utility shall file with the Commission, through Docket Control, as a part of its general tariffs a procedural plan for handling severe supply shortages or service curtailments. The plan shall provide for equitable treatment of individual customer classes in the most reasonable and effective manner given the existing circumstances. When the availability of service is so restricted that the reduction of service on a proportionate basis to all customer classes will not maintain the integrity of the total system, the utility shall develop procedures to curtail service giving service priority to those customers and customer classes where health, safety and welfare would be adversely affected.
- F. Construction standard and safety
1. Each utility shall construct all facilities in accordance with the provisions of Institute of Electrical and Electronic Engineers, Inc., Pub. No. C2-2007, The National Electrical Safety Code (2007), which is incorporated by reference in R14-2-207(E)(3)(c), and American Society of Mechanical Engineers, Pub. No. ANSI/ASME B31.1-2007, Power Piping (2007), including no future editions or amendments, which is incorporated by reference, on file with the Commission, and published by and available from the American Society of Mechanical Engineers, 3 Park Avenue, New York, New York 10016, and through <http://catalog.asme.org>.
 2. Each utility shall adopt a standard alternating nominal voltage or standard alternating nominal voltages (as may be required by its distribution system) for its entire service area or for each of the several districts into which the system may be divided, which standard voltage or voltages shall be stated in the rules and regulations of each utility and shall be measured at the customer's service entrance. Each utility shall, under normal operating conditions, maintain its standard voltage or voltages within the limits of National Electrical Manufacturers Association, Pub. No. ANSI C84.1-2006, American National Standard for Electric Power Systems and Equipment-Voltage Ratings (60 Hertz) (2006), including no future editions or amendments, which is incorporated by reference, on file with the Commission, and published by and available from the National Electrical Manufacturers Association, 1300 North 17th Street, Suite 1752, Rosslyn, Virginia 22209, and through <http://www.nema.org>.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended subsections (D)(5) and (F)(1) and (2) effective April 1, 1986 (Supp. 86-2). Amended effective February 8, 1991 (Supp. 91-1). Amended effective August 16, 1996 (Supp. 96-3). Amended by an emergency action effective August

10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency amendment replaced by exempt permanent amendment effective December 31, 1998 (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 2054, effective June 4, 1999 (Supp. 99-2). Amended by exempt rulemaking at 5 A.A.R. 3933, effective September 24, 1999 (Supp. 99-3). Amended to correct subsection numbering (Supp. 99-4). Amended by exempt rulemaking at 6 A.A.R. 4180, effective October 13, 2000 (Supp. 00-4). Amended by final rulemaking at 15 A.A.R. 1933, effective December 27, 2009 (Supp. 09-4).

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R14-2-209. Meter Reading

- A. Company or customer meter reading
1. Each utility, billing entity, or Meter Reading Service Provider may at its discretion allow for customer reading of meters.
 2. It shall be the responsibility of the utility or Meter Reading Service Provider to inform the customer how to properly read his meter.
 3. Where a customer reads his own meter, the utility or Meter Reading Service Provider will read the customer's meter at least once every six months.
 4. The utility, billing entity, or Meter Reading Service Provider shall provide the customer with postage-paid cards or other methods to report the monthly reading.
 5. Each utility or Meter Reading Service Provider shall specify the timing requirements for the customer to submit his or her monthly meter reading to conform with the utility's billing cycle.
 6. Where the Electric Service Provider is responsible for meter reading, reads will be available for the Utility Distribution Company's or billing entity's billing cycle for that customer, or as otherwise agreed upon by the Electric Service Provider and the Utility Distribution Company or billing entity.
 7. In the event the customer fails to submit the reading on time, the utility or billing entity may issue the customer an estimated bill.
 8. In the event the Electric Service Provider responsible for meter reading fails to deliver reads to the Meter Reading Service Provider server within three days of the scheduled cycle read date, the Affected Utility may estimate the reads. In the event the Affected Utility responsible for meter reading fails to deliver reads to the Meter Reader Service Provider server within three days of the scheduled cycle read date, the Electric Service Provider may estimate the reads.
 9. Meters shall be read monthly on as close to the same day as practical.
- B. Measuring of service
1. All energy sold to customers and all energy consumed by the utility, except that sold according to fixed charge schedules, shall be measured by commercially acceptable measuring devices, except where it is impractical to install meters, such as street lighting or security lighting, or where otherwise authorized by the Commission.

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2. When there is more than one meter at a location, the metering equipment shall be so tagged or plainly marked as to indicate the circuit metered or metering equipment.
3. Meters which are not direct reading shall have the multiplier plainly marked on the meter.
4. All charts taken from recording meters shall be marked with the date of the record, the meter number, customer, and chart multiplier.
5. Metering equipment shall not be set "fast" or "slow" to compensate for supply transformer or line losses.

C. Meter rereads

1. Each utility or Meter Reading Service Provider shall at the request of a customer, or the customer's Electric Service Provider, Utility Distribution Company (as defined in R14-2-1601), or billing entity reread that customer's meter within 10 working days after such a request.
2. Any reread may be charged to the customer, or the customer's Electric Service Provider, Utility Distribution Company (as defined in R14-2-1601), or billing entity making the request at a rate on file and approved by the Commission, provided that the original reading was not in error.
3. When a reading is found to be in error, the reread shall be at no charge to the customer, or the customer's Electric Service Provider, Utility Distribution Company (as defined in R14-2-1601), or billing entity.

D. Access to customer premises. Each utility shall have the right of safe ingress to and egress from the customer's premises at all reasonable hours for any purpose reasonably connected with property used in furnishing service and the exercise of any and all rights secured to it by law or these rules.**E. Meter testing and maintenance program.**

1. Each utility shall file with the Commission, through the Compliance Section, a plan for the routine maintenance and replacement of meters that meets the requirements of National Electrical Manufacturers Association, Pub. No. ANSI C12.1-2008, American National Standard for Electric Meters: Code for Electricity Metering (2008), including no future editions or amendments, which is incorporated by reference, on file with the Commission, and published by and available from the National Electrical Manufacturers Association, 1300 North 17th Street, Suite 1752, Rosslyn, Virginia 22209, and through www.nema.org.
2. Each utility shall file an annual report with the Commission, through Docket Control, summarizing the results of the meter maintenance and testing program for that year. At a minimum, the report should include the following data:
 - a. Total number of meters tested, at company initiative or upon customer request.
 - b. Number of meters tested that were outside the acceptable error allowance of +3%.

F. Request for meter tests. A utility or Meter Service Provider shall test a meter upon the request of the customer, or the customer's Electric Service Provider, Utility Distribution Company (as defined in R14-2-1601), or billing entity, and each utility or billing entity shall be authorized to charge the customer, or the customer's Electric Service Provider, Utility Distribution Company (as defined in R14-2-1601), or billing entity for such meter test according to the tariff on file and approved by the Commission. However, if the meter is found to be in error by more than 3%, no meter testing fee will be charged to the customer, or the customer's Electric Service Provider, Utility Distribution Company, or billing entity.**Historical Note**

Adopted effective March 2, 1982 (Supp. 82-2). Amended subsection (E)(1) effective April 1, 1986 (Supp. 86-2).

Amended effective February 8, 1991 (Supp. 91-1).

Amended effective August 16, 1996 (Supp. 96-3).

Amended by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency amendment replaced by exempt permanent amendment effective December 31, 1998 (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 3933, effective September 24, 1999 (Supp. 99-3). Amended by exempt rulemaking at 6 A.A.R. 4180, effective October 13, 2000 (Supp. 00-4). Amended by final rulemaking at 15 A.A.R. 1933, effective December 27, 2009 (Supp. 09-4).

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R14-2-210. Billing and Collection**A. Frequency and estimated bills**

1. Unless otherwise approved by the Commission, the utility or billing entity shall render a bill for each billing period to every customer in accordance with its applicable rate schedule and may offer billing options for the services rendered. Meter readings shall be scheduled for periods of not less than 25 days or more than 35 days without customer authorization. If the utility or Meter Reading Service Provider changes a meter reading route or schedule resulting in a significant alteration of billing cycles, notice shall be given to the affected customers.
2. Each billing statement rendered by the utility or billing entity shall be computed on the actual usage during the billing period. If the utility or Meter Reading Service Provider is unable to obtain an actual reading, the utility or billing entity may estimate the consumption for the billing period giving consideration the following factors where applicable:
 - a. The customer's usage during the same month of the previous year,
 - b. The amount of usage during the preceding month.
3. Estimated bills will be issued only under the following conditions unless otherwise approved by the Commission:
 - a. When extreme weather conditions, emergencies, or work stoppages prevent actual meter readings.
 - b. Failure of a customer who reads his own meter to deliver his meter reading to the utility or Meter Reading Service Provider in accordance with the requirements of the utility or Meter Reading Service Provider billing cycle.
 - c. When the utility or Meter Reading Service Provider is unable to obtain access to the customer's premises for the purpose of reading the meter, or in situations where the customer makes it unnecessarily difficult to gain access to the meter, that is, locked gates, blocked meters, vicious or dangerous animals. If the utility or Meter Reading Service Provider is unable to obtain an actual reading for these reasons, it shall undertake reasonable alternatives to obtain a customer reading of the meter.

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- d. Due to customer equipment failure, a one-month estimation will be allowed. Failure to remedy the customer equipment condition will result in penalties for Meter Service Providers as imposed by the Commission.
 - e. To facilitate timely billing for customers using load profiles.
- 4. After the third consecutive month of estimating the customer's bill due to lack of meter access, the utility or Meter Reading Service Provider will attempt to secure an accurate reading of the meter. Failure on the part of the customer to comply with a reasonable request for meter access may lead to discontinuance of service.
- 5. A utility or billing entity may not render a bill based on estimated usage if:
 - a. The estimating procedures employed by the utility or billing entity have not been approved by the Commission.
 - b. The billing would be the customer's first or final bill for service.
 - c. The customer is a direct-access customer requiring load data.
 - d. The utility can obtain customer-supplied meter readings to determine usage.
- B. Combining meters, minimum bill information
 - 1. Each meter at a customer's premise will be considered separately for billing purposes, and the readings of two or more meters will not be combined unless otherwise provided for in the utility's tariffs. This provision does not apply in the case of aggregation of competitive services as described in R14-2-1601.
 - 2. Each bill for residential service will contain the following minimum information:
 - a. The beginning and ending meter readings of the billing period, the dates thereof, and the number of days in the billing period;
 - b. The date when the bill will be considered due and the date when it will be delinquent, if not the same;
 - c. Billing usage, demand (if measured), basic monthly service charge, and total amount due;
 - d. Rate schedule number or service offer;
 - e. Customer's name and service account number;
 - f. Any previous balance;
 - g. Fuel adjustment cost, where applicable;
 - h. License, occupation, gross receipts, franchise, and sales taxes;
 - i. The address and telephone numbers of the Electric Service Provider, and/or the Utility Distribution Company, designating where the customer may initiate an inquiry or complaint concerning the bill or services rendered;
 - j. The Arizona Corporation Commission address and toll-free telephone numbers;
 - k. Other unbundled rates and charges.
- C. Billing terms
 - 1. All bills for utility services are due and payable no later than 15 days from the date of the bill. Any payment not received within this time-frame shall be considered delinquent and could incur a late payment charge.
- 2. For purposes of this rule, the date a bill is rendered may be evidenced by:
 - a. The postmark date;
 - b. The mailing date;
 - c. The billing date shown on the bill (however, the billing date shall not differ from the postmark or mailing date by more than two days); and
 - d. The transmission date for electronic bills.
- 3. All delinquent bills shall be subject to the provisions of the utility's termination procedures.
- 4. All payments shall be made at or mailed to the office of the utility or to the utility's authorized payment agency or the office of the billing entity. The date on which the utility actually receives the customer's remittance is considered the payment date.
- D. Applicable tariffs, prepayment, failure to receive, commencement date, taxes
 - 1. Each customer shall be billed under the applicable tariff indicated in the customer's application for service.
 - 2. Each utility or billing entity shall make provisions for advance payment of utility services.
 - 3. Failure to receive bills or notices which have been properly placed in the United States mail shall not prevent such bills from becoming delinquent nor relieve the customer of his obligations therein.
 - 4. Charges for electric service commence when the service is actually installed and connection made, whether used or not. A minimum one-month billing period is established on the date the service is installed (excluding landlord/utility special agreements).
 - 5. Charges for services disconnected after one month shall be prorated back to the customer of record.
- E. Meter error corrections
 - 1. If a tested meter is found to be more than 3% in error, either fast or slow, the correction of previous bills will be made under the following terms allowing the utility or billing entity to recover or refund the difference:
 - a. If the date of the meter error can be definitely fixed, the utility or billing entity shall adjust the customer's billings back to that date. If the customer has been underbilled, the utility or billing entity will allow the customer to repay this difference over an equal length of time that the underbillings occurred. The customer may be allowed to pay the backbill without late payment penalties, unless there is evidence of meter tampering or energy diversion.
 - b. If it is determined that the customer has been overbilled and there is no evidence of meter tampering or energy diversion, the utility or billing entity will make prompt refunds in the difference between the original billing and the corrected billing within the next billing cycle.
 - 2. No adjustment shall be made by the utility except to the customer last served by the meter tested.
 - 3. Any underbilling resulting from a stopped or slow meter, utility or Meter Reading Service Provider meter reading error, or a billing calculation shall be limited to three months for residential customers and six months for non-residential customers. However, if an underbilling by the utility occurs due to inaccurate, false, or estimated information from a third party, then that utility will have a right to backbill that third party to the point in time that may be definitely fixed, or 12 months. No such limitation will apply to overbillings.
- F. Insufficient funds (NSF) or returned checks

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1. A utility or billing entity shall be allowed to recover a fee, as approved by the Commission in a tariff proceeding, for each instance where a customer tenders payment for electric service with a check or other financial instrument which is returned by the customer's bank or other financial institution.
 2. When the utility or billing entity is notified by the customer's bank or other financial institution that the check or financial instrument tendered for utility service will not clear, the utility or billing entity may require the customer to make payment in cash, by money order, certified check, or other means to guarantee the customer's payment.
 3. A customer who tenders such a check or financial instrument shall in no way be relieved of the obligation to render payment to the utility or billing entity under the original terms of the bill nor defer the utility's provision of termination of service for nonpayment of bills.
- G. Levelized billing plan**
1. Each utility may, at its option, offer its customers a levelized billing plan.
 2. Each utility offering a levelized billing plan shall develop, upon customer request, an estimate of the customer's levelized billing for a 12-month period based upon:
 - a. Customer's actual consumption history, which may be adjusted for abnormal conditions such as weather variations.
 - b. For new customers, the utility will estimate consumption based on the customer's anticipated load requirements.
 - c. The utility's tariff schedules approved by the Commission applicable to that customer's class of service.
 3. The utility shall provide the customer a concise explanation of how the levelized billing estimate was developed, the impact of levelized billing on a customer's monthly utility bill, and the utility's right to adjust the customer's billing for any variation between the utility's estimated billing and actual billing.
 4. For those customers being billed under a levelized billing plan, the utility shall show, at a minimum, the following information on their monthly bill:
 - a. Actual consumption,
 - b. Dollar amount due for actual consumption,
 - c. Levelized billing amount due, and
 - d. Accumulated variation in actual-versus-levelized billing amount.
 5. The utility may adjust the customer's levelized billing in the event the utility's estimate of the customer's usage or cost should vary significantly from the customer's actual usage or cost; such review to adjust the amount of the levelized billing may be initiated by the utility or upon customer request.
- H. Deferred payment plan**
1. Each utility may, prior to termination, offer to qualifying residential customers a deferred payment plan for the customer to retire unpaid bills for utility service.
 2. Each deferred payment agreement entered into by the utility and the customer shall provide that service will not be discontinued if:
 - a. Customer agrees to pay a reasonable amount of the outstanding bill at the time the parties enter into the deferred payment agreement.
 - b. Customer agrees to pay all future bills for utility service in accordance with the billing and collection tariffs of the utility.
 - c. Customer agrees to pay a reasonable portion of the remaining outstanding balance in installments over a period not to exceed six months.
3. For the purposes of determining a reasonable installment payment schedule under these rules, the utility and the customer shall give consideration to the following conditions:
 - a. Size of the delinquent account,
 - b. Customer's ability to pay,
 - c. Customer's payment history,
 - d. Length of time that the debt has been outstanding,
 - e. Circumstances which resulted in the debt being outstanding, and
 - f. Any other relevant factors related to the circumstances of the customer.
 4. Any customer who desires to enter into a deferred payment agreement shall establish such agreement prior to the utility's scheduled termination date for nonpayment of bills. The customer's failure to execute such an agreement prior to the termination date will not prevent the utility from disconnecting service for nonpayment.
 5. Deferred payment agreements may be in writing and may be signed by the customer and an authorized utility representative.
 6. A deferred payment agreement may include a finance charge as approved by the Commission in a tariff proceeding.
 7. If a customer has not fulfilled the terms of a deferred payment agreement, the utility shall have the right to disconnect service pursuant to the utility's termination of service rules. Under such circumstances, it shall not be required to offer subsequent negotiation of a deferred payment agreement prior to disconnection.
- I. Change of occupancy**
1. To order service discontinued or to change occupancy, the customer must give the utility at least three working days advance notice in person, in writing, or by telephone.
 2. The outgoing customer shall be responsible for all utility services provided or consumed up to the scheduled turn-off date.
 3. The outgoing customer is responsible for providing access to the meter so that the utility may obtain a final meter reading.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency amendment replaced by exempt permanent amendment effective December 31, 1998 (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 3933, effective September 24, 1999 (Supp. 99-3).

Editor's Note: *The following Section was amended under an exemption from the Attorney General approval provisions of the Arizona Administrative Procedure Act (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)), as determined by the Corporation Commission. This exemption means that the rules as amended were not approved by the Attorney General.*

R14-2-211. Termination of Service

- A.** Nonpermissible reasons to disconnect service. A utility may not disconnect service for any of the reasons stated below:

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1. Delinquency in payment for services rendered to a prior customer at the premises where service is being provided, except in the instance where the prior customer continues to reside on the premises.
 2. Failure of the customer to pay for services or equipment which are not regulated by the Commission.
 3. Nonpayment of a bill related to another class of service.
 4. Failure to pay for a bill to correct a previous underbilling due to an inaccurate meter or meter failure if the customer agrees to pay over a reasonable period of time.
 5. A utility shall not terminate residential service where the customer has an inability to pay and:
 - a. The customer can establish through medical documentation that, in the opinion of a licensed medical physician, termination would be especially dangerous to the health of a customer or a permanent resident residing on the customer's premises, or
 - b. Life supporting equipment used in the home that is dependent on utility service for operation of such apparatus, or
 - c. Where weather will be especially dangerous to health as defined or as determined by the Commission.
 6. Residential service to ill, elderly, or handicapped persons who have an inability to pay will not be terminated until all of the following have been attempted:
 - a. The customer has been informed of the availability of funds from various government and social assistance agencies of which the utility is aware.
 - b. A third party previously designated by the customer has been notified and has not made arrangements to pay the outstanding utility bill.
 7. A customer utilizing the provisions of subsection (A)(4) or (A)(5) above may be required to enter into a deferred payment agreement with the utility within 10 days after the scheduled termination date.
 8. Disputed bills where the customer has complied with the Commission's rules on customer bill disputes.
- B. Termination of service without notice**
1. In a competitive marketplace, the Electric Service Provider cannot order a disconnect for nonpayment but can only send a notice of contract cancellation to the customer and the Utility Distribution Company. Utility service may be disconnected without advance written notice under the following conditions:
 - a. The existence of an obvious hazard to the safety or health of the consumer or the general population or the utility's personnel or facilities.
 - b. The utility has evidence of meter tampering or fraud.
 - c. Failure of a customer to comply with the curtailment procedures imposed by a utility during supply shortages.
 2. The utility shall not be required to restore service until the conditions which resulted in the termination have been corrected to the satisfaction of the utility.
 3. Each utility shall maintain a record of all terminations of service without notice. This record shall be maintained for a minimum of one year and shall be available for inspection by the Commission.
- C. Termination of service with notice**
1. In a competitive marketplace, the Electric Service Provider cannot order a disconnect for nonpayment but can only send a notice of contract cancellation to the customer and the Utility Distribution Company. A utility may disconnect service to any customer for any reason stated below provided the utility has met the notice requirements established by the Commission:
 - a. Customer violation of any of the utility's tariffs,
 - b. Failure of the customer to pay a delinquent bill for utility service,
 - c. Failure to meet or maintain the utility's deposit requirements,
 - d. Failure of the customer to provide the utility reasonable access to its equipment and property,
 - e. Customer breach of a written contract for service between the utility and customer,
 - f. When necessary for the utility to comply with an order of any governmental agency having such jurisdiction.
 2. Each utility shall maintain a record of all terminations of service with notice. This record shall be maintained for one year and be available for Commission inspection.
- D. Termination notice requirements**
1. No utility shall terminate service to any of its customers without providing advance written notice to the customer of the utility's intent to disconnect service, except under those conditions specified where advance written notice is not required.
 2. Such advance written notice shall contain, at a minimum, the following information:
 - a. The name of the person whose service is to be terminated and the address where service is being rendered.
 - b. The utility tariff that was violated and explanation thereof or the amount of the bill which the customer has failed to pay in accordance with the payment policy of the utility, if applicable.
 - c. The date on or after which service may be terminated.
 - d. A statement advising the customer to contact the utility at a specific address or phone number for information regarding any deferred payment or other procedures which the utility may offer or to work out some other mutually agreeable solution to avoid termination of the customer's service.
 - e. A statement advising the customer that the utility's stated reason for the termination of services may be disputed by contacting the utility at a specific address or phone number, advising the utility of the dispute and making arrangements to discuss the cause for termination with a responsible employee of the utility in advance of the scheduled date of termination. The responsible employee shall be empowered to resolve the dispute and the utility shall retain the option to terminate service after affording this opportunity for a meeting and concluding that the reason for termination is just and advising the customer of his right to file a complaint with the Commission.
 3. Where applicable, a copy of the termination notice will be simultaneously forwarded to designated third parties.
- E. Timing of terminations with notice**
1. Each utility shall be required to give at least five days' advance written notice prior to the termination date.
 2. Such notice shall be considered to be given to the customer when a copy thereof is left with the customer or posted first class in the United States mail, addressed to the customer's last known address.
 3. If after the period of time allowed by the notice has elapsed and the delinquent account has not been paid nor arrangements made with the utility for the payment

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thereof or in the case of a violation of the utility's rules the customer has not satisfied the utility that such violation has ceased, the utility may then terminate service on or after the day specified in the notice without giving further notice.

4. Service may only be disconnected in conjunction with a personal visit to the premises by an authorized representative of the utility.
5. The utility shall have the right (but not the obligation) to remove any or all of its property installed on the customer's premises upon the termination of service.

F. Landlord/tenant rule. In situations where service is rendered at an address different from the mailing address of the bill or where the utility knows that a landlord/tenant relationship exists and that the landlord is the customer of the utility, and where the landlord as a customer would otherwise be subject to disconnection of service, the utility may not disconnect service until the following actions have been taken:

1. Where it is feasible to so provide service, the utility, after providing notice as required in these rules, shall offer the occupant the opportunity to subscribe for service in his or her own name. If the occupant then declines to so subscribe, the utility may disconnect service pursuant to the rules.
2. A utility shall not attempt to recover from a tenant or condition service to a tenant with the payment of any outstanding bills or other charges due upon the outstanding account of the landlord.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency amendment replaced by exempt permanent amendment effective December 31, 1998 (Supp. 98-4). Amended to correct subsection numbering (Supp. 99-4). Amended by exempt rulemaking at 6 A.A.R. 4180, effective October 13, 2000 (Supp. 00-4).

Editor's Note: *The following Section was amended under an exemption from the Attorney General approval provisions of the Arizona Administrative Procedure Act (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)), as determined by the Corporation Commission. This exemption means that the rules as amended were not approved by the Attorney General.*

R14-2-212. Administrative and Hearing Requirements

A. Customer service complaints

1. Each utility shall make a full and prompt investigation of all service complaints made by its customers, either directly or through the Commission.
2. The utility shall respond to the complainant and the Commission representative within five working days as to the status of the utility investigation of the complaint.
3. The utility shall notify the complainant and the Commission representative of the final disposition of each complaint. Upon request of the complainant or the Commission representative, the utility shall report the findings of its investigation in writing.
4. The utility shall inform the customer of his right of appeal to the Commission.
5. Each utility shall keep a record of all written service complaints received which shall contain, at a minimum, the following data:
 - a. Name and address of the complainant;
 - b. Date and nature of the complaint;
 - c. Disposition of the complaint; and

- d. A copy of any correspondence between the utility, the customer, and the Commission.

This record shall be maintained for a minimum period of one year and shall be available for inspection by the Commission.

B. Customer bill disputes

1. Any utility customer who disputes a portion of a bill rendered for utility service shall pay the undisputed portion of the bill and notify the utility's designated representative that such unpaid amount is in dispute prior to the delinquent date of the bill.
2. Upon receipt of the customer notice of dispute, the utility shall:
 - a. Notify the customer within five working days of the receipt of a written dispute notice.
 - b. Initiate a prompt investigation as to the source of the dispute.
 - c. Withhold disconnection of service until the investigation is completed and the customer is informed of the results. Upon request of the customer the utility shall report the results of the investigation in writing.
 - d. Inform the customer of his right of appeal to the Commission.
3. Once the customer has received the results of the utility's investigation, the customer shall submit payment within five working days to the utility for any disputed amounts. Failure to make full payment shall be grounds for termination of service.

C. Commission resolution of service and bill disputes

1. In the event a customer and utility cannot resolve a service or bill dispute, the customer shall file a written statement of dissatisfaction with the Commission; by submitting such notice to the Commission, the customer shall be deemed to have filed an informal complaint against the utility.
2. Within 30 days of the receipt of a written statement of customer dissatisfaction related to a service or bill dispute, a designated representative of the Commission shall endeavor to resolve the dispute by correspondence or telephone with the utility and the customer. If resolution of the dispute is not achieved within 20 days of the Commission representative's initial effort, the Commission shall hold an informal hearing to arbitrate the resolution of the dispute. The informal hearing shall be governed by the following rules:
 - a. Each party may be represented by legal counsel, if desired.
 - b. All such informal hearings may be recorded or held in the presence of a stenographer.
 - c. All parties will have the opportunity to present written or oral evidentiary material to support the positions of the individual parties.
 - d. All parties and the Commission's representative shall be given the opportunity for cross-examination of the various parties.
 - e. The Commission's representative will render a written decision to all parties within five working days after the date of the informal hearing. Such written decision of the arbitrator is not binding on any of the parties and the parties will still have the right to make a formal complaint to the Commission.
3. The utility may implement normal termination procedures if the customer fails to pay all bills rendered during the resolution of the dispute by the Commission.

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4. Each utility shall maintain a record of written statements of dissatisfaction and their resolution for a minimum of one year and make such records available for Commission inspection.
- D. Notice by utility of responsible officer or agent**
1. Each utility shall file with the Commission, through Docket Control, a written statement containing the name, address (business, residence and post office) and telephone numbers (business and residence) of at least one officer, agent or employee responsible for the general management of its operations as a utility in Arizona.
 2. Each utility shall give notice, by filing a written statement with the Commission, through Docket Control, of any change in the information required herein within five days from the date of any such change.
- E. Time-frames for processing applications for Certificates of Convenience and Necessity**
1. This rule prescribes time-frames for the processing of any application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.
 2. Within 120 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.
 3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.
 4. After receipt of a corrected application, staff shall notify the applicant within 90 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.
 5. Within 150 days after an application is deemed administratively complete, the Commission shall approve or reject the application.
 6. For purposes of A.R.S. § 41-1072 et seq., the Commission has established the following time-frames:
 - a. Administrative completeness review time-frame: 120 calendar days;
 - b. Substantive review time-frame: 150 calendar days; and
 - c. Overall time-frame: 270 calendar days.
 7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.
 8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.
- F. Filing of tariffs**
1. Each utility shall file with the Commission, through Docket Control, tariffs which are in compliance with the rules and regulations promulgated by the Arizona Corporation Commission within 120 days of the effective date of such rules.
 2. Each utility shall file with the Commission, through Docket Control, any proposed changes to the tariffs on file with the Commission; such proposed changes shall be accompanied by a statement of justification supporting the proposed tariff change.
3. Any proposed change to the tariffs on file with the Commission shall not be effective until reviewed and approved by the Commission.
- G. Accounts and records**
1. Each utility shall keep general and auxiliary accounting records reflecting the cost of its properties, operating income and expense, assets and liabilities, and all other accounting and statistical data necessary to give complete and authentic information as to its properties and operations.
 2. Each utility shall maintain its books and records in conformity with the Uniform Systems of Accounts for Class A, B, C and D Electric Utilities as adopted and amended by the Federal Energy Regulatory Commission or, for electric cooperatives, as promulgated by the Rural Utilities Service.
 3. A utility shall produce or deliver in this state any or all of its formal accounting records and related documents requested by the Commission. It may, at its option, provide verified copies of original records and documents.
 4. All utilities shall submit an annual report to the Commission, through the Compliance Section, Utilities Division, on a form prescribed by it. The annual report shall be filed on or before the 15th day of April for the preceding calendar year. Reports prepared by a certified or licensed public accountant on the utility, if any, shall accompany the annual report.
 5. All utilities shall file with the Commission, through the Compliance Section, Utilities Division, a copy of all annual reports required by the Federal Energy Regulatory Commission and in addition, for electric cooperatives, annual reports required by the Rural Utilities Service.
- H. Maps.** All utilities shall file with the Commission, through Docket Control, a map or maps clearly setting forth the location and extent of the area or areas they hold under approved certificates of convenience and necessity, in accordance with the Cadastral (Rectangular) Survey of the United States Bureau of Land Management, or by metes and bounds with a starting point determined by the aforesaid Cadastral Survey.
- I. Variations, exemptions of Commission rules and regulations.** Variations or exemptions from the terms and requirements of any of the rules included herein (14 A.A.C. 2, Article 2) shall be considered upon the verified application of an affected party to the Commission setting forth the circumstances whereby the public interest requires such variation or exemption from the Commission rules and regulations. Such application will be subject to the review of the Commission, and any variation or exemption granted shall require an order of the Commission. In case of conflict between these rules and regulations and an approved tariff or order of the Commission, the provisions of the tariff or order shall apply.
- J. Prior agreements.** The adoption of these rules by the Commission shall not affect any agreements entered into between the utility and customers or other parties who, pursuant to such contracts, arranged for the extension of facilities in a provision of service prior to the effective date of these rules.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended effective December 31, 1998, under an exemption as determined by the Arizona Corporation Commission (Supp. 98-4). Amended by final rulemaking at 5 A.A.R. 3933, effective September 24, 1999 (Supp. 99-3). Amended to correct subsection numbering (Supp. 99-4).

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Amended by exempt rulemaking at 6 A.A.R. 4180, effective October 13, 2000 (Supp. 00-4).

R14-2-213. Conservation

Energy conservation plan

1. The Arizona Corporation Commission recognizes the need for conservation of energy resources in order to maintain an adequate and continuous supply of safe, dependable, and affordable energy. Therefore, in order to promote the state's economic development and the health and welfare of its citizenry, each class A and B electric utility shall file an energy conservation plan which encompasses at a minimum the following considerations:
 - a. Development of consumer education and assistance programs to aid the populace in reducing energy consumption and cost.
 - b. Participation in various energy conservation programs sponsored by other municipal, state or federal government entities having such jurisdiction.
2. Each utility shall file an energy conservation plan with the Commission, through the Compliance Section, Utilities Division, within one year of the effective date of these rules and annual updates thereafter when changes require such.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended by exempt rulemaking at 6 A.A.R. 4180, effective October 13, 2000 (Supp. 00-4).

ARTICLE 3. GAS UTILITIES**R14-2-301. Definitions**

In this Article, unless the context otherwise requires, the following definitions shall apply:

1. "Advance in aid of construction." Funds provided to the utility by the applicant under the terms of a main extension agreement the value of which may be refundable.
2. "Applicant." A person requesting the utility to supply gas service.
3. "Application." A request to the utility for gas service, as distinguished from an inquiry as to the availability or charges for such service.
4. "Arizona Corporation Commission." The regulatory authority of the state of Arizona having jurisdiction over public service corporations operating in Arizona.
5. "Billing month." The period between any two regular readings of the utility's meters at approximately 30 day intervals.
6. "Billing period." The time interval between two consecutive meter readings that are taken for billing purposes.
7. "British Thermal Unit." The amount of heat required to raise the temperature of one pound of water one degree Fahrenheit (1° F) at standard conditions.
8. "Btu." British thermal unit.
9. "Commodity charge." The unit of cost per billed usage, as set forth in the utility's tariffs.
10. "Contributions in aid of construction." Funds provided to the utility by the applicant under the terms of a main extension agreement and/or service connection tariff the value of which are not refundable.
11. "Cubic foot"
 - a. In cases where gas is supplied and metered to customers at the standard delivery pressure, a cubic foot of gas is the volume of gas which, at the temperature and pressure existing in the meter, occupies one cubic foot.
 - b. Regardless of the pressure supplied to the customer, the volume of gas metered will be converted to the volume which the gas would occupy at standard conditions of 14.73 pounds per square inch absolute at 60° F.
 - c. The standard cubic foot of gas for testing the gas itself for heating value shall be that volume of gas which, when saturated with water vapor and at a temperature of 60° F and under a pressure equivalent to that of 30 inches of mercury (mercury at 32° F and under standard gravity), occupies one cubic foot.
12. "Ccf." 100 cubic feet.
13. "Curtailed priority." The order in which gas service is to be curtailed to various classifications of customers, as set forth in the utility's tariffs.
14. "Customer." The person or entity in whose name service is rendered, as evidenced by the signature on the application or contract for that service, or by the receipt and/or payment of bills regularly issued in his name regardless of the identity of the actual user of the service.
15. "Customer charge." The amount the customer must pay the utility for the availability of gas service, excluding any gas used, as specified in the utility's tariffs.
16. "Day." Calendar day.
17. "Distribution main." A gas line of the utility from which service lines may be extended to customers.
18. "Elderly." A person who is 62 years of age or older.
19. "Handicapped." A person with a physical or mental condition which substantially contributes to the person's inability to manage his or her own resources, carry out activities of daily living, or protect oneself from neglect or hazardous situations without assistance from others.
20. "Illness." A medical ailment or sickness for which a residential customer obtains a verifiable document from a licensed medical physician stating the nature of the illness and that discontinuance of service would be especially dangerous to the customer's health in the opinion of a licensed medical physician.
21. "Inability to pay." Circumstances where a residential customer:
 - a. Is not gainfully employed and unable to pay, or
 - b. Qualifies for government welfare assistance, but has not begun to receive assistance on the date that he receives his bill and can obtain verification from the government welfare assistance agency, or
 - c. Has an annual income below the published federal poverty level and can produce evidence of this, and
 - d. Signs a declaration verifying that the customer meets one of the above criteria and is either elderly, handicapped, or suffers from an illness.
22. "Interruptible gas service." Gas service that is subject to interruption or curtailment as specified in the utility's tariff.
23. "Main extension." The lines and equipment necessary to extend the existing gas distribution system to provide service to additional customers.
24. "Master meter." An instrument for measuring or recording the flow of gas at a single location where said gas is transported through an underground piping system to tenants or occupants for their individual consumption.
25. "Mcf." 1,000 cubic feet.
26. "Meter." The instrument for measuring and indicating or recording the volume of gas or flow that has passed through it.

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27. "Meter tampering." A situation where a meter has been illegally altered. Common examples are meter bypassing and other unauthorized connections.
28. "Minimum charge." The amount the customer must pay for the availability of gas service, including an amount of usage, as specified in the utility's tariffs.
29. "Permanent customer." A customer who is a tenant or owner of a service location who applies for and receives gas service.
30. "Permanent service." Service which, in the opinion of the utility, is of a permanent and established character. The use of gas may be continuous, intermittent, or seasonal in nature.
31. "Person." Any individual, partnership, corporation, governmental agency, or other organization operating as a single entity.
32. "Point of delivery." The point where pipes owned, leased, or under license by a customer connect to the utility's pipes or at the outlet side of the meter.
33. "Premises." All of the real property and apparatus employed in a single enterprise on an integral parcel of land undivided by public streets, alleys or railways.
34. "Residential subdivision." Any tract of land which has been divided into four or more contiguous lots for use for the construction of residential buildings or permanent mobile homes for either single or multiple occupancy.
35. "Residential use." Service to customers using gas for domestic purposes such as space heating, air conditioning, water heating, cooking, clothes drying, and other residential uses and includes use in apartment buildings, mobile home parks, and other multiunit residential buildings.
36. "Restricted apparatus." Apparatus prohibited by the Commission or other governmental agency.
37. "Service area." The territory in which the utility has been granted a Certificate of Convenience and Necessity and is authorized by the Commission to provide gas service.
38. "Service line." A gas pipe that transports gas from a common source of supply (normally a distribution main) to the customer's point of delivery.
39. "Service establishment charge." A charge as specified in the utility's tariffs which covers the cost of establishing a new account.
40. "Service reconnect charge." A charge as specified in the utility's tariffs which must be paid by the customer prior to reestablishment of gas service each time the gas is disconnected for nonpayment or whenever service is discontinued for failure otherwise to comply with the utility's tariffs.
41. "Service reestablishment charge." A charge as specified in the utility's tariffs for service at the same location where the same customer had ordered a service disconnection within the preceding 12-month period.
42. "Single family dwelling." A house, an apartment, a mobile home permanently affixed to a lot, or any other permanent residential unit which is used as a permanent home.
43. "Standard delivery pressure." 0.25 pounds per square inch gauge at the meter or point of delivery.
44. "Tariffs." The documents filed with the Commission which list the services and products offered by the gas company and which set forth the terms and conditions and a schedule of the rates and charges for those services and products.
45. "Temporary service." Service to premises or enterprises which are temporary in character, or where it is known in advance that the service will be of limited duration. Service which, in the opinion of the utility, is for operations of a speculative character is also considered temporary service.
46. "Therm." A unit of heating value, equivalent to 100,000 British thermal units (Btu's).
47. "Third-party notice." A notice sent to an individual or a public entity willing to receive notification of the pending discontinuance of service of a customer of record in order to make arrangements on behalf of said customer satisfactory to the utility.
48. "Utility." The public service corporation providing gas service to the public in compliance with state law.
49. "Weather especially dangerous to health." That period of time commencing with the scheduled termination date when the local weather forecast, as predicted by the National Oceanographic and Administration Service, indicates that the temperature will not exceed 32 degrees Fahrenheit for the next day's forecast. The Commission may determine that any other weather conditions are especially dangerous to health as the need arises.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-302. Certificate of Convenience and Necessity for gas utilities; additions/extensions; abandonments

- A. Application for new Certificate of Convenience and Necessity. Six copies of each application for a new Certificate of Convenience and Necessity shall be submitted in a form prescribed by the Commission and shall include, at a minimum, the following information:
 1. The proper name and correct address of the proposed utility company and its owner, if a sole proprietorship, each partner if a partnership, or the President and Secretary if a corporation.
 2. The rates proposed to be charged for the service that will be rendered.
 3. A financial statement setting forth the financial condition of the applicant.
 4. Maps of the proposed service area and/or a description of the area proposed to be served.
 5. Appropriate city, county and/or state agency approvals, where appropriate.
 6. The actual number of customers within the service area as of the time of filing and the estimated number of customers to be served for each of the first five years of operation.
 7. Such other information as the Commission by order or the staff of the Utilities Division by written directive may request.
- B. Application for discontinuance or abandonment of utility service
 1. Any utility proposing to discontinue or abandon utility service currently in use by the public shall prior to such action obtain authority therefor from the Commission.
 2. The utility shall include in the application, studies of past, present and prospective customer use of the subject service, plant or facility as is necessary to support the application.
 3. An application shall not be required to remove individual facilities where a customer has requested service discontinuance.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended to correct subsection numbering (Supp. 99-4).

R14-2-303. Establishment of service**A. Information from new applicants**

1. A utility may obtain the following minimum information from each new applicant for service:
 - a. Name or names of applicant(s).
 - b. Service address or location and telephone number.
 - c. Billing address or location and telephone number, if different than service address.
 - d. Address where service was provided previously.
 - e. Date applicant will be ready for service.
 - f. Indication of whether premises have been supplied with utility service previously.
 - g. Purpose for which service is to be used.
 - h. Indication of whether applicant is owner or tenant of or agent for the premises.
 - i. Information concerning the gas usage and demand requirements of the customers.
 - j. Type and kind of life-support equipment, if any, used by the customer.
2. Each utility may require a new applicant for service to appear at the utility's designated place of business to produce proof of identity and sign the utility's application form.
3. Where service is requested by two or more individuals the utility shall have the right to collect the full amount owed to the utility from any one of the applicants.

B. Deposits

1. A utility shall not require a deposit from a new applicant for residential service if the applicant is able to meet any of the following requirements:
 - a. The applicant has had service of a comparable nature with the utility at another service location within the past two years and was not delinquent in payment more than twice during the last 12 consecutive months or disconnected for nonpayment.
 - b. The applicant can produce a letter regarding credit or verification from a gas utility where service of a comparable nature was last received which states that the applicant has had service of a comparable nature with the utility at another service location within the past two years and was not delinquent in payment more than twice during the last 12 consecutive months or disconnected for nonpayment.
 - c. In lieu of a deposit, a new applicant may provide a Letter of Guarantee from an existing customer with service who is acceptable to the utility or a surety bond as security for the utility.
2. The utility shall issue a nonnegotiable receipt to the applicant for the deposit. The inability of the customer to produce such a receipt shall in no way impair his right to receive a refund of the deposit which is reflected on the utility's records.
3. Deposits shall be interest bearing; the interest rate and method of calculation shall be filed with and approved by the Commission in a tariff proceeding.
4. Each utility shall file a deposit refund procedure with the Commission, subject to Commission review and approval during a tariff proceeding. However, each utility's refund policy shall include provisions for residential deposits and accrued interest to be refunded or Letter of Guarantee or surety bond to expire after 12 months of service if the customer has not been delinquent more than twice in the payment of utility bills.

5. A utility may require a residential customer to establish or reestablish a deposit if the customer becomes delinquent in the payment of three or more bills within a 12-consecutive-month period or has been disconnected for service during the last 12 months.
6. The amount of a deposit required by the utility shall be determined according to the following terms:
 - a. Residential customer deposits shall not exceed two times that customer's estimated average monthly bill.
 - b. Nonresidential customer deposits shall not exceed 2 1/2 times that customer's estimated maximum monthly bill.
7. The utility may review the customer's usage after service has been connected and adjust the deposit amount based upon the customer's actual usage.
8. A separate deposit may be required for each meter installed.

C. Grounds for refusal of service. A utility may refuse to establish service if any of the following conditions exist:

1. The applicant has an outstanding amount due for the same class of utility service with the utility and the applicant is unwilling to make arrangements with the utility for payment.
2. A condition exists which in the utility's judgment is unsafe or hazardous to the applicant, the general population, or the utility's personnel or facilities.
3. Refusal by the applicant to provide the utility with a deposit when the customer has failed to meet the credit criteria for waiver of deposit requirements.
4. Customer is known to be in violation of the utility's tariffs filed with the Commission.
5. Failure of the customer to furnish such funds, service, equipment, and/or rights-of-way necessary to serve the customer and which have been specified by the utility as a condition for providing service.
6. Applicant falsifies his or her identity for the purpose of obtaining service.

D. Service establishments, reestablishment or reconnection charge

1. A utility may make a charge as approved by the Commission for the establishment, reestablishment, or reconnection of utility services.
2. Should service be established during a period other than regular working hours at the customer's request, the customer may be required to pay an after-hour charge for the service connection. Where the utility scheduling will not permit service establishment on the same day requested, the customer can elect to pay the after-hour charge for establishment that day or his service will be established on the next available normal working day.
3. For the purpose of this rule, the definition of service establishments are where the customer's facilities are ready and acceptable to the utility and the utility needs only to install a meter, read a meter, or turn the service on.

E. Temporary service

1. Applicants for temporary service may be required to pay the utility, in advance of service establishment, the estimated cost of installing and removing the facilities necessary for furnishing the desired service.
2. Where the duration of service is to be less than one month, the applicant may also be required to advance a sum of money equal to the estimated bill for service.
3. Where the duration of service is to exceed one month, the applicant may also be required to meet the deposit requirements of the utility.

4. If at any time during the term of the agreement for service the character of a temporary customer's operations changes so that in the opinion of the utility the customer is classified as permanent, the terms of the utility's main extension rules shall apply.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended to correct subsection numbering (Supp. 99-4).

R14-2-304. Minimum customer information requirements

A. Information for residential customers

1. Each utility shall make available upon customer request not later than 60 days from the date of request a concise summary of the rate schedule applied for by such customer. The summary shall include the following:
 - a. Monthly minimum or customer charge, identifying the amount of the charge and the specific amount of usage included in the minimum charge, where applicable.
 - b. Rate blocks, where appropriate.
 - c. Any adjustment factor(s) and method of calculation.
2. The utility shall to the extent practical identify the tariff most advantageous to the customer and notify the customer of such prior to service commencement.
3. In addition, a utility shall make available upon customer request not later than 60 days from the date of request a copy of the Commission's rules and regulations concerning:
 - a. Deposits
 - b. Terminations of service
 - c. Billing and collection
 - d. Complaint handling.
4. Each utility upon request of a customer shall transmit a written statement of actual consumption by such customer for each billing period during the prior 12 months unless such data is not reasonably ascertainable.
5. Each utility shall inform all new customers of their rights to obtain the information specified above.

B. Information required due to changes in tariffs

1. Each utility shall transmit to affected customers a concise summary of any change in the utility's tariffs affecting those customers.
2. This information shall be transmitted to the affected customer within 60 days of the effective date of the change.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-305. Master metering

Mobile home parks -- new construction/expansion

1. A utility shall refuse service to all new construction and/or expansion of existing permanent residential mobile home parks unless the construction and/or expansion is individually metered by the utility. Main extensions and service line connections to serve such new construction or expansion shall be governed by the main extension and/or service line connection tariff of the appropriate utility.
2. Permanent residential mobile home parks for the purpose of this rule shall mean mobile home parks where, in the opinion of the utility, the average length of stay for an occupant is a minimum of six months.
3. For the purposes of this rule, expansion means construction which has been started for additional permanent residential spaces after the effective date of this rule.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-306. Service lines and establishments

A. Priority and timing of service establishments

1. After an applicant has complied with the utility's application and deposit requirements and has been accepted for service by the utility, the utility shall schedule that customer for service establishment.
2. Service establishments shall be scheduled for completion within five working days of the date the customer has been accepted for service, except in those instances when the customer requests service establishment beyond the five working day limitation.
3. When the utility has made arrangements to meet with a customer for service establishment purposes and the utility or the customer cannot make the appointment during the prearranged time, the utility shall reschedule the establishment to the satisfaction of both parties.
4. Each utility shall schedule service establishment appointments within a maximum range of four hours during normal working hours, unless another time-frame is mutually acceptable to the utility and the customer.
5. Service establishments shall be made only by qualified utility service personnel.
6. For the purposes of this rule, service establishments are where the customer's facilities are ready and acceptable to the utility and the utility needs only to install or read a meter or turn the service on.

B. Service lines

1. Customer provided facilities

- a. An applicant for services shall be responsible for the safety and maintenance of all customer piping from the point of delivery.
- b. Meters shall be installed in a location suitable to the utility where the meters will be safe from street traffic, readily and safely accessible for reading, testing and inspection, and where such activities will cause the least interference and inconvenience to the customer. The customer shall provide, without cost to the utility, at a suitable and easily accessible location, sufficient and proper space for the installation of meters.
- c. Where the meter or service line location on the customer's premises is changed at the request of the customer or due to alterations on the customer's premises, the customer shall provide and have installed at his expense all customer piping necessary for relocating the meter and the utility may make a charge for moving the meter and/or service line.

2. Company provided facilities

- a. Each utility shall file for Commission approval, a service line tariff which defines the maximum footage and/or equipment allowance to be provided by the utility at no charge; the maximum footage and/or equipment allowance may be differentiated by customer class.
 - b. Any service line in excess of that allowed at no charge shall be paid by the customer as a contribution in aid of construction.
- ##### 3. Easements and rights-of-way
- a. Each customer shall grant adequate easement and right-of-way satisfactory to the utility to ensure proper service connection. Failure on the part of the customer to grant adequate easement and right-of-way shall be grounds for the utility to refuse service.

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- b. When a utility discovers that a customer or his agent is performing work or has constructed facilities adjacent to or within an easement or right-of-way and such work, construction or facility poses a hazard or is in violation of federal, state or local laws, ordinances, statutes, rules or regulations, or significantly interferes with the utility's access to equipment, the utility shall notify the customer or his agent and shall take whatever actions are necessary to eliminate the hazard, obstruction or violation at the customer's expense.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-307. Main extensions**A. General requirements**

1. Each utility shall file for Commission approval a main extension tariff which incorporates the provisions of this rule and specifically defines the conditions governing main extensions.
2. Upon request by an applicant for a main extension, the utility shall prepare, without charge, a preliminary sketch and rough estimates of the cost of installation to be paid by said applicant.
3. Any applicant for a main extension requesting the utility to prepare detailed plans, specifications, or cost estimates may be required to deposit with the utility an amount equal to the estimated cost of preparation. The utility shall upon request, make available within 90 days after receipt of the deposit referred to above, such plans, specifications, or cost estimates of the proposed main extension. Where the applicant authorizes the utility to proceed with construction of the extension, the deposit shall be credited to the cost of construction; otherwise the deposit shall be nonrefundable. If the extension is to include oversizing of facilities to be done at the utility's expense, appropriate details shall be set forth in the plans, specifications and cost estimate. Subdividers providing the utility with approved plans shall be provided with plans, specifications or cost estimates within 45 days after receipt of the deposit referred to above.
4. Where the utility requires an applicant to advance funds for a main extension, the utility shall furnish the applicant with a copy of the main extension tariff of the appropriate utility prior to the applicant's acceptance of the utility's extension agreement.
5. All main extension agreements requiring payment by the applicant shall be in writing and signed by each party.
6. The provisions of this rule apply only to those applicants who in the utility's judgment will be permanent customers of the utility. Applications for temporary service shall be governed by the Commission's rules concerning temporary service applications.

B. Minimum written agreement requirements

1. Each main extension agreement shall, at a minimum, include the following information:
 - a. Name and address of applicant(s)
 - b. Proposed service address or location
 - c. Description of requested service
 - d. Description and sketch of the requested main extension
 - e. A cost estimate to include materials, labor, and other costs as necessary
 - f. Payment terms
 - g. A concise explanation of any refunding provisions, if applicable

- h. The utility's estimated start date and completion date for construction of the main extension
- i. A summary of the results of the economic feasibility analysis performed by the utility to determine the amount of advance required from the applicant for the proposed main extension.

2. Each applicant shall be provided with a copy of the written main extension agreement.

C. Main extension requirements. Each main extension tariff shall include the following provisions:

1. A maximum footage and/or equipment allowance to be provided by the utility at no charge. The maximum footage and/or equipment allowance may be differentiated by customer class.
2. An economic feasibility analysis for those extensions which exceed the maximum footage and/or equipment allowance. Such economic feasibility analysis shall consider the incremental revenues and costs associated with the main extension. In those instances where the requested main extension does not meet the economic feasibility criteria established by the utility, the utility may require the customer to provide funds to the utility, which will make the main extension economically feasible. The methodology employed by the utility in determining economic feasibility shall be applied uniformly and consistently to each applicant requiring a main extension.
3. The timing and methodology by which the utility will refund any advances in aid of construction as additional customers are served off the main extension. The customer may request an annual survey to determine if additional customers have been connected to and are using service from the extension. In no case shall the amount of the refund exceed the amount originally advanced.
4. All advances in aid of construction shall be noninterest bearing.
5. If after five years from the utility's receipt of the advance, the advance has not been totally refunded, the advance shall be considered a contribution in aid of construction and shall no longer be refundable.

D. Residential subdivision development and permanent mobile home parks. Each utility shall submit as a part of its main extension tariff separate provisions for residential subdivision developments and permanent mobile home parks.**E. Ownership of facilities. Any facilities installed hereunder shall be the sole property of the utility.****Historical Note**

Adopted effective March 2, 1982 (Supp. 82-2). Amended to correct subsection numbering (Supp. 99-4).

R14-2-308. Provision of service**A. Utility responsibility**

1. Each utility shall be responsible for the safe transmission and distribution of gas until it passes the point of delivery to the customer.
2. Each utility shall be responsible for maintaining in safe operating condition all meters, regulators, service pipe or other fixtures installed on the customer's premises by the utility for the purpose of delivering gas to the customer.
3. Each utility may, at its option, refuse service until the customer's pipes and appliances have been tested and found to be safe, free from leaks, and in good operating condition. Proof of such testing shall be in the form of a certificate executed by a licensed plumber of local inspector, certifying that the customer's facilities have been tested and are in safe operating condition.

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4. Each utility shall be required to test the customer's piping for leaks when the gas is turned on. If such tests indicate leakage in the customer's piping, the utility shall refuse to provide service until such time as the customer has had the leakage corrected.
- B. Customer responsibility**
1. Each customer shall be responsible for maintaining all customer piping, fixtures and appliances on the customer's side of the point of delivery in safe operating condition.
 2. Each customer shall be responsible for safeguarding all utility property installed in or on the customer's premises for the purpose of supplying utility service.
 3. Each customer shall exercise all reasonable care to prevent loss or damage to utility property, excluding ordinary wear and tear. The customer shall be responsible for loss of or damage to utility property on the customer's premises arising from neglect, carelessness, or misuse and shall reimburse the utility for the cost of necessary repairs or replacements.
 4. Each customer shall be responsible for payment for any equipment damage and/or estimated unmetered usage resulting from unauthorized breaking of seals, interfering, tampering or bypassing the utility meter.
 5. Each customer shall be responsible for notifying the utility of any gas leakage identified in the customer's or the utility's equipment.
- C. Continuity of service.** Each utility shall make reasonable efforts to supply a satisfactory and continuous level of service. However, no utility shall be responsible for any damage or claim of damage attributable to any interruption or discontinuation of service resulting from:
1. Any cause against which the utility could not have reasonably foreseen or made provision for, i.e., force majeure
 2. Intentional service interruptions to make repairs or perform routine maintenance
 3. Curtailment.
- D. Change in character of service.** When a change is made by the utility in the type of service rendered which would adversely affect the efficiency of operation or require the adjustment of the equipment of customers, all customers who may be affected shall be notified by the utility at least 30 days in advance of the change or, if such notice is not possible, as early as feasible. Where adjustments or replacements of the utility's standard equipment must be made to permit use under such changed conditions, adjustments shall be made by the utility without charge to the customers.
- E. Service interruptions**
1. Each utility shall make reasonable efforts to reestablish service within the shortest possible time when service interruptions occur.
 2. Each utility shall make reasonable provisions to meet emergencies resulting from failure of service, and each utility shall issue instructions to its employees covering procedures to be followed in the event of emergency in order to prevent or mitigate interruption or impairment of service.
 3. In the event of a national emergency or local disaster resulting in disruption of normal service, the utility may, in the public interest, interrupt service to other customers to provide necessary service to civil defense or other emergency service agencies on a temporary basis until normal service to these agencies can be restored.
 4. When a utility plans to interrupt service for more than four hours to perform necessary repairs or maintenance, the utility shall attempt to inform affected customers at least 24 hours in advance of the scheduled date and estimated duration of the service interruption. Such repairs shall be completed in the shortest possible time to minimize the inconvenience to the customers of the utility.
5. The Commission shall be notified of interruptions in service affecting the entire system or any major division thereof. The interruption of service and cause shall be reported within one hour after the responsible representative of the utility becomes aware of said interruption by telephone to the Commission and followed by a written report to the Commission.
- F. Heat value standard for natural gas.** Each gas utility operating under the jurisdiction of the Commission shall supply gas to its customers with an average total heating value of not less than 900 Btu's per cubic foot. The number of Btu's per cubic foot actually delivered through the customer's meter will vary according to the altitude/elevation of the location where the customer is being provided service.
- G. Standard delivery pressure**
1. Each utility shall maintain a standard delivery pressure at the outlet of the customer's meter of approximately 0.25 pounds per square inch gauge subject to variation under load conditions.
 2. In cases where a customer desires service at greater than standard delivery pressure, the utility may supply at its option such greater pressure if and only as long as the furnishing of gas to such customer at higher than standard delivery pressure will not be detrimental to the service of other customers of the utility. The utility reserves the right to lower said delivery pressure or discontinue the delivery of gas at higher pressure at any time upon reasonable notice to the customer. Where service is provided at such higher pressure, the meter volumes shall be corrected to that higher pressure.
- H. Curtailment.** Each utility shall file with the Commission as a part of its general tariffs a procedural plan for handling severe supply shortages or service curtailments. The plan shall provide for equitable treatment of individual customer classes in the most reasonable and effective manner given the existing circumstances. When the availability of service is so restricted that the reduction of service on a proportionate basis to all customer classes will not maintain the integrity of the total system, the utility shall develop procedures to curtail service giving service priority to those customers and/or customer classes where health, safety and welfare would be adversely affected.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended by deleting subsection (I) effective October 23, 1987 (Supp. 87-4). Amended to correct subsection numbering (Supp. 99-4).

R14-2-309. Meter reading

- A. Company or customer meter reading**
1. Each utility may at its discretion allow for customer reading of meters.
 2. It shall be the responsibility of the utility to inform the customer how to properly read his or her meter.
 3. Where a customer reads his or her own meter, the utility will read the customer's meter at least once every six months.
 4. The utility shall provide the customer with postage-paid cards or other methods to report the monthly reading to the utility.

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5. Each utility shall specify the timing requirements for the customer to submit his or her monthly meter reading to conform with the utility's billing cycle.
 6. In the event the customer fails to submit the reading on time, the utility may issue the customer an estimated bill.
 7. Meters shall be read monthly on as close to the same day as practical.
- B. Measuring of service**
1. All gas sold by a utility shall be metered except in the case of gas sold according to a fixed charge schedule or when otherwise authorized by the Commission.
 2. When there is more than one meter at a location, the metering equipment shall be so tagged or plainly marked as to indicate the facilities being metered.
- C. Customer requested rereads**
1. Each utility shall at the request of a customer reread the customer's meter within 10 working days after such request by the customer.
 2. Any rereads may be charged to the customer at a rate on file and approved by the Commission, provided that the original reading was not in error.
 3. When a reading is found to be in error, the reread shall be at no charge to the customer.
- D. Access to customer premises.** Each utility shall at all times have the right of safe ingress to and egress from the customer's premises at all reasonable hours for any purpose reasonably connected with the furnishing of service and the exercise of any and all rights secured to it by law or these rules.
- E. Meter testing and maintenance program**
1. Each utility shall file with the Commission subject to review and approval a plan for routine maintenance and replacement of meters.
 2. Each utility shall file an annual report with the Commission summarizing the results of the meter maintenance and testing program for that year. At a minimum the report should include the following data:
 - a. Total number of meters tested, at company initiative or upon customer request.
 - b. Number of meters tested which were outside the acceptable error allowance $\pm 3\%$.
- F. Customer requested meter tests.** A utility shall test a meter upon customer request, and each utility shall be authorized to charge the customer for such meter test according to the tariff on file and approved by the Commission. However, if the meter is found to be in error by more than 3%, no meter testing fee will be charged to the customer.
- Historical Note**
- Adopted effective March 2, 1982 (Supp. 82-2). Amended to correct subsection numbering (Supp. 99-4).
- R14-2-310. Billing and collection**
- A. Frequency and estimated bills**
1. Each utility shall bill monthly for services rendered. Meter readings shall be scheduled for periods of not less than 25 days or more than 35 days.
 2. If the utility is unable to read the meter on the scheduled meter read date, the utility will estimate the consumption for the billing period giving consideration to the following factors where applicable:
 - a. The customer's usage during the same month of the previous year
 - b. The amount of usage during the preceding month.
 3. After the second consecutive month of estimating the customer's bill for reasons other than severe weather, the utility will attempt to secure an accurate reading of the meter.
4. Failure on the part of the customer to comply with a reasonable request by the utility for access to its meter may lead to the discontinuance of service.
 5. Estimated bills will be issued only under the following conditions:
 - a. Failure of a customer who read his own meter to deliver his meter reading card to the utility in accordance with the requirements of the utility billing cycle.
 - b. Severe weather conditions which prevent the utility from reading the meter.
 - c. Circumstances that make it impossible to read the meter, i.e., locked gates, blocked meters, vicious or dangerous animals, etc.
 6. Each bill based on estimated usage will indicate that it is an estimated bill.
- B. Combining meters, minimum bill information**
1. Each meter at a customer's premises will be considered separately for billing purposes, and the readings of two or more meters will not be combined except those approved by the utility.
 2. Each bill for residential service will contain the following minimum information:
 - a. Date and meter reading at the start of billing period or number of days in the billing period
 - b. Date and meter reading at the end of the billing period
 - c. Billed usage
 - d. Rate schedule number
 - e. Utility telephone number
 - f. Customer's name
 - g. Service account number
 - h. Amount due and due date
 - i. Past due amount
 - j. Adjustment factor, where applicable
 - k. Taxes
 - l. The Arizona Corporation Commission and address, thereof.
- C. Billing terms**
1. All bills for utility services are due and payable no later than 10 days from the date the bill is rendered. Any payment not received within this time-frame shall be considered past due.
 2. For purposes of this rule, the date a bill is rendered may be evidenced by:
 - a. The postmark date
 - b. The mailing date
 - c. The billing date shown on the bill (however, the billing date shall not differ from the postmark or mailing date by more than two days).
 3. All past due bills for utility services are due and payable within 15 days. Any payment not received within this time-frame shall be considered delinquent.
 4. All delinquent bills for which payment has not been received within five days shall be subject to the provisions of the utility's termination procedures.
 5. All payments shall be made at or mailed to the office of the utility or to the utility's duly authorized representative.
- D. Applicable tariffs, prepayment, failure to receive, commencement date, taxes**
1. Each customer shall be billed under the applicable tariff indicated in the customer's application for service.
 2. Each utility shall make provisions for advance payment of utility services.

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3. Failure to receive bills or notices which have been properly placed in the United States mail shall not prevent such bills from becoming delinquent nor relieve the customer of his obligations therein.
 4. Charges for service commence when the service is installed and connection made, whether used or not.
- E. Meter error corrections**
1. If any meter after testing is found to be more than 3% in error, either fast or slow, proper correction between 3% and the amount of the error shall be made of previous readings and adjusted bills shall be rendered according to the following terms:
 - a. For the period of three months immediately preceding the removal of such meter from service for test or from the time the meter was in service since last tested, but not exceeding three months since the meter shall have been shown to be in error by such test.
 - b. From the date the error occurred, if the date of the cause can be definitely fixed.
 2. No adjustment shall be made by the utility except to the customer last served by the meter tested.
- F. Insufficient funds (NSF) checks**
1. A utility shall be allowed to recover a fee, as approved by the Commission in a tariff proceeding, for each instance where a customer tenders payment for utility service with an insufficient funds check.
 2. When the utility is notified by the customer's bank that there are insufficient funds to cover the check tendered for utility service, the utility may require the customer to make payment in cash, by money order, certified check, or other means which guarantee the customer's payment to the utility.
 3. A customer who tenders an insufficient check shall in no way be relieved of the obligation to render payment to the utility under the original terms of the bill nor defer the utility's provision for termination of service for nonpayment of bills.
- G. Levelized billing plan**
1. Each utility may, at its option, offer its residential customers a levelized billing plan.
 2. Each utility offering a levelized billing plan shall develop upon customer request an estimate of the customer's levelized billing for a 12-month period based upon:
 - a. Customer's actual consumption history, which may be adjusted for abnormal conditions such as weather variations.
 - b. For new customers, the utility will estimate consumption based on the customer's anticipated load requirements.
 - c. The utility's tariff schedules approved by the Commission applicable to that customer's class of service.
 3. The utility shall provide the customer a concise explanation of how the levelized billing estimate was developed, the impact of levelized billing on a customer's monthly utility bill, and the utility's right to adjust the customer's billing for any variation between the utility's estimated billing and actual billing.
 4. For those customers being billed under a levelized billing plan, the utility shall show, at a minimum, the following information on the customer's monthly bill:
 - a. Actual consumption
 - b. Amount due for actual consumption
 - c. Levelized billing amount due
 - d. Accumulated variation in actual versus levelized billing amount.
 5. The utility may adjust the customer's levelized billing in the event the utility's estimate of the customer's usage and/or cost should vary significantly from the customer's actual usage and/or cost; such review to adjust the amount of the levelized billing may be initiated by the utility or upon customer request.
- H. Elevation/pressure adjustment.** Each gas utility shall, as a part of a general rate proceeding, file an adjustment factor to be applied to customer meter recordings to adjust for differences in pressure due to elevation.
- I. Deferred payment plan**
1. Each utility may, prior to termination, offer to qualifying residential customers a deferred payment plan for the customer to retire unpaid bills for utility service.
 2. Each deferred payment agreement entered into by the utility and the customer due to the customer's inability to pay an outstanding bill in full shall provide that service will not be discontinued if:
 - a. Customer agrees to pay a reasonable amount of the outstanding bill at the time the parties enter into the deferred payment agreement.
 - b. Customer agrees to pay all future bills for utility service in accordance with the billing and collection tariffs of the utility.
 - c. Customer agrees to pay a reasonable portion of the remaining outstanding balance in installments over a period not to exceed six months.
 3. For the purposes of determining a reasonable installment payment schedule under these rules, the utility and the customer shall give consideration to the following conditions:
 - a. Size of the delinquent account
 - b. Customer's ability to pay
 - c. Customer's payment history
 - d. Length of time that the debt has been outstanding
 - e. Circumstances which resulted in the debt being outstanding
 - f. Any other relevant factors related to the circumstances of the customer.
 4. Any customer who desires to enter into a deferred payment agreement shall establish such agreement prior to the utility's scheduled termination date for nonpayment of bills; customer failure to execute a deferred payment agreement prior to the scheduled termination date shall not prevent the utility from discontinuing service for nonpayment.
 5. Deferred payment agreements may be in writing and may be signed by the customer and an authorized utility representative.
 6. A deferred payment agreement may include a finance charge as approved by the Commission in a tariff proceeding.
 7. If a customer has not fulfilled the terms of a deferred payment agreement, the utility shall have the right to disconnect service pursuant to the utility's termination of service rules and, under such circumstances, it shall not be required to offer subsequent negotiation of a deferred payment agreement prior to disconnection.
- J. Change of occupancy**
1. Not less than three working days advance notice must be given in person, in writing, or by telephone at the utility's office to discontinue service or to change occupancy.

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2. The outgoing party shall be responsible for all utility services provided and/or consumed up to the scheduled turn-off date.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended to correct subsection numbering (Supp. 99-4).

R14-2-311. Termination of service

- A.** Nonpermissible reasons to disconnect service. A utility may not disconnect service for any of the reasons stated below:
 1. Delinquency in payment for services rendered to a prior customer at the premises where service is being provided, except in the instance where the prior customer continues to reside on the premises.
 2. Failure of the customer to pay for services or equipment which are not regulated by the Commission.
 3. Nonpayment of a bill related to another class of service.
 4. Failure to pay for a bill to correct a previous underbilling due to an inaccurate meter or meter failure if the customer agrees to pay over a reasonable period of time.
 5. A utility shall not terminate residential service where the customer has an inability to pay and:
 - a. The customer can establish through medical documentation that, in the opinion of a licensed medical physician, termination would be especially dangerous to the customer or a permanent resident residing on the customer's premises health, or
 - b. Life supporting equipment used in the home that is dependent on utility service for operation of such apparatus, or
 - c. Where weather will be especially dangerous to health as defined herein or as determined by the Commission.
 6. Residential service to ill, elderly, or handicapped persons who have an inability to pay will not be terminated until all of the following have been attempted:
 - a. The customer has been informed of the availability of funds from various government and social assistance agencies
 - b. A third party previously designated by the customer has been notified and has not made arrangements to pay the outstanding utility bill.
 7. A customer utilizing the provisions of subsection (A)(5) or (6) may be required to enter into a deferred payment agreement with the utility within 10 days after the scheduled termination date.
 8. Failure to pay the bill of another customer as guarantor thereof.
 9. Disputed bills where the customer has complied with the Commission's rules on customer bill disputes.
- B.** Termination of service without notice
 1. Utility service may be disconnected without advance written notice under the following conditions:
 - a. The existence of an obvious hazard to the safety or health of the consumer or the general population.
 - b. The utility has evidence of meter tampering or fraud.
 - c. Failure of a customer to comply with the curtailment procedures imposed by a utility during supply shortages.
 2. The utility shall not be required to restore service until the conditions which resulted in the termination have been corrected to the satisfaction of the utility.
 3. Each utility shall maintain a record of all terminations of service without notice. This record shall be maintained for a minimum of one year and shall be available for inspection by the Commission.

C. Termination of service with notice

1. A utility may disconnect service to any customer for any reason stated below provided the utility has met the notice requirements established by the Commission:
 - a. Customer violation of any of the utility's tariffs.
 - b. Failure of the customer to pay a delinquent bill for utility service.
 - c. Failure to meet or maintain the utility's deposit requirements.
 - d. Failure of the customer to provide the utility reasonable access to its equipment and property.
 - e. Customer breach of a written contract for service between the utility and customer.
 - f. When necessary for the utility to comply with an order of any governmental agency having such jurisdiction.
2. Each utility shall maintain a record of all terminations of service with notice. This record shall be maintained for one year and be available for Commission inspection.

D. Termination notice requirements

1. No utility shall terminate service to any of its customers without providing advance written notice to the customer of the utility's intent to disconnect service, except under those conditions specified where advance written notice is not required.
2. Such advance written notice shall contain, at a minimum, the following information:
 - a. The name of the person whose service is to be terminated and the address where service is being rendered.
 - b. The utility tariff that was violated and explanation thereof or the amount of the bill which the customer has failed to pay in accordance with the payment policy of the utility, if applicable.
 - c. The date on or after which service may be terminated.
 - d. A statement advising the customer that the utility's stated reason for the termination of services may be disputed by contacting the utility at a specific address or phone number, advising the utility of the dispute and making arrangements to discuss the cause for termination with a responsible employee of the utility in advance of the scheduled date of termination. The responsible employee shall be empowered to resolve the dispute and the utility shall retain the option to terminate service after affording this opportunity for a meeting and concluding that the reason for termination is just and advising the customer of his right to file a complaint with the Commission.
3. Where applicable, a copy of the termination notice will be simultaneously forwarded to designated third parties.

E. Timing of terminations with notice

1. Each utility shall be required to give at least five days' advance written notice prior to the termination date.
2. Such notice shall be considered to be given to the customer when a copy thereof is left with the customer or posted first class in the United States mail, addressed to the customer's last known address.
3. If after the period of time allowed by the notice has elapsed and the delinquent account has not been paid nor arrangements made with the utility for the payment thereof or in the case of a violation of the utility's rules the customer has not satisfied the utility that such violation has ceased, the utility may then terminate service on

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- or after the day specified in the notice without giving further notice.
4. Service may only be disconnected in conjunction with a personal visit to the premises by an authorized representative of the utility.
 5. The utility shall have the right (but not the obligation) to remove any or all of its property installed on the customer's premises upon the termination of service.

F. Landlord/tenant rule. In situations where service is rendered at an address different from the mailing address of the bill or where the utility knows that a landlord/tenant relationship exists and that the landlord is the customer of the utility, and where the landlord as a customer would otherwise be subject to disconnection of service, the utility may not disconnect service until the following actions have been taken:

1. Where it is feasible to so provide service, the utility, after providing notice as required in these rules, shall offer the occupant the opportunity to subscribe for service in his or her own name. If the occupant then declines to so subscribe, the utility may disconnect service pursuant to the rules.
2. A utility shall not attempt to recover from a tenant or condition service to a tenant with the payment of any outstanding bills or other charges due upon the outstanding account of the landlord.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended to correct subsection numbering (Supp. 99-4).

Editor's Note: *The following Section was amended under an exemption from the Attorney General approval provisions of the Arizona Administrative Procedure Act (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)), as determined by the Corporation Commission. This exemption means that the rules as amended were not approved by the Attorney General.*

R14-2-312. Administrative and Hearing Requirements

A. Customer service complaints

1. Each utility shall make a full and prompt investigation of all service complaints made by its customers, either directly or through the Commission.
2. The utility shall respond to the complainant and/or the Commission representative within five working days as to the status of the utility investigation of the complaint.
3. The utility shall notify the complainant and/or the Commission representative of the final disposition of each complaint. Upon request of the complainant or the Commission representative, the utility shall report the findings of its investigation in writing.
4. The utility shall inform the customer of his right of appeal to the Commission.
5. Each utility shall keep a record of all written service complaints received which shall contain, at a minimum, the following data:
 - a. Name and address of the complainant
 - b. Date and nature of the complaint
 - c. Disposition of the complaint
 - d. A copy of any correspondence between the utility, the customer, and/or the Commission.

This record shall be maintained for a minimum period of one year and shall be available for inspection by the Commission.

B. Customer bill disputes

1. Any utility customer who disputes a portion of a bill rendered for utility service shall pay the undisputed portion of the bill and notify the utility's designated representa-

tive that such unpaid amount is in dispute prior to the delinquent date of the bill.

2. Upon receipt of the customer notice of dispute, the utility shall:
 - a. Notify the customer within five working days of the receipt of a written dispute notice.
 - b. Initiate a prompt investigation as to the source of the dispute.
 - c. Withhold disconnection of service until the investigation is completed and the customer is informed of the results. Upon request of the customer the utility shall report the results of the investigation in writing.
 - d. Inform the customer of his right of appeal to the Commission.
3. Once the customer has received the results of the utility's investigation, the customer shall submit payment within five working days to the utility for any disputed amounts. Failure to make full payment shall be grounds for termination of service.

C. Commission resolution of service and/or bill disputes

1. In the event a customer and utility cannot resolve a service and/or bill dispute, the customer shall file a written statement of dissatisfaction with the Commission; by submitting such notice to the Commission, the customer shall be deemed to have filed an informal complaint against the utility.
2. Within 30 days of the receipt of a written statement of customer dissatisfaction related to a service or bill dispute, a designated representative of the Commission shall endeavor to resolve the dispute by correspondence and/or telephone with the utility and the customer. If resolution of the dispute is not achieved within 20 days of the Commission representative's initial effort, the Commission shall hold an informal hearing to arbitrate the resolution of the dispute. The informal hearing shall be governed by the following rules:
 - a. Each party may be represented by legal counsel, if desired.
 - b. All such informal hearings may be recorded or held in the presence of a stenographer.
 - c. All parties will have the opportunity to present written or oral evidentiary material to support the positions of the individual parties.
 - d. All parties and the Commission's representative shall be given the opportunity for cross-examination of the various parties.
 - e. The Commission's representative will render a written decision to all parties within five working days after the date of the informal hearing. Such written decision of the arbitrator is not binding on any of the parties and the parties will still have the right to make a formal complaint to the Commission.
3. The utility may implement normal termination procedures if the customer fails to pay all bills rendered during the resolution of the dispute by the Commission.
4. Each utility shall maintain a record of written statements of dissatisfaction and their resolution for a minimum of one year and make such records available for Commission inspection.

D. Notice by utility of responsible officer or agent

1. Each utility shall file with the Commission a written statement containing the name, address (business, residence and post office) and telephone numbers (business and residence) of at least one officer, agent or employee

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- responsible for the general management of its operations as a utility in Arizona.
2. Each utility shall give notice, by filing a written statement with the Commission, of any change in the information required herein within five days from the date of any such change.
- E. Time-frames for processing applications for Certificates of Convenience and Necessity**
1. This rule prescribes time-frames for the processing of any application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.
 2. Within 120 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.
 3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.
 4. After receipt of a corrected application, staff shall notify the applicant within 30 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.
 5. Within 150 days after an application is deemed administratively complete, the Commission shall approve or reject the application.
 6. For purposes of A.R.S. § 41-1072 et seq., the Commission has established the following time-frames:
 - a. Administrative completeness review time-frame: 120 calendar days,
 - b. Substantive review time-frame: 150 calendar days,
 - c. Overall time-frame: 270 calendar days.
 7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.
 8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.
- F. Filing tariffs**
1. Each utility shall file with the Commission tariffs which are in compliance with the rules and regulations promulgated by the Arizona Corporation Commission within 120 days of the effective date of such rules.
 2. Each utility shall file with the Commission any proposed changes to the tariffs on file with the Commission; such proposed changes shall be accompanied by a statement of justification supporting the proposed tariff change.
 3. Any proposed change to the tariffs on file with the Commission shall not be effective until reviewed and approved by the Commission.
- G. Accounts and records**
1. Each utility shall keep general and auxiliary accounting records reflecting the cost of its properties, operating income and expense, assets and liabilities, and all other accounting and statistical data necessary to give complete and authentic information as to its properties and operations.
2. Each utility shall maintain its books and records in conformity with the Uniform Systems of Accounts for Class A, B, C and D Gas Utilities as adopted and amended by the Federal Energy Regulatory Commission.
 3. A utility shall produce or deliver in this state any or all of its formal accounting records and related documents requested by the Commission. It may, at its option, provide verified copies of original records and documents.
 4. All utilities shall submit an annual report to the Commission on a form prescribed by it. The annual report shall be filed on or before the 15th day of April for the preceding calendar year. Reports prepared by a certified or licensed public accountant on the utility, if any, shall accompany the annual report.
 5. All utilities shall file with the Commission a copy of all reports required by the Securities and Exchange Commission.
 6. All utilities shall file with the Commission a copy of all annual reports required by the Federal Energy Regulatory Commission.
- H. Maps.** All utilities shall file with the Commission a map or maps clearly setting forth the location and extent of the area or areas they hold under approved certificates of convenience and necessity, in accordance with the Cadastral (Rectangular) Survey of the United States Bureau of Land Management, or by metes and bounds with a starting point determined by the aforesaid Cadastral Survey.
- I.** Variations, exemptions of Commission rules and regulations. Variations or exemptions from the terms and requirements of any of the rules included herein (Title 14, Chapter 2, Article 3) shall be considered upon the verified application of an affected party to the Commission setting forth the circumstances whereby the public interest requires such variation or exemption from the Commission rules and regulations. Such application will be subject to the review of the Commission, and any variation or exemption granted shall require an order of the Commission. In case of conflict between these rules and regulations and an approved tariff or order of the Commission, the provisions of the tariff or order shall apply.
- J.** Prior agreements. The adoption of these rules by the Commission shall not affect any agreements entered into between the utility and customers or other parties who, pursuant to such contracts, arranged for the extension of facilities in a provision of service prior to the effective date of these rules.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended effective December 31, 1998, under an exemption from the Attorney General certification requirements of the Arizona Administrative Procedure Act (Supp. 98-4). Amended effective December 31, 1998, under an exemption as determined by the Arizona Corporation Commission (Supp. 98-4). Amended to correct subsection numbering (Supp. 99-4).

R14-2-313. Conservation**Energy conservation plan**

1. The Arizona Corporation Commission recognizes the need for conservation of energy resources in order to maintain an adequate and continuous supply of safe, dependable, and affordable energy. Therefore, in order to promote the state's economic development and the health and welfare of its citizenry, each class A and B gas utility shall file an energy conservation plan which encompasses at a minimum the following considerations:

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- a. Development of consumer education and assistance programs to aid the populace in reducing energy consumption and cost.
- b. Participation in various energy conservation programs sponsored by other municipal, state or federal government entities having such jurisdiction.
2. Each utility shall file an energy conservation plan with the Commission within one year of the effective date of these rules and annual updates thereafter when changes require such.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-314. Intermittent gas ignition

- A. Application and scope. The provisions of this rule are applicable to the following types of gas appliances:
 1. All residential gas-fired space heating equipment requiring electrical supply for operation,
 2. All residential gas-fired clothes dryers,
 3. All residential gas-fired household cooking appliances having an electrical supply cord or electrical junction box,
 4. All residential gas-fired air conditioners,
 5. All residential decorative gas lots which are automatically ignited and require electrical supply for operation,
 6. All residential vented decorative gas appliances which are automatically lighted and require electrical supply for operation.
- B. Prohibition of distribution, sales and installation
 1. No person shall cause to be distributed, sold or installed in this state a newly produced gas appliance subject to this rule which has not been certified by the Commission. This prohibition shall not take effect for any particular type of gas appliance until 24 months after at least one model of that type of appliance has been certified by the Commission.
 2. All gas appliances certified by the Commission shall have the statement, "This appliance is equipped with an intermittent type ignition device" or "Equipped with IID" or "IID Equipped" on the rating plate.
- C. Definitions. For the purpose of this rule, and unless otherwise indicated, the following definitions shall apply in addition to those definitions shown in Title 40, Section 1, Chapter 7, Article 1, Paragraph 40-1201, of the A.R.S.:
 1. "Certified by the Commission" means that the Commission has acknowledged receipt of one of the following for an appliance equipped with an intermittent type ignition device; a photostatic copy of the A.G.A. Appliance Certificate or the UL Listing Certificate; a listing of the appliance in the A.G.A. "Directory of Certified Appliances and Accessories" or the UL "Gas and Oil Equipment List"; or a certified test report from a recognized independent testing laboratory acceptable to the Commission stating that the appliance has been tested and conforms to the applicable American National Standards as mentioned below.
 2. "Newly produced" means not previously used for the purpose for which designed or any other related purpose and constructed entirely of new unused parts and materials.
 3. "Rating plate" means a plate, or combination of adjacent plates located so as to be easily read when the appliance is in a normally installed position.
- D. Gas-fired space heating equipment.
 1. Except as otherwise provided, all intermittent type ignition devices used on gas-fired space heating equipment shall be certified by the Commission if they comply with

the standards approved by the American National Standards Institute, Inc., known as: ANSI Z21.20-1975, Automatic Gas Ignition Systems and Components.

2. Except as otherwise provided, gas-fired space heating equipment shall be certified by the Commission if it complies with one of the standards approved by the American National Standards Institute, Inc., known as:
 - a. ANSI Z21.47-1973-Gas-Fired Gravity and Forced Air Central Furnaces, addenda Z21.47a-1974, and addenda Z21.47b-1975.
 - b. ANSI Z21.11.1-1974-Vented Room Heaters, addenda Z21.11.1a-1975 and addenda Z21.11.1b-1976.
 - c. ANSI Z21.13-1974-Gas-Fired Low-Pressure Steam and Hot Water Boilers, and addenda Z21.13a-1976.
 - d. ANSI Z21.44-1977-Gas-Fired Gravity and Fan Type Sealed Combustion System Wall Furnaces.
 - e. ANSI Z21.49-1975-Gas-Fired Gravity and Fan Type Vented Wall Furnaces and addenda Z21.49a-1977.
 - f. ANSI Z21.48-1973-Gravity and Fan Type Floor Furnaces and addenda Z21.48a-1974 and addenda Z21.48b-1975.
- E. Gas clothes dryers.
 1. Except as otherwise provided, all intermittent type ignition devices used on gas clothes dryers shall be certified by the Commission if they comply with the standards approved by the American National Standards Institute, Inc., known as: ANSI Z21.20-1975-Automatic Gas Ignition Systems and Components.
 2. Except as otherwise provided, gas clothes dryers shall be certified by the Commission, if they comply with the standards approved by the American National Standards Institute, Inc., known as ANSI Z21.5.1-1975-Type 1 Clothes Dryers.
- F. Household cooking gas appliances.
 1. Except as otherwise provided, all intermittent type ignition devices used on a household cooking gas appliance shall be certified by the Commission if they comply with the standards approved by the American National Standards Institute, Inc., known as: ANSI Z21.20-1975-Automatic Gas Ignition Systems and Component.
 2. Except as otherwise provided, household cooking gas appliances shall be certified by the Commission if they comply with the standards approved by the American National Standards Institute, Inc., known as: ANSI Z21.1-1974-Household Cooking Appliances, addenda Z21.1a-1974, and addenda Z21.1b-1976.
- G. Gas-fired air conditioners.
 1. Except as otherwise provided, all intermittent type ignition devices used on a gas-fired air conditioner shall be certified by the Commission if they comply with the standards approved by the American National Standards Institute, Inc., known as: ANSI Z21.20-1975-Automatic Gas Ignition Systems and Components.
 2. Except as otherwise provided, gas-fired air conditioners shall be certified by the Commission, if they comply with the standards approved by the American National Standards Institute, Inc., known as: ANSI Z21.40.1-1973-Gas-Fired Absorption Summer Air Conditioning Appliances, and addenda Z21.40.1a-1974.
- H. Decorative gas logs.
 1. Shall be certified by the Commission if they comply with the standards approved by the American National Standards Institute, Inc., known as: ANSI Z21.20-1975-Automatic Gas Ignition Systems and Components.

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2. Except as otherwise provided, gas-fired decorative gas logs shall be certified by the Commission if they comply with the standards approved by the American National Standards Institute, Inc., known as: ANSI Z21.60-1975-Decorative Gas Appliances for Installation in Vented Fireplaces and addenda Z21.60a-1976.
- I. Vented decorative gas appliances.
 1. Shall be certified by the Commission if they comply with the standards approved by the American National Standards Institute, Inc., known as: ANSI Z21.20-1975-Automatic Gas Ignition Systems and Components.
 2. Except as otherwise provided, gas-fired vented decorative appliances shall be certified by the Commission if they comply with the standards approved by the American National Standards Institute, Inc., known as: ANSI Z21.50-1973-Vented Decorative Gas Appliances, addenda Z21.50a-1974 and addenda Z21.50b-1974.
- J. The statement mentioned in subsection (B)(2) which is required on the rating plate will be the Seal of Certification for Arizona. The rating plate will be furnished and applied and distributed by the manufacturer.
- K. The Utilities Division of this Commission is charged with the duty of maintaining the records necessary for the control of the Certification Program and will notify manufacturers in accordance with paragraph 40-1204, Article 1, Chapter 7, Title 40 of the Arizona Revised Statutes.
- L. Variance. Variation from the terms and conditions of this rule shall be permitted only upon the verified application of an affected party to the Commission, setting forth the circumstances whereby the public interest requires such variation, and upon the issuance of a special Order of the Commission. The Commission may require an application for such variation to be presented in a public hearing.

Historical Note

Former Section R14-2-135 renumbered as Section R14-2-314 without change effective March 2, 1982 (Supp. 82-2).

ARTICLE 4. WATER UTILITIES**R14-2-401. Definitions**

In this Article, unless the context otherwise requires, the following definitions shall apply:

1. "Advance in aid of construction." Funds provided to the utility by the applicant under the terms of a main extension agreement the value of which may be refundable.
2. "Applicant." A person requesting the utility to supply water service.
3. "Application." A request to the utility for water service, as distinguished from an inquiry as to the availability or charges for such service.
4. "Arizona Corporation Commission." The regulatory authority of the state of Arizona having jurisdiction over public service corporations operating in Arizona.
5. "Billing month." The period between any two regular readings of the utility's meters at approximately 30 day intervals.
6. "Billing period." The time interval between two consecutive meter readings that are taken for billing purposes.
7. "Commodity charge." The unit of cost per billed usage, as set forth in the utility's tariffs.
8. "Contributions in aid of construction." Funds provided to the utility by the applicant under the terms of a main extension agreement and/or service connection tariff the value of which are not refundable.
9. "Customer." The person or entity in whose name service is rendered, as evidenced by the signature on the application or contract for that service, or by the receipt and/or payment of bills regularly issued in his name regardless of the identity of the actual user of the service.
10. "Customer charge." The amount the customers must pay the utility for the availability of water service, excluding any water used, as specified in the utility's tariffs.
11. "Day." Calendar day.
12. "Distribution main." A water main of the utility from which service connections may be extended to customers.
13. "Interruptible water service." Water service that is subject to interruption or curtailment.
14. "Main extension." The mains and ancillary equipment necessary to extend the existing water distribution system to provide service to additional customers.
15. "Master meter." A meter for measuring or recording the flow of water at a single location where said water is transported through an underground piping system to tenants or occupants for their individual consumption.
16. "Meter." The instrument for measuring and indicating or recording the volume of water that has passed through it.
17. "Meter tampering." A situation where a meter has been illegally altered. Common examples are meter bypassing, use of magnets to slow the meter recording, and broken meter seals.
18. "Minimum charge." The amount the customer must pay for the availability of water service, including an amount of usage, as specified in the utility's tariffs.
19. "Minimum delivery pressure." 20 pounds per square inch gauge at the meter or point of delivery.
20. "Permanent customer." A customer who is a tenant or owner of a service location who applies for and receives water service.
21. "Permanent service." Service which, in the opinion of the utility, is of a permanent and established character. The use of water may be continuous, intermittent, or seasonal in nature.
22. "Person." Any individual, partnership, corporation, governmental agency, or other organization operating as a single entity.
23. "Point of delivery." The point where facilities owned, leased, or under license by a customer connect to the utility's pipes or at the outlet side of the meter.
24. "Premises." All of the real property and apparatus employed in a single enterprise on an integral parcel of land undivided by public streets, alleys or railways.
25. "Residential subdivision development." Any tract of land which has been divided into four or more contiguous lots for use for the construction of residential buildings or permanent mobile homes for either single or multiple occupancy.
26. "Residential use." Service to customers using water for domestic purposes such as personal consumption, water heating, cooking, and other residential uses and includes use in apartment buildings, mobile home parks, and other multiunit residential buildings.
27. "Rules." The regulations set forth in the tariffs which apply to the provision of water service.
28. "Service area." The territory in which the utility has been granted a Certificate of Convenience and Necessity and is authorized by the Commission to provide water service.
29. "Service establishment charge." The charge as specified in the utility's tariffs which covers the cost of establishing a new account.
30. "Service line." A water line that transports water from a common source (normally a distribution main) of supply to the customer's point of delivery.

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31. "Service reconnect charge." The charge as specified in the utility's tariffs which must be paid by the customer prior to reestablishment of water service each time the water is disconnected for nonpayment or whenever service is discontinued for failure otherwise to comply with the utility's fixed rules.
32. "Service reestablishment charge." A charge as specified in the utility's tariffs for service at the same location where the same customer had ordered a service disconnection within the preceding 12-month period.
33. "Single family dwelling." A house, an apartment, a mobile home permanently affixed to a lot, or any other permanent residential unit which is used as a permanent home.
34. "Tariffs." The documents filed with the Commission which list the services and products offered by the water company and which set forth the terms and conditions and a schedule of the rates and charges for those services and products.
35. "Temporary service." Service to premises or enterprises which are temporary in character, or where it is known in advance that the service will be of limited duration. Service which, in the opinion of the utility, is for operations of a speculative character is also considered temporary service.
36. "Utility." The public service corporation providing water service to the public in compliance with state law.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-402. Certificates of Convenience and Necessity for Water Utilities; Extensions of Certificates of Convenience and Necessity for Water Utilities; Abandonment, Sale, Lease, Transfer, or Disposal of a Water Utility; Discontinuance or Abandonment of Water Utility Service

A. In this Section, unless otherwise specified:

1. "Applicant" means a person who submits an application to obtain a Certificate of Convenience and Necessity to construct water utility facilities or operate as a water utility or to extend the service area under an existing Certificate of Convenience and Necessity held by the person.
2. "CC&N" means Certificate of Convenience and Necessity.
3. "Commission" means the Arizona Corporation Commission.
4. "Contiguous" means in actual contact, touching, such as by sharing a common border.
5. "Extension area" means the geographic area that an applicant is requesting to have added to the applicant's existing CC&N service area.

B. Application for a new CC&N or extension of a CC&N

1. Any person who desires to construct water utility facilities or to operate as a water utility shall, prior to commencing construction of utility facilities or operations, file with the Commission an application for a CC&N and obtain Commission approval.
2. Any utility that desires to extend its CC&N service area shall file with the Commission an application for a CC&N extension.
3. Before filing an application for a CC&N or a CC&N extension, a person shall provide written notice of the person's intention to file the application to each person who owns land within the proposed service area or extension area and who has not requested service. Each written notice to a landowner shall include, at a minimum:

- a. The legal name, physical address, mailing address (if different), and telephone number of the intended applicant;
- b. The approximate date by which the application will be filed;
- c. The type of services to be provided if the application is approved;
- d. The physical addresses and toll-free telephone numbers, in Phoenix and Tucson, for the Consumer Services Section of the Commission; and
- e. The following information:
 - i. That the recipient is a property owner within the proposed service area or extension area;
 - ii. That if the application is granted, the intended applicant will be the exclusive provider of the specific services to the proposed service area or extension area and will be required by the Commission to provide those services under rates and charges and terms and conditions established by the Commission;
 - iii. That a CC&N does not prohibit persons from providing services only to themselves using their own facilities on their own property, although other applicable laws may restrict such activity;
 - iv. That the application is available for inspection during regular business hours at the offices of the Commission and at the offices of the intended applicant;
 - v. That the Commission will hold a hearing on the application;
 - vi. That the landowner may have the right to intervene in the proceeding and may appear at the hearing and make a statement on his or her own behalf even if the landowner does not intervene;
 - vii. That the landowner may contact the Commission for the date and time of the hearing and for information on intervention;
 - viii. That the landowner may not receive any further notice of the application proceeding unless requested; and
 - ix. That the landowner may contact the intended applicant or the Consumer Services Section of the Commission if the landowner has any questions or concerns about the application, has any objections to approval of the application, or wishes to make a statement in support of the application.

4. Within 10 days after filing an application for a CC&N or a CC&N extension, an applicant shall provide written notice of the application to the municipal manager or administrator of each municipality with corporate limits that overlap with or are within five miles of the proposed service area or extension area. Each written notice shall include, at a minimum:

- a. The applicant's legal name, mailing address, and telephone number;
- b. The date the application was filed;
- c. The type of services to be provided if the application is approved;
- d. A description of the requested service area or extension area, expressed in terms of cadastral (quarter section) or metes and bound survey;
- e. The Commission docket number assigned to the application; and

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- f. Instructions on how to obtain a copy of the application.
5. Each application for a new CC&N or CC&N extension shall be submitted in a form and number prescribed by the Commission and shall include, at a minimum, the following information:
 - a. The applicant's legal name, mailing address, and telephone number;
 - b. If the applicant will or does operate the utility under a different business name, the name under which the applicant will be doing business;
 - c. The full name, mailing address, and telephone number of a management contact for the applicant;
 - d. The full name, mailing address, and telephone number of the attorney for the applicant, if any;
 - e. The full name, mailing address, and telephone number of the operator certified by the Arizona Department of Environmental Quality who is or will be working for the applicant;
 - f. The full name, mailing address, and telephone number of the onsite manager for the applicant;
 - g. Whether the applicant is a corporation, a partnership, a limited liability company, a sole proprietor, or another specified type of legal entity;
 - h. If the applicant is a corporation, the following:
 - i. Whether the applicant is a "C" corporation, an "S" corporation, or a non-profit corporation and whether the corporation is domestic or foreign;
 - ii. A list of the full names, titles, and mailing addresses of each of the applicant's officers and directors;
 - iii. A copy of the applicant's certificate of good standing issued by the Commission's Corporations Division;
 - iv. Unless the applicant is applying for a CC&N extension, a certified copy of the applicant's articles of incorporation and by-laws; and
 - v. If the applicant is a for-profit corporation, the number of shares of stock authorized for issue and, if any stock has been issued, the number of shares issued and date of issuance;
 - i. If the applicant is a partnership, the following:
 - i. Whether the applicant is a limited partnership or a general partnership and whether the partnership is domestic or foreign;
 - ii. The full names and mailing addresses of the applicant's general partners;
 - iii. The full names, mailing addresses, and telephone numbers of the applicant's managing partners;
 - iv. Unless the applicant is applying for a CC&N extension, a copy of the applicant's articles of partnership; and
 - v. If the applicant is a foreign limited partnership, a copy of the applicant's certificate of registration filed with the Arizona Secretary of State;
 - j. If the applicant is a limited liability company, the following:
 - i. The full names and mailing addresses of the applicant's managers or, if management is reserved to the members, the applicant's members;
 - ii. Unless the applicant is applying for a CC&N extension, a copy of the applicant's articles of organization;
- k. The legal name and mailing address of each other utility in which the applicant has an ownership interest;
- l. A description of the requested service area or extension area, expressed in terms of cadastral (quarter section) or metes and bound survey;
- m. The name of each county in which the requested service area or extension area is located and a description of the area's location in relation to the closest municipality, which shall be named;
- n. A complete description of the facilities proposed to be constructed, including a preliminary engineering report with specifications in sufficient detail to describe each water system and the principal components of each water system (e.g., source, storage, transmission lines, distribution lines, etc.) to allow verification of the estimated costs provided under subsection (B)(5)(o) and verification that the requirements of the Commission and the Arizona Department of Environmental Quality can be met;
- o. The estimated total construction cost of the proposed offsite and onsite facilities, including documentation to support the estimates, and an explanation of how the construction will be financed, such as through debt, equity, advances in aid of construction, contributions in aid of construction, or a combination thereof;
- p. Documentation establishing the applicant's financial condition, including at least the applicant's current assets and liabilities, an income statement, the applicant's estimated revenue and expenses for the first five years following approval of the application, and the estimated value of the applicant's utility plant in service for the first five years following approval of the application;
- q. The rates proposed to be charged for services rendered, shown in the form of a proposed tariff that complies with Commission standards;
- r. The estimated annual operating revenues and expenses for the first five years of operation for the requested service area or extension area, expressed separately for residential, commercial, industrial, and irrigation services, and including a description of each assumption made to derive the estimates;
- s. A detailed description of the proposed construction timeline for facilities, with estimated starting and completion dates and, if construction is to be phased, a description of each separate phase of construction;
- t. A copy of any requests for service from persons who own land within the proposed service area or extension area, which shall identify the applicant by name;
- u. Maps of the proposed service area or extension area identifying:
 - i. The boundaries of the area, with the total acreage noted;
 - ii. The land ownership boundaries within the area, with the acreage of each separately owned parcel within the area noted;
 - iii. The owner of each parcel within the area;
 - iv. Any municipality corporate limits that overlap with or are within five miles of the area;
 - v. The service area of any public service corporation, municipality, or district currently providing water or wastewater service within one mile of the area, with identification of the entity pro-

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- viding service and each type of service being provided;
- vi. The location within the area of any known water service connections that are already being provided service by the applicant;
- vii. The location of all proposed developments within the area;
- viii. The proposed location of each water system and the principal components described in subsection (B)(5)(n); and
- ix. The location of all parcels for which a copy of a request for service has been submitted per subsection (B)(5)(t);
- v. A copy of each notice to be sent, as required under subsection (B)(4), to a municipal manager or administrator;
- w. A copy of each notice sent, as required under subsection (B)(3), to a landowner not requesting service;
- x. For each landowner not requesting service, either the written response received from the landowner or, if no written response was received, a description of the actions taken by the applicant to obtain a written response;
- y. A copy of each city, county, or state agency approval required by law to construct the proposed facilities or operate the utility within the proposed service area or extension area or, for any approval not yet obtained, the status of the applicant's application for the approval;
- z. The estimated number of customers to be served for each of the first five years of operation, expressed separately for residential, commercial, industrial, and irrigation customers and including documentation to support the estimates;
- aa. A description of how wastewater service is to be provided in the proposed service area or extension area and the name of each wastewater service provider for the area, if any;
- bb. A letter from each wastewater service provider identified under subsection (B)(5)(aa), confirming the provision of wastewater service for the proposed service area or extension area;
- cc. Plans for or a description of water conservation measures to be implemented in the proposed service area or extension area, including, at a minimum:
 - i. A description of the information about water conservation or water saving measures that the utility will provide to the public and its customers;
 - ii. A description of how the applicant will work with each wastewater service provider identified under subsection (B)(5)(aa) to encourage water conservation;
 - iii. A description of the sources of water that will be used to supply parks, recreation areas, golf courses, greenbelts, ornamental lakes, and other aesthetic water features;
 - iv. A description of any plans for the use of reclaimed water;
 - v. A description of any plans for the use of recharge facilities;
 - vi. A description of any plans for the use of surface water; and
 - vii. A description of any other plans or programs to promote water conservation;
- dd. A backflow prevention tariff that complies with Commission standards, if not already on file;
- ee. A curtailment tariff that complies with Commission standards, if not already on file;
- ff. A copy of a Physical Availability Determination, Analysis of Adequate Water Supply, or Analysis of Assured Water Supply issued by the Arizona Department of Water Resources for the proposed service area or extension area or, if not yet obtained, the status of the application for such approval;
- gg. If the applicant is requesting a CC&N extension:
 - i. A current compliance status report from the Arizona Department of Environmental Quality, dated no more than 30 days before the date the CC&N extension application is filed, for each water system operated by the applicant, as identified by a separate Arizona Department of Environmental Quality Public Water System Identification Number; and
 - ii. A water use data sheet for the water system being extended by the applicant; and
- hh. The notarized signature of the applicant.
- 6. Upon receiving an application under subsection (B)(5), Utilities Division staff shall review and process the application in accordance with the requirements of R14-2-411.
- 7. Once Utilities Division staff determines that an application submitted under subsection (B)(5) is administratively complete, the Commission shall, as expeditiously as practicable, schedule a hearing to consider the application.
- C. Application for discontinuance or abandonment of utility service**
 - 1. A utility shall not discontinue or abandon any service currently in use by the public without first obtaining authority therefor from the Commission.
 - 2. A utility desiring to discontinue or abandon a service shall file with the Commission an application identifying the utility; including data regarding past, present and estimated future customer use of the service; describing any plant or facility that would no longer be in use if the application were approved; and explaining why the utility desires to discontinue or abandon the service.
 - 3. A utility is not required to apply for Commission approval to remove individual facilities where a customer has requested service discontinuance.
- D. Application for authority to abandon, sell, lease, transfer, or otherwise dispose of a utility**
 - 1. A utility shall not abandon, sell, lease, transfer, or otherwise dispose of its facilities or operation without first obtaining authority therefor from the Commission.
 - 2. A utility desiring to abandon, sell, lease, transfer, or otherwise dispose of its facilities or operation shall file with the Commission an application that includes, at a minimum:
 - a. The legal name, physical address, mailing address (if different), and telephone number of the utility;
 - b. A description of the utility property proposed to be abandoned, sold, leased, transferred, or otherwise disposed of;
 - c. Documentation establishing the utility's financial condition, including at least the utility's current assets and liabilities, an income statement, the utility's revenue and expenses for the most recently completed 12-month accounting period, and the value of the utility's utility plant in service;

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- d. The legal name, physical address, mailing address (if different), and telephone number of any proposed purchaser, lessee, transferee, or assignee;
 - e. The terms and conditions of the proposed abandonment, sale, lease, transfer, or assignment and copies of any agreement that has been or will be executed concerning the transaction;
 - f. A description of the effect that the proposed transaction will have upon the utility's services;
 - g. The method by which the proposed transaction is to be financed;
 - h. A description of the effect that the proposed transaction will have upon any other utility;
 - i. The number of customers to be affected by the proposed transaction; and
 - j. A description of the effect that the proposed transaction will have upon customers.
- E. Additions or extensions of service contiguous to existing CC&N service areas**
- 1. Except in the case of an emergency, a utility that proposes to extend service to a parcel located in a non-certificated area contiguous to its CC&N service area shall notify the Commission before the service extension occurs.
 - 2. Each notification required under subsection (E)(1) shall be in writing, shall be verified, and shall set forth, at a minimum:
 - a. The legal name, mailing address, and telephone number of the utility;
 - b. The number of persons to be served in the contiguous parcel;
 - c. The legal description of the contiguous parcel and the location of the structures to be served therein, in relation to the utility's CC&N service area; and
 - d. A statement that service will be extended only to a non-certificated parcel contiguous to the utility's CC&N service area.
 - 3. When emergency service is required to be provided to a person in a non-certificated area contiguous to a utility's CC&N service area, the utility shall notify the Commission of the service extension as soon as possible after the service extension occurs by providing written notice that includes the information required under subsection (E)(2) and describes the nature and extent of the emergency.
- duce proof of identity and sign the utility's application form.
- 3. Where service is requested by two or more individuals the utility shall have the right to collect the full amount owed to the utility from any one of the applicants.
- B. Deposits**
- 1. A utility may require a deposit from any new applicant for service.
 - 2. The utility shall issue a nonnegotiable receipt to the applicant for the deposit. The inability of the customer to produce such a receipt shall in no way impair his right to receive a refund of the deposit which is reflected on the utility's records.
 - 3. Interest on deposits shall be calculated annually at an interest rate filed by the utility and approved by the Commission in a tariff proceeding. In the absence of such, the interest rate shall be 6%.
 - 4. Interest shall be credited to the customer's bill annually.
 - 5. Residential deposits shall be refunded within 30 days after:
 - a. 12 consecutive months of service without being delinquent in the payment of utility bills provided the utility may reestablish the deposit if the customer becomes delinquent in the payment of bills two or more times within a 12-consecutive-month period.
 - b. Upon discontinuance of service when the customer has paid all outstanding amounts due the utility.
 - 6. A separate deposit may be required for each meter installed.
 - 7. The amount of a deposit required by the utility shall be determined according to the following terms:
 - a. Residential customer deposits shall not exceed two times the average residential class bill as evidenced by the utility's most recent annual report filed with the Commission.
 - b. Nonresidential customer deposits shall not exceed 2 1/2 times that customer's estimated maximum monthly bill.
 - c. The utility may review the customer's usage after service has been connected and adjust the deposit amount based upon the customer's actual usage.
 - 8. Upon discontinuance of service, the deposit may be applied by the utility toward settlement of the customer's bill.
- C. Grounds for refusal of service.** A utility may refuse to establish service if any of the following conditions exist:
- 1. The applicant has an outstanding amount due for the same class of utility service with the utility and the applicant is unwilling to make arrangements with the utility for payment.
 - 2. A condition exists which in the utility's judgment is unsafe or hazardous to the applicant, the general population, or the utility's personnel or facilities.
 - 3. Refusal by the applicant to provide the utility with a deposit.
 - 4. Customer is known to be in violation of the utility's tariffs filed with the Commission or of the Commission's rules and regulations.
 - 5. Failure of the customer to furnish such funds, service, equipment, and/or rights-of-way necessary to serve the customer and which have been specified by the utility as a condition for providing service.
 - 6. Applicant falsifies his or her identity for the purpose of obtaining service.
- D. Service establishments, re-establishments or reconnection charge**

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended by adding subsection (C) effective September 28, 1982 (Supp. 82-5). Amended by final rulemaking at 15 A.A.R. 2066, effective January 22, 2010 (Supp. 09-4).

R14-2-403. Establishment of service**A. Information from new applicants**

- 1. A utility may obtain the following minimum information from each new applicant for service:
 - a. Name or names of applicant(s).
 - b. Service address or location and telephone number
 - c. Billing address/telephone number, if different than service address.
 - d. Address where service was provided previously.
 - e. Date applicant will be ready for service.
 - f. Indication of whether premises have been supplied with utility service previously.
 - g. Purpose for which service is to be used.
 - h. Indication of whether applicant is owner or tenant of or agent for the premises.
- 2. Each utility may require a new applicant for service to appear at the utility's designated place of business to pro-

duce proof of identity and sign the utility's application form.

- 1. The applicant has an outstanding amount due for the same class of utility service with the utility and the applicant is unwilling to make arrangements with the utility for payment.
- 2. A condition exists which in the utility's judgment is unsafe or hazardous to the applicant, the general population, or the utility's personnel or facilities.
- 3. Refusal by the applicant to provide the utility with a deposit.
- 4. Customer is known to be in violation of the utility's tariffs filed with the Commission or of the Commission's rules and regulations.
- 5. Failure of the customer to furnish such funds, service, equipment, and/or rights-of-way necessary to serve the customer and which have been specified by the utility as a condition for providing service.
- 6. Applicant falsifies his or her identity for the purpose of obtaining service.

D. Service establishments, re-establishments or reconnection charge

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1. A utility may make a charge as approved by the Commission for the establishment, reestablishment, or reconnection of utility services.
2. Should service be established during a period other than regular working hours at the customer's request, the customer may be required to pay an after-hour charge for the service connection. Where the utility scheduling will not permit service establishment on the same day requested, the customer can elect to pay the after-hour charge for establishment that day.
3. For the purpose of this rule, service establishments are where the customer's facilities are ready and acceptable to the utility and the utility needs only to install a meter, read a meter, or turn the service on.

E. Temporary service

1. Applicants for temporary service may be required to pay the utility, in advance of service establishment, the estimated cost of installing and removing the facilities necessary for furnishing the desired service.
2. Where the duration of service is to be less than one month, the applicant may also be required to advance a sum of money equal to the estimated bill for service.
3. Where the duration of service is to exceed one month, the applicant may also be required to meet the deposit requirements of the utility.
4. If at any time during the term of the agreement for service the character of a temporary customer's operations changes so that in the opinion of the utility the customer is classified as permanent, the terms of the utility's main extension rules shall apply.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended subsections (B) and (D) effective September 28, 1982 (Supp. 82-5). Amended to correct subsection numbering (Supp. 99-4).

R14-2-404. Minimum customer information requirements**A. Information for residential customers**

1. Each utility shall make available upon customer request not later than 60 days from the date of request a concise summary of the rate schedule applied for by such customer. The summary shall include the following:
 - a. Monthly minimum or customer charge, identifying the amount of the charge and the specific amount of usage included in the minimum charge, where applicable.
 - b. Rate blocks, where applicable.
 - c. Any adjustment factor(s) and method of calculation.
2. The utility shall to the extent practical identify the tariff most advantageous to the customer and notify the customer of such prior to service commencement.
3. In addition, a utility shall make available upon customer request not later than 60 days from the date of request a copy of the Commission's rules and regulations governing:
 - a. Deposits
 - b. Terminations of service
 - c. Billing and collection
 - d. Complaint handling.
4. Each utility upon written request of a customer shall transmit a concise statement of actual consumption by such customer for each billing period during the prior 12 months unless such data is not reasonably ascertainable.
5. Each utility shall inform all new customers of their rights to obtain the information specified above.

B. Information required due to changes in tariffs

1. Each utility shall transmit to affected customers by the most economic means available a concise summary of any change in the utility's tariffs affecting those customers.
2. This information shall be transmitted to the affected customer within 60 days of the effective date of the change.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-405. Service connections and establishments**A. Priority and timing of service establishments**

1. After an applicant has complied with the utility's application and deposit requirements and has been accepted for service by the utility, the utility shall schedule that customer for service connection and/or establishment.
2. Service establishments shall be scheduled for completion within five working days of the date the customer has been accepted for service, except in those instances when the customer requests service establishment beyond the five working day limitation.
3. When the utility has made arrangements to meet with a customer for service establishment purposes and the utility or the customer cannot make the appointment during the prearranged time, the utility shall reschedule the service establishment to the satisfaction of both parties.
4. Each utility shall schedule service establishment appointments within a maximum range of four hours during normal working hours, unless another time-frame is mutually acceptable to the utility and the customer.
5. Service establishments shall be made only by qualified utility service personnel.
6. For the purposes of this rule, service establishments are where the customer's facilities are ready and acceptable to the utility and the utility needs only to install or read a meter or turn the service on.

B. Service lines

1. An applicant for service shall be responsible for the cost of installing all customer piping up to the meter.
2. An applicant for service shall pay to the utility as a refundable advance in aid of construction the sum as set forth in the utility's tariff for each size service and meter. Except where the refundable advances in aid of construction for meters and service lines have been included in refundable advances in aid of construction for line extensions and thus are refundable pursuant to main extension contracts approved by the Commission, each advance in aid of construction for a service line or meter shall be repaid by the utility by an annual credit of 1/10 of the amount received, said credit to be applied upon the water bill rendered in November of each year until fully paid, for each service and meter for which the advance was made, and said credit to commence the month of November for all such advances received during the preceding calendar year.
3. Where service is being provided for the first time, the customer shall provide and maintain a private cutoff valve within 18 inches of the meter on the customer's side of the meter, and the utility shall provide a like valve on the utility's side of such meter.
4. The Company may install its meter at the property line or, at the Company's option, on the customer's property in a location mutually agreed upon.
5. Where the meter or service line location on the customer's premises is changed at the request of the customer or due to alterations on the customer's premises, the customer shall provide and have installed at his

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expense all piping necessary for relocating the meter and the utility may make a charge for moving the meter and/or service line.

6. The customer's lines or piping must be installed in such a manner as to prevent cross-connection or backflow.
7. Each utility shall file a tariff for service and meter installations for Commission review and approval.

C. Easements and rights-of-way

1. Each customer shall grant adequate easement and right-of-way satisfactory to the utility to ensure that customer's proper service connection. Failure on the part of the customer to grant adequate easement and right-of-way shall be grounds for the utility to refuse service.
2. When a utility discovers that a customer or his agent is performing work or has constructed facilities adjacent to or within an easement or right-of-way and such work, construction or facility poses a hazard or is in violation of federal, state or local laws, ordinances, statutes, rules or regulations, or significantly interferes with the utility's access to equipment, the utility shall notify the customer or his agent and shall take whatever actions are necessary to eliminate the hazard, obstruction or violation at the customer's expense.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended subsection (B) effective September 28, 1982 (Supp. 82-5).

R14-2-406. Main extension agreements

- A.** Each utility entering into a main extension agreement shall comply with the provisions of this rule which specifically defines the conditions governing main extensions.
- B.** An applicant for the extension of mains may be required to pay to the Company, as a refundable advance in aid of construction, before construction is commenced, the estimated reasonable cost of all mains, including all valves and fittings.
 1. In the event that additional facilities are required to provide pressure, storage or water supply, exclusively for the new service or services requested, and the cost of the additional facilities is disproportionate to anticipated revenues to be derived from future consumers using these facilities, the estimated reasonable cost of such additional facilities may be included in refundable advances in aid of construction to be paid to the Company.
 2. Upon request by a potential applicant for a main extension, the utility shall prepare, without charge, a preliminary sketch and rough estimate of the cost of installation to be paid by said applicant. Any applicant for a main extension requesting the utility to prepare detailed plans, specifications, or cost estimates may be required to deposit with the utility an amount equal to the estimated cost of preparation. The utility shall, upon request, make available within 45 days after receipt of the deposit referred to above, such plans, specifications, or cost estimates of the proposed main extension. Where the applicant accepts utility construction of the extension, the deposit shall be credited to the cost of construction; otherwise the deposit shall be nonrefundable. If the extension is to include oversizing of facilities to be done at the utility's expense, appropriate details shall be set forth in the plans, specifications and cost estimates.
 3. Where the utility requires an applicant to advance funds for a main extension, the utility shall furnish the applicant with a copy of the Commission rules on main extension agreements prior to the applicant's acceptance of the utility's extension agreement.

4. In the event the utility's actual cost of construction is less than the amount advanced by the customer, the utility shall make a refund to the applicant within 30 days after the completion of the construction or utility's receipt of invoices related to that construction.

5. The provisions of this rule apply only to those applicants who in the utility's judgment will be permanent customers of the utility. Applications for temporary service shall be governed by the Commission's rules concerning temporary service applications.

C. Minimum written agreement requirements

1. Each main extension agreement shall include the following information:
 - a. Name and address of applicant(s)
 - b. Proposed service address
 - c. Description of requested service
 - d. Description and map of the requested line extension
 - e. Itemized cost estimate to include materials, labor, and other costs as necessary
 - f. Payment terms
 - g. A clear and concise explanation of any refunding provisions, if applicable
 - h. Utility's estimated start date and completion date for construction of the main extension
2. Each applicant shall be provided with a copy of the written main extension agreement.

- D.** Refunds of advances made pursuant to this rule shall be made in accord with the following method: the Company shall each year pay to the party making an advance under a main extension agreement, or that party's assignees or other successors in interest where the Company has received notice and evidence of such assignment or succession, a minimum amount equal to 10% of the total gross annual revenue from water sales to each bona fide consumer whose service line is connected to main lines covered by the main extension agreement, for a period of not less than 10 years. Refunds shall be made by the Company on or before the 31st day of August of each year, covering any refunds owing from water revenues received during the preceding July 1st to June 30th period. A balance remaining at the end of the ten-year period set out shall become non-refundable, in which case the balance not refunded shall be entered as a contribution in aid of construction in the accounts of the Company, however, agreements under this general order may provide that any balance of the amount advanced thereunder remaining at the end of the 10 year period set out, shall thereafter remain payable in whole or in part and in such manner as is set forth in the agreement. The aggregate refunds under this rule shall in no event exceed the total of the refundable advances in aid of construction. No interest shall be paid by the utility on any amounts advanced. The Company shall make no refunds from any revenue received from any lines, other than customer service lines, leading up to or taking off from the particular main extension covered by the agreement.

- E.** Amounts advanced in aid of construction of main extensions shall be refunded in accord with the rules of this Commission in force and effect on the date the agreement therefor was executed. All costs under main extension agreements entered into after the adoption of this rule shall be refunded as provided herein.

- F.** The Commission will not approve the transfer of any Certificate of Public Convenience and Necessity where the transferor has entered into a main extension agreement, unless it is demonstrated to the Commission that the transferor has agreed to satisfy the refund agreement, or that the transferee has assumed and has agreed to pay the transferor's obligations under such agreement.

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- G.** All agreements entered into under this rule shall be evidenced by a written statement, and signed by the Company and the parties advancing the funds for advances in aid under this rule or the duly authorized agents of each.
- H.** The size, design, type and quality of materials of the system, installed under this rule location in the ground and the manner of installation, shall be specified by the Company, and shall be in accord with the requirements of the Commission or other public agencies having authority therein. The Company may install main extensions of any diameter meeting the requirements of the Commission or any other public agencies having authority over the construction and operation of the water system and mains, except individual main extensions, shall comply with and conform to the following minimum specifications:
1. 150 p.s.i. working pressure rating and
 2. 6" standard diameter.
- However, single residential customer advances in aid of construction shall not exceed the reasonable cost of construction of the 6-inch diameter main extension.
- I.** All pipelines, valves, fittings, wells, tanks or other facilities installed under this rule shall be the sole property of the Company, and parties making advances in aid of construction under this rule shall have no right, title or interest in any such facilities.
- J.** The Company shall schedule all new requests for main extension agreements, and for service under main extension agreements, promptly and in the order received.
- K.** An applicant for service seeking to enter into a main extension agreement may request that the utility include on a list of contractors from whom bids will be solicited, the name(s) of any bonded contractor(s), provided that all bids shall be submitted by the bid date stipulated by the utility. If a lower bid is thus obtained or if a bid is obtained at an equal price and with a more appropriate time of performance, and if such bid contemplates conformity with the Company's requirements and specifications, the Company shall be required to meet the terms and conditions of the bid proffered, or to enter into a construction contract with the contractor proffering such bid. Performance bond in the total amount of the contract may be required by the utility from the contractor prior to construction.
- L.** Any discounts obtained by the utility from contracts terminated under this rule shall be accounted for by credits to the appropriate account dominated as Contributions in Aid of Construction.
- M.** All agreements under this rule shall be filed with and approved by the Utilities Division of the Commission. No agreement shall be approved unless accompanied by a Certificate of Approval to Construct as issued by the Arizona Department of Health Services. Where agreements for main extensions are not filed and approved by the Utilities Division, the refundable advance shall be immediately due and payable to the person making the advance.
- Historical Note**
- Adopted effective March 2, 1982 (Supp. 82-2). Amended subsections (D) and (K) effective September 28, 1982 (Supp. 82-5). Amended to correct subsection numbering (Supp. 99-4).
- R14-2-407. Provision of service**
- A.** Utility responsibility. Each utility shall be responsible for providing potable water to the customer's point of delivery.
- B.** Customer responsibility
1. Each customer shall be responsible for maintaining all facilities on the customer's side of the point of delivery in a safe and efficient manner and in accordance with the rules of the state Department of Health.
 2. Each customer shall be responsible for safeguarding all utility property installed in or on the customer's premises for the purpose of supplying water to that customer.
 3. Each customer shall exercise all reasonable care to prevent loss or damage to utility property, excluding ordinary wear and tear. The customer shall be responsible for loss of or damage to utility property on the customer's premises arising from neglect, carelessness, or misuse and shall reimburse the utility for the cost of necessary repairs or replacements.
 4. Each customer shall be responsible for payment for any equipment damage resulting from unauthorized breaking of seals, interfering, tampering or bypassing the utility meter.
 5. Each customer shall be responsible for notifying the utility of any failure identified in the utility's equipment.
 6. Water furnished by the utility shall be used only on the customer's premises and shall not be resold to any other person. During critical water conditions, as determined by the Commission, the customer shall use water only for those purposes specified by the Commission. Disregard for this rule shall be sufficient cause for refusal or discontinuance of service.
- C.** Continuity of service. Each utility shall make reasonable efforts to supply a satisfactory and continuous level of service. However, no utility shall be responsible for any damage or claim of damage attributable to any interruption or discontinuation of service resulting from:
1. Any cause against which the utility could not have reasonably foreseen or made provision for, i.e., force majeure
 2. Intentional service interruptions to make repairs or perform routine maintenance
 3. Curtailment.
- D.** Service interruptions
1. Each utility shall make reasonable efforts to reestablish service within the shortest possible time when service interruptions occur.
 2. Each utility shall make reasonable provisions to meet emergencies resulting from failure of service, and each utility shall issue instructions to its employees covering procedures to be followed in the event of emergency in order to prevent or mitigate interruption or impairment of service.
 3. In the event of a national emergency or local disaster resulting in disruption of normal service, the utility may, in the public interest, interrupt service to other customers to provide necessary service to civil defense or other emergency service agencies on a temporary basis until normal service to these agencies can be restored.
 4. When a utility plans to interrupt service for more than four hours to perform necessary repairs or maintenance, the utility shall attempt to inform affected customers at least 24 hours in advance of the scheduled date and estimated duration of the service interruption. Such repairs shall be completed in the shortest possible time to minimize the inconvenience to the customers of the utility.
 5. The Commission shall be notified of interruptions in service affecting the entire system or any major division thereof. The interruption of service and cause shall be reported within four hours after the responsible representative of the utility becomes aware of said interruption by telephone to the Commission and followed by a written report to the Commission.

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- E. Minimum delivery pressure. Each utility shall maintain a minimum standard delivery pressure of 20 pounds per square inch gauge (PSIG) at the customer's meter or point of delivery.
- F. Construction standards. Each utility shall construct all facilities in accordance with the guidelines established by the state Department of Health Services.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended subsection (F) effective September 28, 1982 (Supp. 82-5). Amended to correct subsection numbering (Supp. 99-4).

R14-2-408. Meter reading

- A. Frequency. Each meter shall be read monthly on as close to the same day as practical.
- B. Measuring of service
 - 1. All water delivered by the utility shall be billed upon the basis of metered volume sales except that the utility may, at its option, provide a fixed charge schedule for the following:
 - a. Temporary service where the water use can be readily estimated
 - b. Public and private fire protection service
 - c. Water used for street sprinkling and sewer flushing, when provided for by contract between the utility and the municipality or other local governmental authority
 - d. Other fixed charge schedules as shall be submitted to and approved by the Commission.
 - 2. When there is more than one meter at a location, the metering equipment shall be so tagged or plainly marked as to indicate the facilities being metered.
- C. Customer requested rereads
 - 1. Each utility shall at the request of a customer reread the customer's meter within 10 working days after such request by the customer.
 - 2. Any rereads shall be charged to the customer at a rate on file and approved by the Commission, provided that the original reading was not in error.
 - 3. When a reading is found to be in error, the reread shall be at no charge to the customer.
- D. Access to customer premises. Each utility shall have the right of safe ingress to and egress from the customer's premises at all reasonable hours for any purpose reasonably connected with the utility's property used in furnishing service and the exercise of any and all rights secured to it by law or these rules.
- E. Meter testing and maintenance program. Each utility shall establish a regular program of meter testing taking into account the following factors:
 - 1. Size of meter
 - 2. Age of meter
 - 3. Consumption
 - 4. Characteristics of water.
- F. Customer requested meter tests. A utility shall test a meter upon customer request and each utility shall be authorized to charge the customer for such meter test according to the tariff on file and approved by the Commission. However, if the meter is found to be in error by more than 3%, no meter testing fee will be charged to the customer.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended to correct subsection numbering (Supp. 99-4).

R14-2-409. Billing and collection

- A. Frequency and estimated bills

- 1. Each utility shall bill monthly for services rendered. Meter readings shall be scheduled for periods of not less than 25 days or more than 35 days.
- 2. If the utility is unable to read the meter on the scheduled meter read date, the utility will estimate the consumption for the billing period giving consideration to the following factors where applicable:
 - a. The customer's usage during the same month of the previous year
 - b. The amount of usage during the preceding month.
- 3. After the second consecutive month of estimating the customer's bill for reasons other than severe weather, the utility will attempt to secure an accurate reading of the meter.
- 4. Failure on the part of the customer to comply with a reasonable request by the utility for access to its meter may lead to the discontinuance of service.
- 5. Estimated bills will be issued only under the following conditions:
 - a. Failure of a customer who read his own meter to deliver his meter reading card to the utility in accordance with the requirements of the utility billing cycle.
 - b. Severe weather conditions which prevent the utility from reading the meter.
 - c. Circumstances that make it dangerous or impossible to read the meter, i.e., locked gates, blocked meters, vicious or dangerous animals, etc.
- 6. Each bill based on estimated usage will indicate that it is an estimated bill.
- B. Combining meters, minimum bill information
 - 1. Each meter at a customer's premises will be considered separately for billing purposes, and the readings of two or more meters will not be combined.
 - 2. Each bill for residential service will contain the following minimum information:
 - a. Date and meter reading at the start of billing period
 - b. Previous month's meter reading
 - c. Billed usage
 - d. Utility telephone number
 - e. Customer's name
 - f. Service account number (if available)
 - g. Amount due and due date
 - h. Past due amount (where appropriate)
 - i. Adjustment factor, where applicable
 - j. Other approved tariff charges.
- C. Billing terms
 - 1. All bills for utility services are due and payable when rendered. Any payment not received within 15 days from the date the bill was rendered shall be considered delinquent.
 - 2. For purposes of this rule, the date a bill is rendered may be evidenced by:
 - a. The postmark date
 - b. The mailing date:
 - i. Certified mail
 - ii. Certificate of mailing.
 - 3. All delinquent bills shall be subject to the provisions of the utility's termination procedures as set forth in R14-2-410.
 - 4. All payments shall be made at or mailed to the office of the utility or to the utility's duly authorized representative.
- D. Applicable tariffs, prepayment, failure to receive, commencement date, taxes
 - 1. Each customer shall be billed under the applicable tariff indicated in the customer's application for service.

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2. Each utility shall make provisions for advance payment for utility services.
 3. Failure to receive bills or notices which have been properly placed in the United States mail shall not prevent such bills from becoming delinquent nor relieve the customer of his obligations therein.
 4. Charges for service commence when the service is installed and connection made, whether used or not.
 5. In addition to the collection of regular rates, each utility may collect from its customers a proportionate share of any privilege, sales or use tax.
- E. Meter error corrections**
1. If any meter after testing is found to be more than 3% in error, either fast or slow, proper correction between 3% and the amount of the error shall be made of previous readings and adjusted bills shall be rendered according to the following terms:
 - a. For the period of three months immediately preceding the removal of such meter from service for test or from the time the meter was in service since last tested, but not exceeding three months since the meter shall have been shown to be in error by such test, or
 - b. From the date the error occurred, if the date of the cause can be definitely fixed.
 2. No adjustment shall be made by the utility except to the customer last served by the meter tested.
- F. Insufficient funds (NSF) checks**
1. A utility shall be allowed to recover a fee, as approved by the Commission for each instance where a customer tenders payment for utility service with an insufficient funds check.
 2. When the utility is notified by the customer's bank that there are insufficient funds to cover the check tendered for utility service, the utility may require the customer to make payment in cash, by money order, certified check, or other means which guarantee the customer's payment to the utility.
 3. A customer who tenders an insufficient check shall in no way be relieved of the obligation to render payment to the utility under the original terms of the bill nor defer the utility's provision for termination of service for nonpayment of bills.
- G. Deferred payment plan**
1. Each utility may, prior to termination, offer to qualifying residential customers a deferred payment plan for the customer to retire unpaid bills for utility service.
 2. Each deferred payment agreement entered into by the utility and the customer due to the customer's inability to pay an outstanding bill in full shall provide that service will not be discontinued if:
 - a. Customer agrees to pay a reasonable amount of the outstanding bill at the time the parties enter into the deferred payment agreement.
 - b. Customer agrees to pay all future bills for utility service in accordance with the billing and collection tariffs of the utility.
 - c. Customer agrees to pay a reasonable portion of the remaining outstanding balance in installments over a period not to exceed six months.
 3. For the purposes of determining a reasonable installment payment schedule under these rules, the utility and the customer shall give consideration to the following conditions:
 - a. Size of the delinquent account
 - b. Customer's ability to pay
 - c. Customer's payment history
 - d. Length of time that the debt has been outstanding
 - e. Circumstances which resulted in the debt being outstanding
 - f. Any other relevant factors related to the circumstances of the customer.
 4. Any customer who desires to enter into a deferred payment agreement shall establish such agreement prior to the utility's scheduled termination date for nonpayment of bills; customer failure to execute a deferred payment agreement prior to the scheduled termination date shall not prevent the utility from discontinuing service for nonpayment.
 5. Deferred payment agreements may be in writing and may be signed by the customer and an authorized utility representative.
 6. A deferred payment agreement may include a finance charge as approved by the Commission in a tariff proceeding.
 7. If a customer has not fulfilled the terms of a deferred payment agreement, the utility shall have the right to disconnect service pursuant to the utility's termination of service rules and, under such circumstances, it shall not be required to offer subsequent negotiation of a deferred payment agreement prior to disconnection.
- H. Change of occupancy**
1. Not less than three working days advance notice must be given in person, in writing, or by telephone at the utility's office to discontinue service or to change occupancy.
 2. The outgoing party shall be responsible for all utility services provided and/or consumed up to the scheduled turn-off date.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended subsection (C) effective September 28, 1982 (Supp. 82-5).

R14-2-410. Termination of service

- A.** Nonpermissible reasons to disconnect service. A utility may not disconnect service for any of the reasons stated below:
1. Delinquency in payment for services rendered to a prior customer at the premises where service is being provided, except in the instance where the prior customer continues to reside on the premises.
 2. Failure of the customer to pay for services or equipment which are not regulated by the Commission.
 3. Nonpayment of a bill related to another class of service.
 4. Failure to pay for a bill to correct a previous underbilling due to an inaccurate meter or meter failure if the customer agrees to pay over a reasonable period of time.
- B.** Termination of service without notice
1. Utility service may be disconnected without advance written notice under the following conditions:
 - a. The existence of an obvious hazard to the safety or health of the consumer or the general population.
 - b. The utility has evidence of meter tampering or fraud.
 - c. Unauthorized resale or use of utility services.
 - d. Failure of a customer to comply with the curtailment procedures imposed by a utility during supply shortages.
 2. The utility shall not be required to restore service until the conditions which resulted in the termination have been corrected to the satisfaction of the utility.
 3. Each utility shall maintain a record of all terminations of service without notice. This record shall be maintained

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for a minimum of one year and shall be available for inspection by the Commission.

C. Termination of service with notice

1. A utility may disconnect service to any customer for any reason stated below provided the utility has met the notice requirements established by the Commission:
 - a. Customer violation of any of the utility's tariffs filed with the Commission and/or violation of the Commission's rules and regulations.
 - b. Failure of the customer to pay a delinquent bill for utility service.
 - c. Failure to meet or maintain the utility's credit and deposit requirements.
 - d. Failure of the customer to provide the utility reasonable access to its equipment and property.
 - e. Customer breach of a written contract for service between the utility and customer.
 - f. When necessary for the utility to comply with an order of any governmental agency having such jurisdiction.
2. Each utility shall maintain a record of all terminations of service with notice. This record shall be maintained for one year and be available for Commission inspection.

D. Termination notice requirements

1. No utility shall terminate service to any of its customers without providing advance written notice to the customer of the utility's intent to disconnect service, except under those conditions specified where advance written notice is not required.
2. Such advance written notice shall contain, at a minimum, the following information:
 - a. The name of the person whose service is to be terminated and the address where service is being rendered.
 - b. The Commission rule or regulation that was violated and explanation thereof or the amount of the bill which the customer has failed to pay in accordance with the payment policy of the utility, if applicable.
 - c. The date on or after which service may be terminated.
 - d. A statement advising the customer to contact the utility at a specific address or phone number for information regarding any deferred payment or other procedures which the utility may offer or to work out some other mutually agreeable solution to avoid termination of the customer's service.
 - e. A statement advising the customer that the utility's stated reason for the termination of services may be disputed by contacting the utility at a specific address or phone number, advising the utility of the dispute and making arrangements to discuss the cause for termination with a responsible employee of the utility in advance of the scheduled date of termination. The responsible employee shall be empowered to resolve the dispute and the utility shall retain the option to terminate service.

E. Timing of terminations with notice

1. Each utility shall be required to give at least 10 days advance written notice prior to the termination date.
2. Such notice shall be considered to be given to the customer when a copy thereof is left with the customer or posted first class in the United States mail, addressed to the customer's last known address.
3. If after the period of time allowed by the notice has elapsed and the delinquent account has not been paid nor arrangements made with the utility for the payment

thereof or in the case of a violation of the utility's rules the customer has not satisfied the utility that such violation has ceased, the utility may then terminate service on or after the day specified in the notice without giving further notice.

4. Service may only be disconnected in conjunction with a personal visit to the premises by an authorized representative of the utility.
5. The utility shall have the right (but not the obligation) to remove any or all of its property installed on the customer's premises upon the termination of service.

F. Landlord/tenant rule. In situations where service is rendered at an address different from the mailing address of the bill or where the utility knows that a landlord/tenant relationship exists and that the landlord is the customer of the utility, and where the landlord as a customer would otherwise be subject to disconnection of service, the utility may not disconnect service until the following actions have been taken:

1. Where it is feasible to so provide service, the utility, after providing notice as required in these rules, shall offer the occupant the opportunity to subscribe for service in his or her own name. If the occupant then declines to so subscribe, the utility may disconnect service pursuant to the rules.
2. A utility shall not attempt to recover from a tenant or condition service to a tenant with the payment of any outstanding bills or other charges due upon the outstanding account of the landlord.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended subsection (E) effective September 28, 1982 (Supp. 82-5). Amended to correct subsection numbering (Supp. 99-4).

Editor's Note: The following Section was amended under an exemption from the Attorney General approval provisions of the Arizona Administrative Procedure Act (*State ex. rel. Corbin v. Arizona Corporation Commission*, 174 Ariz. 216 848 P.2d 301 (App. 1992)), as determined by the Corporation Commission. This exemption means that the rules as amended were not approved by the Attorney General.

R14-2-411. Administrative and Hearing Requirements

A. Customer service complaints

1. Each utility shall make a full and prompt investigation of all service complaints made by its customers, either directly or through the Commission.
2. The utility shall respond to the complainant and/or the Commission representative within five working days as to the status of the utility investigation of the complaint.
3. The utility shall notify the complainant and/or the Commission representative of the final disposition of each complaint. Upon request of the complainant or the Commission representative, the utility shall report the findings of its investigation in writing.
4. The utility shall inform the customer of his right of appeal to the Commission.
5. Each utility shall keep a record of all written service complaints received which shall contain, at a minimum, the following data:
 - a. Name and address of the complainant
 - b. Date and nature of the complaint
 - c. Disposition of the complaint
 - d. A copy of any correspondence between the utility, the customer, and/or the Commission.

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This record shall be maintained for a minimum period of one year and shall be available for inspection by the Commission.

- B. Notice by utility of responsible officer or agent**
 - 1. Each utility shall file with the Commission a written statement containing the name, address (business, residence and post office) and telephone numbers (business and residence) of the onsite manager of its operations.
 - 2. Each utility shall give notice, by filing a written statement with the Commission, of any change in the information required herein within five days from the date of any such change.
- C. Time-frames for processing applications for Certificates of Convenience and Necessity**
 - 1. This rule prescribes time-frames for the processing of any application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.
 - 2. Within 30 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.
 - 3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.
 - 4. After receipt of a corrected application, staff shall notify the applicant within 30 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.
 - 5. Within 150 days after an application is deemed administratively complete, the Commission shall approve or reject the application.
 - 6. For purposes of A.R.S. § 41-1072 et seq., the Commission has established the following time-frames:
 - a. Administrative completeness review time-frame: 30 calendar days,
 - b. Substantive review time-frame: 150 calendar days,
 - c. Overall time-time: 180 calendar days.
 - 7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.
 - 8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.
- D. Accounts and records**
 - 1. Each utility shall keep general and auxiliary accounting records reflecting the cost of its properties, operating income and expense, assets and liabilities, and all other accounting and statistical data necessary to give complete and authentic information as to its properties and operations.
 - 2. Each utility shall maintain its books and records in conformity with the NARUC Uniform Systems of Accounts for Class A, B, C and D Water Utilities.
 - 3. A utility shall produce or deliver in this state any or all of its formal accounting records and related documents

requested by the Commission. It may, at its option, provide verified copies of original records and documents.

- 4. All utilities shall submit an annual report to the Commission on a form prescribed by it. The annual report shall be filed on or before the 15th day of April for the preceding calendar year.
- 5. All utilities shall file with the Commission a copy of all reports required by the Securities and Exchange Commission.
- 6. All utilities shall file with the Commission a copy of all annual reports required by the Federal Energy Regulatory Commission.
- E. Maps.** All utilities shall file with the Commission a map or maps clearly setting forth the location and extent of the area or areas they hold under approved certificates of convenience and necessity, in accordance with the Cadastral (Rectangular) Survey of the United States Bureau of Land Management, or by metes and bounds with a starting point determined by the aforesaid Cadastral Survey.
- F. Variations, exemptions of Commission rules and regulations.** Variations or exemptions from the terms and requirements of any of the rules included herein (Title 14, Chapter 2, Article 4) shall be considered upon the verified application of an affected party to the Commission setting forth the circumstances whereby the public interest requires such variation or exemption from the Commission rules and regulations. Such application will be subject to the review of the Commission, and any variation or exemption granted shall require an order of the Commission. In case of conflict between these rules and regulations and an approved tariff or order of the Commission, the provisions of the tariff or order shall apply.
- G. Prior agreements.** The adoption of these rules by the Commission shall not affect any agreements entered into between the utility and customers or other parties who, pursuant to such contracts, arranged for the extension of facilities in a provision of service prior to the effective date of these rules.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended subsection (D) effective September 28, 1982 (Supp. 82-5). Amended effective December 31, 1998, under an exemption as determined by the Arizona Corporation Commission (Supp. 98-4). Amended to correct subsection numbering (Supp. 99-4).

ARTICLE 5. TELEPHONE UTILITIES**R14-2-501. Definitions**

In this Article, unless the context otherwise requires, the following definitions shall apply:

- 1. "Advance in aid of construction." Funds provided to the utility by the applicant under the terms of a construction agreement, which may be refundable.
- 2. "Applicant." A person or agency requesting the utility to supply telephone service.
- 3. "Application." A request to the utility for telephone service, as distinguished from an inquiry as to the availability or charges for such service.
- 4. "Arizona Corporation Commission." The regulatory authority of the state of Arizona having jurisdiction over public service corporations operating in Arizona.
- 5. "Basic exchange service." Service provided to business or residential customers at a flat or measured rate which affords access to the telecommunications network.
- 6. "Billing period." The time interval between the issuance of two consecutive bills for utility service.
- 7. "Central office." The switching equipment and operating arrangements which provide exchange and long distance

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service to the public and interconnection of customer telecommunication services.

8. "Contribution in aid of construction." Funds provided to the utility by the applicant under the terms of a construction agreement or construction tariff which are not refundable.
9. "Customer." The person or entity in whose name service is rendered, as evidenced by the signature on the application or contract for that service, or by the receipt and/or payment of bills regularly issued in his name regardless of the identity of the actual user of the service.
10. "Day." Calendar day.
11. "Line extension." The lines and equipment necessary to provide service to additional customers.
12. "Person." Any individual, partnership, corporation, governmental agency, or other organization operating as a single entity.
13. "Service access point." A demarcation point where facilities owned, leased, or under license by a customer connect to the utility provided access line.
14. "Premises." All of the real property and apparatus employed in a single enterprise on an integral parcel of land undivided by public streets, alleys or railways.
15. "Residential subdivision development." Any tract of land which has been divided into four or more contiguous lots with an average size of one acre or less for use for the construction of residential buildings or permanent mobile homes for either single or multiple occupancy.
16. "Rules." The regulations set forth in the tariffs which apply to the provision of telephone service.
17. "Service area." The territory in which the utility has been granted a Certificate of Convenience and Necessity and is authorized by the Commission to provide telephone service.
18. "Service charge." The charge as specified in the utility's tariffs which covers the cost of establishing moving, changing or reconnecting service or equipment.
19. "Access line." A communications facility that connects service from a common distribution source to the service access point.
20. "Tariffs." The documents filed with the Commission which list the utility services and products offered by the utility and which set forth the terms and conditions and a schedule of the rates and charges for those services and products.
21. "Terminal equipment." The equipment through which communication services are furnished.
22. "Temporary service." Service to premises or enterprises which are temporary in character, or where it is known in advance that the service will be of limited duration. Service which, in the opinion of the utility, is for operations of a speculative character is also considered temporary service.
23. "Toll service." Service between stations in different exchange areas for which a long distance charge is applicable.
24. "Utility." The company providing telephone service to the public in compliance with state law.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-502. Certificate of Convenience and Necessity for telephone utilities; additions/extensions; abandonments

- A.** Application for new Certificate of Convenience and Necessity
1. Six copies of each application for a new Certificate of Convenience and Necessity shall be submitted in a form

prescribed by the Commission and shall include, at a minimum, the following information:

- a. The proper name and correct address of the proposed utility company and its owner if a sole proprietorship, each partner if a partnership, or the President and Secretary if a corporation.
 - b. A copy of the Articles of Partnership or Articles of Incorporation for the applicant and/or Bylaws if the utility is a non-profit organization, or association.
 - c. The rates proposed to be charged for the service that will be rendered.
 - d. A financial statement setting forth the financial condition of the applicant.
 - e. Maps of the proposed service area and/or a description of the area proposed to be served.
 - f. Appropriate city, county and/or state agency approvals, where appropriate.
 - g. The actual number of customers within the service area as of the time of filing and the estimated number of customers to be served for each of the first five years of operation.
 - h. Such other information as the Commission by order or the staff of the Utilities Division by written directive may request.
2. Once the applicant has satisfied the information requirements of this regulation, as well as any additional information required by the staff of the Commission's Utilities Division, the Commission shall, as expeditiously reasonably practicable, schedule hearings to consider such application.
- B.** Additions/extensions to existing Certificates of Convenience and Necessity. Each utility which extends utility service to a person not located within its certificated service area, but located in a non-certificated area contiguous to its certificated service area, shall, notify the Commission of such service extension.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended to correct subsection numbering (Supp. 99-4).

R14-2-503. Establishment of service

- A.** Information from new applicants
1. A utility may obtain the following minimum information from each new applicant for service:
 - a. Name or names of applicant(s).
 - b. Service address or location and telephone number
 - c. Billing address, if different than service address.
 - d. Address and telephone number where service was provided previously.
 - e. Date applicant will be ready for service.
 - f. Indication of whether premises have been supplied with telephone utility service previously.
 - g. Class of service to be provided.
 - h. Indication of whether applicant is owner or tenant of or agent for the premises.
 2. A utility may require a new applicant for service to appear at the utility's designated place of business to produce proof of identity and sign the utility's application form.
 3. Where service is requested by two or more individuals the utility shall have the right to collect the full amount owed to the utility from any one of the applicants.
- B.** Deposits
1. A utility shall not require a deposit from a new applicant for residential service if the applicant is able to meet any of the following requirements:

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- a. The applicant has had continuous telephone service of a comparable nature with the utility at another service location within the past two years and was not delinquent in payment more than once during the last 12 consecutive months or disconnected for non-payment.
 - b. The applicant can produce a letter regarding credit or verification from a telephone utility where service of a comparable nature was last received which states:
 - i. Applicant had a timely payment history at time of service discontinuation.
 - ii. Applicant has no outstanding liability from prior service.
 - c. In lieu of a deposit, a new applicant may provide a Letter of Guarantee from an existing customer with service who is acceptable to the utility or a surety bond as security for the utility. The utility shall review and release an existing customer as a guarantor for the new applicant after 12 consecutive months if no obligations are delinquent and has maintained a timely payment history.
2. The utility shall issue a nonnegotiable receipt to the applicant for the deposit. The inability of the customer to produce such a receipt shall in no way impair his right to receive a refund of the deposit which is reflected on the utility's records.
 3. Deposits shall be interest bearing; the interest rate and method of calculation shall be filed with and approved by the Commission in a tariff proceeding.
 4. Each utility shall file a deposit refund policy with the Commission, subject to Commission review and approval during a tariff proceeding. However, each utility's refund policy shall include provisions for residential deposits and accrued interest to be refunded after 12 months of service if the customer has not been delinquent in the payment of utility bills or applied to the closing bill upon discontinuance of service.
 5. A utility may require a residential customer to establish a deposit if the customer becomes delinquent in the payment of two or more bills within a 12-consecutive-month period or has been disconnected for service during the last 12 months.
 6. The amount of a deposit required by the utility shall be determined according to the following terms:
 - a. Residential customer deposits shall not exceed two times that customer's estimated average monthly bill or the average monthly bill for the customer class for that customer which ever is greater.
 - b. Nonresidential customer deposits shall not exceed 2 1/2 times that customer's estimated maximum monthly bill.
 7. The utility may review the customer's usage after service has been connected and adjust the deposit amount based upon the customer's actual usage.
- C. Grounds for refusal of service.** A utility may refuse to establish service if any of the following conditions exist:
1. The applicant has an outstanding amount due for similar utility services and the applicant is unwilling to make acceptable arrangements with the utility for payment.
 2. A condition exists which in the utility's judgment is unsafe or hazardous to the applicant, the general population, or the utility's personnel or facilities.
 3. Refusal by the applicant to provide the utility with a deposit when the customer has failed to meet the credit criteria for waiver of deposit requirements.
 4. Customer is known to be in violation of the utility's tariffs filed with the Commission.
 5. Failure of the customer to furnish such funds, suitable facilities, and/or rights-of-way necessary to serve the customer and which have been specified by the utility as a condition for providing service.
 6. Applicant falsifies his or her identity for the purpose of obtaining service.
- D. Service establishments, re-establishments or reconnection charge**
1. Each utility may make a charge as approved by the Commission for the establishment, reestablishment, or reconnection of utility services.
 2. Should service be established during a period other than regular working hours at the customer's request, the customer may be required to pay an after-hour charge for the service connection.
 3. For the purpose of this rule, service establishments are where the customer's and utility's facilities are ready and acceptable.
- E. Temporary service**
1. Applicants for temporary service may be required to pay the utility, in advance of service establishment, the funds provided under the terms of a construction agreement or the cost of installing and removing the facilities necessary for furnishing the desired service.
 2. Where the duration of service is to be less than one month, the applicant may also be required to advance a sum of money equal to the estimated bill for service.
 3. If at any time the character of a temporary customer's operations changes so that in the opinion of the utility the customer is classified as permanent, the terms of the utility's construction agreement or tariff shall apply.
- Historical Note**
Adopted effective March 2, 1982 (Supp. 82-2). Amended to correct subsection numbering (Supp. 99-4).
- R14-2-504. Minimum customer information requirements**
- A. Information for residential customers**
1. Each utility shall make available upon customer request not later than 60 days from the date of request a concise summary of the rate schedule applied for by such customer. The summary shall include the following:
 - a. The charges for basic service and incremental ancillary services requested by the applicant.
 2. In addition, a utility shall make available upon customer request not later than 60 days from date of service commencement a concise summary of the utility's tariffs or the Commission's rules and regulations concerning:
 - a. Deposits
 - b. Terminations of service
 - c. Billing and collection
 - d. Complaint handling.
- B. Information required due to changes in tariffs**
1. Each utility shall transmit to affected customers by the most economic means available a concise summary of any change in the utility's tariffs affecting those customers.
 2. This information shall be transmitted to the affected customer within 60 days of the effective date of the change.
- Historical Note**
Adopted effective March 2, 1982 (Supp. 82-2).
- R14-2-505. Service connections and establishments**
- A. Priority and timing of service establishments**

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1. After an applicant has complied with the utility's application, construction agreement, or tariff, deposit requirements and has been accepted for service by the utility, the utility shall schedule that customer for service connection and/or establishment.
2. Service establishments shall be scheduled for completion within 10 working days of the date the customer has been accepted for service, except in those instances when the customer requests service establishment beyond the 10 working day limitation.
3. The maximum interval of 10 working days applies to single line residence and business installations only. Multi-line services and any special equipment configurations shall be installed within a reasonable time-frame based on availability of necessary equipment.
4. When a utility has made arrangements to meet with a customer for service establishment purposes and the utility or the customer cannot make the appointment during the prearranged time, the utility shall reschedule the establishment to the satisfaction of both parties.
5. Unless another time-frame is mutually acceptable to the utility and the customer, each utility shall schedule service establishment appointments within a maximum range of four hours during normal working hours.
6. For the purposes of this rule, service establishments are where the utility's and customer's facilities are available and the utility needs only to connect the service.

B. Access line connection

1. Provision of services beyond service access point
 - a. Facilities beyond the service access point may be provided by either the utility or the customer. Where the facilities are provided by the customer the installation shall be in accordance with the utility's specifications.
 - b. The cost of all new construction of inside customer premise wiring shall be the responsibility of the customer.
2. Company provided facilities
 - a. The utility shall provide all facilities up to the service access point.
 - b. A customer requesting an underground service connection in an area served by overhead facilities shall pay for the difference between the cost of an overhead service connection and the actual cost of the underground connection as a nonrefundable contribution. The customer may elect to provide the underground trenching on private property as an off-setting portion of the additional cost of the underground facilities.
 - c. In those instances where the utility is supplying the customer's terminal equipment, the utility may provide any inside wiring beyond the point of access in accordance with approved tariffs filed with the Commission.
3. Easements and rights-of-way
 - a. Each customer shall grant adequate easement and right-of-way satisfactory to the utility to ensure that customer's proper service connection. Failure on the part of the customer to grant adequate easement and right-of-way shall be grounds for the utility to refuse service.
 - b. When a utility discovers that a customer or his agent is performing work or has constructed facilities adjacent to or within an easement or right-of-way and such work, construction or facility poses a hazard or is in violation of federal, state or local laws, ordi-

nances, statutes, rules or regulations, or significantly interferes with the utility's access to equipment, the utility shall notify the customer or his agent and shall take whatever actions are necessary to eliminate the hazard, obstruction or violation at the customer's expense.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-506. Construction Agreements**A. General requirements**

1. Each utility shall file for Commission approval a tariff which incorporates the provisions of this rule and specifically defines the conditions governing construction agreements. Subsections (A), (B), (C), and (D) of this Section do not apply to tariffs providing for construction charges fixed by zone.
2. Upon request by an applicant for service, the utility shall provide, without charge, a preliminary sketch and rough estimates of the cost of installation to be paid by said applicant.
3. Any applicant for service requesting the utility to prepare detailed plans, specifications, or cost estimates may be required to deposit with the utility an amount equal to the estimated cost of preparation. The utility shall, upon request, make available within 90 days after receipt of the deposit referred to above, such plans, specifications, or cost estimates of the proposed construction. Where the applicant authorizes the utility to proceed with construction of the extension, the deposit shall be credited to the cost; otherwise the deposit shall be nonrefundable. If the extension is to include oversizing of facilities to be done at the utility's expense, appropriate details shall be set forth in the plans, specifications and cost estimates.
4. Where the utility requires an applicant to advance funds for construction, the utility shall furnish the applicant with a copy of the agreement or tariff of the appropriate utility prior to the applicant's acceptance.
5. All construction agreements requiring payment by the applicant shall be signed by each party.
6. In the event the utility's actual cost of construction is less than the amount advanced by the customer under a construction agreement, the utility shall make a refund to the applicant within 120 days of service commencement.
7. The provisions of this rule apply only to those applicants who in the utility's judgment will be permanent customers of the utility. Applications for temporary service shall be governed by the Commission's rules concerning temporary service applications.

B. Minimum written agreement requirements

1. Each construction agreement shall, at a minimum, include the following information:
 - a. Name and address of applicant or applicants;
 - b. Proposed service address or location;
 - c. Description of requested service;
 - d. Description and sketch of the requested construction
 - e. A cost estimate to include materials, labor, and other costs as necessary;
 - f. Payment terms;
 - g. A concise explanation of any refunding provisions, if applicable;
 - h. Utility's estimated start date and completion date for construction;
 - i. A summary of the results of the economic feasibility analysis performed by the utility to determine the

- amount of advance required from the applicant for the proposed construction.
2. Each applicant shall be provided with a copy of the construction agreement.
- C. Construction requirements.** Each construction tariff shall include the following provisions:
1. A maximum footage and/or equipment allowance to be provided by the utility at no charge. The maximum footage and/or equipment allowance may be differentiated by customer class.
 2. An economic feasibility analysis for construction which exceed the maximum footage and/or equipment allowance. Such economic feasibility analysis shall consider the incremental revenues and costs associated with the construction. In those instances where the requested construction does not meet the economic feasibility criteria established by the utility, the utility may require the customer to provide funds to the utility, which will make the construction economically feasible. The methodology employed by the utility in determining economic feasibility shall be applied uniformly and consistently to each applicant requiring a construction.
 3. The timing and methodology by which the utility will refund any advances in aid of construction as additional customers are served off the construction project. The customer may request an annual survey to determine if additional customers have been connected to and are using service from the project. In no case shall the amount of the refund exceed the amount originally advanced.
 4. All advances in aid of construction shall be noninterest bearing.
 5. If after five years from the utility's receipt of the advance, the advance has not been totally refunded, the advance shall be considered a contribution in aid of construction and shall no longer be refundable.
- D. Residential subdivision development and permanent mobile home parks.** Each utility shall submit as a part of its construction tariff provisions for residential subdivision developments and permanent mobile home parks.
- E. Underground extension of communication lines**
1. Extension of communication lines necessary to furnish permanent communication service to new residential buildings or mobile homes within a new or undeveloped subdivision and to residential development in which facilities for communication service have not been constructed for which applications are made by a developer shall be installed underground in accordance with the provisions set forth in this regulation and in accordance with applicable tariffs on file with this Commission except where it is not feasible from an engineering, operational or economic standpoint.
 2. Rights-of-way and easements
 - a. The utility shall construct or cause to be constructed and shall own, operate and maintain all underground communication feeder, distribution and service lines along public streets, roads and highways and on public lands and private property which the utility has the legal right to occupy.
 - b. Rights-of-way and easements suitable to the utility must be furnished by the developer at no cost to the utility and in reasonable time to meet service requirements. No underground communication facilities shall be installed by a utility until the final grades have been established and furnished to the utility. In addition, the easement strips, alleys and streets must be graded to within six inches of final grade by the developer before the utility will commence construction. Such clearance and grading must be maintained by the developer during construction by the utility.
 - c. If, subsequent to construction, the clearance or grade is changed in such a way as to require relocation of the underground facilities, the cost of such relocation shall be borne by the developer or subsequent owners.
 3. Installation of underground communication lines within subdivision and multiple occupancy residential developments:
 - a. The developer shall provide the trenching backfill (including any imported backfill required), compaction, repaving, and any earthwork required to install the underground communication system all in accordance with the reasonable specifications and schedules of other utilities in the same area when feasible. At its option, if the utility's cost therefore is equal to or less than that which the developer would otherwise have to bear, the utility may elect at the developer's expense to perform the activities necessary to fulfill the developer's responsibility hereunder.
 - b. Each utility shall promptly inspect the trenching provided by the developer and allow for phased inspection of trenching. In all cases, the utility shall make every effort to expedite the inspection of developer provided trenching.
 - c. The utility shall install or cause to be installed underground communication lines and related equipment with sufficient capacity and suitable materials that ensure adequate and reasonable communication service in the foreseeable future and in accordance with the applicable provisions of Institute of Electrical and Electronic Engineers, Inc., Pub. No. C2-2007, The National Electrical Safety Code (2007), which is incorporated by reference in R14-2-207(E)(3)(c).
 - d. When developer is required to provide a trench for other underground utilities and services, the utility shall use such common trench as long as the utility's design layout, easement specification, routing and scheduling requirements can be met, unless otherwise agreed upon by utility and developer in writing or as otherwise established by the Commission.
 4. Special conditions
 - a. When the application of any of the provisions of the regulation appears to either party not to be feasible from an engineering, operational or economic standpoint, the utility or the developer may refer the matter to the Commission for a determination as to whether an exception to the underground policy expressed within the provisions of this regulation is warranted. Interested third parties may present their views to the Commission in conjunction with such referrals.
 - b. Notwithstanding any provision of this regulation to the contrary, no utility shall construct overhead communication lines in any new subdivision or new multiple occupancy residential development to which this regulation is applicable and which is contiguous to another subdivision or multiple occupancy residential development in which service is furnished underground without the approval of the Commission after a public hearing.

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- F. Nonapplicability. Any underground communication distribution system requiring more than normal communication service is not covered by this regulation and shall be constructed pursuant to the effective rules and regulations of the affected utility as approved by the Commission.
- G. Ownership of facilities. Any facilities installed hereunder shall be the sole property of the utility.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended by exempt rulemaking at 5 A.A.R. 2054, effective June 4, 1999 (Supp. 99-2). Amended to correct subsection numbering (Supp. 99-4). Amended by final rulemaking at 15 A.A.R. 1933, effective December 27, 2009 (Supp. 09-4).

Editor's Note: *The following Section was amended under an exemption from the Attorney General certification provisions of the Arizona Administrative Procedure Act (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)), as determined by the Corporation Commission. This exemption means that the rules as amended were not certified by the Attorney General.*

R14-2-507. Provision of Service

- A. Utility responsibility. Each utility shall be responsible for maintaining in safe operating condition all equipment and fixtures used in providing utility service to the customer that are owned by and under the exclusive control of the utility.
- B. Customer responsibility
 - 1. Each customer shall be responsible for safeguarding all utility property installed in or on the customer's premises for the purpose of supplying utility service to that customer.
 - 2. Each customer shall be responsible for maintaining in safe operating condition all customer provided equipment and fixtures.
 - 3. Each customer shall exercise all reasonable care to prevent loss or damage to utility property, excluding ordinary wear and tear. The customer shall be responsible for loss of or damage to utility property on the customer's premises arising from neglect, theft, carelessness, or misuse and shall reimburse the utility for the cost of necessary repairs or replacements.
 - 4. Each customer shall be responsible for payment for any equipment damage and/or use resulting from unauthorized use, interfering or tampering of the utility's equipment on the customer's premises.
 - 5. Each customer shall notify the utility of any equipment failure identified in the utility's equipment.
- C. Continuity of service. Each utility shall make reasonable efforts to supply a satisfactory and continuous level of service. However, no utility shall be responsible for any damage or claim of damage attributable to any interruption or discontinuation of service resulting from but not limited to:
 - 1. Any cause against which the utility could not have reasonably foreseen or made provision for, that is, force majeure.
 - 2. Intentional service interruptions to make repairs or perform routine maintenance of services constituting excusable negligence.
- D. Service interruptions
 - 1. Each utility shall make reasonable efforts to reestablish service within the shortest possible time when service interruptions occur.
 - 2. Each utility shall make reasonable provisions to meet emergencies resulting from failure of service, and each utility shall issue instructions to its employees covering procedures to be followed in the event of emergency in

order to prevent or mitigate interruption or impairment of service.

- 3. In the event of a national emergency or local disaster resulting in disruption of normal service, the utility may, in the public interest, interrupt service to other customers to provide necessary service to civil defense or other emergency service agencies on a temporary basis until normal service to these agencies can be restored.
- 4. When a utility plans to interrupt service for more than four hours to perform necessary repairs or maintenance, the utility shall attempt to inform affected customers at least 24 hours in advance of the scheduled date and estimated duration of the service interruption. Such repairs shall be completed in the shortest possible time to minimize the inconvenience to the customers of the utility.
- 5. The Commission shall be notified of major interruptions in service affecting the entire system or any major division.
- E. Construction standards. Each utility shall construct all facilities in accordance with the provisions of Institute of Electrical and Electronic Engineers, Inc., Pub. No. C2-2007, The National Electrical Safety Code (2007), which is incorporated by reference in R14-2-207(E)(3)(c).

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended effective August 16, 1996 (Supp. 96-3). Amended by exempt rulemaking at 5 A.A.R. 2054, effective June 4, 1999 (Supp. 99-2). Amended to correct subsection numbering (Supp. 99-4). Amended by final rulemaking at 15 A.A.R. 1933, effective December 27, 2009 (Supp. 09-4).

R14-2-508. Billing and collection

- A. Frequency. Each utility shall bill monthly for services rendered.
- B. Minimum bill information. Each utility shall provide the following minimum information on customer bills:
 - 1. Monthly charge for basic exchange service including delineation of the following:
 - a. Total charge for customer requested services and/or equipment.
 - b. Installation costs or other service fees, where applicable.
 - c. Reconnect fee, where applicable.
 - 2. Toll charges broken down to include the following details by toll call:
 - a. Date of call
 - b. Time of call
 - c. Location called
 - d. Phone number called
 - e. Duration of call
 - f. Indication of any rate class applied.
 - 3. Miscellaneous charges and credits shall be shown separately.
 - 4. Any taxes included in the customer's billing.
 - 5. Total amount due and due date.
 - 6. Past due amount.
 - 7. Utility telephone number.
 - 8. Customer's name.
 - 9. Service account number.
- C. Billing terms: Each utility shall file a tariff which incorporates the following billing procedures:
 - 1. The billing date shall be printed on the bill and the date rendered shall be the mailing date.
 - 2. Bills for telephone services may be considered delinquent 15 days after the date the bill is rendered.

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3. Delinquent accounts for which payment has not been received may be terminated 22 days after the date the bill is rendered.
 4. All payments shall be made at or mailed to the office of the utility or to the utility's duly authorized representative.
- D. Applicable tariffs, prepayment, failure to receive, commencement date, taxes**
1. Each customer shall be billed under the applicable tariff.
 2. Each utility shall make provisions for advance payment for utility services.
 3. Failure to receive bills or notices which have been properly placed in the United States mail shall not prevent such bills from becoming delinquent nor relieve the customer of his obligations therein.
 4. Charges for service commence when the service is installed and connection made, whether used or not.
 5. In addition to the collection of regular rates, each utility may collect from the customer a proportionate share of any privilege, sales or use tax, or other imposition based on the gross revenues received by the utility.
- E. Insufficient funds (NSF) checks**
1. A utility shall be allowed to recover a fee, as approved by the Commission in a tariff proceeding, for each instance where a customer tenders payment for utility service with an insufficient funds check.
 2. When the utility is notified by the customer's bank that there are insufficient funds to cover the check tendered for utility service, the utility may require the customer to make payment in cash, by money order, certified check, or other means which guarantee the customer's payment to the utility.
 3. A customer who tenders an insufficient check shall in no way be relieved of the obligation to render payment to the utility under the original terms of the bill nor defer the utility's provision for termination of service for nonpayment of bills.
- F. Deferred payment plan**
1. Each utility may, prior to termination, offer to qualifying residential customers a deferred payment plan for the customer to retire unpaid bills for utility service.
 2. Each deferred payment agreement entered into by the utility and the customer due to the customer's inability to pay an outstanding bill in full shall provide that service will not be discontinued if:
 - a. Customer agrees to pay a reasonable amount of the outstanding bill at the time the parties enter into the deferred payment agreement.
 - b. Customer agrees to pay all future bills for utility service in accordance with the billing and collection tariffs of the utility.
 - c. Customer agrees to pay a reasonable portion of the remaining outstanding balance in installments over a period not to exceed six months.
 3. For the purposes of determining a reasonable installment payment schedule under these rules, the utility and the customer shall give consideration to the following conditions:
 - a. Size of the delinquent account
 - b. Customer's ability to pay
 - c. Customer's payment history
 - d. Length of time that the debt has been outstanding
 - e. Circumstances which resulted in the debt being outstanding
 - f. Any other relevant factors related to the circumstances of the customer.
4. Any customer who desires to enter into a deferred payment agreement shall establish such agreement prior to the utility's scheduled termination date for nonpayment of bills; customer failure to execute a deferred payment agreement prior to the scheduled termination date shall not prevent the utility from discontinuing service for nonpayment.
 5. Deferred payment agreements may be in writing and may be signed by the customer and an authorized utility representative.
 6. A deferred payment agreement may include a finance charge as approved by the Commission in a tariff proceeding.
 7. If a customer has not fulfilled the terms of a deferred payment agreement, the utility shall have the right to disconnect service pursuant to the utility's termination of service rules and, under such circumstances, it shall not be required to offer subsequent negotiation of a deferred payment agreement prior to disconnection.
- G. Late payment penalty**
1. Each utility may include in its tariffs a late payment penalty which may be applied to delinquent bills.
 2. The amount of the late payment penalty shall be indicated upon the customer's bill when rendered by the utility.
 3. In the absence of an approved tariff, the amount of the late payment penalty shall not exceed 1-1/2% of the delinquent bill.
- H. Change of responsibility or occupancy**
1. Not less than three working days advance notice must be given in person, in writing, or by telephone at the utility's office to discontinue service, to change occupancy or to change account responsibility.
 2. The customer in whose name service is being rendered shall be responsible for all utility services provided and/or consumed up to the scheduled date of service discontinuation.
 3. Existing business service may be continued for a new subscriber only if the former subscriber consents and an agreement acceptable to the utility is made to pay all outstanding charges against the service.
 4. Change of responsibility on a residence account shall occur only in those cases where both parties previously shared telephone service.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended to correct subsection numbering (Supp. 99-4).

R14-2-509. Termination of service

- A. Nonpermissible reasons to disconnect service.** A utility may not disconnect service for any of the reasons stated below:
1. Delinquency in payment for services rendered to a prior customer at the premises where service is being provided, except in the instance where the prior customer continues to reside on the premises.
 2. Failure of the customer to pay for services or equipment which are not regulated by the Commission.
 3. Residential service may not be disconnected due to nonpayment of a bill related to another class of service.
 4. Failure to pay for a bill to correct a billing error if the customer agrees to pay over a reasonable period of time.
 5. Failure to pay the bill of another customer as guarantor thereof unless guarantor does not make acceptable payment arrangements.
 6. Disputed bills where the customer has complied with the Commission's rules on complaints.
- B. Termination of service without notice**

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1. Utility service may be disconnected without advance written notice under the following conditions:
 - a. The existence of an obvious hazard to the safety or health of the consumer or the general population or the utility's personnel or facilities.
 - b. The utility has evidence of tampering or evidence of fraud.
 2. The utility shall not be required to restore service until the conditions which resulted in the termination have been corrected to the satisfaction of the utility.
 3. Each utility shall maintain a record of all terminations of service without notice. This record shall be maintained for a minimum of one year and shall be available for inspection by the Commission.
- C. Termination of service with notice**
1. A utility may disconnect service to any customer for any reason stated below provided the utility has met the notice requirements established by the Commission:
 - a. Customer violation of any of the utility's tariffs filed with the Commission and/or violation of the Commission's rules and regulations.
 - b. Failure of the customer to pay a bill for utility service.
 - c. Failure to meet or maintain the utility's credit and deposit requirements.
 - d. Failure of the customer to provide the utility reasonable access to its equipment and property.
 - e. Customer breach of contract for service between the utility and customer.
 - f. When necessary for the utility to comply with an order of any governmental agency having such jurisdiction.
 - g. Unauthorized resale of equipment or service.
 2. Each utility shall maintain a record of all terminations of service with notice. This record shall be maintained for one year and be available for Commission inspection.
- D. Termination notice requirements**
1. No utility shall terminate service to any of its customers without providing advance written notice to the customer of the utility's intent to disconnect service, except under those conditions specified where advance written notice is not required.
 2. Such advance written notice shall contain, at a minimum, the following information:
 - a. The name of the person whose service is to be terminated and the telephone number where service is being rendered.
 - b. The utility rules or regulation that was violated and explanation thereof or the amount of the bill which the customer has failed to pay in accordance with the payment policy of the utility, if applicable.
 - c. The date on or after which service may be terminated.
 - d. A statement advising the customer to contact the utility at a specific phone number for information regarding any deferred billing or other procedures which the utility may offer or to work out some other mutually agreeable solution to avoid termination of the customer's service.
- E. Timing of terminations with notice**
1. Each utility shall be required to give at least five days advance written notice prior to the termination date.
 2. Such notice shall be considered to be given to the customer when a copy thereof is left with the customer or posted first class in the United States mail, addressed to the customer's last known address.
3. If after the period of time allowed by the notice has elapsed and the delinquent account has not been paid nor arrangements made with the utility for the payment thereof or in the case of a violation of the utility's rules the customer has not satisfied the utility that such violation has ceased, the utility may then terminate service on or after the day specified in the notice without giving further notice.
 4. The utility may terminate service on a temporary basis by discontinuing the customer's line access at the central office.
 5. The utility shall have the right (but not the obligation) to remove any or all of its property installed on the customer's premises upon the termination of service.
 6. The terms and conditions of these rules shall apply in all circumstances except those superseded by the provisions of the high toll usage notification procedures.
- F. High toll usage monitoring/notification procedures**
1. Each telephone utility may establish a high toll usage monitoring/notification system to identify unexplained or excessive increases in customer toll usage during interim periods between the issuance of bills in accordance with the utility's established billing cycle. The intent of such a monitoring/notification system is to enable telephone utilities to identify situations where it is unlikely that the customer will be able to pay for toll services already provided as well as to prevent the accrual of additional billings when the risk of loss is increasingly evident.
 2. Each utility which establishes a high toll monitoring/notification system shall develop and operate such system and be governed by the following provisions and procedures:
 - a. Each utility shall establish a "normal" amount of toll usage by customer class and length of service. The normal amount of toll usage shall be based upon the actual average usage by the customer class.
 - b. Increases in toll usage shall not be considered unexplained or excessive until the amount of toll usage incurred between billing periods is at least two times the normal amount of monthly toll usage for that customer or customer class.
 - c. When this situation occurs, the utility shall review:
 - i. The individual customer's billing history to determine if the volume of toll usage should be considered excessive for that particular customer
 - ii. Prior payment history
 - iii. Amount of customer deposit held, if any
 - iv. Length of customer service to assess the ability of the customer to pay such toll charges according to the payment terms of the utility when a normal billing is rendered.
 - d. If the review of the customer's previous billing and payment history indicates it is unlikely that the customer shall be able to pay such bill, the utility may contact the customer to make inquiries concerning the abnormal usage. If the explanation is not satisfactory, the utility may require security and/or payment of charges on the account to continue service.
 - e. The utility may terminate service provided the customer is given 48 hours advance notice and the customer makes no further attempt to secure and or pay the account in order to continue service.
 - f. The 48-hour notification rule shall be waived and service may be terminated immediately in those situ-

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ations where intentional customer abuse of toll usage is evident.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended to correct subsection numbering (Supp. 99-4).

Editor's Note: The following Section was amended under an exemption from the Attorney General approval provisions of the Arizona Administrative Procedure Act (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)), as determined by the Corporation Commission. This exemption means that the rules as amended were not approved by the Attorney General.

R14-2-510. Administrative and Hearing Requirements

A. Customer service complaints

1. Each utility shall make a full and prompt investigation of all service complaints made by its customers, either directly or through the Commission.
2. The utility shall respond to the complainant and/or the Commission representative within five working days as to the status of the utility investigation of the complaint.
3. The utility shall notify the complainant and/or the Commission representative of the final disposition of each. Upon request of the complainant or the Commission representative, the utility shall report the findings of its investigation in writing.
4. Each utility shall keep a record of all written service complaints received which shall contain, at a minimum, the following data:
 - a. Name and address of complainant
 - b. Date and nature of the complaint
 - c. Disposition of the complaint
 - d. A copy of any correspondence between the utility, the customer, and/or the Commission.
5. This record shall be maintained for a minimum period of one year and shall be available for inspection by the Commission.

B. Customer bill disputes

1. Any utility customer who disputes a portion of a bill rendered for utility service shall pay the undisputed portion of the bill and notify the utility's designated representative that such unpaid amount is in dispute prior to the delinquent date of the bill.
2. Upon receipt of the customer notice of dispute, the utility shall:
 - a. Notify the customer within five working days of the receipt of a written dispute notice.
 - b. Initiate a prompt investigation as to the source of the dispute.
 - c. Withhold disconnection of service until the investigation is completed and the customer is informed of the results.
3. Once the customer has received the results of the utility's investigation, the customer shall submit payment within five working days to the utility for any disputed amounts. Failure to make full payment shall be grounds for termination of service. Prior to termination inform the customer of his right of appeal to the Commission.

C. Commission resolution of service and/or bill disputes

1. In the event a customer and utility cannot resolve a service and/or bill dispute, the customer shall file a written statement of dissatisfaction with the Commission; by submitting such notice to the Commission, the customer shall be deemed to have filed an informal complaint against the utility.

2. Within 30 days of the receipt of a written statement of customer dissatisfaction related to a service or bill dispute, a designated representative of the Commission shall endeavor to resolve the dispute by correspondence and/or telephone with the utility and the customer. If resolution of the dispute is not achieved within 20 days of the Commission representative's initial effort, the Commission shall hold an informal hearing to arbitrate the resolution of the dispute. The informal hearing shall be governed by the following rules:
 - a. Each party may be represented by legal counsel, if desired.
 - b. All such informal hearings may be recorded or held in the presence of a stenographer.
 - c. All parties will have the opportunity to present written or oral evidentiary material to support the positions of the individual parties.
 - d. All parties and the Commission's representative shall be given the opportunity for cross-examination of the various parties.
 - e. The Commission's representative will render a written decision to all parties within five working days after the date of the informal hearing. Such written decision of the arbitrator is not binding on any of the parties and the parties will still have the right to make a formal complaint to the Commission.

3. The utility may implement normal termination procedures if the customer fails to pay all bills rendered during the resolution of the dispute by the Commission.

D. Notice by utility of responsible officer or agent

1. Each utility shall file with the Commission a written statement containing the name, address (business, residence and post office) and telephone numbers (business and residence) of at least one officer, agent or employee responsible for the general management of its operations as a utility in Arizona.
2. Each utility shall give notice, by filing a written statement with the Commission, of any change in the information required herein within five days from the date of any such change.

E. Time-frames for processing applications for Certificates of Convenience and Necessity

1. This rule prescribes time-frames for the processing of any application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.
2. Within 30 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.
3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.
4. After receipt of a corrected application, staff shall notify the applicant within 30 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.

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5. Within 150 days after an application is deemed administratively complete, the Commission shall approve or reject the application.
 6. For purposes of A.R.S. § 41-1072 et seq., the Commission has established the following time-frames:
 - a. Administrative completeness review time-frame: 30 calendar days,
 - b. Substantive review time-frame: 150 calendar days,
 - c. Overall time-frame: 180 calendar days.
 7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.
 8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.
- F. Filing of rules and regulations**
1. Each utility shall file with the Commission tariffs which are in compliance with the rules and regulations promulgated by the Arizona Corporation Commission within 120 days of the adoption of such rules by the Commission.
 2. Any proposed changes to the tariffs on file with the Commission shall be accompanied by a statement of justification supporting the proposed change in tariff.
 3. Any proposed change to the tariffs on file with the Commission shall not be effective until reviewed and approved by the Commission, except as provided for by law.
- G. Accounts and records**
1. Each utility shall keep general and auxiliary accounting records reflecting the cost of its properties, operating income and expense, assets and liabilities, and all other accounting and statistical data necessary to give complete and authentic information as to its properties and operations.
 2. Each utility shall maintain its books and records in conformity with the Uniform Systems of Accounts for Class A, B, C and D Telephone Utilities as adopted and amended by the Federal Communications Commission or, for telephone cooperatives, as promulgated by the Rural Electrification Administration.
 3. A utility shall produce or deliver in this state any or all of its formal accounting records and related documents requested by the Commission. It may, at its option, provide verified copies of original records and documents.
 4. All utilities shall submit an annual report to the Commission on a form prescribed by it. The annual report shall be filed on or before the 15th day of April for the preceding calendar year. Reports prepared by a certified or licensed public accountant on the utility, if any, shall accompany the annual report.
 5. All utilities shall file with the Commission a copy of all reports required by the Securities and Exchange Commission.
 6. All utilities shall file with the Commission a copy of all annual reports required by the Federal Communications Commission and in addition, for telephone cooperatives, annual reports required by the Rural Electrification Administration.
- H. Maps.** All utilities shall file with the Commission a map or maps clearly setting forth the location and extent of the area or areas they hold under approved certificates of convenience and necessity, in accordance with the Cadastral (Rectangular) Survey of the United States Bureau of Land Management, or by

metes and bounds with a starting point determined by the aforesaid Cadastral Survey.

- I.** Variations, exemptions of Commission rules and regulations. Variations or exemptions from the terms and requirements of any of the rules included herein (Title 14, Chapter 2, Article 5) shall be considered upon the verified application of an affected party to the Commission setting forth the circumstances whereby the public interest requires such variation or exemption from the Commission rules and regulations. Such application will be subject to the review of the Commission, and any variation or exemption granted shall require an order of the Commission. In case of conflict between these rules and regulations and an approved tariff or order of the Commission, the provisions of the tariff or order shall apply.
- J.** Prior agreements. The adoption of these rules by the Commission shall not affect any agreements entered into between the utility and customers or other parties who, pursuant to such contracts, arranged for the extension of facilities in a provision of service prior to the effective date of these rules.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended effective December 31, 1998, under an exemption as determined by the Arizona Corporation Commission (Supp. 98-4). Amended to correct subsection numbering (Supp. 99-4).

ARTICLE 6. SEWER UTILITIES**R14-2-601. Definitions**

In this Article, unless the context otherwise requires, the following definitions shall apply:

1. "Advance in aid of construction." Funds provided to the utility by the applicant under the terms of a collection main extension agreement the value of which may be refundable.
2. "Applicant." A person requesting the utility to supply sewer service.
3. "Application." A request to the utility for sewer service, as distinguished from an inquiry as to the availability or charges for such service.
4. "Arizona Corporation Commission." The regulatory authority of the state of Arizona having jurisdiction over public service corporations operating in Arizona.
5. "Billing month." The period between any two regular billings -- approximately 30 day interval.
6. "Billing period." The time interval between two consecutive billings.
7. "Collection main." A sewer main of the utility from which service collection lines are extended to customers.
8. "Commodity charge." The unit of cost per billed discharge as set forth in the utility's tariffs.
9. "Contributions in aid of construction." Funds provided to the utility by the applicant under the terms of a collection main extension agreement and/or service connection tariff the value of which are not refundable.
10. "Customer." The person or entity in whose name service is rendered, as evidenced by the signature on the application or contract for that service, or by the receipt and/or payment of bills regularly issued in his name regardless of the identity of the actual user of the service.
11. "Customer charge." The amount the customer must pay the utility for the availability of sewer service, excluding any amount of discharged, as specified in the utility's tariffs.
12. "Day." Calendar day.

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13. "Minimum charge." The amount the customer must pay for the availability of sewer service, including an amount of discharge, as specified in the utility's tariffs.
 14. "Permanent customer." A customer who is a tenant or owner of a service location who applies for and receives sewer service.
 15. "Permanent service." Service which, in the opinion of the utility, is of a permanent and established character. The use of sewer service may be continuous, intermittent, or seasonal in nature.
 16. "Person." Any individual, partnership, corporation, governmental agency, or other organization operating as a single entity.
 17. "Point of collection." The point where pipes owned, leased, or under license by a customer connect to the utility's collection system.
 18. "Premises." All of the real property and apparatus employed in a single enterprise on an integral parcel of land undivided by public streets, alleys or railways.
 19. "Residential subdivision development." Any tract of land which has been divided into four or more contiguous lots for use for the construction of residential buildings or permanent mobile homes for either single or multiple occupancy.
 20. "Residential use." Service to customers discharging sewage for domestic purposes.
 21. "Rules." The regulations set forth in the tariffs which apply to the provision of sewage service.
 22. "Service area." The territory in which the utility has been granted a Certificate of Convenience and Necessity and is authorized by the Commission to provide sewer service.
 23. "Service establishment charge." The charge as specified in the utility's Schedule of Rates which covers the cost of establishing a new account.
 24. "Service line." A sewer line that transports sewage from a customer's point of collection to a common source (normally a collection main) of collection of the utility's.
 25. "Service reconnect charge." The charge as specified in the utility's tariffs which must be paid by the customer prior to reconnection of sewer service each time the sewer service is disconnected for nonpayment or whenever service is discontinued for failure otherwise to comply with the utility's fixed rules.
 26. "Service reestablishment charge." A charge as specified in the utility's tariffs for service at the same location where the same customer had ordered a service disconnection within the preceding 12-month period.
 27. "Sewage." Ground garbage, human or animal excretions, and other domestic, commercial or industrial waste normally disposed of through a sanitary sewer system.
 28. "Single family dwelling." A house, an apartment, a mobile home permanently affixed to a lot, or any other permanent residential unit which is used as a permanent home.
 29. "Tariffs." The documents filed with the Commission which list the services and products offered by the sewer company and which set forth the terms and conditions and a schedule of the rates and charges for those services and products.
 30. "Temporary service." Service to premises or enterprises which are temporary in character, or where it is known in advance that the service will be of limited duration. Service which, in the opinion of the utility, is for operations of a speculative character is also considered temporary service.
 31. "Utility." The public service corporation providing sewer service to the public in compliance with state law.
- Historical Note**
Adopted effective March 2, 1982 (Supp. 82-2).
- R14-2-602. Certificates of Convenience and Necessity for Sewer Utilities; Extensions of Certificates of Convenience and Necessity for Sewer Utilities; Abandonment, Sale, Lease, Transfer, or Disposal of a Sewer Utility; Discontinuance or Abandonment of Sewer Utility Service**
- A.** In this Section, unless otherwise specified:
1. "Applicant" means a person who submits an application to obtain a Certificate of Convenience and Necessity to construct sewer utility facilities or operate as a sewer utility or to extend the service area under an existing Certificate of Convenience and Necessity held by the person.
 2. "CC&N" means Certificate of Convenience and Necessity.
 3. "Commission" means the Arizona Corporation Commission.
 4. "Contiguous" means in actual contact, touching, such as by sharing a common border.
 5. "Extension area" means the geographic area that an applicant is requesting to have added to the applicant's existing CC&N service area.
- B.** Application for a new CC&N or extension of a CC&N
1. Any person who desires to construct sewer utility facilities or to operate as a sewer utility shall, prior to commencing construction of utility facilities or operations, file with the Commission an application for a CC&N and obtain Commission approval.
 2. Any utility that desires to extend its CC&N service area shall file with the Commission an application for a CC&N extension.
 3. Before filing an application for a CC&N or a CC&N extension, a person shall provide written notice of the person's intention to file the application to each person who owns land within the proposed service area or extension area and who has not requested service. Each written notice to a landowner shall include, at a minimum:
 - a. The legal name, physical address, mailing address (if different), and telephone number of the intended applicant;
 - b. The approximate date by which the application will be filed;
 - c. The type of services to be provided if the application is approved;
 - d. The physical addresses and toll-free telephone numbers, in Phoenix and Tucson, for the Consumer Services Section of the Commission; and
 - e. The following information:
 - i. That the recipient is a property owner within the proposed service area or extension area;
 - ii. That if the application is granted, the intended applicant will be the exclusive provider of the specific services to the proposed service area or extension area and will be required by the Commission to provide those services under rates and charges and terms and conditions established by the Commission;
 - iii. That a CC&N does not prohibit persons from providing services only to themselves using their own facilities on their own property although other applicable laws may restrict such activity;

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- iv. That the application is available for inspection during regular business hours at the offices of the Commission and at the offices of the intended applicant;
 - v. That the Commission will hold a hearing on the application;
 - vi. That the landowner may have the right to intervene in the proceeding and may appear at the hearing and make a statement on the his or her own behalf even if the landowner does not intervene;
 - vii. That the landowner may contact the Commission for the date and time of the hearing and for information on intervention;
 - viii. That the landowner may not receive any further notice of the application proceeding unless requested; and
 - ix. That the landowner may contact the intended applicant or the Consumer Services Section of the Commission if the landowner has any questions or concerns about the application, has any objections to approval of the application, or wishes to make a statement in support of the application.
4. Within 10 days after filing an application for a CC&N or a CC&N extension, an applicant shall provide written notice of the application to the municipal manager or administrator of each municipality with corporate limits that overlap with or are within five miles of the proposed service area or extension area. Each written notice shall include, at a minimum:
- a. The applicant's legal name, mailing address, and telephone number;
 - b. The date the application was filed;
 - c. The type of services to be provided if the application is approved;
 - d. A description of the requested service area or extension area, expressed in terms of cadastral (quarter section) or metes and bound survey;
 - e. The Commission docket number assigned to the application; and
 - f. Instructions on how to obtain a copy of the application.
5. Each application for a new CC&N or CC&N extension shall be submitted in a form and number prescribed by the Commission and shall include, at a minimum, the following information:
- a. The applicant's legal name, mailing address, and telephone number;
 - b. If the applicant will or does operate the utility under a different business name, the name under which the applicant will be doing business;
 - c. The full name, mailing address, and telephone number of a management contact for the applicant;
 - d. The full name, mailing address, and telephone number of the attorney for the applicant, if any;
 - e. The full name, mailing address, and telephone number of the operator certified by the Arizona Department of Environmental Quality who is or will be working for the applicant;
 - f. The full name, mailing address, and telephone number of the onsite manager for the applicant;
 - g. Whether the applicant is a corporation, a partnership, a limited liability company, a sole proprietor, or another specified type of legal entity;
 - h. If the applicant is a corporation, the following:
 - i. Whether the applicant is a "C" corporation, an "S" corporation, or a non-profit corporation and whether the corporation is domestic or foreign;
 - ii. A list of the full names, titles, and mailing addresses of each of the applicant's officers and directors;
 - iii. A copy of the applicant's certificate of good standing issued by the Commission's Corporations Division;
 - iv. Unless the applicant is applying for a CC&N extension, a certified copy of the applicant's articles of incorporation and by-laws; and
 - v. If the applicant is a for-profit corporation, the number of shares of stock authorized for issue and, if any stock has been issued, the number of shares issued and date of issuance;
 - i. If the applicant is a partnership, the following:
 - i. Whether the applicant is a limited partnership or a general partnership and whether the partnership is domestic or foreign;
 - ii. The full names and mailing addresses of the applicant's general partners;
 - iii. The full names, mailing addresses, and telephone numbers of the applicant's managing partners;
 - iv. Unless the applicant is applying for a CC&N extension, a copy of the applicant's articles of partnership; and
 - v. If the applicant is a foreign limited partnership, a copy of the applicant's certificate of registration filed with the Arizona Secretary of State;
 - j. If the applicant is a limited liability company, the following:
 - i. The full names and mailing addresses of the applicant's managers or, if management is reserved to the members, the applicant's members;
 - ii. Unless the applicant is applying for a CC&N extension, a copy of the applicant's articles of organization;
 - k. The legal name and mailing address of each other utility in which the applicant has an ownership interest;
 - l. A description of the requested service area or extension area, expressed in terms of cadastral (quarter section) or metes and bound survey;
 - m. The name of each county in which the requested service area or extension area is located and a description of the area's location in relation to the closest municipality, which shall be named;
 - n. A complete description of the facilities proposed to be constructed, including a preliminary engineering report with specifications in sufficient detail to describe each sewer system and the principal components of each sewer system (e.g., collection mains, trunk lines, lift stations, treatment plants, effluent disposal areas, etc.) to allow verification of the estimated costs provided under subsection (B)(5)(p) and verification that the requirements of the Commission and the Arizona Department of Environmental Quality can be met;
 - o. A copy of the Aquifer Protection Permit issued by the Arizona Department of Environmental Quality for the proposed service area or extension area or, if

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- not yet obtained, the status of the application for the Aquifer Protection Permit;
- p. The estimated total construction cost of the proposed offsite and onsite facilities, including documentation to support the estimates, and an explanation of how the construction will be financed, such as through debt, equity, advances in aid of construction, contributions in aid of construction, or a combination thereof;
 - q. Documentation establishing the applicant's financial condition, including at least the applicant's current assets and liabilities, an income statement, the applicant's estimated revenue and expenses for the first five years following approval of the application, and the estimated value of the applicant's utility plant in service for the first five years following approval of the application;
 - r. The rates proposed to be charged for services rendered, shown in the form of a proposed tariff that complies with Commission standards;
 - s. The estimated annual operating revenues and expenses for the first five years of operation for the requested service area or extension area, expressed separately for residential, commercial, industrial, and irrigation services, and including a description of each assumption made to derive the estimates;
 - t. A detailed description of the proposed construction timeline for facilities, with estimated starting and completion dates and, if construction is to be phased, a description of each separate phase of construction;
 - u. A copy of any requests for service from persons who own land within the proposed service area or extension area, which shall identify the applicant by name;
 - v. Maps of the proposed service area or extension area identifying:
 - i. The boundaries of the area, with the total acreage noted;
 - ii. The land ownership boundaries within the area, with the acreage of each separately owned parcel within the area noted;
 - iii. The owner of each parcel within the area;
 - iv. Any municipality corporate limits that overlap with or are within five miles of the area;
 - v. The service area of any public service corporation, municipality, or district currently providing water or wastewater service within one mile of the area, with identification of the entity providing service and each type of service being provided;
 - vi. The location within the area of any known sewer service connections that are already being provided service by the applicant;
 - vii. The location of all proposed developments within the area;
 - viii. The proposed location of each sewer system and the principal components described in subsection (B)(5)(n); and
 - ix. The location of all parcels for which a copy of a request for service has been submitted per subsection (B)(5)(u);
 - w. A copy of each notice to be sent, as required under subsection (B)(4), to a municipal manager or administrator;
 - x. A copy of each notice sent, as required under subsection (B)(3), to a landowner not requesting service;
 - y. For each landowner not requesting service, either the written response received from the landowner or, if no written response was received, a description of the actions taken by the applicant to obtain a written response;
 - z. A copy of each city, county, or state agency approval required by law to construct the proposed facilities or operate the utility within the proposed service area or extension area or, for any approval not yet obtained, the status of the applicant's application for the approval;
 - aa. The estimated number of customers to be served for each of the first five years of operation, expressed separately for residential, commercial, industrial, and irrigation customers and including documentation to support the estimates;
 - bb. A description of how water service is to be provided in the proposed service area or extension area and the name of each water service provider for the area, if any;
 - cc. A description of how effluent from the area will be reused or, if not reused, disposed of;
 - dd. If the applicant is requesting a CC&N extension:
 - i. A current compliance status report from the Arizona Department of Environmental Quality, dated no more than 30 days before the date the CC&N extension application is filed, for each wastewater system operated by the applicant, as identified by a separate Arizona Department of Environmental Quality Identification Number; and
 - ii. A wastewater flow data sheet for the wastewater system being extended by the applicant; and
 - ee. The notarized signature of the applicant.
6. Upon receiving an application under subsection (B)(5), Utilities Division staff shall review and process the application in accordance with the requirements of R14-2-610.
 7. Once Utilities Division staff determines that an application submitted under subsection (B)(5) is administratively complete, the Commission shall, as expeditiously as practicable, schedule a hearing to consider the application.
- C. Additions or extensions of service contiguous to existing CC&N service areas**
1. Except in the case of an emergency, a utility that proposes to extend service to a parcel located in a non-certificated area contiguous to its CC&N service area shall notify the Commission before the service extension occurs.
 2. Each notification required under subsection (C)(1) shall be in writing, shall be verified, and shall set forth, at a minimum:
 - a. The legal name, mailing address, and telephone number of the utility;
 - b. The number of persons to be served in the contiguous parcel;
 - c. The legal description of the contiguous parcel and the location of the structures to be served therein, in relation to the utility's CC&N service area; and
 - d. A statement that service will be extended only to a non-certificated parcel contiguous to the utility's CC&N service area.
 3. When emergency service is required to be provided to a person in a non-certificated area contiguous to a utility's CC&N service area, the utility shall notify the Commis-

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sion of the service extension as soon as possible after the service extension occurs by providing written notice that includes the information required under subsection (C)(2) and describes the nature and extent of the emergency.

D. Application for authority to abandon, sell, lease, transfer, or otherwise dispose of a utility

1. A utility shall not abandon, sell, lease, transfer, or otherwise dispose of its facilities or operation without first obtaining authority therefor from the Commission.
2. A utility desiring to abandon, sell, lease, transfer, or otherwise dispose of its facilities or operation shall file with the Commission an application that includes, at a minimum:
 - a. The legal name, physical address, mailing address (if different), and telephone number of the utility;
 - b. A description of the utility property proposed to be abandoned, sold, leased, transferred or otherwise disposed of;
 - c. Documentation establishing the utility's financial condition, including at least the utility's current assets and liabilities, an income statement, the utility's revenue and expenses for the most recently completed 12-month accounting period, and the value of the utility's utility plant in service;
 - d. The legal name, physical address, mailing address (if different), and telephone number of any proposed purchaser, lessee, transferee, or assignee;
 - e. The terms and conditions of the proposed abandonment, sale, lease, transfer, or assignment and copies of any agreement that has been or will be executed concerning the transaction;
 - f. A description of the effect that the proposed transaction will have upon the utility's services;
 - g. The method by which the proposed transaction is to be financed;
 - h. A description of the effect that the proposed transaction will have upon any other utility;
 - i. The number of customers to be affected by the proposed transaction; and
 - j. A description of the effect that the proposed transaction will have upon customers.

E. Application for discontinuance or abandonment of utility service

1. A utility shall not discontinue or abandon any service currently in use by the public without first obtaining authority therefor from the Commission.
2. A utility desiring to discontinue or abandon a service shall file with the Commission an application identifying the utility; including data regarding past, present and estimated future customer use of the service; describing any plant or facility that would no longer be in use if the application were approved; and explaining why the utility desires to discontinue or abandon the service.
3. A utility is not required to apply for Commission approval to remove individual facilities where a customer has requested service discontinuance.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended to correct subsection numbering (Supp. 99-4). Amended by final rulemaking at 15 A.A.R. 2066, effective January 22, 2010 (Supp. 09-4).

R14-2-603. Establishment of service

A. Information from new applicants

1. A utility may obtain the following minimum information from each new applicant for service:

- a. Name or names of applicant(s).
- b. Service address or location and telephone number.
- c. Billing address or location and telephone number, if different than service address.
- d. Address where service was provided previously.
- e. Date applicant will be ready for service.
- f. Indication of whether premises have been supplied with utility service previously.
- g. Purpose for which service is to be used.
- h. Indication of whether applicant is owner or tenant of or agent for the premises.

2. Each utility may require a new applicant for service to appear at the utility's designated place of business to produce proof of identity and sign the utility's application form.
3. Where service is requested by two or more individuals the utility shall have the right to collect the full amount owed to the utility from any one of the applicants.

B. Deposits

1. A utility may require a deposit from any new applicant for service.
2. The utility shall issue a nonnegotiable receipt to the applicant for the deposit. The inability of the customer to produce such a receipt shall in no way impair his right to receive a refund of the deposit which is reflected on the utility's records.
3. Interest on deposits shall be calculated annually at an interest rate filed by the utility and approved by the Commission in a tariff proceeding. In the absence of such, the interest rate shall be 6%.
4. Interest shall be credited to the customer's bill annually.
5. Residential deposits shall be refunded within 30 days after:
 - a. 12 consecutive months of service without being delinquent in the payment of utility bills provided the utility may reestablish the deposit if the customer becomes delinquent in the payment of bills three or more times within a 12 consecutive month period.
 - b. Upon discontinuance of service when the customer has paid all outstanding amounts due the utility.
6. A separate deposit may be required for each service installed.
7. The amount of a deposit required by the utility shall be determined according to the following terms:
 - a. Residential customer deposits shall not exceed two times the average residential class bill as evidenced by the utility's most recent annual report filed with the Commission.
 - b. Nonresidential customer deposits shall not exceed 2 1/2 times that customer's estimated maximum monthly bill.
8. The utility may review the customer's discharge after service has been established and adjust the deposit amount based upon the customer's actual discharge.
9. Upon discontinuance of service, the deposit may be applied by the utility toward settlement of the customer's bill.

C. Grounds for refusal of service. A utility may refuse to establish service if any of the following conditions exist:

1. The applicant has an outstanding amount due for the same class of utilities services with the utility, and the applicant is unwilling to make arrangements with the utility for payment.
2. A condition exists which in the utility's judgment is unsafe or hazardous to the applicant, the general population, or the utility's personnel or facilities.

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3. Refusal by the applicant to provide the utility with a deposit.
 4. Customer is known to be in violation of the utility's tariffs filed with the Commission or of the Commission's rules and regulations.
 5. Failure of the customer to furnish such funds, service, equipment, and/or rights-of-way necessary to serve the customer and which have been specified by the utility as a condition for providing service.
- D. Service establishments, re-establishments or reconnect charge**
1. A utility may make a charge as approved by the Commission for the establishment, reestablishment, or reconnection of utility service.
 2. For the purpose of this rule, service establishments are where the customer's facilities are ready and acceptable to the utility and do not require construction on the part of the utility.
- E. Temporary service**
1. Applicants for temporary service may be required to pay the utility, in advance of service establishment, the estimated cost of installing and removing the facilities necessary for furnishing sewer service.
 2. Where the duration of service is to be less than one month, the applicant may also be required to advance a sum of money equal to the estimated bill for service.
 3. Where the duration of service is to exceed one month, the applicant may also be required to meet the deposit requirements of the utility.
 4. If at any time during the term of the agreement for service the character of a temporary customer's operations changes so that in the opinion of the utility the customer is classified as permanent, the terms of the utility's main extension rules shall apply.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended to correct subsection numbering (Supp. 99-4).

R14-2-604. Minimum customer information requirements

- A. Information for residential customers**
1. Each utility shall make available upon customer request not later than 60 days from the date of request a concise summary of the rate schedule applied for by such customer. The summary shall include the following:
 - a. Monthly minimum or customer charge, identifying the amount of the charge and the specific amount of minimum discharge included in the minimum charge, where applicable.
 - b. Rate calculation, including where applicable, computations based upon seasonal or annual water usages.
 2. The utility shall to the extent practical identify the tariff most advantageous to the customer and notify the customer of such prior to service commencement.
 3. In addition, a utility shall make available upon customer request not later than 60 days from the date of request a copy of the Commission's rules and regulations governing:
 - a. Deposits
 - b. Terminations of service
 - c. Billing and collection
 - d. Complaint handling.
 4. Each utility shall inform all new customers of their rights to obtain the information specified above.
- B. Information required due to changes in tariffs**
1. Each utility shall transmit to affected customers by the most economic means available a concise summary of

any change in the utility's tariffs affecting those customers.

2. This information shall be transmitted to the affected customer within 60 days of the effective date of the change.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-605. Service connections

- A. Priority and timing**
1. After an applicant has complied with the utility's application and deposit requirements and has been accepted for service by the utility, the utility shall schedule that customer for service connection.
 2. Service connections shall be scheduled for completion within five working days of the date the customer has been accepted for service, except in those instances when the customer requests service connection beyond the five working day limitation.
 3. When the utility has made arrangements to meet with a customer for service establishment purposes and the utility or the customer cannot make the appointment during the prearranged time, the utility shall reschedule the connection to the satisfaction of both parties.
 4. For the purposes of this rule, establishment of service takes place only when the customer's facilities are ready and acceptable to the utility.
- B. Customer provided facilities**
1. An applicant for service shall be responsible for the installation of all plumbing up to the applicant's property line. In addition, the applicant is responsible for the proper grade or leveling of the sewer connection so that it conforms with the collection system of the utility.
 2. Funds collected for service connections may be nonrefundable contributions to the utility.
- C. Customer provided equipment safety and operation.** Each customer shall be responsible for maintaining all equipment and facilities using or used for utility services located on his side of the point of collection in safe operating condition.
- D. Easements and rights-of-way**
1. Each customer shall grant adequate easement and right-of-way satisfactory to the utility to ensure that customer's proper service connection. Failure on the part of the customer to grant adequate easement and right-of-way shall be grounds for the utility to refuse service.
 2. When a utility discovers that a customer or his agent is performing work or has constructed facilities adjacent to or within an easement or right-of-way and such work, construction or facility poses a hazard or is in violation of federal, state or local laws, ordinances, statutes, rules or regulations, or significantly interferes with the utility's access to equipment, the utility shall notify the customer or his agent and shall take whatever actions are necessary to eliminate the hazard, obstruction or violation at the customer's expense.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended to correct subsection numbering (Supp. 99-4).

R14-2-606. Collection main extension agreements

- A. General requirements**
1. Each utility entering into a main extension agreement shall comply with the provisions of this rule, which specifically defines the conditions governing collection main extensions.
 2. Upon request by a potential applicant for a collection main extension, the utility shall prepare, without charge, a

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preliminary sketch and rough estimate of the cost of installation to be paid by said applicant.

3. Any applicant for a collection main extension requesting the utility to prepare detailed plans, specifications, or cost estimates may be required to deposit with the utility an amount equal to the estimated cost of preparation. The utility shall, upon request, make available within 90 days after receipt of the deposit referred to above, such plans, specifications, or cost estimates of the proposed collection main extension. Where the applicant accepts the plans and the utility proceeds with construction of the extension, the deposit shall be credited to the cost of construction; otherwise the deposit shall be nonrefundable. If the extension is to include oversizing of facilities to be done at the utility's expense, appropriate details shall be set forth in the plans, specifications and cost estimates.
 4. Where the utility requires an applicant to advance funds for a collection main extension, the utility shall furnish the applicant with a copy of the extension tariff of the appropriate utility prior to the applicant's acceptance of the utility's extension agreement.
 5. All collection main extension agreements requiring payment by the applicant shall be in writing and signed by each party before the utility commences construction.
 6. In the event the utility's actual cost of construction is different from the amount advanced by the customer, the utility shall make a refund to or collect additional funds from, the applicant within 120 days after the completion of the construction.
 7. The provisions of this rule apply only to those applicants who in the utility's judgment will be permanent customers of the utility. Applications for temporary service shall be governed by the Commission's rules concerning temporary service applications.
- B. Minimum written agreement requirements**
1. Each collection main extension agreement shall, at a minimum, include the following information:
 - a. Name and address of applicant(s)
 - b. Proposed service address or location
 - c. Description of requested service
 - d. Description and sketch of the requested main extension
 - e. A cost estimate to include materials, labor, and other costs as necessary
 - f. Payment terms
 - g. A clear and concise explanation of any refunding provisions, if appropriate
 - h. The utility's estimated start date and completion date for construction of the collection main extension
 2. Each applicant shall be provided with a copy of the written collection main extension agreement.
- C. Main extension requirements. Each main extension tariff shall include the following provisions:**
1. A maximum footage and/or equipment allowance to be provided by the utility at no charge. The maximum footage and/or equipment allowance may be differentiated by customer class.
 2. An economic feasibility analysis for those main extensions which exceed the maximum footage and/or equipment allowance. Such economic feasibility analysis shall consider the incremental revenues and cost associated with the main extension. In those instances where the requested main extension does not meet the economic feasibility criteria established by the utility, the utility may require the customer to provide funds to the utility, which will make the main extension economically feasible.

ble. The methodology employed by the utility in determining economic feasibility shall be applied uniformly and consistently to each applicant requiring a main extension.

3. The timing and methodology by which the utility will refund any advances in aid of construction as additional customers are served off the main extension. The customer may request an annual survey to determine if additional customers have been connected to and are using service from the main extension. In no case shall the amount of the refund exceed the amount originally advanced.
 4. All advances in aid of construction shall be noninterest bearing.
 5. If after five years from the utility's receipt of the advance, the advance has not been totally refunded, the advance shall be considered a contribution in aid of construction and shall no longer be refundable.
- D. Residential subdivision development and permanent mobile home parks.** Each utility shall submit as a part of its main extension tariff separate provisions for residential subdivision developments and permanent mobile home parks.
- E. Ownership of facilities.** Any facilities installed hereunder shall be the sole property of the utility.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended to correct subsection numbering (Supp. 99-4).

R14-2-607. Provision of service

- A. Utility responsibility**
1. Each utility shall be responsible for the safe conduct and handling of the sewage from the customer's point of collection.
 2. The utility may, at its option, refuse service until the customer has obtained all required permits and/or inspections indicating that the customer's facilities comply with local construction and safety standards.
- B. Customer responsibility**
1. Each customer shall be responsible for maintaining all facilities on the customer's premises in safe operating condition and in accordance with the rules of the state Department of Health.
 2. Each customer shall be responsible for safeguarding all utility property installed in or on the customer's premises for the purpose of supplying utility service to that customer.
- C. Continuity of service.** Each utility shall make reasonable efforts to supply a satisfactory and continuous level of service. However, no utility shall be responsible for any damage or claim of damage attributable to any interruption or discontinuation of service resulting from:
1. Any cause against which the utility could not have reasonably foreseen or made provision for, i.e., force majeure
 2. Intentional service interruptions to make repairs or perform routine maintenance
 3. Any temporary overloading of the utility's collection or treatment facilities.
- D. Service interruption**
1. Each utility shall make reasonable efforts to reestablish service within the shortest possible time when service interruptions occur.
 2. Each utility shall make reasonable provisions to meet emergencies resulting from failure of service, and each utility shall issue instructions to its employees covering procedures to be followed in the event of emergency in

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order to prevent or mitigate interruption or impairment of service.

3. In the event of a national emergency or local disaster resulting in disruption of normal service, the utility may, in the public interest, interrupt service to other customers to provide necessary service to civil defense or other emergency service agencies on a temporary basis until normal service to these agencies can be restored.
 4. When a utility plans to interrupt service for more than four hours to perform necessary repairs or maintenance, the utility shall attempt to inform affected customers at least 24 hours in advance of the scheduled date and estimated duration of the service interruption. Such repairs shall be completed in the shortest possible time to minimize the inconvenience to the customers of the utility.
 5. The Commission shall be notified of interruptions in service affecting the entire system or any major division thereof. The interruption of service and cause shall be reported within four hours after the responsible representative of the utility becomes aware of said interruption by telephone to the Commission and followed by a written report to the Commission.
- E. Construction standards.** The design, construction and operation of all sewer plants shall conform to the requirements of the Arizona Department of Health Services or its successors and any other governmental agency having jurisdiction thereof. Phase construction is acceptable.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended to correct subsection numbering (Supp. 99-4).

R14-2-608. Billing and collection

- A. Frequency.** Each utility shall bill monthly for services rendered.
- B. Minimum bill information.** Each bill for residential service will contain the following minimum information:
1. Billed discharge, where applicable
 2. Utility telephone number
 3. Amount due and due date
 4. Customer's name
 5. Service account number, if available
 6. Past due amount, where appropriate
 7. Adjustment factor, where applicable
 8. Other approved tariff charges.
- C. Billing terms**
1. All bills for utility services are due and payable no later than 10 days from the date the bill is rendered. Any payment not received within this time-frame shall be considered past due.
 2. For purposes of this rule, the date a bill is rendered may be evidenced by:
 - a. The postmark date
 - b. The mailing date.
 3. All past due bills for utility services are due and payable within 10 days. Any payment not received within this time-frame shall be considered delinquent.
 4. All delinquent bills for which payment has not been received within five days shall be subject to the provisions of the utility's termination procedures.
 5. All payments shall be made at or mailed to the office of the utility or to the utility's duly authorized representative.
- D. Applicable tariffs, prepayment, failure to receive, commencement date, taxes**
1. Each customer shall be billed under the applicable tariff indicated in the customer's application for service.

2. Each utility shall make provisions for advance payment for sewer services.
3. Failure to receive bills or notices which have been properly placed in the United States mail shall not prevent such bills from becoming delinquent nor relieve the customer of his obligations therein.
4. Charges for service commence when the service is installed and connection made, whether used or not.
5. In addition to the collection of regular rates, each utility may collect from its customers a proportionate share of any privilege, sales or use tax, or other imposition based on the gross revenues received by the utility.

E. Insufficient funds (NSF) checks

1. A utility shall be allowed to recover a fee, as approved by the Commission for each instance where a customer tenders payment for utility service with an insufficient funds check.
2. When the utility is notified by the customer's bank that there are insufficient funds to cover the check tendered for utility service, the utility may require the customer to make payment in cash, by money order, certified check, or other means which guarantee the customer's payment to the utility.
3. A customer who tenders an insufficient check shall in no way be relieved of the obligation to render payment to the utility under the original terms of the bill nor defer the utility's provision for termination of service for nonpayment of bills.

F. Late payment penalty

1. Each utility may include in its tariffs a late payment penalty tariff which may be applied to delinquent bills.
2. The amount of the late payment penalty shall be indicated upon the customer's bill when rendered by the utility.
3. In the absence of an approved tariff, the amount of the late payment penalty shall not exceed 1-1/2% of the delinquent bill.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended to correct subsection numbering (Supp. 99-4).

R14-2-609. Termination of service

- A. Nonpermissible reasons to disconnect service.** A utility may not disconnect service for any of the reasons stated below:
1. Delinquency in payment for services rendered to a prior customer at the premises where service is being provided, except in the instance where the prior customer continues to reside on the premises.
 2. Failure of the customer to pay for services or equipment which are not regulated by the Commission.
 3. Nonpayment of a bill related to another class of service.
 4. Failure to pay for a bill to correct a previous underbilling due to a billing error if the customer agrees to pay over a reasonable period of time.
 5. Disputed bills where the customer has complied with the Commission's rules and regulations.
- B. Termination of service without notice**
1. Utility service may be disconnected without advance written notice under the following conditions:
 - a. The existence of an obvious hazard to the safety or health of the consumer or the general population.
 - b. The utility has evidence of fraud.
 2. The utility shall not be required to restore service until the conditions which resulted in the termination have been corrected to the satisfaction of the utility.
 3. Each utility shall maintain a record of all terminations of service without notice. This record shall be maintained

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for a minimum of one year and shall be available for inspection by the Commission.

C. Termination of service with notice

1. A utility may disconnect service to any customer for any reason stated below provided the utility has met the notice requirements established by the Commission:
 - a. Customer violation of any of the Commission's rules.
 - b. Failure of the customer to pay a delinquent bill for utility service.
 - c. Failure to meet or maintain the utility's credit and deposit requirements.
 - d. Failure of the customer to provide the utility reasonable access to its equipment and property.
 - e. Customer breach of a written contract for service between the utility and customer.
 - f. When necessary for the utility to comply with an order of any governmental agency having such jurisdiction.
2. Each utility shall maintain a record of all terminations of service with notice. This record shall be maintained for one year and be available for Commission inspection.

D. Termination notice requirements

1. No utility shall terminate service to any of its customers without providing advance written notice to the customer of the utility's intent to disconnect service, except under those conditions specified where advance written notice is not required.
2. Such advance written notice shall contain, at a minimum, the following information:
 - a. The name of the person whose service is to be terminated and the address where service is being rendered.
 - b. The Commission rule or regulation that was violated and explanation thereof or the amount of the bill which the customer has failed to pay in accordance with the payment policy of the utility, if applicable.
 - c. The date on or after which service may be terminated.
 - d. A statement advising the customer that the utility's stated reason for the termination of services may be disputed by contacting the utility at a specific address of phone number, advising the utility of the dispute and making arrangements to discuss the cause for termination with a responsible employee of the utility in advance of the scheduled date of termination. The responsible employee shall be empowered to resolve the dispute and the utility shall retain the option to terminate service after affording this opportunity for a meeting and concluding that the reason for termination is just and advising the customer of his right to file a complaint with the Commission.

E. Timing of terminations with notice

1. Each utility shall be required to give at least five days' advance written notice prior to the termination date.
2. Such notice shall be considered to be given to the customer when a copy thereof is left with the customer or posted first class in the United States mail, addressed to the customer's last known address.
3. If after the period of time allowed by the notice has elapsed and the delinquent account has not been paid nor arrangements made with the utility for the payment thereof or in the case of a violation of the utility's rules the customer has not satisfied the utility that such violation has ceased, the utility may then terminate service on

or after the day specified in the notice without giving further notice.

- F. Landlord/tenant rule.** In situations where service is rendered at an address different from the mailing address of the bill or where the utility knows that a landlord/tenant relationship exists and that the landlord is the customer of the utility, and where the landlord as a customer would otherwise be subject to disconnection of service, the utility may not disconnect service until the following actions have been taken:

1. Where it is feasible to so provide service, the utility, after providing notice as required in these rules, shall offer the occupant the opportunity to subscribe for service in his or her own name. If the occupant then declines to so subscribe, the utility may disconnect service pursuant to the rules.
2. A utility shall not attempt to recover from a tenant or condition service to a tenant with the payment of any outstanding bills or other charges due upon the outstanding account of the landlord.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended to correct subsection numbering (Supp. 99-4).

Editor's Note: The following Section was amended under an exemption from the Attorney General approval provisions of the Arizona Administrative Procedure Act (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)), as determined by the Corporation Commission. This exemption means that the rules as amended were not approved by the Attorney General.

R14-2-610. Administrative and Hearing Requirements

A. Customer service complaints

1. Each utility shall make a full and prompt investigation of all service complaints made by its customers, either directly or through the Commission.
2. The utility shall respond to the complainant and/or the Commission representative within five working days as to the status of the utility investigation of the complaint.
3. The utility shall notify the complainant and/or the Commission representative of the final disposition of each complaint. Upon request of the complainant or the Commission representative, the utility shall report the findings of its investigation in writing.
4. The utility shall inform the customer of his right of appeal to the Commission should the results of the utility's investigation prove unsatisfactory to the customer.
5. Each utility shall keep a record of all written service complaints received which shall contain, at a minimum, the following data:
 - a. Name and address of the complainant
 - b. Date and nature of the complaint
 - c. Disposition of the complaint
 - d. A copy of any correspondence between the utility, the customer, and/or the Commission.

This record shall be maintained for a minimum period of one year and shall be available for inspection by the Commission.

B. Notice by utility of responsible officer or agent

1. Each utility shall file with the Commission a written statement containing the name, address (business, residence and post office) and telephone numbers (business and residence) of at least one officer, agent or employee responsible for the general management of its operations as a utility in Arizona.
2. Each utility shall give notice, by filing a written statement with the Commission, of any change in the information

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required herein within five days from the date of any such change.

C. Time-frames for processing applications for Certificates of Convenience and Necessity

1. This rule prescribes time-frames for the processing of any Application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.
2. Within 30 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.
3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.
4. After receipt of a corrected application, staff shall notify the applicant within 30 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.
5. Within 150 days after an application is deemed administratively complete, the Commission shall approve or reject the application.
6. For purposes of A.R.S. § 41-1072 et seq., the Commission has established the following time-frames:
 - a. Administrative completeness review time-frame: 30 calendar days,
 - b. Substantive review time-frame: 150 calendar days,
 - c. Overall time-frame: 180 calendar days.
7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.
8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.

D. Accounts and records

1. Each utility shall keep general and auxiliary accounting records reflecting the cost of its properties, operating income and expense, assets and liabilities, and all other accounting and statistical data necessary to give complete and authentic information as to its properties and operations.
2. Each utility shall maintain its books and records in conformity with the NARUC Uniform Systems of Accounts for Class A, B, C and D Sewer Utilities.
3. A utility shall produce or deliver in this state any or all of its formal accounting records and related documents requested by the Commission. It may, at its option, provide verified copies of original records and documents.
4. All utilities shall submit an annual report to the Commission on a form prescribed by it. The annual report shall be filed on or before the 15th day of April for the preceding calendar year. Reports prepared by a certified or licensed public accountant on the utility, if any, shall accompany the annual report.
5. All utilities shall file with the Commission a copy of all reports required by the Securities and Exchange Commission.

E. Maps. All utilities shall file with the Commission a map or maps clearly setting forth the location and extent of the area or areas they hold under approved certificates of convenience and necessity, in accordance with the Cadastral (Rectangular) Survey of the United States Bureau of Land Management, or by metes and bounds with a starting point determined by the aforesaid Cadastral Survey.

F. Variations, exemptions of Commission rules and regulations. Variations or exemptions from the terms and requirements of any of the rules included herein (Title 14, Chapter 2, Article 6) shall be considered upon the verified application of an affected party to the Commission setting forth the circumstances whereby the public interest requires such variation or exemption from the Commission rules and regulations. Such application will be subject to the review of the Commission, and any variation or exemption granted shall require an order of the Commission. In case of conflict between these rules and regulations and an approved tariff or order of the Commission, the provisions of the tariff or order shall apply.

G. Prior agreements. The adoption of these rules by the Commission shall not affect any agreements entered into between the utility and customers or other parties who, pursuant to such contracts, arranged for the extension of facilities in a provision of service prior to the effective date of these rules.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended effective December 31, 1998, under an exemption as determined by the Arizona Corporation Commission (Supp. 98-4). Amended to correct subsection numbering (Supp. 99-4).

ARTICLE 7. RESOURCE PLANNING AND PROCUREMENT

R14-2-701. Definitions

In this Article, unless otherwise specified:

1. "Acknowledgment" means a Commission determination, under R14-2-704, that a plan meets the basic requirements of this Article.
2. "Affiliated" means related through ownership of voting securities, through contract, or otherwise in such a manner that one entity directly or indirectly controls another, is directly or indirectly controlled by another, or is under direct or indirect common control with another entity.
3. "Benchmark" means to calibrate against a known set of values or standards.
4. "Book life" means the expected time period over which a power supply source will be available for use by a load-serving entity.
5. "Btu" means British thermal unit.
6. "Capacity" means the amount of electric power, measured in megawatts, that a power source is rated to provide.
7. "Capital costs" means the construction and installation cost of facilities, including land, land rights, structures, and equipment.
8. "Coincident peak" means the maximum of the sum of two or more demands that occur in the same demand interval, which demand interval may be established on an annual, monthly, or hourly basis.
9. "Customer class" means a subset of customers categorized according to similar characteristics, such as amount of energy consumed; amount of demand placed on the energy supply system at the system peak; hourly, daily, or seasonal load pattern; primary type of activity engaged in by the customer, including residential, commercial, industrial, agricultural, and governmental; and location.

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10. "Decommissioning" means the process of safely and economically removing a generating unit from service.
11. "Demand management" means beneficial reduction in the total cost of meeting electric energy service needs by reducing or shifting in time electricity usage.
12. "Derating" means a reduction in a generating unit's capacity.
13. "Discount rate" means the interest rate used to calculate the present value of a cost or other economic variable.
14. "Docket Control" means the office of the Commission that receives all official filings for entry into the Commission's public electronic docketing system.
15. "Emergency" means an unforeseen and unforeseeable condition that:
 - a. Does not arise from the load-serving entity's failure to engage in good utility practices,
 - b. Is temporary in nature, and
 - c. Threatens reliability or poses another significant risk to the system.
16. "End use" means the final application of electric energy, for activities such as, but not limited to, heating, cooling, running an appliance or motor, an industrial process, or lighting.
17. "Energy losses" means the quantity of electric energy generated or purchased that is not available for sale to end users, for resale, or for use by the load-serving entity.
18. "Escalation" means the change in costs due to inflation, changes in manufacturing processes, changes in availability of labor or materials, or other factors.
19. "Generating unit" means a specific device or set of devices that converts one form of energy (such as heat or solar energy) into electric energy, such as a turbine and generator or a set of photovoltaic cells.
20. "Heat rate" means a measure of generating station thermal efficiency expressed in Btus per net kilowatt-hour and computed by dividing the total Btu content of fuel used for electric generation by the kilowatt-hours of electricity generated.
21. "Independent monitor" means a company or consultant that is not affiliated with a load-serving entity and that is selected to oversee the conduct of a competitive procurement process under R14-2-706.
22. "Integration" means methods by which energy produced by intermittent resources can be incorporated into the electric grid.
23. "Intermittent resources" means electric power generation for which the energy production varies in response to naturally occurring processes like wind or solar intensity.
24. "Interruptible power" means power made available under an agreement that permits curtailment or cessation of delivery by the supplier.
25. "In-service date" means the date a power supply source becomes available for use by a load-serving entity.
26. "Load-serving entity" means a public service corporation that provides electricity generation service and operates or owns, in whole or in part, a generating facility or facilities with capacity of at least 50 megawatts combined.
27. "Long-term" means having a duration of three or more years.
28. "Maintenance" means the repair of generation, transmission, distribution, administrative, and general facilities; replacement of minor items; and installation of materials to preserve the efficiency and working condition of facilities.
29. "Mothballing" means the temporary removal of a generating unit from active service and accompanying storage activities.
30. "Operate" means to manage or otherwise be responsible for the production of electricity by a generating facility, whether that facility is owned by the operator, in whole or in part, or by another entity.
31. "Participation rate" means the proportion of customers who take part in a specific program.
32. "Probabilistic analysis" means a systematic evaluation of the effect, on costs, reliability, or other measures of performance, of possible events affecting factors that influence performance, considering the likelihood that the events will occur.
33. "Production cost" means the variable operating costs and maintenance costs of producing electricity through generation, including fuel cost, plus the cost of purchases of power sufficient to meet demand.
34. "Refurbish" means to make major changes, more extensive than maintenance or repair, in the power production, transmission, or distribution characteristics of a component of the power supply system, such as by changing the fuels that can be used in a generating unit or changing the capacity of a generating unit.
35. "Reliability" means a measure of the ability of a load-serving entity's generation, transmission, or distribution system to provide power without failures, measured to reflect the portion of time that a system is unable to meet demand or the kilowatt-hours of demand that could not be supplied.
36. "Renewable energy resource" means an energy resource that is replaced rapidly by a natural, ongoing process and that is not nuclear or fossil fuel.
37. "Reserve requirements" means the capacity that a load-serving entity must maintain in excess of its peak load to provide for scheduled maintenance, forced outages, unforeseen loads, emergencies, system operating requirements, and reserve sharing arrangements.
38. "Reserve sharing arrangement" means an agreement between two or more load-serving entities to provide backup capacity.
39. "Resource planning" means integrated supply and demand analyses completed as described in this Article.
40. "RFP" means request for proposals.
41. "Self generation" means the production of electricity by an end user.
42. "Sensitivity analysis" means a systematic assessment of the degree of response of costs, reliability, or other measures of performance to changes in assumptions about factors that influence performance.
43. "Short-term" means having a duration of less than three years.
44. "Spinning reserve" means the capacity a load-serving entity must maintain connected to the system and ready to deliver power promptly in the event of an unexpected loss of generation source, expressed as a percentage of peak load, a percentage of the largest generating unit, or in fixed megawatts.
45. "Staff" means individuals working for the Commission's Utilities Division, whether as employees or through contract.
46. "Third-party independent energy broker" means an entity, such as Prebon Energy or Tradition Financial Services, that facilitates an energy transaction between separate parties without taking title to the transaction.

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47. "Third-party online trading system" means a computer-based marketplace for commodity exchanges provided by an entity that is not affiliated with the load-serving entity, such as the Intercontinental Exchange, California Independent System Operator, or New York Mercantile Exchange.
48. "Total cost" means all capital, operating, maintenance, fuel, and decommissioning costs, plus the costs associated with mitigating any adverse environmental effects, incurred by end users, load-serving entities, or others, in the provision or conservation of electric energy services.

Historical Note

Adopted effective February 3, 1989 (Supp. 89-1).

Amended by final rulemaking at 16 A.A.R. 2150, effective December 20, 2010 (Supp. 10-4).

R14-2-702. Applicability

- A. This Article applies to each load-serving entity, whether the power generated is for sale to end users or is for resale.
- B. An electricity public service corporation that becomes a load-serving entity by increasing its generating capacity to at least 50 megawatts combined shall provide written notice to the Commission within 30 days after the increase and shall comply with the filing requirements in this Article within two years after the notice is filed.
- C. The Commission may, by Order, exempt a load-serving entity from complying with any provision in this Article, or the Article as a whole, upon determining that:
1. The burden of compliance with the provision, or the Article as a whole, exceeds the potential benefits to customers in the form of cost savings, service reliability, risk reductions, or reduced environmental impacts that would result from the load-serving entity's compliance with the provision or Article; and
 2. The public interest will be served by the exemption.
- D. A load-serving entity that desires an exemption shall submit to Docket Control an application that includes, at a minimum:
1. The reasons why the burden of complying with the Article, or the specific provision in the Article for which exemption is requested, exceeds the potential benefits to customers that would result from the load-serving entity's compliance with the provision or Article;
 2. Data supporting the load-serving entity's assertions as to the burden of compliance and the potential benefits to customers that would result from compliance; and
 3. The reasons why the public interest would be served by the requested exemption.
- E. A load-serving entity shall file with Docket Control, within 120 days after the effective date of these rules, the documents that would have been due on April 1, 2010, under R14-2-703(C), (D), (E), (F), and (H) had the revisions to those subsections been effective at that time.

Historical Note

Adopted effective February 3, 1989 (Supp. 89-1).

Amended by final rulemaking at 16 A.A.R. 2150, effective December 20, 2010 (Supp. 10-4).

R14-2-703. Load-serving Entity Reporting Requirements

- A. A load-serving entity shall, by April 1 of each year, file with Docket Control a compilation of the following items of demand-side data, including for each item for which no record is maintained the load-serving entity's best estimate and a full description of how the estimate was made:
1. Hourly demand for the previous calendar year, disaggregated by:

- a. Sales to end users;
 - b. Sales for resale;
 - c. Energy losses; and
 - d. Other disposition of energy, such as energy furnished without charge and energy used by the load-serving entity;
2. Coincident peak demand (megawatts) and energy consumption (megawatt-hours) by month for the previous 10 years, disaggregated by customer class;
 3. Number of customers by customer class for each of the previous 10 years; and
 4. Reduction in load (kilowatt and kilowatt-hours) in the previous calendar year due to existing demand management measures, by type of demand management measure.
- B. A load-serving entity shall, by April 1 of each year, file with Docket Control a compilation of the following items of supply-side data, including for each item for which no record is maintained the load-serving entity's best estimate and a full description of how the estimate was made:
1. For each generating unit and purchased power contract for the previous calendar year:
 - a. In-service date and book life or contract period;
 - b. Type of generating unit or contract;
 - c. The load-serving entity's share of the generating unit's capacity, or of capacity under the contract, in megawatts;
 - d. Maximum generating unit or contract capacity, by hour, day, or month, if such capacity varies during the year;
 - e. Annual capacity factor (generating units only);
 - f. Average heat rate of generating units and, if available, heat rates at selected output levels;
 - g. Average fuel cost for generating units, in dollars per million Btu for each type of fuel;
 - h. Other variable operating and maintenance costs for generating units, in dollars per megawatt hour;
 - i. Purchased power energy costs for long-term contracts, in dollars per megawatt-hour;
 - j. Fixed operating and maintenance costs of generating units, in dollars per megawatt;
 - k. Demand charges for purchased power;
 - l. Fuel type for each generating unit;
 - m. Minimum capacity at which the generating unit would be run or power must be purchased;
 - n. Whether, under standard operating procedures, the generating unit must be run if it is available to run;
 - o. Description of each generating unit as base load, intermediate, or peaking;
 - p. Environmental impacts, including air emission quantities (in metric tons or pounds) and rates (in quantities per megawatt-hour) for carbon dioxide, nitrogen oxides, sulfur dioxide, mercury, particulates, and other air emissions subject to current or expected future environmental regulation;
 - q. Water consumption quantities and rates; and
 - r. Tons of coal ash produced per generating unit;
 2. For the power supply system for the previous calendar year:
 - a. A description of generating unit commitment procedures;
 - b. Production cost;
 - c. Reserve requirements;
 - d. Spinning reserve;
 - e. Reliability of generating, transmission, and distribution systems;

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- f. Purchase and sale prices, averaged by month, for the aggregate of all purchases and sales related to short-term contracts; and
 - g. Energy losses;
- 3. The level of self generation in the load-serving entity's service area for the previous calendar year; and
- 4. An explanation of any resource procurement processes used by the load-serving entity during the previous calendar year that did not include use of an RFP, including the exception under which the process was used.
- C. A load-serving entity shall, by April 1 of each even year, file with Docket Control a compilation of the following items of load data and analyses, which may include a reference to the last filing made under this subsection for each item for which there has been no change in forecast since the last filing:
 - 1. Fifteen-year forecast of system coincident peak load (megawatts) and energy consumption (megawatt-hours) by month and year, expressed separately for residential, commercial, industrial, and other customer classes; for interruptible power; for resale; and for energy losses;
 - 2. Disaggregation of the load forecast of subsection (C)(1) into a component in which no additional demand management measures are assumed, and a component assuming the change in load due to additional forecasted demand management measures; and
 - 3. Documentation of all sources of data, analyses, methods, and assumptions used in making the load forecasts, including a description of how the forecasts were benchmarked and justifications for selecting the methods and assumptions used.
- D. A load-serving entity shall, by April 1 of each even year, file with Docket Control the following prospective analyses and plans, which shall compare a wide range of resource options and take into consideration expected duty cycles, cost projections, other analyses required under this Section, environmental impacts, and water consumption and may include a reference to the last filing made under this subsection for each item for which there has been no change since the last filing:
 - 1. A 15-year resource plan, providing for each year:
 - a. Projected data for each of the items listed in subsection (B)(1), for each generating unit and purchased power source, including each generating unit that is expected to be new or refurbished during the period, which shall be designated as new or refurbished, as applicable, for the year of purchase or the period of refurbishment;
 - b. Projected data for each of the items listed in subsection (B)(2), for the power supply system;
 - c. The capital cost, construction time, and construction spending schedule for each generating unit expected to be new or refurbished during the period;
 - d. The escalation levels assumed for each component of cost, such as, but not limited to, operating and maintenance, environmental compliance, system integration, backup capacity, and transmission delivery, for each generating unit and purchased power source;
 - e. If discontinuation, decommissioning, or mothballing of any power source or permanent derating of any generating facility is expected:
 - i. Identification of each power source or generating unit involved;
 - ii. The costs and spending schedule for each discontinuation, decommissioning, mothballing, or derating; and
 - iii. The reasons for each discontinuation, decommissioning, mothballing, or derating;
 - f. The capital costs and operating and maintenance costs of all new or refurbished transmission and distribution facilities expected during the 15-year period;
 - g. An explanation of the need for and purpose of all expected new or refurbished transmission and distribution facilities, which explanation shall incorporate the load-serving entity's most recent transmission plan filed under A.R.S. § 40-360.02(A) and any relevant provisions of the Commission's most recent Biennial Transmission Assessment decision regarding the adequacy of transmission facilities in Arizona; and
 - h. Cost analyses and cost projections, including the cost of compliance with existing and expected environmental regulations;
- 2. Documentation of the data, assumptions, and methods or models used to forecast production costs and power production for the 15-year resource plan, including the method by which the forecast was benchmarked;
- 3. A description of:
 - a. Each potential power source that was rejected;
 - b. The capital costs, operating costs, and maintenance costs of each rejected source; and
 - c. The reasons for rejecting each source;
- 4. A 15-year forecast of self generation by customers of the load-serving entity, in terms of annual peak production (megawatts) and annual energy production (megawatt-hours);
- 5. Disaggregation of the forecast of subsection (D)(4) into two components, one reflecting the self generation projected if no additional efforts are made to encourage self generation, and one reflecting the self generation projected to result from the load-serving entity's institution of additional forecasted self generation measures;
- 6. A 15-year forecast of the annual capital costs and operating and maintenance costs of the self generation identified under subsections (D)(4) and (5);
- 7. Documentation of the analysis of the self generation under subsections (D)(4) through (6);
- 8. A plan that considers using a wide range of resources and promotes fuel and technology diversity within its portfolio;
- 9. A calculation of the benefits of generation using renewable energy resources;
- 10. A plan that factors in the delivered cost of all resource options, including costs associated with environmental compliance, system integration, backup capacity, and transmission delivery;
- 11. Analysis of integration costs for intermittent resources;
- 12. A plan to increase the efficiency of the load-serving entity's generation using fossil fuel;
- 13. Data to support technology choices for supply-side resources;
- 14. A description of the demand management programs or measures included in the 15-year resource plan, including for each demand management program or measure:
 - a. How and when the program or measure will be implemented;
 - b. The projected participation level by customer class for the program or measure;

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- c. The expected change in peak demand and energy consumption resulting from the program or measure;
 - d. The expected reductions in environmental impacts, including air emissions, solid waste, and water consumption, attributable to the program or measure;
 - e. The expected societal benefits, societal costs, and cost-effectiveness of the program or measure;
 - f. The expected life of the measure; and
 - g. The capital costs, operating costs, and maintenance costs of the measure, and the program costs;
15. For each demand management measure that was considered but rejected:
- a. A description of the measure;
 - b. The estimated change in peak demand and energy consumption from the measure;
 - c. The estimated cost-effectiveness of the measure;
 - d. The capital costs, operating costs, and maintenance costs of the measure, and the program costs; and
 - e. The reasons for rejecting the measure;
16. Analysis of future fuel supplies that are part of the resource plan; and
17. A plan for reducing environmental impacts related to air emissions, solid waste, and other environmental factors, and for reducing water consumption.
- E.** A load-serving entity shall, by April 1 of each even year, file with Docket Control a compilation of the following analyses and plan:
- 1. Analyses to identify and assess errors, risks, and uncertainties in the following, completed using methods such as sensitivity analysis and probabilistic analysis:
 - a. Demand forecasts;
 - b. The costs of demand management measures and power supply;
 - c. The availability of sources of power;
 - d. The costs of compliance with existing and expected environmental regulations;
 - e. Any analysis by the load-serving entity in anticipation of potential new or enhanced environmental regulations;
 - f. Changes in fuel prices and availability;
 - g. Construction costs, capital costs, and operating costs; and
 - h. Other factors the load-serving entity wishes to consider;
 - 2. A description and analysis of available means for managing the errors, risks, and uncertainties identified and analyzed in subsection (E)(1), such as obtaining additional information, limiting risk exposure, using incentives, creating additional options, incorporating flexibility, and participating in regional generation and transmission projects; and
 - 3. A plan to manage the errors, risks, and uncertainties identified and analyzed in subsection (E)(1).
- F.** A load-serving entity shall, by April 1 of each even year, file with Docket Control a 15-year resource plan that:
- 1. Selects a portfolio of resources based upon comprehensive consideration of a wide range of supply- and demand-side options;
 - 2. Will result in the load-serving entity's reliably serving the demand for electric energy services;
 - 3. Will address the adverse environmental impacts of power production;
 - 4. Will include renewable energy resources to meet or exceed the greater of the Annual Renewable Energy Requirement in R14-2-1804 or the following annual percentages of retail kWh sold by the load-serving entity:
- | Calendar Year | Percentage of Retail kWh Sold During Calendar Year |
|---------------|--|
| 2010 | 2.5% |
| 2011 | 3.0% |
| 2012 | 3.5% |
| 2013 | 4.0% |
| 2014 | 4.5% |
| 2015 | 5.0% |
| 2016 | 6.0% |
| 2017 | 7.0% |
| 2018 | 8.0% |
| 2019 | 9.0% |
| 2020 | 10.0% |
| 2021 | 11.0% |
| 2022 | 12.0% |
| 2023 | 13.0% |
| 2024 | 14.0% |
| after 2024 | 15.0% |
5. Will include distributed generation energy resources to meet or exceed the greater of the Distributed Renewable Energy Requirement in R14-2-1805 or the following annual percentages as applied to the load-serving entity's Annual Renewable Energy Requirement:
- | | |
|------------|-----|
| 2007 | 5% |
| 2008 | 10% |
| 2009 | 15% |
| 2010 | 20% |
| 2011 | 25% |
| After 2011 | 30% |
6. Will address energy efficiency so as to meet any requirements set in rule by the Commission or in an order of the Commission;
7. Will effectively manage the uncertainty and risks associated with costs, environmental impacts, load forecasts, and other factors;
8. Will achieve a reasonable long-term total cost, taking into consideration the objectives set forth in subsections (F)(2) through (7) and the uncertainty of future costs; and
9. Contains all of the following:
- a. A complete description and documentation of the plan, including supply and demand conditions, availability of transmission, costs, and discount rates utilized;
 - b. A comprehensive, self-explanatory load and resources table summarizing the plan;
 - c. A brief executive summary;
 - d. An index to indicate where the responses to each filing requirement of these rules can be found; and
 - e. Definitions of the terms used in the plan.
- G.** A load-serving entity shall, by April 1 of each odd year, file with Docket Control a work plan that includes:
- 1. An outline of the contents of the resource plan the load-serving entity is developing to be filed the following year as required under subsection (F);
 - 2. The load-serving entity's method for assessing potential resources;

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3. The sources of the load-serving entity's current assumptions; and
 4. An outline of the timing and extent of public participation and advisory group meetings the load-serving entity intends to hold before completing and filing the resource plan.
- H.** With its resource plan, a load-serving entity shall include an action plan, based on the results of the resource planning process, that:
1. Includes a summary of actions to be taken on future resource acquisitions;
 2. Includes details on resource types, resources capacity, and resource timing; and
 3. Covers the three-year period following the Commission's acknowledgment of the resource plan.
- I.** A load-serving entity or interested party may provide, for the Commission's consideration, analyses and supporting data pertaining to environmental impacts associated with the generation or delivery of electricity, which may include monetized estimates of environmental impacts that are not included as costs for compliance. Values or factors for compliance costs, environmental impacts, or monetization of environmental impacts may be developed and reviewed by the Commission in other proceedings or stakeholder workshops.
- J.** If a load-serving entity's submission does not contain sufficient information to allow Staff to analyze the submission fully for compliance with this Article, Staff shall request additional information from the load-serving entity, including the data used in the load-serving entity's analyses.
- K.** Staff may request that a load-serving entity complete additional analyses to improve specified components of the load-serving entity's submissions.
- L.** If a load-serving entity believes that a data-reporting requirement may result in disclosure of confidential business data or confidential electricity infrastructure information, the load-serving entity may submit to Staff a request that the data be submitted to Staff under a confidentiality agreement, which request shall include an explanation justifying the confidential treatment of the data.
- M.** Data protected by a confidentiality agreement shall not be submitted to Docket Control and will not be open to public inspection or otherwise made public except upon an order of the Commission entered after written notice to the load-serving entity.

Historical Note

Adopted effective February 3, 1989 (Supp. 89-1).
Amended by final rulemaking at 16 A.A.R. 2150, effective December 20, 2010 (Supp. 10-4).

R14-2-704. Commission Review of Load-serving Entity Resource Plans

- A.** By October 1 of each even year, Staff shall file a report that contains its analysis and conclusions regarding its statewide review and assessments of the load-serving entities' filings made under R14-2-703(C), (D), (E), (F), and (H).
- B.** By February 1 of each odd year, the Commission shall issue an order acknowledging a load-serving entity's resource plan or issue an order stating the reasons for not acknowledging the resource plan. The Commission shall order an acknowledgment of a load-serving entity's resource plan, with or without amendment, if the Commission determines that the resource plan, as amended if applicable, complies with the requirements of this Article and that the load-serving entity's resource plan is reasonable and in the public interest, based on the information available to the Commission at the time and considering the following factors:

1. The total cost of electric energy services;
 2. The degree to which the factors that affect demand, including demand management, have been taken into account;
 3. The degree to which supply alternatives, such as self generation, have been taken into account;
 4. Uncertainty in demand and supply analyses, forecasts, and plans, and whether plans are sufficiently flexible to enable the load-serving entity to respond to unforeseen changes in supply and demand factors;
 5. The reliability of power supplies, including fuel diversity and non-cost considerations;
 6. The reliability of the transmission grid;
 7. The environmental impacts of resource choices and alternatives;
 8. The degree to which the load-serving entity considered all relevant resources, risks, and uncertainties;
 9. The degree to which the load-serving entity's plan for future resources is in the best interest of its customers;
 10. The best combination of expected costs and associated risks for the load-serving entity and its customers; and
 11. The degree to which the load-serving entity's resource plan allows for coordinated efforts with other load-serving entities.
- C.** The Commission may hold a hearing or workshop regarding a load-serving entity's resource plan. If the Commission holds such a hearing or workshop, the Commission may extend the February 1 deadline for the Commission to issue an order regarding acknowledgment under subsection (B).
- D.** While no particular future ratemaking treatment is implied by or shall be inferred from the Commission's acknowledgment, the Commission shall consider a load-serving entity's filings made under R14-2-703 when the Commission evaluates the performance of the load-serving entity in subsequent rate cases and other proceedings.
- E.** A load-serving entity may seek Commission approval of specific resource planning actions.
- F.** A load-serving entity may file an amendment to an acknowledged resource plan if changes in conditions or assumptions necessitate a material change in the load-serving entity's plan before the next resource plan is due to be filed.

Historical Note

Adopted effective February 3, 1989 (Supp. 89-1).
Amended by final rulemaking at 16 A.A.R. 2150, effective December 20, 2010 (Supp. 10-4).

R14-2-705. Procurement

- A.** Except as provided in subsection (B), a load-serving entity may use the following procurement methods for the wholesale acquisition of energy, capacity, and physical power hedge transactions:
1. Purchase through a third-party online trading system;
 2. Purchase from a third-party independent energy broker;
 3. Purchase from a non-affiliated entity through auction or an RFP process;
 4. Bilateral contract with a non-affiliated entity;
 5. Bilateral contract with an affiliated entity, provided that non-affiliated entities were provided notice and an opportunity to compete against the affiliated entity's proposal before the transaction was executed; and
 6. Any other competitive procurement process approved by the Commission.
- B.** A load-serving entity shall use an RFP process as its primary acquisition process for the wholesale acquisition of energy and capacity, unless one of the following exceptions applies:
1. The load-serving entity is experiencing an emergency;

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2. The load-serving entity needs to make a short-term acquisition to maintain system reliability;
 3. The load-serving entity needs to acquire other components of energy procurement, such as fuel, fuel transportation, and transmission projects;
 4. The load-serving entity's planning horizon is two years or less;
 5. The transaction presents the load-serving entity a genuine, unanticipated opportunity to acquire a power supply resource at a clear and significant discount, compared to the cost of acquiring new generating facilities, and will provide unique value to the load-serving entity's customers;
 6. The transaction is necessary for the load-serving entity to satisfy an obligation under the Renewable Energy Standard rules; or
 7. The transaction is necessary for the load-serving entity's demand-side management or demand response programs.
- C. A load-serving entity shall engage an independent monitor to oversee all RFP processes for procurement of new resources.

Historical Note

New Section made by final rulemaking at 16 A.A.R. 2150, effective December 20, 2010 (Supp. 10-4).

R14-2-706. Independent Monitor Selection and Responsibilities

- A. When a load-serving entity contemplates engaging in an RFP process, the load-serving entity shall consult with Staff regarding the identity of companies or consultants that could serve as independent monitor for the RFP process.
- B. After consulting with Staff, a load-serving entity shall create a vendor list of three to five candidates to serve as independent monitor and shall file the vendor list with Docket Control to allow interested persons time to review and file objections to the vendor list.
- C. An interested person shall file with Docket Control, within 30 days after a vendor list is filed with Docket Control, any objection that the interested person may have to a candidate's inclusion on a vendor list.
- D. Within 60 days after a vendor list is filed with Docket Control, Staff shall issue a notice identifying each candidate on the vendor list that Staff has determined to be qualified to serve as independent monitor for the contemplated RFP process. In making its determination, Staff shall consider the experience of the candidates, the professional reputation of the candidates, and any objections filed by interested persons.
- E. A load-serving entity that has completed the actions required by subsections (A) and (B) to comply with a particular Commission Decision is deemed to have complied with subsections (A) and (B) and is not required to repeat those actions.
- F. A load-serving entity may retain as independent monitor for the contemplated RFP process and for its future RFP processes any of the candidates identified in Staff's notice.
- G. A load-serving entity shall file with Docket Control a written notice of its retention of an independent monitor.
- H. A load-serving entity is responsible for paying the independent monitor for its services and may charge a reasonable bidder's fee to each bidder in the RFP process to help offset the cost of the independent monitor's services. A load-serving entity may request recovery of the cost of the independent monitor's services, to the extent that the cost is not offset by bidder's fees, in a subsequent rate case. The Commission shall use its discre-

tion in determining whether to allow the cost to be recovered through customer rates.

- I. One week prior to the deadline for submitting bids, a load-serving entity shall provide the independent monitor a copy of any bid proposal prepared by the load-serving entity or entity affiliated with the load-serving entity and of any benchmark or reference cost the load-serving entity has developed for use in evaluating bids. The independent monitor shall take steps to secure the load-serving entity's bid proposal and any benchmark or reference cost so that they are inaccessible to any bidder, the load-serving entity, and any entity affiliated with the load-serving entity.
- J. Upon Staff's request, the independent monitor shall provide status reports to Staff throughout the RFP process.

Historical Note

New Section made by final rulemaking at 16 A.A.R. 2150, effective December 20, 2010 (Supp. 10-4).

ARTICLE 8. PUBLIC UTILITY HOLDING COMPANIES AND AFFILIATED INTERESTS**R14-2-801. Definitions**

In this Article, unless the context otherwise requires:

1. "Affiliate," with respect to the public utility, shall mean any other entity directly or indirectly controlling or controlled by, or under direct or indirect common control with, the public utility. For purposes of this definition, the term "control" (including the correlative meanings of the terms "controlled by" and "under common control with"), as used with respect to any entity, shall mean the power to direct the management policies of such entity, whether through ownership of voting securities, or by contract, or otherwise.
2. "Commission." The Arizona Corporation Commission.
3. "Entity." A corporation, partnership, limited partnership, joint venture, trust, estate, or natural person.
4. "Holding Company" or "Public Utility Holding Company." Any affiliate that controls a public utility.
5. "Reorganize" or "Reorganization." The acquisition or divestiture of a financial interest in an affiliate or a utility, or reconfiguration of an existing affiliate or utility's position in the corporate structure or the merger or consolidation of an affiliate or a utility.
6. "Subsidiary." Any affiliate controlled by a utility.
7. "System of Accounts." The accounting system or systems prescribed for utilities by the Commission.
8. "Utility" or "Public Utility." Any Class A investor-owned public service corporation subject to the jurisdiction of the Arizona Corporation Commission.

Historical Note

Adopted effective July 30, 1992 (Supp. 92-3).

R14-2-802. Applicability

- A. These rules are applicable to all Class A investor-owned utilities under the jurisdiction of the Commission and are applicable to all transactions entered into after the effective date of these rules.
- B. Notwithstanding subsection (A), these rules shall not apply to a telecommunications utility whose retail telecommunications services have been classified as competitive pursuant to 14 A.A.C. 2, Article 11, except as may otherwise be determined by a future Commission order.
- C. Information furnished to the Commission in compliance with these rules will not be open to public inspection, or made pub-

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lic, except on order of the Commission, or by the Commission, or a Commissioner in the course of a hearing or proceeding.

Historical Note

Adopted effective July 30, 1992 (Supp. 92-3). Amended by final rulemaking at 22 A.A.R. 1949, effective July 14, 2016 (Supp. 16-3).

R14-2-803. Organization of Public Utility Holding Companies

- A.** Any utility or affiliate intending to organize a public utility holding company or reorganize an existing public utility holding company will notify the Commission's Utilities Division in writing at least 120 days prior thereto. The notice of intent will include the following information:
1. The names and business addresses of the proposed officers and directors of the holding company;
 2. The business purposes for establishing or reorganizing the holding company;
 3. The proposed method of financing the holding company and the resultant capital structure;
 4. The resultant effect on the capital structure of the public utility;
 5. An organization chart of the holding company that identifies all affiliates and their relationships within the holding company;
 6. The proposed method for allocating federal and state income taxes to the subsidiaries of the holding company;
 7. The anticipated changes in the utility's cost of service and the cost of capital attributable to the reorganization;
 8. A description of diversification plans of affiliates of the holding company; and
 9. Copies of all relevant documents and filings with the United States Securities and Exchange Commission and other federal or state agencies.
 10. The contemplated annual and cumulative investment in each affiliate for the next five years, in dollars and as a percentage of projected net utility plant, and an explanation of the reasons supporting the level of investment and the reasons this level will not increase the risks of investment in the public utility.
 11. An explanation of the manner in which the utility can assure that adequate capital will be available for the construction of necessary new utility plant and for improvements in existing utility plant at no greater cost than if the utility or its affiliate did not organize or reorganize a public utility holding company.
- B.** The Commission staff will, within 30 days after receipt of the notice of intent, notify the Applicant of any questions which it has concerning the notice or supporting information. The Commission will, within 60 days from the receipt of the notice of intent, determine whether to hold a hearing on the matter or approve the organization or reorganization without a hearing.
- C.** At the conclusion of any hearing on the organization or reorganization of a utility holding company, the Commission may reject the proposal if it determines that it would impair the financial status of the public utility, otherwise prevent it from attracting capital at fair and reasonable terms, or impair the ability of the public utility to provide safe, reasonable and adequate service.

Historical Note

Adopted effective July 30, 1992 (Supp. 92-3).

R14-2-804. Commission Review of Transactions Between Public Utilities and Affiliates

- A.** A utility will not transact business with an affiliate unless the affiliate agrees to provide the Commission access to the books

and records of the affiliate to the degree required to fully audit, examine or otherwise investigate transactions between the public utility and the affiliate. In connection therewith, the Commission may require production of books, records, accounts, memoranda and other documents related to these transactions.

- B.** A utility will not consummate the following transactions without prior approval by the Commission:
1. Obtain a financial interest in any affiliate not regulated by the Commission, or guarantee, or assume the liabilities of such affiliate;
 2. Lend to any affiliate not regulated by the Commission, with the exception of short-term loans for a period less than 12 months in an amount less than \$100,000; or
 3. Use utility funds to form a subsidiary or divest itself of any established subsidiary.
- C.** The Commission will review the transactions set forth in subsection (B) above to determine if the transactions would impair the financial status of the public utility, otherwise prevent it from attracting capital at fair and reasonable terms, or impair the ability of the public utility to provide safe, reasonable and adequate service.
- D.** Every transaction in violation of subsection (A) or (B) above is void, and the transaction shall not be made on the books of any public service corporation.
- E.** The system of accounts used by the public utility will include the necessary accounting records needed to record and compile transactions with each affiliate.

Historical Note

Adopted effective July 30, 1992 (Supp. 92-3).

R14-2-805. Annual Filing Requirements of Diversification Activities and Plans

- A.** On or before April 15th of each calendar year, all public utilities meeting the requirements of R14-2-802 and public utility holding companies will provide the Commission with a description of diversification plans for the current calendar year that have been approved by the Boards of Directors. As part of these filings, each public utility meeting the requirements of R14-2-802 will provide the Commission the following information:
1. The name, home office location and description of the public utility's affiliates with whom transactions occur, their relationship to each other and the public utility, and the general nature of their business;
 2. A brief description of the business activities conducted by the utility's affiliates with whom transactions occurred during the prior year, including any new activities not previously reported;
 3. A description of plans for the utility's subsidiaries to modify or change business activities, enter into new business ventures or to acquire, merge or otherwise establish a new business entity;
 4. Copies of the most recent financial statements for each of the utility's subsidiaries;
 5. An assessment of the effect of current and planned affiliated activities on the public utility's capital structure and the public utility's ability to attract capital at fair and reasonable rates;
 6. The bases upon which the public utility holding company allocates plant, revenue and expenses to affiliates and the amounts involved; an explanation of the derivation of the factors; the reasons supporting that methodology and the reasons supporting the allocation;
 7. An explanation of the manner in which the utility's capital structure, cost of capital and ability to raise capital at

reasonable rates have been affected by the organization or reorganization of the public utility holding company;

8. The dollar amount transferred between the utility and each affiliate during the annual period, and the purpose of each transfer;
 9. Contracts or agreements to receive, or provide management, engineering, accounting, legal, financial or other similar services between a public utility and an affiliate;
 10. Contracts or agreements to purchase or sell goods or real property between a public utility and an affiliate; and
 11. Contracts or agreements to lease goods or real property between a public utility and an affiliate.
- B. After reviewing the diversification plans, the Commission may, within 90 days after plans have been provided, request additional information, or order a hearing, or both, should it conclude after its review that the business activities would impair the financial status of the public utility, otherwise prevent it from attracting capital at fair and reasonable terms, or impair the ability of the public utility to provide safe, reasonable and adequate service.

Historical Note

Adopted effective July 30, 1992 (Supp. 92-3).

R14-2-806. Waiver from the Provisions of this Article

- A. The Commission may waive compliance with any of the provisions of this Article upon a finding that such waiver is in the public interest.
- B. Any affected entity may petition the Commission for a waiver by filing a verified application for waiver setting forth with specificity the circumstances whereby the public interest justifies noncompliance with all or part of the provisions of this Article.
- C. If the Commission fails to approve, disapprove, or suspend for further consideration an application for waiver within 30 days following filing of a verified application for waiver, the waiver shall become effective on the 31st day following filing of the application.

Historical Note

Adopted effective July 30, 1992 (Supp. 92-3).

ARTICLE 9. CUSTOMER-OWNED PAY TELEPHONES

R14-2-901. Definitions

In this Article, unless the context otherwise requires:

1. "Affiliate" means any other entity directly or indirectly controlling or controlled by, or under direct or indirect common control with, a customer of record. For purposes of this subsection, the term "control, (including the correlative meanings of the terms "controlled by" and "under common control with"), as used with respect to any entity, means the power to direct the management policies of such entity, whether through the ownership of voting securities, by contract, or otherwise.
2. "Customer of record" means a premises owner or vendor, who has either applied to, or who has obtained from, an LEC an access line to be a COPT provider.
3. "Customer-owned pay telephone (COPT) provider" means an entity authorized by the Commission to provide public pay telephone service to end-users and which is not a certificated LEC on the effective date of this Article. For purposes of compliance with Article 5 of this Chapter, "COPT provider" does not mean a "utility" as defined in R14-2-501(24).
4. "'800' service" means calls to telephone numbers which normally can be reached without charge to the calling party by dialing 1-800 plus 7 digits.
5. "Entity" means a corporation, partnership, limited partnership, joint venture, trust, estate, or natural person.
6. "Local exchange company (LEC)" means a company which is certificated to operate the local public switched telecommunications network.
7. "Public access line (PAL)" means any LEC tariff under which COPT providers are authorized to obtain access to the local and interexchange telecommunications network.

Historical Note

Adopted effective September 16, 1992 (Supp. 92-3).

Editor's Note: The following Section was amended under an exemption from the Attorney General approval provisions of the Arizona Administrative Procedure Act (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)), as determined by the Corporation Commission. This exemption means that the rules as amended were not approved by the Attorney General.

R14-2-902. Application for Certificate of Convenience and Necessity

- A. Within 30 days of the effective date of this Article, all LEC's shall provide written notification of the requirements of this Article to each of their existing customers of record. Such notification shall be in a form acceptable to the Commission and shall explain that all customers of record are required to file either an application for a certificate of convenience and necessity (CC&N) pursuant to this Section or an application for an adjudication not a public service corporation pursuant to R14-2-904.
- B. Any customer of record requesting PAL service subsequent to the effective date of this Article who was not subject to the provisions of subsections (A) and (E) of this Section, or whose PAL service was terminated pursuant to the provisions of this Article, shall provide to the LEC proof of either:
 1. A CC&N granted pursuant to this Section; or
 2. An adjudication order declaring that it is not a public service corporation pursuant to R14-2-904.
- C. All customers of record shall submit to the Commission an original and 10 copies of an application for a CC&N. A customer of record who has COPT's placed in more than one location may apply for a single CC&N to cover all locations served.
- D. Each customer of record shall submit an application on a form provided by the Commission which includes all of the following information:
 1. The name and address of the customer of record, including a contact person for coordinating communications with the Commission and a contact person or telephone number for maintenance and complaint handling. If the customer of record is other than an individual, a listing of the officers, directors, or partners and a copy of the articles of incorporation, partnership agreement, or other organizational document shall be provided.
 2. A description of all affiliated relationships between the customer of record and any public service corporation or telecommunications company.
 3. The addresses and descriptions of locations to be served, including the name of the serving LEC.
 4. A description of the equipment being used to provide service.
 5. A list of services provided and the proposed rates.
 6. An example of the contract between the customer of record and the premises owner, if different.
 7. A description of how information posting and complaint handling requirements will be met.

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8. A customer of record planning to serve more than 50 locations shall submit relevant financial data, including current financial statements, the method of financing operations, and projected annual operating expenses. For purposes of this subsection, the number of service locations shall include all those of the customer of record and affiliates.
9. One of the following also shall be included:
 - a. A commitment to provide service under the Generic (Streamlined) COPT Tariff; or
 - b. A request for approval of services under a Special (Non- Streamlined) COPT Tariff.
- E. Time-frames for processing applications for Certificates of Convenience and Necessity
 1. This rule prescribes time-frames for the processing of any application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.
 2. Within 30 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.
 3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.
 4. After receipt of a corrected application, staff shall notify the applicant within 30 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.
 5. Within 150 days after an application is deemed administratively complete, the Commission shall approve or reject the application, unless a formal hearing is held.
 6. For purposes of A.R.S. § 41-1072 et seq., the Commission has established the following time-frames:
 - a. Administrative completeness review time-frame: 30 calendar days,
 - b. Substantive review time-frame: 150 calendar days,
 - c. Overall time-frame: 180 calendar days.
 7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.
 8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.
- F. Subsequent to adoption of this Article, the Commission shall issue an order setting time limitations within which LECs, as well as all customers of record providing service as of the effective date of this Article, shall comply with the requirements contained herein.

Historical Note

Adopted effective September 16, 1992 (Supp. 92-3).
Amended effective December 31, 1998, under an exemption as determined by the Arizona Corporation Commission (Supp. 98-4).

R14-2-903. Grant of Certificate of Convenience and Necessity**sity**

- A. The Commission shall analyze an application for a CC&N to determine if it is complete and correct. If necessary, the Commission may request additional information from the CC&N applicant.
- B. The Commission shall hold a hearing to review an application for a CC&N. The type of hearing held shall depend on the tariff requested by the CC&N applicant:
 1. The Commission may hold periodic consolidated hearings to review all applications which request the Generic (Streamlined) COPT Tariff described in R14-2-905.
 2. The Commission shall hold individual hearings to review applications which request a Special (Non-Streamlined) COPT Tariff as described in R14-2-906.
- C. The Commission shall notify in writing the CC&N applicant and the appropriate LEC of the Commission's determination made pursuant to this Section. A CC&N granted under this Section shall be issued in the name of the customer of record.
- D. All CC&N's granted under this Section shall include both of the following:
 1. An obligation to serve all users in a non-discriminatory manner, and
 2. An obligation to comply with all Commission requirements relevant to the provision of intraLATA service.
- E. A holder of a CC&N shall notify the Commission in writing prior to discontinuing or abandoning COPT service at any location.

Historical Note

Adopted effective September 16, 1992 (Supp. 92-3).

R14-2-904. Application for Adjudication not a Public Service Corporation

- A. Any entity intending to provide COPT service, or any customer of record, may submit to the Commission an original and 10 copies of an application to be adjudicated not a public service corporation.
- B. The Commission shall determine whether the adjudication applicant is a public service corporation by examining all of the following factors:
 1. What business activities the adjudication applicant conducts or will conduct.
 2. Whether the pay telephone service is or will be dedicated to public use.
 3. Whether the adjudication applicant accepts or will accept substantially all requests for service.
 4. Whether the adjudication applicant is or will be the sole offeror of pay telephone service in the area, or is in competition with other providers.
 5. Whether the public safety and convenience requires maintenance of public telephone facilities at the locations designated in the application.
- C. The Commission shall notify in writing the adjudication applicant and the appropriate LEC of the Commission's determination made pursuant to subsection (B) of this Section. Such notification shall be made within 180 days of receipt of an application submitted pursuant to subsection (A) of this Section.
- D. An adjudication applicant adjudicated a public service corporation under the provisions of this Section shall submit an application for a certificate of convenience and necessity pursuant to R14-2-902 within 30 days of receiving notice of the Commission's determination.

- E. An adjudication applicant adjudicated not a public service corporation under this Section shall be exempt from the requirements contained in this Article.

Historical Note

Adopted effective September 16, 1992 (Supp. 92-3).

R14-2-905. Generic (Streamlined) COPT Tariff

- A. All COPT providers holding CC&N's granted under this Article shall comply with the terms of the Generic (Streamlined) COPT Tariff, unless otherwise ordered by the Commission pursuant to R14-2-906.
- B. In the Generic (Streamlined) COPT Tariff, the Commission shall specify the rates, terms, and conditions associated with the following standards:
1. The rates and charges to end-users for local calling.
 2. The rates and charges to end-users for intrastate toll calling.
 3. The application of toll charges, if any, for use of "800" services.
 4. The accessibility by end-users of alternative toll carriers.
 5. Limitations on service to local calling and access to local operators.
 6. Instructions on how to make a call and how to obtain refunds.
 7. Duration of local calls before additional charges apply.
 8. The provision of emergency service and local directory assistance.
 9. Acceptable methods of payment by end-users.
 10. Design and technical specifications for instruments.
 11. The provision of operator services.
 12. Procedures for obtaining approval for provision of services not included in the tariff.
 13. The termination of PAL service at any location for violation of tariff provisions.
- C. The Commission may approve and revise the Generic (Streamlined) COPT Tariff as necessary.

Historical Note

Adopted effective September 16, 1992 (Supp. 92-3).

R14-2-906. Special (Non-Streamlined) COPT Tariff

- A. Instead of concurring with the Generic (Streamlined) COPT Tariff, a COPT provider may file a proposed Special (Non-Streamlined) COPT Tariff with an application for a CC&N submitted pursuant to R14-2-902.
- B. The Commission shall analyze each proposed Special (Non-Streamlined) COPT Tariff on an individual basis. In reviewing the proposed Special (Non-Streamlined) COPT Tariff, the Commission shall consider the standards listed in R14-2-905(B).
- C. While a proposed Special (Non-Streamlined) COPT Tariff is pending before the Commission, the COPT provider shall comply with the provisions of the Generic (Streamlined) COPT Tariff.
- D. Following a hearing, the Commission may approve, modify, or reject any proposed Special (Non-Streamlined) COPT Tariff.
- E. Changes may be made to a Special (Non-Streamlined) COPT Tariff as a result of a tariff filing made pursuant to A.R.S. § 40-250(B) or an individual rate proceeding.

Historical Note

Adopted effective September 16, 1992 (Supp. 92-3).

R14-2-907. Reporting Requirements and Safety Standards

- A. All COPT providers shall submit an annual report to the Commission on a form prescribed by the Commission. The annual report shall be filed on or before the first day of February for

the preceding calendar year. The annual report shall include all of the following information:

1. A description of any material changes in the information provided by the COPT provider in the original CC&N application or in the last annual report.
 2. An updated list of all locations served by the COPT provider.
 3. The COPT provider's gross operating revenues derived from intrastate operations during the preceding calendar year.
- B. A COPT provider having gross operating revenues derived from intrastate operations during the preceding calendar year which exceed \$250,000 shall be subject to the annual assessment described in A.R.S. § 40-401.

Historical Note

Adopted effective September 16, 1992 (Supp. 92-3).

R14-2-908. Violations

- A. The Commission may order a LEC to immediately terminate PAL service to any customer of record which:
1. Fails to do one of the following:
 - a. Obtain a CC&N to provide service pursuant to R14-2-902 and R14-2-903; or
 - b. Receive an adjudication that it is not a public service corporation pursuant to R14-2-904.
 2. Violates any applicable pricing or service standard as described in approved tariffs and R14-2-903, R14-2-905, and R14-2-906.
- B. A LEC shall not offer PAL service to a customer of record unless one of the following requirements has been met:
1. The customer of record has received a CC&N from the Commission; or
 2. The customer of record has been adjudicated not a public service corporation.
- C. A LEC in violation of subsection (B) of this Section shall be subject to the penalty provisions contained in A.R.S. §§ 40-421 to 40-433.
- D. Any COPT provider found by the Commission to be in violation of subsection (A)(2) of this Section shall be subject to revocation of its CC&N.

Historical Note

Adopted effective September 16, 1992 (Supp. 92-3).

R14-2-909. Variations or Exemptions from the Commission's Rules

Variations or exemptions from the terms and requirements of any of the rules included in this Article shall be considered upon the verified application of an affected party to the Commission setting forth the circumstances whereby the public interest requires such variation or exemption from the Commission's rules. Such application will be subject to the review of the Commission, and any variation or exemption granted shall require an order of the Commission. In case of conflict between these rules and an approved tariff or order of the Commission, the provisions of the tariff or order shall apply.

Historical Note

Adopted effective September 16, 1992 (Supp. 92-3).

ARTICLE 10. ALTERNATIVE OPERATOR SERVICES

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1001. Definitions

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In this Article, unless the context otherwise requires:

1. "Access code" means a sequence of numbers that, when dialed, connects a caller to the provider of operator services associated with that sequence of numbers.
2. "Affiliate" means any other entity directly or indirectly controlling or controlled by, or under direct or indirect common control with, the entity making alternative operator services available to the public. For purposes of this definition, the term "control" (including the correlative meanings of the terms "controlled by" and "under common control with"), as used with respect to any entity, means the power to direct the management policies of such entity, whether through the ownership of voting securities, by contract, or otherwise.
3. "Aggregator" or "Traffic Aggregator" means any person or entity that, in the ordinary course of its operations and using a provider of operator services, makes telephones available to the public or to transient users of its premises, for intrastate telephone calls. Each entity that exercises control over telephone equipment, whether through ownership of the equipment, control of access to the equipment, or some other means, will be responsible as an aggregator.
4. "Alternative Operator Services" or "AOS" means provision by an entity, other than a local exchange carrier or a certificated interexchange carrier with authorized operator service tariffs, of any telecommunications service initiated from an aggregator location where automated and/or live assistance is provided to a consumer in order to arrange for billing or completion of an intrastate telephone call. Store and forward payphones are not included within this definition.
5. "AOS Provider" means any public service corporation that provides alternative operator services.
6. "Billing Agency" means any third party authorized by the AOS provider to submit bills to end users and to handle billing disputes.
7. "Blocking" means the process of screening the calls dialed from the presubscribed telephone in order to prevent the completion of calls that would allow the caller to reach a preferred interexchange carrier.
8. "Call splashing" means the transfer of a telephone call from one provider of operator services to another such provider in such a manner that the subsequent provider is unable or unwilling to determine the originating location of the call and consequently bills the call without properly reflecting the originating and terminating points of the telephone call.
9. "Consumer," "Caller," or "End User" means a person initiating any intrastate telephone call by means of alternative operator services.
10. "Entity" means a corporation, partnership, limited partnership, joint venture, trust, estate, or natural person.
11. "Interexchange carriers" or "IXCs" means any long-distance telephone carriers authorized by the Commission to provide long distance, interLATA telecommunications service, but not local exchange services, within the state borders.
12. "IntraLATA long-distance service" means all long-distance service originating and terminating in the same LATA, as defined by the F.C.C.
13. "LATA" means one of the geographic local access and transport areas established as a result of the AT&T divestiture.
14. "Local exchange carriers" or "LECs" means telephone companies currently certified to provide local telephone service in designated areas of the state.
15. "Operator Service Charges" or "charges" means all tariffed charges, other than rate usage charges, and surcharges authorized by the Commission and charged to the end user for live or automated operator-assisted calls.
16. "Rate" means any usage charges, as approved by this Commission.
17. "Surcharge" or "Location-specific Surcharge" means a charge imposed by an aggregator upon an end user and paid in addition to the usage rates and operator service charges of the alternative operator services provider.
18. "Waiver" refers to the Commission's ability to dispense with a requirement under these rules.
19. "Zero-minus call" means a call that is made by dialing a single zero.

Historical Note

Adopted effective November 2, 1993, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 93-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1002. Application for Certificate of Convenience and Necessity

- A. Upon the effective date of this Article, all LECs shall provide written notification of the requirements of this Article to all AOS providers for which they provide billing service. Such notification shall be in a form acceptable to the Commission and shall explain that all AOS providers are required to file an application for a certificate of convenience and necessity (CC&N) pursuant to this Section.
- B. Any AOS provider requesting billing services subsequent to the effective date of this Article shall provide to the LEC proof that it has made application for or has received a CC&N granted pursuant to this Section.
- C. All AOS providers shall submit to the Commission an original and the number of copies required by the Commission of an application for a CC&N.
- D. Each AOS applicant shall submit an application which includes all of the following information:
 1. The name and address of the AOS provider, including a contact person responsible for maintenance and complaint handling. If the AOS provider is other than an individual, a listing of the officers, directors, or partners and a copy of the articles of incorporation, partnership agreement, or other organizational document shall be provided.
 2. An organizational chart which shows all affiliated relationships of the AOS provider.
 3. The addresses and descriptions of locations to be served, including the name of the serving LEC. Applicant may apply for a partial waiver of this rule pursuant to R14-2-1014 requesting that all or part of this information be held confidential by the Commission.
 4. A description of the equipment being used to provide service, including the Federal Communications Commission registration number.
 5. A list of services provided and the proposed rates, operator service charges, and surcharges.
 6. A description of how information posting and complaint-handling requirements will be met.

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7. Relevant financial data, including current financial statements, the method of financing operations, and projected annual operating expense.
 8. Any other requirements that the Commission may require.
- E. Time-frames for processing applications for Certificates of Convenience and Necessity**
1. This rule prescribes time-frames for the processing of any Application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.
 2. Within 365 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.
 3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.
 4. After receipt of a corrected application, staff shall notify the applicant within 30 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.
 5. Within 365 calendar days after an application is deemed administratively complete, the Commission shall approve or reject the application.
 6. For purposes of A.R.S. § 41-1072 et seq., the Commission has established the following time-frames:
 - a. Administrative completeness review time-frame: 365 calendar days,
 - b. Substantive review time-frame: 365 calendar days,
 - c. Overall time-frame: 730 calendar days.
 7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.
 8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.
- B.** The Commission shall hold a hearing to determine whether it is in the public interest to grant a CC&N to the applicant.
- C.** The Commission shall notify in writing the CC&N applicant and the appropriate LECs of the Commission's determination made pursuant to this Section. A CC&N granted under this Section shall be issued in the name of the AOS provider.
- D.** All CC&Ns granted under this Section shall include both of the following:
1. An obligation to serve all end-users and subscribers in a nondiscriminatory manner, and
 2. An obligation to comply with all Commission requirements relevant to the provision of telecommunications service.

Historical Note

Adopted effective November 2, 1993, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 93-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1004. Rates, Operator Service Charges, and Surcharges

The rates, operator service charges, and surcharges assessed by AOS providers to their end-users of AOS service shall be limited to those specified in Commission-approved tariffs. All rates, operator service charges, and surcharges shall be stated in the tariffs. Location-specific surcharges imposed by the aggregator may only be charged once, either on the AOS bill or at the aggregator location, but under no circumstances shall a location-specific surcharge be imposed both on the bill and at the aggregator location.

Historical Note

Adopted effective November 2, 1993, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 93-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1005. End-user Notification and Choice Requirements

- A.** Each AOS provider shall:
1. Identify itself with a live or automated message at the outpulse of the terminating number which informs the end-user that a named AOS provider has been reached and that such provider's rates, operator service charges, and surcharges apply to the call. This message shall be provided before the end-user incurs any charge for the call, including a usage rate, operator service charge, and surcharge.
 2. Disclose immediately to the consumer, upon request and at no charge to the consumer, any of the following information:
 - a. A quotation of tariffed rates, operator service charges, and location-specific surcharges;
 - b. The methods by which such rates, operator service charges, and surcharges will be collected;
 - c. The methods by which complaints concerning such rates, operator service charges, and surcharges or collection practices will be resolved; and

Historical Note

Adopted effective November 2, 1993, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 93-4). Amended effective December 31, 1998, under an exemption as determined by the Arizona Corporation Commission (Supp. 98-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1003. Grant of Certificate of Convenience and Necessity

- A.** The Commission shall analyze an application for a certificate of convenience and necessity ("CC&N") to determine if it is complete and correct. If necessary, the Commission may request additional information from the CC&N applicant.

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- d. That the end-user's preferred carrier can be reached by an access code or toll-free customer service number.
- B. The contents and methods of posting shall be described in each AOS provider's tariff. At a minimum, each aggregator shall post all of the following information, through the use of tent cards or stickers on or near the telephone instrument, in plain view of the end-user:
 1. The name, address, and toll-free telephone number of the AOS provider;
 2. A written disclosure that the rates, operator service charges, and location-specific surcharges of the AOS provider apply for all operator-assisted calls;
 3. A statement that interLATA calls made with calling cards, including IXC cards, may be carried by the AOS provider;
 4. Dialing instructions;
 5. A toll-free number for billing inquiries;
 6. A description of complaint procedures; and
 7. That end-users have a right to obtain access to the inter-exchange carrier of their choice.
- C. Each AOS provider shall ensure, by contract or tariff, that each aggregator using the AOS provider's services is in compliance with the requirements of subsection (B) of this Section.
- D. Neither the AOS provider nor the subscriber shall require or participate in blocking any end-user's access to a preferred carrier. AOS providers and their affiliates shall be required to withhold on a location-specific basis, the payment of any compensation, including commissions, to an aggregator that is blocking end-users' access to preferred carriers.
- E. Waivers from the blocking ban will be considered only if accompanied by a detailed cost/benefit analysis and will be granted by the Commission only if the evidence compels a finding that without blocking the risk of fraud and revenue erosion to the AOS provider would be significant.

Historical Note

Adopted effective November 2, 1993, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 93-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1006. Public Safety Requirements

- A. AOS providers shall route all zero-minus calls immediately to the originating LEC.
- B. The Commission may, upon application of the AOS provider, issue a waiver to subsection (A) of this Section if the AOS provider has clearly and convincingly demonstrated that it has the capability to process such calls with equal quickness and accuracy as provided by the LEC

Historical Note

Adopted effective November 2, 1993, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 93-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel.

Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1007. Billing and Collection

- A. Each AOS provider shall bill monthly for services rendered.
- B. Bills issued for the intrastate interLATA AOS service provided by AOS providers shall include the minimum information required by R14-2-508(B) and identify the AOS provider to the extent that the LEC has the capability to do so. In the absence of that capability, the identification of the billing agent or clearinghouse and its toll-free customer service number shall be required.
- C. The LEC will not process billing for any intraLATA calls carried by the AOS provider, whether intentional or incidental, where the required compensation has not been paid to the LEC.
- D. Each AOS applicant shall comply with all of the following billing procedures:
 1. The billing date shall be printed on the bill and shall be the date the bill was issued;
 2. The AOS provider shall provide a full refund of any charge levied for an uncompleted call; and
 3. AOS providers or their billing agents shall be prohibited from billing for calls which occur more than 60 days prior to the billing date.
 4. AOS providers or their agents are prohibited from billing for any intraLATA calls carried by the AOS provider, whether intentional or incidental, where the required compensation has not been paid to the LEC.
- E. The disconnection of local service for the nonpayment of intrastate interLATA AOS usage charges, operator service charges, and surcharges by end-users shall be permitted only in accordance with the detailed procedures set forth in R14-2-509.

Historical Note

Adopted effective November 2, 1993, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 93-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1008. Call Splashing Requirements

- A. AOS providers' tariffs shall require the transfer of calls to other carriers at no charge so that rating and billing properly reflect the originating and terminating points of the telephone call.
- B. When transfers, as described in subsection (A) of this Section are not possible, the tariffs shall require the provider to inform the end-user that the call cannot be completed and that the preferred carrier may be reached by an access code or toll-free customer service number.

Historical Note

Adopted effective November 2, 1993, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 93-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel.

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Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1009. Complaint Processing

- A. AOS applicants for certificates of convenience and necessity shall submit to the Commission a tariff or schedule containing a detailed description of complaint processing procedures.
- B. The name, address, and telephone number of a representative for complaint matters shall be submitted with these procedures.

Historical Note

Adopted effective November 2, 1993, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 93-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1010. Quality of Service

AOS providers applying for certificates of convenience and necessity shall develop quality of service standards for operator response time and call processing time and submit those standards to the Commission for review and approval.

Historical Note

Adopted effective November 2, 1993, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 93-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1011. Reports

- A. AOS providers holding certificates of convenience and necessity shall submit Utility Division annual reports to the Commission pursuant to A.R.S. § 40-204.
- B. AOS providers holding certificates of convenience and necessity shall submit annual reports to the Commission comparing the company's actual monthly performance with the standards in R14-2-1010.
- C. AOS providers that have been certificated shall annually submit to the Commission a list of subscribers and locations served.

Historical Note

Adopted effective November 2, 1993, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 93-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1012. Violations

- A. The Commission may order an LEC to immediately terminate service to AOS providers which:
 - 1. Fail to make application for or obtain a CC&N to provide service pursuant to R14-2-1002, or

- 2. Violate any applicable quality of service standards as described in this Article.

- B. An LEC shall not offer service to an AOS provider unless the AOS provider has made application for or received a CC&N from the Commission.
- C. An LEC in violation of subsection (B) of this Section shall be subject to the penalty provisions contained in A.R.S. §§ 40-421 through 40-433.
- D. Any AOS provider found by the Commission to be in violation of subsection (A)(2) of this Section shall have its CC&N subject to revocation.

Historical Note

Adopted effective November 2, 1993, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 93-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1013. IntraLATA Long-distance Service is Prohibited

AOS providers may not carry intraLATA toll calls where the required compensation has not been paid to the LEC. All intra-LATA calls where arrangements have not been made for compensation to the LEC by the IXC must be switched to the authorized LEC of the aggregator.

Historical Note

Adopted effective November 2, 1993, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 93-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1014. Variations or Exemptions from the Commission's Rules

Variations or exemptions from the terms and requirements of any of the rules included in this Article shall be considered upon the verified application of an affected party to the Commission setting forth the circumstances whereby the public interest requires such variation or exemption from the Commission's rules. Such application will be subject to the review of the Commission and any variation or exemption granted shall require an order of the Commission. In case of conflict between these rules and an approved tariff or order of the Commission, the provisions of the tariff or order shall apply.

Historical Note

Adopted effective November 2, 1993, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 93-4).

ARTICLE 11. COMPETITIVE TELECOMMUNICATIONS SERVICES

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1101. Application of Rules

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These rules shall govern the provision of competitive, intrastate telecommunications services to the public by telecommunications companies subject to the jurisdiction of the Arizona Corporation Commission. Unless otherwise ordered by the Commission, these rules shall not govern the provision of service by independently or local exchange carrier-owned pay telephones (COPTs) and alternative operator service (AOS) providers, which shall instead be governed by Articles 9 and Article 10 of this Chapter, respectively. The provision of local exchange service also shall be governed by Article 5 of this Chapter, to the extent that Article is not inconsistent with these rules.

Historical Note

Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1102. Definitions

Article, unless the context otherwise requires, the following definitions shall apply:

1. "Arizona Corporation Commission" or "Commission." The regulatory agency of the state of Arizona having jurisdiction over public service corporations operating in Arizona.
2. "Bona Fide Request." A written request submitted by a telecommunications company to a local exchange carrier for intraLATA equal access service or for interconnection arrangements.
3. "Central Office." A facility within a telecommunications system where calls are switched and which contains all the necessary equipment, operating arrangements, and interface points for terminating and interconnecting facilities such as subscribers' line and interoffice trunks.
4. "Competitive Telecommunications Service." Any telecommunications service where customers of the service within the relevant market have or are likely to have reasonably available alternatives.
5. "Docket Control Center." The Commission section responsible for the acceptance and processing of all applications and other filings, and for official record maintenance.
6. "Equal Access." An arrangement where a local exchange company provides all telecommunications companies operating in an equal access central office with dialing arrangements and other service characteristics that are equivalent in type and quality to what the local exchange carrier utilizes in the provision of its service.
7. "Local Exchange Carrier." A telecommunications company that provides local exchange service as one of the telecommunications services it offers to the public.
8. "Local Exchange Service." The telecommunications service that provides a local dial tone, access line, and local usage within an exchange or local calling area.
9. "Monopoly Service." A monopoly service is any telecommunications service provided by a telecommunications company that is not subject to competition in the relevant market.
10. "Primary Interexchange Company" or "PIC." The telecommunications company with whom a customer may

presubscribe to provide 1+/0+ toll service, without the use of access codes, following equal access implementation.

11. "Rate." Within the context of this Article, this term refers to the maximum tariffed rate approved by the Commission, from which the competitive telecommunications service provided may be discounted down to the total service long-run incremental cost of providing the service.
12. "Relevant Market." Where buyers and sellers of a specific service or product, or a group of services or products, come together to engage in transactions. For telecommunications services, the relevant market may be identified on a service-by-service basis, a group basis, and/or by geographic location.
13. "Staff." The staff of the Arizona Corporation Commission or its designated representative or representatives.
14. "Tariffs." The documents filed with the Commission which list the services and products offered by a telecommunications company and which set forth the terms and conditions and a schedule of the rates and charges for those services and products.
15. "Telecommunications Company." A public service corporation, as defined in the Arizona Constitution, Article 15, § 2, that provides telecommunications services within the state of Arizona and over which the Commission has jurisdiction.
16. "Telecommunications Service." Any transmission of interactive switched and non-switched signs, signals, writing, images, sounds, messages, data, or other information of any nature by wire, radio, lightwave, or any other electromagnetic means (including access services), which originate and terminate in this state and are offered to or for the public, or some portion thereof, for compensation.
17. "Total Service Long Run Incremental Cost." The total additional cost incurred by a telecommunications company to produce the entire quantity of a service, given that the telecommunications company already provides all of its other services. Total Service Long-run Incremental Cost is based on the least cost, most efficient technology that is capable of being implemented at the time the decision to provide the service is made.
18. "2-PIC Toll Equal Access." The equal access option that affords customers the opportunity to select one telecommunications company for all interLATA 1+/0+ toll calls and, at the customer's option, to select another telecommunications company for all intraLATA 1+/0+ toll calls.
19. "Unbundled." Disaggregation of the local exchange carrier network services.

Historical Note

Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2). Section heading corrected to "Definitions" as filed June 27, 1995 (Supp. 09-4).

R14-2-1103. Certificates of Convenience and Necessity Required

All telecommunications companies providing intrastate telecommunications services shall obtain a Certificate of Convenience and Necessity from the Commission, either under this Article, if competitive services are to be provided or, under Article 5. If the Commission determines that the services identified in an Application filed under this Article are not competitive, the Commission may nevertheless grant a Certificate of Convenience and authorize pro-

vision of the services on a noncompetitive basis pursuant to Article 5.

Historical Note

Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2). Amended effective December 31, 1998, under an exemption as determined by the Arizona Corporation Commission (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 4789, effective December 15, 2002 (Supp. 02-4).

R14-2-1104. Expanded Certificates of Convenience and Necessity for Telecommunications Companies with Existing Certificates; Initial Tariffs

- A.** Effective July 1, 1995, every telecommunications company, except a local exchange carrier, that has received a Certificate of Convenience and Necessity under Article 5, and that provides or intends to provide competitive, intraLATA telecommunications service shall file with the Docket Control Center 10 copies of an Application to expand its existing Certificate of Convenience and Necessity to provide competitive, intraLATA telecommunications service. In support of the request for an expanded Certificate of Convenience and Necessity, the Application shall, at a minimum, include the following information:
1. A description of the telecommunications company and of the telecommunications services it offers or intends to offer.
 2. The proper name and correct intrastate address of the telecommunications company and:
 - a. The full name of its owner if a sole proprietorship,
 - b. The full name of each partner if a partnership,
 - c. A full list of the officers and directors if a corporation, or
 - d. A full list of the members if a limited liability company.
 3. A tariff for each service to be provided that states the maximum rate as well as the initial price to be charged, and that also states other terms and conditions that will apply to provision of the service by the telecommunications company. The telecommunications company shall provide economic justification or cost support data if required by the Commission or by Staff.
 4. A detailed description of the geographic market to be served and maps depicting the area.
 5. Appropriate city, county and/or state agency approvals, where appropriate.
 6. Such other information as the Commission or the Staff may request.
- B.** As part of the Application for an expanded Certificate of Convenience and Necessity, the telecommunications company shall also petition the Commission for a determination that the intraLATA service being provided or to be provided is competitive, pursuant to the requirements of R14-2-1108.
- C.** The Commission shall review the initial tariffs submitted by the telecommunications company and shall determine whether the rates, terms, and conditions for the proposed services are reasonable.
- D.** If it appears, based upon Staff review or upon comments filed with Commission Docket Control Center, that a rate, term, or condition of service stated in a tariff may be unjust or unreasonable, or that a service to be offered by the applicant may not be competitive, the Commission or Staff may require further information and/or changes to the application or to the tariff.

- E.** When the Application is submitted to the Docket Control Center, it will not be filed until it is found to be in proper form. The telecommunications company shall, no later than 20 days after the Application is filed publish legal notice of the Application in all counties where services will be provided. The notice shall describe with particularity the contents of the Application on file with the Commission. Interested persons shall have 20 days from the publication of legal notice to file objections to the Application and to submit a motion to intervene in the proceeding.

Historical Note

Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 4789, effective December 15, 2002 (Supp. 02-4).

R14-2-1105. Certificates of Convenience and Necessity for Telecommunications Companies Offering Competitive Services; Initial Tariff

- A.** Effective July 1, 1995, every other telecommunications company, except a local exchange carrier, that has not previously received a Certificate of Convenience and Necessity, and that provides or intends to provide intrastate competitive telecommunications services shall file with the Docket Control Center 10 copies of an Application for a Certificate of Convenience and Necessity to provide competitive telecommunications services. In support of the request for a Certificate of Convenience and Necessity, the Application shall, at a minimum, include all the information required in R14-2-1104(A) and shall also include the following information:
1. A description of the telecommunications company's technical capability to provide the proposed services and a description of its facilities.
 2. Information describing the financial resources of the telecommunications company, including:
 - a. A current intrastate balance sheet,
 - b. A current income statement (if applicable),
 - c. A pro forma income statement, and
 - d. Comparable financial information evidencing sufficient financial resources.
 3. A copy of the Partnership Agreement, Articles of Incorporation, Articles of Organization, Joint Venture Agreement, or any other contract, agreement, or document that evidences the formation of the telecommunications company.
- B.** An Application filed under subsection (A) of this Section shall also petition the Commission for a determination that the service being provided or to be provided is competitive under the requirements of R14-2-1108.
- C.** An Application filed under subsection (A) of this Section shall be subject to the provisions of subsections R14-2-1104(D) and (E).
- D.** In appropriate circumstances, the Commission may require, as a precondition to certification, the procurement of a performance bond sufficient to cover any advances or deposits the telecommunications company may collect from its customers, or order that such advances or deposits be held in escrow or trust.

Historical Note

Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2). Amended by final rulemaking

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at 8 A.A.R. 4789, effective December 15, 2002 (Supp. 02-4).

R14-2-1106. Grant of Certificate of Convenience and Necessity

- A.** The Commission, after notice and hearing, may deny certification to any telecommunications company which:
1. Does not provide the information required by this Article;
 2. Is not offering competitive services, as defined in this Article;
 3. Does not possess adequate financial resources to provide the proposed services;
 4. Does not possess adequate technical competency to provide the proposed services; or
 5. Fails to provide a performance bond, if required.
- B.** Every telecommunications company obtaining a Certificate of Convenience and Necessity under this Article shall obtain certification subject to the following conditions:
1. The telecommunications company shall comply with all Commission rules, orders, and other requirements relevant to the provision of intrastate telecommunications service.
 2. The telecommunications company shall maintain its accounts and records as required by the Commission.
 3. The telecommunications company shall file with the Commission all financial and other reports that the Commission may require, and in a form and at such times as the Commission may designate.
 4. The telecommunications company shall maintain on file with the Commission all current tariffs and rates, and any service standards that the Commission may require.
 5. The telecommunications company shall cooperate with Commission investigations of customer complaints.
 6. The telecommunications company shall participate in and contribute to a universal service fund, as required by the Commission.
 7. Failure by a telecommunications company to comply with any of the above conditions may result in rescission of its Certificate of Convenience and Necessity.

Historical Note

Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 4789, effective December 15, 2002 (Supp. 02-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1107. Application to Discontinue or Abandon Local Exchange or Interexchange Services

- A.** Any telecommunications company providing competitive local exchange or interexchange service on a resold or facilities-based basis that intends to discontinue service or to abandon all or a portion of its service area shall file an application for authorization with the Commission setting forth the following:
1. Any reasons for the proposed discontinuance of service or abandonment of service area;
 2. Verification that all affected customers have been notified of the proposed discontinuance or abandonment, and that all affected customers will have access to an alternative

local exchange service provider or interexchange service provider;

3. Where applicable, a plan for the refund of deposits collected pursuant to subsection R14-2-503(B);
 4. A list of all alternative utilities providing the same or similar service within the affected geographic area.
- B.** When the application is submitted to the Docket Control Center, it will not be filed until it is found to be in proper form. No later than 20 days after the application is filed, the telecommunications company shall publish legal notice of the application in all counties affected by the application. The legal notice shall describe with particularity the substance of the application. Interested persons shall have 30 days from the publication of legal notice to file objections to the application, to request a hearing, and to submit a motion to intervene in the proceeding.
- C.** Once proper notice is effected and if no objection is filed, the Commission may grant the application without a hearing.

Historical Note

Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2). Amended by final rulemaking at 10 A.A.R. 1030, effective April 26, 2004 (Supp. 04-1).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1108. Determination of a Competitive Telecommunications Service

- A.** A telecommunications company may petition the Commission to classify as competitive any service or group of services provided by the company. The telecommunications company shall file with the Docket Control Center 10 copies of its petition. The telecommunications company also shall provide notice of its application to each of its customers, if any, and to each regulated telecommunications company that serves the same geographic area or provides the same service or group of services, or a service or group of services similar to the service or group of services for which the competitive classification is requested.
- B.** The petition for competitive classification shall set forth the conditions within the relevant market that demonstrate that the telecommunications service is competitive, providing, at a minimum, the following information:
1. A description of the general economic conditions that exist which make the relevant market for the service one that is competitive;
 2. The number of alternative providers of the service;
 3. The estimated market share held by each alternative provider of the service;
 4. The names and addresses of any alternative providers of the service that are also affiliates of the telecommunications company, as defined in R14-2-801;
 5. The ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms, and conditions; and
 6. Other indicators of market power, which may include growth and shifts in market share, ease of entry and exit, and any affiliation between and among alternative providers of the services.
- C.** Alternatively, where the Commission has already classified a specific service within the relevant market as competitive, the

petition shall provide the date and decision number of the Commission order.

- D. In any competitive classification proceeding, the telecommunications company filing the petition, and any telecommunications company supporting the petition, shall have the burden of demonstrating that the service at issue is competitive. Classification of the petitioners' service as competitive does not constitute classification of any service provided by another telecommunications company as competitive, unless expressly ordered by the Commission.
- E. The Commission may initiate classification proceedings on its own motion and may require all regulated telecommunications companies potentially affected by the classification proceeding to participate in the proceeding. In an Order classifying a service as competitive, the Commission will specify whether the classification applies to the service provided by a specific company or companies or to that service provided by all telecommunications companies.
- F. If the Commission finds that a telecommunications company's service is competitive, the telecommunications company providing the service may obtain a rate change for the service by applying for streamlined rate treatment pursuant to R14-2-1110.
- G. Any finding by the Commission, pursuant to the provisions of this Section, that a telecommunications service is competitive so as to qualify for streamlined rate treatment shall not constitute a finding that the service is deregulated.
- H. Any telecommunications service classified by the Commission as competitive may subsequently be reclassified as noncompetitive if the Commission determines that reclassification would protect the public interest. Notice and hearing would be required prior to any reclassification. The burden of proof would be on the party seeking reclassification.

Historical Note

Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1109. Pricing of Competitive Telecommunications Services

- A. Pricing of Competitive Services. A telecommunications company governed by this Article may price a competitive telecommunications service at any level at or below the maximum rate stated in the company's tariff on file with the Commission, provided that the price for the service is not less than the company's total service long-run incremental cost of providing the service.
- B. Changing a Price. A telecommunications company governed by this Article may effect a price change for a competitive service so long as two conditions are met:
 1. The changed price comports with the limitations stated in subsection (A); and
 2. The Commission is provided with concurrent, written notice of the price change.
- C. No Cross-subsidization. A competitive telecommunications service shall not be subsidized by any rate or charge for any noncompetitive telecommunications services. To ensure that no cross-subsidization exists, each competitive telecommunications service must provide revenues that equal or exceed the

company's total service long-run incremental cost of providing the service.

Historical Note

Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1110. Competitive Telecommunications Services -- Procedures for Rate Change

- A. Telecommunications companies governed by this Article may apply to the Commission for an increase in any rate for a competitive service using the procedures set forth below. All applications and supporting information shall be submitted with 10 copies and filed with Docket Control Center.
- B. In order to increase the maximum tariffed rate for a competitive telecommunications service, the applicant shall submit an application to the Commission containing the following information:
 1. A statement setting forth the reasons for which a rate increase is required;
 2. A schedule of current rates and proposed rates and the additional revenues to be derived from the proposed rates;
 3. An affidavit verifying that appropriate notice of the proposed rate increase has been provided to customers of the service;
 4. The Commission or staff may request any additional information in support of the application.
- C. The Commission may, at its discretion, act on the requested rate increase with or without an evidentiary hearing; in an expeditious manner.

Historical Note

Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2).

R14-2-1111. Requirement for IntraLATA Equal Access

- A. Each local exchange carrier shall provide 2-PIC toll equal access where technically and economically feasible, and in accordance with any procedures the Commission may order.
- B. The sequence for implementation of intraLATA equal access shall occur in the following manner:
 1. In response to a bona fide request for intraLATA equal access, a local exchange carrier shall complete implementation of intraLATA equal access within nine months of receiving the request. A person making such a bona fide request shall also provide a copy to the Arizona Corporation Commission.
 2. The local exchange carrier may implement intraLATA equal access in any central office on its own initiative but, in any event, shall make intraLATA equal access available in all its central offices no later than July 1, 1996, unless otherwise ordered by the Commission
- C. A local exchange carrier may petition the Commission for a waiver of the requirement in subsection (B)(1) on the grounds that compliance is not technically or economically feasible. A local exchange carrier may also petition the Commission for an extension of the requirement in subsection (B)(2) on the grounds that intraLATA equal access cannot reasonably or economically be provided within any specific exchanges

within the required time-frame. The Commission may grant either of these waivers with or without a hearing. The local exchange carrier filing the waiver petition shall bear the burden of proof.

Historical Note

Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 4789, effective December 15, 2002 (Supp. 02-4).

R14-2-1112. Interconnection Requirements

All local exchange carriers must provide appropriate interconnection arrangements with other telecommunications companies at reasonable prices and under reasonable terms and conditions that do not discriminate against or in favor of any provider, including the local exchange carrier. Appropriate interconnection arrangements shall provide access on an unbundled, nondiscriminatory basis to physical, administrative, and database network components. Local exchange carriers shall provide appropriate interconnection arrangements within six months of receiving a bona fide request for interconnection. The interconnection arrangements must be in the form of a tariff and shall be filed with the Commission for its approval before becoming effective.

Historical Note

Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 4789, effective December 15, 2002 (Supp. 02-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1113. Establishment of Universal Service Fund

The Commission shall establish an intrastate universal service fund which shall assure the continued availability of basic telephone service at reasonable rates. The universal service fund shall be structured and administered as required by the Commission.

Historical Note

Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2).

R14-2-1114. Service Quality Requirements for the Provision of Competitive Services

- A. General Requirement. Telecommunications companies governed by this Article shall provide quality service in accordance with this rule and with any other service quality requirements established by the Commission.
- B. Telecommunications Company Responsibility. Each telecommunications company governed by this Article:
 1. Shall be responsible for maintaining in safe operating condition all equipment and fixtures owned by and under the exclusive control of the telecommunications company that are used in providing telecommunications services to the customer.
 2. Shall make known to applicants for its service and to its subscribers any information necessary to assist the subscriber or customer in obtaining adequate, efficient, and reasonably priced service.

- C. Continuity of Service. Each telecommunications company providing competitive telecommunications services pursuant to this Article shall make reasonable efforts to supply a satisfactory and continuous level of service.
- D. Billing and Collection
 1. Each telecommunications company governed by this Article shall bill monthly for any competitive services rendered. The following minimum information must be provided on all customer bills:
 - a. A description of the service provided;
 - b. The monthly charge for each service provided;
 - c. The company's toll-free number for billing inquiries;
 - d. The amount or percentage rate of any privilege, sales, use or other taxes that are passed on to the customer as part of the charge for the service provided;
 - e. Any access or other charges that are imposed by order of or at the direction of the Federal Communications Commission; and
 - f. The date on which the bill becomes delinquent.
 2. If the telecommunications company does not provide direct billing to its customers, it shall make arrangements for monthly bills to be rendered to all its customers. However, a local exchange carrier shall not provide billing and collection services for intrastate telecommunications services to any telecommunications company that does not have a Certificate of Convenience and Necessity from the Commission, and that does not have a certification application pending before the Commission.
- E. Insufficient Funds (NSF) Checks. A telecommunications company governed by this Article may include in its tariffs a fee for each instance where a customer tenders payment for the competitive telecommunications service with an insufficient funds check. When a customer tenders an insufficient check, the telecommunications company may require the customer to make payment in cash, by money order, certified check, or other means which guarantees the customer's payment to the telecommunications company.
- F. Deferred Payment Plan.
 1. Each telecommunications company may, in lieu of terminating service, offer any customer a deferred payment plan to retire unpaid bills for telecommunications company service. If a deferred payment arrangement is made, current service shall not be discontinued if the customer agrees to pay a reasonable portion of the outstanding balance in installments over a period not to exceed six months and agrees to pay all future bills in accordance with the billing and collection tariffs of the telecommunications company.
 2. If a customer does not fulfill the terms of a deferred payment agreement, the telecommunications company shall have the right to disconnect service pursuant to the Commission's termination of service rule, R14-2-509.
- G. Late Payment Penalty. A telecommunications company governed by this Article may include in its tariffs a late payment penalty which may be applied to delinquent bills. The amount of the late payment penalty shall be stated on a customer's bill when rendered by the telecommunications company or its agent.
- H. Service Interruptions.
 1. Each telecommunications company shall make reasonable efforts to reestablish service within the shortest possible time when service interruptions occur. The telecommunications company shall issue instructions to its employees covering procedures to be followed in the event of any emergency, including national emergencies

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or local disasters, in order to prevent or mitigate interruption or impairment of service. The Commission shall be notified of major interruptions in service affecting the entire system or any major division.

2. When a telecommunications company plans to interrupt service to perform necessary repairs or maintenance, the telecommunications company shall attempt to inform affected customers at least 24 hours in advance of the scheduled date and estimated duration of the service interruption. Such repairs shall be completed in the shortest possible time to minimize the inconvenience to the customers of the telecommunications company.
- I. Nonpermissible Termination of Service. A telecommunications company governed by this Article may not disconnect service for:
 1. The failure of a customer to pay for services or equipment which are not regulated by the Commission, or
 2. For disputed bills where the customer has complied with the Commission's rules on complaints.
- J. Permissible Termination of Service. Termination of service without notice may occur in accordance with the provisions of subsection R14-2-509(B). Termination of service with notice shall occur in accordance with provisions of R14-2-509(C) through (E). All local exchange carriers are prohibited from discontinuing local service for alleged delinquency of non-local bills.
- K. Notice of Responsible Officer or Agent. Each telecommunications company governed by this Article shall file a written statement with the Commission which provides the name, address (business, residence, and post office) and telephone numbers (business and residence) of at least one officer, agent, or one employee responsible for the general management of its operations as a telecommunications company in Arizona. Each telecommunications company shall give notice of any change in this information by filing a written statement with the Commission within five days from the date of any such change.
- L. Competitive Local Exchange Service. Any telecommunications company providing competitive local exchange service shall comply with the Commission's rules for establishment of service set forth in R14-2-503.
- M. Denial of Service/Noncertificated Utilities. A local exchange carrier shall deny service to a noncertificated telecommunications company that intends to use the service requested to provide telecommunications service for hire, sale, or resale to the general public within the state of Arizona. Service shall not be denied if the telecommunications company has an Application for a Certificate of Convenience and Necessity pending before the Commission.

Historical Note

Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 4789, effective December 15, 2002 (Supp. 02-4).

R14-2-1115. Administrative Requirements

- A. Customer Service Complaints. All customer service complaints concerning competitive telecommunications services shall be governed by the provisions of subsection R14-2-510(A).
- B. Customer Bill Disputes. All customer bill disputes concerning competitive telecommunications services shall be governed by the provisions of R14-2-510(B) and (C).
- C. Filing of Tariffs, Price Levels, and Contracts. Each telecommunications company governed by this Article shall file with the Commission current tariffs, price levels, and contracts that

comply with the provisions of this Article and with all Commission rules, orders, and all other requirements imposed by the laws of the state of Arizona.

1. Current tariffs for competitive services shall be maintained on file with the Commission pursuant to the requirements of A.R.S. § 40-365.
2. Current price levels for competitive services shall be filed with the Commission pursuant to the requirements of R14-2-1109(B).
3. Contracts of telecommunications companies governed by this Article shall be filed with the Commission not later than five business days after execution. If the contract includes both competitive and noncompetitive services, it must be filed at least five business days prior to the effective date of the contract and must separately state the tariffed rate for the noncompetitive services and the price for the competitive services.
4. Contracts filed pursuant to this Article shall not be open to public inspection or made public except on order of the Commission, or by the Commission or a Commissioner in the course of a hearing or proceeding.
- D. Accounts and Records.
 1. Each telecommunications company shall keep general and subsidiary accounting books and records reflecting the cost of its intrastate properties, assets and liabilities, operating income and expenses, and all other accounting and statistical data which reflect complete, authentic, and accurate information regarding to its properties and operations. These accounting records shall be organized and maintained in such a way as to provide an audit trail through all segments of the telecommunications company's accounting system.
 2. With the exception of local exchange companies, each telecommunications company providing competitive telecommunications services shall maintain its books and records in accordance with Generally Accepted Accounting Principles as promulgated by the Financial Accounting Standards Board and its successors, as amended by any subsequent modification or official pronouncement thereto, which directly relates to regulated industries.
- E. Production of Accounts, Records, and Documents.
 1. All telecommunications companies governed by this Article shall immediately make available, at the time and place the Commission may designate, any accounting records that the Commission may request. Accounting records shall include all or any portion of a telecommunications company's formal and informal accounting books and records along with any underlying and/or supporting documents regardless of the physical location of such books, records, and documents. Accounting records shall also include all books, records or documents which specifically identify, support, analyze, or otherwise explain the reasonableness and accuracy of affiliated interest transactions.
 2. The Commission, at its sole discretion, may inspect any telecommunications company's formal and/or informal accounting books, records, and documents at the company's business premises or at its authorized representative's business premises which may be outside the state of Arizona. If inspection of the telecommunications company's accounting records does take place outside the state of Arizona, the telecommunications company will, to the extent legally permissible, assume all reasonable costs of travel, lodging, per diem, and all other miscellaneous costs incurred by participating personnel employed

by the Commission or personnel contracted to represent the Commission in any manner.

- F.** Annual Reports to the Commission. All telecommunications companies providing competitive telecommunications services pursuant to this Article shall submit an annual report to the Commission which shall be filed on or before the 15th day of April for the preceding calendar year.

1. The annual report shall be in a form prescribed by the Commission and, at a minimum, shall contain the following information:

- a. A statement of income for the reporting year similar in format to R14-2-103, Schedule (C)(1) or (E)(2). The income statement shall be Arizona-specific and reflect operating results in Arizona.
- b. A balance sheet as of the end of the reporting year similar in format to R14-2-103, Schedule (E)(1). The balance sheet shall be Arizona-specific.

2. Annual reports filed pursuant to this Article shall not be open to public inspection or made public except on order of the Commission, or by the Commission or a Commissioner in the course of a hearing or proceeding.

- G.** Reports to the Securities and Exchange Commission. All telecommunications companies shall file with the Commission a copy of all reports required by the Securities and Exchange Commission.

- H.** Other Reports. All telecommunications companies shall file with the Commission a copy of all annual reports required by the Federal Communications Commission and, where applicable, annual reports required by the Rural Electrification Administration or any other agency of the United States.

- I.** Variations, Exemptions of Commission Rules. The Commission may consider variations or exemptions from the terms or requirements of any of the rules included herein (14 A.A.C. 2, Article 11) upon the verified application of an affected party. The application must set forth the reasons why the public interest will be served by the variation or exemption from the Commission rules and regulations. Any variation or exemption granted shall require an order of the Commission. Where a conflict exists between these rules and an approved tariff or order of the Commission, the provisions of the approved tariff or order of the Commission shall apply.

Historical Note

Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 4789, effective December 15, 2002 (Supp. 02-4).

Editor's Note: The following Article had Sections renumbered and amended by final rulemaking effective September 20, 2017 (Supp. 17-3).

Editor's Note: The following Article was amended by emergency rulemaking effective March 29, 2017, for 180 days (Supp. 17-1).

Editor's Note: The Arizona Corporation Commission has determined that the following Article is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

ARTICLE 12. ARIZONA UNIVERSAL SERVICE FUND

R14-2-1201. Renumbered

Historical Note

Adopted effective April 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-2). R14-2-1201 renumbered to R14-2-A1201 by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). R14-2-1201 permanently renumbered to R14-2-A1201 by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017 (Supp. 17-3).

R14-2-1202. Renumbered

Historical Note

Adopted effective April 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-2). R14-2-1202 renumbered to R14-2-A1202 by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). R14-2-1202 permanently renumbered to R14-2-A1202 by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017 (Supp. 17-3).

R14-2-1203. Renumbered

Historical Note

Adopted effective April 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-2). R14-2-1203 renumbered to R14-2-A1203 by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). R14-2-1203 permanently renumbered to R14-2-A1203 by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017 (Supp. 17-3).

R14-2-1204. Renumbered

Historical Note

Adopted effective April 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-2). R14-2-1204 renumbered to R14-2-A1204 by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). R14-2-1204 permanently renumbered to R14-2-A1204 by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017 (Supp. 17-3).

R14-2-1205. Renumbered

Historical Note

Adopted effective April 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-2). R14-2-1205 renumbered to R14-2-A1205 by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). R14-2-1205 permanently renumbered to R14-2-A1205 by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017 (Supp. 17-3).

R14-2-1206. Renumbered

Historical Note

Adopted effective April 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-2). R14-2-1206 renumbered to R14-2-A1206 by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). R14-2-1206 permanently renumbered to R14-2-A1206

by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017 (Supp. 17-3).

R14-2-1207. Renumbered

Historical Note

Adopted effective April 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-2). R14-2-1207 renumbered to R14-2-A1207 by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). R14-2-1207 permanently renumbered to R14-2-A1207 by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017 (Supp. 17-3).

R14-2-1208. Renumbered

Historical Note

Adopted effective April 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-2). R14-2-1208 renumbered to R14-2-A1208 by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). R14-2-1208 permanently renumbered to R14-2-A1208 by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017 (Supp. 17-3).

R14-2-1209. Renumbered

Historical Note

Adopted effective April 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-2). R14-2-1209 renumbered to R14-2-A1209 by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). R14-2-1209 permanently renumbered to R14-2-A1209 by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017 (Supp. 17-3).

R14-2-1210. Renumbered

Historical Note

Adopted effective April 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-2). R14-2-1210 renumbered to R14-2-A1210 by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). R14-2-1210 permanently renumbered to R14-2-A1210 by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017 (Supp. 17-3).

R14-2-1211. Renumbered

Historical Note

Adopted effective April 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-2). R14-2-1211 renumbered to R14-2-A1211 by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). R14-2-1211 permanently renumbered to R14-2-A1211 by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017 (Supp. 17-3).

R14-2-1212. Renumbered

Historical Note

Adopted effective April 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-2). R14-2-1212 renumbered to R14-2-A1212 by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). R14-2-1212 permanently renumbered to R14-2-A1212 by final

rulemaking at 23 A.A.R. 2822, effective September 20, 2017 (Supp. 17-3).

R14-2-1213. Renumbered

Historical Note

Adopted effective April 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-2). R14-2-1213 renumbered to R14-2-A1213 by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). R14-2-1213 permanently renumbered to R14-2-A1213 by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017 (Supp. 17-3).

R14-2-1214. Renumbered

Historical Note

Adopted effective April 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-2). R14-2-1214 renumbered to R14-2-A1214 by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). R14-2-1214 permanently renumbered to R14-2-A1214 by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017 (Supp. 17-3).

R14-2-1215. Renumbered

Historical Note

Adopted effective April 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-2). R14-2-1215 renumbered to R14-2-A1215 by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). R14-2-1215 permanently renumbered to R14-2-A1215 by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017 (Supp. 17-3).

R14-2-1216. Renumbered

Historical Note

Adopted effective April 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-2). R14-2-1216 renumbered to R14-2-A1216 by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). R14-2-1216 permanently renumbered to R14-2-A1216 by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017 (Supp. 17-3).

R14-2-1217. Renumbered

Historical Note

Adopted effective April 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-2). R14-2-1217 renumbered to R14-2-A1217 by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). R14-2-1217 permanently renumbered to R14-2-A1217 by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017 (Supp. 17-3).

PART A. HIGH COST FUND

R14-2-A1201. Definitions

In this Part, unless the context otherwise requires, the following definitions shall apply:

1. "Administrator" is the person designated pursuant to R14-2-A1212 to administer the AUSF and perform the functions required by this Article.
2. "Arizona Corporation Commission" or "Commission." The regulatory agency of the state of Arizona having

- jurisdiction over public service corporations operating in Arizona.
3. "Arizona Universal Service Fund" or "AUSF" is the funding mechanism established by this Article through which surcharges are collected and support paid in accordance with this Article.
 4. "AUSF Support" is the amount of money, calculated pursuant to this Part, which a provider of basic local telephone exchange service is eligible to receive from the AUSF pursuant to this Part.
 5. "AUSF Support Area" is the geographic area for which a local exchange carrier's eligibility to receive AUSF support is calculated.
 6. "Basic local exchange telephone service" is telephone service that provides the following features:
 - a. Access to 1-party residential service with a voice grade line;
 - b. Access to touchtone capabilities;
 - c. Access to an interexchange carrier;
 - d. Access to emergency services, including but not limited to emergency 911;
 - e. Access to directory assistance service;
 - f. Access to operator service;
 - g. Access to a white page or similar directory listing; and
 - h. Access to telephone relay systems for the hearing and speech impaired.
 7. "Benchmark rates" for a telecommunications services provider are those rates approved by the Commission for that provider for basic local exchange telephone service, plus the Customer Access Line Charge approved by the Federal Communications Commission.
 8. "Commercial Mobile Radio Service" is any radio communication service carried on between mobile stations or receivers and land stations, or by mobile stations communicating among themselves, that is provided for profit and that makes available to the public service that is connected to the public switched network.
 9. "Conversion Factor" is a multiplier that is used to convert a quantity of interconnecting trunks for both wireless and wireline customers into equivalent access lines, for the sole purpose of developing Category 1 surcharges. The value of the Conversion Factor shall be 10 until completion of the review provided for in R14-2-A1216.
 10. "Interconnecting Trunk" is a 1-way or 2-way voice grade or equivalent voice grade switched message transmission channel furnished by a local switched access provider to a provider of wireless services or to a wireline customer of such local switched access provider to interconnect the provider of wireless services or wireline customer to the public switched network.
 11. "Intermediate Local Exchange Carriers" are incumbent providers of basic local exchange telephone service with more than 20,000 access lines but fewer than 200,000 access lines in Arizona.
 12. "Large Local Exchange Carriers" are incumbent providers of basic local exchange telephone service serving 200,000 or more access lines in Arizona.
 13. "Small Local Exchange Carriers" are incumbent providers of basic local exchange telephone service with 20,000 or fewer access lines in Arizona.
 14. "Total Service Long Run Incremental Cost" is the total additional cost incurred by a telecommunications company to produce the entire quantity of a service, given that the telecommunications company already provides all of its other services. Total Service Long Run Incre-

mental Cost is based on the least cost, most efficient technology that is capable of being implemented at the time the decision to provide the service is made.

15. "U.S. Census Blocks" are geographic areas defined by the U.S. Department of Commerce. The areas, which define the way in which census data is aggregated, generally contain between 250 and 550 housing units.

Historical Note

New Section R14-2-A1201 renumbered from R14-2-1201 and amended by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). R14-2-A1201 permanently renumbered from R14-2-1201 and amended by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017; Section reference numbers were changed to agree with renumbered Sections pursuant to A.R.S. § 41-1011(C) (Supp. 17-3).

R14-2-A1202. Calculation of AUSF Support

- A. The amount of AUSF support to which a provider of basic local exchange telephone service is eligible for a given AUSF support area shall be based upon the difference between the benchmark rates for basic local exchange telephone service provided by the carrier, and the appropriate cost to provide basic local exchange telephone service as determined by the Commission, net of any universal service support from federal sources.
- B. For a small local exchange carrier, the AUSF support area shall include all exchanges served by the local exchange carrier in Arizona. The appropriate cost of providing basic local exchange telephone service for purposes of determining AUSF support for a small local exchange carrier shall be the embedded cost of the incumbent provider. For any request for AUSF support by a small local exchange carrier filed more than three years after the effective date of this Article, the AUSF support area shall be the geographic areas as determined by the Commission.
- C. For an intermediate local exchange carrier, the AUSF support area shall be either all exchanges in Arizona served by that carrier, or such other support area as may be approved by the Commission. The appropriate cost of providing basic local exchange telephone service for purposes of determining AUSF support for an intermediate local exchange carrier shall be the embedded cost of the incumbent provider. For any request for AUSF support by an intermediate local exchange carrier filed more than three years after the effective date of this Article, the AUSF support area shall be geographic areas as determined by the Commission, and the appropriate cost of providing basic local exchange telephone service for purposes of determining AUSF support shall be the Total Service Long Run Incremental Cost of the incumbent provider. In the event that the FCC adopts a somewhat different forward-looking costing methodology and/or a different geographic study/support area for the Federal universal service fund program, a local exchange carrier may request a waiver from this rule in order to utilize the same cost study methodology and/or geographic study areas in both jurisdictions.
- D. For a large local exchange carrier, the AUSF support area shall be U.S. census block groups, and the appropriate cost of providing basic local exchange telephone service for purposes of determining AUSF support shall be the Total Service Long Run Incremental Cost. In the event that the FCC adopts a somewhat different forward-looking costing methodology and/or a different geographic study/support area for the Federal universal service fund program, a local exchange carrier may request a waiver from this rule in order to utilize the same

cost study methodology and/or geographic study areas in both jurisdictions. Any request for AUSF support by a large local exchange carrier shall include a Total Service Long Run Incremental Cost study, or cost study based on FCC adopted methodology, of basic local exchange service. The cost study shall be developed and presented in a manner that identifies the cost for the individual support areas for which AUSF funding is being requested.

Historical Note

New Section R14-2-A1202 renumbered from R14-2-1202 by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). R14-2-A1202 permanently renumbered from R14-2-1202 by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017 (Supp. 17-3).

R14-2-A1203. Request for AUSF Support

A provider of basic local exchange telephone service may request that the Commission authorize AUSF support with a filing under R14-2-103 or other method as the Commission may prescribe, and upon compliance with all applicable rules set forth in R14-2-1101 through R14-2-1115. A request for AUSF support shall include a statement describing the need for such funding. The Commission shall determine the appropriate cost of providing basic local exchange service for each AUSF support area for which AUSF support is requested and shall calculate in accordance with R14-2-A1202 the amount of AUSF support, if any, to which the applicant is entitled.

Historical Note

New Section R14-2-A1203 renumbered from R14-2-1203 by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). R14-2-A1203 permanently renumbered from R14-2-1203, by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017; a Section reference number was changed to agree with a renumbered Section pursuant to A.R.S. § 41-1011(C) (Supp. 17-3).

R14-2-A1204. Funding of the AUSF

- A. The AUSF shall be funded in accordance with this Article by all telecommunications service providers that interconnect to the public switched network. Within 30 days of the effective date of this Article, and thereafter on or before October 1 of each year, each telecommunications provider shall provide to the Administrator a list of all other telecommunications providers that interconnect to its facilities or network.
- B. The AUSF shall be funded equally by toll and local customers of the providers of telecommunications services, and shall be assessed in the following manner:
 1. Category 1 - Providers of basic local exchange service, as discussed in subsection (B)(1)(a), and other service providers as required under (B)(1)(a)(i) or permitted under subsection (B)(3)(b), shall be considered providers of Category 1 service.
 - a. One-half of the AUSF funding requirement will be collected through Category 1 service providers. Category 1 AUSF assessment will be based upon access lines and interconnecting trunks, and assessed by providers of local switched access as either an access line or interconnecting trunk surcharge. The "per access line" surcharge to be in place during a given year will be calculated by the Administrator using the total number of access lines and equivalent access lines deriving from interconnecting trunks that were in service for all Category 1 service providers on October 1 of the previous year. Access

lines shall include business and residence lines, public access lines, and other identifiable access lines.

- i. All wireless providers including but not limited to paging and other Commercial Mobile Radio Service providers, that interconnect to the public switched network will contribute to the AUSF under the requirements of Category 1. The number of interconnecting trunks obtained from the local access provider by the wireless provider shall be utilized in conjunction with a Conversion Factor to determine AUSF support from such wireless provider by means of a surcharge on such interconnecting trunks. A wireless provider that fails to contribute to the AUSF as required by this Article shall be subject to termination of its interconnection arrangements pursuant to R14-2-A1214(C).
- b. On or before November 1 of each year, each Category 1 local switched access service provider shall provide to the Administrator the number of access lines and number of interconnecting trunks that were in service on October 1 of that year. The Administrator will use these numbers together with the Conversion Factor in calculating the per access line surcharge and per interconnecting trunk surcharge for the following year. The Administrator will multiply the total number of interconnecting trunks by the Conversion Factor to obtain an equivalent number of access lines for the purpose of calculating the surcharges.
2. Category 2 - Providers of intrastate toll service, or other service providers as permitted under subsection (B)(3), shall be considered providers of Category 2 service and shall be assessed AUSF charges as follows:
 - a. One-half of the AUSF funding requirement will be collected through Category 2 service providers. The Category 2 AUSF assessment will be based on total Arizona intrastate toll revenue, and assessed as a percent of revenue. The percent of revenue assessment to be in place during a given year will be calculated by the Administrator using the annual Arizona intrastate revenue for all Category 2 service providers for the previous year.
 - b. On or before November 1 of each year, each Category 2 service provider shall report to the Administrator the total Arizona intrastate revenue collected between August 1 of the current year and August 1 of the previous year. The Administrator will use this revenue so reported to calculate the AUSF assessment rate for the following year.
3. New telecommunications service providers.
 - a. Telecommunications providers that begin providing basic local exchange service after the effective date of this Article shall be assessed AUSF charges pursuant to subsection (B)(1). Telecommunications providers that begin providing toll service after the effective date of this Article shall be assessed AUSF charges pursuant to subsection (B)(2).
 - b. All other telecommunications service providers that interconnect to the public switched network and begin providing telecommunications service after the effective date of this Article, shall choose to be considered either a Category 1, Category 2, or both Category 1 and Category 2 service provider. Such election shall be made in writing to the Administrator within 30 days of beginning to provide telecom-

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munications service in Arizona, with a copy to the Director of Utilities. Written concurrence of the Director of Utilities must be received by the Administrator for such selection to be effective. Such selection will be irrevocable for a period of at least three years.

4. A telecommunications provider that provides both Category 1 and Category 2 services shall be assessed AUSF charges pursuant to both subsections (B)(1) and (2).

Historical Note

New Section R14-2-A1204 renumbered from R14-2-1204 by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). R14-2-A1204 permanently renumbered from R14-2-1204 by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017; subsection references were updated for Chapter consistency and a Section reference number was changed to agree with a renumbered Section pursuant to A.R.S. § 41-1011(C) (Supp. 17-3).

R14-2-A1205. Calculation of Surcharges

- A. The Administrator will calculate the total AUSF support due all local exchange carriers who have been granted AUSF support by the Commission. Administrative costs and audit fees will be added to this amount. The amount of any excess funds in the AUSF will then be subtracted to determine the total funding requirement. The funding requirements from Category 1 and Category 2 service providers will then be calculated. One-half of the funding will be obtained from Category 1 providers through surcharges applied to access lines and interconnecting trunks in service. The other half will be obtained from Category 2 providers through surcharges on intrastate toll revenues.
- B. For the purpose of determining the surcharges, the Administrator will develop growth factors to apply to the total reported access lines and toll revenues. Such growth factors will be calculated at 1/2 of the estimated annual percentage growth in access lines and in toll revenues.
- C. Category 1 Surcharge. One-half of the total annual AUSF support approved by the Commission for all eligible recipients will be obtained from Category 1 service providers. A monthly per access line surcharge and a monthly per interconnecting trunk surcharge required to obtain this funding will be calculated as follows:
 1. Adding together the number of access lines and equivalent access lines for all Category 1 service providers, adjusted by the growth factor;
 2. Dividing the total annual AUSF support approved by the Commission for all eligible recipients by 2 to obtain the portion of AUSF support required from Category 1 service providers;
 3. Dividing the amount of Category 1 AUSF support calculated in subsection (C)(2) by the sum of access lines calculated in subsection (C)(1) to yield the per access line surcharge;
 4. Dividing the per access line surcharge calculated in subsection (C)(3) by 12 to determine the monthly access line assessment;
 5. Multiplying the surcharge obtained in subsection (C)(4) by the Conversion Factor to determine the monthly interconnecting trunk surcharge.
- D. Category 2 Surcharge. One-half of the total annual AUSF support approved by the Commission for all eligible recipients will be obtained from Category 2 service providers. A percent of revenue surcharge required to obtain this funding will be calculated as follows:

1. Totaling the annual intrastate toll revenues of all Category 2 service providers, adjusted by the growth factor;
 2. Dividing the total AUSF support approved by the Commission for all eligible recipients by 2 to obtain the portion of AUSF support required from Category 2 service providers;
 3. Dividing the amount of Category 2 AUSF support requirement calculated in subsection (D)(2) by the total annual intrastate toll revenues calculated in subsection (D)(1) to arrive at a percentage of revenue surcharge.
- E. Recipients of lifeline or other low-income support shall be exempt from paying a Category 1 surcharge.

Historical Note

New Section R14-2-A1205 renumbered from R14-2-1205 by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). R14-2-A1205 permanently renumbered from R14-2-1205 by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017 (Supp. 17-3).

R14-2-A1206. Implementation

- A. Any provider of telecommunications service may file either an AUSF tariff or price list, if appropriate, establishing a flow-through mechanism to collect the surcharge approved by the Commission and calculated by the Administrator.
- B. On or before the 20th day of each month, each Category 1 service provider responsible for collecting AUSF surcharges shall remit to the Administrator the AUSF surcharge, including any surcharge on wireless providers, collected by that provider during the preceding month. The Category 1 provider shall submit such documentation of AUSF revenues from the AUSF surcharge as may be required by the Administrator.
- C. On or before the 20th day of each month, each Category 2 service provider responsible for collecting AUSF surcharges shall remit to the Administrator the AUSF surcharge collected by that provider during the third preceding month. The Category 2 provider shall submit such documentation of AUSF revenues from the AUSF surcharge as may be required by the Administrator.
- D. Eligible recipients of AUSF support are:
 1. Providers of telecommunications service engaged in providing basic local exchange telephone service in Arizona which have obtained a Commission order authorizing payments from the AUSF; and
 2. Providers that become entitled to AUSF support based upon the provisions of subsection (E).
- E. If the Commission approves AUSF support to a provider of telecommunications service for a defined area, such AUSF support shall also be available to competitive providers of basic local exchange service in the same defined area that are contributing to the AUSF, and that are willing to provide service to all customers in the specific AUSF support area as defined by the Commission. The AUSF support to which the competitive provider is eligible shall be calculated on a per-customer basis, at the same level at which the incumbent provider of telecommunications service receives AUSF support, and shall not result in an increase in the total AUSF support available for the specific census block groups or study area. If basic exchange service is provided through the resale of another carrier's local loop facilities, AUSF support will only be available to the retail service provider if AUSF support is not included in the wholesale price for the resold local service. This Section shall not apply to small local exchange carriers nor to the universal service support being received by any telecommunications service provider as of the effective date of this Article.

- F. For small local exchange carriers and for any basic local exchange telephone service provider receiving universal service support as of the effective date of this Article, the AUSF support shall not be available to competitive providers of basic local exchange service prior to completion of the review provided for in R14-2-A1216. Following completion of the review, AUSF support provided to small and intermediate local exchange carriers shall be available to all competitive providers of basic local exchange service in the same defined area that are contributing to AUSF, and that are willing to provide service to all customers in the specific geographic study area as defined by the Commission, unless otherwise ordered by the Commission.
- G. Defined area, study area, geographic area, and support area mean the same area during the first three years of the effective date of this Article. After the first three years, they will still have the same meaning unless otherwise ordered by the Commission.

Historical Note

New Section R14-2-A1206 renumbered from R14-2-1206 by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). R14-2-A1206 permanently renumbered from R14-2-1206 by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017; a subsection reference was updated for Chapter consistency and a Section reference number was changed to agree with a renumbered Section pursuant to A.R.S. § 41-1011(C) (Supp. 17-3).

R14-2-A1207. Calculation of Monthly Payments and the Associated Collections

- A. For the monthly Category 1 AUSF payment, each provider of local switched access shall remit to the Administrator an amount equal to the number of access lines in service on the first day of the month, times the monthly surcharge per access line plus the number of interconnecting trunks in service on the first day of the month, times the monthly interconnecting trunk surcharge.
- B. The monthly AUSF payment that each Category 2 provider shall remit to the Administrator is an amount equal to its monthly intrastate toll revenue times the monthly surcharge percentage.
- C. Payments must be received by the Administrator by the 20th day of each month. If the payment amount is greater than \$10,000, then it shall be wire transferred to the Administrator.
- D. The Administrator shall enter into an appropriate non-disclosure agreement with each telecommunications service provider to assure that information necessary to allocate AUSF funding obligations and to calculate surcharges is reported, maintained, and used in a manner that will protect the confidentiality of company specific data. The Administrator shall not use confidential data for any purpose other than administering the AUSF.

Historical Note

New Section R14-2-A1207 renumbered from R14-2-1207 by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). R14-2-A1207 permanently renumbered from R14-2-1207 by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017 (Supp. 17-3).

R14-2-A1208. Monthly AUSF Disbursements

- A. AUSF disbursement shall be made 30 days following the date of AUSF collections.
- B. The Administrator shall not make AUSF support payments to a provider of telecommunications service until the Administrator

has received a copy of a Commission decision authorizing the provider to receive such support.

Historical Note

New Section R14-2-A1208 renumbered from R14-2-1208 by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). R14-2-A1208 permanently renumbered from R14-2-1208 by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017 (Supp. 17-3).

R14-2-A1209. Procedures for Handling AUSF Rate Changes

- A. Category 1 and Category 2 AUSF surcharges shall be revised when the Commission authorizes new or revised AUSF payments to any provider of telecommunications service. The Administrator shall calculate the new AUSF flow-through surcharges in accordance with this Article, which surcharges shall become effective upon the Commission's approval of the new or revised AUSF payments.
- B. An annual calculation to revise AUSF flow-through surcharges shall be made by the Administrator on December 1 of each year with an effective date the following January 1. The flow-through surcharges shall be calculated so that the total AUSF funding will equal the AUSF revenue requirements, plus administrative costs as well as any corrections and true-ups. No later than December 1 of each year, the Administrator shall provide notice to the Commission and all telecommunications service providers who pay into the AUSF of the flow-through surcharge rates for the following calendar year.

Historical Note

New Section R14-2-A1209 renumbered from R14-2-1209 by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). R14-2-A1209 permanently renumbered from R14-2-1209 by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017 (Supp. 17-3).

R14-2-A1210. Statement of Participation of All Telecommunications Service Providers in the AUSF

- A. Within 30 days of the effective date of this Article, each telecommunications service provider shall provide a letter to the Administrator acknowledging that provider's obligation under this Article to pay AUSF surcharges. Failure to provide such a letter shall be grounds for termination after written notice from the Administrator of the provider's interconnection with the public switched network.
- B. Any telecommunications service provider which begins providing telecommunications service after the effective date of this Article shall, within 30 days of beginning to provide intrastate service in Arizona, provide a letter to the Administrator acknowledging that provider's obligation under this Article to make monthly payments for the local and/or toll portion, as appropriate, of the AUSF contribution in accordance with this Article. Failure to provide such a letter shall be grounds for denying to the provider interconnection with the public switched network.

Historical Note

New Section R14-2-A1210 renumbered from R14-2-1210 by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). R14-2-A1210 permanently renumbered from R14-2-1210 by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017 (Supp. 17-3).

R14-2-A1211. Duties and Responsibilities of the AUSF Administrator

The Administrator shall:

1. Develop, obtain, and, on or before December 15 of each year, file with the Commission such information and documentation as the Administrator deems necessary for the establishment and calculation of the Category 1 and Category 2 surcharges for the succeeding year. Such a filing shall also be made each time the Commission authorizes a change in the AUSF funding requirement.
2. Monitor the AUSF payments of all telecommunications providers.
3. Oversee the billing of AUSF surcharges.
4. Prepare the necessary forms to be used in reporting the AUSF collections and disbursements and maintain monthly records.
5. Coordinate the collection and disbursement of AUSF monies in accordance with this Article.
6. Prepare an annual report that provides a detailed accounting of the AUSF collections and disbursements and that identifies the annual cost of administration. The report shall be filed with the Commission on or before April 15 of each year.
7. Monitor procedures for auditing the AUSF collections and disbursements. The audit function shall be performed by an independent outside auditor.

Historical Note

New Section R14-2-A1211 renumbered from R14-2-1211 by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). R14-2-A1211 permanently renumbered from R14-2-1211 by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017 (Supp. 17-3).

R14-2-A1212. Interim Administrator

US WEST Communications, Inc., will serve as interim Administrator of the AUSF and will perform the functions detailed herein that are required of the Administrator for a transition period until a private, neutral third party is appointed by the Commission to serve as Administrator of the AUSF. A neutral third party selected through the competitive bid process shall be appointed no later than July 1, 1997.

Historical Note

New Section R14-2-A1212 renumbered from R14-2-1212 by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). R14-2-A1212 permanently renumbered from R14-2-1212 by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017 (Supp. 17-3).

R14-2-A1213. Guidelines for Auditing the AUSF

- A. The AUSF records covering both collections and disbursements shall be audited at the end of the first year following the designation of a third party administrator. The AUSF records will then be audited at least once every other year in the subsequent years of operations.
- B. The records shall be examined for accuracy and the existence of effective internal controls to ensure that the AUSF is being administered appropriately and properly.
- C. An independent external auditor selected by the Commission shall be utilized to provide an unbiased audit opinion concerning the AUSF administration procedures and controls.
- D. Any costs for conducting audits will be deducted from the revenues of the AUSF prior to disbursement of funds.

Historical Note

New Section R14-2-A1213 renumbered from R14-2-1213 by emergency rulemaking at 23 A.A.R. 865,

effective March 29, 2017, for 180 days (Supp. 17-1). R14-2-A1213 permanently renumbered from R14-2-1213 by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017 (Supp. 17-3).

R14-2-A1214. Enforcement of Collection of Delinquent AUSF Amounts

- A. The Administrator shall issue past due notices to each provider of telecommunications service that is 15 days or more delinquent in submitting its AUSF payments to the Administrator. A copy of this notice shall be provided to the Commission.
- B. AUSF support payments shall be withheld from any provider of telecommunications service that is delinquent in submitting its AUSF payments to the Administrator. Each provider of telecommunications service will be fully liable for any accrued interest owing on its AUSF contributions that remain unpaid for 30 days. Such delinquent AUSF payments will begin accruing interest at the rate of 1 and 1/2% per month beginning with the 31st day until such amount is paid in full along with all accrued interest.
- C. The local switched access service provider shall promptly notify the Commission and the Administrator of the identity of any wireless provider which fails or refuses to pay its AUSF surcharge. Such notice shall also be directed to the wireless provider. If the wireless provider has not paid the amount due within 30 days of such notice, the interconnection provider shall terminate the wireless provider's interconnection until the full amount together with all accrued interest, is paid in full (unless the payment is in bonafide dispute and the wireless carrier has paid the undisputed amount).
- D. Failure by a telecommunications service provider to comply with the provisions of this Article may result in sanctions as determined by the Commission.

Historical Note

New Section R14-2-A1214 renumbered from R14-2-1214 by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). R14-2-A1214 permanently renumbered from R14-2-1214 by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017 (Supp. 17-3).

R14-2-A1215. AUSF Annual Report

- A. On or before April 1 of each year, the Administrator shall file with the Commission an annual report which shall summarize the preceding year activity and contain the following:
 1. A statement of AUSF collections and disbursements.
 2. A record of the total cost of administration of the AUSF.
 3. Audit reports from the audits conducted during the year.
- B. A copy of the annual report shall be provided to each provider of telecommunications service who contributes to the AUSF.

Historical Note

New Section R14-2-A1215 renumbered from R14-2-1215 by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). R14-2-A1215 permanently renumbered from R14-2-1215 by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017 (Supp. 17-3).

R14-2-A1216. Review Process

- A. Not later than three years from the effective date of this Article, the Commission staff shall initiate a comprehensive review of this Article and shall provide the Commission with recommendations regarding any necessary changes to the Article. Any interested party may also make such recommendations. The Commission shall consider these recommendations in such proceeding as the Commission deems appropriate.

- B. The costs used to calculate AUSF funding levels for a given provider or AUSF support area shall be reviewed by the Commission at least every three years following the effective date for any authorized AUSF support for the provider or study area. The Commission may reduce the authorized funding level and require that the AUSF surcharge be recalculated on the basis of this review.

Historical Note

New Section R14-2-A1216 renumbered from R14-2-1216 by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). R14-2-A1216 permanently renumbered from R14-2-1216 by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017 (Supp. 17-3).

R14-2-A1217. Supersession of Existing USF Mechanism

The universal service funding mechanism initially approved by the Commission in Decision No. 56639 (September 22, 1989) is superseded by this Article, except that any calculation, contribution or collection of, or entitlement to, universal service fund support approved by the Commission prior to the adoption of this Article shall remain in effect until otherwise ordered by the Commission or until the application of this Article leads to a different result.

Historical Note

New Section R14-2-A1217 renumbered from R14-2-1217 by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). R14-2-A1217 permanently renumbered from R14-2-1217 by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017 (Supp. 17-3).

PART B. ARIZONA UNIVERSAL SERVICE SUPPORT FOR SCHOOLS AND LIBRARIES

R14-2-B1218. Purpose

The purpose of the E-rate Broadband Special Construction Project Matching Fund Program is to provide state funds for special construction projects involving the deployment of broadband to schools and libraries in Arizona so that Arizona schools and libraries may obtain federal matching funds under the FCC Universal Service Fund's Schools and Libraries Program. This Part shall be interpreted to maximize the availability of internet access to schools and libraries within Arizona and to maximize potential support from the FCC Universal Service Fund's Schools and Libraries Program to fill any connectivity gap in Arizona.

Historical Note

New Section R14-2-B1218 made by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). New Section R14-2-B1218 made by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017 (Supp. 17-3).

R14-2-B1219. Definitions

In this Part, unless the context otherwise requires, the following definitions shall apply:

1. The definitions contained in 47 CFR 54.500 (October 1, 2016), with no future editions or amendments, which are incorporated by reference; on file with the Commission; and published by and available from the U.S. Government Publishing Office, 732 North Capitol Street, NW, Washington, DC 20401-0001 and at <https://www.gpo.gov/fdsys/>;
2. The definitions in R14-2-A1201, to the extent applicable; and
3. The following definitions:

- a. "Applicant" is a school, library, consortium, or other eligible entity that requests AUSF funds as provided in this Part.
- b. "Category 1 services" are services used to connect broadband or internet to eligible locations or that provide basic conduit access to the internet, including "telecommunications services," "telecommunications," and "internet access" as defined in 47 CFR 54.5 (October 1, 2016), with no future editions or amendments, which is incorporated by reference; on file with the Commission; and published by and available from the U.S. Government Publishing Office, 732 North Capitol Street, NW, Washington, DC 20401-0001 and at <https://www.gpo.gov/fdsys/>.
- c. "Category 2 services" are internal connections services needed to enable high speed broadband connectivity and broadband internal connections components, including local area networks (LAN/WLAN), internal connections components, basic maintenance of internal connections components, and managed internal broadband service.
- d. "Data Transmission Services and Internet Access" is a Category 1 service type that includes broadband connectivity and basic conduit access to the Internet. This does not include charges for content, equipment purchase, or other services beyond basic conduit access to the internet. This service type also covers lit or dark fiber.
- e. "Department of Education" or "DOE" means the Arizona Department of Education.
- f. "Discount rate" means the percentage of cost coverage for an applicant, determined by the FCC for its E-rate Program using the percentage of students eligible for the National School Lunch Program or an equivalent measure of poverty, and the rural or urban status of the school district or library system as determined by the U.S. Census Bureau.
- g. "Eligible provider" means a provider that has a 498 ID, also known as a Service Provider Identification Number or SPIN, obtained by filing an FCC Form 498.
- h. "Eligible special construction" or "ESC" refers to special construction projects for Category 1 services that deploy new fiber or upgraded facilities to locations eligible for the E-rate Program. ESC may also include non-fiber based services.
- i. "E-rate Broadband Special Construction Project Matching Fund" is the fund in Arizona that will make available to applicants matching state funds for Category 1 special construction costs in order to obtain up to an additional 10 percent discount from the federal universal fund.
- j. "E-rate Modernization Orders" are the FCC Orders that have modernized the FCC's E-rate Program and have maximized schools' and libraries' options for purchasing affordable high-speed broadband connectivity: *Modernizing the E-Rate Program for Schools and Libraries, Connect America Fund*, WC Docket No. 13-184, *Report and Order and Further Notice of Proposed Rulemaking*, 29 FCC Rcd 8870 (2014); and *Second Report and Order and Order on Reconsideration*, 29 FCC Rcd. 15538 (2014).
- k. "E-rate Program" is an FCC program that provides discounts to schools and libraries for eligible products and services.

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- l. "FCC Form 470" is the Description of Services Requested and Certification Form that schools and libraries complete to request services and establish eligibility.
 - m. "FCC Form 471" is the Services Ordered and Certification Form that schools and libraries use to report services ordered and discounts requested for those services.
 - n. "Federal Communications Commission" or "FCC" is the U.S. government agency that regulates interstate and international communications and oversees the federal universal service fund.
 - o. "Funding Commitment Decision Letter" or "FCDL" is a letter from USAC to the applicant which contains USAC's funding decisions on the applicant's funding requests.
 - p. "Funding Year" or "FY" is a 12-month period during which program support is being provided, beginning on July 1 and ending on June 30 of the following calendar year.
 - q. "Second E-rate Modernization Order" is the FCC Order that modernized the FCC's E-rate Program and provided for additional discounts when states match funds for high-speed broadband connections: *Modernizing the E-Rate Program for Schools and Libraries, Connect America Fund*, WC Docket No. 13-184, *Second Report and Order and Order on Reconsideration*, 29 FCC Rcd 15538 (2014).
 - r. "Special Construction Charges" are the upfront, non-recurring costs of ESC installations or upgrades, consisting of three components:
 - i. Construction of network facilities,
 - ii. Design and engineering, and
 - iii. Project management.
 - s. "Staff designee" is the Director of the Commission's Utilities Division or another individual that the Commission assigns to perform duties under this Part.
 - t. "Universal Service Administrative Company" or "USAC" is an independent, not-for-profit corporation created by the FCC in 1997 to administer the four universal service programs including universal service for schools and libraries.
 - u. "Urban" means an individual school or library that is located in an "Urbanized Area" or "Urban Cluster" with a population of 25,000 or more as determined by the U.S. Census Bureau. All other schools or libraries are designated as "rural."
 - v. "Vendor" is the entity that has been selected by the applicant and whose bid USAC has recognized in a FCDL to the applicant.
- percent of special construction charges as authorized by the Second E-rate Modernization Order.
 - C. An applicant may not receive total support from the federal Universal Service Fund and AUSF in excess of 100 percent of special construction charges.
 - D. Schools and libraries that elect to self-provision shall comply with all of the requirements set forth by the FCC in the Second E-rate Modernization Order.
 - E. An ESC shall provide bandwidth sufficient to meet the minimum recommended bandwidth per student or the minimum recommended bandwidth for educational services established for the relevant funding year by the FCC and, without good cause, shall not exceed those standards.
 - F. If the E-rate Program discount rate and additional match plus the AUSF funds received by an applicant do not cover 100 percent of the special construction charges, the applicant may include in its request filed with the DOE a request for additional AUSF funds. Additional AUSF funds requested under this subsection shall be awarded as follows:
 1. Applicants with 80 percent or higher E-rate Program discount rates shall be awarded AUSF funds before applicants with lower discount rates; and
 2. Applicants with discount rates between 60 and 80 percent may request additional AUSF funds for the uncovered amount, up to 50 percent of the uncovered special construction charges. Amounts requested above 50 percent of the uncovered special construction charges will not be considered without good cause shown by the applicant.

Historical Note

New Section R14-2-B1220 made by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). New Section R14-2-B1220 made by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017 (Supp. 17-3).

R14-2-B1221. Procedures for Requesting State Matching Funds

- A. An applicant shall file a request for state matching funds with the Department of Education, prior to submitting its FCC Form 471 to USAC.
- B. If an applicant meets all FCC eligibility requirements for its ESC, the applicant shall obtain a certification letter along with a letter from the Department of Education stating that the applicant is being awarded state matching funds.
- C. An applicant shall provide the Staff designee a copy of the certification letter and letter awarding state matching funds to it issued by the Department of Education and shall include a copy of the letter awarding state matching funds with its FCC Form 471 sent to USAC.
- D. Once USAC determines an applicant's eligibility for federal matching funds and issues a FCDL, the applicant shall notify the Department of Education and request that the Department of Education submit a letter to the Staff designee and the Administrator indicating that USAC has issued a FCDL to the applicant with an award of federal funds and including any other information relevant to the award in that particular case.
- E. Disbursement of AUSF funds shall be available for a period of up to five years after USAC has issued a FCDL to the applicant with an award of federal funds, notwithstanding R14-2-B1220(A).
- F. If USAC reduces or rescinds an applicant's award of federal matching funds following an audit, investigation, enforcement action, or consent decree, the applicant shall immediately notify the Department of Education and the Staff designee and shall reimburse the AUSF fund for any amount by which the

Historical Note

New Section R14-2-B1219 made by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). New Section R14-2-B1219 made by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017 (Supp. 17-3).

R14-2-B1220. Availability of State Matching Funds for Special Construction Projects to Deploy Broadband

- A. Applications for AUSF funds for E-rate matching purposes shall be limited to E-rate funding years 2017 and 2018.
- B. An applicant certified by the Department of Education shall be eligible to receive AUSF funds to cover special construction charges to the extent necessary to qualify the applicant to receive additional federal universal service funds of up to 10

AUSF funds received exceeded the federal matching funds award retained.

Historical Note

New Section R14-2-B1221 made by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). New Section R14-2-B1221 made by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017 (Supp. 17-3).

R14-2-B1222. Administrator Responsibilities; Contributions to and Disbursements from the AUSF

- A. The Administrator shall be responsible for administering the E-rate Broadband Special Construction Project Matching Fund Program and, in doing so, shall comply with R14-2-A1211 and R14-2-A1214.
- B. The Administrator shall:
 1. Determine the surcharge rates to fund the E-rate Broadband Special Construction Project Matching Fund Program, subject to Commission approval;
 2. Obtain surcharge collections; and
 3. Make disbursements from the AUSF for state matching funds as authorized by the Department of Education and the Commission or its Staff designee, as provided in this Section.
- C. The increase to the existing surcharge to fund the E-rate Broadband Special Construction Project Matching Fund Program shall be separately calculated and implemented in accordance with R14-2-A1204, R14-2-A1205(B) through (E), R14-2-A1206 (A) through (C), and R14-2-A1207.
- D. E-rate Broadband Special Construction Project Matching Fund Program surcharges shall not be collected for a period longer than 12 months unless the surcharge collections from carriers in that 12-month period do not produce \$8 million in total funding. If the amount collected is less than the \$8 million cap, the increase in the AUSF surcharge for this Program shall continue until the \$8 million cap is reached. If the collections produce more than \$8 million in the 12-month period, the Commission Staff shall make a recommendation to the Commission regarding the disposition of the over-collected funds.
- E. A telecommunications service provider may collect the E-rate Broadband Special Construction Project Matching Fund Program surcharges from its customers in any manner it reasonably determines to be best for its business and its customers, but shall not in the aggregate collect more than that authorized by the Commission. The telecommunications service providers shall report and submit payment of assessments according to the schedule established by the Administrator.
- F. Within 30 days from the effective date of these rules, each telecommunications service provider that interconnects to the public switched network shall provide a letter to the Administrator acknowledging the telecommunications service provider's obligation to pay the new E-rate Broadband Special Construction Project Matching Fund Program surcharges authorized in this Part. Failure to provide such a letter may be grounds for denying the service provider interconnection with the public switched network, upon notice and opportunity to be heard before the Commission.
- G. An applicant shall:
 1. After accepting an eligible provider's bid for an ESC, notify within 15 days the Department of Education and the Administrator of the bid amount accepted so that the Administrator may allocate funds for the ESC; and
 2. After the vendor completes the project, submit to the Department of Education and Administrator a request for disbursement of the funds allocated for the ESC.

- H. The Administrator shall disburse AUSF funds allocated for an applicant's ESC upon approval from the Commission or its Staff designee.

Historical Note

New Section R14-2-B1222 made by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). New Section R14-2-B1222 made by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017 (Supp. 17-3).

R14-2-B1223. Discontinuation of E-rate Broadband Special Construction Project Matching Fund Program

- A. No applications for the E-rate Broadband Special Construction Project Matching Fund Program shall be accepted after the 2018 E-rate FY procurement cycle.
- B. Except as provided in subsection (C), the E-rate Broadband Special Construction Project Matching Fund Program shall be discontinued when all of the funds have been collected and all of the funds collected have been disbursed.
- C. The E-rate Broadband Special Construction Project Matching Fund Program may be discontinued earlier or later than specified in subsection (B) if required by the FCC or USAC.

Historical Note

New Section R14-2-B1223 made by emergency rulemaking at 23 A.A.R. 865, effective March 29, 2017, for 180 days (Supp. 17-1). New Section R14-2-B1223 made by final rulemaking at 23 A.A.R. 2822, effective September 20, 2017 (Supp. 17-3).

Editor's Note: The Arizona Corporation Commission has determined that the following Article is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

ARTICLE 13. TELECOMMUNICATIONS INTERCONNECTION AND UNBUNDLING

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1301. Application of Rules

These rules govern interconnection requirements as provided in R14-2-1112. These rules apply to the provision of local exchange services by and between local exchange carriers as those terms are defined in R14-2-1102.

Historical Note

Adopted effective September 6, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-3).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1302. Definitions

In this Article, unless the context otherwise requires, the following definitions shall apply:

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1. "800 data base" means an 800 service data base that contains information on the screening and routing of 800 numbers that are in service.
2. "AIN data base" means a data base that is used in connection with an Advanced Intelligent Network (AIN) architecture. The AIN architecture enables telecommunications service providers to introduce advanced telecommunications services.
3. "ALI" or "Automatic Location Identification" means the process of electronically identifying and displaying the name of the subscriber and address of the calling telephone number to a person answering a 911 call.
4. "Central Office Code" means the first three digits of a seven-digit telephone number. Central office codes are assigned to telecommunications providers by the central office code administrator in accordance with the industry's central office code assignment guidelines.
5. "Centralized Message Distribution System" or "CMDMS" means the system managed by Bellcore that assists in billing third party calls. Access to CMDMS requires a Bellcore client company host.
6. "Directory Assistance Database Listings" means customer name, address, and telephone number listings in the LEC directory assistance database.
7. "E911" access means the ability of a LEC to interconnect with and deliver emergency calls, and associated ANI and ALI information, where available, to the E-911 controlling office for further routing to the appropriate Public Safety Answering Point.
8. "Essential facility or service" means any portion, component, or function of the network or service offered by a provider of local exchange service: that is necessary for a competitor to provide a public telecommunications service; that cannot be reasonable duplicated; and for which there is no adequate economic alternative to the competitor in terms of quality, quantity, and price.
9. "Extended Area Service" or "EAS" means local (toll-free) calling provided between local exchange carrier exchanges (service areas).
10. "Incumbent Local Exchange Carrier" means any company providing service as a local exchange carrier in Arizona prior to June 23, 1995.
11. "Interconnection Services" means those features and functions of a local exchange carriers network that enable other local exchange carriers to provide local exchange and exchange access services. Interconnection services include, but are not limited to, those services offered by local exchange carriers which have been classified by the Commission as essential services.
12. "LIDB" or "Line Information Data Base" means a data base that contains access line information that is used by telecommunications service providers for billing validation.
13. "Local Exchange Carrier" or "LEC" means a telecommunications company that provides local exchange service as one of the telecommunications services it offers to the public.
14. "Local Number Portability" means permitting customers to choose between authorized providers of local exchange services within a given wire center without changing their telephone number and without impairment of quality, functionality, reliability, or convenience of use.
15. "Mutual traffic exchange" means the exchange of terminating local and EAS traffic between LECs such that all LECs terminate the local exchange traffic of all other LECs without explicitly charging each other for such traffic exchange.
16. "New Entrant Local Exchange Carrier" or "NELEC" means any company certificated by the Commission after June 23, 1995, as a local exchange carrier.
17. "Numbering Plan Administration" or "NPA" means a specific geographic area identified by a unique NPA code. The NPA (area code) is a 3-digit code that identifies the NPA for purposes of call routing. The NPA Administrator is the entity within a NPA that assigns central office prefixes (telephone numbers) to users in the NPA.
18. "Public Safety Answering Point" or "PSAP" means a communications facility operated on a 24-hour basis that is assigned the responsibility to receive 911 calls and, as appropriate, to dispatch public or private safety services or to extend, transfer, or relay 911 calls to the appropriate public or private safety agencies.
19. "Rate Center" means specific geographic locations from which airline mileage measurements are determined for the purpose of rating local, Extended Area Service (EAS), and toll traffic.
20. "Reciprocal Compensation" means the arrangement by which local exchange carriers compensate each other for like services used in the termination of local calls between the customers of the two carriers.
21. "Resale of local service" means the purchase by a local exchange carrier from another local exchange carrier a local exchange service provisioned directly to an end-user customer and rebrands it as its own service.
22. "Total Service Long Run Incremental Cost" or "TSLRIC" is as defined in R14-2-1102(17).
23. "White Pages Listings" means customer name, address, and telephone number listings in the white pages Section of LEC telephone directories.
24. "Yellow Pages Listings" means customer name, address, and telephone number listings in the yellow pages Section of LEC telephone directories.

Historical Note

Adopted effective September 6, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-3).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1303. Points of Interconnection

- A. Incumbent LECs and NELECs shall, by mutual agreement, arrange for the points of interconnection of their respective networks.
- B. Each company interconnecting pursuant to the provisions of this Section shall be responsible for building and maintaining its own facilities to the point of interconnection. Companies are free to negotiate points of interconnection that involve the recurring and non-recurring compensation by one carrier for the transport facilities of another carrier.
- C. Each company interconnecting pursuant to the provisions of this Section shall be responsible for the traffic that originates on its network up to the point of interconnection, and for the terminating traffic handed off at the point of interconnection to the call's destination.
- D. Should the companies negotiating interconnection arrangements not be able to agree upon the points of interconnection, written notice to that effect shall be made to the Commission Staff by the carrier responding to the interconnection request. The notice shall contain a detailed description of the request

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itself and why interconnection at the point requested is not feasible.

Historical Note

Adopted effective September 6, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-3).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1304. Reciprocal Compensation

- A. Local and EAS traffic shall be terminated by the LECs over the interconnection facilities described in R14-2-1303 on the basis of mutual traffic exchange, for a period of 24 months from the effective date of Commission approval of the first interconnection agreement pursuant to R14-2-1506.
- B. Any charges for the underlying transport facilities between the carriers shall be limited to the construction and maintenance charges specified in R14-2-1303.
- C. Notwithstanding the provisions of subsection (A), compensation arrangements may be made by mutual agreement between companies.
- D. If incumbent local exchange carriers and new entrant local exchange carriers do not arrive at compensation arrangements for local call termination by mutual agreement, they shall each file tariffs proposing permanent compensation mechanisms for terminating local calls within 18 months of the effective date of Commission approval of the first interconnection agreement pursuant to R14-2-1506. This Commission has expressed a preference for flat rate local calling and therefore those tariffs shall not contain usage-sensitive call termination charges, unless otherwise approved by the Commission.

Historical Note

Adopted effective September 6, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-3).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1305. Local and Toll Rating Centers

- A. The incumbent LEC's local calling areas and existing EAS boundaries will be utilized for the purpose of classifying traffic as local, EAS, or toll for purposes of intercompany compensation.
- B. All LECs will use central office codes with rate centers matching the incumbent LEC's rate centers.
- C. All LECs shall be assigned the necessary central office codes for rate purposes.
- D. Until a central office code administrator is designated by the Federal Communications Commission to replace US West Communications, Inc., central office codes will be assigned to LECs, at no charge, in accordance with the industry's central office code assignment guidelines.

- E. No LEC may charge another LEC for changes to switch routing software necessitated by the creation, assignment, or reassignment of NPA or central office codes.

Historical Note

Adopted effective September 6, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-3).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1306. Access to Databases and other Network Functions

- A. All LECs, including new and incumbent LECs, are required to provide nondiscriminatory access to all necessary network functions, databases, and service components required to provide competitive local exchange services. These elements include, but are not limited to, directory assistance database listings, white page listings, yellow page listings, 800 LIDB and AIN databases, CMDS hosting, Busy Line Verification and Busy Line Interrupt operator services, distribution of telephone directories, inclusion of NELEC information in the Call Guide Section of the directory, and E-911.
- B. Access to additional network functions, databases, and service components may be required from time to time by order of the Commission. This provision does not preclude the incumbent LEC and NELECs from negotiating voluntary arrangements for access to additional network functions, databases, or service components so long as the contracts for the voluntary arrangements are filed with the Commission and such access is made available to all other NELECs, upon request, under non-discriminatory terms and conditions, including price.
- C. Incumbent LECs shall provide access that is at least equal in type, quality, and price to that provided to themselves, to any affiliate, from any affiliate, or to another incumbent LEC.
- D. LECs shall make available the call setup signaling resources and information necessary for setting up local and interexchange connections, including the use of signaling protocols used in the querying of data bases such as 800 and LIDB. LECs shall be prohibited from interfering with the transmission of signaling information between customers and network operators. LECs and NELECs shall have a duty to correct errors, support network management in a way that promotes network integrity, and prevent fraudulent use of a LEC's network.
- E. All LECs and NELECs shall cooperate in the development of a process to handle intercompany service ordering, provisioning, and billing, and, repair service referrals.

Historical Note

Adopted effective September 6, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-3).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1307. Unbundling

- A. Local exchange carriers with less than 200,000 access lines shall be exempt from the unbundling requirements in these

rules. Such exemption shall expire upon the receipt of a bona fide request from a certificated local exchange carrier for an unbundled facility, or if a carrier voluntarily chooses to offer unbundled services.

- B. The local exchange carrier's network facilities or services which are determined to be essential shall be provided on terms and under conditions that are equivalent to the terms and conditions under which a local exchange carrier provides such essential facilities or services to itself in the provision of the local exchange carrier's services. The pricing of essential facilities or services shall be pursuant to R14-2-1310 on pricing.
- C. The following local exchange carrier network capabilities are classified as essential facilities or services:
 1. Termination of local calls,
 2. Termination of long distance calls,
 3. Interconnection with E911 and 911 services,
 4. Access to numbering resources,
 5. Dedicated channel network access connections, and
 6. Unbundled loops.
- D. Incumbent local exchange carriers shall make essential facilities or services available for purchase and use pursuant to negotiated agreements or an approved statement of terms and conditions which shall be filed with the Commission.
- E. The following guidelines apply when a certificated telecommunications company makes a bona fide request of an incumbent local exchange carrier to unbundle any network facility or service capability not identified in subsection (C) or when a certificated telecommunications company makes a bona fide request to a NELEC that is the sole owner of essential facilities in the geographic area to unbundle any network facility or service capability. The request shall specify whether the network facility or service is considered by the requesting company to be essential.
 1. For the 12 months following the effective date of these rules, the local exchange carrier shall respond to any such request in writing within 120 days. Thereafter, the local exchange carrier shall respond to any such request in writing within 90 days.
 2. The response to an unbundling request shall clearly state whether the LEC or NELEC intends to provide the network facility or service on an unbundled basis and, if requested, whether it will be offered as an essential facility or service. If the LEC or NELEC does not intend to provide the requested network facility or service, the response shall state the basis for such refusal.
 3. If the local exchange carrier or NELEC agrees to provide the network facility or service on an unbundled basis, the facility or service shall be provided pursuant to negotiated agreements or an approved statement of terms and conditions which shall be filed with the Commission.
 4. If the local exchange carrier or NELEC asserts that unbundling the network facility or service is not technically feasible, notice to that effect shall be made to the requesting party and to the Commission.

Historical Note

Adopted effective September 6, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-3).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin

v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1308. Number Portability

- A. All local exchange carriers shall make local number portability available to facilitate the ability of a customer to switch between authorized local exchange carriers within a given wire center without changing their telephone number and without impairment of quality, functionality, reliability, or convenience of use. Implementation of local number portability or other forms of local number portability shall be based on a technically and economically feasible solution that meets the needs of Arizona consumers and carriers in a competitively neutral manner.
- B. An incumbent local exchange carrier serving less than 200,000 access lines will not be required to implement local number portability solutions absent the certification and commitment by a new entrant local exchange carrier to provide service on a facilities basis in the incumbent's service territory.
- C. Until such time as local number portability becomes available through database technology, local exchange carriers shall provide interim local number portability pursuant to negotiated agreements or an approved statement of terms and conditions, which shall be filed with the Commission, and shall in addition comply with such other or additional requirements as may be adopted by the Commission.
- D. All telecommunication providers who terminate traffic into an exchange, or exchanges, in which the local number portability database solution has been implemented shall utilize the database solution to ensure efficient and appropriate routing of traffic to Arizona customers.

Historical Note

Adopted effective September 6, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-3).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1309. Cost Methodology

TSLRIC is the cost standard to be employed by the incumbent local exchange carrier in conducting the cost studies that establish the underlying cost of local exchange carrier services including unbundled essential facilities and services.

Historical Note

Adopted effective September 6, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-3).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1310. Pricing

- A. Pricing of Basic Communication Services.
 1. The incumbent local exchange carrier shall provide the Commission with price floor calculations for local exchange and long distance services to ensure the avoidance of anti-competitive pricing practices. A NELEC can price below an incumbent LEC's TSLRIC price.

2. Whenever the incumbent local exchange carrier introduces a new local exchange service or long distance service, or proposes to change the rate for an existing local exchange service or long distance service, the local exchange carrier shall provide to the Commission information that demonstrates that the proposed rate equals or exceeds a price floor calculation for that service using an imputation test described in subsection (C).
- B. Pricing of Interconnection Services by Local Exchange Providers.**
1. Incumbent local exchange carriers shall establish the price of each interconnection service, including access to databases and other network functions as described in R14-2-1306, at a level equivalent to its TSLRIC-derived costs which may include an assignment of verifiable indirect costs or a 10% addition for indirect costs to the TSLRIC direct costs at the choice of the incumbent LEC.
 2. Interim number portability shall be provided by the incumbent local exchange carrier at a price equal to TSLRIC. Any compensation which would otherwise have been received had a local or EAS call to a forwarded number been terminated directly to a customer's chosen carrier, should be passed through from the carrier from whose network the forwarded number is assigned, to the customer's chosen carrier to whose network the number is forwarded.
- C. Imputation**
1. An incumbent local exchange carrier shall recover in the retail price of each telecommunications service offered by the company the TSLRIC of all nonessential, and the imputed prices of all essential services, facilities, components, functions, or capabilities that are utilized to provision such telecommunications service, whether such service is offered pursuant to tariff or private contract.
 2. Imputation requirements of this Section shall be applied in a manner that will permit a carrier providing a service to a customer that is or that becomes eligible for universal service support by order of the Commission to provide such retail service at a price that is net of any Commission-ordered universal service support funding, pursuant to the provisions of the Arizona Universal Service Fund rules.

Historical Note

Adopted effective September 6, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-3).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1311. Waivers

The Commission may consider variations or exemptions from the terms or requirements of any of the rules included herein (14 A.A.C. 2, Article 13) upon application of an affected party. The application must set forth the reasons why the public interest will be served by the variation or exemption from the Commission rules. Any variation or exemption granted shall require an order of the Commission. Where a conflict exists between these rules and an

approved tariff or order of the Commission, the provision of the approved tariff or order of the Commission shall apply.

Historical Note

Adopted effective September 6, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-3).

ARTICLE 14. EMERGENCY EXPIRED**R14-2-1401. Emergency Expired****Historical Note**

Emergency rule adopted effective December 22, 1995, effective for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-4). Emergency expired.

R14-2-1402. Emergency Expired**Historical Note**

Emergency rule adopted effective December 22, 1995, effective for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-4). Emergency expired.

R14-2-1403. Emergency Expired**Historical Note**

Emergency rule adopted effective December 22, 1995, effective for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-4). Emergency expired.

R14-2-1404. Emergency Expired**Historical Note**

Emergency rule adopted effective December 22, 1995, effective for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-4). Emergency expired.

R14-2-1405. Emergency Expired**Historical Note**

Emergency rule adopted effective December 22, 1995, effective for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-4). Emergency expired.

R14-2-1406. Emergency Expired**Historical Note**

Emergency rule adopted effective December 22, 1995, effective for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-4). Emergency expired.

R14-2-1407. Emergency Expired**Historical Note**

Emergency rule adopted effective December 22, 1995, effective for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Cor-

poration Commission (Supp. 95-4). Emergency expired.

R14-2-1408. Emergency Expired

Historical Note

Emergency rule adopted effective December 22, 1995, effective for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-4). Emergency expired.

R14-2-1409. Emergency Expired

Historical Note

Emergency rule adopted effective December 22, 1995, effective for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-4). Emergency expired.

Editor's Note: The Arizona Corporation Commission has determined that the following Article is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

ARTICLE 15. ARBITRATION AND MEDIATION

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1501. Application of Rules

These rules govern procedures mandated by the Telecommunications Act of 1996, 47 U.S.C. 252, regarding the mediation, arbitration, review, and approval of interconnection agreements.

Historical Note

Emergency rule adopted effective July 23, 1996, effective for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission; filed with the Office of the Secretary of State July 15, 1996 (Supp. 96-3). Emergency expired. Emergency rule adopted again effective January 17, 1997, for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 97-1). Emergency expired. New Section adopted effective August 27, 1997, under an exemption as determined by the Arizona Corporation Commission (Supp. 97-3).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1502. Definitions

- A. "Arbitration" means an alternative dispute resolution process in which the Arizona Corporation Commission decides the matter in dispute after the parties have had an opportunity to present their respective positions.
- B. "Arizona Corporation Commission" or "Commission" means the regulatory agency of the state of Arizona that has jurisdiction over public service corporations operating in Arizona.

- C. "Duty to Negotiate in Good Faith" means that parties meet and confer at reasonable times and places with minds open to persuasion and with an eye toward reaching agreement on mandatory subjects of bargaining.
- D. "Interconnection Agreement" means a formal agreement between any telecommunications carriers providing or intending to provide telecommunications services in Arizona, setting forth the particular terms and conditions under which interconnection and resale services, as appropriate, will be provided.
- E. "Mediation" means a voluntary alternative dispute resolution process in which a neutral third party assists the parties in reaching their own settlement. The mediator does not have the power to impose a resolution. The role of the mediator and the goal of the process is to help the parties achieve their own resolution.
- F. "Petition for arbitration" means the petition requesting arbitration of issues unresolved in the negotiation of an interconnection agreement.
- G. "Petitioner" means the party to the negotiation that files the petition for arbitration with the Commission.
- H. "Request for negotiation" means a formal request made by any telecommunications carrier providing or intending to provide telecommunications services in Arizona to another telecommunications carrier to negotiate an interconnection agreement.
- I. "Respondent" or "responding party" means the nonpetitioning party to the request for arbitration.

Historical Note

Emergency rule adopted effective July 23, 1996, effective for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission; filed with the Office of the Secretary of State July 15, 1996 (Supp. 96-3). Emergency expired. Emergency rule adopted again effective January 17, 1997, for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 97-1). Emergency expired. New Section adopted effective August 27, 1997, under an exemption as determined by the Arizona Corporation Commission (Supp. 97-3).

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R14-2-1503. Negotiation

A telecommunications carrier initiating a request to negotiate shall notify the Commission when a request for negotiation has been made pursuant to 47 U.S.C. 252. The notification shall include the names of the negotiating parties and the date of the request. The notification shall be served on all parties to the negotiation.

Historical Note

Emergency rule adopted effective July 23, 1996, effective for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission; filed with the Office of the Secretary of State July 15, 1996 (Supp. 96-3). Emergency expired. Emergency rule adopted again effective January 17, 1997, for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 97-1). Emergency expired. New Section adopted effective August 27, 1997, under an exemption as determined by the Arizona Corporation Commission (Supp. 97-3).

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R14-2-1504. Mediation

- A.** Any party negotiating an agreement under 47 U.S.C. 252 may, at any point in the negotiation, ask the Commission to participate in the negotiation and to mediate any differences arising in the course of the negotiation.
- B.** If a party requests mediation by the Commission, a non-Hearing Division employee of the Commission will be appointed to act as mediator.
- C.** A request for mediation shall contain a brief statement of the nature of the dispute and the names, addresses, and telephone and telefax numbers of the parties or their representatives. Copies of the request shall be served on all parties to the negotiation.
- D.** The mediator shall have discretion to regulate the course of the mediation, including scheduling of mediation sessions, in consultation with the parties. The following general procedures apply:
 - 1. The mediator will not impose a settlement but can offer proposals for settlement;
 - 2. The mediator may meet individually with the parties or attorneys during mediation;
 - 3. Only the parties to the negotiation may attend the mediation session or sessions, unless all parties consent to the presence of others;
 - 4. Parties shall provide the mediator with a brief statement of position and relevant background information prior to the first mediation session. The mediator may ask for this information to be supplemented;
 - 5. The mediator will not provide legal advice to the parties, nor will any mediator's statements as to law or policy be binding on the Commission, unless later adopted by the Commission;
 - 6. The mediation process is confidential, to the extent permitted by law. No stenographic record will be kept.
- E.** All parties participating in a requested Commission mediation have a duty to negotiate in good faith. The mediator may terminate the mediation if it appears that the likelihood of agreement is remote or if a party is not participating in good faith, or for other good cause. Ordinarily, a mediation should not be terminated prior to the completion of at least one mediation session.

Historical Note

Emergency rule adopted effective July 23, 1996, effective for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission; filed with the Office of the Secretary of State July 15, 1996 (Supp. 96-3). Emergency expired. Emergency rule adopted again effective January 17, 1997, for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 97-1). Emergency expired. New Section adopted effective August 27, 1997, under an exemption as determined by the Arizona Corporation Commission (Supp. 97-3).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin

v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1505. Arbitration

- A.** Filing and Service of a Petition for Arbitration.
 - 1. During the period from the 135th to the 160th day (inclusive) after the date on which an incumbent local exchange carrier receives a request for negotiation under 47 U.S.C. 252(b)(1), any party to the negotiation may petition the Arizona Corporation Commission to arbitrate any open issues. The petition shall request arbitration of all issues which are unresolved at the time the petition is filed. Parties may continue to negotiate or otherwise resolve the disputed issues after arbitration is requested. The pendency of a mediation shall not bar a party from petitioning the Commission for arbitration.
 - 2. An original and 10 copies of a petition for arbitration shall be filed with the Commission. The petitioner shall deliver to the respondent a complete copy of the petition and all accompanying documentation on the same day that the petition is filed with the Commission.
- B.** Contents of Petition and Documentation.
 - 1. A petition for arbitration shall clearly set forth the date upon which the original request for negotiation was received and the dates 135 days, 160 days, and nine months thereafter.
 - 2. A petition for arbitration shall be accompanied by all relevant documentation concerning the unresolved issues, the position of each of the parties with respect to those issues, and any other issue discussed and resolved by the parties. Relevant documentation includes, but is not limited to, the following:
 - a. A brief or other written statement addressing the disputed issues. The brief should address, in addition to any other matters, how the parties' positions and any conditions requested meet or fail to meet the requirements of 47 U.S.C. 251; any applicable Federal Communication Commission regulations; and any applicable regulation, order, or policy of this Commission.
 - b. Where prices are in dispute, the petitioner shall submit its proposed rates or charges and related supporting materials.
 - c. Any conditions which petitioner requests be imposed.
 - d. A proposed schedule for implementation of the terms and conditions of the agreement.
 - e. The petition may include a recommendation as to any information which should be requested from the parties by the arbitrator pursuant to 47 U.S.C. 252(b)(4)(B). The recommendation should state why the information is necessary for the arbitrator to reach a decision on the unresolved issues.
 - f. A proposed interconnection agreement.
 - g. Any other documents relevant to the dispute, including copies of all documents in their possession or control on which they rely in support of their positions or which they intend to present at the arbitration.
- C.** Opportunity to Respond. The respondent may respond to the petition for arbitration within 25 days of the filing of the petition. The respondent shall respond to all the specific issues raised in the petition for arbitration.
- D.** Confidentiality. Petitions, responses, accompanying material, and any documents provided to the Commission pursuant to a request under 47 U.S.C. 252(b)(4)(B) may be subject to the

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Arizona public disclosure law. However, a petition or response may include a request for issuance of a protective order.

E. Discovery.

1. Parties must cooperate in good faith in the voluntary, prompt, and informal exchange of all documents and other information relevant to the disputed issues, subject to claims of privilege or confidentiality. Parties must exchange copies of all documents relevant to the dispute, including those on which they rely in support of their position or which they intend to present at the arbitration.
2. At the time of filing of a petition for arbitration, or a response, the petitioner may file discovery requests on the responding party, with an information copy provided to the arbitrator.
3. Discovery requests not responded to may be submitted to the arbitrator, with a request that the arbitrator order the discovery, pursuant to 47 U.S.C. 252(b)(4)(B). The request should include an explanation of why the information is necessary to reach a decision on the unresolved issues.
4. Failure to cooperate in discovery may be considered as a failure to negotiate in good faith.

F. Appointment and Authority of Arbitrator.

1. Arbitrations will be conducted by Commission Hearing Officers.
2. The arbitrator will exercise all authority necessary to conduct the arbitration, subject to the provisions of these rules.
3. The arbitrator may, in the arbitrator's discretion and to the extent practical, consolidate proceedings under 47 U.S.C. 252 in order to reduce administrative burdens on telecommunications carriers, other parties to the proceedings, and the Commission.
4. The arbitrator may request the assistance of members of the Commission staff in reviewing the petition and accompanying materials, to the extent such staff members have not acted as mediator with respect to the same interconnection agreement between the same parties.
5. The arbitrator will be authorized to recommend to the Commission a resolution of the disputed issues and any appropriate conditions to be imposed in the form of a Recommended Opinion and Order. The Commission will issue a final decision not later than nine months after the date on which the local exchange carrier received the request to negotiate.

G. Arbitration Proceeding. Arbitration allows an opportunity for parties to present their positions. However, arbitration does not require sworn testimony or cross-examination of witnesses. Arbitration proceedings will be conducted pursuant to procedures established by the Hearing Officer.

H. Fees and Costs. Each party shall be responsible for bearing its own fees and costs.

I. Any person wishing to comment on the Recommended Opinion and Order may do so by filing written comments with the Commission prior to the Commission's final decision.

Historical Note

Emergency rule adopted effective July 23, 1996, effective for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission; filed with the Office of the Secretary of State July 15, 1996 (Supp. 96-3). Emergency expired.

Emergency rule adopted again effective January 17, 1997, for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 97-1). Emergency expired. New Section adopted effective August 27,

1997, under an exemption as determined by the Arizona Corporation Commission (Supp. 97-3).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1506. Filing and Service of Request for Approval of Interconnection Agreement

- A.** An interconnection agreement shall be submitted to the Commission for approval under 47 U.S.C. 252(e) within 30 calendar days of the issuance of the Commission's final decision on the petition for arbitration, in the case of arbitrated agreements, or, in the case of negotiated agreements, within 30 calendar days of the execution of the agreement. The 30-day deadline may be extended by the Commission for good cause.
- B.** An original and 10 copies of requests for approval shall be filed with the Docket Control section of the Commission. Any party to the agreement may submit a request for approval. Unless filed jointly by all parties, the request for approval and any accompanying materials should be served on the other signatories on the day of the filing.
- C.** A request for approval shall include the documentation set out in this subsection. The materials can be filed jointly or separately by the parties to the agreement but should all be filed by the 30-day deadline set out in subsection (A).
 1. Negotiated Agreements. The following documentation must be filed:
 - a. A complete copy of the signed agreement, including any attachments or appendices.
 - b. A brief or memorandum summarizing the main provisions of the agreement, setting forth the party's position as to why the agreement should be adopted, including a statement as to why the agreement does not discriminate against nonparty telecommunications carriers, is consistent with the public interest, convenience, and necessity, and is consistent with applicable state law requirements.
 2. Arbitrated Agreements. The following documentation must be filed:
 - a. A complete copy of the signed agreement, including any attachments or appendices.
 - b. A brief or memorandum summarizing the main provisions of the agreement, setting forth the party's position as to why the agreement should or should not be adopted, in whole or in part, and a statement explaining how the agreement, in whole or in part, meets or does not meet each of the applicable specific requirements of 47 U.S.C. 251, including any applicable Federal Communications Commission regulations.
 - c. Complete and specific information to enable the Commission to make the determinations required by 47 U.S.C. 252(d).
 - d. A party may file a statement with the signed interconnection agreement, indicating that it has executed the agreement under protest and does not waive its right to appeal specified provisions of the agreement that were mandated by Order of the Commission.
 3. Combination Agreements (Arbitrated/Negotiated). Any agreement containing both arbitrated and negotiated provisions shall include the foregoing materials as appropriate, depending on whether a provision is negotiated or

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arbitrated. The memorandum should clearly identify which provisions were negotiated and which were arbitrated.

- D. Any filing not containing the required materials will be rejected and must be refiled when complete. The statutory timelines will not begin to run until a request has been properly filed.
- E. Agreements containing both arbitrated and negotiated provisions will be subject to the 30-day deadline specified in 47 U.S.C. 252(e)(4).

Historical Note

Emergency rule adopted effective July 23, 1996, effective for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission; filed with the Office of the Secretary of State July 15, 1996 (Supp. 96-3). Emergency expired. Emergency rule adopted again effective January 17, 1997, for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 97-1). Emergency expired. New Section adopted effective August 27, 1997, under an exemption as determined by the Arizona Corporation Commission (Supp. 97-3).

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R14-2-1507. Approval Procedure

- A. Unless otherwise ordered by the Commission, a hearing will not be held for a request for approval of an interconnection agreement.
- B. The Commission will enter an order approving or rejecting the interconnection agreement within 30 days of request for approval of arbitrated agreements and agreements containing both arbitrated and negotiated provisions, or within 90 days of request for approval of negotiated agreements, with written findings as to any deficiencies.

Historical Note

Emergency rule adopted effective July 23, 1996, effective for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission; filed with the Office of the Secretary of State July 15, 1996 (Supp. 96-3). Emergency expired. Emergency rule adopted again effective January 17, 1997, for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 97-1). Emergency expired. New Section adopted effective August 27, 1997, under an exemption as determined by the Arizona Corporation Commission (Supp. 97-3).

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R14-2-1508. Amendments

Any amendments to an interconnection agreement shall be filed with the Commission and, if not rejected by the Commission within 30 days of filing, such amended agreements will become effective.

1. For negotiated amendments, including amendments resolved by Commission or private mediation, Commission rejection shall be limited to discrimination against nonparty telecommunications carriers, lack of consistency with the public interest, convenience, and necessity, or lack of consistency with applicable state law requirements.
2. For amendments resolved through arbitration, whether by the Commission or private arbitrator, Commission rejection shall be limited to failure to meet any of the applicable specific requirements of 47 U.S.C. 251, including any applicable Federal Communications Commission regulations.

Historical Note

Adopted effective August 27, 1997, under an exemption as determined by the Arizona Corporation Commission (Supp. 97-3).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1509. Replacement or Subsequent Interconnection Agreements

Replacement or subsequent interconnection agreements are subject to the provisions of this Article.

Historical Note

Adopted effective August 27, 1997, under an exemption as determined by the Arizona Corporation Commission (Supp. 97-3).

ARTICLE 16. RETAIL ELECTRIC COMPETITION

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1601. Definitions

In this Article, unless the context otherwise requires:

1. "Affected Utilities" means the following public service corporations providing electric service:
Tucson Electric Power Company, Arizona Public Service Company, Citizens Utilities Company, Arizona Electric Power Cooperative, Trico Electric Cooperative, Duncan Valley Electric Cooperative, Graham County Electric Cooperative, Mohave Electric Cooperative, Sulphur Springs Valley Electric Cooperative, Navopache Electric Cooperative, Ajo Improvement Company, and Morenci Water and Electric Company.
2. "Aggregation" means the combination and consolidation of loads of multiple customers.
3. "Aggregator" means an Electric Service Provider that, as part of its business, combines retail electric customers into a purchasing group.
4. "Ancillary Services" means those services designated as ancillary services in Federal Energy Regulatory Commission Order 888, including the services necessary to support the transmission of electricity from resource to load while maintaining reliable operation of the transmission system in accordance with good utility practice.

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5. "Bundled Service" means electric service provided as a package to the consumer including all generation, transmission, distribution, ancillary and other services necessary to deliver and measure useful electric energy and power to consumers.
6. "Competition Transition Charge" (CTC) is a means of recovering Stranded Costs.
7. "Competitive Services" means all aspects of retail electric service except those services specifically defined as "Noncompetitive Services" pursuant to R14-2-1601(29) or noncompetitive services as defined by the Federal Energy Regulatory Commission.
8. "Consumer Education" is the provision of impartial information to consumers about competition or Competitive and Noncompetitive Services and is distinct from advertising and marketing.
9. "Control Area Operator" is the operator of an electric system or systems, bounded by interconnection metering and telemetry, capable of controlling generation to maintain its interchange schedule with other such systems and contributing to frequency regulation of the interconnection.
10. "Current Transformer" (CT) is an electrical device used in conjunction with an electric meter to provide a measurement of energy consumption for metering purposes.
11. "Delinquent Accounts" means customer accounts with outstanding past-due payment obligations that remain unpaid after the due date.
12. "Direct Access Service Request" (DASR) means a form that contains all necessary billing and metering information to allow customers to switch electric service providers. This form must be submitted to the Utility Distribution Company by the customer's Electric Service Provider.
13. "Distribution Primary Voltage" is voltage as defined under the Affected Utility's Federal Energy Regulatory Commission (FERC) Open Access Transmission Tariff, except for Meter Service Providers, for which Distribution Primary Voltage is voltage at or above 600 volts (600V) through and including 25 kilovolts (25 kV).
14. "Distribution Service" means the delivery of electricity to a retail consumer through wires, transformers, and other devices that are not classified as transmission services subject to the jurisdiction of the Federal Energy Regulatory Commission; Distribution Service excludes Metering Services, Meter Reading Services, and billing and collection services, as those terms are used herein.
15. "Electric Service Provider" (ESP) means a company supplying, marketing, or brokering at retail any Competitive Services pursuant to a Certificate of Convenience and Necessity.
16. "Electric Service Provider Service Acquisition Agreement" or "Service Acquisition Agreement" means a contract between an Electric Service Provider and a Utility Distribution Company to deliver power to retail end users or between an Electric Service Provider and a Scheduling Coordinator to schedule transmission service.
17. "Electronic Data Interchange" (EDI) is the computer-to-computer electronic exchange of business documents using standard formats which are recognized both nationally and internationally.
18. "Generation" means the production of electric power or contract rights to the receipt of wholesale electric power.
19. "Green Pricing" means a program offered by an Electric Service Provider where customers elect to pay a rate premium for renewable generated electricity.
20. "Independent Scheduling Administrator" (ISA) is an entity, independent of transmission-owning organizations, intended to facilitate nondiscriminatory retail direct access using the transmission system in Arizona.
21. "Independent System Operator" (ISO) is an independent organization whose objective is to provide nondiscriminatory and open transmission access to the interconnected transmission grid under its jurisdiction, in accordance with the Federal Energy Regulatory Commission principles of independent system operation.
22. "Load Profiling" is a process of estimating a customer's hourly energy consumption based on measurements of similar customers.
23. "Load-Serving Entity" means an Electric Service Provider, Affected Utility, or Utility Distribution Company, excluding a Meter Service Provider, and Meter Reading Service Provider.
24. "Meter Reading Service" means all functions related to the collection and storage of consumption data.
25. "Meter Reading Service Provider" (MRSP) means an entity providing Meter Reading Service, as that term is defined herein and that reads meters, performs validation, editing, and estimation on raw meter data to create billing-ready meter data; translates billing-ready data to an approved format; posts this data to a server for retrieval by billing agents; manages the server; exchanges data with market participants; and stores meter data for problem resolution.
26. "Meter Service Provider" (MSP) means an entity providing Metering Service, as that term is defined herein.
27. "Metering and Metering Service" means all functions related to measuring electricity consumption.
28. "Must-Run Generating Units" are those local generating units that are required to run to maintain distribution system reliability and to meet load requirements in times of congestion on certain portions of the interconnected transmission grid.
29. "Net Metering" or "Net Billing" is a method by which customers can use electricity from customer-sited solar electric generators to offset electricity purchased from an Electric Service Provider. The customer only pays for the "Net" electricity purchased.
30. "Noncompetitive Services" means Distribution Service, Standard Offer Service, transmission, and any ancillary services deemed to be non-competitive by the Federal Energy Regulatory Commission, Must-Run Generating Units services, provision of customer demand and energy data by an Affected Utility or Utility Distribution Company to Electric Service Providers, and those aspects of Metering Service set forth in R14-2-1612(K).
31. "OASIS" is Open Access Same-Time Information System, which is an electronic bulletin board where transmission-related information is posted for all interested parties to access via the Internet to enable parties to engage in transmission transactions.
32. "Operating Reserve" means the generation capability above firm system demand used to provide for regulation, load forecasting error, equipment forced and scheduled outages, and local area protection to provide system reliability.
33. "Potential Transformer (PT)/Voltage Transformer (VT)" is an electrical device used to step down primary voltages to 120V for metering purposes.
34. "Provider of Last Resort" means a provider of Standard Offer Service to customers within the provider's certifi-

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- cated area whose annual usage is 100,000 kWh or less and who are not buying Competitive Services.
35. "Public Power Entity" incorporates by reference the definition set forth in A.R.S. § 30-801.16.
 36. "Retail Electric Customer" means the person or entity in whose name service is rendered.
 37. "Scheduling Coordinator" means an entity that provides schedules for power transactions over transmission or distribution systems to the party responsible for the operation and control of the transmission grid, such as a Control Area Operator, Arizona Independent Scheduling Administrator, or Independent System Operator.
 38. "Self-Aggregation" is the action of a retail electric customer that combines its own metered loads into a single purchase block.
 39. "Standard Offer Service" means Bundled Service offered by the Affected Utility or Utility Distribution Company to all consumers in the Affected Utility's or Utility Distribution Company's service territory at regulated rates including metering, meter reading, billing and collection services, demand side management services including but not limited to time-of-use, and consumer information services. All components of Standard Offer Service shall be deemed noncompetitive as long as those components are provided in a bundled transaction under R14-2-1606(A).
 40. "Stranded Cost" includes:
 - a. The verifiable net difference between:
 - i. The net original cost of all the prudent jurisdictional assets and obligations necessary to furnish electricity (such as generating plants, purchased power contracts, fuel contracts, and regulatory assets), acquired or entered into prior to December 26, 1996, under traditional regulation of Affected Utilities; and
 - ii. The market value of those assets and obligations directly attributable to the introduction of competition under this Article;
 - b. Reasonable costs necessarily incurred by an Affected Utility to effectuate divestiture of its generation assets;
 - c. Reasonable employee severance and retraining costs necessitated by electric competition, where not otherwise provided; and
 - d. Other transition and restructuring costs as approved by the Commission as part of the Affected Utility's Stranded Cost determination under R14-2-1607.
 41. "System Benefits" means Commission-approved utility low income, demand side management, Consumer Education, environmental, renewables, long-term public benefit research and development, and nuclear fuel disposal and nuclear power plant decommissioning programs, and other programs that may be approved by the Commission from time to time.
 42. "Transmission Primary Voltage" is voltage above 25 kV as it relates to metering transformers.
 43. "Transmission Service" refers to the transmission of electricity to retail electric customers or to electric distribution facilities and that is so classified by the Federal Energy Regulatory Commission or, to the extent permitted by law, so classified by the Arizona Corporation Commission.
 44. "Unbundled Service" means electric service elements provided and priced separately, including, but not limited to, such service elements as generation, transmission, distribution, Must Run Generation, metering, meter reading, billing and collection, and ancillary services. Unbundled

Service may be sold to consumers or to other Electric Service Providers.

45. "Universal Node Identifier" is a unique, permanent, identification number assigned to each service delivery point.
46. "Utility Distribution Company" (UDC) means the electric utility entity regulated by the Commission that operates, constructs, and maintains the distribution system for the delivery of power to the end user point of delivery on the distribution system.
47. "Utility Industry Group" (UIG) refers to a utility industry association that establishes national standards for data formats.

Historical Note

Adopted effective December 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-4). Amended by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency amendment replaced by exempt permanent amendment effective December 31, 1998 (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 3933, effective September 24, 1999 (Supp. 99-3). Amended by exempt rulemaking at 6 A.A.R. 4180, effective October 13, 2000 (Supp. 00-4). Amended by exempt rulemaking at 7 A.A.R. 1661, effective March 30, 2001 (Supp. 01-1).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1602. Commencement of Competition

- A. An Affected Utility's customers will be eligible for competitive electric services, subject to the phase-in schedule in R14-2-1604, on the date set by Commission Order in each Affected Utility's Stranded Cost and Unbundled Tariff proceeding.
- B. An Affected Utility's competitive electric affiliates or an affiliate of which it is a member shall not be permitted to offer Competitive Services in any other Affected Utility's service territory until the Commission has ordered the service area of the potential competitor's affiliated Affected Utility opened to competition.

Historical Note

Adopted effective December 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-4). Section repealed; new Section adopted by exempt rulemaking at 5 A.A.R. 3933, effective September 24, 1999 (Supp. 99-3).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1603. Certificates of Convenience and Necessity

- A. Any Electric Service Provider intending to supply Competitive Services shall obtain a Certificate of Convenience and Necessity from the Commission pursuant to this Article. An Affected Utility need not apply for a Certificate of Convenience and Necessity to continue to provide electric service in its service area during the transition period set forth in R14-2-1604. A Utility Distribution Company providing Standard

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Offer Service, or services authorized in R14-2-1615, after January 1, 2001, need not apply for a Certificate of Convenience and Necessity. All other Affected Utility affiliates created in compliance with R14-2-1615(A) shall be required to apply for appropriate Certificates of Convenience and Necessity.

- B.** Any company desiring such a Certificate of Convenience and Necessity shall file with the Docket Control Center the required number of copies of an application. In support of the request for a Certificate of Convenience and Necessity, the following information must be provided:

1. A description of the electric services that the applicant intends to offer;
2. The proper name and correct address of the applicant, and
 - a. The full name of the owner if a sole proprietorship,
 - b. The full name of each partner if a partnership,
 - c. A full list of officers and directors if a corporation, or
 - d. A full list of the members if a limited liability corporation;
3. A tariff for each service to be provided that states the maximum rate and terms and conditions that will apply to the provision of the service;
4. A description of the applicant's technical ability to obtain and deliver electricity if appropriate and to provide any other proposed services;
5. Documentation of the financial capability of the applicant to provide the proposed services, including the most recent income statement and balance sheet, the most recent projected income statement, and other pertinent financial information. Audited information shall be provided if available;
6. A description of the form of ownership (for example, partnership, corporation);
7. For an applicant that is an affiliate of an Affected Utility, a statement of whether the Affected Utility has complied with the requirements of R14-2-1616, including the Commission Decision approving the Code of Conduct, where applicable; and
8. Such other information as the Commission or the staff may request.

- C.** The applicant shall report in a timely manner during the application process any changes in the information initially reported to the Commission in the application for a Certificate of Convenience and Necessity.

- D.** The applicant shall provide public notice of the application as required by the Commission.

- E.** At the time of filing for a Certificate of Convenience and Necessity, each applicant shall notify the Affected Utilities, Utility Distribution Companies, or an electric utility not subject to the jurisdiction of the Arizona Corporation Commission in whose service territories it wishes to offer service of the application by providing a copy of the application to the Affected Utilities, Utility Distribution Companies, or an electric utility not subject to the jurisdiction of the Arizona Corporation Commission. The attachment to the CC&N application should include a listing of the names and addresses of the notified Affected Utilities, Utility Distribution Companies or an electric utility not subject to the jurisdiction of the Arizona Corporation Commission.

- F.** The Commission may issue a Certificate of Convenience and Necessity that is effective for a specified period of time if the

applicant has limited or no experience in providing the retail electric service that is being requested. An applicant receiving such approval shall have the responsibility to apply for appropriate extensions.

- G.** The Commission may deny certification to any applicant who:
1. Does not provide the information required by this Article;
 2. Does not possess adequate technical or financial capabilities to provide the proposed services;
 3. Seeks certification as a Load-Serving Entity and does not have an Electric Service Provider Service Acquisition Agreement with a Utility Distribution Company and Scheduling Coordinator, if the applicant is not its own Scheduling Coordinator;
 4. Fails to provide a performance bond, if required;
 5. Fails to demonstrate that its certification will serve the public interest;
 6. Seeks certification as a Load-Serving Entity and fails to submit an executed Service Acquisition Agreement with a Utility Distribution Company or a Scheduling Coordinator for approval by the Director, Utilities Division, prior to the offering of service to potential customers. Agreements are to be filed with the Compliance Section, Utilities Division.

- H.** A Request for approval of an executed Service Acquisition Agreement may be included with an application for a Certificate of Convenience and Necessity. In all negotiations relative to Service Acquisition Agreements, Affected Utilities or their successor entities are required to negotiate in good faith.

- I.** Every Electric Service Provider obtaining a Certificate of Convenience and Necessity under this Article shall obtain certification subject to the following conditions:

1. The Electric Service Provider shall comply with all Commission rules, orders, and other requirements relevant to the provision of electric service;
2. The Electric Service Provider shall maintain accounts and records as required by the Commission;
3. The Electric Service Provider shall file with the Director, Utilities Division, through the Compliance Section, all financial and other reports that the Commission may require and in a form and at such times as the Commission may designate;
4. The Electric Service Provider shall maintain on file with the Commission all current tariffs and any service standards that the Commission shall require;
5. The Electric Service Provider shall cooperate with any Commission investigation of customer complaints;
6. The Electric Service Provider shall obtain all necessary permits and licenses, including relevant tax licenses;
7. The Electric Service Provider shall comply with all disclosure requirements pursuant to R14-2-1617;
8. Failure to comply with any of the above conditions may result in rescission of the Electric Service Provider's Certificate of Convenience and Necessity.

- J.** In appropriate circumstances, the Commission may require, as a precondition to certification, the procurement of a performance bond sufficient to cover any advances or deposits the applicant may collect from its customers, or order that such advances or deposits be held in escrow or trust.

- K.** Time-frames for processing applications for Certificates of Convenience and Necessity

1. This rule prescribes time-frames for the processing of any application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.

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2. Within 120 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.
3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.
4. After receipt of a corrected application, staff shall notify the applicant within 90 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.
5. Within 180 calendar days after an application is deemed administratively complete, the Commission shall approve or reject the application.
6. For purposes of A.R.S. § 41-1072, et seq., the Commission has established the following time-frames:
 - a. Administrative completeness review time-frame: 120 calendar days;
 - b. Substantive review time-frame: 180 calendar days;
 - c. Overall time-frame: 300 calendar days.
7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.
8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.

Historical Note

Adopted effective December 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-4). Amended by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency amendment replaced by exempt permanent amendment effective December 31, 1998 (Supp. 98-4). Amended effective December 31, 1998, under an exemption as determined by the Arizona Corporation Commission (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 3933, effective September 24, 1999 (Supp. 99-3). Amended by exempt rulemaking at 6 A.A.R. 4180, effective October 13, 2000 (Supp. 00-4).

Editor's Note: *The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).*

R14-2-1604. Competitive Phases

- A. At the date established under R14-2-1602(A), each Affected Utility shall make available at least 20% of its 1995 system retail peak demand for competitive generation supply on a first-come, first-served basis as further described in this rule. First-come, first-served, for the purpose of this rule, shall be determined for nonresidential customers by the date and time of an Electric Service Provider's filing of a Direct Access Service Request with the Affected Utility or Utility Distribution Company. The effective date of the Direct Access Service

Request must be within 60 days of the filing date of the Direct Access Service Request. Residential customer selection will be determined under approved residential phase-in programs as specified in subsection (B)(4).

1. All Affected Utility customers with single premise non-coincident peak demand load of 1 MW or greater will be eligible for competitive electric services upon the commencement of competition. Customers meeting this requirement shall be eligible for competitive services until at least 20% of the Affected Utility's 1995 system peak demand is served by competition.
 2. Any class of customer may aggregate into a minimum combined load of 1 MW or greater within an Affected Utility's service territory and be eligible for competitive electric services. From the commencement of competition under R14-2-1602 through December 31, 2000, aggregation of new competitive customers will be allowed until such time as at least 20% of the Affected Utility's 1995 peak demand is served by competitors.
 3. Affected Utilities shall notify customers eligible under this subsection of the terms of the subsection no later than 60 days prior to the start of competition within its service territory.
 4. Effective January 1, 2001, all Affected Utility customers irrespective of size will be eligible for Aggregation and Self-Aggregation. Aggregation and Self-Aggregation customers purchasing their electricity and related services at any time after the effective date of these rules must do so from a certificated Electric Provider as provided for in these rules.
- B.** As part of the minimum 20% of 1995 system peak demand set forth in subsection (A), each Affected Utility shall reserve a residential phase-in program that provides an increasing minimum percentage of residential customers with access to competitive electric services according to the following schedule:
1.

January 1, 1999	1 1/4%
April 1, 1999	2 1/2%
July 1, 1999	3 3/4%
October 1, 1999	5%
January 1, 2000	6 1/4%
April 1, 2000	7 1/2%
July 1, 2000	8 3/4%
October 1, 2000	10%
 2. Access to the residential phase-in program will be on a first-come, first-served basis. The Affected Utility shall create and maintain a waiting list to manage the residential phase-in program, which list shall promptly be made available to any certificated Load-Serving Electric Service Provider upon request.
 3. Residential customers participating in the residential phase-in program shall be permitted to use load profiling to satisfy the requirements for hourly consumption data; however, they may choose other metering options offered by their Electric Service Provider consistent with the Commission's rules on metering.
 4. If not already done, each Affected Utility shall file a residential phase-in program proposal to the Commission, through Docket Control, for approval by Director, Utilities Division, by September 15, 1999. Interested parties will have until September 30, 1999, to comment on any proposal. At a minimum, the residential phase-in program proposal will include specifics concerning the Affected Utility's proposed:
 - a. Process for customer notification of residential phase-in program;

- b. Selection and tracking mechanism for customers based on first-come, first-served method;
 - c. Customer notification process and other education and information services to be offered;
 - d. Load Profiling methodology and actual load profiles, if available; and
 - e. Method for calculation of reserved load.
5. After the commencement of competition under R14-2-1602, each Affected Utility shall file quarterly residential phase-in program reports with the Compliance Section, Utilities Division, within 45 days of the end of each quarter. The first such report shall be due within 45 days of the first quarter ending after the start of the phase-in of competition for that Affected Utility. The final report due under this rule shall be due within 45 days of the quarter ending December 31, 2002. As a minimum, these quarterly reports shall include:
- a. The number of customers and the load currently enrolled in residential phase-in program by Energy Service Provider,
 - b. The number of customers currently on the waiting list,
 - c. A description and examples of all customer education programs and other information services including the goals of the education program and a discussion of the effectiveness of the programs, and
 - d. An overview of comments and survey results from participating residential customers.
6. Aggregation or Self-Aggregation of residential customers is allowed subject to the limitations of the phase-in percentages in this rule.
- C. Each Affected Utility shall file a report by November 1, 1999, detailing possible mechanisms to provide benefits, including rate reductions of 3% - 5%, to all Standard Offer customers.
- D. All customers shall be eligible to obtain competitive electric services no later than January 1, 2001.
- E. Retail consumers served under existing contracts are eligible to participate in the competitive market prior to expiration of the existing contract only if the Affected Utility and the consumer agree that the retail consumer may participate in the competitive market.
- F. Schedule Modifications for Cooperatives
- 1. An electric cooperative may request that the Commission modify the schedule described in subsections (A) through (E) so as to preserve the tax-exempt status of the cooperative or to allow time to modify contractual arrangements pertaining to delivery of power supplies and associated loans.
 - 2. As part of the request, the cooperative shall propose methods to enhance consumer choice among generation resources.
 - 3. The Commission shall consider whether the benefits of modifying the schedule exceed the costs of modifying the schedule.

Historical Note

Adopted effective December 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-4). Amended by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency amendment replaced by exempt permanent amendment effective December 31, 1998 (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 3933, effective September 24, 1999 (Supp. 99-3). Amended by exempt rulemaking at 6 A.A.R. 4180, effective October 13, 2000 (Supp. 00-4).

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R14-2-1605. Competitive Services

Except as provided in R14-2-1615(C), Competitive Services shall require a Certificate of Convenience and Necessity and a tariff as described in R14-2-1603. A properly certificated Electric Service Provider may offer Competitive Services under bilateral or multi-lateral contracts with retail consumers.

Historical Note

Adopted effective December 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-4). Amended by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency amendment replaced by exempt permanent amendment effective December 31, 1998 (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 3933, effective September 24, 1999 (Supp. 99-3).

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R14-2-1606. Services Required to be Made Available

- A. On the date its service area is open to competition under R14-2-1602, each Affected Utility or Utility Distribution Company shall make available Standard Offer Service and Noncompetitive Services at regulated rates. After January 1, 2001, Standard Offer Service and Noncompetitive Services shall be provided by Utility Distribution Companies who shall also act as Providers of Last Resort.
- B. After January 1, 2001, power purchased by an investor owned Utility Distribution Company for Standard Offer Service shall be acquired from the competitive market through prudent, arm's length transactions, and with at least 50% through a competitive bid process.
- C. Standard Offer Tariffs
 - 1. By July 1, 1999, or pursuant to Commission Order, whichever occurs first, each Affected Utility shall file proposed tariffs to provide Standard Offer Service. Such rates shall not become effective until approved by the Commission. Any rate increase proposed by an Affected Utility or Utility Distribution Company for Standard Offer Service must be fully justified through a rate case proceeding.
 - 2. Standard Offer Service tariffs shall include the following elements, each of which shall be clearly unbundled and identified in the filed tariffs:
 - a. Competitive Services:
 - i. Generation, which shall include all transaction costs and line losses;
 - ii. Competition Transition Charge, which shall include recovery of generation related regulatory assets;
 - iii. Generation-related billing and collection;
 - iv. Transmission Services;
 - v. Metering Services;
 - vi. Meter Reading Services; and

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- vii. Optional Ancillary Services, which shall include spinning reserve service, supplemental reserve, regulation and frequency response service, and energy imbalance service.
 - b. Non-Competitive Services:
 - i. Distribution services;
 - ii. Required Ancillary services, which shall include scheduling, system control and dispatch service, and reactive supply and voltage control from generation sources service;
 - iii. Must-Run Generating Units;
 - iv. System Benefit Charges; and
 - v. Distribution-related billing and collection.
- 3. Affected Utilities and Utility Distribution Companies may file proposed revisions to such rates with the Commission through Docket Control. Any rate increase proposed by an Affected Utility or Utility Distribution Company for Standard Offer Service must be fully justified through a rate case proceeding, which may be expedited at the discretion of the Utilities Division Director.
- 4. Such rates shall reflect the costs of providing the service.
- 5. Consumers receiving Standard Offer Service are eligible for potential future rate reductions as authorized by the Commission.
- 6. After January 2, 2001, tariffs for Standard Offer Service shall not include any special discounts or contracts with terms, or any tariff that prevents the customer from accessing a competitive option, other than time-of-use rates, interruptible rates, or self-generation deferral rates.
- D. By the effective date of these rules, or pursuant to Commission Order, whichever occurs first, each Affected Utility or Utility Distribution Company shall file an Unbundled Service tariff that shall include a Noncompetitive Services tariff. The Unbundled Service tariff shall calculate the items listed in R14-2-1606(C)(2)(b) on the same basis as those items are calculated in the Standard Offer Service tariff.
- E. To manage its risks, an Affected Utility or Electric Service Provider may include in its tariffs deposit requirements and advance payment requirements for Unbundled Services.
- F. Affected Utilities and Utility Distribution Companies must accept power and energy delivered to their distribution systems by other Load-Serving Entities and offer distribution and distribution-related ancillary services comparable to services they provide to themselves at their Noncompetitive Services tariffed rates.
- G. Customer Data
 - 1. Upon written authorization by the customer, a Load-Serving Entity shall release in a timely and useful manner that customer's billing data, including consumption, demand, and power factor (if available), for the most recent 12-month period to a customer-specified properly certified Electric Service Provider.
 - 2. The Electric Service Provider requesting such customer data shall provide an accurate account number for the customer.
 - 3. The form of data shall be mutually agreed upon by the parties and such data shall not be unreasonably withheld.
 - 4. Utility Distribution Companies shall be allowed access to the Meter Reading Service Provider server for customers served by the Utility Distribution Company's distribution system.
- H. Rates for Unbundled Services
 - 1. The Commission shall review and approve rates for Competitive Services and Noncompetitive Services subject to Commission jurisdiction, before such services can be offered.
- 2. Such rates shall reflect the costs of providing the services.
- 3. Such rates may be downwardly flexible if approved by the Commission.
- I. Electric Service Providers offering Competitive Services under this R14-2-1606 shall provide adequate supporting documentation for their proposed rates. Where rates are approved by another jurisdiction, such as the Federal Energy Regulatory Commission, those rates shall be provided as part of the supporting documentation.

Historical Note

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R14-2-1607. Recovery of Stranded Cost of Affected Utilities

- A. The Affected Utilities shall take every reasonable, cost-effective measure to mitigate or offset Stranded Cost by reducing costs, expanding wholesale or retail markets, or offering a wider scope of permitted regulated utility services for profit, among others.
- B. The Commission shall allow a reasonable opportunity for recovery of unmitigated Stranded Cost by Affected Utilities.
- C. The Affected Utilities shall file estimates of unmitigated Stranded Cost on or before July 1, 1999, or pursuant to Commission Order, whichever occurs first. Such estimates shall be fully supported by analyses and by records of market transactions undertaken by willing buyers and willing sellers.
- D. An Affected Utility shall request Commission approval, on or before July 1, 1999, or pursuant to Commission Order, whichever occurs first, of distribution charges or other means of recovering unmitigated Stranded Cost. The filing may include a discounted stranded cost exit methodology that a consumer may choose to use to determine an amount due the Affected Utility in lieu of making monthly distribution charge or other payments.
- E. The Commission shall, after hearing and consideration of analyses and recommendations presented by the Affected Utilities, staff, and intervenors, determine for each Affected Utility the magnitude of Stranded Cost, and appropriate Stranded Cost recovery mechanisms and charges. In making its determination of mechanisms and charges, the Commission shall consider at least the following factors:
 - 1. The impact of Stranded Cost recovery on the effectiveness of competition;
 - 2. The impact of Stranded Cost recovery on customers of the Affected Utility who do not participate in the competitive market;
 - 3. The impact, if any, on the Affected Utility's ability to meet debt obligations;
 - 4. The impact of Stranded Cost recovery on prices paid by consumers who participate in the competitive market;

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5. The degree to which the Affected Utility has mitigated or offset Stranded Cost;
 6. The degree to which some assets have values in excess of their book values;
 7. Appropriate treatment of negative Stranded Cost;
 8. The time period over which such Stranded Cost charges may be recovered. The Commission shall limit the application of such charges to a specified time period;
 9. The applicability of Stranded Cost to interruptible customers.
- F.** A Competition Transition Charge (CTC) may be assessed on all retail customers based on the amount of generation purchased from any supplier. Any reduction in electricity purchases from an Affected Utility resulting from self-generation, demand side management, or other demand reduction attributable to any cause other than the retail access provisions of this Article shall not be used to calculate or recover any Stranded Cost from a consumer.
- G.** Stranded Cost shall be recovered from customer classes in a manner consistent with the specific company's current rate treatment of the stranded asset, in order to effect a recovery of Stranded Cost that is in substantially the same proportion as the recovery of similar costs from customers or customer classes under current rates. In no event shall the Competition Transition Charge be utilized as a mechanism for double recovery of Stranded Cost from Standard Offer Service customers.
- H.** The Commission may consider securitization as a financing method for recovery of Stranded Cost of the Affected Utility if the Commission finds that such method of financing will result in a lower cost alternative to customers.
- I.** The Commission may, after notice and hearing, order regular revisions to estimates of the magnitude of Stranded Cost.

Historical Note

Adopted effective December 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-4). Amended by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency amendment replaced by exempt permanent amendment effective December 31, 1998 (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 3933, effective September 24, 1999 (Supp. 99-3). Amended by exempt rulemaking at 6 A.A.R. 4180, effective October 13, 2000 (Supp. 00-4).

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R14-2-1608. System Benefits Charges

- A.** Each Affected Utility or Utility Distribution Company shall file for Commission review non-bypassable rates or related mechanisms to recover the applicable pro-rata costs of System Benefits from all consumers located in the Affected Utility's or Utility Distribution Company's service area. Affected Utilities or Utility Distribution Companies shall file for review of the Systems Benefits Charge at least every three years. The amount collected annually through the System Benefits charge shall be sufficient to fund the Affected Utilities' or Utility Distribution Companies' Commission-approved System Benefits. Filings shall be made with the Commission through Docket Control.

- B.** Each Affected Utility or Utility Distribution Company shall provide adequate supporting documentation for its proposed rates for System Benefits.
- C.** An Affected Utility or Utility Distribution Company shall recover the costs of System Benefits only upon hearing and approval by the Commission of the recovery charge and mechanism. The Commission may combine its review of System Benefits charges with its review of filings pursuant to R14-2-1606.

Historical Note

Adopted effective December 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-4). Amended by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency amendment replaced by exempt permanent amendment effective December 31, 1998 (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 3933, effective September 24, 1999 (Supp. 99-3). Amended by exempt rulemaking at 6 A.A.R. 4180, effective October 13, 2000 (Supp. 00-4).

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R14-2-1609. Transmission and Distribution Access

- A.** The Affected Utilities shall provide nondiscriminatory open access to transmission and distribution facilities to serve all customers. No preference or priority shall be given to any distribution customer based on whether the customer is purchasing power under the Affected Utility's Standard Offer or in the competitive market. Any transmission capacity that is reserved for use by the retail customers of the Affected Utility's Utility Distribution Company shall be allocated among Standard Offer customers and competitive market customers on a pro-rata basis.
- B.** Utility Distribution Companies shall retain the obligation to assure that adequate transmission import capability is available to meet the load requirements of all distribution customers within their service areas. Utility Distribution Companies shall retain the obligation to assure that adequate distribution system capacity is available to meet the load requirements of all distribution customers within their service areas.
- C.** The Commission supports the development of Federal Energy Regulatory Commission-approved Regional Transmission Organization (RTO), an Independent System Operator (ISO) or, absent a Regional Transmission Organization or an Independent System Operator, an Arizona Independent Scheduling Administrator (AISA). The Commission believes that such organizations are necessary in order to provide nondiscriminatory retail access and to facilitate a robust and efficient electricity market.
- D.** Affected Utilities that own or operate Arizona transmission facilities shall form an Arizona Independent Scheduling Administrator that shall file with the Federal Energy Regulatory Commission within 60 days of this Commission's adoption of final rules herein, for approval of an Independent Scheduling Administrator having the following characteristics:
1. The Arizona Independent Scheduling Administrator shall calculate Available Transmission Capacity (ATC) for Arizona transmission facilities that belong to the Affected Utilities or other Arizona Independent Scheduling

- Administrator participants and shall develop and operate an overarching statewide OASIS.
2. The Arizona Independent Scheduling Administrator shall implement and oversee the nondiscriminatory application of operating protocols to ensure statewide consistency for transmission access. These operating protocols shall include, but are not limited to, protocols for determining transmission system transfer capabilities, committed uses of the transmission system, available transfer capabilities, Must-Run Generating Units, energy scheduling, and energy imbalances.
 3. The Arizona Independent Scheduling Administrator shall provide dispute resolution processes that enable market participants to expeditiously resolve claims of discriminatory treatment in the reservation, scheduling, use, and curtailment of transmission services.
 4. All requests (wholesale, Standard Offer retail, and competitive retail) for reservation and scheduling of the use of Arizona transmission facilities that belong to the Affected Utilities or other Arizona Independent Scheduling Administrator participants shall be made to, or through, the Arizona Independent Scheduling Administrator using a single, standardized procedure.
 5. The Arizona Independent Scheduling Administrator shall implement a transmission planning process that includes all Arizona Independent Scheduling Administrator participants and aids in identifying the timing and key characteristics of required reinforcements to Arizona transmission facilities to assure that the future load requirements of all participants will be met.
- E.** If not previously filed, the Affected Utilities that own or operate Arizona transmission facilities shall file a proposed Arizona Independent Scheduling Administrator implementation plan with the Commission, through Docket Control, within 30 days of the Commission's adoption of final rules herein. The implementation plan shall address Arizona Independent Scheduling Administrator governance, incorporation, financing, and staffing; the acquisition of physical facilities and staff by the Arizona Independent Scheduling Administrator; the schedule for the phased development of Arizona Independent Scheduling Administrator functionality and proposed transition to a regional Independent System Operator or Regional Transmission Organization; contingency plans to ensure that critical functionality is in place no later than three months following adoption of final rules herein by the Commission; and any other significant issues related to the timely and successful implementation of the Arizona Independent Scheduling Administrator.
- F.** Each of the Affected Utilities shall make good faith efforts to develop a regional, multi-state Independent System Operator or Regional Transmission Organization, to which the Arizona Independent Scheduling Administrator should transfer its relevant assets and functions and characteristics as specified in R14-2-1609(D) as the Independent System Operator or Regional Transmission Organization becomes able to carry out those functions. Absent Federal Energy Regulatory Commission approval of an Arizona Independent Scheduling Administrator, the functions and characteristics as specified in R14-2-1609(D) will be assumed by the Independent System Operator or Regional Transmission Organization.
- G.** It is the intent of the Commission that prudently-incurred costs incurred by the Affected Utilities in the establishment and operation of the Arizona Independent Scheduling Administrator, and subsequently the Independent System Operator or Regional Transmission Organization, should be recovered from customers using the transmission system, including the Affected Utilities' wholesale customers, Standard Offer retail customers, and competitive retail customers on a nondiscriminatory basis through Federal Energy Regulatory Commission-regulated prices. Proposed rates for the recovery of such costs shall be filed with the Federal Energy Regulatory Commission and this Commission through Docket Control. In the event that the Federal Energy Regulatory Commission does not permit recovery of prudently incurred Independent Scheduling Administrator costs within 90 days of the date of making an application with the Federal Energy Regulatory Commission, the Commission may authorize Affected Utilities to recover such costs through a distribution surcharge.
- H.** The Commission supports the use of "Scheduling Coordinators" to provide aggregation of customers' schedules to the Independent Scheduling Administrator and the respective Control Area Operators simultaneously until the implementation of a regional Independent System Operator or Regional Transmission Organization, at which time the schedules will be submitted to the Independent System Operator or Regional Transmission Organization. The primary duties of Scheduling Coordinators are to:
1. Forecast their customers' load requirements;
 2. Submit balanced schedules (that is, schedules for which total generation is equal to total load of the Scheduling Coordinator's customers plus appropriate transmission and distribution line losses) and North American Electric Reliability Council/Western Systems Coordinating Council tags;
 3. Arrange for the acquisition of the necessary transmission and ancillary services;
 4. Respond to contingencies and curtailments as directed by the Control Area Operators, Arizona Independent Scheduling Administrator, or Independent System Operator or Regional Transmission Organization;
 5. Actively participate in the schedule checkout process and the settlement processes of the Control Area Operators, Arizona Independent Scheduling Administrator, or Independent System Operator or Regional Transmission Organization.
- I.** The Affected Utilities and Utility Distribution Companies shall provide services from the Must-Run Generating Units to Standard Offer Service retail customers and competitive retail customers on a comparable, nondiscriminatory basis at regulated prices. The Affected Utilities shall specify the obligations of the Must-Run Generating Units in appropriate sales contracts prior to any divestiture. Under auspices of the Arizona Independent Scheduling Administrator, the Affected Utilities and other stakeholders shall develop statewide protocols for pricing and availability of services from Must-Run Generating Units. These protocols shall be filed with Docket Control for Commission review and, when appropriate, approval, prior to being filed with the Federal Energy Regulatory Commission in conjunction with the Arizona Independent Scheduling Administrator tariff filing. Fixed Must-Run Generating Units costs are to be recovered through a regulated charge to end-use customers. This charge must be set by the Commission as part of the end-use customer distribution service charges.
- J.** The Affected Utilities and other stakeholders, under the auspices of the Arizona Independent Scheduling Administrator, shall identify statewide services to be settled on and develop fair and reasonable pricing mechanisms to assure a consistent and fair settlement process.

Historical Note

Adopted effective December 26, 1996, under an exemption as determined by the Arizona Corporation

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Commission (Supp. 96-4). Amended by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency amendment replaced by exempt permanent amendment effective December 31, 1998 (Supp. 98-4). Section repealed; new Section R14-2-1609 renumbered from R14-2-1610 and amended by exempt rulemaking at 5 A.A.R. 3933, effective September 24, 1999 (Supp. 99-3). Amended by exempt rulemaking at 6 A.A.R. 4180, effective October 13, 2000 (Supp. 00-4).

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R14-2-1610. In-state Reciprocity

- A. The service territories of Arizona electric utilities that are not Affected Utilities or Public Power Entities shall not be open to competition under the provisions of this Article, nor shall Arizona electric utilities which are not Affected Utilities be able to compete for sales in the service territories of the Affected Utilities.
- B. An Arizona electric utility, subject to the jurisdiction of the Commission, that is not an Affected Utility or a Public Power Entity may voluntarily participate under the provisions of this Article if it makes its service territory available for competing sellers, if it agrees to all of the requirements of this Article, and if it obtains an appropriate Certificate of Convenience and Necessity.
- C. An Arizona electric utility, not subject to the jurisdiction of the Commission, and that is not a Public Power Entity, may submit a statement to the Commission, through Docket Control, stating that it voluntarily opens its service territory for competing sellers in a manner similar to the provisions of this Article. Such statement shall be accompanied by the electric utility's nondiscriminatory Standard Offer Tariff, electric supply tariffs, Unbundled Services rates, Stranded Cost charges, System Benefits charges, Distribution Services charges and any other applicable tariffs and policies for services the electric utility offers, for which these rules otherwise require compliance by Affected Utilities or Electric Service Providers. Such filings shall serve as authorization for such electric utility to utilize the Commission's Rules of Practice and Procedure and other applicable rules concerning any complaint that an Affected Utility or Electric Service Provider is violating any provision of this Article or is otherwise discriminating against the filing electric utility or failing to provide just and reasonable rates in tariffs filed under this Article.
- D. If an electric utility is an Arizona political subdivision or municipal corporation other than a Public Power Entity, then the existing service territory of such electric utility shall be deemed open to competition if the political subdivision or municipality has entered into an intergovernmental agreement with the Commission that establishes nondiscriminatory terms and conditions for Distribution Services and other Unbundled Services, provides a procedure for complaints arising therefrom, and provides for reciprocity with Affected Utilities or their affiliates. The Commission shall conduct a hearing to consider any such intergovernmental agreement.
- E. An affiliate of an Arizona electric utility which is not an Affected Utility or a Public Power Entity shall not be allowed to compete in the service territories of Affected Utilities unless the affiliate's parent company, the nonaffected electric utility,

submits a statement to the Commission, through Docket Control, indicating that the parent company will voluntarily open its service territory for competing sellers in a manner similar to the provisions of this Article and the Commission makes a finding to that effect.

Historical Note

Adopted effective December 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-4). Amended by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency amendment replaced by exempt permanent amendment effective December 31, 1998 (Supp. 98-4). Former Section R14-2-1610 renumbered to R14-2-1609; new Section R14-2-1610 renumbered from R14-2-1611 and amended by exempt rulemaking at 5 A.A.R. 3933, effective September 24, 1999 (Supp. 99-3). Amended by exempt rulemaking at 6 A.A.R. 4180, effective October 13, 2000 (Supp. 00-4).

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R14-2-1611. Rates

- A. Market determined rates for Competitive Services, as defined in R14-2-1601 shall be deemed to be just and reasonable.
- B. Each Electric Service Provider selling services under this Article shall have on file with the Commission tariffs describing such services and maximum rates for those services, but the services may not be provided until the Commission has approved the tariffs.
- C. Prior to January 1, 2001, competitively negotiated contracts governed by this Article customized to individual customers which comply with approved tariffs do not require further Commission approval. However, all such contracts whose term is one year or more and for service of 1 MW or more must be filed with the Director, Utilities Division, through the Compliance Section, as soon as practicable. If a contract does not comply with the provisions of the Load Serving Entity's approved tariffs, it shall not become effective without a Commission order. The provisions of such contracts shall be kept confidential by the Commission.
- D. Contracts entered into on or after January 1, 2001, which comply with approved tariffs need not be filed with the Director, Utilities Division. If a contract does not comply with the provisions of the Load Serving Entity's approved tariffs, it shall not become effective without a Commission order.
- E. An Electric Service Provider holding a Certificate pursuant to this Article may price its Competitive Services, at or below the maximum rates specified in its filed tariff, provided that the price is not less than the marginal cost of providing the service.
- F. Requests for changes in maximum rates or changes in terms and conditions of previously approved tariffs may be filed with the Commission through Docket Control. Such changes shall become effective only upon Commission approval.

Historical Note

Adopted effective December 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-4). Amended by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp.

98-3). Emergency amendment replaced by exempt permanent amendment effective December 31, 1998 (Supp. 98-4). Former Section R14-2-1611 renumbered to R14-2-1610; new Section R14-2-1611 renumbered from R14-2-1612 and amended by exempt rulemaking at 5 A.A.R. 3933, effective September 24, 1999 (Supp. 99-3). Amended by exempt rulemaking at 6 A.A.R. 4180, effective October 13, 2000 (Supp. 00-4).

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R14-2-1612. Service Quality, Consumer Protection, Safety, and Billing Requirements

- A.** Except as indicated elsewhere in this Article, R14-2-201 through R14-2-212, inclusive, are adopted in this Article by reference. However, where the term "utility" is used in R14-2-201 through R14-2-212, the term "utility" shall pertain to Electric Service Providers providing the services described in each subsection of R14-2-201 through R14-2-212. R14-2-203(E) and R14-2-212(H) shall pertain only to Utility Distribution Companies.
- B.** The following shall not apply to this Article:
 1. R14-2-202 in its entirety,
 2. R14-2-206 in its entirety,
 3. R14-2-207 in its entirety,
 4. R14-2-212 (F)(1),
 5. R14-2-213,
 6. R14-2-208(E) and (F).
- C.** No consumer shall be deemed to have changed providers of any service authorized in this Article (including changes from the Affected Utility to another provider) without written authorization by the consumer for service from the new provider. If a consumer is switched to a different ("new") provider without such written authorization, the new provider shall cause service by the previous provider to be resumed and the new provider shall bear all costs associated with switching the consumer back to the previous provider. A new provider who switches a customer without written authorization shall also refund to the retail electricity customer the entire amount of the customer's electricity charges attributable to the electric generation service from the new provider for three months, or the period of the unauthorized service, whichever is more. A Utility Distribution Company may request the Commission's Consumer Services Section to review or audit written authorizations to assure a customer switch was properly authorized. A written authorization that is obtained by deceit or deceptive practices shall not be deemed a valid written authorization. Electric Service Providers shall submit reports within 30 days of the end of each calendar quarter to the Commission, through the Compliance Section, Utilities Division, itemizing the direct complaints filed by customers who have had their Electric Service Providers changed without their authorization. Violations of the Commission's rules concerning unauthorized changes of providers may result in penalties, or suspension or revocation of the provider's certificate. The following requirements and restrictions shall apply to the written authorization form requesting electric service from the new provider:
 1. The authorization shall not contain any inducements;
 2. The authorization shall be in legible print with clear and plain language confirming the rates, terms, conditions, and nature of the service to be provided;
- 3.** The authorization shall not state or suggest that the customer must take action to retain the customer's current electricity supplier;
- 4.** The authorization shall be in the same language as any promotional or inducement materials provided to the retail electric customer; and
- 5.** No box or container may be used to collect entries for sweepstakes or a contest that, at the same time, is used to collect authorization by a retail electric customer to change their electricity supplier or to subscribe to other services.
- D.** A residential customer may rescind its authorization to change providers of any service authorized in this Article within three business days, without penalty, by providing written notice to the provider.
- E.** Customer-specific information shall not be released without specific prior written customer authorization unless the information is requested by a law enforcement or other public agency, or is requested by the Commission or its Staff, or is reasonably required for legitimate account collection activities, or is necessary to provide safe and reliable service to the customer.
- F.** Each Electric Service Provider providing service governed by this Article shall be responsible for meeting applicable reliability standards and shall work cooperatively with other companies with whom it has interconnections, directly or indirectly, to ensure safe, reliable electric service. Utility Distribution Companies shall make reasonable efforts to notify customers of scheduled outages and also provide notification to the Commission.
- G.** Each Electric Service Provider shall provide at least 45 days' written notice to all of its affected consumers of its intent to cease providing generation, transmission, distribution, or ancillary services necessitating that the consumer obtain service from another supplier of generation, transmission, distribution, or ancillary services.
- H.** All Electric Service Providers rendering service under this Article shall submit accident reports, through the Compliance Section, as required in R14-2-101.
- I.** An Electric Service Provider providing firm electric service governed by this Article shall make reasonable efforts to reestablish service within the shortest possible time when service interruptions occur and shall work cooperatively with other companies to ensure timely restoration of service where facilities are not under the control of the Electric Service Provider.
- J.** Electric Service Providers shall give at least five days' notice to their customer of scheduled return to Standard Offer Service. Electric Service Providers shall provide 15 calendar days' notice prior to the next scheduled meter read date to the appropriate Utility Distribution Company regarding the intent to terminate a service agreement. Return of that customer to Standard Offer Service will be at the next regular billing cycle if appropriate metering equipment is in place and the request is provided 15 calendar days prior to the next regular meter read date. Responsibility for charges incurred between the notice and the next scheduled read date shall rest with the Electric Service Provider.
- K.** Each Electric Service Provider shall ensure that bills rendered on its behalf include its address and the toll-free telephone numbers for billing, service, and safety inquiries. The bill must also include the address and toll-free telephone numbers for the Phoenix and Tucson Consumer Service Sections of the Arizona Corporation Commission Utilities Division. Each Electric Service Provider shall ensure that billing and collections services rendered on its behalf comply with subsection (A).

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- L. Additional Provisions for Metering and Meter Reading Services**
1. When authorized by the consumer, an Electric Service Provider who provides metering or meter reading services pertaining to a particular consumer shall provide appropriate meter reading data via standardized formats, approved by the Director, Utilities Division, to all applicable Electric Service Providers serving that same consumer.
 2. Any person or entity relying on metering information provided by an Electric Service Provider may request a meter test according to the tariff on file and approved by the Commission. However, if the meter is found to be in error by more than 3%, no meter testing fee will be charged.
 3. Each competitive point of delivery shall be assigned a Universal Node Identifier by the Affected Utility or the Utility Distribution Company whose distribution system serves the customer.
 4. Unless the Commission grants a specific waiver all competitive metered and billing data shall be translated into consistent, statewide formats, approved by the Director, Utilities Division, that shall be used by the Affected Utility or the Utility Distribution Company and the Electric Service Provider.
 5. Unless the Commission grants a specific waiver, the standardized data exchange formats approved by the Director, Utilities Division, shall be used for all data exchange transactions from the Meter Reading Service Provider to the Electric Service Provider, Utility Distribution Company, and Schedule Coordinator. This data will be transferred via the Internet using a secure sockets layer or other secure electronic media.
 6. Minimum metering requirements for competitive customers over 20 kW, or 100,000 kWh annually, should consist of hourly consumption measurement meters or meter systems. Predictable loads will be permitted to use load profiles to satisfy the requirements for hourly consumption data. The Load-Serving Entity developing the load profile shall determine if a load is predictable.
 7. Competitive customers with hourly loads of 20 kW (or 100,000 kWh annually) or less will be permitted to use Load Profiling to satisfy the requirements for hourly consumption data, however, they may choose other metering options offered by their Electric Service Provider consistent with the Commission rules on Metering.
 8. Metering equipment ownership will be limited to the Affected Utility, Utility Distribution Company, and the Electric Service Provider, or the customer, who must obtain the metering equipment through the Affected Utility, Utility Distribution Company, or an Electric Service Provider.
 9. Maintenance and servicing of the metering equipment (including Current Transformers and Potential Transformers) will be limited to the Affected Utility, Utility Distribution Company, and the Electric Service Provider.
 10. Distribution primary voltage Current Transformers and Potential Transformers may be owned by the Affected Utility, Utility Distribution Company, or the Electric Service Provider.
 11. Transmission primary voltage Current Transformers and Potential Transformers may be owned by the Affected Utility or Utility Distribution Company only.
 12. North American Electric Reliability Council-recognized holidays will be used in calculating "working days" for meter data timeliness requirements. If a holiday officially occurs on a Saturday, the preceding Friday will be recognized as the date of the holiday. If a holiday officially occurs on a Sunday, the following Monday will be recognized as the date of the holiday.
 13. The Director, Utilities Division shall approve operating procedures to be used by the Utility Distribution Companies and the Meter Service Providers for performing work on primary metered customers.
 14. The Director, Utilities Division shall approve operating procedures to be used by the Meter Reading Service Provider for validating, editing, and estimating metering data.
 15. The Director, Utilities Division shall approve performance metering specifications and standards to be used by all entities performing metering.
- M. Electric Service Providers shall comply with applicable reliability standards and practices established by the Western Systems Coordinating Council and the North American Electric Reliability Council or successor organizations.**
- N. Electric Service Providers shall provide notification and informational materials to consumers about competition and consumer choices, such as a standardized description of services, as ordered by the Commission.**
- O. Billing Elements.** After the commencement of competition within a service territory pursuant to R14-2-1602, all customer bills, including bills for Standard Offer Service customers within that service territory, will list, at a minimum, the following billing cost elements:
1. Competitive Services:
 - a. Generation, which shall include generation-related billing and collection;
 - b. Competition Transition Charge;
 - c. Transmission and Ancillary Services;
 - d. Metering Services; and
 - e. Meter Reading Services.
 2. Non-Competitive Services:
 - a. Distribution services, including distribution-related billing and collection, required Ancillary Services and Must-Run Generating Units; and
 - b. System Benefit Charges
 3. Regulatory assessments; and
 4. Applicable taxes.
 5. In cases where the Utility Distribution Company and the Electric Service Provider provide separate bills to customers, the Electric Service Provider is not required to list the billing cost elements for non-competitive services. In cases where the Utility Distribution Company and the Electric Service Provider provide separate bills to customers, the Utility Distribution Company is not required to list the billing cost elements for competitive services if the customer is obtaining competitive services from an Electric Service Provider.
- P. The operating procedures approved by the Director, Utilities Division, will be used for Direct Access Service Requests as well as other billing and collection transactions.**

Historical Note

Adopted effective December 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-4). Amended by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency amendment replaced by exempt permanent amendment effective December 31, 1998 (Supp. 98-4). Former Section R14-2-1612 renumbered to R14-2-1611; new Section R14-2-1612 renumbered from R14-2-1613 and amended by exempt rulemaking

at 5 A.A.R. 3933, effective September 24, 1999 (Supp. 99-3). Amended by exempt rulemaking at 6 A.A.R. 4180, effective October 13, 2000 (Supp. 00-4).

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R14-2-1613. Reporting Requirements

- A. Reports covering the following items, as applicable, shall be submitted to the Director, Utilities Division, through the Compliance Section, by Affected Utilities or Utility Distribution Companies and all Electric Service Providers granted a Certificate of Convenience and Necessity pursuant to this Article. These reports shall include the following information pertaining to competitive service offerings, Unbundled Services, and Standard Offer services in Arizona:
 1. Type of services offered;
 2. kW and kWh sales to consumers, disaggregated by customer class (for example, residential, commercial, industrial);
 3. Revenues from sales by customer class (for example, residential, commercial, industrial);
 4. Number of retail customers disaggregated as follows: residential, commercial/industrial under 21 kW, commercial/industrial 21 to 999 kW, commercial/industrial 1000 kW or more, agricultural (if not included in commercial), and other;
 5. Retail kWh sales and revenues disaggregated by term of the contract (less than one year, one to four years, longer than four years), and by type of service (for example, firm, interruptible, other);
 6. Amount of revenues from each type of Competitive Service and, if applicable, each type of Noncompetitive Service provided (using breakdown from R14-2-1612(O));
 7. Value of all assets used to serve Arizona customers and accumulated depreciation;
 8. Tabulation of Arizona electric generation plants owned by the Electric Service Provider broken down by generation technology, fuel type, and generation capacity;
 9. The number of customers aggregated and the amount of aggregated load; and
 10. Other data requested by staff or the Commission.
- B. Reporting Schedule
 1. For the period through December 31, 2003, semi-annual reports shall be filed by April 15 (covering the previous period of July through December) and October 15 (covering the previous period of January through June). The first such report shall cover the period January 1 through June 30, 1999.
 2. For the period after December 31, 2003, annual reports shall be filed by April 15 (covering the previous period of January through December). The first such report shall cover the period January 1 through December 31, 2004.
- C. The information listed above may, at the provider's option, be provided on a confidential basis. However, staff or the Commission may issue reports with aggregate statistics based on confidential information that do not disclose data pertaining to a particular seller or purchases by a particular buyer.
- D. Any Electric Service Provider, Affected Utility, or Utility Distribution Company governed by this Article which fails to file the above data in a timely manner may be subject to a penalty imposed by the Commission or may have its Certificate rescinded by the Commission.

- E. Any Electric Service Provider holding a Certificate pursuant to this Article shall file a request in Docket Control to discontinue any competitive tariff as soon as practicable after the decision to discontinue offering service is made.
- F. In addition to the above reporting requirements, Electric Service Providers, Affected Utilities, and Utility Distribution Companies governed by this Article shall participate in Commission workshops or other forums whose purpose is to evaluate competition or assess market issues.

Historical Note

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R14-2-1614. Administrative Requirements

- A. Any Electric Service Provider certificated under this Article may file with the Commission, through Docket Control, proposed additional tariffs for Competitive Services at any time which include a description of the service, maximum rates, terms, and conditions.
- B. Contracts filed pursuant to this Article shall not be open to public inspection or made public except on order of the Commission, or by the Commission or a Commissioner in the course of a hearing or proceeding.
- C. The Commission may consider variations or exemptions from the terms or requirements of any of the rules in this Article upon the application of an affected party. The application must set forth the reasons why the public interest will be served by the variation or exemption from the Commission rules and regulations. Any variation or exemption granted shall require an order of the Commission. Where a conflict exists between these rules and an approved tariff or order of the Commission, the provisions of the approved tariff or order of the Commission shall apply.
- D. The Commission may develop procedures for resolving disputes regarding implementation of retail electric competition.
- E. Prior to October 1, 1999, the Director, Utilities Division, shall implement a Consumer Education Program as approved by the Commission.

Historical Note

Adopted effective December 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-4). Amended by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency amendment replaced by exempt permanent amendment effective December 31, 1998 (Supp. 98-4). Former Section R14-2-1614 renumbered to R14-2-1613; new Section R14-2-1614 renumbered

from R14-2-1615 and amended by exempt rulemaking at 5 A.A.R. 3933, effective September 24, 1999 (Supp. 99-3). Amended by exempt rulemaking at 6 A.A.R. 4180, effective October 13, 2000 (Supp. 00-4).

Editor's Note: *The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).*

R14-2-1615. Separation of Monopoly and Competitive Services

- A.** All competitive generation assets and competitive services shall be separated from an Affected Utility prior to January 1, 2001. Such separation shall either be to an unaffiliated party or to a separate corporate affiliate or affiliates. If an Affected Utility chooses to transfer its competitive generation assets or competitive services to a competitive electric affiliate, such transfer shall be at a value determined by the Commission to be fair and reasonable.
- B.** Beginning January 1, 2001, an Affected Utility or Utility Distribution Company shall not provide Competitive Services as defined in R14-2-1601.
 - 1. This Section does not preclude an Affected Utility or Utility Distribution Company from billing its own customers for distribution service, or from providing billing services to Electric Service Providers in conjunction with its own billing, or from providing Meter Services and Meter Reading Services for Load Profiled residential customers. Nor does this Section preclude an Affected Utility or Utility Distribution Company from providing billing and collections, Metering and Meter Reading Service as part of the Standard Offer Service tariff to Standard Offer Service customers.
 - 2. This Section does not preclude an Affected Utility or Utility Distribution Company from owning distribution and transmission primary voltage Current Transformers and Potential Transformers.
- C.** An Electric Distribution Cooperative is not subject to the provisions of R14-2-1615 unless it offers competitive electric services outside of its distribution service territory.

Historical Note

Adopted effective December 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-4). Amended by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency amendment replaced by exempt permanent amendment effective December 31, 1998 (Supp. 98-4). Former Section R14-2-1615 renumbered to R14-2-1614; new Section R14-2-1615 renumbered from R14-2-1616 and amended by exempt rulemaking at 5 A.A.R. 3933, effective September 24, 1999 (Supp. 99-3).

Editor's Note: *The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).*

R14-2-1616. Code of Conduct

- A.** If not previously filed, no later than 90 days after adoption of these Rules, each Affected Utility which plans to offer Non-

competitive Services and which plans to offer Competitive Services through its competitive electric affiliate shall propose a Code of Conduct to prevent anti-competitive activities. Each Affected Utility that is an electric cooperative, that plans to offer Noncompetitive Services, and that is a member of any electric cooperative that plans to offer Competitive Services shall also submit a Code of Conduct to prevent anti-competitive activities. All Codes of Conduct shall be filed in Docket Control and be subject to Commission approval after a hearing.

B. The Code of Conduct shall address the following subjects:

1. Appropriate procedures to prevent cross subsidization between the Utility Distribution Company and any competitive affiliates, including but not limited to the maintenance of separate books, records, and accounts;
2. Appropriate procedures to ensure that the Utility Distribution Company's competitive affiliate does not have access to confidential utility information that is not also available to other market participants;
3. Appropriate guidelines to limit the joint employment of personnel by both a Utility Distribution Company and its competitive affiliate;
4. Appropriate guidelines to govern the use of the Utility Distribution Company's name or logo by the Utility Distribution Company's competitive affiliate;
5. Appropriate procedures to ensure that the Utility Distribution Company does not give its competitive affiliate any preferential treatment such that other market participants are unfairly disadvantaged or discriminated against;
6. Appropriate policies to eliminate joint advertising, joint marketing, or joint sales by a Utility Distribution Company and its competitive affiliate;
7. Appropriate procedures to govern transactions between a Utility Distribution Company and its competitive affiliate; and
8. Appropriate policies to prevent the Utility Distribution Company and its competitive affiliate from representing that customers will receive better service as a result of the affiliation.
9. Complaints concerning violations of the Code of Conduct shall be processed under the procedures established in R14-2-212.

Historical Note

Adopted effective December 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-4). Section R14-2-1616 repealed by emergency action; emergency new Section adopted by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency amendment replaced by exempt permanent amendment effective December 31, 1998 (Supp. 98-4). Former Section R14-2-1616 renumbered to R14-2-1615; new Section R14-2-1616 adopted by exempt rulemaking at 5 A.A.R. 3933, effective September 24, 1999 (Supp. 99-3). Amended by exempt rulemaking at 6 A.A.R. 4180, effective October 13, 2000 (Supp. 00-4).

Editor's Note: *The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).*

R14-2-1617. Disclosure of Information

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- A. Each Load-Serving Entity providing either generation service or Standard Offer Service shall prepare a consumer information label that sets forth the following information:
 - 1. Price to be charged for generation services,
 - 2. Price variability information,
 - 3. Customer service information,
 - 4. Time period to which the reported information applies.
- B. Each Load-Serving Entity providing either generation service or Standard Offer Service shall provide, upon request, the following information (to the extent reasonably known):
 - 1. Composition of resource portfolio,
 - 2. Fuel mix characteristics of the resource portfolio,
 - 3. Emissions characteristics of the resource portfolio.
- C. The Director, Utilities Division, shall develop the format and reporting requirements for the consumer information label to ensure that the information is appropriately and accurately reported and to ensure that customers can use the labels for comparisons among Load-Serving Entities. The format developed by the Director, Utilities Division, shall be used by each Load-Serving Entity.
- D. Each Load-Serving Entity shall include the information disclosure label in a prominent position in all written marketing materials specifically targeted to Arizona. When a Load-Serving Entity advertises in nonprint media, or in written materials not specifically targeted to Arizona, the marketing materials shall indicate that the Load-Serving Entity shall provide the consumer information label to the public upon request.
- E. Each Load-Serving Entity shall prepare an annual disclosure report that aggregates the resource portfolios of the Load-Serving Entity and its affiliates.
- F. Each Load-Serving Entity shall prepare a statement of its terms of service that sets forth the following information:
 - 1. Actual pricing structure or rate design according to which the customer with a load of less than 1 MW will be billed, including an explanation of price variability and price level adjustments that may cause the price to vary;
 - 2. Length and description of the applicable contract and provisions and conditions for early termination by either party;
 - 3. Due date of bills and consequences of late payment;
 - 4. Conditions under which a credit agency is contacted;
 - 5. Deposit requirements and interest on deposits;
 - 6. Limits on warranties and damages;
 - 7. All charges, fees, and penalties;
 - 8. Information on consumer rights pertaining to estimated bills, third-party billing, deferred payments, and rescission of supplier switches within three days of receipt of confirmation;
 - 9. A toll-free telephone number for service complaints;
 - 10. Low income programs and low income rate eligibility;
 - 11. Provisions for default service;
 - 12. Applicable provisions of state utility laws; and
 - 13. Method whereby customers will be notified of changes to the terms of service.
- G. The consumer information label, the disclosure report, and the terms of service shall be distributed in accordance with the following requirements:
 - 1. Prior to the initiation of service for any retail customer,
 - 2. Prior to processing written authorization from a retail customer with a load of less than 1 MW to change Electric Service Providers,
 - 3. To any person upon request,
 - 4. Made a part of the semi-annual and annual reports required by R14-2-1613.
- 5. The information described in this subsection shall be posted on any electronic information medium of the Load-serving Entities.
- H. Failure to comply with the rules on information disclosure or dissemination of inaccurate information may result in suspension or revocation of certification or other penalties as determined by the Commission.
- I. The Commission shall establish a consumer information advisory panel to review the effectiveness of the provisions of this Section and to make recommendations for changes in the rules.

Historical Note

Adopted by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency adoption replaced by exempt permanent adoption effective December 31, 1998 (Supp. 98-4). Former Section R14-2-1617 repealed; new Section R14-2-1617 renumbered from R14-2-1618 and amended by exempt rulemaking at 5 A.A.R. 3933, effective September 24, 1999 (Supp. 99-3). Amended by exempt rulemaking at 6 A.A.R. 4180, effective October 13, 2000 (Supp. 00-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1618. Environmental Portfolio Standard

- A. Upon the effective implementation of a Commission-approved Environmental Portfolio Standard Surcharge tariff, any Load-Serving Entity selling electricity or aggregating customers for the purpose of selling electricity under the provisions of this Article must derive at least .2% of the total retail energy sold from new solar resources or environmentally-friendly renewable electricity technologies, whether that energy is purchased or generated by the seller. Solar resources include photovoltaic resources and solar thermal resources that generate electricity. New solar resources and environmentally-friendly renewable electricity technologies are those installed on or after January 1, 1997.
 - 1. Electric Service Providers, that are not UDCs, are exempt from portfolio requirements until 2004, but could voluntarily elect to participate. ESPs choosing to participate would receive a pro rata share of funds collected from the Environmental Portfolio Surcharge delineated in R14-2-1618.A.2 for portfolio purposes to acquire eligible portfolio systems or electricity generated from such systems.
 - 2. Utility Distribution Companies would recover part of the costs of the portfolio standard through current System Benefits Charges, if they exist, including a re-allocation of demand side management funding to portfolio uses. Additional portfolio standard costs will be recovered by a customer Environmental Portfolio Surcharge on the customers' monthly bill. The Environmental Portfolio Surcharge shall be assessed monthly to every metered and/or non-metered retail electric service. This monthly assessment will be the lesser of \$0.000875 per kWh or:
 - a. Residential Customers: \$.35 per service,
 - b. Non-Residential Customers: \$13 per service,
 - c. Non-Residential Customers whose metered demand is 3,000 kW or more for three consecutive months: \$39.00 per service. In the case of unmetered services, the Load-Serving Entity shall, for purposes of billing the Environmental Portfolio Standard Sur-

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charge and subject to the caps set forth above, use the lesser of (i) the load profile or otherwise estimated kWh required to provide the service in question; or (ii) the service's contract kWh.

3. Customer bills shall reflect a line item entitled "Environmental Portfolio Surcharge, mandated by the Corporation Commission."
4. Utility Distribution Companies or ESPs that do not currently have a renewables program may request a waiver or modification of this Section due to extreme circumstances that may exist.
- B. The portfolio percentage shall increase after December 31, 2000.
 1. Starting January 1, 2001, the portfolio percentage shall increase annually and shall be set according to the following schedule:

YEAR	PORTFOLIO PERCENTAGE
2001	.2%
2002	.4%
2003	.6%
2004	.8%
2005	1.0%
2006	1.05%
2007-2012	1.1%
 2. The Commission would continue the annual increase in the portfolio percentage after December 31, 2004, only if the cost of environmental portfolio electricity has declined to a Commission-approved cost/benefit point. The Director, Utilities Division shall establish, not later than January 1, 2003, an Environmental Portfolio Cost Evaluation Working Group to make recommendations to the Commission of an acceptable portfolio electricity cost/benefit point or portfolio kWh cost impact maximum that the Commission could use as a criteria for the decision to continue the increase in the portfolio percentage. The recommendations of the Working Group shall be presented to the Commission not later than June 30, 2003. In no event, however, shall the Commission increase the surcharge caps as delineated in R14-2-1618(A)(2).
 3. The requirements for the phase-in of various technologies shall be:
 - a. In 2001, the Portfolio kWh makeup shall be at least 50 percent solar electric, and no more than 50 percent other environmentally-friendly renewable electricity technologies or solar hot water or R&D on solar electric resources, but with no more than 10 percent on R&D.
 - b. In 2002 and 2003, the Portfolio kWh makeup shall be at least 50 percent solar electric, and no more than 50 percent other environmentally-friendly renewable electricity technologies or solar hot water or R&D on solar electric resources, but with no more than 5 percent on R&D.
 - c. In 2004, through 2012, the portfolio kWh makeup shall be at least 60 percent solar electric with no more than 40 percent solar hot water or other environmentally-friendly renewable electricity technologies.
- C. Load-Serving Entities shall be eligible for a number of extra credit multipliers that may be used to meet the portfolio standard requirements. Extra credits may be used to meet portfolio requirements and extra credits from solar electric technologies

will also count toward the solar electric fraction requirements in R14-2-1618(B)(3). With the exception of the Early Installation Extra Credit Multiplier, which has a five-year life from operational start-up, all other extra credit multipliers are valid for the life of the generating equipment.

1. Early Installation Extra Credit Multiplier: For new solar electric systems installed and operating prior to December 31, 2003, Load-Serving Entities would qualify for multiple extra credits for kWh produced for five years following operational start-up of the solar electric system. The five-year extra credit would vary depending upon the year in which the system started up, as follows:

YEAR	EXTRA CREDIT MULTIPLIER
1997	.5
1998	.5
1999	.5
2000	.4
2001	.3
2002	.2
2003	.1

Eligibility to qualify for the Early Installation Extra Credit Multiplier would end in 2003. However, any eligible system that was operational in 2003 or before would still be allowed the applicable extra credit for the full five years after operational start-up.

2. Solar Economic Development Extra Credit Multipliers: There are two equal parts to this multiplier, an in-state installation credit and an in-state content multiplier.
 - a. In-State Power Plant Installation Extra Credit Multiplier: Solar electric power plants installed in Arizona shall receive a .5 extra credit multiplier.
 - b. In-State Manufacturing and Installation Content Extra Credit Multiplier: Solar electric power plants shall receive up to a .5 extra credit multiplier related to the manufacturing and installation content that comes from Arizona. The percentage of Arizona content of the total installed plant cost shall be multiplied by .5 to determine the appropriate extra credit multiplier. So, for instance, if a solar installation included 80% Arizona content, the resulting extra credit multiplier would be .4 (which is .8 X .5).
3. Distributed Solar Electric Generator and Solar Incentive Program Extra Credit Multiplier: Any distributed solar electric generator that meets more than one of the eligibility conditions will be limited to only one .5 extra credit multiplier from this subsection. Appropriate meters will be attached to each solar electric generator and read at least once annually to verify solar performance.
 - a. Solar electric generators installed at or on the customer premises in Arizona. Eligible customer premises locations will include both grid-connected and remote, non-grid-connected locations. In order for Load-Serving Entities to claim an extra credit multiplier, the Load-Serving Entity must have contributed at least 10% of the total installed cost or have financed at least 80% of the total installed cost.
 - b. Solar electric generators located in Arizona that are included in any Load-Serving Entity's Green Pricing program.
 - c. Solar electric generators located in Arizona that are included in any Load-Serving Entity's Net Metering or Net Billing program.

- d. Solar electric generators located in Arizona that are included in any Load-Serving Entity's solar leasing program.
 - e. All Green Pricing, Net Metering, Net Billing, and Solar Leasing programs must have been reviewed and approved by the Director, Utilities Division in order for the Load-Serving Entity to accrue extra credit multipliers from this subsection.
4. All multipliers are additive, allowing a maximum combined extra credit multiplier of 2.0 in years 1997-2003, for equipment installed and manufactured in Arizona and either installed at customer premises or participating in approved solar incentive programs. So, if a Load-Serving Entity qualifies for a 2.0 extra credit multiplier and it produces 1 solar kWh, the Load-Serving Entity would get credit for 3 solar kWh (1 produced plus 2 extra credit).
- D.** Load-Serving Entities selling electricity under the provisions of this Article shall provide reports on sales and portfolio power as required in this Article, clearly demonstrating the output of portfolio resources, the installation date of portfolio resources, and the transmission of energy from those portfolio resources to Arizona consumers. The Commission may conduct necessary monitoring to ensure the accuracy of these data. Reports shall be made according to the Reporting Schedule in R14-2-1613(B).
- E.** Photovoltaic or solar thermal electric resources that are located on the consumer's premises shall count toward the Environmental Portfolio Standard applicable to the current Load-Serving Entity serving that consumer unless a different Load-Serving Entity is entitled to receive credit for such resources under the provisions of R14-2-1618(C)(3)(a).
- F.** Any solar electric generators installed by an Affected Utility to meet the environmental portfolio standard shall be counted toward meeting renewable resource goals for Affected Utilities established in Decision No. 58643.
- G.** Any Load-Serving Entity that produces or purchases any eligible kWh in excess of its annual portfolio requirements may save or bank those excess kWh for use or sale in future years. Any eligible kWh produced subject to this rule may be sold or traded to any Load-Serving Entity that is subject to this rule. Appropriate documentation, subject to Commission review, shall be given to the purchasing entity and shall be referenced in the reports of the Load-Serving Entity that is using the purchased kWh to meet its portfolio requirements.
- H.** Environmental Portfolio Standard requirements shall be calculated on an annual basis, based upon electricity sold during the calendar year.
- I.** A Load-Serving Entity shall be entitled to receive a partial credit against the portfolio requirement if the Load-Serving Entity or its affiliate owns or makes a significant investment in any solar electric manufacturing plant that is located in Arizona. The credit will be equal to the amount of the nameplate capacity of the solar electric generators produced in Arizona and sold in a calendar year times 2,190 hours (approximating a 25% capacity factor).
- 1. The credit against the portfolio requirement shall be limited to the following percentages of the total portfolio requirement:
 - 2001: Maximum of 50% of the portfolio requirement
 - 2002: Maximum of 25% of the portfolio requirement
 - 2003 and on: Maximum of 20% of the portfolio requirement
 - 2. No extra credit multipliers will be allowed for this credit. In order to avoid double-counting of the same equipment, solar electric generators that are used by other Load-Serving Entities to meet their Arizona portfolio requirements will not be allowable for credits under this Section for the manufacturer/Electric Service Provider to meet its portfolio requirements.
- J.** The Director, Utilities Division shall develop appropriate safety, durability, reliability, and performance standards necessary for solar generating equipment and environmentally-friendly renewable electricity technologies and to qualify for the portfolio standard. Standards requirements will apply only to facilities constructed or acquired after the standards are publicly issued.
- K.** A Load-Serving Entity shall be entitled to meet up to 20% of the portfolio requirement with solar water heating systems or solar air conditioning systems purchased by the Load-Serving Entity for use by its customers, or purchased by its customers and paid for by the Load-Serving Entity through bill credits or other similar mechanisms. The solar water heaters must replace or supplement the use of electric water heaters for residential, commercial, or industrial water heating purposes. For the purposes of this rule, solar water heaters will be credited with 1 kWh of electricity produced for each 3,415 British Thermal Units of heat produced by the solar water heater and solar air conditioners shall be credited with kWhs equivalent to those needed to produce a comparable cooling load reduction. Solar water heating systems and solar air conditioning systems shall be eligible for Early Installation Extra Credit Multipliers as defined in R14-2-1618(C)(1) and Solar Economic Development Extra Credit Multipliers as defined in R14-2-1618(C)(2)(b).
- L.** A Load-Serving Entity shall be entitled to meet the portfolio requirement with electricity produced in Arizona by environmentally-friendly renewable electricity technologies that are defined as in-state landfill gas generators, wind generators, and biomass generators, consistent with the phase-in schedule in R14-2-1618(B)(3). Systems using such technologies shall be eligible for Early Installation Extra Credit Multipliers as defined in R14-2-1618(C)(1) and Solar Economic Development Extra Credit Multipliers as defined in R14-2-1618(C)(2)(b).

Historical Note

Adopted by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency adoption replaced by exempt permanent adoption effective December 31, 1998 (Supp. 98-4). Section R14-2-1618 renumbered to R14-2-1617 by exempt rulemaking at 5 A.A.R. 3933, effective September 24, 1999 (Supp. 99-3). New Section adopted by exempt rulemaking at 7 A.A.R. 1661, effective March 20, 2001 (Supp. 01-1).

ARTICLE 17. RESERVED

ARTICLE 18. RENEWABLE ENERGY STANDARD AND TARIFF

R14-2-1801. Definitions

- A.** "Affected Utility" means a public service corporation serving retail electric load in Arizona, but excluding any Utility Distribution Company with more than half of its customers located outside of Arizona.
- B.** "Annual Renewable Energy Requirement" means the portion of an Affected Utility's annual retail electricity sales that must come from Eligible Renewable Energy Resources.
- C.** "Conventional Energy Resource" means an energy resource that is non-renewable in nature, such as natural gas, coal, oil, and uranium, or electricity that is produced with energy resources that are not Renewable Energy Resources.
- D.** "Customer Self-Directed Renewable Energy Option" means a Commission-approved program under which an Eligible Customer

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tomer may self-direct the use of its allocation of funds collected pursuant to an Affected Utility's Tariff.

- E. "Distributed Generation" means electric generation sited at a customer premises, providing electric energy to the customer load on that site or providing wholesale capacity and energy to the local Utility Distribution Company for use by multiple customers in contiguous distribution substation service areas. The generator size and transmission needs shall be such that the plant or associated transmission lines do not require a Certificate of Environmental Compatibility from the Corporation Commission.
- F. "Distributed Renewable Energy Requirement" means a portion of the Annual Renewable Energy Requirement that must be met with Renewable Energy Credits derived from resources that qualify as Distributed Renewable Energy Resources pursuant to R14-2-1802(B).
- G. "Distributed Solar Electric Generator" means electric generation sited at a customer premises, providing electric energy from solar electric resources to the customer load on that site or providing wholesale capacity and energy to the local Utility Distribution Company for use by multiple customers in contiguous distribution substation service areas. The generator size and transmission needs shall be such that the plant or associated transmission lines do not require a Certificate of Environmental Compatibility from the Corporation Commission.
- H. "Eligible Customer" means an entity that pays Tariff funds of at least \$25,000 annually for any number of related accounts or services within an Affected Utility's service area.
- I. "Extra Credit Multiplier" means a way to increase the Renewable Energy Credits attributable to specific Eligible Renewable Energy Resources in order to encourage specific renewable applications.
- J. "Green Pricing" means a rate option in which a customer elects to pay a tariffed rate premium for electricity derived from Eligible Renewable Energy Resources.
- K. "Market Cost of Comparable Conventional Generation" means the Affected Utility's energy and capacity cost of producing or procuring the incremental electricity that would be avoided by the resources used to meet the Annual Renewable Energy Requirement, taking into account hourly, seasonal, and long-term supply and demand circumstances. Avoided costs include any avoided transmission and distribution costs and any avoided environmental compliance costs.
- L. "Net Billing" means a system of billing a customer who installs an Eligible Renewable Energy Resource generator on the customer's premises for retail electricity purchased at retail rates while crediting the customer's bill for any customer-generated electricity sold to the Affected Utility at avoided cost.
- M. "Net Metering" means a system of metering electricity by which the Affected Utility credits the customer at the full retail rate for each kilowatt-hour of electricity produced by an Eligible Renewable Energy Resource system installed on the customer-generator's side of the electric meter, up to the total amount of electricity used by that customer during an annualized period, and which compensates the customer-generator at the end of the annualized period for any excess credits at a rate equal to the Affected Utility's avoided cost of wholesale power. The Affected Utility does not charge the customer-generator any additional fees or charges or impose any equipment or other requirements unless the same is imposed on customers in the same rate class that the customer-generator would qualify for if the customer-generator did not have generation equipment.
- N. "Renewable Energy Credit" means the unit created to track kWh derived from an Eligible Renewable Energy Resource or

kWh equivalent of Conventional Energy Resources displaced by Distributed Renewable Energy Resources.

- O. "Renewable Energy Resource" means an energy resource that is replaced rapidly by a natural, ongoing process and that is not nuclear or fossil fuel.
- P. "Tariff" means a Commission-approved rate designed to recover an Affected Utility's reasonable and prudent costs of complying with these rules.
- Q. "Utility Distribution Company" means a public service corporation that operates, constructs, or maintains a distribution system for the delivery of power to retail customers.
- R. "Wholesale Distributed Generation Component" means non-utility owners of Eligible Renewable Energy Resources that are located within the distribution system and that do not require a transmission line over 69 kv to deliver power at wholesale to an Affected Utility to meet its Annual Renewable Energy Requirements.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 2389, effective August 14, 2007 (Supp. 07-2).

R14-2-1802. Eligible Renewable Energy Resources

- A. "Eligible Renewable Energy Resources" are applications of the following defined technologies that displace Conventional Energy Resources that would otherwise be used to provide electricity to an Affected Utility's Arizona customers:
 1. "Biogas Electricity Generator" is a generator that produces electricity from gases that are derived from plant-derived organic matter, agricultural food and feed matter, wood wastes, aquatic plants, animal wastes, vegetative wastes, or wastewater treatment facilities using anaerobic digestion or from municipal solid waste through a digester process, an oxidation process, or other gasification process.
 2. "Biomass Electricity Generator" is an electricity generator that uses any raw or processed plant-derived organic matter available on a renewable basis, including: dedicated energy crops and trees; agricultural food and feed crops; agricultural crop wastes and residues; wood wastes and residues, including landscape waste, right-of-way tree trimmings, or small diameter forest thinnings that are 12" in diameter or less; dead and downed forest products; aquatic plants; animal wastes; other vegetative waste materials; non-hazardous plant matter waste material that is segregated from other waste; forest-related resources, such as harvesting and mill residue, pre-commercial thinnings, slash, and brush; miscellaneous waste, such as waste pellets, crates, and dunnage; and recycled paper fibers that are no longer suitable for recycled paper production, but not including painted, treated, or pressurized wood, wood contaminated with plastics or metals, tires, or recyclable post-consumer waste paper.
 3. "Distributed Renewable Energy Resources" as defined in subsection (B).
 4. "Eligible Hydropower Facilities" are hydropower generators that were in existence prior to 1997 and that satisfy one of the following two criteria:
 - a. New Increased Capacity of Existing Hydropower Facilities: A hydropower facility that increases capacity due to improved technological or operational efficiencies or operational improvements resulting from improved or modified turbine design, improved or modified wicket gate assembly design, improved hydrological flow conditions, improved generator windings, improved electrical excitation systems, increases in transformation capacity, and

improved system control and operating limit modifications. The electricity kWh that are eligible to meet the Annual Renewable Energy Requirements shall be limited to the new, incremental kWh output resulting from the capacity increase that is delivered to Arizona customers to meet the Annual Renewable Energy Requirement.

- b. Generation from pre-1997 hydropower facilities that is used to firm or regulate the output of other eligible, intermittent renewable resources. The electricity kWh that are eligible to meet the Annual Renewable Energy Requirements shall be limited to the kWh actually generated to firm or regulate the output of eligible intermittent Renewable Energy Resources and that are delivered to Arizona customers to meet the Annual Renewable Energy Requirements.
5. "Fuel Cells that Use Only Renewable Fuels" are fuel cell electricity generators that operate on renewable fuels, such as hydrogen created from water by Eligible Renewable Energy Resources. Hydrogen created from non-Renewable Energy Resources, such as natural gas or petroleum products, is not a renewable fuel.
6. "Geothermal Generator" is an electricity generator that uses heat from within the earth's surface to produce electricity.
7. "Hybrid Wind and Solar Electric Generator" is a system in which a Wind Generator and a solar electric generator are combined to provide electricity.
8. "Landfill Gas Generator" is an electricity generator that uses methane gas obtained from landfills to produce electricity.
9. "New Hydropower Generator of 10 MW or Less" is a generator, installed after January 1, 2006, that produces 10 MW or less and is either:
 - a. A low-head, micro hydro run-of-the-river system that does not require any new damming of the flow of the stream; or
 - b. An existing dam that adds power generation equipment without requiring a new dam, diversion structures, or a change in water flow that will adversely impact fish, wildlife, or water quality; or
 - c. Generation using canals or other irrigation systems.
10. "Solar Electricity Resources" use sunlight to produce electricity by either photovoltaic devices or solar thermal electric resources.
11. "Wind Generator" is a mechanical device that is driven by wind to produce electricity.
- B. "Distributed Renewable Energy Resources" are applications of the following defined technologies that are located at a customer's premises and that displace Conventional Energy Resources that would otherwise be used to provide electricity to Arizona customers:
 1. "Biogas Electricity Generator," "Biomass Electricity Generator," "Geothermal Generator," "Fuel Cells that Use Only Renewable Fuels," "New Hydropower Generator of 10 MW or Less," or "Solar Electricity Resources," as each of those terms is defined in subsections (A)(1), (A)(2), (A)(5), (A)(6), (A)(9), and (A)(10).
 2. "Biomass Thermal Systems" and "Biogas Thermal Systems" are systems which use fuels as defined in subsections (A)(1) and (A)(2) to produce thermal energy and that comply with Environmental Protection Agency Certification Programs or are permitted by state, county, or local air quality authorities. For purposes of this definition "Biomass Thermal Systems" and "Biogas Thermal Systems" do not include biomass and wood stoves, furnaces, and fireplaces.
 3. "Commercial Solar Pool Heaters" are devices that use solar energy to heat commercial or municipal swimming pools.
 4. "Geothermal Space Heating and Process Heating Systems" are systems that use heat from within the earth's surface for space heating or for process heating.
 5. "Renewable Combined Heat and Power System" is a Distributed Generation system, fueled by an Eligible Renewable Energy Resource, that produces both electricity and useful renewable process heat. Both the electricity and renewable process heat may be used to meet the Distributed Renewable Energy Requirement.
 6. "Solar Daylighting" is the non-residential application of a device specifically designed to capture and redirect the visible portion of the solar beam, while controlling the infrared portion, for use in illuminating interior building spaces in lieu of artificial lighting.
 7. "Solar Heating, Ventilation, and Air Conditioning" ("HVAC") is the combination of Solar Space Cooling and Solar Space Heating as part of one system.
 8. "Solar Industrial Process Heating and Cooling" is the use of solar thermal energy for industrial or commercial manufacturing or processing applications.
 9. "Solar Space Cooling" is a technology that uses solar thermal energy absent the generation of electricity to drive a refrigeration machine that provides for space cooling in a building.
 10. "Solar Space Heating" is a method whereby a mechanical system is used to collect solar energy to provide space heating for buildings.
 11. "Solar Water Heater" is a device that uses solar energy rather than electricity or fossil fuel to heat water for residential, commercial, or industrial purposes.
 12. "Wind Generator of 1 MW or Less" is a mechanical device, with an output of 1 MW or less, that is driven by wind to produce electricity.
- C. Except as provided in subsection (A)(4), Eligible Renewable Energy Resources shall not include facilities installed before January 1, 1997.
- D. The Commission may adopt pilot programs in which additional technologies are established as Eligible Renewable Energy Resources. Any such additional technologies shall be Renewable Energy Resources that produce electricity, replace electricity generated by Conventional Energy Resources, or replace the use of fossil fuels with Renewable Energy Resources. Energy conservation products, energy management products, energy efficiency products, or products that use non-renewable fuels shall not be eligible for these pilot programs.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 2389, effective August 14, 2007 (Supp. 07-2).

R14-2-1803. Renewable Energy Credits

- A. One Renewable Energy Credit shall be created for each kWh derived from an Eligible Renewable Energy Resource.
- B. For Distributed Renewable Energy Resources, one Renewable Energy Credit shall be created for each 3,415 British Thermal Units of heat produced by a Solar Water Heating System, a Solar Industrial Process Heating and Cooling System, Solar Space Cooling System, Biomass Thermal System, Biogas Thermal System, or a Solar Space Heating System.
- C. An Affected Utility may transfer Renewable Energy Credits to another party and may acquire Renewable Energy Credits from another party. A Renewable Energy Credit is owned by

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the owner of the Eligible Renewable Energy Resource from which it was derived unless specifically transferred.

- D. All transfers of Renewable Energy Credits shall be appropriately documented to demonstrate that the energy associated with the Renewable Energy Credits meets the provisions of R14-2-1802.
- E. Any contract by an Affected Utility for purchase or sale of energy or Renewable Energy Credits to meet the requirements of this Rule shall explicitly describe the transfer of rights concerning both energy and Renewable Energy Credits.
- F. Except in the case of Distributed Renewable Energy Resources, Affected Utilities must demonstrate the delivery of energy from Eligible Renewable Energy Resources to their retail consumers such as by providing proof that the necessary transmission rights were reserved and utilized to deliver energy from Eligible Renewable Energy Resources to the Affected Utility's system, if transmission is required, or that the appropriate control area operators scheduled the energy from Eligible Renewable Energy Resources for delivery to the Affected Utility's system.

Historical Note

New Section made by final rulemaking at 13 A.A.R.
2389, effective August 14, 2007 (Supp. 07-2).

R14-2-1804. Annual Renewable Energy Requirement

- A. In order to ensure reliable electric service at reasonable rates, each Affected Utility shall be required to satisfy an Annual Renewable Energy Requirement by obtaining Renewable Energy Credits from Eligible Renewable Energy Resources.
- B. An Affected Utility's Annual Renewable Energy Requirement shall be calculated each calendar year by applying the following applicable annual percentage to the retail kWh sold by the Affected Utility during that calendar year:

2006	1.25%
2007	1.50%
2008	1.75%
2009	2.00%
2010	2.50%
2011	3.00%
2012	3.50%
2013	4.00%
2014	4.50%
2015	5.00%
2016	6.00%
2017	7.00%
2018	8.00%
2019	9.00%
2020	10.00%
2021	11.00%
2022	12.00%
2023	13.00%
2024	14.00%
After 2024	15.00%

The annual increase in the annual percentage for each Affected Utility will be pro rated for the first year based on when the Affected Utility's funding mechanism is approved.

- C. An Affected Utility may use Renewable Energy Credits acquired in any year to meet its Annual Renewable Energy Requirement.
- D. Once a Renewable Energy Credit is used by any Affected Utility to satisfy these requirements, the credit is retired and cannot be subsequently used to satisfy these rules or any other regulatory requirement.

- E. If an Affected Utility trades or sells environmental pollution reduction credits or any other environmental attributes associated with kWh produced by an Eligible Renewable Energy Resource, the Affected Utility may not apply Renewable Energy Credits derived from that same kWh to satisfy the requirements of these rules.
- F. No more than 20 percent of an Affected Utility's Annual Renewable Energy Requirement may be met with Renewable Energy Credits derived pursuant to R14-2-1807.
- G. An Affected Utility may ask the Commission to preapprove agreements to purchase energy or Renewable Energy Credits from Eligible Renewable Energy Resources.

Historical Note

New Section made by final rulemaking at 13 A.A.R.
2389, effective August 14, 2007 (Supp. 07-2).

R14-2-1805. Distributed Renewable Energy Requirement

- A. In order to improve system reliability, each Affected Utility shall be required to satisfy a Distributed Renewable Energy Requirement by obtaining Renewable Energy Credits from Distributed Renewable Energy Resources.
- B. An Affected Utility's Distributed Renewable Energy Requirement shall be calculated each calendar year by applying the following applicable annual percentage to the Affected Utility's Annual Renewable Energy Requirement:

2007	5%
2008	10%
2009	15%
2010	20%
2011	25%
After 2011	30%

The annual increase in the annual percentage for each Affected Utility will be pro rated for the first year based on when the Affected Utility's funding mechanism is approved.

- C. An Affected Utility may use Renewable Energy Credits acquired in any year to meet its Distributed Renewable Energy Requirement. Once a Renewable Energy Credit is used by any Affected Utility to satisfy these requirements, the credit is retired.
- D. An Affected Utility shall meet one-half of its annual Distributed Renewable Energy Requirement from residential applications and the remaining one-half from non-residential, non-utility applications.
- E. An Affected Utility may satisfy no more than 10 percent of its annual Distributed Renewable Energy Requirement from Renewable Energy Credits derived from distributed Renewable Energy Resources that are non-utility owned generators that sell electricity at wholesale to Affected Utilities. This Wholesale Distributed Generation Component shall qualify for the non-residential portion of the Distributed Renewable Energy Requirement.
- F. Any Renewable Energy Credit created by production of renewable energy which the Affected Utility does not own shall be retained by the entity creating the Renewable Energy Credit. Such Renewable Energy Credit may not be considered used or extinguished by any Affected Utility without approval and proper documentation from the entity creating the Renewable Energy Credit, regardless of whether or not the Commission acknowledged the kWhs associated with non-utility owned Renewable Energy Credits.
- G. The reporting of kWhs associated with Renewable Energy Credits not owned by the utility will be acknowledged.

Historical Note

New Section made by final rulemaking at 13 A.A.R.
2389, effective August 14, 2007 (Supp. 07-2).

Amended by final rulemaking at 21 A.A.R. 379, effective April 21, 2015 (Supp. 15-1).

R14-2-1806. Extra Credit Multipliers

- A. Renewable Energy Credits derived from Eligible Renewable Energy Resources installed after December 31, 2005, shall not be eligible for Extra Credit Multipliers.
- B. The extra Renewable Energy Credits resulting from any applicable multiplier shall be added to the Renewable Energy Credits produced by the Eligible Renewable Energy Resource to determine the total Renewable Energy Credits that may be used to meet an Affected Utility's Annual Renewable Energy Requirement.
- C. "Early Installation Extra Credit Multiplier." Affected Utilities acquiring Renewable Energy Credits from a Solar Electricity Resource, a Solar Water Heater, a Solar Space Cooling system, a Landfill Gas Generator, a Wind Generator, or a Biomass Electricity Generator that was installed and began operations between January 1, 2001, and December 31, 2003, shall be eligible for an Early Installation Extra Credit Multiplier. Renewable Energy Credits derived from such facilities and acquired by Affected Utilities shall be eligible for five years following the facility's operational start-up. The multiplier shall vary according to the year in which the system began operating:

2001	.3
2002	.2
2003	.1
- D. "In-state Power Plant Installation Extra Credit Multiplier." Affected Utilities acquiring Renewable Energy Credits from a Solar Electricity Resource that was installed in Arizona on or before December 31, 2005, shall be eligible for an In-state Power Plant Installation Extra Credit Multiplier. The Renewable Energy Credits derived from such a facility and acquired by an Affected Utility shall be multiplied by .5 annually for the life of the facility. The extra Renewable Energy Credits resulting from the multiplier shall be added to the Renewable Energy Credits produced by the Eligible Renewable Energy Resource to determine the total Renewable Energy Credits that may be used to meet an Affected Utility's Annual Renewable Energy Requirement.
- E. "In-state Manufacturing and Installation Content Extra Credit Multiplier." Affected Utilities acquiring Renewable Energy Credits from a Solar Electricity Resource, a Solar Water Heater, a Solar Space Cooling system, a Landfill Gas Generator, a Wind Generator, or a Biomass Electricity Generator that was installed in Arizona on or before December 31, 2005, and that contains components manufactured in Arizona shall be eligible for an In-state Manufacturing and Installation Content Extra Credit Multiplier. The Renewable Energy Credits derived from such a facility and acquired by an Affected Utility shall be multiplied annually for the life of the facility by a factor determined by multiplying .5 times the percent of Arizona content of the total installed plant.
- F. "Distributed Solar Electric Generator and Solar Incentive Program Extra Credit Multiplier." Affected Utilities acquiring Renewable Energy Credits from a Distributed Solar Electric Generator that was installed in Arizona on or before December 31, 2005, shall be eligible for a Distributed Solar Electric Generator and Solar Incentive Program Extra Credit Multiplier if the facility meets at least two of the following criteria:
 - 1. The facility is installed on customer premises,
 - 2. The facility is included in any Affected Utility's approved Green Pricing program,
 - 3. The facility is included in any Affected Utility's approved Net Metering or Net Billing program,
 - 4. The facility is included in any Affected Utility's approved solar leasing program, or

- 5. The facility is owned by and located on an Affected Utility's property or customer property. The Renewable Energy Credits derived from such a facility and acquired by an Affected Utility shall be multiplied by .5 annually for the life of the facility. Meters will be attached to each solar electric generator and read at least once annually to verify solar performance.

- G. All multipliers are additive, except that the maximum combined Extra Credit Multiplier shall not exceed 2.0.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 2389, effective August 14, 2007 (Supp. 07-2).

R14-2-1807. Manufacturing Partial Credit

- A. An Affected Utility may acquire Renewable Energy Credits to apply to the non-distributed portion of its Annual Renewable Energy Requirement if it or its affiliate owns or makes a significant investment in any solar electric manufacturing plant located in Arizona or if it or its affiliate provides incentives to a manufacturer of solar electric products to locate a manufacturing facility in Arizona.
- B. The Renewable Energy Credits shall be equal to the nameplate capacity of the solar electric generators produced and sold in a calendar year times 2,190 hours, which approximates a 25 percent capacity factor.
- C. Extra credit multipliers shall not apply to Renewable Energy Credits created by this Section.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 2389, effective August 14, 2007 (Supp. 07-2).

R14-2-1808. Tariff

- A. Within 60 days of the effective date of these rules, each Affected Utility shall file with the Commission a Tariff in substantially the same form as the Sample Tariff set forth in these rules that proposes methods for recovering the reasonable and prudent costs of complying with these rules. The specific amounts in the Sample Tariff are for illustrative purposes only and Affected Utilities may submit, with proper support, Tariff filings with alternative surcharge amounts.
- B. The Affected Utility's Tariff filing shall provide the following information:
 - 1. Financial information and supporting data sufficient to allow the Commission to determine the Affected Utility's fair value for purposes of evaluating the Affected Utility's proposed Tariff. Information submitted in the format of the Annual Report required under R14-2-212(G)(4) will be the minimum information necessary for filing a Tariff application but Commission Staff may request additional information depending upon the type of Tariff filing that is submitted;
 - 2. A discussion of the suitability of the Sample Tariff set forth in Appendix A for recovering the Affected Utility's reasonable and prudent costs of complying with these rules;
 - 3. Data to support the level of costs that the Affected Utility contends will be incurred in order to comply with these rules;
 - 4. Data to demonstrate that the Affected Utility's proposed Tariff is designed to recover only the costs in excess of the Market Cost of Comparable Conventional Generation; and
 - 5. Any other information that the Commission believes will be relevant to the Commission's consideration of the Tariff filing.

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- C. The Commission will approve, modify, or deny a Tariff proposed pursuant to subsection (A) within 180 days after the Tariff has been filed. The Commission may suspend this deadline or adopt an alternative procedural schedule for good cause. The Affected Utility's Annual Renewable Energy Requirement, as set forth in R14-2-1804(B), and Distributed Renewable Energy Requirement, as set forth in R14-2-1805(B), will be effective upon Commission approval of the Tariff filed pursuant to this Section.
- D. If an Affected Utility has an adjustor mechanism for the recovery of costs related to Annual Renewable Energy Requirements, the Affected Utility may file a request to reset its adjustor mechanism in lieu of a Tariff pursuant to subsection (A). The Affected Utility's filing shall provide all the information required by subsection (B), except that it may omit information specifically related to the fair value determination. The Affected Utility's Annual Renewable Energy Requirement, as set forth in R14-2-1804(B), and Distributed Renewable Energy Requirement, as set forth in R14-2-1805(B), will be effective upon Commission approval of the adjustor mechanism rate filed pursuant to this Section.
- E. An Affected Utility may file a rate case pursuant to R14-2-103 in lieu of a Tariff pursuant to subsection (A). The Affected Utility's filing shall provide all information required by subsection (B).

Historical Note

New Section made by final rulemaking at 13 A.A.R.
2389, effective August 14, 2007 (Supp. 07-2).

R14-2-1809. Customer Self-Directed Renewable Energy Option

- A. By January 1, 2007, each Affected Utility shall file with Docket Control a Tariff by which an Eligible Customer may apply to an Affected Utility to receive funds to install distributed Renewable Energy Resources. The funds annually received by an Eligible Customer pursuant to this Tariff may not exceed the amount annually paid by the Eligible Customer pursuant to the Affected Utility's Tariff.
- B. An Eligible Customer seeking to participate in this program shall submit to the Affected Utility a written application that describes the Renewable Energy Resources that it proposes to install and the projected cost of the project. An Eligible Customer shall provide at least half of the funding necessary to complete the project described in its application.
- C. All Renewable Energy Credits derived from the project, including generation and Extra Credit Multipliers, shall be applied to satisfy the Affected Utility's Annual Renewable Energy Requirement.

Historical Note

New Section made by final rulemaking at 13 A.A.R.
2389, effective August 14, 2007 (Supp. 07-2).

R14-2-1810. Uniform Credit Purchase Program

- A. The Director of the Utilities Division shall establish a Uniform Credit Purchase Program working group, which will study issues related to implementing Distributed Renewable Energy Resources. The working group shall address the consumer participation process, budgets, incentive levels, eligible technologies, system requirements, installation requirements, and any other issues that are relevant to encouraging the implementation of Distributed Renewable Energy Resources. No later than March 1, 2007, the Director of the Utilities Division shall file a staff report with recommendations for Uniform Credit Purchase Programs.

- B. No later than July 1, 2007, each Affected Utility shall file a Uniform Credit Purchase Program for Commission review and approval.

Historical Note

New Section made by final rulemaking at 13 A.A.R.
2389, effective August 14, 2007 (Supp. 07-2).

R14-2-1811. Net Metering and Interconnection Standards

The Commission Staff shall host a series of workshops addressing the issues of rate design including Net Metering and interconnection standards. Upon completion of this task, and the adoption of rules or standards, if appropriate, each Affected Utility shall file conforming Net Metering tariffs and interconnection standards in Docket Control.

Historical Note

New Section made by final rulemaking at 13 A.A.R.
2389, effective August 14, 2007 (Supp. 07-2).

R14-2-1812. Compliance Reports

- A. Beginning April 1, 2007, and every April 1st thereafter, each Affected Utility shall file with Docket Control a report that describes its compliance with the requirements of these rules for the previous calendar year and provides other relevant information. The Affected Utility shall also transmit to the Director of the Utilities Division an electronic copy of this report that is suitable for posting on the Commission's web site.
- B. The compliance report shall include the following information:
 1. The actual kWh of energy produced within its service territory and the actual kWh of energy or equivalent obtained from Eligible Renewable Energy Resources, differentiating between kWhs for which the Affected Utility owns the Renewable Energy Credits and kWhs produced in the Affected Utility's service territory for which the Affected Utility does not own the Renewable Energy Credits;
 2. The kWh of energy or equivalent obtained from Eligible Renewable Energy Resources normalized to reflect a full year's production;
 3. The kW of generation capacity, disaggregated by technology type;
 4. Cost information regarding cents per actual kWh of energy obtained from Eligible Renewable Energy Resources and cents per kW of generation capacity, disaggregated by technology type;
 5. A breakdown of the Renewable Energy Credits used to satisfy both the Annual Renewable Energy Requirement and the Distributed Renewable Energy Requirement and appropriate documentation of the Affected Utility's receipt of those Renewable Energy Credits; and
 6. A description of the Affected Utility's procedures for choosing Eligible Renewable Energy Resources and a certification from an independent auditor that those procedures are fair and unbiased and have been appropriately applied.
- C. The Commission may consider all available information and may hold a hearing to determine whether an Affected Utility's compliance report satisfied the requirements of these rules.

Historical Note

New Section made by final rulemaking at 13 A.A.R.
2389, effective August 14, 2007 (Supp. 07-2).
Amended by final rulemaking at 21 A.A.R. 379, effective April 21, 2015 (Supp. 15-1).

R14-2-1813. Implementation Plans

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- A. Beginning July 1, 2007, and every July 1st thereafter, each Affected Utility shall file with Docket Control for Commission review and approval a plan that describes how it intends to comply with these rules for the next calendar year. The Affected Utility shall also transmit an electronic copy of this plan that is suitable for posting on the Commission's web site to the Director of the Utilities Division.
- B. The implementation plan shall include the following information:
 - 1. A description of the Eligible Renewable Energy Resources, identified by technology, proposed to be added by year for the next five years and a description of the kW and kWh to be obtained from each of those resources;
 - 2. The estimated cost of each Eligible Renewable Energy Resource proposed to be added, including cost per kWh and total cost per year;
 - 3. A description of the method by which each Eligible Renewable Energy Resource is to be obtained, such as self-build, customer installation, or request for proposals;
 - 4. A proposal that evaluates whether the Affected Utility's existing rates allow for the ongoing recovery of the reasonable and prudent costs of complying with these rules, including a Tariff application that meets the requirements of R14-2-1808 and addresses the Sample Tariff set forth in Appendix A if necessary; and
 - 5. A line item budget that allocates specific funding for Distributed Renewable Energy Resources, for the Customer Self-Directed Renewable Energy Option, for power purchase agreements, for utility-owned systems, and for each Eligible Renewable Energy Resource described in the Affected Utility's implementation plan.
- C. The Commission may hold a hearing to determine whether an Affected Utility's implementation plan satisfies the requirements of these rules.
- A. If an Affected Utility fails to meet the annual requirements set forth in R14-2-1804 and R14-2-1805, it shall include with its annual compliance report a notice of noncompliance.
- B. The notice of noncompliance shall provide the following information:
 - 1. A computation of the difference between the Renewable Energy Credits required by R14-2-1804 and R14-2-1805 and the amount actually obtained,
 - 2. A plan describing how the Affected Utility intends to meet the shortfall from the previous calendar year in the current calendar year, and
 - 3. An estimate of the costs of meeting the shortfall.
- C. If the Commission finds after affording an Affected Utility notice and an opportunity to be heard that the Affected Utility has failed to comply with its implementation plan approved by the Commission as set forth in R14-2-1813, the Commission may find that the Affected Utility shall not recover the costs of meeting the shortfall described in R14-2-1815(B) in rates.
- D. Nothing herein is intended to limit the actions the Commission may take or the penalties the Commission may impose pursuant to Arizona Revised Statutes, Chapter 2, Article 9. An Affected Utility is entitled to notice and an opportunity to be heard prior to Commission action or imposition of penalties.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 2389, effective August 14, 2007 (Supp. 07-2).

R14-2-1816. Waiver from the Provisions of this Article

- A. The Commission may waive compliance with any provision of this Article for good cause.
- B. Any Affected Utility may petition the Commission to waive its compliance with any provision of this Article for good cause.
- C. A petition filed pursuant to these rules shall have priority over other matters filed at the Commission.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 2389, effective August 14, 2007 (Supp. 07-2).

Appendix A. Sample Tariff

Unless otherwise ordered by the Commission, the renewable energy standard surcharge shall be assessed monthly to every retail electric service. This monthly assessment will be the lesser of \$0.004988 per kWh or:

- 1. For residential customers, \$1.05 per service;
- 2. For non-residential customers, \$39.00 per service;
- 3. For non-residential customers whose metered demand is 3,000 kW or more for three consecutive months, \$117.00 per service;
- 4. For non-metered services, the lesser of the load profile or otherwise estimated kWh required to provide the service in question, or the service's contract kWh shall be used in the calculation of the surcharge.

Historical Note

New Appendix A made by final rulemaking at 13 A.A.R. 2389, effective August 14, 2007 (Supp. 07-2).

ARTICLE 19. CONSUMER PROTECTIONS FOR UNAUTHORIZED CARRIER CHANGES

Article 19, consisting of R14-2-1901 through R14-2-1913, made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

R14-2-1901. Definitions

- A. "Authorized Carrier" means any Telecommunications Company that submits, on behalf of a Customer, a change in the Customer's selection of a provider of telecommunications ser-

Historical Note

New Section made by final rulemaking at 13 A.A.R. 2389, effective August 14, 2007 (Supp. 07-2).

R14-2-1814. Electric Power Cooperatives

- A. Within 60 days of the effective date of these rules, every electric cooperative that is an Affected Utility shall file with Docket Control an appropriate plan for acquiring Renewable Energy Credits from Eligible Renewable Energy Resources for the next calendar year and a Tariff that proposes methods for recovering the reasonable and prudent costs of complying with its proposed plan and addresses the Sample Tariff set forth in Appendix A. The cooperative shall also transmit electronic copies of these filings that are suitable for posting on the Commission's web site to the Director of the Utilities Division. Upon Commission approval of this plan, its provisions shall substitute for the requirements of R14-2-1804 and R14-2-1805 for the electric power cooperative proposing the plan.
- B. Beginning July 1, 2007, and every July 1st thereafter, every electric cooperative that is an Affected Utility shall file with Docket Control an appropriate plan for acquiring Renewable Energy Credits from Eligible Renewable Energy Resources for the next calendar year. The cooperative shall also transmit an electronic copy of this plan that is suitable for posting on the Commission's web site to the Director of the Utilities Division.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 2389, effective August 14, 2007 (Supp. 07-2).

R14-2-1815. Enforcement and Penalties

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vice, with the Subscriber's authorization verified in accordance with the procedures specified in this Article.

- B. "Commission" means Arizona Corporation Commission.
- C. "Customer" means the person or entity in whose name service is rendered, as evidenced by the signature on the application or contract for service, or by the receipt or payment of bills regularly issued in their name regardless of the identity of the actual user of service.
- D. "Executing Telecommunications Carrier" means a Telecommunications Company that effects a request that a Subscriber's Telecommunications Company be changed.
- E. "Letter of Agency" means written authorization, including internet enabled with electronic signature, by a Subscriber authorizing a Telecommunications Company to act on the Subscriber's behalf to change the Subscriber's Telecommunications Company.
- F. "Subscriber" means the Customer identified in the account records of a Telecommunications Company; and any person authorized by such Customer to change telecommunications services or to charge services to the account; or any person contractually or otherwise lawfully authorized to represent such Customer.
- G. "Telecommunications Company" means a public service corporation, as defined in the Arizona Constitution, Article 15, § 2, which provides telecommunications services within the state of Arizona and over which the Commission has jurisdiction.
- H. "Unauthorized Carrier" means any Telecommunications Company that submits, on behalf of a Customer, a change in the Customer's selection of a provider of telecommunications service without the subscriber's authorization verified in accordance with the procedures specified in this Article.
- I. "Unauthorized Change" ("slamming") means a change in a Telecommunications Company submitted on behalf of a Subscriber that was not authorized in accordance with R14-2-1904 or not verified in accordance with R14-2-1905.
- J. "Unauthorized Charge" means any charge incurred as a result of an Unauthorized Change.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

R14-2-1902. Purpose and Scope

These rules shall be interpreted to ensure that all Customers in this state are protected from an Unauthorized Change in their intra-LATA, or interLATA long-distance Telecommunications Company. The rules shall be interpreted to promote satisfactory service to the public by local and intraLATA or interLATA long-distance Telecommunications Companies and to establish the rights and responsibilities of both company and Customer. The rules shall be interpreted to establish liability standards and penalties to ensure compliance.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

R14-2-1903. Application

These rules apply to each Telecommunications Company. These rules do not apply to providers of wireless, cellular, personal communications services, or commercial mobile radio services.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

R14-2-1904. Authorized Telecommunications Company Change Procedures

- A. A Telecommunications Company shall not submit a change on behalf of a Subscriber prior to obtaining authorization from the Subscriber and obtaining verification of that authorization in accordance with R14-2-1905.
- B. A Telecommunications Company submitting a change shall maintain and preserve records of verification of individual Subscriber authorization for 24 months.
- C. An Executing Telecommunications Carrier shall not contact the Subscriber to verify the Subscriber's selection received from a Telecommunications Company submitting a change.
- D. An Executing Telecommunications Carrier shall execute such changes as promptly as reasonable business practices will permit, which shall not exceed 10 business days from the receipt of a change notice from a submitting Telecommunications Company. The Executing Telecommunications Carrier shall have no liability for processing an Unauthorized Change.
- E. If a Telecommunications Company is selling more than one type of service, for example, local, intraLATA, or interLATA, it may obtain authorizations from the Subscriber for all services authorized during a single contact.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

R14-2-1905. Verification of Orders for Telecommunications Service

- A. A Telecommunications Company shall not submit a change order unless it confirms the order by one of the following methods:
 1. The Telecommunications Company obtains the Subscriber's written authorization, including internet enabled authorization with electronic signature, in a form that meets the requirements of this Section.
 2. The Telecommunications Company obtains the Subscriber's electronic or voice-recorded authorization for the change that meets the requirements of this Section.
 3. An independent third party, qualified under the criteria set forth in subsection (F), obtains and records the Subscriber's verbal authorization for the change that confirms and includes appropriate verification data pursuant to the requirements of this Section.
- B. Written authorization obtained by a Telecommunications Company shall:
 1. Be a separate document containing only the authorizing language in accordance with verification procedures of this Section,
 2. Have the sole purpose of authorizing a Telecommunications Company change, and
 3. Be signed and dated by the Subscriber requesting the Telecommunications Company change.
- C. A Letter of Agency may be combined with a marketing check subject to the following requirements. The Letter of Agency when combined with a marketing check shall not contain promotional language or material. The Letter of Agency when combined with a marketing check shall have on its face and near the endorsement line a notice in bold-face type that the Subscriber authorizes a Telecommunications Company change by signing the check. The notice shall be in easily readable, bold-face type and shall be written in both English and Spanish, as well as in any other language which was used at any point in the sales transaction. If a Telecommunications Company cannot comply with the requirements of this Section, it may not combine a Letter of Agency with a marketing check.
- D. An electronically signed Letter of Agency is valid written authorization.

- E. A Telecommunications Company that obtains a Subscriber's electronic voice recorded authorization shall confirm the Customer identification and service change information. If a Telecommunications Company elects to verify sales by electronic voice recorded authorization, it shall establish one or more toll-free telephone numbers exclusively for that purpose. A call to the toll-free number shall connect the Subscriber to a recording mechanism that shall record the following information regarding the Telecommunications Company change:
1. The identity of the Subscriber,
 2. Confirmation that the person on the call is authorized to make the Telecommunications Company change,
 3. Confirmation that the person on the call wants to make the Telecommunications Company change,
 4. The name of the newly authorized Telecommunications Company,
 5. The telephone numbers to be switched, and
 6. The types of service involved.
- F. A Telecommunications Company that verifies a Subscriber's authorization by an independent third party shall comply with the following:
1. The independent third party shall not be owned, managed, or controlled by the Telecommunications Company or the company's marketing agent.
 2. The independent third party shall not have any financial incentive to verify that Telecommunications Company change orders are authorized.
 3. The independent third party shall operate in a location physically separate from the Telecommunications Company or the company's marketing agent.
 4. The independent third party shall inform the Subscriber that the call is being recorded and shall record the Subscriber's authorization to change the Telecommunications Company.
 5. All third party verification methods shall elicit and record, at a minimum:
 - a. The identity of the Subscriber,
 - b. Confirmation that the person on the call is authorized to make the Telecommunications Company change,
 - c. Confirmation that the person on the call wants to make the Telecommunications Company change,
 - d. The name of the newly authorized Telecommunications Company,
 - e. The telephone numbers to be switched, and
 - f. The types of service involved.
 6. The independent third party shall conduct the verification in the same language as was used in the initial sales transaction.
- A. A Subscriber shall notify the alleged Unauthorized Carrier within a reasonable period of time after receiving notice of an Unauthorized Change. Any period of time of 60 days or less shall automatically be presumed to be reasonable, and any period of time longer than 60 days may be reasonable based on the circumstances.
- B. After a Subscriber notifies the alleged Unauthorized Carrier that the change was unauthorized, the alleged Unauthorized Carrier shall take all actions within its control to facilitate the Subscriber's return to the original Telecommunications Company as promptly as reasonable business practices will permit, but no later than five business days from the date of the Subscriber's notification to it.
- C. If an alleged Unauthorized Carrier has been notified that an Unauthorized Change has occurred and the alleged Unauthorized Carrier cannot verify within five business days that the change was authorized pursuant to R14-2-1905, the alleged Unauthorized Carrier shall:
1. Pay all charges to the original Telecommunications Company associated with returning the Subscriber to the original Telecommunications Company as promptly as reasonable business practices will permit, but no later than 30 business days from the date of the alleged Unauthorized Carrier's failure to confirm authorization of the change;
 2. Absolve the Subscriber of all charges incurred during the first 90 days of service provided by the alleged Unauthorized Carrier if a Subscriber has not paid charges to the alleged Unauthorized Carrier;
 3. Forward relevant billing information to the original Telecommunications Carrier within 15 business days of a Subscriber's notification. The original Telecommunications Company may not bill the Subscriber for unauthorized service charges during the first 90 days of the alleged Unauthorized Carrier's service but may thereafter bill the Subscriber at the original Telecommunications Company's rates; and
 4. Refund to the original Telecommunications Company, 100% of any alleged Unauthorized Carrier's charges that a Subscriber paid to the alleged Unauthorized Carrier. The original Telecommunications Company shall apply the credit of 100% to the Subscriber's authorized charges.
- D. Until the alleged Unauthorized Carrier certifies with supporting documentation to the Subscriber that the change was verified pursuant to R14-2-1905, the billing Telecommunications Company shall not:
1. Suspend, disconnect, or terminate telecommunications service to a Subscriber who disputes any billing charge pursuant to this Section or for nonpayment of a charge related to an unauthorized change unless requested by the Subscriber, or
 2. File an unfavorable credit report against a Customer who has not paid charges that the Subscriber has alleged were unauthorized.
- E. The Customer shall remain obligated to pay any charges that are not disputed.
- F. The alleged Unauthorized Carrier shall maintain and preserve individual Customer records of Unauthorized Change complaints for 24 months.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

R14-2-1906. Notice of Change

When an Authorized Carrier changes a Subscriber's service, the Authorized Carrier, or its billing and collection agent, shall clearly and conspicuously identify any change in service provider, including the name of the new Authorized Carrier and its telephone number on a bill, a bill insert, or in a separate mailing to the Subscriber. The notice of change shall be printed in both English and Spanish.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

R14-2-1907. Unauthorized Changes

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- G. Each occurrence of slamming to an individual account shall constitute a separate violation of this Article, subject to individual enforcement actions and penalties as prescribed herein.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

R14-2-1908. Notice of Subscriber Rights

- A. A Telecommunications Company shall provide to each of its Subscribers notice of the Subscriber's rights regarding Unauthorized Changes and Unauthorized Charges.
- B. The Subscriber notice shall include the following:
1. The name, address and telephone numbers where a Subscriber can contact the Telecommunications Company;
 2. A Telecommunications Company is prohibited from changing telecommunications service to another company without the Subscriber's permission;
 3. A Telecommunications Company that has switched telecommunications service without the Subscriber's permission is required to pay all charges associated with returning the Customer to the original Telecommunications Company as promptly as reasonable business practices will permit, but no later than 30 business days from the Subscriber's request;
 4. An Unauthorized Carrier shall absolve a Subscriber of all unpaid charges which were incurred during the first 90 days of service provided by the Unauthorized Carrier;
 5. If a Subscriber incurred charges for service provided during the first 90 days of service with the Unauthorized Carrier, the Unauthorized Carrier shall forward the relevant billing information to the original Telecommunications Company. The original Telecommunications Company may not bill the Subscriber for unauthorized service charges during the first 90 days of the Unauthorized Carrier's service but may thereafter bill the Subscriber at the original Telecommunications Company's rates;
 6. If a Subscriber has paid charges to the Unauthorized Carrier, the Unauthorized Carrier must pay 100% of the charges to the original Telecommunications Company and the original Telecommunications Company shall apply the 100% as credit to the Customer's authorized charges;
 7. A Subscriber who has been slammed can contact the Unauthorized Carrier to request the service be changed back in accordance with R14-2-1907;
 8. A Subscriber who has been slammed can report the Unauthorized Change to the Arizona Corporation Commission;
 9. The name, address, web site, and toll free consumer services telephone number of the Arizona Corporation Commission; and
 10. A Subscriber can request their local exchange company place a freeze on the Customer's long distance telecommunications service account.
- C. Distribution, language, and timing of notice.
1. A Telecommunications Company shall provide the notice described in this Section to new Customers at the time service is initiated, and upon a Subscriber's request.
 2. A Telecommunications Company that publishes a telephone directory or contracts for publication of a telephone directory, shall arrange for the notice to appear in the white pages of its annual telephone directory.
 3. A Telecommunications Company with a web site shall display the notice described in this Section on the company's web site.

4. The notice of subscriber rights described in this Section shall be written in both English and Spanish.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

R14-2-1909. Customer Account Freeze

- A. A Customer account freeze prevents a change in a Subscriber's intraLATA and interLATA Telecommunications Company selection until the Subscriber gives consent to lift the freeze to the local exchange company that implemented the freeze.
- B. A local exchange company that offers a freeze shall do so on a nondiscriminatory basis to all Subscribers.
- C. A Telecommunications Company that offers information on freezes shall clearly distinguish intraLATA and interLATA telecommunications services.
- D. A local exchange carrier shall not implement or remove a freeze without authorization obtained consistent with R14-2-1904 and verification consistent with R14-2-1905. However, a local exchange carrier shall remove a freeze if authorized by the subscriber in a three-way conference call meeting the requirements of 47 C.F.R. 64.1190(e)(2) incorporated by reference. This reference to 47 C.F.R. 64.1190(e)(2) is to the version in effect as of January 1, 2004 and no future editions or amendments. Copies of 47 C.F.R. 64.1190(3)(2) are available from the Federal Communications Commission at 445 12th Street SW, Washington D.C. 20554 and at the offices of the Arizona Corporations Commission at 1200 W. Washington Street, Phoenix, Arizona 85007 and online at www.gpoaccess.gov and are on file with the Office of the Secretary of State.
- E. A Telecommunications Company shall not charge the Customer for imposing or removing a freeze except under a Commission approved tariff.
- F. A Telecommunications Company shall maintain records of all freeze authorizations and repeals for the duration of the Customer account freeze or at least 24 months following the cancellation of the Customer account freeze or discontinuance of service provided to that account.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

R14-2-1910. Informal Complaint Process

- A. A Subscriber may file an informal complaint within 90 days of receiving notice of an Unauthorized Charge, or, thereafter, upon a showing of good cause. The complaint shall be submitted to the Commission Staff in writing, telephonically, or via electronic transmission, and shall include:
1. Complainant's name, address, telephone number;
 2. The names of the Telecommunications Companies involved;
 3. The approximate date of the alleged Unauthorized Change;
 4. A statement of facts, including documentation, to support the complainant's allegation;
 5. The amount of any disputed charges, including any amount already paid; and
 6. The specific relief sought.
- B. Commission Staff shall:
1. Assist the parties in resolving the informal complaint;
 2. Notify the Executing Telecommunications Company, original Telecommunications Company, and alleged Unauthorized Carrier of the alleged Unauthorized Change;

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3. Require the alleged Unauthorized Carrier to provide an initial response within five business days of receipt of notice from the Commission;
 4. Require the alleged Unauthorized Carrier to provide documentation of the Subscriber's authorization. If such information is not provided to Staff within 10 business days of the initial Staff notification, Staff shall presume that an Unauthorized Change occurred;
 5. Advise the Telecommunications Company that it shall provide Staff with any additional information requested by Staff within 10 business days of Staff's request; and
 6. Inform the Telecommunications Company that failure to provide the requested information or a good faith response to Commission Staff within 15 business days shall be deemed an admission to the allegations contained within the request and the Telecommunications Company shall be deemed in violation of the applicable provisions of this Article.
- C. If the parties do not resolve the matter, the Staff will conduct a review of the informal complaint and related materials to determine if an Unauthorized Change has occurred, which review shall be completed within 30 days of the Staff's receipt of the informal complaint.
- D. Upon conclusion its review, Staff shall render a written summary of its findings and recommendation to all parties. Staff's written summary is not binding on any party. Any party shall have the right to file a formal complaint with the Commission under A.R.S. § 40-246. Staff's written summary shall not be admissible in the formal complaint proceeding.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

R14-2-1911. Compliance and Enforcement

- A. A Telecommunications Company shall provide a copy of its records of Subscriber verification and Unauthorized Changes maintained under the requirements of this Article to Commission Staff upon request.
- B. If the Commission finds that a Telecommunications Company is in violation of this Article, the Commission shall order the company to take corrective action as necessary, and the Commission may impose such penalties as are authorized by law. The Commission may sanction a Telecommunications Company in violation of this Article by prohibiting further solicitation of new customers for a specified period, or by revocation of its Certificate of Convenience and Necessity. The Commission may take any other enforcement actions authorized by law.
- C. The Commission Staff shall coordinate its enforcement efforts regarding the prosecution of fraudulent, misleading, deceptive, and anti-competitive business practices with the Arizona Attorney General.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

R14-2-1912. Severability

If any provision of this Article is found to be invalid, it shall be deemed severable from the remainder of this Article and the remaining provisions of this Article shall remain in full force and effect.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

R14-2-1913. Script Submission

- A. Each Telecommunications Company shall file under seal in a docket designated by the Director of the Utilities Division ("Director") a copy of all sales or marketing scripts used by its (or its agent's) sales or customer service workers. For the purpose of this rule, "sales or marketing scripts" means all scripts that involve proposing a change in Telecommunications Company or responding to an inquiry regarding a possible change in Telecommunications Company.
- B. A Telecommunications Company shall make the filing described in R14-2-1913(A) at the following times:
1. 90 days from the day these rules are first published in a Notice of Final Rulemaking in the Arizona Administrative Register;
 2. On April 15 of each year;
 3. Whenever directed to do so by the Director; and
 4. Whenever a material change to a script occurs or a new script is used that is materially different from a script on file with the Director.
- C. The Director may request further information or clarification on any script, and the Telecommunications Company shall respond to the Director's request within 10 days.
- D. The Director may initiate a formal complaint under R14-3-101 through R14-3-113 to review any script. The failure to file such a complaint or request further information or clarification does not constitute approval of the script, and the fact that the script is on file with the Commission may not be used as evidence that the script is just, reasonable, or not fraudulent.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

ARTICLE 20. CONSUMER PROTECTIONS FOR UNAUTHORIZED CARRIER CHARGES

Article 20, consisting of R14-2-2001 through R14-2-2011, made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

R14-2-2001. Definitions

- A. "Commission" means the Arizona Corporation Commission.
- B. "Customer" means the person or entity in whose name service is rendered, as evidenced by the signature on the application or contract for service, or by the receipt or payment of bills regularly issued in their name regardless of the identity of the actual user of service.
- C. "Subscriber" means the Customer identified in the account records of a Telecommunications Company; any person authorized by such Customer to change telecommunications services or to charge services to the account; or any person contractually or otherwise lawfully authorized to represent such Customer.
- D. "Telecommunications Company" means a public service corporation, as defined in the Arizona Constitution, Article 15, § 2, that provides telecommunications services within the state of Arizona and over which the Commission has jurisdiction. The phrase "Telecommunications Company" does not include providers of wireless, cellular, personal communications services, or commercial mobile radio services.
- E. "Unauthorized Charge" ("cramming") means any recurring charge on a Customer's telephone bill that was not authorized or verified in compliance with R14-2-2005. This does not include one-time pay-per-use charges or taxes and other sur-

charges that have been authorized by law to be passed through to the Customer.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

R14-2-2002. Purpose and Scope

The provisions of this Article shall be interpreted to ensure all Customers in this state are protected from Unauthorized Charges on their bill from a Telecommunications Company.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

R14-2-2003. Application

This Article applies to each Telecommunications Company.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

R14-2-2004. Requirements for Submitting Authorized Charges

- A. A Telecommunications Company shall provide its billing agent with its name, telephone number, and a list with detailed descriptions of the products and services it intends to charge on a Customer's bill so that the billing agent may accurately identify the product or service on the Customer's bill.
- B. A Telecommunications Company or its billing agent shall specify the product or service being billed and all associated charges.
- C. A Telecommunications Company or its billing agent shall provide the Subscriber with a toll-free telephone number the Subscriber may call for billing inquiries.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

R14-2-2005. Authorization Requirements

- A. A Telecommunications Company shall record the date of a service request and shall obtain from the Subscriber requesting a product or service the following:
 1. The name and telephone number of the Customer,
 2. Verification that Subscriber is authorized to order the product or service, and
 3. Explicit Subscriber acknowledgement that the charges will be assessed on the Customer's bill.
- B. A Telecommunications Company shall communicate the following information to a Subscriber requesting a product or service:
 1. An explanation of each product or service offered,
 2. An explanation of all applicable charges,
 3. A description of how the charge will appear on the Customer's bill,
 4. An explanation of how a product or service can be cancelled, and
 5. A toll-free telephone number for Subscriber inquiries.
- C. The authorization required by R14-2-2005(A) and the communications required by R14-2-2005(B) shall be given in all languages used at any point in the sales transaction. At the beginning of any sales transaction, the Telecommunications Company must offer to conduct the transaction in English or Spanish and must comply with the Customer's choice or shall not complete the transaction.
- D. During each contact in which the Telecommunications Company offers to establish residential service or in which a person requests the establishment of residential service, the Telecom-

munications Company shall inform the subscriber of the cost of "basic local exchange telephone service" as defined in R14-2-1201(6), if provided. A Telecommunications Company shall not use the term "basic" or any other misleading language in describing any product or service. The term "basic" can only be used for a plan that includes only basic local exchange telephone service.

- E. The individual Subscriber authorization record shall be maintained by the Telecommunications Company for 24 months.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

R14-2-2006. Unauthorized Charges

- A. Upon discovery of an Unauthorized Charge or upon notification by a Subscriber of an Unauthorized Charge, the billing Telecommunications Company shall:
 1. Immediately cease charging the Customer for the unauthorized product or service;
 2. Remove the Unauthorized Charge from the Customer's bill within 45 days;
 3. Refund or credit to the Customer all money paid by the Customer at the Customer's option for any Unauthorized Charge. If any Unauthorized Charge is not refunded or credited within two billing cycles, the Telecommunications Company shall pay interest on the amount of any Unauthorized Charges at an annual rate established by the Commission until the Unauthorized Charge is refunded or credited;
 4. Provide the Subscriber all billing records under the control of the Telecommunications Company related to any Unauthorized Charge. The billing records shall be provided within 15 business days of the Subscriber's notification; and
 5. Maintain a record of each Unauthorized Charge of every Customer who has experienced any Unauthorized Charge for 24 months. The record shall include:
 - a. The name of the Telecommunications Company,
 - b. Each affected telephone number,
 - c. The date the Subscriber requested the Unauthorized Charge be removed from the Customer's bill, and
 - d. The date the Customer was refunded or credited the amount that the Customer paid for any Unauthorized Charge.
- B. After a charge is removed from the Customer's bill, the Telecommunications Company shall not rebill the charge unless one of the following occurs:
 1. The Subscriber and the Telecommunications Company agree the customer was accurately billed.
 2. The Telecommunications Company certifies with supporting documentation to the Subscriber that the charge was authorized pursuant to R14-2-2005.
 3. A determination is made pursuant to R14-2-2008 that the charge was authorized.
- C. Until a charge is reinstated pursuant to subsection (B), a Telecommunications Company shall not:
 1. Suspend, disconnect, or terminate telecommunications service to a Subscriber who disputes any billing charge pursuant to this Article or for nonpayment of an alleged Unauthorized Charge unless requested by the Subscriber; or
 2. File an unfavorable credit report against a Customer who has not paid charges that the Subscriber has alleged were unauthorized.
- D. The Customer shall remain obligated to pay any charges that are not disputed.

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- E. Each occurrence of cramming an individual account shall constitute a separate violation of this Article, subject to individual enforcement actions and penalties as prescribed herein.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

R14-2-2007. Notice of Subscriber Rights

- A. A Telecommunications Company shall provide to each of its Subscribers a notice of the Subscriber's rights regarding Unauthorized Charges.
- B. The notice may be combined with the notice required by R14-2-1908.
- C. The notice shall include the following:
1. The name, address and telephone number where a Subscriber can contact the Telecommunications Company;
 2. A statement that a Telecommunications Company is prohibited from adding products and services to a Customer's account without the Subscriber's authorization;
 3. A statement that the Telecommunications Company is required to return the service to its original service provisions if an Unauthorized Charge is added to a Customer's account;
 4. A statement that the Telecommunications Company shall not charge for returning the Customer to their original service provisions;
 5. A statement that the Telecommunications Company must refund or credit, at the Customer's option, to the Customer any amount paid for any Unauthorized Charge. If any Unauthorized Charge is not refunded or credited within two billing cycles, the Telecommunications Company shall pay interest on the amount of any Unauthorized Charges at an annual rate established by the Commission until the Unauthorized Charge is refunded or credited;
 6. A statement that a Customer who has been crammed can report the Unauthorized Charge to the Arizona Corporation Commission; and
 7. The name, address, web site, and toll-free consumer services telephone number of the Arizona Corporation Commission.
- D. Distribution, language, and timing of notice.
1. A Telecommunications Company shall provide the notice described in this Section to new Customers at the time service is initiated, and upon Subscriber's request.
 2. A Telecommunications Company that publishes a telephone directory or contracts for publication of a telephone directory, shall arrange for the notice to appear in the white pages of its annual telephone directory.
 3. A Telecommunications Company with a web site shall display the notice described in this Section on the company's web site.
 4. The notice of subscriber rights described in this Section shall be written in both English and Spanish.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

R14-2-2008. Informal Complaint Process

- A. A Subscriber may file an informal complaint within 90 days of receiving notice of an Unauthorized Charge, or, thereafter, upon a showing of good cause. The complaint shall be submitted to the Commission Staff in writing, telephonically or via electronic transmission, and shall include:

1. Complainant's name, address, telephone number;
2. The name of the Telecommunications Company that submitted the alleged Unauthorized Charge;
3. The approximate date of the alleged Unauthorized Charge;
4. A statement of facts, and documentation, to support the complainant's allegation;
5. The amount of any disputed charges including the amount already paid; and
6. The specific relief sought.

B. The Commission Staff shall:

1. Assist the parties in resolving the complaint;
 2. Notify the Telecommunications Company of the alleged Unauthorized Charge;
 3. Require the Telecommunications Company to provide an initial response within five business days of receipt of notice from the Commission;
 4. Require the Telecommunications Company to provide documentation of the Subscriber's new service or product request. If such information is not provided to the Staff within 10 business days of the initial Staff notification, Staff shall presume that an Unauthorized Charge occurred;
 5. Advise the Telecommunications Company that it shall provide Staff any additional information requested within 10 business days of Staff's request; and
 6. Inform the Telecommunications Company that failure to provide the requested information or a good faith response to Commission Staff within 15 business days shall be deemed an admission to the allegations contained within the request and the Telecommunications Company shall be deemed in violation of the applicable provisions of this Article.
- C. If the parties do not resolve the matter, the Staff will conduct a review of the informal complaint and related materials to determine if an Unauthorized Charge has occurred, which review shall be completed within 30 days of the Staff's receipt of the informal complaint.
- D. Upon conclusion of its review, Staff shall render a written summary of its findings and recommendation to all parties. Staff's written summary is not binding on any party. Any party shall have the right to file a formal complaint with the Commission under A.R.S. § 40-246. Staff's written summary shall not be admissible in the formal complaint proceeding.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

R14-2-2009. Compliance and Enforcement

- A. A Telecommunications Company shall provide a copy of records related to a Subscriber's request for services or products to Commission Staff upon request.
- B. If the Commission finds that a Telecommunications Company is in violation of this Article, the Commission shall order the company to take corrective action as necessary, and the company may be subject to such penalties as are authorized by law. The Commission may sanction a Telecommunications Company in violation of this Article by prohibiting further solicitation of new customers for a specified period, or by revocation of its Certificate of Convenience and Necessity. The Commission may take any other enforcement actions authorized by law.
- C. The Commission Staff shall coordinate its enforcement efforts regarding the prosecution of fraudulent, misleading, deceptive,

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and anti-competitive business practices with the Arizona Attorney General.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

R14-2-2010. Severability

If any provision of this Article is found to be invalid, it shall be deemed severable from the remainder of this Article and the remaining provisions of this Article shall remain in full force and effect.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

R14-2-2011. Script Submission

- A. Each Telecommunications Company shall file under seal in a docket designated by the Director of the Utilities Division ("Director") a copy of all sales or marketing scripts used by its (or its agent's) sales or customer service workers. For the Purposes of this rule, "sales or marketing scripts" means all scripts that involve an offer to sell a product or service or a response to a request for a product or service, including all scripts for unrelated matters that include a prompt for the sales or customer service workers to offer to sell a product or service.
- B. A Telecommunications Company shall make the filing described in R14-2-2011(A) at the following times:
 1. 90 days from the day these rules are first published in a Notice of Final Rulemaking in the Arizona Administrative Register;
 2. On April 15 of each year;
 3. Whenever directed to do so by the Director; and
 4. Whenever a material change to a script occurs or a new script is used that is materially different from a script on file with the Director.
- C. The Director may request further information or clarification on any script, and the Telecommunications Company shall respond to the Director's request within 10 days.
- D. The Director may initiate a formal complaint under R14-3-101 through R14-3-113 to review any script. The failure to file such a complaint or request further information or clarification does not constitute approval of the script, and the fact that the script is on file with the Commission may not be used as evidence that the script is just, reasonable, or not fraudulent.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

ARTICLE 21. CUSTOMER PROPRIETARY NETWORK INFORMATION**R14-2-2101. Application**

These rules govern the treatment of Customer Proprietary Network Information (CPNI) for all telecommunications carriers that provide telecommunications service in Arizona. In addition, the Commission adopts, incorporates, and approves as its own 47 CFR 64.2001 through 2009, revised as of September 20, 2002 (and no future amendments), incorporated by reference and copies available from the Commission Office, Legal Division, 1200 West Washington, Phoenix, Arizona 85007 and the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania

15250-7975. These rules are in addition to the FCC rules and together with the FCC rules govern the release of CPNI in Arizona.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 1547, effective June 19, 2006 (06-2).

R14-2-2102. Definitions

For purposes of this Article, the following definitions apply unless the context otherwise requires:

1. "Affiliate" means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this paragraph, the term "own" means to own an equity interest (or the equivalent thereof) of more than 10 percent.
2. "Communications-related services" means telecommunications services, information services typically provided by telecommunications carriers, and services related to the provision or maintenance of customer premises equipment.
3. A "Customer" of a telecommunications carrier is a person or entity to which the telecommunications carrier is currently providing service.
4. "Customer premise equipment" means equipment employed on the premises of a person (other than a telecommunications carrier) to originate, route, or terminate telecommunications.
5. "Customer proprietary network information (CPNI)" means information that relates to the quantity, technical configuration, type, destination, location, and amount of use of a telecommunications service subscribed to by any customer of a telecommunications carrier, and that is made available to the carrier by the customer solely by virtue of the carrier-customer relationship; and information contained in the bills pertaining to telephone exchange service or telephone toll service received by a customer of a carrier; except that such term does not include subscriber list information. See 47 U.S.C. 222(h)(1) revised 1999 (and no future amendments), incorporated by reference and copies available from the Commission Office, Legal Division, 1200 West Washington, Phoenix, Arizona 85007 and the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.
6. "Non-listed Service" means a service that ensures that customers' telephone numbers are not published in the telephone directory but are available through directory assistance.
7. "Non-published Service" means a service that ensures that customers' telephone numbers are not published in the telephone directory and are not otherwise available through directory assistance.
8. "Opt-In approval" means a method for obtaining customer consent to use, disclose, or permit access to the customer's CPNI that requires that the telecommunications carrier obtain from the customer affirmative, express consent allowing the requested CPNI usage, disclosure, or access after the customer is provided notification of the carrier's request in conformance with Section R14-2-2105.
9. "Opt-Out approval" means a method for obtaining customer consent to use, disclose, or permit access to the customer's CPNI where a customer is deemed to have consented to the use, disclosure, or access to the customer's CPNI if the customer has failed to affirmatively object to approval within the 30-day waiting period pro-

vided in R14-2-2103(C) after the customer is provided the notice as required in R14-2-2106, subject to the requirements of Section R14-2-2108.

10. "Published" means authorized for voluntary disclosure by the individual identified in the listing.
11. "Subscriber list information" means any information identifying the listed names of subscribers of a telecommunications carrier and such subscribers' telephone numbers, addresses, or primary advertising classifications (as such classifications are assigned at the time of the establishment of such service), or any combination of such listed names, numbers, addresses, or classifications; and that the carrier or an affiliate has published, caused to be published, or accepted for publication in any directory format. See 47 U.S.C. 222(e)(1) revised 1999 (and no future amendments), incorporated by reference and copies available from the Commission Office, Legal Division, 1200 West Washington, Phoenix, Arizona 85007 and the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.
12. "Telecommunications carrier" means a public service corporation, as defined in the Arizona Constitution, Article 15, § 2, which provides telecommunications services within the state of Arizona and over which the Commission has jurisdiction.
13. "Third Party" means a person who is not the customer, the customer's telecommunications service provider, an affiliate, joint venture partner, or independent contractor of the customer's telecommunications service provider.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 1547, effective June 19, 2006 (06-2).

R14-2-2103. Obtaining Customer Approval to Use, Disclose, or Permit Access to CPNI to Affiliates, Joint Venture Partners and Independent Contractors Providing Communications-Related Services

- A. A telecommunications carrier may, subject to obtaining opt-out approval or opt-in approval:
 1. Disclose its customer's individually identifiable CPNI, for the purpose of marketing to that customer communications-related services of a category to which the customer does not already subscribe, to its agents; its affiliates that provide communications-related services; and its joint venture partners and independent contractors;
 2. Permit such persons or entities to obtain access to such CPNI for such purposes.
- B. Any solicitation for customer approval must be accompanied by a notice to the customer of the customer's right to restrict use of, disclosure of, and access to that customer's CPNI. For the purpose of obtaining opt-in approval, the notice must comply with the requirements of Section R14-2-2105 of these rules. For the purpose of obtaining opt-out approval, the notice must comply with the requirements of Section R14-2-2106 of these rules.
- C. Telecommunications carriers must wait a 30-day minimum period of time after giving customers notice and an opportunity to opt-out before assuming customer approval to use, disclose or permit access to CPNI. A telecommunications carrier may, in its discretion, provide for a longer period.
- D. The telecommunications carrier shall be required to execute a proprietary agreement with all affiliates, joint venture partners, independent contractors that provide communications-related services, third parties, and affiliates that do not provide communications-related services to maintain the confidentiality of

the customers' CPNI. The proprietary agreement must meet the minimum requirements set forth in 47 CFR 64.2007(b)(2), revised as of September 20, 2002 (and no future amendments), incorporated by reference and copies available from the Commission Office, Legal Division, 1200 West Washington, Phoenix, Arizona 85007 and the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 1547, effective June 19, 2006 (06-2).

R14-2-2104. Obtaining Customer Approval to Use, Disclose, or Permit Access to CPNI to Third Parties and Affiliates That Do Not Provide Communications-Related Services

- A. A telecommunications carrier may, subject to opt-in approval, use, disclose, or permit access to its customer's individually identifiable CPNI to affiliates that do not provide telecommunications-related services.
- B. A telecommunications carrier may use, disclose, or permit access to its customer's individually identifiable CPNI to a third party only upon written, electronic, or oral request by the customer that specifically identifies the third party to whom the CPNI may be disseminated.
- C. Any solicitation for customer approval must be accompanied by a notice to the customer of the customer's right to restrict use of, disclosure of, and access to that customer's CPNI. For the purpose of obtaining opt-in approval, the notice must comply with the requirements of Section R14-2-2105 of these rules.
- D. The telecommunications carrier shall be required to execute a proprietary agreement with all affiliates, joint venture partners, independent contractors that provide communications-related services, third parties, and affiliates that do not provide communications-related services to maintain the confidentiality of the customers' CPNI. The proprietary agreement must meet the minimum requirements set forth in 47 CFR 64.2007(b)(2), revised as of September 20, 2002 (and no future amendments), incorporated by reference and copies available from the Commission Office, Legal Division, 1200 West Washington, Phoenix, Arizona 85007 and the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.
- E. A telecommunications company relying on "Opt-In" approval must bear the burden of demonstrating that such approval has been given in compliance with sections R14-2-2104 and R14-2-2105 of these rules.
- F. This Article does not prohibit the use and disclosure of CPNI for the purpose of sharing customer records necessary for the provisioning of service by a competitive carrier as provided in section 222(c)(1) of the Communications Act of 1934, as amended (and no future amendments), incorporated by reference and copies available from the Commission Office, Legal Division, 1200 West Washington, Phoenix, Arizona 85007 and the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 1547, effective June 19, 2006 (06-2).

R14-2-2105. Information Requirements for Customer CPNI Opt-In Notice

- A. A telecommunications carrier may provide notification to obtain opt-in approval through oral, written, or electronic methods. The contents of any such notification must:

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1. Include language the same as or substantially similar to the definition of customer proprietary network information contained in 47 U.S.C. 222(h)(1); 1999 amendment (and no future amendments), incorporated by reference and copies available from the Commission Office, Legal Division, 1200 West Washington, Phoenix, Arizona 85007 and the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975;
 2. State that the customer has a right to direct the company not to use the customer's CPNI or limit the use, disclosure, and access to the customer's CPNI;
 3. State that the telecommunications company has a duty to comply with the customer's limitations on use, disclosure of, and access to the information;
 4. State that CPNI includes all information related to specific calls initiated or received by a customer;
 5. Inform the customer that CPNI does not include published information, whether listed or non-listed, such as their name, telephone number, and address, and this information is not subject to the same limitations of use;
 6. Inform the customer that deciding not to approve the release of CPNI will not affect the provision of any services to which the customer subscribes;
 7. State that any customer approval for use, disclosure of, or access to CPNI may be revoked or limited at any time; and
 8. Be posted on the company's web site.
- B. Written notice must:**
1. Be mailed separately or be included as an insert in a regular monthly bill within an envelope that clearly and boldly states that important privacy information is contained therein;
 2. Be clearly legible, in twelve-point or larger print;
 3. Be printed in both English and Spanish unless the customer has previously expressed a preferred language in which case the notice may be written in that language alone.
- C. Electronic notice must:**
1. Be e-mailed separately from any billing information, inducements, advertising, or promotional information;
 2. Be clearly legible, in twelve-point or larger print;
 3. Be printed in both English and Spanish unless the customer has previously expressed a preferred language in which case the notice may be written in that language alone.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 1547, effective June 19, 2006 (06-2).

R14-2-2106. Additional Information Requirements for Customer Opt-Out Notice

- A.** A telecommunications carrier may provide notification to obtain opt-out approval through, written, or electronic methods, but not orally (except as provided in Section R14-2-2107).
- B.** The contents of any such notification must comply with Section R14-2-2105 and with the following requirements.
- C.** Telecommunications carriers must notify customers as to the applicable waiting period (minimum 30-days as provided in

R14-2-2103(C)) for a response before opt-out approval is assumed.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 1547, effective June 19, 2006 (06-2).

R14-2-2107. Notification Requirements for Obtaining Customer Approval for Limited One-Time Use of CPNI for Inbound and Outbound Customer Telephone Contact

A telecommunications carrier may use oral notice to obtain limited, one-time use of CPNI for inbound and outbound customer telephone contacts for the duration of the call, regardless of whether telecommunications carriers use opt-out or opt-in approval based on the nature of the contact.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 1547, effective June 19, 2006 (06-2).

R14-2-2108. Verification of Customer Opt-Out Approval to Use CPNI

- A.** Verification of a customer's opt-out approval must be obtained within one year. Verification of the customer's approval shall be obtained in accordance with the procedures set forth below. Carriers may request an extension of the verification time period subject to Commission approval.
- B.** Verification of the customer's approval may be obtained through written, oral, or electronic methods. All verification methods shall be conducted in the same languages that were used in the initial notification and shall elicit at a minimum:
 1. The identity of the customer;
 2. Confirmation that the person responding to the verification request is authorized to make CPNI available to the telecommunications company;
 3. Confirmation that the customer wants to make the CPNI release verification;
 4. The telephone numbers for which CPNI information release is authorized; and
 5. The types of service involved.
- C.** Written verification obtained by a telecommunications carrier shall:
 1. Be a separate document having the sole purpose of authorizing a telecommunications company to use the customer's CPNI in accordance with this Article;
 2. Be signed and dated by the customer authorizing the use of the customer's CPNI; and
 3. Not be combined with any inducement.
- D.** Electronic verification obtained by a telecommunications carrier shall:
 1. Include electronically signed letters of authority;
 2. Be a separate document having the sole purpose of authorizing a telecommunications company to use the customer's CPNI in accordance with this Article; and
 3. Not be combined with any inducement.
- E.** Oral verification obtained by a telecommunications carrier shall:
 1. Be recorded; and
 2. Not be combined with any inducement.
- F.** If a telecommunications company fails to obtain verification within one year of obtaining a customer's opt-out approval, the authorization to use, disclose, or permit access to that customer's CPNI is no longer valid. If verification from the customer is not received within one year as required, the company shall direct any entities (affiliates, joint-venture partners, or independent contractors) to whom it has released CPNI to stop using the CPNI.

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- G.** As a result of failure to obtain verification within one year, the company and any other entities (affiliates, joint-venture partners, or independent contractors) may not use, disclose, or permit access to that customer's CPNI until verification is obtained.
- H.** Carriers may request an extension of the verification time period subject to Commission approval.
- I.** The Commission may grant an extension(s) of time to complete the verification process if the applicant demonstrates items 1 through 4 below:
1. The applicant has used its best efforts to obtain customer verification of their CPNI sharing preference. One means of demonstrating this would be for the applicant to show that it has achieved verification with respect to a minimum of one-third of its customers during the initial or extension period for which the company used the opt-out approval mechanism; and
 2. The applicant has contacted each of its customers (for whom it has used an opt-out approval mechanism) at least once in the first half of the verification period and at least once during the second half of the verification period (if it was unsuccessful in obtaining the customer's verification during its initial contact) to verify the customer's CPNI sharing preference; and
 3. To the extent practicable, one of the applicant's contacts to the customer should be by phone to the customer's primary residence or telephone number by a person speaking the customer's language preference (English or Spanish). If the customer is not there, it should allow, if technically feasible, the customer the option of responding via message return; and
 4. The applicant presents a plan for achieving verification for its remaining customers. In its plan, the applicant must demonstrate that the additional time it is requesting is no longer than is reasonably necessary to complete items 1 and 3 again for any customers it was unsuccessful in contacting during the initial verification period, and to complete any additional measures designed to ensure customer contact during the extension period.
- A.** Telecommunications companies that have obtained opt-out or opt-in approval must notify customers of their current election regarding the treatment of their CPNI every twelve months.
1. In the case of opt-out approval, the notification must remind customers of their election to allow the company to:
 - a. Provide their information to its affiliates that provide communications-related services to which services that customer does not already subscribe; and
 - b. Provide their information to its joint venture partners and independent contractors that provide communications-related services.
 2. In the case of opt-in approval, the notification must remind customers of their election to allow the company to:
 - a. Provide their information to its affiliates that provide communications-related services to which services that customer does not already subscribe;
 - b. Provide their information to its joint venture partners and independent contractors that provide communications-related services; and
 - c. Provide their information to its affiliates that provide non-communications-related services.
 3. In the case of customer specified third party approval by written, oral, or electronic request, the notification must remind customers of their election to allow the company to:
 - a. Provide their information to its affiliates that provide communications-related services to which services that customer does not already subscribe;
 - b. Provide their information to its joint venture partners and independent contractors that provide communications-related services;
 - c. Provide their information to its affiliates that provide non-communications-related services; and
 - d. Provide their information to specifically identified third parties as requested in writing by the customer.
- B.** The notice must not be mailed with any advertising or promotional information.
- C.** The notice shall not be included with the customer's bill.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 1547, effective June 19, 2006 (06-2).

R14-2-2109. Confirming a Customer's Opt-In Approval

- A.** Each time a telecommunications company receives a customer's "Opt-In" approval to allow the telecommunications company to make CPNI available to itself, its affiliates, independent contractors or joint venture partners, the telecommunications company must confirm in writing the change in approval status to the customer within ten days.
- B.** The written confirmation must be mailed or e-mailed to the customer.
- C.** The confirmation must be separate from any other mail from the telecommunications company.
- D.** The confirmation must clearly advise the customer of the effect of the customer's opt-in choice and must provide a reasonable method to notify the telecommunications company, including a toll free telephone number if the telecommunications company made an error in changing the customer's approval status.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 1547, effective June 19, 2006 (06-2).

R14-2-2110. Reminders to Customers of Their Current CPNI Release Election**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1547, effective June 19, 2006 (06-2).

R14-2-2111. Duration of Customer Approval or Disapproval to Disseminate the Customer's CPNI

Any approval of the use of CPNI received by a telecommunications carrier will remain in effect until the customer revokes, modifies, or limits such approval.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 1547, effective June 19, 2006 (06-2).

R14-2-2112. Severability

If any provision of this Article is found to be invalid, it shall be deemed severable from the remainder of this Article and the remaining provisions of this Article shall remain in full force and effect.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 1547, effective June 19, 2006 (06-2).

ARTICLE 22. RESERVED**ARTICLE 23. NET METERING****R14-2-2301. Applicability**

These rules govern the treatment of Electric Utility Customers in Arizona who wish to interconnect with the Electric Utility which serves them and engage in Net Metering operation as defined below. These rules apply to all Electric Utilities, as defined in these rules.

Historical Note

New Section made by final rulemaking at 15 A.A.R. 638, effective May 23, 2009 (Supp. 09-1).

R14-2-2302. Definitions

For purposes of this Article, the following definitions apply unless the context requires otherwise:

1. "Avoided Costs" means the incremental costs to an Electric Utility for electric energy or capacity or both which, but for the purchase from the Net Metering Facility, such utility would generate itself or purchase from another source.
2. "Biomass" means any raw or processed plant-derived organic matter available on a renewable basis, including:
 - a. Dedicated energy crops and trees,
 - b. Agricultural food and feed crops,
 - c. Agricultural crop wastes and residues,
 - d. Wood wastes and residues, including:
 - i. Landscape waste.
 - ii. Right-of-way tree trimmings.
 - iii. Small diameter forest thinnings that are 12 inches in diameter or less.
 - e. Dead and downed forest products,
 - f. Aquatic plants,
 - g. Animal wastes,
 - h. Other vegetative waste materials,
 - i. Non-hazardous plant matter waste material that is segregated from other waste,
 - j. Forest-related resources such as:
 - i. Harvesting and mill residue.
 - ii. Pre-commercial thinnings.
 - iii. Slash.
 - iv. Brush.
 - k. Miscellaneous waste such as:
 - i. Waste pallets,
 - ii. Crates,
 - iii. Dunnage, or
 - l. Recycled paper fibers that are no longer suitable for recycled paper production, but not including:
 - i. Painted, treated, or pressurized wood;
 - ii. Wood contaminated with plastics or metals;
 - iii. Tires; or
 - iv. Recyclable post-consumer waste paper.
3. "Biogas" means gases that are derived from:
 - a. Plant-derived organic matter,
 - b. Agricultural food and feed matter,
 - c. Wood wastes,
 - d. Aquatic plants,
 - e. Animal wastes,
 - f. Vegetative wastes,
 - g. Wastewater treatment facilities using anaerobic digestion, or
 - h. Municipal solid waste through:
 - i. A digester process,
 - ii. An oxidation process, or
 - iii. Other gasification process.
4. "Combined Heat and Power" or "CHP" (also known as cogeneration) means a system that generates electricity and useful thermal energy in a single, integrated system such that the useful power output of the facility plus one-half the useful thermal energy output during any 12-month period must be no less than 42.5 percent of the total energy input of fuel to the facility.
5. "Commission" means the Arizona Corporation Commission.
6. "Electric Utility" or "Utility" means an electric distribution company that constructs, operates, and maintains the electrical distribution system for the receipt and delivery of power.
7. "Electric Utility Customer" or "Customer" means an end-use retail Customer served under a Utility's rate schedule.
8. "Fuel Cell" means a device that converts the chemical energy of a fuel directly into electricity without intermediate combustion or thermal cycles. For purposes of these Net Metering rules, the source of the chemical reaction must be derived from Renewable Resources.
9. "Geothermal" means heat from within the earth's surface.
10. "Hydroelectric" means the kinetic energy derived from moving water.
11. "Net Metering" means service to an Electric Utility Customer under which electric energy generated by or on behalf of that Electric Utility Customer from a Net Metering Facility and delivered to the Utility's local distribution facilities may be used to offset electric energy provided by the Electric Utility to the Electric Utility Customer during the applicable billing period.
12. "Net Metering Customer" means any Arizona Customer who chooses to take electric service in the manner described in the definition of Net Metering in subsection (11) and under the Net Metering tariff, as described in R14-2-2307.
13. "Net Metering Facility" means a facility for the production of electricity that:
 - a. Is operated by or on behalf of a Net Metering Customer and is located on the Net Metering Customer's premises;
 - b. Is intended primarily to provide part or all of the Net Metering Customer's requirements for electricity;
 - c. Uses Renewable Resources, a Fuel Cell, or CHP to generate electricity;
 - d. Has a generating capacity less than or equal to 125% of the Net Metering Customer's total connected load, or in the absence of customer load data, capacity less than or equal to the Customer's electric service drop capacity; and
 - e. Is interconnected with and can operate in parallel and in phase with an Electric Utility's existing distribution system.
14. "Renewable Resources" means natural resources that can be replenished by natural processes, including:
 - a. Biogas,
 - b. Biomass,
 - c. Geothermal,
 - d. Hydroelectric,
 - e. Solar, or
 - f. Wind.
15. "Solar" means radiation or heat from the Earth's sun that produces electricity from a device or system designed for that purpose.
16. "Wind" means energy derived from wind movement across the earth's surface that produces electricity from a device or system designed for that purpose.

Historical Note

New Section made by final rulemaking at 15 A.A.R. 638, effective May 23, 2009 (Supp. 09-1).

R14-2-2303. Requirements and Eligibility

An Electric Utility shall interconnect with any retail customer with a Net Metering Facility in the Electric Utility's service territory.

Historical Note

New Section made by final rulemaking at 15 A.A.R. 638, effective May 23, 2009 (Supp. 09-1).

R14-2-2304. Metering

The meter that is installed on Net Metering Facilities after the effective date of these rules shall be capable of registering and accumulating the kilowatt-hours ("kWh") of electricity flowing in both directions in each billing period.

Historical Note

New Section made by final rulemaking at 15 A.A.R. 638, effective May 23, 2009 (Supp. 09-1).

R14-2-2305. New or Additional Charges

Net Metering charges shall be assessed on a nondiscriminatory basis. Any proposed charge that would increase a Net Metering Customer's costs beyond those of other customers with similar load characteristics or customers in the same rate class that the Net Metering Customer would qualify for if not participating in Net Metering shall be filed by the Electric Utility with the Commission for consideration and approval. The charges shall be fully supported with cost of service studies and benefit/cost analyses. The Electric Utility shall have the burden of proof on any proposed charge.

Historical Note

New Section made by final rulemaking at 15 A.A.R. 638, effective May 23, 2009 (Supp. 09-1).

R14-2-2306. Billing for Net Metering

- A. On a monthly basis, the Net Metering Customer shall be billed or credited based upon the rates applicable under the Customer's currently effective standard rate schedule and any appropriate rider schedules.
- B. The billing period for Net Metering will be the same as the billing period under the Customer's applicable standard rate schedule.
- C. If the kWh supplied by the Electric Utility exceed the kWh that are generated by the Net Metering Facility and delivered back to the Electric Utility during the billing period, the Customer shall be billed for the net kWh supplied by the Electric Utility in accordance with the rates and charges under the Customer's standard rate schedule.
- D. If the electricity generated by the Net Metering Customer exceeds the electricity supplied by the Electric Utility in the billing period, the Customer shall be credited during the next billing period for the excess kWh generated. That is, the excess kWh during the billing period will be used to reduce the kWh supplied (not kW or kVA demand or customer charges) and billed by the Electric Utility during the following billing period.
- E. Customers taking service under time-of-use rates who are to receive credit in a subsequent billing period for excess kWh generated shall receive such credit during the next billing period during the on- or off-peak periods corresponding to the on- or off-peak periods in which the kWh were generated by the Customer.
- F. Once each calendar year the Electric Utility shall issue a check or billing credit to the Net Metering Customer for the balance of any credit due in excess of amounts owed by the Customer to the Electric Utility. The payment for any remaining credits shall be at the Electric Utility's Avoided Cost. That Avoided

Cost shall be clearly identified in the Electric Utility's Net Metering tariff.

Historical Note

New Section made by final rulemaking at 15 A.A.R. 638, effective May 23, 2009 (Supp. 09-1).

R14-2-2307. Net Metering Tariff

- A. Each Electric Utility shall file, for approval by the Commission, a Net Metering tariff within 120 days from the effective date of these rules, including financial information and supporting data sufficient to allow the Commission to determine the Electric Utility's fair value for the purposes of evaluating any specific proposed charges. The Commission shall issue a decision on these filings within 120 days.
- B. The Net Metering tariff shall specify standard rates for annual purchases of remaining credits from Net Metering Facilities and may specify total utility capacity limits. If total utility capacity limits are included in the tariff, such limits must be fully justified.
- C. Electric utilities may include seasonally and time of day differentiated Avoided Cost rates for purchases from Net Metering Customers, to the extent that Avoided Costs vary by season and time of day.

Historical Note

New Section made by final rulemaking at 15 A.A.R. 638, effective May 23, 2009 (Supp. 09-1).

R14-2-2308. Filing and Reporting Requirements

- A. Prior to May 1 of each year, each Electric Utility shall file a report listing all existing Net Metering Facilities and the inverter power rating or generator rating as of the end of the previous calendar year.
- B. Also included in this report shall be, for each existing Net Metering Facility, the monthly amount of energy delivered to and from the Electric Utility and, if available, the monthly peak demand delivered to and from the Electric Utility.

Historical Note

New Section made by final rulemaking at 15 A.A.R. 638, effective May 23, 2009 (Supp. 09-1).

ARTICLE 24. ELECTRIC ENERGY EFFICIENCY STANDARDS

R14-2-2401. Definitions

In this Article, unless otherwise specified:

1. "Adjustment mechanism" means a Commission-approved provision in an affected utility's rate schedule allowing the affected utility to increase and decrease a certain rate or rates, in an established manner, when increases and decreases in specific costs are incurred by the affected utility.
2. "Affected utility" means a public service corporation that provides electric service to retail customers in Arizona.
3. "Baseline" means the level of electricity demand, electricity consumption, and associated expenses estimated to occur in the absence of a specific DSM program, determined as provided in R14-2-2413.
4. "CHP" means combined heat and power, which is using a primary energy source to simultaneously produce electrical energy and useful process heat.
5. "Commission" means the Arizona Corporation Commission.
6. "Cost-effective" means that total incremental benefits from a DSM measure or DSM program exceed total incremental costs over the life of the DSM measure, as determined under R14-2-2412.

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7. "Customer" means the person or entity in whose name service is rendered to a single contiguous field, location, or facility, regardless of the number of meters at the field, location, or facility.
8. "Delivery system" means the infrastructure through which an affected utility transmits and then distributes electrical energy to its customers.
9. "Demand savings" means the load reduction, measured in kW, occurring during a relevant peak period or periods as a direct result of energy efficiency and demand response programs.
10. "Demand response" means modification of customers' electricity consumption patterns, affecting the timing or quantity of customer demand and usage, achieved through intentional actions taken by an affected utility or customer because of changes in prices, market conditions, or threats to system reliability.
11. "Distributed generation" means the production of electricity on the customer's side of the meter, for use by the customer, through a process such as CHP.
12. "DSM" means demand-side management, the implementation and maintenance of one or more DSM programs.
13. "DSM measure" means any material, device, technology, educational program, pricing option, practice, or facility alteration designed to result in reduced peak demand, increased energy efficiency, or shifting of electricity consumption to off-peak periods and includes CHP used to displace space heating, water heating, or another load.
14. "DSM program" means one or more DSM measures provided as part of a single offering to customers.
15. "DSM tariff" means a Commission-approved schedule of rates designed to recover an affected utility's reasonable and prudent costs of complying with this Article.
16. "Electric utility" means a public service corporation providing electric service to the public.
17. "Energy efficiency" means the production or delivery of an equivalent level and quality of end-use electric service using less energy, or the conservation of energy by end-use customers.
18. "Energy efficiency standard" means the reduction in retail energy sales, in percentage of kWh, required to be achieved through an affected utility's approved DSM programs as prescribed in R14-2-2404.
19. "Energy savings" means the reduction in a customer's energy consumption directly resulting from a DSM program, expressed in kWh.
20. "Energy service company" means a company that provides a broad range of services related to energy efficiency, including energy audits, the design and implementation of energy efficiency projects, and the installation and maintenance of energy efficiency measures.
21. "Environmental benefits" means avoidance of costs for compliance, or reduction in environmental impacts, for things such as, but not limited to:
 - a. Water use and water contamination,
 - b. Monitoring storage and disposal of solid waste such as coal ash (bottom and fly),
 - c. Health effects from burning fossil fuels, and
 - d. Emissions from transportation and production of fuels and electricity.
22. "Fuel-neutral" means without promoting or otherwise expressing bias regarding a customer's choice of one fuel over another.
23. "Incremental benefits" means amounts saved through avoiding costs for fuel, purchased power, new capacity, transmission, distribution, and other cost items necessary to provide electric utility service, along with other improvements in societal welfare, such as through avoided environmental impacts, including, but not limited to, water consumption savings, air emission reduction, reduction in coal ash, and reduction of nuclear waste.
24. "Incremental costs" means the additional expenses of DSM measures, relative to baseline.
25. "Independent program administrator" means an impartial third party employed to provide objective oversight of energy efficiency programs.
26. "kW" means kilowatt.
27. "kWh" means kilowatt-hour.
28. "Leveraging" means combining resources to more effectively achieve an energy efficiency goal, or to achieve greater energy efficiency savings, than would be achieved without combining resources.
29. "Load management" means actions taken or sponsored by an affected utility to reduce peak demands or improve system operating efficiency, such as direct control of customer demands through affected-utility-initiated interruption or cycling, thermal storage, or educational campaigns to encourage customers to shift loads.
30. "Low-income customer" means a customer with a below average level of household income, as defined in an affected utility's Commission-approved DSM program description.
31. "Market transformation" means strategic efforts to induce lasting structural or behavioral changes in the market that result in increased energy efficiency.
32. "Net benefits" means the incremental benefits resulting from DSM minus the incremental costs of DSM.
33. "Non-market benefits" means improvements in societal welfare that are not bought or sold.
34. "Program costs" means the expenses incurred by an affected utility as a result of developing, marketing, implementing, administering, and evaluating Commission-approved DSM programs.
35. "Self-direction" means an option made available to qualifying customers of sufficient size, in which the amount of money paid by each qualifying customer toward DSM costs is tracked for the customer and made available for use by the customer for approved DSM investments upon application by the customer.
36. "Societal Test" means a cost-effectiveness test of the net benefits of DSM programs that starts with the Total Resource Cost Test, but includes non-market benefits and costs to society.
37. "Staff" means individuals working for the Commission's Utilities Division, whether as employees or through contract.
38. "Thermal envelope" means the collection of building surfaces, such as walls, windows, doors, floors, ceilings, and roofs, that separate interior conditioned (heated or cooled) spaces from the exterior environment.
39. "Total Resource Cost Test" means a cost-effectiveness test that measures the net benefits of a DSM program as a resource option, including incremental measure costs, incremental affected utility costs, and carrying costs as a component of avoided capacity cost, but excluding incen-

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tives paid by affected utilities and non-market benefits to society.

Historical Note

New Section made by final rulemaking at 16 A.A.R.
2254, effective January 1, 2011 (Supp. 10-4).

R14-2-2402. Applicability

This Article applies to each affected utility classified as Class A according to R14-2-103(A)(3)(q), unless the affected utility is an electric distribution cooperative that has fewer than 25% of its customers in Arizona.

Historical Note

New Section made by final rulemaking at 16 A.A.R.
2254, effective January 1, 2011 (Supp. 10-4).

R14-2-2403. Goals and Objectives

- A. An affected utility shall design each DSM program:
 1. To be cost-effective, and
 2. To accomplish at least one of the following:
 - a. Energy efficiency,
 - b. Load management, or
 - c. Demand response.
- B. An affected utility shall consider the following when planning and implementing a DSM program:
 1. Whether the DSM program will achieve cost-effective energy savings and peak demand reductions;
 2. Whether the DSM program will advance market transformation and achieve sustainable savings, reducing the need for future market interventions; and
 3. Whether the affected utility can ensure a level of funding adequate to sustain the DSM program and allow the DSM program to achieve its targeted goal.
- C. An affected utility shall:
 1. Offer DSM programs that will provide an opportunity for all affected utility customer segments to participate, and
 2. Allocate a portion of DSM resources specifically to low-income customers.

Historical Note

New Section made by final rulemaking at 16 A.A.R.
2254, effective January 1, 2011 (Supp. 10-4).

R14-2-2404. Energy Efficiency Standards

- A. Except as provided in R14-2-2418, in order to ensure reliable electric service at reasonable ratepayer rates and costs, by December 31, 2020, an affected utility shall, through cost-effective DSM energy efficiency programs, achieve cumulative annual energy savings, measured in kWh, equivalent to at least 22% of the affected utility's retail electric energy sales for calendar year 2019.
- B. An affected utility shall, by the end of each calendar year, meet at least the cumulative annual energy efficiency standard listed in Table 1 for that calendar year. An illustrative example of how the required energy savings would be calculated is shown in Table 2. An illustrative example of how the standard could be met in 2020 is shown in Table 4.

Table 1. Energy Efficiency Standard

CALENDAR YEAR	ENERGY EFFICIENCY STANDARD (Cumulative Annual Energy Savings by the End of Each Calendar Year as a Percentage of the Retail Energy Sales in the Prior Calendar Year)
2011	1.25%

2012	3.00%
2013	5.00%
2014	7.25%
2015	9.50%
2016	12.00%
2017	14.50%
2018	17.00%
2019	19.50%
2020	22.00%

Table 2. Illustrative Example of Calculating Required Energy Savings

CALENDAR YEAR	A RETAIL SALES (kWh)	B ENERGY EFFICIENCY STANDARD	C REQUIRED CUMULATIVE ENERGY SAVINGS (B of current year × A of prior year)
2010	100,000,000		0
2011	100,750,000	1.25%	1,250,000
2012	101,017,500	3.00%	3,022,500
2013	101,069,925	5.00%	5,050,875
2014	100,915,646	7.25%	7,327,570
2015	100,821,094	9.50%	9,586,986
2016	100,517,711	12.00%	12,098,531
2017	100,293,499	14.50%	14,575,068
2018	100,116,043	17.00%	17,049,895
2019	99,986,628	19.50%	19,522,628
2020	99,902,384	22.00%	21,997,058

- C. An affected utility's measured reductions in peak demand resulting from cost-effective demand response and load management programs may comprise up to two percentage points of the 22% energy efficiency standard, with peak demand reduction capability from demand response converted to an annual energy savings equivalent based on an assumed 50% annual load factor. The credit for demand response and load management peak demand reductions shall not exceed 10% of the energy efficiency standard set forth in subsection (B) for any year. The measured reductions in peak demand occurring during a calendar year after the effective date of this Article may be counted for that calendar year even if the demand response or load management program resulting in the reductions was implemented prior to the effective date of this Article.
- D. An affected utility's energy savings resulting from DSM energy efficiency programs implemented before the effective date of this Article, but after 2004, may be credited toward meeting the energy efficiency standard set forth in subsection (B). The total energy savings credit for these pre-rules energy efficiency programs shall not exceed 4% of the affected utility's retail energy sales in calendar year 2005. A portion of the total energy savings credit for these pre-rules energy efficiency programs may be applied each year, from 2016 through 2020, as listed in Table 3, Column A.

Table 3. Credit for Pre-Rules Energy Savings

CALENDAR YEAR	A CREDIT FOR THE PRE-RULES ENERGY SAVINGS APPLIED IN EACH YEAR (Percentage of the Total Eligible Pre-Rules Cumulative Annual Energy Savings That Shall Be Applied in the Year)	B CUMULATIVE APPLICATION OF THE CREDIT FOR THE PRE-RULES ENERGY SAVINGS IN 2016-2020 (Percentage of the Total Eligible Pre-Rules Cumulative Annual Energy Savings That Are Credited by the End of Each Year)
2016	7.5%	7.5%
2017	15.0%	22.5%
2018	20.0%	42.5%
2019	25.0%	67.5%
2020	32.5%	100.0%

- E.** An affected utility may count toward meeting the standard up to one third of the energy savings, resulting from energy efficiency building codes, that are quantified and reported through a measurement and evaluation study undertaken by the affected utility.
- F.** An affected utility may count the energy savings from combined heat and power (CHP) installations that do not qualify under the Renewable Energy Standard toward meeting the energy efficiency standard.
- G.** An affected utility may count a customer's energy savings resulting from self-direction toward meeting the standard.
- H.** An affected utility's energy savings resulting from efficiency improvements to its delivery system may not be counted toward meeting the standard.
- I.** An affected utility's energy savings used to meet the energy efficiency standard will be assumed to continue through the year 2020 or, if expiring before the year 2020, to be replaced with a DSM energy efficiency program having at least the same level of efficiency.

Table 4. Illustrative Example of How the Energy Standard Could Be Met in 2020

	2020 Energy Efficiency Standard	2019 Retail Sales (kWh)	Required Cumulative Annual Energy Savings (kWh)
Total	22.00%	99,986,628	21,997,058
Breakdown of Savings and Credits Used To Meet 2020 Standard:			
			Cumulative Annual Energy Savings or Credit (kWh)
Demand Response Credit R14-2-2404(C)	Up to 2.00%		1,999,733
Pre-rules Savings Credit R14-2-2404(D)			1,100,000*
Building Code R14-2-2404(E)			1,000,000
CHP R14-2-2404(F)			500,000
Self-direction R14-2-2404(G)			100,000
Energy Efficiency R14-2-2404(A)			17,297,325
Total			21,997,058
*The total pre-rules savings credit is capped at 4% of 2005 retail energy sales, and the total credit is allocated over five years from 2016 to 2020. The credit shown above represents an estimate of the portion of the total credit that can be taken in 2020, or 32.5% of the total credit allowed.			

Historical Note

New Section, including Tables 1 through 4, made by final rulemaking at 16 A.A.R. 2254, effective January 1, 2011 (Supp. 10-4).

R14-2-2405. Implementation Plans

- A.** Except as provided in R14-2-2418, on June 1 of each odd year, or annually at the election of each affected utility, each affected utility shall file with Docket Control, for Commission review and approval, an implementation plan describing how the affected utility intends to meet the energy efficiency standard for the next one or two calendar years, as applicable,
- except that the initial implementation plan shall be filed within 30 days of the effective date of this Article.
- B.** The implementation plan shall include the following information:
1. Except for the initial implementation plan, a description of the affected utility's compliance with the requirements of this Article for the previous calendar year;

2. Except for the initial implementation plan, which shall describe only the next calendar year, a description of how the affected utility intends to comply with this Article for the next two calendar years, including an explanation of any modification to the rates of an existing DSM adjustment mechanism or tariff that the affected utility believes is necessary;
 3. Except for the initial implementation plan, which shall describe only the next calendar year, a description of each DSM program to be newly implemented or continued in the next two calendar years and an estimate of the annual kWh and kW savings projected to be obtained through each DSM program;
 4. The estimated total cost and cost per kWh reduction of each DSM measure and DSM program described in subsection (B)(3);
 5. A DSM tariff filing complying with R14-2-2406(A) or a request to modify and reset an adjustment mechanism complying with R14-2-2406(C), as applicable; and
 6. For each new DSM program or DSM measure that the affected utility desires to implement, a program proposal complying with R14-2-2407.
- C.** An affected utility shall notify its customers of its annual implementation plan filing through a notice in its next regularly scheduled customer bills.
- D.** The Commission may hold a hearing to determine whether an affected utility's implementation plan satisfies the requirements of this Article.
- E.** An affected utility's Commission-approved implementation plan, and the DSM programs authorized thereunder, shall continue in effect until the Commission takes action on a new implementation plan for the affected utility.

Historical Note

New Section made by final rulemaking at 16 A.A.R.
2254, effective January 1, 2011 (Supp. 10-4).

R14-2-2406. DSM Tariffs

- A.** An affected utility's DSM tariff filing shall include the following:
1. A detailed description of each method proposed by the affected utility to recover the reasonable and prudent costs associated with implementing the affected utility's intended DSM programs;
 2. Financial information and supporting data sufficient to allow the Commission to determine the affected utility's fair value, including, at a minimum, the information required to be submitted in a utility annual report filed under R14-2-212(G)(4);
 3. Data supporting the level of costs that the affected utility believes will be incurred in order to comply with this Article; and
 4. Any other information that the Commission believes is relevant to the Commission's consideration of the tariff filing.
- B.** The Commission shall approve, modify, or deny a tariff filed pursuant to subsection (A) within 180 days after the tariff has been filed. The Commission may suspend this deadline or adopt an alternative procedural schedule for good cause.
- C.** If an affected utility has an existing adjustment mechanism to recover the reasonable and prudent costs associated with implementing DSM programs, the affected utility may, in lieu of making a tariff filing under subsection (A), file a request to

modify and reset its adjustment mechanism by submitting the information required under subsections (A)(1) and (3).

Historical Note

New Section made by final rulemaking at 16 A.A.R.
2254, effective January 1, 2011 (Supp. 10-4).

R14-2-2407. Commission Review and Approval of DSM Programs and DSM Measures

- A.** An affected utility shall obtain Commission approval before implementing a new DSM program or DSM measure.
- B.** An affected utility may apply for Commission approval of a DSM program or DSM measure by submitting a program proposal either as part of its implementation plan submitted under R14-2-2405 or through a separate application.
- C.** A program proposal shall include the following:
1. A description of the DSM program or DSM measure that the affected utility desires to implement,
 2. The affected utility's objectives and rationale for the DSM program or DSM measure,
 3. A description of the market segment at which the DSM program or DSM measure is aimed,
 4. An estimated level of customer participation in the DSM program or DSM measure,
 5. An estimate of the baseline,
 6. The estimated societal benefits and savings from the DSM program or DSM measure,
 7. The estimated societal costs of the DSM program or DSM measure,
 8. The estimated environmental benefits to be derived from the DSM program or DSM measure,
 9. The estimated benefit-cost ratio of the DSM program or DSM measure,
 10. The affected utility's marketing and delivery strategy,
 11. The affected utility's estimated annual costs and budget for the DSM program or DSM measure,
 12. The implementation schedule for the DSM program or DSM measure,
 13. A description of the affected utility's plan for monitoring and evaluating the DSM program or DSM measure, and
 14. Any other information that the Commission believes is relevant to the Commission's consideration of the tariff filing.
- D.** In determining whether to approve a program proposal, the Commission shall consider:
1. The extent to which the Commission believes the DSM program or DSM measure will meet the goals set forth in R14-2-2403(A), and
 2. All of the considerations set forth in R14-2-2403(B).
- E.** Staff may request modifications of on-going DSM programs to ensure consistency with this Article. The Commission shall allow affected utilities adequate time to notify customers of DSM program modifications.

Historical Note

New Section made by final rulemaking at 16 A.A.R.
2254, effective January 1, 2011 (Supp. 10-4).

R14-2-2408. Parity and Equity

- A.** An affected utility shall develop and propose DSM programs for residential, non-residential, and low-income customers.
- B.** An affected utility shall allocate DSM funds collected from residential customers and from non-residential customers proportionately to those customer classes to the extent practicable.
- C.** The affected utility costs of DSM programs for low-income customers shall be borne by all customer classes, except where

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a customer or customer class is specifically exempted by Commission order.

- D. DSM funds collected by an affected utility shall be used, to the extent practicable, to benefit that affected utility's customers.
- E. All customer classes of an affected utility shall bear the costs of DSM programs by payment through a non-bypassable mechanism, unless a customer or customer class is specifically exempted by Commission order.

Historical Note

New Section made by final rulemaking at 16 A.A.R. 2254, effective January 1, 2011 (Supp. 10-4).

R14-2-2409. Reporting Requirements

- A. By March 1 of each year, an affected utility shall submit to the Commission, in a Commission-established docket for that year, a DSM progress report providing information for each of the affected utility's Commission-approved DSM programs and including at least the following:
 1. An analysis of the affected utility's progress toward meeting the annual energy efficiency standard;
 2. A list of the affected utility's current Commission-approved DSM programs and DSM measures, organized by customer segment;
 3. A description of the findings from any research projects completed during the previous year; and
 4. The following information for each Commission-approved DSM program or DSM measure:
 - a. A brief description;
 - b. Goals, objectives, and savings targets;
 - c. The level of customer participation during the previous year;
 - d. The costs incurred during the previous year, disaggregated by type of cost, such as administrative costs, rebates, and monitoring costs;
 - e. A description and the results of evaluation and monitoring activities during the previous year;
 - f. Savings realized in kW, kWh, therms, and BTUs, as appropriate;
 - g. The environmental benefits realized, including reduced emissions and water savings;
 - h. Incremental benefits and net benefits, in dollars;
 - i. Performance-incentive calculations for the previous year;
 - j. Problems encountered during the previous year and proposed solutions;
 - k. A description of any modifications proposed for the following year; and
 - l. Whether the affected utility proposes to terminate the DSM program or DSM measure and the proposed date of termination.
- B. By September 1 of each year, an affected utility shall file a status report including a tabular summary showing the following for each current Commission-approved DSM program and DSM measure of the affected utility:
 1. Semi-annual expenditures compared to annual budget, and
 2. Participation rates.
- C. An affected utility shall file each report required by this Section with Docket Control, where it will be available to the public, and shall make each such report available to the public upon request.

- D. An affected utility may request within its implementation plan that these reporting requirements supersede specific existing DSM reporting requirements.

Historical Note

New Section made by final rulemaking at 16 A.A.R. 2254, effective January 1, 2011 (Supp. 10-4).

R14-2-2410. Cost Recovery

- A. An affected utility may recover the costs that it incurs in planning, designing, implementing, and evaluating a DSM program or DSM measure if the DSM program or DSM measure is all of the following:
 1. Approved by the Commission before it is implemented,
 2. Implemented in accordance with a Commission-approved program proposal or implementation plan, and
 3. Monitored and evaluated for cost-effectiveness pursuant to R14-2-2415.
- B. An affected utility shall monitor and evaluate each DSM program and DSM measure, as provided in R14-2-2415, to determine whether the DSM program or DSM measure is cost-effective and otherwise meets expectations.
- C. If an affected utility determines that a DSM program or DSM measure is not cost-effective or otherwise does not meet expectations, the affected utility shall include in its annual DSM progress report filed under R14-2-2409 a proposal to modify or terminate the DSM program or DSM measure.
- D. An affected utility shall recover its DSM costs concurrently, on an annual basis, with the spending for a DSM program or DSM measure, unless the Commission orders otherwise.
- E. An affected utility may recover costs from DSM funds for any of the following items, if the expenditures will enhance DSM:
 1. Incremental labor attributable to DSM development,
 2. A market study,
 3. A research and development project such as applied technology assessment,
 4. Consortium membership, or
 5. Another item that is difficult to allocate to an individual DSM program.
- F. The Commission may impose a limit on the amount of DSM funds that may be used for the items in subsection (E).
- G. If goods and services used by an affected utility for DSM have value for other affected utility functions, programs, or services, the affected utility shall divide the costs for the goods and services and allocate funding proportionately.
- H. An affected utility shall allocate DSM costs in accordance with generally accepted accounting principles.
- I. The Commission shall review and address financial disincentives, recovery of fixed costs, and recovery of net lost income/revenue, due to Commission-approved DSM programs, if an affected utility requests such review in its rate case and provides documentation/records supporting its request in its rate application.
- J. An affected utility, at its own initiative, may submit to the Commission twice-annual reports on the financial impacts of its Commission-approved DSM programs, including any unrecovered fixed costs and net lost income/revenue resulting from its Commission-approved DSM programs.

Historical Note

New Section made by final rulemaking at 16 A.A.R. 2254, effective January 1, 2011 (Supp. 10-4).

R14-2-2411. Performance Incentives

In the implementation plans required by R14-2-2405, an affected utility may propose for Commission review a performance incentive to assist in achieving the energy efficiency standard set forth in

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R14-2-2404. The Commission may also consider performance incentives in a general rate case.

Historical Note

New Section made by final rulemaking at 16 A.A.R.
2254, effective January 1, 2011 (Supp. 10-4).

R14-2-2412. Cost-effectiveness

- A. An affected utility shall ensure that the incremental benefits to society of the affected utility's overall DSM portfolio exceed the incremental costs to society of the DSM portfolio.
- B. The Societal Test shall be used to determine cost-effectiveness.
- C. The analysis of a DSM program's or DSM measure's cost-effectiveness may include:
 - 1. Costs and benefits associated with reliability, improved system operations, environmental impacts, and customer service;
 - 2. Savings of both natural gas and electricity; and
 - 3. Any uncertainty about future streams of costs or benefits.
- D. An affected utility shall make a good faith effort to quantify water consumption savings and air emission reductions, while other environmental costs or the value of environmental improvements shall be estimated in physical terms when practical but may be expressed qualitatively. An affected utility, Staff, or any party may propose monetized benefits and costs if supported by appropriate documentation or analyses.
- E. Market transformation programs shall be analyzed for cost-effectiveness by measuring market effects compared to program costs.
- F. Educational programs shall be analyzed for cost-effectiveness based on estimated energy and peak demand savings resulting from increased awareness about energy use and opportunities for saving energy.
- G. Research and development and pilot programs are not required to demonstrate cost-effectiveness.
- H. An affected utility's low-income customer program portfolio shall be cost-effective, but costs attributable to necessary health and safety measures shall not be used in the calculation.

Historical Note

New Section made by final rulemaking at 16 A.A.R.
2254, effective January 1, 2011 (Supp. 10-4).

R14-2-2413. Baseline Estimation

- A. To determine the baseline, an affected utility shall estimate the level of electric demand and consumption and the associated costs that would have occurred in the absence of a DSM program or DSM measure.
- B. For demand response programs, an affected utility shall use customer load profile information to verify baseline consumption patterns and the peak demand savings resulting from demand response actions.
- C. For installations or applications that have multiple fuel choices, an affected utility shall determine the baseline using the same fuel source actually used for the installation or application.

Historical Note

New Section made by final rulemaking at 16 A.A.R.
2254, effective January 1, 2011 (Supp. 10-4).

R14-2-2414. Fuel Neutrality

- A. Ratepayer-funded DSM shall be developed and implemented in a fuel-neutral manner.
- B. An affected utility shall use DSM funds collected from electric customers for electric DSM programs, unless otherwise ordered by the Commission.

- C. An affected utility may use DSM funds collected from electric customers for thermal envelope improvements.

Historical Note

New Section made by final rulemaking at 16 A.A.R.
2254, effective January 1, 2011 (Supp. 10-4).

R14-2-2415. Monitoring, Evaluation, and Research

- A. An affected utility shall monitor and evaluate each DSM program and DSM measure to:
 - 1. Ensure compliance with the cost-effectiveness requirements of R14-2-2412;
 - 2. Determine participation rates, energy savings, and demand reductions;
 - 3. Assess the implementation process for the DSM program or DSM measure;
 - 4. Obtain information on whether to continue, modify, or terminate a DSM program or DSM measure; and
 - 5. Determine the persistence and reliability of the affected utility's DSM.
- B. An affected utility may conduct evaluation and research, such as market studies, market research, and other technical research, for DSM program planning, product development, and DSM program improvement.

Historical Note

New Section made by final rulemaking at 16 A.A.R.
2254, effective January 1, 2011 (Supp. 10-4).

R14-2-2416. Program Administration and Implementation

- A. An affected utility may use an energy service company or other external resource to implement a DSM program or DSM measure.
- B. The Commission may, at its discretion, establish independent program administrators who would be subject to the relevant requirements of this Article.

Historical Note

New Section made by final rulemaking at 16 A.A.R.
2254, effective January 1, 2011 (Supp. 10-4).

R14-2-2417. Leveraging and Cooperation

- A. An affected utility shall, to the extent practicable, participate in cost sharing, leveraging, or other lawful arrangements with customers, vendors, manufacturers, government agencies, other electric utilities, or other entities if doing so will increase the effectiveness or cost-effectiveness of a DSM program or DSM measure.
- B. An affected utility shall participate in a DSM program or DSM measure with a natural gas utility when doing so is practicable and if doing so will increase the effectiveness or cost-effectiveness of a DSM program or DSM measure.

Historical Note

New Section made by final rulemaking at 16 A.A.R.
2254, effective January 1, 2011 (Supp. 10-4).

R14-2-2418. Compliance by Electric Distribution Cooperatives

- A. An electric distribution cooperative that is an affected utility shall comply with the requirements of this Section instead of meeting the requirements of R14-2-2404(A) and (B) and R14-2-2405(A).
- B. An electric distribution cooperative shall, on June 1 of each odd year, or annually at its election:
 - 1. File with Docket Control, for Commission review and approval, an implementation plan for each DSM program to be implemented or maintained during the next one or two calendar years, as applicable; and

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2. Submit to the Director of the Commission's Utilities Division an electronic copy of its implementation plan in a format suitable for posting on the Commission's web site.
- C. An implementation plan submitted under subsection (B) shall set forth an energy efficiency goal for each year of at least 75% of the savings requirement specified in R14-2-2404 and shall include the information required under R14-2-2405(B).

Historical Note

New Section made by final rulemaking at 16 A.A.R.
2254, effective January 1, 2011 (Supp. 10-4).

R14-2-2419. Waiver from the Provisions of this Article

- A. The Commission may waive compliance with any provision of this Article for good cause.
- B. An affected utility may petition the Commission to waive its compliance with any provision of this Article for good cause.
- C. A petition filed pursuant to this Section shall have priority over other matters filed under this Article.

Historical Note

New Section made by final rulemaking at 16 A.A.R.
2254, effective January 1, 2011 (Supp. 10-4).

ARTICLE 25. GAS UTILITY ENERGY EFFICIENCY STANDARDS**R14-2-2501. Definitions**

In this Article, unless otherwise specified:

1. "Adjustment mechanism" means a Commission-approved provision in an affected utility's rate schedule allowing the affected utility to increase and decrease a certain rate or rates, in an established manner, when increases and decreases in specific costs are incurred by the affected utility.
2. "Affected utility" means a public service corporation that provides gas utility service to retail customers in Arizona.
3. "Baseline" means the level of gas demand, gas consumption, and associated expenses estimated to occur in the absence of a specific DSM program, determined as provided in R14-2-2513.
4. "CHP" means combined heat and power, which is using a primary energy source to simultaneously produce electrical energy and useful process heat.
5. "Commission" means the Arizona Corporation Commission.
6. "Cost-effective" means that total incremental benefits from a DSM measure or DSM program exceed total incremental costs over the life of the DSM measure, as determined under R14-2-2512.
7. "Customer" means the person or entity in whose name service is rendered to a single contiguous field, location, or facility, regardless of the number of meters at the field, location, or facility.
8. "Delivery system" means the infrastructure through which an affected utility transmits and then distributes gas energy to its customers.
9. "DSM" means demand-side management, the implementation and maintenance of one or more DSM programs.
10. "DSM measure" means any material, device, technology, educational program, practice, or facility alteration designed to result in increased energy efficiency and includes CHP used to displace space heating, water heating, or another load.
11. "DSM program" means one or more DSM measures provided as part of a single offering to customers.
12. "DSM tariff" means a Commission-approved schedule of rates designed to recover an affected utility's reasonable and prudent costs of complying with this Article.
13. "Energy efficiency" means the production or delivery of an equivalent level and quality of end-use gas service using less energy, or the conservation of energy by end-use customers.
14. "Energy efficiency standard" means the reduction in retail energy sales, in percentage of therms or therm equivalents, required to be achieved through an affected utility's approved DSM and RET programs as prescribed in R14-2-2504.
15. "Energy savings" means the reduction in a customer's energy consumption, expressed in therms or therm equivalents.
16. "Energy service company" means a company that provides a broad range of services related to energy efficiency, including energy audits, the design and implementation of energy efficiency projects, and the installation and maintenance of energy efficiency measures.
17. "Environmental benefits" means avoidance of costs for compliance, or reduction in environmental impacts, for things such as, but not limited to:
 - a. Water use and water contamination;
 - b. Monitoring storage and disposal of solid waste, such as coal ash (bottom and fly);
 - c. Health effects from burning fossil fuels; and
 - d. Emissions from transportation and production of fuels.
18. "Fuel-neutral" means without promoting or otherwise expressing bias regarding a customer's choice of one fuel over another.
19. "Gas" means either natural gas or propane.
20. "Gas utility" means a public service corporation providing natural gas service or propane service to the public.
21. "Incremental benefits" means amounts saved through avoiding costs for gas purchases, delivery system, and other cost items necessary to provide gas utility service, along with other improvements in societal welfare, such as through avoided environmental impacts, including, but not limited to, water consumption savings, water contamination reduction, air emission reduction, reduction in coal ash, and reduction of nuclear waste.
22. "Incremental costs" means the additional expenses of DSM measures, relative to baseline.
23. "Independent program administrator" means an impartial third party employed to provide objective oversight of DSM and RET programs.
24. "kWh" means kilowatt-hour.
25. "Leveraging" means combining resources to more effectively achieve an energy efficiency goal, or to achieve greater energy efficiency savings, than would be achieved without combining resources.
26. "Low-income customer" means a customer with a below average level of household income, as defined in an affected utility's Commission-approved DSM program description.
27. "Market transformation" means strategic efforts to induce lasting structural or behavioral changes in the market that result in increased energy efficiency.
28. "Net benefits" means the incremental benefits resulting from DSM minus the incremental costs of DSM.
29. "Non-market benefits" means improvements in societal welfare that are not bought or sold.

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30. "Program costs" means the expenses incurred by an affected utility as a result of developing, marketing, implementing, administering, and evaluating Commission-approved DSM programs.
31. "RET" means a renewable energy resource technology application utilizing an energy resource that is replaced rapidly by a natural, ongoing process and that displaces conventional energy resources otherwise used to provide energy to an affected utility's Arizona customers.
32. "RET program" means one or more RETs provided as part of a single offering to customers.
33. "Revenue decoupling" means a mechanism that reduces or eliminates the connection between sales volume and the recovery of an affected utility's Commission-approved cost of service.
34. "Self-direction" means an option made available to qualifying customers of sufficient size, in which the amount of money paid by each qualifying customer toward DSM costs is tracked for the customer and made available for use by the customer for approved DSM investments upon application by the customer.
35. "Societal Test" means a cost-effectiveness test of the net benefits of DSM programs that starts with the Total Resource Cost Test, but includes non-market benefits and costs to society.
36. "Staff" means individuals working for the Commission's Utilities Division, whether as employees or through contract.
37. "Therm" means a unit of heat energy equal to 100,000 British Thermal Units.
38. "Thermal envelope" means the collection of building surfaces, such as walls, windows, doors, floors, ceilings, and roofs, that separate interior conditioned (heated or cooled) spaces from the exterior environment.
39. "Therm equivalent" means a unit of energy, such as kWh, converted and stated in terms of therms.
40. "Total Resource Cost Test" means a cost-effectiveness test that measures the net benefits of a DSM program as a resource option, including incremental measure costs, incremental affected utility costs, and carrying costs as a component of avoided capacity cost, but excluding incentives paid by affected utilities and non-market benefits to society.
- A. An affected utility shall design each DSM program to be cost-effective.
- B. An affected utility shall consider the following when planning and implementing a DSM or RET program:
1. Whether the DSM or RET program will advance market transformation and achieve sustainable savings, reducing the need for future market interventions;
 2. Whether the affected utility can ensure a level of funding adequate to sustain the DSM or RET program and allow the program to achieve its targeted goals; and
 3. If a DSM program, whether the DSM program will achieve cost-effective energy savings.
- C. An affected utility shall:
1. Offer DSM programs that will provide an opportunity for all affected utility customer segments to participate, and
 2. Allocate a portion of DSM resources specifically to low-income customers.

Historical Note

New Section made by final rulemaking at 17 A.A.R. 72, effective March 4, 2011 (Supp. 11-1).

R14-2-2504. Energy Efficiency Standards

- A. Except as provided in R14-2-2518 and R14-2-2519, in order to ensure reliable gas service at reasonable ratepayer rates and costs, by December 31, 2020, an affected utility shall, through DSM and RET programs, achieve cumulative annual energy savings, expressed as therms or therm equivalents, equal to at least 6% of the affected utility's retail gas energy sales for calendar year 2019.
- B. An affected utility shall, by the end of each calendar year, meet at least the cumulative annual energy efficiency standard listed in Table 1 for that calendar year. An illustrative example of how the required energy savings would be calculated is shown in Table 2. An illustrative example of how the standard can be met in 2020 is shown in Table 4.

Table 1. Energy Efficiency Standard

CALENDAR YEAR	ENERGY EFFICIENCY STANDARD (Cumulative Annual Energy Savings by the End of Each Calendar Year as a Percentage of the Retail Energy Sales in the Prior Calendar Year)
2011	0.50%
2012	1.20%
2013	1.80%
2014	2.40%
2015	3.00%
2016	3.60%
2017	4.20%
2018	4.80%
2019	5.40%
2020	6.00%

Historical Note

New Section made by final rulemaking at 17 A.A.R. 72, effective March 4, 2011 (Supp. 11-1).

R14-2-2502. Applicability

This Article applies to each affected utility classified as Class A according to R14-2-103(A)(3)(q).

Historical Note

New Section made by final rulemaking at 17 A.A.R. 72, effective March 4, 2011 (Supp. 11-1).

R14-2-2503. Goals and Objectives**Table 2. Illustrative Example of Calculating Required Energy Savings**

CALENDAR YEAR	A RETAIL SALES (therms)	B ENERGY EFFICIENCY STANDARD	C REQUIRED CUMULATIVE ENERGY SAVINGS (therms or therm equivalents) (B of current year × A of prior year)
2010	100,000,000		0
2011	97,500,000	0.50%	500,000
2012	94,870,000	1.20%	1,170,000

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2013	92,411,540	1.80%	1,707,660
2014	90,018,939	2.40%	2,217,877
2015	87,691,512	3.00%	2,700,568
2016	85,427,344	3.60%	3,156,894
2017	83,224,605	4.20%	3,587,948
2018	81,081,521	4.80%	3,994,781
2019	78,996,374	5.40%	4,378,402
2020	76,967,498	6.00%	4,739,782

- C. An affected utility may count energy savings resulting from DSM and RET programs to meet the energy efficiency standard. At least 75% of the energy efficiency standard for each year listed in Table 1 shall be achieved through DSM energy efficiency programs.
- D. An affected utility's energy savings resulting from DSM energy efficiency programs implemented before the effective date of this Article, but after 2004, may be credited toward meeting the energy efficiency standard set forth in subsection (B). The total energy savings credit for these pre-rules DSM programs shall not exceed 1% of the affected utility's retail energy sales in calendar year 2005. A portion of the total energy savings credit for these pre-rules programs may be applied each year, from 2016 through 2020, as listed in Table 3, Column A.

Table 3. Credit for Pre-rules Energy Savings

CALENDAR YEAR	A CREDIT FOR THE PRE-RULES ENERGY SAVINGS APPLIED IN EACH YEAR (Percentage of the Total Eligible Pre-rules Cumulative Annual Energy Savings That Shall Be Applied in the Year)	B CUMULATIVE APPLICATION OF THE CREDIT FOR THE PRE-RULES ENERGY SAVINGS IN 2016-2020 (Percentage of the Total Eligible Pre-rules Cumulative Annual Energy Savings That Are Credited by the End of Each Year)
2016	7.5%	7.5%
2017	15.0%	22.5%
2018	20.0%	42.5%
2019	25.0%	67.5%
2020	32.5%	100.0%

- E. An affected utility may count toward meeting the energy efficiency standard up to one-third of the energy savings resulting from energy efficiency building codes and up to one-third of the energy savings resulting from energy efficiency appliance standards, if the energy savings are quantified and reported through a measurement and evaluation study undertaken by the affected utility, and the affected utility demonstrates and documents its efforts in support of the adoption or implementation of the energy efficiency building codes and appliance standards.
- F. An affected utility may count a customer's energy savings resulting from self-direction toward meeting the energy efficiency standard.
- G. An affected utility may count toward meeting the energy efficiency standard all energy savings resulting from the affected utility's sponsorship of RET projects that displace gas. An affected utility may also count toward meeting the energy efficiency standard all energy savings resulting from other RET projects that are not sponsored by the affected utility, if the affected utility can demonstrate that its efforts facilitated the placement and completion of the RET project.
- H. An affected utility's energy savings resulting from efficiency improvements to its delivery system may not be counted toward meeting the energy efficiency standard.
- I. An affected utility's energy savings used to meet the energy efficiency standard will be assumed to continue through the year 2020 or, if expiring before the year 2020, to be replaced with a DSM measure or RET having at least the same level of efficiency.

Table 4. Illustrative Example of How the Energy Standard Could be Met in 2020

	2020 Energy Efficiency Standard	2019 Retail Sales (therms)	Required Cumulative Annual Energy Savings (therms or therm equivalents)
Total	6.00%	78,996,374	4,739,782
Breakdown of Savings and Credits Used To Meet 2020 Standard:			
			Cumulative Annual Energy Savings Or Credit (therms)
Pre-rules Savings Credit R14-2-2504(D)			359,545*
Building Codes and Appliance Standards R14-2-2504(E)			425,000
Self-direction R14-2-2504(F)			27,000
RET R14-2-2504(G)			25,000
CHP R14-2-2501(10) and R14-2-2504(C)			135,000
Energy Efficiency R14-2-2504(C)	At least 75%		3,768,237
Total			4,739,782

*The total pre-rules savings credit shall be capped at 1% of 2005 retail energy sales, and the total credit is allocated over five years from 2016 to 2020. The credit shown above represents an estimate of the portion of the total credit that can be taken in 2020, or 32.5% of the total credit allowed.

Historical Note

New Section R14-2-2504 and Tables 1 through 4 made by final rulemaking at 17 A.A.R. 72, effective March 4, 2011 (Supp. 11-1).

R14-2-2505. Implementation Plans

- A.** Except as provided in R14-2-2518 and R14-2-2519, on June 1 of each odd year, or annually at the election of each affected utility, each affected utility shall file with Docket Control, for Commission review and approval, an implementation plan describing how the affected utility intends to meet the energy efficiency standard for the next one or two calendar years, as applicable, except that the initial implementation plan shall be filed within 30 days of the effective date of this Article.
- B.** The implementation plan shall include the following information:
1. Except for the initial implementation plan, a description of the affected utility's compliance with the requirements of this Article for the previous calendar year;
 2. Except for the initial implementation plan, which shall describe only the next calendar year, a description of how the affected utility intends to comply with this Article for the next two calendar years, including an explanation of any modification to the rates of an existing DSM adjustment mechanism or tariff that the affected utility believes is necessary;
 3. Except for the initial implementation plan, which shall describe only the next calendar year, a description of each DSM and RET program to be newly implemented or continued in the next two calendar years and an estimate of the annual therm or therm equivalent savings projected to be obtained through each DSM and RET program;
 4. The estimated total cost and cost per therm reduction of each DSM measure and program and each RET and RET program described in subsection (B)(3);
 5. A DSM tariff filing complying with R14-2-2506(A) or a request to modify and reset an adjustment mechanism complying with R14-2-2506(C), as applicable; and

6. For each new DSM measure and program and each RET and RET program that the affected utility desires to implement, a program proposal complying with R14-2-2507.
- C.** An affected utility shall notify its customers of its implementation plan filing through a notice in its next regularly scheduled customer bills following the filing of the implementation plan.
- D.** The Commission may hold a hearing to determine whether an affected utility's implementation plan satisfies the requirements of this Article.
- E.** An affected utility's Commission-approved implementation plan, and the DSM and RET programs authorized thereunder, shall continue in effect until the Commission takes action on a new implementation plan for the affected utility.

Historical Note

New Section made by final rulemaking at 17 A.A.R. 72, effective March 4, 2011 (Supp. 11-1).

R14-2-2506. DSM Tariffs

- A.** An affected utility's DSM tariff filing shall include the following:
1. A detailed description of each method proposed by the affected utility to recover the reasonable and prudent costs associated with implementing the affected utility's intended DSM and RET programs;
 2. Financial information and supporting data sufficient to allow the Commission to determine the affected utility's fair value, including, at a minimum, the information required to be submitted in a utility annual report filed under R14-2-312(G)(4);
 3. Data supporting the level of costs that the affected utility believes will be incurred in order to comply with this Article; and

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4. Any other information that the Commission believes is relevant to the Commission's consideration of the tariff filing.
- B. The Commission shall approve, modify, or deny a tariff filed pursuant to subsection (A) within 180 days after the tariff has been filed. The Commission may suspend this deadline or adopt an alternative procedural schedule for good cause.
- C. If an affected utility has an existing adjustment mechanism to recover the reasonable and prudent costs associated with implementing DSM and RET programs, the affected utility may, in lieu of making a tariff filing under subsection (A), file a request to modify and reset its adjustment mechanism by submitting the information required under subsections (A)(1) and (3).

Historical Note

New Section made by final rulemaking at 17 A.A.R. 72, effective March 4, 2011 (Supp. 11-1).

R14-2-2507. Commission Review and Approval of DSM and RET Programs

- A. An affected utility shall obtain Commission approval before implementing a new DSM program or measure or a new RET program or RET.
- B. An affected utility may apply for Commission approval of a DSM program or measure or an RET program or RET by submitting a program proposal either as part of its implementation plan submitted under R14-2-2505 or through a separate application.
- C. A program proposal shall include the following:
 1. A description of the DSM program or measure or RET program or RET that the affected utility desires to implement;
 2. The affected utility's objectives and rationale for the DSM program or measure or RET program or RET;
 3. A description of the market segment at which the DSM program or measure or RET program or RET is aimed;
 4. An estimated level of customer participation in the DSM program or measure or RET program or RET;
 5. An estimate of the baseline;
 6. For a DSM program or measure:
 - a. The estimated societal benefits and savings from the DSM program or measure,
 - b. The estimated societal costs of the DSM program or measure, and
 - c. The estimated benefit-cost ratio of the DSM program or measure;
 7. The estimated environmental benefits to be derived from the DSM program or measure or RET program or RET;
 8. The affected utility's marketing and delivery strategy;
 9. The affected utility's estimated annual costs and budget for the DSM program or measure or RET program or RET;
 10. The implementation schedule for the DSM program or measure or RET program or RET;
 11. A description of the affected utility's plan for monitoring and evaluating the DSM program or measure or RET program or RET; and
 12. Any other information that the Commission believes is relevant to the Commission's consideration of the filing.
- D. In determining whether to approve a program proposal, the Commission shall consider:
 1. The extent to which the Commission believes the DSM program or measure will meet the goal set forth in R14-2-2503(A), and
 2. All of the considerations set forth in R14-2-2503(B).

- E. Staff may request modifications of on-going DSM and RET programs to ensure consistency with this Article. The Commission shall allow affected utilities adequate time to notify customers of DSM and RET program modifications.

Historical Note

New Section made by final rulemaking at 17 A.A.R. 72, effective March 4, 2011 (Supp. 11-1).

R14-2-2508. Parity and Equity

- A. An affected utility shall develop and propose DSM programs for residential, non-residential, and low-income customers.
- B. An affected utility shall allocate DSM funds collected from residential customers and from non-residential customers proportionately to those customer classes to the extent practicable.
- C. The affected utility costs of DSM and RET programs for low-income customers shall be borne by all customer classes, except where a customer or customer class is specifically exempted by Commission order.
- D. DSM funds collected by an affected utility shall be used, to the extent practicable, to benefit that affected utility's customers.
- E. All customer classes of an affected utility shall bear the costs of DSM and RET programs by payment through a non-bypassable mechanism, unless a customer or customer class is specifically exempted by Commission order.

Historical Note

New Section made by final rulemaking at 17 A.A.R. 72, effective March 4, 2011 (Supp. 11-1).

R14-2-2509. Reporting Requirements

- A. By April 1 of each year, an affected utility shall submit to the Commission, in a Commission-established docket for that year, a DSM progress report providing information for each of the affected utility's Commission-approved DSM and RET programs including at least the following:
 1. An analysis of the affected utility's progress toward meeting the annual energy efficiency standard;
 2. A list of the affected utility's current Commission-approved DSM and RET programs, organized by customer segment;
 3. A description of the findings from any research projects completed during the previous year; and
 4. The following information for each Commission-approved DSM program and measure and RET program and RET:
 - a. A brief description;
 - b. Goals, objectives, and savings targets;
 - c. The level of customer participation during the previous year;
 - d. The costs incurred during the previous year, disaggregated by type of cost, such as administrative costs, rebates, and monitoring costs;
 - e. A description and the results of evaluation and monitoring activities during the previous year;
 - f. Savings realized in kW, kWh, therms, and therm equivalents, as appropriate;
 - g. The environmental benefits realized;
 - h. Incremental benefits and net benefits, in dollars;
 - i. Performance-incentive calculations for the previous year;
 - j. Problems encountered during the previous year and proposed solutions;
 - k. A description of any modifications proposed for the following year; and

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1. Whether the affected utility proposes to terminate the DSM program or measure or RET program or RET and the proposed date of termination.
- B. By October 1 of each year, an affected utility shall file a status report including a tabular summary showing the following for each current Commission-approved DSM program and measure and RET program and RET of the affected utility:
 1. Semi-annual expenditures compared to annual budget, and
 2. Participation rates.
- C. An affected utility shall file each report required by this Section with Docket Control, where it will be available to the public, and shall make each such report available to the public upon request.
- D. An affected utility may request within its implementation plan that these reporting requirements supersede specific existing DSM reporting requirements.

Historical Note

New Section made by final rulemaking at 17 A.A.R. 72, effective March 4, 2011 (Supp. 11-1).

R14-2-2510. Cost Recovery

- A. An affected utility may recover the costs that it incurs in planning, designing, implementing, and evaluating a DSM program or measure or RET program or RET if the DSM program or measure or RET program or RET is all of the following:
 1. Approved by the Commission before it is implemented;
 2. Implemented in accordance with a Commission-approved program proposal or implementation plan; and
 3. Monitored and evaluated, pursuant to R14-2-2515.
- B. An affected utility shall monitor and evaluate each DSM program or measure and each RET program or RET, as provided in R14-2-2515.
- C. If an affected utility determines that a DSM program or measure is not cost-effective or that a DSM program or measure or RET program or RET does not meet expectations, the affected utility shall include in its annual DSM progress report filed under R14-2-2509 a proposal to modify or terminate the DSM program or measure or RET program or RET.
- D. An affected utility shall recover its DSM and RET costs concurrently, on an annual basis, with the spending for DSM and RET programs, unless the Commission orders otherwise.
- E. An affected utility may recover costs from DSM funds for any of the following items, if the expenditures will enhance DSM or RET programs:
 1. Incremental labor attributable to DSM and RET development,
 2. A market study,
 3. A research and development project such as applied technology assessment,
 4. Consortium membership, or
 5. Other items that are difficult to allocate to an individual DSM or RET program.
- F. The Commission may impose a limit on the amount of DSM funds that may be used for the items in subsection (E).
- G. If goods and services used by an affected utility for DSM or RET have value for other affected utility functions, programs, or services, the affected utility shall divide the costs for the goods and services and allocate funding proportionately.
- H. An affected utility shall allocate DSM and RET costs in accordance with generally accepted accounting principles.
- I. An affected utility, at its own initiative, may submit to the Commission twice-annual reports on the financial impacts of its Commission-approved DSM and RET programs, including any unrecovered fixed costs and net lost income/revenue

resulting from its Commission-approved DSM and RET programs.

Historical Note

New Section made by final rulemaking at 17 A.A.R. 72, effective March 4, 2011 (Supp. 11-1).

R14-2-2511. Revenue Decoupling

The Commission shall review and address financial or other disincentives, recovery of fixed costs, and recovery of net lost income/revenue, including, but not limited to, implementation of a revenue decoupling mechanism, due to Commission-approved DSM and RET programs, if an affected utility requests such review in its rate case and provides adequate documentation/records supporting its request in its rate application.

Historical Note

New Section made by final rulemaking at 17 A.A.R. 72, effective March 4, 2011 (Supp. 11-1).

R14-2-2512. Cost-effectiveness

- A. An affected utility shall ensure that the incremental benefits to society of the affected utility's overall group of DSM programs exceed the incremental costs to society of the overall group of DSM programs.
- B. The Societal Test shall be used to determine cost-effectiveness.
- C. The analysis of a DSM program's or DSM measure's cost-effectiveness may include:
 1. Costs and benefits associated with reliability, improved system operations, environmental impacts, and customer service;
 2. Savings of both gas and electricity; and
 3. Any uncertainty about future streams of costs or benefits.
- D. An affected utility shall make a good faith effort to quantify water consumption savings and air emission reductions resulting from implementation of DSM programs, while other environmental costs or the value of environmental improvements shall be estimated in physical terms when practical but may be expressed qualitatively. An affected utility, Staff, or any party may propose monetized benefits and costs if supported by appropriate documentation or analyses.
- E. Market transformation programs shall be analyzed for cost-effectiveness by measuring market effects compared to program costs.
- F. Educational programs shall be analyzed for cost-effectiveness based on estimated energy and peak demand savings resulting from increased awareness about energy use and opportunities for saving energy.
- G. Research and development and pilot programs are not required to demonstrate cost-effectiveness.
- H. An affected utility's low-income customer program portfolio shall be cost-effective, but costs attributable to necessary health and safety measures shall not be used in the calculation.

Historical Note

New Section made by final rulemaking at 17 A.A.R. 72, effective March 4, 2011 (Supp. 11-1).

R14-2-2513. Baseline Estimation

- A. To determine the baseline, an affected utility shall estimate the level of gas demand and consumption and the associated costs that would have occurred in the absence of a DSM program.
- B. For installations or applications that have multiple fuel choices, an affected utility shall determine the baseline using the same fuel source that would have actually been used for

the installation or application in the absence of a DSM program.

Historical Note

New Section made by final rulemaking at 17 A.A.R. 72, effective March 4, 2011 (Supp. 11-1).

R14-2-2514. Fuel Neutrality

- A. Ratepayer-funded DSM shall be developed and implemented in a fuel-neutral manner.
- B. An affected utility shall use DSM funds collected from gas customers for gas DSM programs, unless otherwise ordered by the Commission.
- C. An affected utility may use DSM funds collected from gas customers for thermal envelope improvements.

Historical Note

New Section made by final rulemaking at 17 A.A.R. 72, effective March 4, 2011 (Supp. 11-1).

R14-2-2515. Monitoring, Evaluation, and Research

- A. An affected utility shall monitor and evaluate each DSM program and measure and each RET program and RET to:
 1. Ensure compliance with the cost-effectiveness requirements for DSM programs in R14-2-2512;
 2. Determine participation rates, energy savings, and demand reductions;
 3. Assess the implementation process for the DSM program or measure or RET program or RET;
 4. Obtain information on whether to continue, modify, or terminate a DSM program or measure or RET program or RET; and
 5. Determine the persistence and reliability of the affected utility's DSM programs and measures and RET programs and RETs.
- B. An affected utility may conduct evaluation and research, such as market studies, market research, and other technical research, for DSM and RET program planning, product development, and DSM and RET program improvement.

Historical Note

New Section made by final rulemaking at 17 A.A.R. 72, effective March 4, 2011 (Supp. 11-1).

R14-2-2516. Program Administration and Implementation

- A. An affected utility may use an energy service company or other external resource to implement a DSM program or measure or RET program or RET.
- B. The Commission may, at its discretion, establish independent program administrators who would be subject to the relevant requirements of this Article.

Historical Note

New Section made by final rulemaking at 17 A.A.R. 72, effective March 4, 2011 (Supp. 11-1).

R14-2-2517. Leveraging and Cooperation

- A. An affected utility shall, to the extent practicable, participate in cost sharing, leveraging, or other lawful arrangements with customers, vendors, manufacturers, government agencies, other gas utilities, or other entities if doing so will increase the effectiveness of a DSM program or measure or RET program or RET.
- B. An affected utility shall participate in a DSM program or measure or RET program or RET with an electric utility when doing so is practicable and if doing so will increase the effectiveness of the DSM program or measure or RET program or RET.

effectiveness of the DSM program or measure or RET program or RET.

Historical Note

New Section made by final rulemaking at 17 A.A.R. 72, effective March 4, 2011 (Supp. 11-1).

R14-2-2518. Compliance by Gas Distribution Cooperatives

- A. A gas distribution cooperative that is an affected utility shall comply with the requirements of this Section instead of meeting the requirements of R14-2-2504(A) and (B) and R14-2-2505(A).
- B. A gas distribution cooperative shall, on June 1 of each odd year, or annually at its election:
 1. File with Docket Control, for Commission review and approval, an implementation plan providing information for each DSM and RET program to be implemented or maintained during the next one or two calendar years, as applicable; and
 2. Submit to the Director of the Commission's Utilities Division an electronic copy of its implementation plan in a format suitable for posting on the Commission's web site.
- C. A gas distribution cooperative's initial implementation plan shall be filed with Docket Control within 30 days of the effective date of this Article.
- D. An implementation plan submitted under subsection (B) or (C) shall set forth an energy efficiency goal for each year of at least 75% of the savings requirement specified in R14-2-2504 and shall include the information required under R14-2-2505(B).

Historical Note

New Section made by final rulemaking at 17 A.A.R. 72, effective March 4, 2011 (Supp. 11-1).

R14-2-2519. Compliance by Propane Companies

- A. A propane company that is an affected utility shall comply with the requirements of this Section instead of meeting the requirements of R14-2-2504(A) and (B) and R14-2-2505(A).
- B. A propane company shall, on June 1 of each odd year, or annually at its election:
 1. File with Docket Control, for Commission review and approval, an implementation plan providing information for each DSM and RET program to be implemented or maintained during the next one or two calendar years, as applicable; and
 2. Submit to the Director of the Commission's Utilities Division an electronic copy of its implementation plan in a format suitable for posting on the Commission's web site.
- C. A propane company's initial implementation plan shall be filed with Docket Control within 30 days of the effective date of this Article.
- D. An implementation plan submitted under subsection (B) or (C) shall set forth an energy efficiency goal for each year of at least 50% of the savings requirement specified in R14-2-2504 and shall include the information required under R14-2-2505(B).

Historical Note

New Section made by final rulemaking at 17 A.A.R. 72, effective March 4, 2011 (Supp. 11-1).

R14-2-2520. Waiver from the Provisions of this Article

- A. The Commission may waive compliance with any provision of this Article for good cause.

- B. An affected utility may petition the Commission to waive its compliance with any provision of this Article for good cause.

Historical Note

New Section made by final rulemaking at 17 A.A.R.
72, effective March 4, 2011 (Supp. 11-1).



Supplement to the
Arizona Administrative Code
The official compilation of Arizona Rules
Replacement Check List

For rules filed in the third quarter between
July 1 - September 30
2017

Within the stated calendar quarter, this Title contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information. Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

TITLE 15. Revenue

Chapter 05. Department of Revenue - Transaction Privilege and Use Tax Section

Sections Expired

R15-5-2212, R15-5-2313, R15-5-2321, R15-5-3035

☐ REMOVE Supp. 16-3
Pages: 1 - 45

☐ REPLACE with Supp. 17-3
Pages: 1 - 44

The contact person who can answer questions about the expired rules in this Chapter:

Name: Governor's Regulatory Review Council
Address: 100 N. 15th Ave #305
Phoenix, AZ 85007
Telephone: (602) 542-2058

Disclaimer: Please be advised the person listed is the contact of record as submitted in the rulemaking package for this supplement. The contact and other information may change and is provided as a public courtesy.

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PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the Administrative Code. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION
September 30, 2017

RULES

A.R.S. § 41-1001(17) states: “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions. Virtually everything in your life is affected in some way by rules published in the Arizona Administrative Code, from the quality of air you breathe to the licensing of your dentist. This chapter is one of more than 230 in the Code compiled in 21 Titles.

ADMINISTRATIVE CODE SUPPLEMENTS

Rules filed by an agency to be published in the Administrative Code are updated quarterly. Supplement release dates are printed on the footers of each chapter:

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2017 is cited as Supp. 17-1.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the Arizona Administrative Register for recent updates to rule Sections.

ARTICLES AND SECTIONS

Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering system separated into subsections.

HISTORICAL NOTES AND EFFECTIVE DATES

Historical notes inform the user when the last time a Section was updated in the Administrative Code. Be aware, since the Office publishes each quarter by entire chapters, not all Sections are updated by an agency in a supplement release. Many times just one Section or a few Sections may be updated in the entire chapter.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in the introduction of a chapter can be found at the Secretary of State’s website, www.azsos.gov/services/legislative-filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the Arizona Administrative Register online at www.azsos.gov/rules, click on the Administrative Register link.

In the Administrative Code the Office includes editor’s notes at the beginning of a chapter indicating that certain rulemaking Sections were made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR

If you are researching rules and come across rescinded chapters on a different paper color, this is because the agency filed a Notice of Exempt Rulemaking. At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

PERSONAL USE/COMMERCIAL USE

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Public Services managing rules editor, Rhonda Paschal, assisted with the editing of this chapter.

TITLE 15. REVENUE

CHAPTER 5. DEPARTMENT OF REVENUE - TRANSACTION PRIVILEGE AND USE TAX SECTION

Authority: A.R.S. § 42-1004

Editor's Note: The provisions in these rules became effective August 1, 1976, unless otherwise noted in the Historical Note following the rule.

ARTICLE 1. RETAIL CLASSIFICATION

New Article 1, consisting of Section R15-5-151, adopted effective April 15, 1993 (Supp. 93-2).

Former Article 1, consisting of Sections R15-5-101 through R15-5-104, repealed effective April 13, 1987.

Section					
R15-5-101.	Sales for Resale or Lease	6	R15-5-147.	Reserved	9
R15-5-102.	Casual Sales.....	6	R15-5-148.	Reserved	9
R15-5-103.	Sale of Business Enterprises	6	R15-5-149.	Reserved	9
R15-5-104.	Service Businesses	6	R15-5-150.	Sale of Photography	9
R15-5-105.	Services in Connection with Retail Sales	6	R15-5-151.	Artists	10
R15-5-106.	Finance Charges in Connection with Retail Sales	6	R15-5-152.	Tangible Personal Property Used in Soil Remediation Activities	10
R15-5-107.	Reserved	6	R15-5-153.	Four-inch Pipes or Valves	10
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ARTICLE 25. REPEALED

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ARTICLE 26. REPEALED

Article 26, consisting of Sections R15-5-2601 through R15-5-2603, R15-5-2614, and R15-5-2616, repealed by final rulemaking

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ARTICLE 1. RETAIL CLASSIFICATION**R15-5-101. Sales for Resale or Lease**

- A. Gross receipts from the sale of tangible personal property to be resold by the purchaser in the ordinary course of business are not subject to tax under the retail classification.
- B. Gross receipts from the sale of tangible personal property to be leased by a person in the business of leasing such personal property are not subject to tax under the retail classification.
- C. Gross receipts from the sale of tangible personal property to a lessor of real property are subject to tax if:
 1. The tangible personal property is incorporated into, or leased in conjunction with, the real property; and
 2. The rental of the tangible personal property is not separately stated as part of the real property lease transaction.
- D. Gross receipts from the sale of repair or replacement parts for tangible personal property that is to be leased by a person engaged in the business of leasing such tangible personal property are not subject to tax under the retail classification.

Historical Note

Amended effective November 7, 1978 (Supp. 78-6).
 Renumbered from R15-5-1811 and amended effective August 9, 1993 (Supp. 93-3). Amended by final rulemaking at 12 A.A.R. 4099, effective December 4, 2006 (Supp. 06-4).

R15-5-102. Casual Sales

Gross receipts from a casual sale, as defined in R15-5-2001, are not taxable under the retail classification.

Historical Note

Adopted effective August 9, 1993 (Supp. 93-3).

R15-5-103. Sale of Business Enterprises

Gross receipts from the sale of a business as a going concern are not subject to tax if the sale is for the business as an operating enterprise.

Historical Note

Renumbered from R15-5-1817 and amended effective August 9, 1993 (Supp. 93-3). Amended by final rulemaking at 12 A.A.R. 4099, effective December 4, 2006 (Supp. 06-4).

R15-5-104. Service Businesses

- A. Gross receipts from the sale of tangible personal property to a person engaged in a professional or personal service occupation or business are subject to tax if the tangible personal property is used or consumed in the performance of the service or is sold only as an inconsequential element of the nontaxable service provided.
- B. Gross receipts from the sale of tangible personal property, by a person engaged in a professional or personal service occupation or business, are not subject to tax if the property is sold only as an inconsequential element of the nontaxable service provided.
- C. Sales of tangible personal property are inconsequential elements of the service if:
 1. The purchase price of the tangible personal property to the person rendering the services represents less than 15% of the charge, billing, or statement rendered to the purchaser in connection with the transaction;
 2. At the time of the sale, the tangible personal property transferred is not in a form that is subject to retail sale; and
 3. The charge for the tangible personal property is not separately stated on the invoice.
- D. A person engaged in both a retail business and a service business shall keep records of purchases of tangible personal prop-

erty sufficient to establish whether the property was resold as a taxable retail sale.

Historical Note

Renumbered from R15-5-1805 and amended effective August 9, 1993 (Supp. 93-3). Amended by final rulemaking at 12 A.A.R. 4099, effective December 4, 2006 (Supp. 06-4).

R15-5-105. Services in Connection with Retail Sales

Gross receipts from services rendered in addition to selling tangible personal property at retail are subject to tax unless the charge for service is shown separately on the sales invoice and records.

Historical Note

Renumbered from R15-5-1815 and amended effective August 9, 1993 (Supp. 93-3). Amended by final rulemaking at 12 A.A.R. 4099, effective December 4, 2006 (Supp. 06-4).

R15-5-106. Finance Charges in Connection with Retail Sales

Gross receipts from finance, carrying charges, or interest charges incurred in connection with a retail sale of tangible personal property are not subject to tax if:

1. The charges are separately stated as part of the sales transaction; and
2. The charges result from the sale of such property on credit or under an installment contract.

Historical Note

Adopted effective August 9, 1993 (Supp. 93-3).
 Amended by final rulemaking at 12 A.A.R. 4099, effective December 4, 2006 (Supp. 06-4).

R15-5-107. Reserved**R15-5-108. Reserved****R15-5-109. Reserved****R15-5-110. Lease-purchase Agreements**

- A. Gross income derived from the leasing of tangible personal property under a lease-purchase agreement is subject to tax under the personal property rental classification.
- B. Payments received after the conversion from a lease to a purchase are subject to tax under the retail classification.
- C. Gross receipts from the sale of tangible personal property include conversion charges paid or incurred at the time the lease is converted to a purchase.

Historical Note

Renumbered from R15-5-1809 and amended effective August 9, 1993 (Supp. 93-3). Amended by final rulemaking at 12 A.A.R. 4099, effective December 4, 2006 (Supp. 06-4).

R15-5-111. Consignment Sales

- A. The following definitions apply for purposes of this rule:
 1. "Consignee" means the party that is in the business of selling tangible personal property belonging to a consignor.
 2. "Consignor" means the party with the legal right to contract the services of the consignee to sell tangible personal property on behalf of the consignor.
- B. Gross receipts from consignment sales are subject to tax under the retail classification.
- C. A consignee shall obtain a transaction privilege tax license before making consignment sales.

Historical Note

Renumbered from R15-5-1808 and amended effective August 9, 1993 (Supp. 93-3). Amended by final rulemaking

ing at 12 A.A.R. 4099, effective December 4, 2006 (Supp. 06-4).

R15-5-112. Sales by Auctioneers

- A. Gross receipts from the sales of tangible personal property by an auctioneer are subject to tax under the retail classification.
- B. An auctioneer shall obtain a transaction privilege tax license prior to conducting an auction.

Historical Note

Renumbered from R15-5-1834 and amended effective August 9, 1993 (Supp. 93-3).

R15-5-113. Sales by Trustees, Receivers, and Assignees

- A. Gross receipts from the sale of tangible personal property by a trustee, receiver, or assignee are subject to tax if the sale of the property in the hands of the owner would be subject to tax.
- B. Gross receipts from the sale of tangible personal property by a trustee, receiver, or assignee are not subject to tax if the sale of the property in the hands of the owner would not be subject to tax.

Historical Note

Adopted effective August 9, 1993 (Supp. 93-3).
Amended by final rulemaking at 12 A.A.R. 4099, effective December 4, 2006 (Supp. 06-4).

R15-5-114. Reserved

R15-5-115. Reserved

R15-5-116. Reserved

R15-5-117. Reserved

R15-5-118. Reserved

R15-5-119. Reserved

R15-5-120. Exempt Sales of Machinery or Equipment

- A. Machinery or equipment used in manufacturing or processing includes machinery or equipment that constitutes the entire primary manufacturing or processing operation from the initial stage where actual processing begins through the completion of the finished end product, processing, finishing, or packaging of articles of commerce. Manufacturing is the performance as a business of an integrated series of operations which place tangible personal property in a form, composition, or character different from that in which it was acquired and transforms it into a different product with a distinctive name, character, or use.
- B. Gross receipts from the sale of repair or replacement parts for exempt machinery or equipment are not subject to the tax under the retail classification. Repair or replacement parts are defined as those individual component and constituent items which, together, comprise exempt machinery or equipment.
- C. In establishing the exempt sale of machinery or equipment, the seller shall keep adequate documentation, pursuant to statutory requirements and as delineated in R15-5-2214, for the statutorily required period of time.

Historical Note

Amended effective November 7, 1978, unless otherwise noted (Supp. 78-6). Amended paragraphs (9) and (10) effective March 18, 1981 (Supp. 81-2). Renumbered from R15-5-1822 and amended effective August 9, 1993 (Supp. 93-3).

R15-5-121. Sales of Fuel Used in Manufacturing

The sale of fuel used or consumed in a manufacturing process is taxable. The fuel is not considered to be incorporated into the manufactured product.

Historical Note

Renumbered from R15-5-1830 effective August 9, 1993 (Supp. 93-3).

R15-5-122. Articles Incorporated into a Manufactured Product

- A. Sales of articles to be incorporated into a fabricated or manufactured product are considered to be sales for resale and, therefore, exempt. For example, the sale of wood to a furniture manufacturer is a sale for resale.
- B. In order for the exemption to apply, the materials must actually become a part of the finished product. Supplies which are consumed in the manufacturing process do not qualify.

Historical Note

Renumbered from R15-5-1839 effective August 9, 1993 (Supp. 93-3).

R15-5-123. Sale of Tools and Supplies to Businesses

The sale of tools, supplies, and other articles to be used or consumed by persons in the operation of their businesses, and not for resale, are taxable as retail sales.

Historical Note

Renumbered from R15-5-1849 effective August 9, 1993 (Supp. 93-3).

R15-5-124. Reserved

R15-5-125. Reserved

R15-5-126. Manufacturing Labor

The cost of labor employed in manufacturing, processing, or fabricating tangible personal property shall not be allowed as a deduction from the gross receipts derived from a sale of such property.

Historical Note

Renumbered from R15-5-1848 and amended effective August 9, 1993 (Supp. 93-3).

R15-5-127. Sales of Fuel

- A. In this Section, "aviation fuel" and "dyed diesel fuel" have the same meanings as prescribed in A.R.S. §§ 28-101 and 28-5601.
- B. Gross receipts from the sale of dyed diesel fuel are subject to transaction privilege tax.
- C. Gross receipts from the sale of liquefied petroleum gas or natural gas used to propel a motor vehicle are exempt from transaction privilege tax.
- D. Aviation fuel is subject to tax under A.R.S. § 28-8344 only.
- E. Gross receipts from the retail sale of jet fuel are subject to the jet fuel excise and use tax under A.R.S. § 42-5352.

Historical Note

Renumbered from R15-5-3004 and amended effective August 9, 1993 (Supp. 93-3). Section amended by final rulemaking at 10 A.A.R. 4480, effective December 4, 2004 (Supp. 04-4).

R15-5-128. Electric Power Transmission and Distribution

- A. Gross receipts from the sale of machinery, equipment, or transmission lines for direct use in a transmission system are deductible from the tax base. Gross receipts from the sale of machinery, equipment, or lines for use in a distribution system are taxable.
- B. Machinery and equipment used to facilitate the production of voltage up to and including 34,500 volts shall be considered part of a distribution system.
 - 1. Gross receipts from the sale of such equipment are subject to transaction privilege tax.

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2. If tangible personal property was purchased as exempt, subsequent nonexempt use shall subject the gross purchase price to use tax according to statutory provisions.
- C. Machinery and equipment used to facilitate the production of voltage above 34,500 volts shall be categorized as part of a transmission or distribution system based on the following definitions.
 1. "Transmission system" means:
 - a. All land, conversion structures, and equipment employed at a primary source of supply to change the voltage or frequency of electricity for the purpose of its more efficient or convenient transmission;
 - b. All land, structures, lines, switching and conversion stations, high tension apparatus and their control and protective equipment between a generating or receiving point and the entrance to a distribution center or wholesale point; and
 - c. All lines and equipment whose primary purpose is to augment, integrate, or tie together the sources of power supply.
 2. "Distribution system" means all land, structures, conversion equipment, lines, line transformers, and other facilities employed between the primary source of supply and of delivery to customers, which are not includible in a transmission system whether or not such land, structures, and facilities are operated as part of a transmission system or as part of a distribution system. Stations which change electricity from transmission to distribution voltage shall be classified as distribution stations.
 3. "Primary source of supply" means a generating station or point of receipt in the case of purchased power.
 4. Dual-use equipment shall be designated as follows:
 - a. If poles or towers support both transmission and distribution conductors, the poles, towers, anchors, guys, and rights-of-way shall be classified as a transmission system. The conductors, crossarms, braces, grounds, tie wire, insulators, and other similar tangible personal property shall be classified as transmission or distribution facilities, according to the purpose for which they are used.
 - b. If underground conduit contains both transmission and distribution conductors, the underground conduit and the right-of-way shall be classified as a distribution system. The conductors shall be classified as transmission or distribution facilities according to the purpose for which they are used.
 - c. Based on statutory provisions, transformers and control equipment utilized operationally at transmission substation sites are considered to be a part of a transmission system and, therefore, are exempt from transaction privilege and use tax.
- D. Machinery, equipment, or transmission lines for direct use in a transmission system are only those which are recorded as being part of a transmission system in accordance with the definitions in subsection (C).
 1. Gross receipts from the sale of such equipment are exempt from the tax.
 2. If such machinery and equipment is removed from inventory to be used as part of a distribution system, the purchase price is subject to use tax.

Historical Note

Adopted effective August 9, 1993 (Supp. 93-3).

R15-5-129. Discounts, Refunds, and Coupon Redemption

- A. Cash discounts allowed the purchaser for timely payment are permissible as deductions from the sale price.
- B. Refunds in cash or credit given on returned merchandise are considered to be a reduction of sales.
- C. When coupons issued by a manufacturer are redeemed by a retailer the amounts refunded to the purchaser are not permissible as deductions from the selling price of articles sold by the retailer. In these cases, the gross selling price is taxable.
- D. Coupons issued by a retailer and later redeemed by the retailer as a discount on the price of merchandise sold by him are considered a reduction of the selling price. In such cases the net selling price is subject to tax.

Historical Note

Renumbered from R15-5-1840 effective August 9, 1993 (Supp. 93-3).

R15-5-130. Reserved**R15-5-131. Lay-away Sales**

Gross receipts from lay-away agreements shall be taxable when title or possession transfers to the purchaser or at the time receipts from the transaction are determined to be nonrefundable, whichever occurs first.

Historical Note

Adopted effective August 9, 1993 (Supp. 93-3).

R15-5-132. Retail Sales with Trade-ins

- A. When a retailer accepts tangible personal property as a trade-in for part or full payment on the sale of tangible personal property, the dollar amount of the payment represented by the trade-in is deductible from the retailer's gross receipts from that sale.
- B. A trade-in deduction shall be limited to the amount of the retailer's gross receipts on that sale.
- C. When the property traded in is subsequently sold at retail, the gross receipts from the transaction are taxable.

Historical Note

Renumbered from R15-5-1818 and amended effective August 9, 1993 (Supp. 93-3).

R15-5-133. Delivery Charges in Connection with Retail Sales

- A. A charge by a retailer for delivery from the retailer's location to the purchaser's location, if separately stated on the sales invoice, is not taxable.
- B. When the freight cost is incurred any time prior to the time of the retail sale, such cost is part of the gross sale and, therefore, subject to the tax.

Historical Note

Renumbered from R15-5-1820 and amended effective August 9, 1993 (Supp. 93-3).

R15-5-134. Sales of Containers, Bottles, and Labels

- A. The sale of containers and bottles is considered a sale for resale only when the purchaser is to transfer the containers with their contents in future sales.
- B. In cases where the containers are not subsequently sold as part of the merchandise, such sales are deemed to be taxable retail sales.
- C. The sale of labels to a purchaser who affixes them to nonreturnable containers to be resold is considered to be a sale for resale and is not taxable.
- D. In cases where the containers are returnable and a new label is to be affixed, each time the container is refilled, the sale of the labels is also considered to be a sale for resale.

- E. The sale of analysis tags or other labels to be attached to containers of feed and sold along as part of the article is a sale for resale.
- F. However, the sale of items such as price tags, shipping tags, and advertising matter used in connection with the subsequent sale is taxable as a retail sale.

Historical Note

Renumbered from R15-5-1829 and amended effective August 9, 1993 (Supp. 93-3).

R15-5-135. Sales of Restaurant Accessories

- A. Gross receipts from the sale of disposable containers, paper napkins, and other similar food accessories to a person engaged in the restaurant business, who, in the regular course of business, transfers these accessories to facilitate the consumption of the food, drink, or condiment provided, are considered gross receipts from sales for resale.
- B. Gross receipts from the sale of matchbooks, advertisement fliers, and other similar tangible personal property to a person engaged in the restaurant business, who transfers this property for the convenience, operation, or benefit of the restaurant business, are subject to tax.

Historical Note

Adopted effective August 9, 1993 (Supp. 93-3).
Amended by final rulemaking at 13 A.A.R. 679, effective April 7, 2007 (Supp. 07-1).

R15-5-136. Returnable Containers

- A. Gross receipts from deposits on sales of returnable containers which contain taxable food shall be taxable.
- B. Deposit refunds paid to purchasers on the return of such containers shall be deductible from the retailer's tax base in the month refunded.
- C. Gross receipts from deposits received on returnable containers which contain non-taxable food shall not be taxable. Therefore refunds paid on such deposits shall not reduce the tax base.

Historical Note

Renumbered from R15-5-1833 and amended effective August 9, 1993 (Supp. 93-3).

R15-5-137. Warranty or Service Provisions and Tangible Personal Property Used in Conjunction with Warranty or Service Provisions

- A. For purposes of this rule, the following definitions apply:
 1. "Covered" means included in the warranty or service provision.
 2. "Warranty or service provision" means a manufacturer's or vendor's warranty that is sold automatically with tangible personal property and, for no extra charge, applies to any tangible personal property used in the servicing of the provision.
- B. An exclusion from gross receipts is not allowed for a warranty or service provision on the sale of tangible personal property if the property cannot be sold without the acceptance of the warranty or service provision.
- C. A warranty or service provision is not considered a warranty or service contract under A.R.S. § 42-5061(A).
- D. Tangible personal property sold in conjunction with the servicing of a warranty or service provision, but not covered by the provision, is a sale of tangible personal property that is subject to tax under the retail classification unless statutorily exempt.
- E. Tangible personal property that is covered under a warranty or service provision and used in the servicing of the provision is not subject to use tax as the transaction privilege tax was paid when the tangible personal property was acquired.

Historical Note

Adopted effective August 9, 1993 (Supp. 93-3).
Amended by final rulemaking at 13 A.A.R. 679, effective April 7, 2007 (Supp. 07-1).

R15-5-138. Warranty or Service Contracts and Tangible Personal Property Used in Conjunction with Warranty or Service Contracts

- A. For purposes of this rule, the following definition applies: "Covered" means included in the warranty or service contract for which the warranty or service contract holder does not pay a separate charge for any tangible personal property used in the servicing of the contract.
- B. Gross receipts from the sale of warranty or service contracts are not subject to tax when the contracts are sold as a distinct and separate item and the charge for the warranty or service contract is stated separately on a sales invoice.
- C. Tangible personal property sold in conjunction with the servicing of a warranty or service contract, but not covered by the contract, is a sale of tangible personal property that is subject to tax under the retail classification unless statutorily exempt.
- D. Tangible personal property that is covered under a warranty or service contract, and used in the servicing of the contract, is subject to use tax unless transaction privilege tax was paid when the tangible personal property was acquired or the tangible personal property is otherwise statutorily exempt.

Historical Note

Adopted effective August 9, 1993 (Supp. 93-3).
Amended by final rulemaking at 13 A.A.R. 679, effective April 7, 2007 (Supp. 07-1).

R15-5-139. Reserved**R15-5-140. Reserved****R15-5-141. Reserved****R15-5-142. Reserved****R15-5-143. Reserved****R15-5-144. Reserved****R15-5-145. Reserved****R15-5-146. Reserved****R15-5-147. Reserved****R15-5-148. Reserved****R15-5-149. Reserved****R15-5-150. Sale of Photography**

- A. In this Section:
 1. "Motion picture" has the same meaning as prescribed in A.R.S. § 41-1517.
 2. "Motion picture production company" has the same meaning as prescribed in A.R.S. § 41-1517.
 3. "Photography" means the process of taking and supplying images to customers, using film, video, or another data storage medium.
 4. "Qualified motion picture production company" means a motion picture production company that holds a valid certificate issued pursuant to A.R.S. § 42-5009(H), establishing the company's qualification for the A.R.S. § 42-5061(B)(23) exemption.
- B. Gross income or gross proceeds derived from a sale of photography are subject to tax under this Article, unless, under A.A.C. R15-5-104(C), the sale of such photography is considered an inconsequential element of nontaxable activities that

are associated with the sale. Examples of nontaxable activities that are associated with a sale of photography include research; script consulting; director, crew, and equipment charges; preproduction or postproduction charges; location scouting fees; and music charges. Activities that are associated with the sale of photography are nontaxable if one of the following applies:

1. The vendor is engaged in both a professional or personal service occupation or a service business under A.R.S. § 42-5061(A)(1) and the business of selling photography at retail; or
 2. The activities are not part of the manufacture, creation, or fabrication of photography and are not otherwise subject to tax under another Article of this Chapter.
- C. Gross income or gross proceeds derived from a sale of photography used directly in motion picture production by a qualified motion picture production company are exempt from tax under this Article pursuant to A.R.S. § 42-5061(B)(23).

Historical Note

Renumbered from R15-5-1836 and amended effective August 9, 1993 (Supp. 93-3). Amended by final rulemaking at 11 A.A.R. 5493, effective February 6, 2006 (Supp. 05-4).

R15-5-151. Artists

- A. Gross receipts from the sale of paintings, drawings, etchings, sculptures, craftwork, other artwork or reproductions of such items to final consumers shall be taxable under the retail classification if the person is making regular sales of these items.
- B. Gross receipts from the sale of paints, canvasses, frames, sculpture ingredients, and other items which will become an integral part of the finished product shall not be taxable if sold to a creating artist who is regularly engaged in the business of creating and selling paintings, drawings, etchings, sculptures, craftwork, other artwork, or reproductions of such items. Sales of brushes, easels, tools, and similar items to be consumed by the creating artist shall be taxable.
- C. Gross receipts from the sale by the creating artist of a painting, drawing, etching, sculpture, or a piece of craftwork that is not a reproduction of an original work shall not be taxable if:
 1. The sale is a casual sale pursuant to the definition in R15-5-1812; or
 2. The sale is of commissioned artwork by an individual artist. For purposes of this rule, "commissioned artwork" is a custom, one-of-a-kind art creation made by the individual artist pursuant to the particular requirements of a specific purchaser.

Historical Note

Adopted effective April 15, 1993 (Supp. 93-2). Section heading amended effective August 9, 1993 (Supp. 93-3).

Editor's Note: R15-5-1812, referenced in subsection (C)(1) above, was repealed. Please refer to R15-5-2001 for information about casual sales.

R15-5-152. Tangible Personal Property Used in Soil Remediation Activities

The gross receipts from the sale of tangible personal property incorporated or fabricated into any real property, structure, project, development or improvement under a contract specified in A.R.S. § 42-1310.16 (B)(6) are exempt from tax. The gross receipts from the sale of tangible personal property used in soil remediation activities but not incorporated or fabricated into any real property, structure, project, development or improvement are taxable.

Historical Note

Adopted effective December 11, 1998 (Supp. 98-4).

R15-5-153. Four-inch Pipes or Valves

Gross receipts from the sale of pipes, valves, or fire hydrants with an inside diameter of four inches or more are deductible from the tax base if the pipes, valves, or fire hydrants are to be used to transport oil, natural gas, artificial gas, water, or coal slurry.

Historical Note

Adopted effective August 9, 1993 (Supp. 93-3).

R15-5-154. Computer Hardware and Software

- A. Gross receipts derived from services rendered in whole or in part in connection with the sale of computer hardware are exempt, including gross receipts derived from charges imposed for professional and technological services such as analysis, design, support engineering services, classroom instruction, and data conversion services.
- B. Except as provided in subsection (C), gross receipts derived from the sale of computer software programs are taxable, regardless of the method that a retail business uses to transfer the programs to its customers.
- C. Gross receipts derived from charges imposed for the following business activities originate from nontaxable service activities and are therefore not taxable:
 1. The original creation of an electronic data processing program for the specific use of an individual customer, or
 2. The modification of a prewritten computer software program for the specific use of an individual customer, if the charge for the modification is shown separately on the sales invoice and records.

Historical Note

Renumbered from R15-5-1853 effective August 9, 1993 (Supp. 93-3). Amended by final rulemaking at 11 A.A.R. 2950, effective September 10, 2005 (Supp. 05-3).

R15-5-155. Reserved

R15-5-156. Sales of Prescription Drugs and Prosthetic Appliances

A. In this Section:

1. "Drug" means an article that, according to federal or state law, is:
 - a. Recognized in the official United States Pharmacopeia, official Homeopathic Pharmacopeia of the United States, official National Formulary, or any supplement to these documents; or
 - b. Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals; or
 - c. Not food and is intended to affect the structure or any function of the body of humans or animals; or
 - d. Intended for use as a component of any article specified in subsections (a), (b), or (c).
2. "Drug on a prescription" means prescription drug.
3. "Food" means an article used for food or drink for humans or animals, chewing gum, or an article used as a component of such an article.
4. "Hearing aid" means any wearable device designed as a remedy or to compensate for defective human hearing, including parts, attachments, accessories, and earmolds.
5. "Legend drug" means a drug that 21 U.S.C. 353(b)(4)(A) requires to bear the symbol "Rx only" before dispensing.
6. "Nonprescription product" means a drug or other article that can be purchased by the final consumer of the drug or article without a prescription, regardless of whether purchased on the advice or recommendation of a member of the medical, dental, or veterinarian profession. Examples include over-the-counter drugs and those dietary supple-

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ments, vitamins, minerals, herbs, and other similar supplements that do not qualify as prescription drugs.

7. "Over-the-counter drug" means a drug that is subject to federal labeling requirements in 21 CFR 201.66.
 8. "Prescriber" means a member of the medical, dental, or veterinary profession authorized by federal or state law to prescribe a drug.
 9. "Prescription" means an order for a drug issued in any form.
 10. "Prescription drug" means a legend drug or a drug that, according to federal or state law, can be dispensed only:
 - a. Upon a written prescription of a prescriber for the drug;
 - b. Upon an oral prescription by the prescriber for the drug that federal or state law requires be reduced promptly to a form of writing by the prescriber and then filed by a pharmacist or the prescriber; or
 - c. By refilling a written or oral prescription if refilling is authorized by the prescriber for the drug either in the original prescription or by oral order that is reduced promptly to writing and then filed by a pharmacist or the prescriber.
 11. "Prescription eyeglasses" includes frames and other component parts of eyeglasses if purchased for use with prescription lenses.
 12. "Prosthetic appliance" means an artificial device that fully or partially replaces a part or function of the human body or increases the acuity of a sense organ.
- B.** Gross receipts from sales of the following kinds of tangible personal property are not subject to tax:
1. Prescription drugs, including those used in the course of treating patients;
 2. Medical oxygen, pursuant to A.R.S. § 42-5061(A)(8);
 3. Insulin, insulin syringes, and glucose strips, whether or not prescribed;
 4. Prosthetic appliances, prescribed or recommended by a statutorily-authorized individual;
 5. Durable medical equipment, pursuant to A.R.S. § 42-5061(A)(13);
 6. Prescription eyeglasses and contact lenses; and
 7. Hearing aids. Batteries and cords are subject to tax.
- C.** Gross receipts from the sale of component and repair parts for any tangible personal property that is exempt under either subsection (B) or (F) are not subject to tax.
- D.** If a written prescription or recommendation is required to purchase tangible personal property, a vendor of the property shall maintain the prescription or recommendation as part of the vendor's records. The vendor's records for documenting sales shall provide reasonable detail to allow the Department, upon inspection, to identify property as exempt.
- E.** Gross receipts from the sale to the final consumer of nonprescription products and those medical supplies or appliances not provided for under subsection (B) are subject to tax.
- F.** Gross receipts from the sale of nonprescription products or other medical supplies or appliances to doctors, dentists, or veterinarians are subject to tax unless the sale qualifies as a sale for resale and the doctor, dentist, or veterinarian is a retailer in the business of reselling the property.

Historical Note

Renumbered from R15-5-1819 and amended effective August 9, 1993 (Supp. 93-3). Amended by final rulemaking at 11 A.A.R. 2952, effective September 10, 2005 (Supp. 05-3).

R15-5-157. Membership Fees

- A.** Membership, admission, or other fees charged by a limited-access retail business shall be considered part of the taxable gross income of the business activity.
- B.** For purposes of this rule, "a limited-access retail business" means a business which does not sell to the general public but which charges a membership fee or a membership due in order to obtain access to the business or to obtain discounts or preferential treatment in the purchase or rental of tangible personal property from or through the business.
- C.** Gross income shall not include separately billed amounts paid to secure ownership interests or rights in the business which can be transferred or assigned.

Historical Note

Renumbered from R15-5-3036 and amended effective August 9, 1993 (Supp. 93-3).

R15-5-158. Postage Stamps

- A.** A retailer's gross receipts from the sale of postage stamps are not included in the tax base under the retail classification if the stamps are sold for the purpose of transporting mail.
- B.** A retailer's gross receipts from the sale of postage stamps are included in the tax base under the retail classification if the stamps are sold for any purpose other than transporting mail.
- C.** The Department shall presume that a postage stamp is sold for a purpose other than transporting mail if the postage stamp is sold for at least 50% more than its face value. A retailer may overcome the presumption; however, the burden of proof will remain on the retailer.
- D.** A retailer's gross receipts from the sale of cancelled postage stamps are included in the tax base under the retail classification.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 4112, effective October 4, 2000 (Supp. 00-4).

R15-5-159. Reserved**R15-5-160. Reserved****R15-5-161. Reserved****R15-5-162. Reserved****R15-5-163. Reserved****R15-5-164. Reserved****R15-5-165. Reserved****R15-5-166. Reserved****R15-5-167. Reserved****R15-5-168. Reserved****R15-5-169. Reserved****R15-5-170. Interstate and Foreign Transactions**

- A.** Gross receipts from sales of tangible personal property made in interstate or foreign commerce are deductible from the tax base if all of the following apply:
 1. The order is received from a location outside of Arizona; and
 2. The retailer ships or delivers the tangible personal property to a location outside of Arizona for use outside of Arizona.
- B.** In meeting the above requirements, if delivery is made by the retailer to a common carrier for transportation to a location outside Arizona, the common carrier is deemed to be the agent of the retailer for purposes of this rule regardless of who is responsible for payment of the freight charges.

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C. Suitable records shall be kept to substantiate the deduction for a sale made in interstate commerce. As such, records shall identify the tangible personal property sold and the delivery destination. The following records may be sufficient to substantiate the exemption:

1. Suitable records for substantiating the receipt of an order from out-of-state may include purchase orders, letters, or written memoranda on the receipt of orders placed by telephone.
2. Suitable records for substantiating out-of-state shipments include:
 - a. Internal delivery orders supported by receipts of expenses incurred in delivering the property and signed on the delivery date by the person who delivers the property;
 - b. Common carrier's receipt or bill of lading;
 - c. Parcel post receipt;
 - d. Export declaration;
 - e. Receipt from a licensed broker; or
 - f. Proof of export or import signed by a customs officer.

Historical Note

Renumbered from R15-5-1814 and amended effective August 9, 1993 (Supp. 93-3).

R15-5-171. Sales to a Common Carrier

Gross receipts from sales made to a common carrier, engaged in interstate business, for delivery by the common carrier to a location outside of Arizona and for use outside of Arizona shall not be taxable if the order is received from a location outside of Arizona and the Arizona retailer prepays the freight charge.

Historical Note

Adopted effective August 9, 1993 (Supp. 93-3).

R15-5-172. Sales by Florists

- A. Gross receipts from sales made by florists are taxable. Delivery and relay or transmittal charges, when separately stated, are deductible from the tax base.
- B. Orders received by an Arizona florist from an out-of-state customer for delivery within Arizona are taxable. Orders received by an Arizona florist by an out-of-state customer for delivery out-of-state are not taxable.
- C. When the florist conducts transactions through a delivery association, the following shall apply:
 1. Gross receipts from sales made by an Arizona florist, where the order is subsequently transmitted to another florist for filling and delivery, whether inside or outside of Arizona, are taxable.
 2. Gross receipts from sales by Arizona florists who deliver from a transmitted order of another florist, whether the ordering florist is inside or outside of Arizona, are not taxable.

Historical Note

Adopted effective August 9, 1993 (Supp. 93-3).

R15-5-173. Sales of Property Subsequently Taken Out-of-state

Gross receipts from sales of tangible personal property by Arizona vendors made to purchasers who subsequently take the property out-of-state do not qualify as exempt unless otherwise specifically exempted by statute.

Historical Note

Adopted effective August 9, 1993 (Supp. 93-3).

R15-5-174. Sales to Non-U.S. Citizens

Gross receipts from sales to non-U.S. citizens are subject to the tax unless otherwise exempt.

Historical Note

Adopted effective August 9, 1993 (Supp. 93-3).

R15-5-175. Expired**Historical Note**

Adopted effective August 9, 1993 (Supp. 93-3). Section expired under A.R.S. § 41-1056(J) at 22 A.A.R. 2054, effective March 31, 2016 (Supp. 16-3).

R15-5-176. Expired**Historical Note**

Adopted effective August 9, 1993 (Supp. 93-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2012, effective March 31, 2001 (Supp. 01-2).

R15-5-177. Reserved**R15-5-178. Reserved****R15-5-179. Reserved****R15-5-180. Sales by Businesses in Federal Areas**

Gross receipts from sales by businesses not operated by or as an agency of the Federal Government, located on military bases or other federal areas, are subject to tax.

Historical Note

Renumbered from R15-5-1825 and amended effective August 9, 1993 (Supp. 93-3). Amended by final rulemaking at 13 A.A.R. 682, effective April 7, 2007 (Supp. 07-1).

R15-5-181. Governmental Organizations

- A. Gross receipts from the sale of tangible personal property to the state or its political subdivisions are taxable unless otherwise exempt. Gross receipts from the sale of tangible personal property to the Federal Government or its departments and agencies are taxable at the rate prescribed by statute, unless otherwise exempt.
- B. Gross receipts from the sale of tangible personal property by the state or its political subdivisions, when acting in a proprietary capacity, are taxable unless otherwise exempt.
- C. Gross receipts from the sale of tangible personal property by the Federal Government are not taxable.

Historical Note

Renumbered from R15-5-1803 and amended effective August 9, 1993 (Supp. 93-3).

R15-5-182. Nonprofit Organizations

- A. Gross receipts from the sale of tangible personal property to nonprofit churches, schools, and other nonprofit organizations are subject to tax unless otherwise exempt.
- B. Gross receipts from the sale of tangible personal property by a charitable nonprofit organization, recognized as such for income tax purposes by the Internal Revenue Service, are not subject to tax.
- C. For purposes of the statutory exemption and this rule, the Internal Revenue Service recognition of a charitable nonprofit organization is defined in Internal Revenue Code § 501(c)(3).

Historical Note

Renumbered from R15-5-1804 and amended effective August 9, 1993 (Supp. 93-3). Amended by final rulemaking at 13 A.A.R. 682, effective April 7, 2007 (Supp. 07-1).

R15-5-183. Exempt Sales to Health Organizations

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- A. Gross receipts from the sale of tangible personal property to qualifying hospitals, qualifying health care organizations, rehabilitation programs for mentally or physically handicapped persons, and qualifying community health centers are exempt from tax if such purchases are exempt from tax pursuant to statutory provisions.
- B. The Department may, upon review of the written request and any other information requested by the Department to make a proper determination, provide an Exemption Letter to organization meeting the statutory criteria. The Exemption Letter shall be valid for a period of 12 months from the first day of the month following the issue date of the Exemption Letter unless the organization's tax exempt status changes prior to the end of the 12-month period, or the organization misrepresented or omitted material information in its exemption request.
- C. Qualifying hospitals, qualifying health care organizations, rehabilitation programs for mentally or physically handicapped persons, and qualifying community health centers shall annually submit to the Department a written request for an Exemption Letter. The request shall be submitted at least 30 days prior to the first day of the exemption period. For purposes of this rule, "exemption period" means the 12-month period beginning on the first day of the month following the issue date of the Exemption Letter or the 12-month period requested by the organization.
1. Qualifying hospitals shall attach to their annual exemption request a copy of their current license issued by the Department of Health Services.
 2. Qualifying health care organizations shall attach to their exemption request letter the statutorily required annual financial audit and a copy of their Internal Revenue Code 501(c) recognition unless the Department has previously received a copy of this recognition.
 3. Rehabilitation programs for mentally or physically handicapped persons shall attach to their exemption request a copy of their Internal Revenue Code 501(c)(3) recognition unless the Department has previously received a copy of this recognition.
 4. Qualifying community health centers shall attach to their exemption request documentation supporting the statutory criteria and a copy of their Internal Revenue Code 501(c)(3) recognition unless the Department has previously received a copy of this recognition.

Historical Note

Renumbered from R15-5-1821 and amended effective August 9, 1993 (Supp. 93-3). Amended effective April 21, 1995 (Supp. 95-2).

ARTICLE 2. RENUMBERED AND REPEALED**R15-5-201. Repealed****Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-202. Renumbered**Historical Note**

Section R15-5-202 renumbered to R15-5-2001 effective October 14, 1993 (Supp. 93-4).

R15-5-203. Repealed**Historical Note**

Repealed effective October 14, 1993 (Supp. 93-4).

R15-5-204. Renumbered**Historical Note**

Section R15-5-204 renumbered to R15-5-2002 effective October 14, 1993 (Supp. 93-4).

R15-5-205. Repealed**Historical Note**

Repealed effective August 13, 1987 (Supp. 87-3).

R15-5-206. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-207. Repealed**Historical Note**

Repealed effective July 23, 1985 (Supp. 85-4).

R15-5-208. Repealed**Historical Note**

Repealed effective July 23, 1985 (Supp. 85-4).

R15-5-209. Repealed**Historical Note**

Amended effective November 7, 1978 (Supp. 78-6).
Amended effective March 18, 1981 (Supp. 81-2).
Renumbered as Section R15-5-3023 effective August 26, 1987 (Supp. 87-3). Renumbered and amended in error; Section R15-5-209 is reprinted herewith as it was amended effective March 18, 1981 (Supp. 88-3).
Repealed effective October 14, 1993 (Supp. 93-4).

R15-5-210. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-211. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-212. Renumbered**Historical Note**

Emergency rule adopted effective April 10, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days; emergency rule readopted with changes effective June 18, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-2). Emergency rule readopted with changes effective September 19, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-3). Permanent rule adopted with changes effective December 14, 1990 (Supp. 90-4). Renumbered to Section R15-5-2215 effective October 14, 1993 (Supp. 93-4).

ARTICLE 3. REPEALED**R15-5-301. Repealed****Historical Note**

Repealed effective August 13, 1987 (Supp. 87-3).

R15-5-302. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-303. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-304. Repealed

Historical Note

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-305. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-306. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-307. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

ARTICLE 4. AMUSEMENT CLASSIFICATION**R15-5-401. Repealed****Historical Note**

Repealed effective August 13, 1987 (Supp. 87-3).

R15-5-402. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-403. Amusement Devices

Gross proceeds of sales or gross income from the operation of coin-operated and other devices that provide amusement are included in the tax base under the amusement classification. Examples include: devices that play prerecorded music, electronic games, pinball games, and billiard tables.

1. The tax base from the business of operating amusement devices is the gross amount received from the amusement devices without deduction for commissions paid, rental cost for the equipment, or other expenses.
2. The individual having direct control of the funds generated by the amusement devices shall pay the tax to the Department.

Historical Note

Amended effective September 22, 1997 (Supp. 97-3).
Amended by final rulemaking at 13 A.A.R. 682, effective April 7, 2007 (Supp. 07-1).

R15-5-404. Other Income

Gross receipts from the sale of programs, souvenirs, or any other items of tangible personal property are included in the tax base under the retail classification.

Historical Note

Amended effective April 21, 1995 (Supp. 95-2).
Amended effective September 22, 1997 (Supp. 97-3).

R15-5-405. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-406. Health or Fitness Establishments and Private Recreational Establishments

- A. The operator of a "health or fitness establishment" or a "private recreational establishment," as defined in A.R.S. § 42-5073(C), shall exclude from the tax base under the amusement classification all gross proceeds of sales or gross income from membership fees and initiation fees charged for the use of the establishment, or any portion of the establishment, for 28 days or more, and fees charged for the use of the establishment by bona fide accompanied guests of members. Any other fees for the use of a health or fitness establishment or a private recre-

ational establishment, or any portion of the establishment, are included in the tax base of the amusement classification.

- B. Gross proceeds of sales or gross income derived from other businesses that are located on the premises of a health, fitness, or recreational business shall not be considered when determining whether a health, fitness, or recreational business is a "health or fitness establishment" or a "private recreational establishment" if the other businesses are separate and independent from the health, fitness, or recreational business. Whether the other businesses are separate and independent depends upon the facts in each case. The Department considers several factors in making this determination including but not limited to the following:

1. Whether the business is open to both members and non-members;
2. Whether the primary purpose of the business is closely related to the primary purpose of the health, fitness, or recreational business;
3. Whether the business could exist without the health, fitness, or recreational business; and
4. Whether the business shares assets or employees with the health, fitness, or recreational business.

Historical Note

Amended effective September 22, 1997 (Supp. 97-3).
Amended by final rulemaking at 13 A.A.R. 682, effective April 7, 2007 (Supp. 07-1).

R15-5-407. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-408. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-409. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

ARTICLE 5. REPEALED**R15-5-501. Repealed****Historical Note**

Repealed effective July 23, 1985 (Supp. 85-4).

R15-5-502. Repealed**Historical Note**

Repealed effective January 16, 1997 (Supp. 97-1).

R15-5-503. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-504. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-505. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-506. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

ARTICLE 6. PRIME CONTRACTING CLASSIFICATION**R15-5-601. Taxpayer Bonds for Contractors**

- A.** For the purpose of this rule:
1. The principal place of business shall be Arizona if the licensee has continuously operated a facility with at least one full-time employee in Arizona for 12 consecutive months preceding the determination.
 2. A surety bond shall include a bond issued by a company authorized to execute and write bonds in Arizona as a surety or composed of securities or cash which are deposited with the Department of Revenue.
- B.** The businesses subject to these bonds are grouped in accordance with the standard industry classifications by average business activity. The business classes and bond amounts are as follows:
1. Two thousand dollars for:
 - a. General contractors of residential buildings other than single family;
 - b. Operative builders;
 - c. Plumbing, air conditioning, and heating, except electric;
 - d. Painting, paper hanging;
 - e. Decorating;
 - f. Electrical work;
 - g. Masonry stonework and other stonework;
 - h. Plastering, drywall, acoustical and insulation work;
 - i. Terrazzo, tile, marble and mosaic work;
 - j. Carpentry;
 - k. Floor laying and other floor work;
 - l. Roofing and sheet metal work;
 - m. Concrete work;
 - n. Water well drilling;
 - o. Structural steel erection;
 - p. Glass and glazing work;
 - q. Excavating and foundation work;
 - r. Wrecking and demolition work;
 - s. Installation and erection of building equipment;
 - t. Special trade contractors; and
 - u. Manufacturers of mobile homes.
 2. Seven thousand dollars for:
 - a. General contractors of single family housing;
 - b. Water, sewer, pipeline, communication and power-line construction.
 3. Seventeen thousand dollars for:
 - a. General contractors of industrial buildings and warehouses;
 - b. General contractors nonresidential buildings other than single family;
 - c. Highways and street construction except elevated highways.
 4. Twenty-two thousand dollars for heavy construction.
 5. One-hundred two thousand dollars for bridge, tunnel and elevated highway construction.
- C.** Except as provided in subsection (D) of this rule, any applicant whose principal place of business is outside Arizona or who has conducted business in Arizona for less than one year shall post a bond before the transaction privilege tax license shall be issued.
- D.** Any taxpayer subject to bonding requirements may submit a written request to the Director of the Department of Revenue for an exemption from the bond. The exemption request shall provide at least one of the following:
1. Any taxpayer who has been actively engaged in business for at least two years immediately preceding the exemption request may submit statements from an authorized state employee from each state in which the business has

been licensed in the last two years verifying that the taxpayer has, for at least two years immediately preceding the date of the statement, made timely payment of all sales taxes and other transaction privilege taxes incurred.

2. Two-year reporting history as described above in subsection (D)(1) and an explanation of good cause for late or insufficient payment of the tax;
 3. Documentation which verifies that no potential for Arizona tax liability exists;
 4. Bond for a previously issued Arizona transaction privilege license that adequately covers the licensee's expected transaction privilege tax liability for Arizona for both the previously issued license and for this license.
- E.** The bond shall not expire prior to two years after the transaction privilege license is issued. Upon lapse or forfeiture of any bond by any licensee, the licensee shall deposit with the Department another bond within five business days of the licensee's receipt of written notification by the Department.
- F.** Any licensee, who has had a bond posted for at least two years and fulfills any exception listed in subsection (D), or whose principal place of business becomes Arizona, may request a written waiver and that the bond be returned.

Historical Note

Former Section R15-5-601 repealed effective August 13, 1987 (Supp. 87-3). New Section R15-5-601 renumbered from R15-10-202 (Supp. 94-1).

R15-5-602. Expired**Historical Note**

Amended effective November 7, 1978, unless otherwise noted (Supp. 78-6). Correction, subsection (C), paragraph (2) as filed effective November 7, 1978, unless otherwise noted (Supp. 82-1). Section expired under A.R.S. 41-1056(E) at 17 A.A.R. 2692, effective September 28, 2011 (Supp. 11-4).

R15-5-603. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-604. Expired**Historical Note**

Section expired under A.R.S. 41-1056(E) at 17 A.A.R. 2692, effective September 28, 2011 (Supp. 11-4).

R15-5-605. Expired**Historical Note**

Section expired under A.R.S. 41-1056(E) at 17 A.A.R. 2692, effective September 28, 2011 (Supp. 11-4).

R15-5-606. Expired**Historical Note**

Amended effective December 11, 1998 (Supp. 98-4). Section expired under A.R.S. 41-1056(E) at 17 A.A.R. 2692, effective September 28, 2011 (Supp. 11-4).

R15-5-607. Expired**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2). Amended effective December 11, 1998 (Supp. 98-4). Section expired under A.R.S. § 41-1056(E) at 12 A.A.R. 4742, effective September 30, 2006 (Supp. 06-4).

R15-5-608. Expired

Historical Note

Amended effective November 7, 1978 (Supp. 78-6).
Amended by adding subsections (D) and (E) effective
March 18, 1981 (Supp. 81-2). Section expired under
A.R.S. 41-1056(E) at 17 A.A.R. 2692, effective Septem-
ber 28, 2011 (Supp. 11-4).

R15-5-609. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-610. Repealed**Historical Note**

Former Section 15-5-610 repealed, new Section R15-5-
610 adopted effective March 18, 1981 (Supp. 81-2).
Repealed effective January 16, 1997 (Supp. 97-1).

R15-5-611. Repealed**Historical Note**

Repealed effective March 18, 1981 (Supp. 81-2).

R15-5-612. Expired**Historical Note**

Amended effective November 7, 1978 (Supp. 78-6). Sec-
tion expired under A.R.S. 41-1056(E) at 17 A.A.R. 2692,
effective September 28, 2011 (Supp. 11-4).

R15-5-613. Expired**Historical Note**

Amended effective November 7, 1978 (Supp. 78-6). Sec-
tion expired under A.R.S. 41-1056(E) at 17 A.A.R. 2692,
effective September 28, 2011 (Supp. 11-4).

R15-5-614. Expired**Historical Note**

Amended effective November 7, 1978 (Supp. 78-6). Sec-
tion expired under A.R.S. 41-1056(E) at 17 A.A.R. 2692,
effective September 28, 2011 (Supp. 11-4).

R15-5-615. Expired**Historical Note**

Section expired under A.R.S. 41-1056(E) at 17 A.A.R.
2692, effective September 28, 2011 (Supp. 11-4).

R15-5-616. Expired**Historical Note**

Amended effective June 18, 1987 (Supp. 87-2). Section
expired under A.R.S. 41-1056(E) at 17 A.A.R. 2692,
effective September 28, 2011 (Supp. 11-4).

R15-5-617. Repealed**Historical Note**

Section repealed by final rulemaking at 10 A.A.R. 5200,
effective February 5, 2005 (Supp. 04-4).

R15-5-618. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-619. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-620. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-621. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-622. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-623. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-624. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-625. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-626. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-627. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-628. Expired**Historical Note**

Adopted effective November 7, 1978 (Supp. 78-6). Sec-
tion expired under A.R.S. 41-1056(E) at 17 A.A.R. 2692,
effective September 28, 2011 (Supp. 11-4).

R15-5-629. Expired**Historical Note**

Adopted effective November 7, 1978, unless otherwise
noted (Supp. 78-6). Section expired under A.R.S. 41-
1056(E) at 17 A.A.R. 2692, effective September 28, 2011
(Supp. 11-4).

ARTICLE 7. REPEALED**R15-5-701. Repealed****Historical Note**

Repealed effective August 13, 1987 (Supp. 87-3).

R15-5-702. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-703. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-704. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

ARTICLE 8. REPEALED**R15-5-801. Repealed**

Historical Note

Repealed effective August 13, 1987 (Supp. 87-3).

R15-5-802. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-803. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-804. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

ARTICLE 9. MINING CLASSIFICATION**R15-5-901. Definitions**

In addition to the definitions provided in A.R.S. § 42-5001, the following definitions apply to this Article:

1. "Mining" means operations involving the extraction of nonmetalliferous mineral products from beneath or at the surface of the earth for commercial use and includes underground, surface, and open-pit operations.
2. "Nonmetalliferous mineral product" has the same meaning as prescribed in A.R.S. § 42-5072.

Historical Note

Amended effective November 7, 1978 (Supp. 78-6).
Repealed effective August 13, 1987 (Supp. 87-3). New Section R15-5-901 renumbered from R15-5-903 and amended by final rulemaking at 6 A.A.R. 2952, effective July 18, 2000 (Supp. 00-3).

R15-5-902. General

- A. A person engaged in the business of mining is subject to tax under the mining classification on the gross proceeds of sales or gross income received from the sale of a nonmetalliferous mineral product to a purchaser that resells the product in the ordinary course of business.
- B. A person engaged in the business of mining is not subject to tax under the mining classification on the gross proceeds of sales or gross income received from the sale of a nonmetalliferous mineral product to a person engaged in business classified under the prime contracting classification if the nonmetalliferous mineral product is to be incorporated into a structure or project as part of the business.
- C. A person engaged in the business of mining is subject to tax under the retail classification on the gross income received from the sale of a nonmetalliferous mineral product to a final consumer.
- D. A person engaged in the business of mining shall not deduct from the tax base amounts paid as royalties.

Historical Note

Amended by final rulemaking at 6 A.A.R. 2952, effective July 18, 2000 (Supp. 00-3).

R15-5-903. Renumbered**Historical Note**

Section R15-5-903 renumbered to R15-5-901 by final rulemaking at 6 A.A.R. 2952, effective July 18, 2000 (Supp. 00-3).

R15-5-904. Manufacturing or Processing Service Charges

- A. A person engaged in the business of mining is subject to tax on the gross proceeds of sales or gross income from refining petroleum products, producing a combination of nonmetalliferous mineral products, as well as other manufacturing or pro-

cessing service charges derived from contracts with the owner of the products.

- B. A person who mines and processes nonmetalliferous mineral products is subject to tax on the gross proceeds of sales or gross income from the sale of the first marketable product. For example, a person who mines clay and processes the material into bricks is taxable on the gross proceeds of sales or gross income from the sale of the bricks.

Historical Note

Amended by final rulemaking at 6 A.A.R. 2952, effective July 18, 2000 (Supp. 00-3).

R15-5-905. Products Shipped Out of Arizona

- A. A person engaged in the business of mining that ships a nonmetalliferous mineral product out-of-state without making a sale in Arizona shall include in the tax base the market value of the nonmetalliferous mineral product before it enters interstate commerce.
- B. Unless otherwise provided in subsection (D), the taxpayer shall calculate the market value of a nonmetalliferous mineral product shipped out-of-state in the following manner:
 1. Establish the total selling price of the product outside Arizona.
 2. Deduct, from the total selling price, costs incurred out-of-state that increase the value of the product. These costs include:
 - a. The cost of actual freight paid, as provided in R15-5-908, to the point of sale outside Arizona;
 - b. The refining or processing cost incurred before the first sale; and
 - c. The cost of sales commissions, paid or accrued, in connection with the sale.
- C. The market value of the product shipped out-of-state shall not include the cost of processing if the processor has paid the Arizona transaction privilege tax on the gross proceeds of sales or gross income derived from the processing. (See R15-5-904.)
- D. A taxpayer may compute the market value of a nonmetalliferous mineral product shipped out-of-state in any manner that accurately reflects the value of the nonmetalliferous mineral product at the point it enters interstate commerce if the taxpayer gives prior written notification to the Department and the Department approves the computation method.

Historical Note

Amended effective March 18, 1981 (Supp. 81-2).
Amended effective June 18, 1987 (Supp. 87-2). Amended by final rulemaking at 6 A.A.R. 2952, effective July 18, 2000 (Supp. 00-3).

R15-5-906. Repealed**Historical Note**

Section repealed by final rulemaking at 6 A.A.R. 2952, effective July 18, 2000 (Supp. 00-3).

R15-5-907. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-908. Actual Freight Paid

- A. A person engaged in the business of mining may deduct from the tax base under the mining classification actual freight costs incurred in connection with the sale that are included in the sales price if the actual freight costs incurred are separately stated in the billing to its customer.
- B. A person engaged in the business of mining that does not separately state the actual freight costs incurred in the billing to the customer may still deduct the actual freight costs paid to a

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third party, provided the person keeps books and records to show separately the actual freight paid to the third party.

- C. A taxpayer shall not deduct the cost incurred by the taxpayer before a sale for freight from the mining or production location to the sales location.

Historical Note

Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 2952, effective July 18, 2000 (Supp. 00-3).

R15-5-909. Repealed

Historical Note

Repealed effective April 13, 1987 (Supp. 87-2).

ARTICLE 10. TRANSACTION PRIVILEGE TAX -- TRANSIENT LODGING CLASSIFICATION

R15-5-1001. Application of the Definition of Transient for Purposes of Taxation under the Transient Lodging Classification

- A. Effective January 1, 1979, the leasing or renting of dwelling units and lodging facilities to a person shall not be taxable under the transient lodging classification if the lodging is obtained for a continuous block of time for 30 or more consecutive days except as provided under A.R.S. § 42-1310.10(B). For purposes of this rule, "person" has the same meaning as under A.R.S. § 42-1301.
- B. Gross receipts from providing lodging obtained for a continuous block of time for 30 or more consecutive days shall not be taxable under the transient lodging classification from the first day of occupancy.
1. Lodging obtained for 30 or more consecutive days in increments of time for a period of less than 30 consecutive days rather than for a continuous block of time shall be taxable under the transient lodging classification except as provided under A.R.S. § 42-1310.10(B).
 2. A lodger may originally acquire lodging on an incremental basis for a period of less than 30 consecutive days and subsequently change to a continuous block of time for 30 or more consecutive days; however, the lodging originally obtained on an incremental basis of less than 30 consecutive days shall remain subject to tax regardless of any subsequent action on the part of the lodger.
- C. If lodging is obtained on a continuous basis for 30 or more consecutive days but the person obtaining the lodging leaves before the 30-day period ends and only pays for a period of 29 days or less, the exclusion shall not apply. The gross receipts from providing lodging for 29 days or less shall be subject to tax under the transient lodging classification.
- D. The following situations are indicative of the application of the provisions in this rule:
1. A person rents a motel room on a weekly basis for 10 consecutive weeks. The total rental period is greater than 30 consecutive days; however, the method of renting by the week meets the definition of "transient." Gross receipts from renting lodging space on such a basis are subject to tax under the transient lodging classification.
 2. A motion picture company contracts with a hotel to rent a block of 15 rooms for a three-month period during which filming will occur in the area. During that three-month period, a variety of crew members and actors will occupy the rooms. Any one room may have a different occupant during the three-month time period as filming progresses and different actors or crew members are involved in the production of the film. The rental by the motion picture company for the three-month period is not subject to tax under the transient lodging classification since the motion

picture company contracted with the hotel to rent for a three-month period and, therefore, does not meet the definition of a transient.

3. An individual reserves a room in a rooming house for two weeks. The individual decides to stay another two weeks. The total number of days' stay is now at 28 days. Once again, the individual extends the stay by two weeks. Each time period is less than 30 days. Even though the total period of time is over 29 days, after the third extension of two weeks, the individual continues to be a transient for purposes of taxation under the transient lodging classification. If the individual had rented the room for 30 days or more after the first two weeks, gross receipts from the additional time would not be subject to tax. However, the first two-week block of time would remain taxable since that time period falls under the definition of transient.
4. An individual is not sure how long he will be staying at a hotel so, upon registration, gets the room for 35 days. After 21 days the individual decides to leave and pays only for the 21-day stay. Gross receipts are subject to tax under the transient lodging classification. If the individual had a contractual agreement in which, regardless of length of occupancy, he was required to pay for the entire 35 days, the gross receipts from such a transaction would not be taxable.

Historical Note

Repealed effective August 13, 1987 (Supp. 87-3). New Section R15-5-1001 renumbered from R15-5-1614 (Supp. 94-2). Amended effective April 21, 1995 (Supp. 95-2).

R15-5-1002. Activities in Addition to Providing Lodging

- A. If a transient lodging facility is engaged in the business of providing lodging and engages in the business of providing meals, the gross receipts from lodging shall be separately stated and reported from the gross receipts from restaurant activities.
- B. Gross receipts from the providing of meals or room service shall be subject to tax under the restaurant classification.
- C. Gross receipts from the sale of tangible personal property by transient lodging facilities such as from magazine stands, gift shops, or in-room food or beverage bars shall be subject to tax under the retail classification.

Historical Note

Repealed effective April 13, 1987 (Supp. 87-2). New Section R15-5-1002 renumbered from R15-5-1615 (Supp. 94-2). Amended effective April 21, 1995 (Supp. 95-2).

R15-5-1003. Providing Lodging to Government Agencies

Gross receipts from providing transient lodging to the United States Government, the state or its political subdivisions, or any other government agency or its employees shall be taxable under the transient lodging classification unless otherwise exempt.

Historical Note

Adopted effective April 21, 1995 (Supp. 95-2).

ARTICLE 11. TRANSACTION PRIVILEGE TAX -- JOB PRINTING CLASSIFICATION

R15-5-1101. Definitions

For purposes of this Article, the following definitions apply:

1. "Image developing" means the copying or reproducing by a printer of an image by any means from film, paper, video, or another data storage medium to photographic print paper or another storage medium that can visually display the image.

2. "Job printing" means the copying or reproducing by a printer of documents or data directly or indirectly provided by the printer's customer, including by another person at the customer's direction, for the ultimate purpose of producing a physical or electronic copy of the document or data. The document or data can be textual or pictorial, and may be received by the printer in physical or electronic form. Examples of methods of job printing include dye sublimation, electrostatic printing, flexography, gravure, inkjet printing, laser printing, lithography, offset printing, optical scanning, photocopying, photofinishing, reprographic printing, screen printing, thermography, xerography, and similar means of duplication.
3. "Photography" means the process of taking and supplying images to customers, using film, video, or another data storage medium.
4. "Printer" means a person that copies or reproduces textual or pictorial material by any means, process, or method of job printing, engraving, embossing, or copying, but that does not distribute the copied or reproduced material on the person's own behalf.
5. "Printing" means a finished product in physical or electronic form produced by a printer through job printing, engraving, embossing, or copying and that is held for sale by the printer.
6. "Qualifying health care organization" has the same meaning as prescribed in A.R.S. § 42-5001(10).
7. "Qualifying hospital" has the same meaning as prescribed in A.R.S. § 42-5001(11).

Historical Note

Repealed effective August 13, 1987 (Supp. 87-3). New Section made by final rulemaking at 11 A.A.R. 5493, effective February 6, 2006 (Supp. 05-4).

R15-5-1102. Printer's Sale of Printing

- A. Except as otherwise provided in subsection (F) or other applicable A.R.S. § 42-5066(B) exemptions, gross income or gross proceeds derived from all of a printer's costs or expenses of filling a customer's printing order are subject to tax under this Article. Examples of costs or expenses include charges for set-up, die cutting, embossing, folding, and binding operations.
- B. Gross income or gross proceeds derived from an Arizona printer's sale of printing within Arizona are subject to tax even when the printer conducts the job printing, engraving, embossing, or copying activity outside the state, unless the printing is shipped or delivered outside the state for use outside the state.
- C. If a printer ships or delivers printing to be used outside the state to a common carrier for transportation to a location outside the state, the common carrier is deemed to be the agent of the printer for purposes of determining whether the printing has been shipped or delivered outside the state, regardless of who is responsible for payment of the freight charges.
- D. A printer may substantiate a shipment or delivery of printing outside the state by one of the following records:
 1. An internal delivery order that is supported by receipts for expenses incurred in delivery of printing and signed on the delivery date by the person who delivers the printing;
 2. A common carrier's receipt or bill of lading;
 3. A parcel post receipt;
 4. An export declaration;
 5. A receipt from a licensed broker; or
 6. Proof of export or import, signed by a customs officer.
- E. Except as provided in subsection (F) or other applicable A.R.S. § 42-5066(B) exemptions, gross income or gross proceeds derived from an Arizona printer's charges for the distribution of printing are generally subject to tax under this Article. In the absence of documentation listed in subsection (D), it remains the taxpayer's burden to substantiate that the gross income or gross proceeds derived from a sale of printing are not taxable because the printing is shipped or delivered outside the state for use outside the state, pursuant to A.R.S. § 42-5066(B)(2). A printer substantiates that printing is shipped or delivered outside the state for use outside the state if the printer shows that the address or number to which the printer distributes the printing does not identify or is incapable of identifying an in-state location.

tion of printing are generally subject to tax under this Article. In the absence of documentation listed in subsection (D), it remains the taxpayer's burden to substantiate that the gross income or gross proceeds derived from a sale of printing are not taxable because the printing is shipped or delivered outside the state for use outside the state, pursuant to A.R.S. § 42-5066(B)(2). A printer substantiates that printing is shipped or delivered outside the state for use outside the state if the printer shows that the address or number to which the printer distributes the printing does not identify or is incapable of identifying an in-state location.

- F. Pursuant to A.R.S. § 42-5066(B)(4), a printer may deduct its gross income or gross proceeds derived from charges for postage and freight if the printer separately states the charges on a customer's invoice and in the printer's records, except that the amount deducted shall not exceed the amount paid by the printer to the United States Postal Service or a commercial delivery service. A printer may not deduct its gross income or gross proceeds derived from charges for delivery of the printing using the printer's own conveyance.

Historical Note

Repealed effective April 13, 1987 (Supp. 87-2). New Section made by final rulemaking at 11 A.A.R. 5493, effective February 6, 2006 (Supp. 05-4). Amended by final rulemaking at 13 A.A.R. 470, effective February 6, 2007 (Supp. 07-1).

R15-5-1103. Repealed**Historical Note**

Section repealed by final rulemaking at 11 A.A.R. 5493, effective February 6, 2006 (Supp. 05-4).

R15-5-1104. Repealed**Historical Note**

Section repealed by final rulemaking at 11 A.A.R. 5493, effective February 6, 2006 (Supp. 05-4).

R15-5-1105. Repealed**Historical Note**

Section repealed by final rulemaking at 11 A.A.R. 5493, effective February 6, 2006 (Supp. 05-4).

R15-5-1106. Sale of Materials to a Printer

Sales to a printer of materials that do not become an ingredient or component part of a printing fall under the retail classification (see Article 1 of this Chapter) and are subject to tax unless otherwise exempt under A.R.S. § 42-5061. Examples of such materials include color process plates, electrotypes, film processing chemicals, printing plates, and wood mounts. In contrast, sales by the printer of any such materials that are job printed, engraved, embossed, or copied by the printer for the printer's customer constitute sales of printing and fall under this Article. An example is a printer's sale to a customer of a printing plate upon which the printer has performed job printing, engraving, embossing, or copying activity for the customer.

Historical Note

Amended by final rulemaking at 11 A.A.R. 5493, effective February 6, 2006 (Supp. 05-4).

R15-5-1107. Repealed**Historical Note**

Amended effective November 7, 1978 (Supp. 78-6). Section repealed by final rulemaking at 11 A.A.R. 5493, effective February 6, 2006 (Supp. 05-4).

R15-5-1108. Repealed

Historical Note

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1109. Repealed**Historical Note**

Former Section R15-5-1109 repealed, new Section R15-5-1109 adopted effective March 18, 1981 (Supp. 81-2). Amended effective June 25, 1993 (Supp. 93-2). Section repealed by final rulemaking at 11 A.A.R. 5493, effective February 6, 2006 (Supp. 05-4).

R15-5-1110. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1111. Miscellaneous Costs of a Printer Are Not Deductions

- A. A printer shall not deduct the cost of subletting job printing, engraving, embossing, or copying activities.
- B. A printer shall not deduct the cost of labor or materials employed in the job printing, engraving, embossing, or copying activity of another person.

Historical Note

Amended by final rulemaking at 11 A.A.R. 5493, effective February 6, 2006 (Supp. 05-4).

R15-5-1112. Sale of Image Developing

- A. Gross income or gross proceeds derived from a sale of image developing in which the image developing is not part of a sale of photography are subject to tax under this Article.
- B. Gross income or gross proceeds derived from a sale of image developing to a business that resells the image developing are nontaxable under this Article.
- C. Gross income or gross proceeds derived from a sale of image developing either to a qualifying health care organization that uses the image developing solely to provide health and medical related educational and charitable services or to a qualifying hospital are nontaxable under this Article. An example is image developing of x-ray film or photographs.

Historical Note

Section repealed; new Section made by final rulemaking at 11 A.A.R. 5493, effective February 6, 2006 (Supp. 05-4).

ARTICLE 12. REPEALED**R15-5-1201. Repealed****Historical Note**

Repealed effective August 13, 1987 (Supp. 87-3).

R15-5-1202. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

ARTICLE 13. SALES TAX -- PUBLISHING CLASSIFICATION**R15-5-1301. Repealed****Historical Note**

Repealed effective August 13, 1987 (Supp. 87-3).

R15-5-1302. General

- A. The gross income derived from the business of publishing within the state is taxable under this classification. Gross income includes revenue from subscriptions, notices, and local advertising.

- B. Subscription income includes all circulation revenue. In determining the taxable base, however, there shall be excluded from such revenue those actual amounts retained by or credited to carriers and other vendors as compensation for delivery or sale of newspapers.

1. Carriers are defined as those persons who deliver newspapers to individual subscribers. Such deliveries are confined to a specific area or route.
2. Other vendors are defined as those persons who deliver newspapers to retailers such as news stands, convenience markets, drug stores and to coin-operated vending machines located in or near commercial establishments such as office buildings, hotels, motels, grocery and department stores.

- C. Income of publishers from sales of newspapers, whether directly or through other vendors, to news stands, convenience markets, drug stores or other retailers are taxable under this classification. The sales of newspapers by such retailers to consumers are taxable as retail sales. (See R15-5-1802(C))

Historical Note

Amended effective March 18, 1981 (Supp. 81-2).

R15-5-1303. Definitions

- A. A "publisher" is one who manufactures and distributes a publication from a point within this state.
- B. The term "publication" includes books, newspapers, magazines, music, periodicals, and any other literary work.
- C. Effective 9/12/75, the term "publication" shall specifically exclude books. Sales of books directly to a final consumer, however, are taxable under the retail classification (see Article 18).

R15-5-1304. Printing costs

The cost of printing a publication, including the subletting of printing to another person, is not deductible from the gross income.

R15-5-1305. Out-of-state distribution

Income from publications, other than books, mailed or distributed from a point within this state to a point outside the state is subject to the tax under this classification.

R15-5-1306. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

ARTICLE 14. TRANSPORTING CLASSIFICATION**R15-5-1401. Repealed****Historical Note**

Repealed effective August 13, 1987 (Supp. 87-3).

R15-5-1402. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1403. Repealed**Historical Note**

Repealed effective January 16, 1997 (Supp. 97-1).

R15-5-1404. Excess Baggage Charges

- A. Gross proceeds of sales or gross income from charges for excess baggage shipped from one point to another point in this state is included in the tax base under the transporting classification except as provided in subsection (B).
- B. Gross proceeds of sales or gross income from charges for excess baggage shipped by motor vehicle from one point to another point in this state is not included in the tax base under the transporting classification if a light motor vehicle fee imposed under A.R.S. § 28-5492 or a motor carrier fee

imposed under A.R.S. § 28-5852 is paid to the Department of Transportation on the vehicle used in the transporting.

Historical Note

Amended by final rulemaking at 6 A.A.R. 2594, effective June 12, 2000 (Supp. 00-2).

R15-5-1405. Demurrage Charges

Gross proceeds of sales or gross income from demurrage charges is included in the tax base under the transporting classification unless the transporting to which it relates is excluded from the transporting classification.

Historical Note

Amended by final rulemaking at 6 A.A.R. 2594, effective June 12, 2000 (Supp. 00-2).

R15-5-1406. Repealed

Historical Note

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1407. Repealed

Historical Note

Repealed effective January 16, 1997 (Supp. 97-1).

R15-5-1408. Rental of Aircraft

- A. Gross proceeds of sales or gross income from transporting by aircraft freight or property from one point to another point in this state is included in the tax base under the transporting classification.
- B. A charge for the use of an aircraft when a pilot is not provided is rent. Gross proceeds of sales or gross income from the rental or leasing of aircraft is included in the tax base under the personal property rental classification unless a specific deduction or exclusion applies.

Historical Note

Amended by final rulemaking at 6 A.A.R. 2594, effective June 12, 2000 (Supp. 00-2).

ARTICLE 15. PERSONAL PROPERTY RENTAL CLASSIFICATION

R15-5-1501. Repealed

Historical Note

Repealed effective August 13, 1987 (Supp. 87-3).

R15-5-1502. General

- A. Gross income derived from the rental of tangible personal property is included in the tax base under the personal property rental classification unless a specific statutory exemption, exclusion, or deduction applies. Examples of tangible personal property include: televisions, cars, trucks, lawnmowers, floor polishers, tuxedos, uniforms, furniture, towels, and linens.
- B. In this Article, the terms "lease," "rental," and "leasing" are used synonymously.
- C. Gross income from the lease of tangible personal property to a lessee who subleases the property is not taxable under the personal property rental classification if the lessee is engaged in the business of leasing the property under the personal property rental classification.
- D. Gross income from the rental of tangible personal property includes charges for installation, labor, insurance, maintenance, repairs, pick-up, delivery, assembly, set-up, personal property taxes, and penalty fees even if these charges are billed as separate items, unless a specific statutory exemption, exclusion, or deduction applies.

Historical Note

Amended subsection (D) and added subsection (E) effective

March 18, 1981 (Supp. 81-2). Amended by final rulemaking at 6 A.A.R. 3091, effective July 18, 2000 (Supp. 00-3).

R15-5-1503. Sourcing of Leased Tangible Personal Property

A. In this Section:

1. "Business location" means the business address that appears on a lessor's privilege license, but if the lessor does not have a business address in Arizona, business location means the lessee's residential or primary business street address.
2. "Source" means to determine the location of leasing or renting activity for tax purposes.

- B. The personal property rental classification applies to a person who is engaging or continuing in the business of leasing or renting tangible personal property in Arizona for a consideration. Gross receipts from leasing or renting tangible personal property in Arizona are taxable under this classification.
- C. The Department shall source gross receipts from leasing or renting tangible personal property to the business location. Thus, gross receipts of a lessor without a business address in Arizona, derived from leasing or renting tangible personal property, are sourced to the lessee's residential or primary business street address and are taxable when the property is shipped, delivered, or otherwise brought into the state for use in Arizona.
- D. Gross receipts from leasing or renting tangible personal property are not taxable if the property is shipped or delivered outside of the state and intended, at the inception of the lease, for use exclusively outside of the state.
- E. Gross receipts from leasing or renting tangible personal property are not taxable if the property is removed from the state and used exclusively outside of the state. Intermittent use of tangible personal property outside of the state does not constitute removal of the property from the state for use exclusively outside of the state, and therefore does not change the business location of the property or liability for the tax. For example, use of a business's leased tangible personal property by its employees at different locations on business trips and service calls does not change liability for the tax.
- F. The burden of proof for establishing the applicability of subsection (D) or (E) is on the lessor.
- G. For leasing or renting activity related to a motor vehicle, the Department shall examine whether the motor vehicle is licensed, registered, or primarily used in Arizona.
- H. A taxpayer shall not take a deduction or credit for taxes paid in another state on a lease or rental of tangible personal property.

Historical Note

Amended by final rulemaking at 10 A.A.R. 3071, effective September 11, 2004 (Supp. 04-3).

R15-5-1504. Repealed

Historical Note

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1505. Repealed

Historical Note

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1506. Rental of Tangible Personal Property to Government Agencies

A lessor's gross income from the rental of tangible personal property to the United States Government, the state of Arizona, or other governmental subdivisions is taxable under the personal property rental classification unless a specific statutory exemption, exclusion, or deduction applies.

Historical Note

Amended by final rulemaking at 6 A.A.R. 3091, effective July 18, 2000 (Supp. 00-3).

R15-5-1507. Rental of Tangible Personal Property to Schools, Churches, and Other Nonprofit Organizations

A lessor's gross income from the rental of tangible personal property to a school, church, or other nonprofit organization is taxable under the personal property rental classification unless a specific statutory exemption, exclusion, or deduction applies.

Historical Note

Amended by final rulemaking at 6 A.A.R. 3091, effective July 18, 2000 (Supp. 00-3).

R15-5-1508. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1509. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1510. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1511. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1512. Lease -- Purchase Agreements

- A. A lessor's gross income from the leasing of tangible personal property that includes an option to purchase the tangible personal property is taxable under the personal property rental classification until the lessee exercises the purchase option.
- B. Gross income received after the lessee exercises the purchase option is taxable under the retail classification.

Historical Note

Amended by final rulemaking at 6 A.A.R. 3091, effective July 18, 2000 (Supp. 00-3).

R15-5-1513. Repealed**Historical Note**

Adopted effective November 7, 1978 (Supp. 78-6). Section repealed by final rulemaking at 6 A.A.R. 3091, effective July 18, 2000 (Supp. 00-3).

ARTICLE 16. COMMERCIAL LEASE CLASSIFICATION**R15-5-1601. Definitions**

The following definitions apply for purposes of the rules in this Article, unless the context requires otherwise or unless otherwise defined.

1. "Agricultural property" means land or structures which are used for the purposes of growing crops or raising animals including agronomy, horticulture, viticulture, or animal husbandry.
2. "Economic unit of agricultural property" means agricultural property which is rented to the same lessee under one lease or rental agreement but may include more than one parcel or location which is functionally integrated.
3. "Real property used for commercial purposes" means land or structures, including parking lots but not including agricultural property or land or structures used for residential purposes.
4. "Rental" means renting or leasing

5. "Unit" means a single real property location rented or leased to a single tenant under one lease or rental agreement.

Historical Note

Repealed effective August 13, 1987 (Supp. 87-3). New Section R15-5-1601 renumbered from R15-5-1603 and amended effective April 21, 1995 (Supp. 95-2).

R15-5-1602. Casual Leasing Activity

- A. For purposes of taxation under the commercial lease classification, there shall be no general exclusion for a casual rental of real property unless delineated under A.R.S. § 42-5059 except as provided in subsection (B) of this rule.
- B. For periods ending on or before July 31, 1988, the rental of one unit or real property shall have been deemed to be a casual activity and not subject to transaction privilege tax if:
 1. A lessor had income from another source which was unrelated to the income from the rental of real property and such income was of a significant amount so as to indicate that the rental activity was not the sole or main support of the lessor and
 2. The scope and degree of the rental activity clearly indicated that the rental activity was an investment activity rather than income from a business.
- C. For periods beginning on or after August 1, 1988, gross income from the rental of one or more units of real property used for commercial purposes shall be deemed to be a business activity and shall be taxable under the commercial lease classification.
- D. For periods prior to July 17, 1993, gross income from the rental of one economic unit of agricultural property shall not be taxable if the following conditions exist:
 1. A lessor had income from another source which was unrelated to the income from the rental of one economic unit of agricultural property and such income was of a significant amount so as to indicate that the rental activity was not the sole or main support of the lessor and
 2. The scope and degree of the rental activity clearly indicated that the rental activity was an investment activity rather than income from a business.
- E. For periods from and after July 17, 1993, gross income from the rental of agricultural property shall not be subject to tax if the conditions of A.R.S. § 42-5069(C)(12) are met.
- F. The following situations are indicative of the application of the general provisions of the commercial lease classification:
 1. A three-story office building is lease in its entirety to a large law firm. The building is one unit of property. Prior to August 1, 1988, the lessor of the office building was not considered to be engaged in business under the commercial lease classification if the conditions of subsection (A) existed. Commencing on or after August 1, 1988, the single rental of commercial real property is subject to tax under the commercial lease classification.
 2. Individual spaces in a small medical building are rented to three different members of the medical profession on separate leases. The property consists of three units. Regardless of the time period in which the rental occurred, the lessor in this situation has always been engaged in business under the commercial lease classification.
 3. A partnership is formed to hold one unit of real property for purposes of leasing. Income received from this activity is taxable since the partnership was formed for business purposes.
 4. Two hundred acres of farmland are leased to one tenant. The acreage is one economic unit of agricultural property.

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The lessor is employed as an engineer and leases the property as an investment. Regardless of the time period in which the lease occurred, the lessor of the property is not engaged in business under the commercial lease classification.

5. Two hundred acres of agricultural property are leased to five unrelated parties on separate leases. The property consists of five economic units of agricultural property. Regardless of the time period in which the leases occurred, the lessor is engaged in business under the commercial lease classification. Five separate lease agreements are not a casual activity and the lessor does not fall within any of the current exemptions under A.R.S. § 42-5069(C)(12).

Historical Note

Repealed effective April 13, 1987 (Supp. 87-2). New Section R15-5-1602 renumbered from R15-5-1607 and amended effective April 21, 1995 (Supp. 95-2). R15-5-1602(A), (E) and (F)(5) corrected to reflect updated citation references to Arizona Revised Statutes (Supp. 06-4).

R15-5-1603. Renumbered**Historical Note**

Amended effective November 7, 1978, unless otherwise noted (Supp. 78-6). Section R15-5-1603 renumbered to R15-5-1601 effective April 21, 1995 (Supp. 95-2).

R15-5-1604. Gross Income

- A. Gross income under the commercial lease classification shall include all amounts paid to or on behalf of the lessor including but not limited to the following items:
 1. Rent;
 2. Property tax paid by the lessee either as reimbursement to the lessor or paid directly to the county assessor on the lessor's behalf;
 3. Insurance paid by the lessee either as reimbursement to the lessor or directly on the lessor's behalf;
 4. Common area maintenance charges paid by the lessee;
 5. Payments by the lessee for the promotion of the facility or of the lessee;
 6. Flat fees paid by the lessee for telephone and reception services, clerical services, library services, reproduction services or facsimile services when such services are contracted for as part of the lease or are obligatory under the lease;
 7. Utility connect/disconnect charges;
 8. Improvements to the leased property made on behalf of the lessor; or
 9. Reimbursement for utility service in excess of the actual amount charged by the utility company.
- B. Refundable deposits shall not be subject to tax at the time of receipt if such deposits are separate from gross receipts from commercial leasing and are maintained on the books and records of the lessor as a liability and not as income.
 1. Any portion of a refundable deposit which is retained by the lessor as a forfeited deposit shall be included in gross receipts subject to tax.
 2. Any portion of a refundable deposit which is not claimed by the tenant at the time the tenant departs shall be presumed to be abandoned property if not claimed within five years from the date of departure pursuant to A.R.S. Title 44, Chapter 3 and shall be reported and delivered as unclaimed property to the Department after the five-year period of time has elapsed.
 3. If amounts reported as income are claimed as refundable deposits, the burden of proof shall be on the taxpayer to

show that the income reported is not gross receipts subject to tax.

- C. Nonrefundable charges, such as cleaning charges, shall be included in gross income at the time of receipt.

Historical Note

Repealed effective April 13, 1987 (Supp. 87-2). Adopted effective April 21, 1995 (Supp. 95-2).

R15-5-1605. Rental to Government Agencies

- A. Gross receipts from the rental of real property to the United States Government, state of Arizona, or any other government agency shall be taxable under the commercial lease classification unless otherwise exempt.
- B. For periods beginning May 24, 1990, and ending on March 31, 1993, the gross receipts from the rental of a single unit of real property to the United States Government shall not be subject to tax if the lessor did not have any other commercial lease income and either of the following conditions existed:
 1. The real property was listed on the National Register of Historic Places; or
 2. The real property was leased to the United States Postal Service for use as a postal facility.

Historical Head

Amended effective April 21, 1995 (Supp. 95-2).

R15-5-1606. Nonprofit Organizations

- A. Nonprofit organizations shall be subject to tax under the commercial lease classification for gross receipts from the rental of real property unless otherwise exempt.
- B. Leases of real property to nonprofit organizations shall be subject to tax under the commercial lease classification unless otherwise exempt.

Historical Head

Amended effective April 21, 1995 (Supp. 95-2).

R15-5-1607. Renumbered**Historical Note**

Amended effective November 1, 1976 (Supp. 76-5).
Amended effective November 7, 1978 (Supp. 78-6). Section R15-5-1607 renumbered to R15-5-1602 effective April 21, 1995 (Supp. 95-2).

R15-5-1608. Commercial property -- storage facilities

Income from the rental of storage facilities is taxable, provided the lessee retains the right of direct access to the stored goods. Conversely, the storage of property by a warehouse, when the warehouse proprietor maintains full control over the specific location of the stored goods within the building, is not taxable. Such storage is deemed to be a service rather than rental of real property.

R15-5-1609. Commercial property -- licensee agreements

When a department store enters into an agreement with a licensee to provide space within the store which does not give the licensee exclusive right to any specific area within the store, the income from such an agreement is not subject to tax. The transaction is deemed to be a licensee agreement rather than the subleasing of real property.

R15-5-1610. Expired**Historical Note**

Amended effective April 21, 1995 (Supp. 95-2). Section expired under A.R.S. § 41-1056(E) at 12 A.A.R. 4742, effective September 30, 2006 (Supp. 06-4).

R15-5-1611. Repealed

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Historical Note

Repealed effective January 16, 1997 (Supp. 97-1).

R15-5-1612. Repealed**Historical Note**

Repealed effective January 16, 1997 (Supp. 97-1).

R15-5-1613. Repealed**Historical Note**

Amended effective November 1, 1976 (Supp. 76-5).

Repealed effective April 21, 1995 (Supp. 95-2).

R15-5-1614. Renumbered**Historical Note**

Amended effective November 7, 1978, unless otherwise noted (Supp. 78-6). Renumbered to R15-5-1001 (Supp. 94-2).

R15-5-1615. Renumbered**Historical Note**

Amended effective November 7, 1978 (Supp. 78-6).

Renumbered to R15-5-1002 (Supp. 94-2).

R15-5-1616. Repealed**Historical Note**

Repealed effective April 21, 1995 (Supp. 95-2).

R15-5-1617. Repealed**Historical Note**

Repealed effective April 21, 1995 (Supp. 95-2).

ARTICLE 17. RESTAURANT CLASSIFICATION**R15-5-1701. Repealed****Historical Note**

Repealed effective August 13, 1987 (Supp. 87-3).

R15-5-1702. Repealed**Historical Note**

Amended effective November 7, 1978 (Supp. 78-6).

Repealed April 21, 1995 (Supp. 95-2).

R15-5-1703. Repealed**Historical Note**

Repealed effective March 18, 1981 (Supp. 81-2).

R15-5-1704. Providing Food or Drink to Government Agencies

A restaurant's gross proceeds of sales or gross income from sales of food or drink to the United States Government, the state or its political subdivisions, or any other government agency, or its employees is included in the tax base under the restaurant classification unless exempt as a sale to a qualifying hospital under A.R.S. § 42-5074(B)(7) or as a sale *for consumption within the premises of a prison, jail or other institution under the jurisdiction of the state department of corrections, the department of public safety, the department of juvenile corrections or a county sheriff* under A.R.S. § 42-5074(B)(9).

Historical Note

Amended effective December 16, 1997 (Supp. 97-4).

R15-5-1704 corrected to reflect updated citation references to Arizona Revised Statutes (Supp. 06-4).

R15-5-1705. Amusement Devices

A restaurant's gross proceeds of sales or gross income from the operation of amusement devices is included in the tax base under the amusement classification (see Article 4).

Historical Note

Amended effective December 16, 1997 (Supp. 97-4).

R15-5-1706. Cover Charges

A restaurant's gross proceeds of sales or gross income from a cover charge or other minimum charge is included in the tax base under the restaurant classification.

Historical Note

Amended effective December 16, 1997 (Supp. 97-4).

R15-5-1707. Repealed**Historical Note**

Repealed effective January 16, 1997 (Supp. 97-1).

R15-5-1708. Gratuities (Tips)

A. A restaurant's gross receipts from gratuities that are separately stated on the check or bill are not included in the restaurant's tax base if:

1. The exact amount charged on a check for gratuities is segregated on the seller's records for the account of the employees actually providing the services; and
2. The amounts so segregated are distributed directly to the employees providing the services for which the charges were made.

B. If a restaurant cannot specifically segregate the charges for gratuities or if any portion of the amounts charged for gratuities is not distributed to the employees involved, the total gross receipts from the gratuities are included in the tax base under the restaurant classification.

Historical Note

Amended effective December 16, 1997 (Supp. 97-4).

R15-5-1709. Coupon Redemption

A restaurant that accepts coupons is subject to transaction privilege tax on the full sales price of the food or beverage before the coupon value is deducted if the restaurant receives advertising, services, or products in exchange for providing the discounts.

Historical Note

Adopted effective November 7, 1978 (Supp. 78-6).

Amended effective December 16, 1997 (Supp. 97-4).

ARTICLE 18. SALES TAX -- RETAIL CLASSIFICATION**R15-5-1801. Repealed****Historical Note**

Repealed effective July 23, 1985 (Supp. 85-4).

R15-5-1802. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1803. Renumbered**Historical Note**

Renumbered to R15-5-181 effective August 9, 1993 (Supp. 93-3).

R15-5-1804. Renumbered**Historical Note**

Renumbered to R15-5-182 effective August 9, 1993 (Supp. 93-3).

R15-5-1805. Renumbered

Historical Note

Renumbered to R15-5-104 effective August 9, 1993 (Supp. 93-3).

R15-5-1806. Repealed**Historical Note**

Amended effective November 7, 1978 (Supp. 78-6).
Repealed effective August 9, 1993 (Supp. 93-3).

R15-5-1807. Repealed**Historical Note**

Repealed effective August 9, 1993 (Supp. 93-3).

R15-5-1808. Renumbered**Historical Note**

Renumbered to R15-5-111 effective August 9, 1993 (Supp. 93-3).

R15-5-1809. Renumbered**Historical Note**

Renumbered to R15-5-110 effective August 9, 1993 (Supp. 93-3).

R15-5-1810. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1811. Renumbered**Historical Note**

Amended effective November 7, 1978 (Supp. 78-6).
Renumbered to R15-5-101 effective August 9, 1993 (Supp. 93-3).

R15-5-1812. Repealed**Historical Note**

Repealed effective August 9, 1993 (Supp. 93-3).

Editor's Note: The information about casual sales that formerly was contained in R15-5-1812, and which is referenced in subsection R15-5-151(C)(1), now appears in R15-5-2001.

R15-5-1813. Renumbered**Historical Note**

Renumbered to R15-5-2011 effective October 14, 1993 (Supp. 93-4).

R15-5-1814. Renumbered**Historical Note**

Amended subsections (A) and (B) effective March 18, 1981 (Supp. 81-2). Renumbered to R15-5-170 effective August 9, 1993 (Supp. 93-3).

R15-5-1815. Renumbered**Historical Note**

Renumbered to R15-5-105 effective August 9, 1993 (Supp. 93-3).

R15-5-1816. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1817. Renumbered**Historical Note**

Renumbered to R15-5-103 effective August 9, 1993

(Supp. 93-3).

R15-5-1818. Renumbered**Historical Note**

Renumbered to R15-5-132 effective August 9, 1993 (Supp. 93-3).

R15-5-1819. Renumbered**Historical Note**

Amended effective November 7, 1978, unless otherwise noted (Supp. 78-6). Amended subsection (B), paragraph (1) effective March 18, 1981 (Supp. 81-2). Renumbered to R15-5-156 effective August 9, 1993 (Supp. 93-3).

R15-5-1820. Renumbered**Historical Note**

Renumbered to R15-5-133 effective August 9, 1993 (Supp. 93-3).

R15-5-1821. Renumbered**Historical Note**

Amended effective November 7, 1978, unless otherwise noted (Supp. 78-6). Amended subsection (B) effective March 18, 1981 (Supp. 81-2). Renumbered to R15-5-183 effective August 9, 1993 (Supp. 93-3).

R15-5-1822. Renumbered**Historical Note**

Amended effective November 7, 1978, unless otherwise noted (Supp. 78-6). Amended paragraphs (9) and (10) effective March 18, 1981 (Supp. 81-2). Renumbered to R15-5-120 effective August 9, 1993 (Supp. 93-3).

R15-5-1823. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1824. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1825. Renumbered**Historical Note**

Renumbered to R15-5-180 effective August 9, 1993 (Supp. 93-3).

R15-5-1826. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1827. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1828. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1829. Renumbered**Historical Note**

Renumbered to R15-5-134 effective August 9, 1993 (Supp. 93-3).

R15-5-1830. Renumbered

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Historical Note

Renumbered to R15-5-121 effective August 9, 1993 (Supp. 93-3).

R15-5-1831. Repealed**Historical Note**

Repealed effective August 9, 1993 (Supp. 93-3).

R15-5-1832. Repealed**Historical Note**

Former Section R15-5-1832 repealed, new Section R15-5-1832 adopted effective September 3, 1978 (Supp. 78-6). Repealed effective August 9, 1993 (Supp. 93-3).

R15-5-1833. Renumbered**Historical Note**

Former Section R15-5-1833 repealed, new Section R15-5-1833 adopted effective March 18, 1981 (Supp. 81-2). Renumbered to R15-5-136 effective August 9, 1993 (Supp. 93-3).

R15-5-1834. Renumbered**Historical Note**

Renumbered to R15-5-112 effective August 9, 1993 (Supp. 93-3).

R15-5-1835. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1836. Renumbered**Historical Note**

Renumbered to R15-5-150 effective August 9, 1993 (Supp. 93-3).

R15-5-1837. Repealed**Historical Note**

Repealed effective April 15, 1993 (Supp. 93-2).

R15-5-1838. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1839. Renumbered**Historical Note**

Renumbered to R15-5-129 effective August 9, 1993 (Supp. 93-3).

R15-5-1840. Renumbered**Historical Note**

Renumbered to R15-5-122 effective August 9, 1993 (Supp. 93-3).

R15-5-1841. Repealed**Historical Note**

Repealed effective August 9, 1993 (Supp. 93-3).

R15-5-1842. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1843. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1844. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1845. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1846. Renumbered**Historical Note**

Renumbered to R15-5-3004 effective July 23, 1985 (Supp. 85-4).

R15-5-1847. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1848. Renumbered**Historical Note**

Renumbered to R15-5-126 effective August 9, 1993 (Supp. 93-3).

R15-5-1849. Renumbered**Historical Note**

Renumbered to R15-5-123 effective August 9, 1993 (Supp. 93-3).

R15-5-1850. Renumbered**Historical Note**

Former Section R15-5-1850 repealed, new Section R15-5-1850 adopted effective June 18, 1987 (Supp. 87-2). Section R15-5-1850 renumbered to R15-5-2010 effective October 14, 1993 (Supp. 93-4).

R15-5-1851. Repealed**Historical Note**

Repealed effective August 9, 1993 (Supp. 93-3).

R15-5-1852. Repealed**Historical Note**

Repealed effective August 9, 1993 (Supp. 93-3).

R15-5-1853. Renumbered**Historical Note**

Adopted effective November 7, 1978 (Supp. 78-6). Amended effective June 16, 1987 (Supp. 87-2). Renumbered to R15-5-154 effective August 9, 1993 (Supp. 93-3).

ARTICLE 18.1. SALES OF FOOD**R15-5-1860. Definitions**

For the purpose of these rules, unless the context requires otherwise, the following definitions will apply:

1. "Accessory food items" means coffee, tea, cocoa, carbonated and uncarbonated drinks, candy, condiments and spices, and other non-staple foods.
2. "Attendant" means a person, generally the employee of the retailer, who waits on the customers, or tends to their needs.
3. "Automatic retailer" means a coin operated mechanical device or system which sells tangible personal property. Such device or system must itself vend or sell the items, i.e., a device or system which delivers the subject of the sale, or by automatic action physically delivers the thing sold. Vending machines are considered automatic retailers.

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4. "Caterer" means a person engaged in the business of serving meals, food and drinks on the premises used by his customer, but does not include employees hired by the hour of day.
5. "Delicatessen" means a business which sells specialty food items, such as prepared cold meats, perishable food and grocery items kept under refrigeration.
6. "Facilities for the consumption of food" means appropriate furniture, tableware, or parking areas for sitting both in or on the premises of the business, either in or out of a motor vehicle.
7. "Food"
 - a. Under A.R.S. § 42-1387, the Department is required to promulgate rules defining food as those items that may be purchased from an eligible grocery business with food coupons, but in no event may such definition of food include food for consumption on the premises, alcoholic beverages or tobacco. Even though alcoholic beverages and food for consumption on the premises may be intended for human consumption, such items are not considered food by the statutory provisions. In these rules, items that are considered food by the Statutes, and therefore tax exempt if sold by a qualified retailer, shall be referred to as "tax exempt foods." Other items that may be intended for human consumption but are excluded from the definition of food by the Statute, and are therefore subject to the Sales Tax, shall be referred to herein as "taxable foods."
 - b. "Food" means: Items intended for human consumption. Food is deemed to be intended for human consumption when its intended or ordinary use is as a food for human consumption or is an ingredient used in preparing food for human consumption. For example, even though animal food may be used by some humans, its ordinary or intended use is not for human consumption. Also, even though vitamins and other medication may be ingested, its intended or ordinary use is as a health aid or therapeutic agent or a deficiency corrector and is not intended for use as food. Following is a numeration of items which the Department does not consider food for human consumption:
 - i. Pet food and supplies
 - ii. Cosmetics and grooming items
 - iii. Tobacco products
 - iv. Soaps and paper products and household supplies
 - v. Dietary supplements such as vitamins or protein supplements
 - vi. Medicines
 - vii. Fertilizer
8. "Food for consumption on the premises"
 - a. "Food for consumption on the premises" means the following:
 - i. Hot prepared food, including products, items or ingredients of food which are prepared and sold or are intended to be sold in a heated condition. This also includes a combination of hot and cold food items or ingredients if a single price is charged by the retailer.
 - ii. Hot or cold sandwiches including frozen sandwiches.
 - iii. Food served by an attendant to be eaten at tables, chairs, benches, booths, stools, counters and within parking areas (for in-car consumption).
 - iv. Food served with trays, glasses, dishes or other tableware. Food which is generally selected by the customer from available displays and then taken by the customer to a checkout stand for payment is not considered to be served by the retailer.
 - v. Beverages sold in cups, glasses or open containers. Beverages shall include items such as milk shakes and ice cream floats.
 - vi. Food sold by caterers.
 - vii. Food sold within the premises of theaters, exhibitions, fairs, amusement parks, bowling alleys, athletic events, and other shows or contests and any businesses which charge admission, entrance or cover fees for exhibition, amusement, entertainment or instruction. While food for consumption on the premises includes any food sold within the premises of certain businesses, including businesses that charge admission, entrance or cover fees for exhibition, amusement, entertainment or instruction, food for consumption on premises does not include sales of tax exempt food by a qualified retailer within the premises of a full time educational institution that charges tuition for a full course of studies.
 - b. Any item enumerated in subparagraph (a) which is sold on a take-out or to-go basis is still considered to be food for consumption on the premises and therefore taxable.
9. "Food intended for home consumption" means food, other than food for consumption on the premises, which is usually intended to be consumed at home. Unless the taxpayer can establish to the contrary, food delivered by a retailer to an office or other business establishment shall not be considered food intended for home consumption.
10. "Home" means a natural person's usual or habitual dwelling place, including rest homes, nursing homes, jails and other such institutions.
11. "Premises" means the total space and facilities, including buildings, grounds and parking lot that are made available for use by the retailer for the purpose of consuming food sold by such retailer.
12. "Qualified retailer"
 - a. A qualified retailer or qualified retail business is one that may be eligible to sell tax exempt food without including the sale of tax exempt food items in its taxable base. A retailer other than a qualified retailer must pay a tax measured by the sale of otherwise exempt food even though the sale of such items would be exempt if sold by a qualified retailer.
 - b. Qualified retailers are:
 - i. An eligible grocery business, which includes retailers who are eligible to participate in the United States Department of Agriculture Food Stamp Program, whether such retailer actually participates in the food stamp program. If a retailer is eligible to participate in the food stamp program, but does not participate in such program, such retailer may only be an eligible grocery business if the retailer first makes application to the Department to sell food tax exempt. Examples of retailers that might be considered eligible grocery businesses include:

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- (1) Grocery stores;
 - (2) Convenience stores;
 - (3) Butcher shops;
 - (4) Bakeries;
 - (5) Dairy stores;
 - (6) Cheese stores;
 - (7) Farmer's markets.
 - ii. Retailers whose primary business is not the sale of food, but who sell food in a manner similar to grocery stores. This category includes stores such as department stores, drug stores, and gas stations.
 - iii. Retailers who sell food and who do not provide any facilities for consumption of food on the premises. This category may include certain health food stores, and certain outlets retailing soda and other similar beverages in bottles or cans, but not cups.
 - iv. Delicatessen business, if such retailer conducts his business so that the sale of tax exempt foods and other taxable items may be separately accounted for, through, for example, the use of two (2) cash registers, or a cash register with at least two (2) tax computing keys which are used to record taxable and tax exempt sales.
 - v. A retailer who is a street or sidewalk vendor who uses a pushcart, mobile facility, motor vehicle, or other such conveyance. Such retailers include:
 - (1) Snackmobile;
 - (2) Chuck wagon;
 - (3) Mobile hot dog stands.
 - vi. Vending machines and other automatic retailers.
13. "Staple food" means those food items intended for home preparation and consumption, which includes meat, poultry, fish, bread and bread stuffs, cereals, vegetables, fruits, fruit and vegetable juices, and dairy products.
14. "Taxable foods" are items which may be intended for human consumption, but are still subject to the Sales Tax when sold. Examples of taxable foods would be alcoholic beverages, and food for consumption on the premises.
15. Tax-exempt foods
- a. "Tax exempt foods" are generally those items of food intended for home consumption which, if purchased from an eligible grocery business, would be eligible as of January 1, 1979, to be purchased with food coupons issued by the United States Department of Agriculture.
 - b. Tax-exempt food shall also include any new items of food intended for human consumption which would have been eligible for purchase with food coupons issued by the United States Department of Agriculture if such items would have existed for sale on January 1, 1979.
 - c. The following are examples of items which the Department will consider as tax exempt food:
 - bread and flour products
 - vegetables and vegetable products
 - candy and confectionery
 - sugar, sugar products and substitutes
 - cereal and cereal products
 - butter, oleomargarine, shortening and cooking oils
 - cocoa and cocoa products
 - coffee and coffee substitutes
 - milk and milk products
 - eggs and egg products
 - tea
 - meat and meat products
 - spices, condiments, extracts and food colorings
 - fish and fish products
 - frozen foods
 - soft drinks and soda (including bottles on which a deposit is required to be paid)
 - fruit and fruit products
 - packaged ice cream products
 - dietary substitutes
 - ice cubes and bottled water including carbonated and mineral water
 - purchases of seed and plants for use in gardens to produce food items for personal consumption
16. "Two tax computing keys" shall mean the mechanical or electronic function in a cash register which can separately record and accumulate taxable and nontaxable items without having the items presorted.
- Historical Note**
Adopted as an emergency effective June 30, 1980, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 80-3). Former emergency adoption now amended and adopted effective October 15, 1980 (Supp. 80-5).
- R15-5-1861. Repealed**
- Historical Note**
Repealed effective April 13, 1987 (Supp. 87-2).
- R15-5-1862. Restaurant food sales**
- A. Restaurants are generally not qualified retailers, and therefore cannot sell food tax free, but are taxable upon all of their gross income or gross proceeds of sale.
 - B. If a qualified retailer also operates a restaurant, the gross income or gross receipts of a sale from the two (2) activities must be kept separate. The gross receipts or gross income from the operation of the restaurant shall always be taxable, as will the income from all sales of taxable food and nonfood items. Except for items which may be exempt under some other provision, only tax-exempt foods sold by a qualified retailer not in connection with its restaurant operation shall be exempt.
 - C. To the extent that a delicatessen may sell taxable food, such as hot or cold sandwiches, such delicatessen will be required to report under this classification. Since a delicatessen business may constitute a qualified retailer, such business may still be eligible to sell tax exempt food, if such sales are separately accounted for.
- Historical Note**
Adopted as an emergency effective June 30, 1980, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 80-3). Former emergency adoption now amended and adopted effective October 15, 1980 (Supp. 80-5).
- R15-5-1863. Repealed**
- Historical Note**
Repealed effective April 13, 1987 (Supp. 87-2).
- R15-5-1864. Repealed**
- Historical Note**
Repealed effective October 17, 1986 (Supp. 86-5).
- R15-5-1864.01. Repealed**

Historical Note

Repealed effective October 17, 1986 (Supp. 86-5).

R15-5-1864.02. Repealed**Historical Note**

Repealed effective October 17, 1986 (Supp. 86-5).

R15-5-1864.03. Repealed**Historical Note**

Repealed effective October 17, 1986 (Supp. 86-5).

R15-5-1864.04. Repealed**Historical Note**

Repealed effective October 17, 1986 (Supp. 86-5).

R15-5-1865. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1866. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1867. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

ARTICLE 19. REPEALED**R15-5-1901. Repealed****Historical Note**

Repealed effective August 13, 1987 (Supp. 87-3).

R15-5-1902. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1903. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1904. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1905. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1906. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

ARTICLE 20. GENERAL**R15-5-2001. Definitions**

The following definitions apply for the purposes of the rules in this Chapter, unless the context requires otherwise or unless otherwise defined. An individual rule may contain definitions which are specific to the context of that rule.

1. "Casual sale" means an occasional transaction of an isolated nature made by a person who is not engaged in the business of selling, within or without the state, the same type or character of property as that which was sold.
2. "Department" means the Arizona Department of Revenue.

3. "Gross income" means all receipts of a trade or business from sales or services. It includes the total consideration received or constructively received. The value of all services which are part of the sale is considered part of the gross income, unless statutorily excluded.
4. "Gross receipts" means gross receipts as defined in A.R.S. § 42-5001.
5. "Real property" means land and anything permanently affixed to land.
6. "Taxpayer" means any person required by law to file returns or to pay transaction privilege tax, use tax, rental occupancy tax, or excise taxes to the Department.
7. "Vendor" means any person engaged in a business which is subject to Arizona tax.

Historical Note

Repealed effective August 13, 1987 (Supp. 87-3). New Section R15-5-2001 renumbered from R15-5-202 and amended effective October 14, 1993 (Supp. 93-4). R15-5-2001(4) corrected to reflect an updated citation reference to Arizona Revised Statutes (Supp. 06-4).

R15-5-2002. Liability for Transaction Privilege Tax

The transaction privilege tax is imposed directly on the person engaging in a taxable business within Arizona. The vendor shall be liable for the tax, regardless of whether or not the vendor passes on the economic burden of the tax to the customer.

Historical Note

Repealed effective April 13, 1987 (Supp. 87-2). New Section R15-5-2002 renumbered from R15-5-204 and amended effective October 14, 1993 (Supp. 93-4).

R15-5-2003. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-2004. Multi-location and Multi-business Taxpayers

- A. A taxpayer with multiple licenses for separate businesses shall maintain separate records for each licensed business.
- B. A tax is levied upon the privilege of engaging in specified businesses within Arizona. Class codes for reporting gross receipts subject to tax have been determined by the Department based on statutory provisions. Each business classification is independent of the others even when transacted under one license. A person who engages in more than one type of business under each license shall maintain books and records so that the gross proceeds of sales or gross income of each taxable business classification is shown separately.
- C. Failure to maintain appropriate books and records shall result in the imposition of the tax at the highest tax rate on gross proceeds of sales or gross income applicable to a classification under which the taxpayer is doing business.

Historical Note

Repealed effective April 13, 1987 (Supp. 87-2). New Section R15-5-2004 renumbered from R15-5-2215 and amended effective October 14, 1993 (Supp. 93-4).

R15-5-2005. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-2006. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-2007. Credit for Accounting and Reporting Expenses

- A. For purposes of this rule, the following definitions apply:

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1. "Reporting period" means a calendar month unless another period is authorized pursuant to A.R.S. § 42-1322.
 2. "Statutory delinquency date" means the date by which a payment of tax is considered delinquent pursuant to A.R.S. § 42-1322.
 3. "Tax return" means the Transaction Privilege, Use, and Severance Tax Return (TPT-1).
 4. "Taxable business" means a business which is subject to either transaction privilege or severance tax.
 5. "Taxpayer" means taxpayer as defined in A.R.S. § 42-1322.04(C), including an entity which is exempt from state income tax. The following are considered a single taxpayer:
 - a. Members of an Arizona affiliated group filing a consolidated corporate income tax return under A.R.S. § 43-947;
 - b. Corporations in a unitary business filing a combined corporate income tax return under A.A.C. R15-2-1131(E);
 - c. Married taxpayers operating separate sole proprietorships and filing a joint income tax return under A.A.C. R15-2-1131(E); or
 - d. Partnerships, S Corporations, trusts, or estates conducting multiple businesses, filing a single income tax return.
- B.** A taxpayer shall compute the credit, using the full amount of tax as required to be reported on the tax return, including any excess tax collected. The Department shall not allow a credit against taxes other than the state transaction privilege tax and the severance tax.
- C.** Except as provided in subsection (D), the Department shall not allow a credit if the taxpayer fails to pay the tax due before the statutory delinquency date. Failure to pay the tax due includes the following circumstances:
1. The taxpayer makes an underpayment of tax due, including any estimated tax due, or,
 2. The taxpayer's check is dishonored.
- D.** In the case of taxpayer computational error, the Department shall allow the credit based on the amounts originally filed, if the computational error resulted in the overpayment or underpayment of the tax actually due:
1. In the case of an overpayment, the Department shall allow the credit on the actual amount of tax due for the reporting period.
 2. In the case of an underpayment, the Department shall allow the credit on the amount of the tax paid prior to the statutory delinquency date.
- E.** To receive the credit for each reporting period, the taxpayer shall claim the credit on the tax return. If the taxpayer understates the amount of the credit on the tax return, the Department shall allow the amount of credit which the taxpayer has claimed. The taxpayer may file an amended return to claim any unclaimed portion of the credit if the taxpayer timely paid the tax upon which the credit is based. If the taxpayer overstates the amount of the credit, the Department shall allow the amount of credit actually permitted for the reporting period.
- F.** A taxpayer is entitled to one credit, regardless of the number of licenses, businesses, or locations the taxpayer may have. Taxpayers with multiple licenses for separate businesses or separate locations shall elect the manner in which to allocate the credit among their licenses within the \$10,000 annual limitation. The election shall be made on a form 51-T. The taxpayer shall file the election on or before January 15 of the first year for which an election is being made or within 30 days prior to beginning operations if the taxpayer is a new business entity. The taxpayer is required to file an election one time; however, a new election may be filed under the following circumstances:
1. If a taxpayer does not claim the entire \$10,000 credit during the calendar year, the taxpayer may amend the election at the end of the calendar year to reallocate the unclaimed portion of the credit for that particular year. This amended election shall be filed on or before January 31 of the following year. To claim the reallocated credit, the taxpayer shall file an amended tax return for each reporting period in which a sufficient tax was due and timely paid. For example: an individual owns three separate businesses with different transaction privilege tax licenses. At the beginning of the year, the individual allocates the \$10,000 credit as follows: \$3,000 to Company A; \$2,000 to Company B; and \$5,000 to Company C. At the end of the year, Companies A and B have claimed the credit up to their allocated amounts. However, Company C has only claimed \$1,000 of its allocated credit. Company A timely paid a sufficient amount of tax during the months of August and September to qualify for an additional \$4,000 credit. The individual may amend the election to reallocate the unclaimed credit to Company A. To claim the \$4,000 credit, the individual must file an amended tax return for Company A for the months of August and September.
 2. If a taxpayer acquires, sells, or terminates a taxable business during the calendar year, the taxpayer may amend the election at that time to reallocate the credit. The taxpayer shall only reallocate the portion of the credit which has not been claimed by the date on which the taxpayer acquires, sells, or terminates the business. The taxpayer shall ensure that the election relates to the acquired, sold, or terminated business and is made on a prospective basis only. The taxpayer shall notify the Department of the reallocation 30 days prior to the due date of the tax return for the reporting period to which the reallocation applies. For example: Corporation A is the common parent of Corporations B and C and elects to file a consolidated corporate state income tax return. Each of the three corporations conducts a taxable business activity. Since the three corporations file state income tax as one entity, Corporation A is required to allocate the \$10,000 credit among the three corporations. At the beginning of the year, Corporation A elects to allocate the entire \$10,000 credit to Corporation B. On July 1, Corporation A acquires Corporation D which also conducts a taxable business activity. Corporation A may amend its election at this time to take into account Corporation D. Corporation A may reallocate the portion of the credit not already claimed by Corporation B to Corporation D.
- G.** Where a taxpayer is allocating the \$10,000 credit, the following rules apply:
1. The Department shall allow a unitary business, filing a combined corporate state income tax return, or an Arizona affiliated group, filing a consolidated corporate state income tax return, one \$10,000 credit. The unitary business or affiliated group may allocate the credit among its members. If the unitary business or affiliated group fails to allocate the \$10,000 credit, the Department shall allocate the credit to the corporation in whose name the unitary business or affiliated group files its state income tax return regardless of whether the corporation conducts a taxable business.
 - a. If a corporation joins an Arizona affiliated group or unitary business during the calendar year, the

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Department shall classify the corporation as a separate taxpayer for the period before it joins the affiliated group or unitary business. The Department shall classify the corporation as the same taxpayer, an affiliated group, or unitary business for the period after it joins the affiliated group or unitary business. An affiliated group or unitary business may allocate the \$10,000 credit, even if a member corporation claimed the credit before it joined the affiliated group or unitary business.

- b. If a corporation leaves an affiliated group or unitary business during the calendar year, the Department shall classify the corporation as the same taxpayer, an affiliated group, or unitary business for the period before it leaves the affiliated group or unitary business. The Department shall not classify the corporation as the same taxpayer for the period after it leaves the affiliated group or unitary business. The corporation, as a separate taxpayer or part of a separate taxpayer, may allocate the \$10,000 credit, even if the corporation claimed the credit before it left an affiliated group or unitary business.
2. If a partnership, S corporation, trust, or estate conducts multiple taxable businesses, the Department shall allow the partnership, S corporation, trust, or estate one \$10,000 credit. The partnership, S corporation, trust, or estate may allocate the credit among its businesses. The credit shall not be allocated to the partners of a partnership, shareholders of an S corporation, or beneficiaries of a trust or estate.
3. In cases where the taxpayers are married and each spouse conducts a taxable business, the Department shall allow one \$10,000 credit per income tax return. If the married taxpayers file separate individual income tax returns, the Department shall allow each spouse one \$10,000 credit. If the married taxpayers file a joint income tax return, the Department shall allow one \$10,000 credit for the couple.

Historical Note

Renumbered from R15-5-3025 (Supp. 94-2). Amended effective August 13, 1996 (Supp. 96-3).

R15-5-2008. Reserved**R15-5-2009. Reserved****R15-5-2010. Transactions Between Affiliated Persons**

- A. For purposes of this rule, the following definitions apply:
 1. "Actual ownership" means direct ownership and control but does not include ownership by or through affiliated persons.
 2. "Affiliated persons" means members of the individual's family or persons who have ownership or control of a business entity.
 3. "Constructive purchase price" means the fair market value or, if the fair market value cannot be determined, the value established by expert appraisal that takes into consideration all factors relevant to the transaction.
 4. "Control of a business entity" means direct or indirect ownership or control of more than 50% of the business entity. The following guidelines, as to indirect ownership, shall apply for purposes of determining control of a business entity.
 - a. A corporation, partnership, estate, or trust shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries.

- b. An individual shall be considered as owning directly or indirectly that portion which is owned by or for members of the individual's family.
- c. The ownership of stock by a corporation, partnership, estate, or trust shall be considered actual ownership to its shareholders, partners, or beneficiaries for purposes of making another individual a constructive owner.
- d. Ownership based on a family relationship shall not be treated as actual ownership by the related party for the purpose of making another individual a constructive owner.
5. "Fair market value" means the gross receipts that the transaction would have brought in the open market at a time and location similar to that of the affiliated party transaction and between a willing purchaser and a willing seller, who are not affiliated and have reasonable knowledge of the relevant facts.
6. "Members of the individual's family" means the relationship of spouse, brothers, and sisters, whether by whole or half blood and including adopted persons, ancestors, and lineal descendants.
- B. The tax shall be computed upon the constructive purchase price when:
 1. The transaction is between affiliated persons, and
 2. The facts and circumstances indicate that the reported gross receipts from the transaction are not indicative of the fair market value of the transaction.

Historical Note

Renumbered from Section R15-5-1850 and amended effective October 14, 1993 (Supp. 93-4). Corrected typographical error to reflect what was filed with the Office of Secretary of State October 14, 1993; changed "owner" to "owned" in subsection (A)(4)(a) (Supp. 97-1).

R15-5-2011. Bad Debts

- A. The deduction of a bad debt shall be allowed from gross receipts if the following conditions apply:
 1. The gross receipts from the transaction on which the bad debt deduction is being taken have been reported as taxable;
 2. The debt arose from a debtor-creditor relationship based upon a valid and enforceable obligation to pay a fixed or determinable sum of money; and
 3. All or part of the debt is worthless.
- B. A debt shall be considered worthless if:
 1. The surrounding circumstances indicate that the debt is uncollectible; and
 2. Legal action to enforce payment has not or, in all probability, would not result in the satisfaction of the debt.
- C. The bad debt deduction shall be computed by subtracting the amounts received on the debt from the amount originally reported as taxable. The portion of the amounts received on the debt representing carrying charges, interest, and repossession expenses, which have not been reported as taxable, shall not be allowed as a bad debt deduction.
- D. A bad debt deduction shall be taken in the month in which the conditions of subsection (A) apply.
- E. A bad debt deduction shall be allowed, pursuant to the provisions in this rule, on conditional or installment sales if:
 1. The tax liability is paid on the full sales price of the tangible personal property at the time of the sale; or
 2. A contract or other financial obligation is sold to a third party as a sale with recourse and principal payments are made by the vendor to the third party, pursuant to the default of the original payor. Such principal payments

may be taken as a bad debt deduction if the tax was paid by the vendor on the original sale of the tangible personal property or on the subsequent sale of the financing contract.

3. For purposes of the bad debt deduction in situations of default on conditional or installment sales, a "sale with recourse" means that a vendor sells a contract or other financial obligation to a third party but retains liability for payment upon default of the original payor.

- F. Any recovery of a bad debt subsequent to a bad debt deduction shall be reported as taxable gross receipts when received.

Historical Note

Renumbered from Section R15-5-1813 and amended effective October 14, 1993 (Supp. 93-4). Corrected misspelling in subsection (E)(3) from "retails" to "retains" (Supp. 94-2).

ARTICLE 21. UTILITIES CLASSIFICATION

R15-5-2101. Repealed

Historical Note

Repealed effective August 13, 1987 (Supp. 87-3).

R15-5-2102. Renumbered

Historical Note

Renumbered to R15-5-3024 (Supp. 86-6).

R15-5-2103. Repealed

Historical Note

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-2104. Interstate and Foreign Sales

A person engaged in business under the utilities classification may deduct from the tax base gross receipts from sales of electricity, gas, or water, delivered through transmission lines or pipelines to a point in another state or country, from a point in this state and used outside this state.

Historical Note

Amended effective October 17, 1997 (Supp. 97-4).

R15-5-2105. Locally Delivered Utilities

A person engaged in business under the utilities classification is subject to tax on the gross receipts from sales of electricity, gas, or water, produced outside this state that is delivered through transmission lines or pipelines to a point in this state, for use in this state unless an exemption applies.

Historical Note

Amended effective October 17, 1997 (Supp. 97-4).

R15-5-2106. Compressed and Bottled Liquids

The gross receipts from sales of bottled gases and bottled water are subject to tax under the retail classification unless otherwise exempt.

Historical Note

Amended effective March 18, 1981 (Supp. 81-2).

Amended effective October 17, 1997 (Supp. 97-4).

R15-5-2107. Sales to Irrigation Districts

A person engaged in business under the utilities classification is subject to tax on the gross receipts from producing and furnishing or furnishing electricity or gas to an irrigation district for the purpose of producing water for irrigation of farm lands or of lands subdivided for residential purposes which are entitled to irrigation water unless an exemption applies.

Historical Note

Amended effective October 17, 1997 (Supp. 97-4).

R15-5-2108. Repealed

Historical Note

Repealed effective October 17, 1997 (Supp. 97-4).

R15-5-2109. Repealed

Historical Note

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-2110. Security Deposits

Gross receipts from customer deposits that are held as security for payment of utility billings are not subject to tax until recognized as income. A deposit that is not applied to a customer's bill or refunded to a customer when utility services are discontinued shall be presumed to be abandoned property if the customer does not claim it within the period established under A.R.S. Title 44, Chapter 3. Customer deposits that are presumed to be abandoned property under A.R.S. Title 44, Chapter 3, shall be reported and delivered to the Department as unclaimed property. Amounts delivered to the Department as unclaimed property are not included in the tax base. For example:

1. A utility company requires a new customer to deposit \$150 before it provides utility service. The customer moves and notifies the utility company to discontinue service. The customer's final bill is \$130. The utility applies the deposit to the final bill and refunds \$20 to the customer. The amount applied to the utility bill is recognized as income and subject to tax. The amount refunded to the customer is not recognized by the utility as income and is not subject to tax.
2. A utility company requires a new customer to deposit \$150 before it provides utility service. The customer notifies the utility company to discontinue service. The customer's final bill is \$130. The utility applies the deposit to the final bill. The customer does not provide a forwarding address to the utility. Therefore, the utility company is not able to refund the remaining \$20 to the customer. The amount applied to the utility bill is recognized as income and subject to tax. The remaining \$20 is presumed to be abandoned property if not claimed under A.R.S. Title 44, Chapter 3. The amount presumed to be abandoned property shall be reported and delivered to the Department as unclaimed property under A.R.S. Title 44, Chapter 3. The amount delivered to the Department as unclaimed property is not recognized as income by the utility and is not subject to tax.

Historical Note

Amended effective October 17, 1997 (Supp. 97-4).

ARTICLE 22. TRANSACTION PRIVILEGE TAX - ADMINISTRATION

R15-5-2201. Display of License

- A. A person maintaining a public place of business in Arizona shall display the transaction privilege tax license in a location conspicuous to the public.
- B. If a person maintains more than one place of business in Arizona, a transaction privilege tax license shall be displayed at each location.
- C. For lessors engaged in the business of commercial leasing, a transaction privilege tax license shall be displayed in each location from which the lessor engages in business transactions.

Historical Note

Amended effective November 7, 1978, unless otherwise noted (Supp. 78-6). Amended effective October 15, 1980 (Supp. 80-5). Repealed effective February 22, 1989

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(Supp. 89-1). Section R15-5-2201 renumbered from R15-5-2203 and amended effective October 14, 1993 (Supp. 93-4).

R15-5-2202. Change in Ownership

- A. A transaction privilege tax or use tax license is issued to a specific person. The license shall not be transferred to the new owner when selling a business. The new owner shall apply to the state for a new license before engaging in business transactions.
- B. Court-appointed trustees, receivers, and others in cases of liquidation or operational bankruptcies shall obtain a transaction privilege tax or use tax license.
- C. If a licensee has any change in ownership, the licensee shall apply for a new license.

Historical Note

Repealed effective February 22, 1989 (Supp. 89-1). Section R15-5-2202 renumbered from R15-5-2205 and amended effective October 14, 1993 (Supp. 93-4).

R15-5-2203. Change of Name or Trade Name

If a change is made in the name or trade name under which the business is operating and the ownership remains the same, the taxpayer shall apply for a new license.

Historical Note

Section R15-5-2203 renumbered to R15-5-2201, new Section R15-5-2203 renumbered from R15-5-2206 and amended effective October 14, 1993 (Supp. 93-4).

R15-5-2204. Change of Business Location or Mailing Address

- A. The taxpayer shall apply for a new transaction privilege tax or use tax license if the physical location of the business changes.
- B. The taxpayer shall notify the Department in writing of a change in mailing address.

Historical Note

Amended effective October 15, 1980 (Supp. 80-5). Section R15-5-2204 repealed, new Section R15-5-2204 renumbered from R15-5-2207 and amended effective October 14, 1993 (Supp. 93-4).

R15-5-2205. Surrender of License upon Sale or Termination of Business

If a business is sold or terminated, the taxpayer shall notify the Department in writing of the date of sale or termination and shall surrender the transaction privilege tax or use tax license to the Department.

Historical Note

Amended effective November 7, 1978 (Supp. 78-6). Section R15-5-2205 renumbered to R15-5-2202, new Section R15-5-2205 renumbered from R15-5-2209 effective October 14, 1993 (Supp. 93-4).

R15-5-2206. Cancellation of License

- A. The Department may cancel a license if:
 - 1. During any consecutive 12-month period, the licensee reports no taxable transaction; and
 - 2. The licensee is not a subcontractor or wholesaler.
- B. The Department shall notify a licensee in writing of its intention to cancel the license. The notice shall explain the action the licensee may take to contest cancellation of the license and when cancellation is final.
- C. The Department shall cancel a license 30 days after the notice of intention to cancel is mailed unless, within 30 days, the licensee objects to the cancellation in writing and produces documentation that the licensee is actively engaged in a tax-

able business. Suitable documentation includes, but is not limited to, the following:

- 1. Evidence that the licensee holds an inventory of raw or finished tangible personal property for sale or resale;
- 2. Evidence that the licensee maintains segregated bank accounts for the purpose of transacting business;
- 3. Bona fide contracts for future sale or resale of tangible personal property;
- 4. Profit and loss statements for federal or state income tax purposes; or
- 5. Evidence that the licensee otherwise actually engages in bona fide business activities.

- D. Within 30 days of receipt of the licensee's objections and documentation, the Department shall notify the licensee in writing of its decision to cancel or retain the license. If the decision is to cancel the license, the licensee may request an administrative hearing.

Historical Note

Section R15-5-2206 renumbered to R15-5-2203, new Section R15-5-2206 renumbered from R15-5-3018 effective October 14, 1993 (Supp. 93-4).

R15-5-2207. Taxpayer Bonds

- A. The amount of the bond required under A.R.S. § 42-112 shall be the greater of five hundred dollars, or:
 - 1. For licensees reporting monthly, four times the average monthly tax liability;
 - 2. For licensees reporting quarterly, six times the average monthly tax liability; or
 - 3. For licensees reporting annually, fourteen times the average monthly tax liability.
- B. For purposes of determining the bond amount, the average monthly tax liability is equal to the average monthly tax due from the licensee for the preceding six consecutive months. If an applicant does not have a six-month payment history, the bond amount shall be a minimum of five hundred dollars.
- C. If a licensee provides a surety bond and the bond lapses, the licensee must deposit with the Department cash or other security in an amount equal to the lapsed surety bond within five business days of the licensee's receipt of written notification by the Department.
- D. The bond amount may be increased or decreased as necessary based upon a change in the licensee's previous filing period, filing compliance record, or payment history. If the bond amount has been increased above the amount computed under subsection (B) of this rule, the licensee may request a hearing pursuant to A.R.S. § 42-112 to show why the order increasing the bond amount is in error.

Historical Note

Former Section R15-5-2207 renumbered to R15-5-2204 effective October 14, 1993 (Supp. 93-4). New Section R15-5-2207 renumbered from R15-10-201 (Supp. 94-1).

R15-5-2208. Expired**Historical Note**

Repealed effective October 14, 1993 (Supp. 93-4). New Section made by exempt rulemaking at 16 A.A.R. 1226, effective June 15, 2010; Section number corrected at request of Department, Office File No. M11-118, filed March 31, 2011 (Supp. 10-2). Section expired under A.R.S. § 41-1056(E) at 18 A.A.R. 1652, effective March 31, 2012 (Supp. 12-2).

R15-5-2209. Renumbered

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Historical Note

Section R15-5-2209 renumbered to R15-5-2205 effective October 14, 1993 (Supp. 93-4).

R15-5-2210. Collection of Tax by the Vendor

- A.** The vendor may pass on the economic burden of the transaction privilege tax, either as an unspecified portion of the overall selling price or as a separate and distinct item of charge.
1. If a vendor elects to pass on the economic burden of the tax as a separate and distinct item of charge, the vendor's tax base shall not include any collected state, county, city, or town taxes.
 2. If the vendor does not pass on the tax as a separate and distinct item of charge, the vendor may factor out the tax. See R15-5-2210.01.
 3. The amount of tax on a transaction shall be the same whether the tax is stated as a separate and distinct item of charge or the tax is calculated using the factoring method.
 4. Calculation of the amount of the tax using the separate and distinct item of charge method shall be as follows:

Price of tangible personal property	\$100
Multiply the price by the applicable tax rate	
\$100 times 5% equals the tax as calculated	\$5
Total cost to the consumer	\$105
- B.** All taxes collected shall be remitted to the Department and applicable taxing jurisdictions. If a vendor has collected tax in excess of the tax liability for the reporting period, the excess tax shall also be remitted.

Historical Note

Repealed effective April 13, 1987 (Supp. 87-2). New Section adopted effective October 14, 1993 (Supp. 93-4). Reference correction (Supp. 95-2).

R15-5-2210.01. Factoring

"Factoring" means a method by which the taxpayer may determine the amount of the tax when the tax is collected as an unspecified part of the selling price.

1. The taxpayer may use any factoring method resulting in a tax amount equal to the tax as calculated using the separate and distinct item of charge method.
2. The following factoring method is approved and recommended by the Department.

To calculate the tax under the factoring method, the total cost to the consumer is divided by one plus the cumulative amount of the state and applicable county, city, and town tax rates, stated as a decimal. The result of this calculation is then multiplied by the cumulative tax rate to arrive at the amount of the tax on the sale. The gross receipts subject to tax, plus the cumulative tax on that amount, shall equal the total cost to the consumer.

To factor:

Total cost to the consumer	\$105
Divide the total cost to the consumer by 1 plus the tax rate (1.00 plus .05)	
\$105 divided by 1.05 equals the price of tangible personal property	\$100
Tax as calculated (\$100 times 5%)	\$5

Historical Note

New Section adopted effective October 14, 1993 (Supp. 93-4).

R15-5-2211. Election of Basis to Report and Pay Taxes

- A.** For purposes of this Section, the following definitions apply:

1. "Accrual method" means that a sale is reported in the reporting period in which the sale occurs regardless of when payment is received.
 2. "Cash receipts method" means that a sale is reported in the reporting period in which payment is received.
 3. "Method of reporting" means a method to report and pay transaction privilege tax.
 4. "Payment" means all consideration received including cash, credit, property, and services.
 5. "Reporting period" means a calendar month or as prescribed by A.R.S. § 42-5014.
- B.** A taxpayer shall elect a method of reporting based on either the accrual or the cash receipts method at the time of making the application for a transaction privilege tax license or use tax registration.
- C.** A taxpayer shall report allowable exclusions, deductions, and exemptions in a manner consistent with the method of reporting elected under subsection (B).
- D.** A taxpayer shall provide written notification to the Department prior to changing its method of reporting elected under subsection (B). The Department may audit the books of the taxpayer to adjust any tax liability resulting from the change in the method of reporting.

Historical Note

Repealed effective July 23, 1985 (Supp. 85-4). New Section renumbered from R15-5-2213 and amended effective October 14, 1993 (Supp. 93-4). Amended by final rulemaking at 14 A.A.R. 3616, effective November 8, 2008 (Supp. 08-3).

R15-5-2212. Expired**Historical Note**

Repealed effective July 23, 1987 (Supp. 85-4). New Section R15-5-2212 renumbered from Section R15-5-3005 and amended effective October 14, 1993 (Supp. 93-4). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 2207, effective March 30, 2017 (Supp. 17-3).

R15-5-2213. Alternative Reporting

- A.** The Department shall authorize taxpayers to report on an annual or quarterly basis, if the taxpayer has established a filing history that shows that the taxpayer is not currently delinquent and that the taxpayer's annual tax liability is between \$500 and \$1,250 for quarterly reporting or \$500 or less for annual reporting.
- B.** The Department shall authorize new businesses that reasonably estimate their annual tax liability for the succeeding 12 months will be between \$500 and \$1,250 to report and remit tax on a quarterly basis.
- C.** A taxpayer shall increase the reporting frequency to monthly and notify the Department of the change in reporting if the taxpayer's annual tax liability equals or exceeds or can reasonably be expected to equal or exceed \$1,250. The taxpayer shall increase the reporting frequency to quarterly and notify the Department of the change in reporting if the taxpayer's annual tax liability exceeds or can reasonably be expected to exceed \$500, but is or will be less than \$1,250. Failure to increase reporting frequency will subject the taxpayer to interest. Failure to increase reporting frequency will also subject the taxpayer to penalties unless the taxpayer can show that the failure was due to reasonable cause and not willful neglect.
- D.** A taxpayer shall begin to report on a monthly basis at any time during a 12-month period if the annualized tax liability for the taxpayer reporting on an annual or quarterly basis equals or exceeds \$1,250. A taxpayer shall begin to report on a quarterly basis at any time during a 12-month period if the annualized

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tax liability for the taxpayer reporting on an annual basis is expected to exceed \$500, but be less than \$1,250.

Historical Note

Former Section R15-5-2213 renumbered to R15-5-2211, new Section R15-5-2213 adopted effective October 14, 1993 (Supp. 93-4). Amended by final rulemaking at 7 A.A.R. 5065, effective October 5, 2001 (Supp. 01-4).

R15-5-2214. Establishing the Right to a Deduction by Use of a Certificate or Other Documentation

- A.** The vendor is responsible for the payment of tax and therefore shall provide sufficient documentation in support of all deductions.
- B.** The vendor may establish a deduction or exclusion from the tax base pursuant to A.R.S. § 42-1316 or 42-1328.
 1. If the purchaser does not have a valid license number, the purchaser shall indicate the reason on any certificate.
 2. Marking an invoice may be done either by recording the purchaser's transaction privilege tax license number on the invoice or by cross referencing the specific transaction to the specific exemption certificate of the specific purchaser.
 3. The Department has prescribed a certificate for establishing entitlement to statutory deductions. Reproductions of the blank prescribed original certificate shall be acceptable for use.
 4. The appropriate certificate shall be accurately and fully completed by the purchaser.
 5. If the vendor has reason to believe that the information contained in the certificate is not accurate, complete, or applicable to the transaction, the vendor may refuse to accept the certificate.
 6. If at any time the vendor has reason to believe that the certificate is not applicable to a transaction, the vendor may refuse to honor the certificate for that transaction.
 7. The Department may challenge the certificate as accepted by the vendor if the Department has reason to believe that the information in the certificate is incomplete, inaccurate, or if the exemption claimed is not based on statutory provisions. The burden of proof lies with the Department when a vendor accepts a completed departmental certificate and marks the applicable invoice pursuant to statute.
- C.** A blanket certificate may be accepted if the vendor and purchaser agree. The blanket certificate may continue in force, for applicable transactions, for a period of time as set forth on the certificate. For purposes of this rule, a blanket certificate is one which covers the indicated type of transaction over a specified period of time.
 1. The vendor may refuse to honor a blanket certificate and shall cancel such a certificate if, at any time, the vendor has reason to believe that the information contained in the certificate is no longer accurate or complete or no longer applies.
 2. A new, accurate, and complete certificate may then be accepted.
- D.** Documentation, including a certificate other than a departmental certificate, may be accepted by the vendor to establish the right to a deduction.
 1. If the vendor accepts a form of documentation other than a completed departmental certificate, the burden of proof remains with the vendor to establish the right to the deduction.
 2. Other documentation necessary to establish a deduction from the tax base shall contain the information required by A.R.S. § 42-1316(A).

- E.** Documentation or a certificate to establish a deduction from the tax base shall be provided for each transaction or if a blanket certificate is used for each different exemption category.
- F.** The vendor shall retain all documentation for the required statutory period pursuant to A.R.S. § 42-113.

Historical Note

Repealed effective April 13, 1987 (Supp. 87-2). New Section R15-5-2214 adopted effective October 14, 1993 (Supp. 93-4).

R15-5-2215. Return and Payment of Tax-estimated Tax

- A.** For purposes of this rule, the following definitions apply:
 1. "Annual estimated tax payment" means ½ of the total tax liability for the entire month of May or the total tax liability for the first 15 days of the month of June.
 2. "Annual tax liability" means a total tax liability of \$100,000.00 or more in the preceding calendar year or a reasonable anticipation of a total tax liability of \$100,000.00 or more in the current year.
 3. "Taxpayer" has the meaning set forth in A.R.S. § 42-1322(J). The following are considered a single taxpayer:
 - a. Members of an Arizona-affiliated group filing a consolidated corporate income tax return under A.R.S. § 43-947;
 - b. Corporations in a unitary business filing a combined corporate income tax return under A.A.C. R15-2-1131(E);
 - c. Married taxpayers operating separate sole proprietorships and filing a joint income tax return; or
 - d. Partnerships, Limited Liability Companies, S Corporations, trusts, or estates conducting multiple businesses, filing a single income tax return.
 4. "Total tax liability" means the combined total of the transaction privilege tax, telecommunications services excise tax, and county excise tax liabilities.
- B.** The requirement to make an annual estimated tax payment is based on the annual tax liability. Use tax and severance tax are not subject to the estimated tax provisions.
 1. A taxpayer shall make an annual estimated tax payment if during the current calendar year the taxpayer, through use of ordinary business care and prudence, can anticipate incurring the annual tax liability. For example:

ABC Company has been selling home electronics for several years. Its tax liability for previous calendar years has averaged between \$60,000 and \$70,000. In February of the current year, ABC Company begins selling computers and accessories as well. Early sales reports show an increase in total sales of approximately 50%. Based on these facts, ABC Company can reasonably anticipate incurring the annual tax liability.
 2. Taxpayers with multiple locations shall make the annual estimated tax payment based on the combined actual or anticipated annual tax liability from all locations. Taxpayers with multiple locations, shall make a single estimated payment each June.
- C.** A taxpayer shall not amend an annual estimated tax payment except to increase the amount of the payment.
- D.** The annual estimated tax payment shall not be applied, credited, or refunded until a Transaction Privilege, Use, and Severance Tax Return (TPT-1) for the month of June is filed.
- E.** Late payment, underpayment, or non-payment of the annual estimated tax payment shall result in the following:
 1. Application of the penalty provisions under A.R.S. § 42-136;

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2. Accrual of interest beginning from the due date of the annual estimated tax payment as prescribed in A.R.S. § 42-1322(D); and
3. Loss of the accounting credit, as defined in A.R.S. § 42-1322.04 for the June reporting period.

F. Taxpayers who are not required to make the annual estimated tax payment but make a voluntary annual estimated payment are not subject to subsection (E).

Historical Note

Former Section R15-5-2215 renumbered to R15-5-2004, new Section R15-5-2215 renumbered from R15-5-212 effective October 14, 1993 (Supp. 93-4). Amended effective April 8, 1997 (Supp. 97-2).

R15-5-2216. Repealed**Historical Note**

Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2217. Repealed**Historical Note**

Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2218. Repealed**Historical Note**

Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2219. Renumbered**Historical Note**

Renumbered to R15-5-3005 effective July 23, 1985 (Supp. 85-4).

R15-5-2220. Registration and Licensing

- A.** Out-of-state vendors making sales to Arizona purchasers shall obtain a use tax license from the Department.
- B.** Use tax collected on an isolated sale to an Arizona customer may be remitted under a cover letter rather than on a standard report form.

Historical Note

Repealed effective July 23, 1985 (Supp. 85-4). New Section R15-5-2220 renumbered from R15-5-2363 and amended effective October 14, 1993 (Supp. 93-4).

R15-5-2221. Remittal of Use Tax on Purchases from Unlicensed Retailers

- A.** Arizona purchasers regularly making purchases from unlicensed vendors, where the purchases are subject to use tax, shall obtain a use tax license and remit payments directly to the Department.
- B.** An Arizona purchaser who is licensed in Arizona shall remit the use tax to the Department on the purchaser's Sales, Use, and Severance Tax Return (ST-1) if tangible personal property is purchased from an out-of-state retailer who is not licensed to collect the use tax.
- C.** An Arizona purchaser who is not licensed in Arizona shall remit the use tax to the Department under a cover letter if tangible personal property is purchased from an out-of-state retailer who is not licensed to collect the use tax.

Historical Note

Amended effective March 18, 1981 (Supp. 81-2). Repealed effective February 22, 1989 (Supp. 89-1). New Section adopted effective October 14, 1993 (Supp. 93-4).

R15-5-2222. Record Retention

A vendor collecting use tax from a purchaser shall keep and preserve suitable records and other books and accounts necessary to determine the tax collected for the statutorily prescribed limitation

period. For purposes of this rule, the limitation period is the period of time for which the Department may assess tax, penalties, or interest pursuant to A.R.S. § 42-113. Records, books, and accounts shall be open for inspection at any reasonable time by the Department or its authorized agent.

Historical Note

Repealed effective February 22, 1989 (Supp. 89-1). New Section adopted effective October 14, 1993 (Supp. 93-4).

R15-5-2223. Repealed**Historical Note**

Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2224. Repealed**Historical Note**

Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2225. Repealed**Historical Note**

Repealed effective March 18, 1981 (Supp. 81-2).

R15-5-2226. Repealed**Historical Note**

Repealed effective March 18, 1981 (Supp. 81-2).

R15-5-2227. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-2228. Repealed**Historical Note**

Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2229. Repealed**Historical Note**

Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2230. Repealed**Historical Note**

Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2231. Repealed**Historical Note**

Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2232. Repealed**Historical Note**

Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2233. Repealed**Historical Note**

Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2234. Repealed**Historical Note**

Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2235. Repealed**Historical Note**

Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2236. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-2237. Repealed**Historical Note**

Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-2238. Reserved**R15-5-2239. Reserved****R15-5-2240. Repealed****Historical Note**

Adopted effective April 21, 1994 (Supp. 94-2). Section repealed by final rulemaking at 9 A.A.R. 5042, effective January 3, 2004 (Supp. 03-4).

R15-5-2241. Repealed**Historical Note**

Adopted effective April 21, 1994 (Supp. 94-2). Section repealed by final rulemaking at 11 A.A.R. 5214, effective November 10, 2005 (Supp. 05-4).

R15-5-2242. Repealed**Historical Note**

Adopted effective April 21, 1994 (Supp. 94-2). Section repealed by final rulemaking at 11 A.A.R. 5214, effective November 10, 2005 (Supp. 05-4).

ARTICLE 23. USE TAX**R15-5-2301. Definitions**

The following definitions apply for the Department's administration of use tax:

1. "Mail order retailer" means a retailer who solicits orders by mail, notwithstanding the fact that orders may be received by telephone or by mail or that goods may be delivered by mail or by private delivery system.
2. "Purchases" means purchase for storage, use, or consumption in Arizona.
3. "Retailer" includes any retailer located outside this state who solicits orders for tangible personal property by mail from points in this state if the solicitations are substantial and recurring.

Historical Note

Repealed effective July 23, 1985 (Supp. 85-4). New Section R15-5-2301 adopted effective December 6, 1990 (Supp. 90-4). Amended effective September 29, 1993 (Supp. 93-3).

R15-5-2302. General

- A. In this Section, "retailer" and "utility business" have the same meanings as prescribed in A.R.S. § 42-5151.
- B. A.R.S. § 42-5155 imposes Arizona use tax upon a purchaser that purchases tangible personal property from an out-of-state retailer or utility business if the retailer or utility business's gross receipts from the sale have not already been included in the measure of Arizona transaction privilege tax. Because Arizona transaction privilege tax and Arizona use tax are complementary taxes, only one of the taxes is imposed on a given transaction.
- C. Arizona use tax generally applies to the use, storage, or consumption in this state of tangible personal property purchased from an out-of-state retailer or utility business.
- D. If a purchaser pays to an out-of-state retailer or utility business a tax of another state levied on the sale or use of tangible personal property that is subject to Arizona use tax, the purchaser may apply the amount of tax paid to the other state against the purchaser's use tax liability.

- E. A purchaser that purchases tangible personal property exempt from tax because the property is purchased for resale in the ordinary course of business but subsequently uses or consumes the tangible personal property shall pay Arizona use tax.

Historical Note

Amended by final rulemaking at 11 A.A.R. 2293, effective August 6, 2005 (Supp. 05-2).

R15-5-2303. Repealed**Historical Note**

Repealed effective January 16, 1997 (Supp. 97-1).

R15-5-2304. Presumption of Taxability of Property Brought into Arizona

- A. If tangible personal property is purchased outside Arizona and is subsequently brought into this state for use, storage, or consumption, the purchaser of such property shall be subject to the Arizona use tax unless the purchaser establishes to the satisfaction of the Department:
 1. That the property is not used in conducting a business in Arizona; and
 2. That the property was purchased for bona fide use or consumption outside Arizona. Unless shown otherwise, it shall be presumed that the property was purchased for bona fide use or consumption outside of Arizona if the property was purchased at least three months prior to its initial entry into Arizona; or
 3. If the property was purchased by a nonresident individual, that the first actual use or consumption of the property occurred outside Arizona.
- B. It shall be presumed that property brought into the state is subject to the use tax. The burden of proof that a purchase is not subject to use tax rests upon the purchaser.

Historical Note

Former Section R15-5-2311 repealed, new Section R15-5-2311 adopted effective August 7, 1985 (Supp. 85-4). Former Section R15-5-2304 repealed, new Section R15-5-2304 renumbered from R15-5-2311 and amended effective September 29, 1993 (Supp. 93-3).

R15-5-2305. Expired**Historical Note**

Section expired under A.R.S. § 41-1056(E) at 13 A.A.R. 1744, effective March 31, 2007 (Supp. 07-2).

R15-5-2306. Repealed**Historical Note**

Section repealed by final rulemaking at 11 A.A.R. 2293, effective August 6, 2005 (Supp. 05-2).

R15-5-2307. Repealed**Historical Note**

Section repealed by final rulemaking at 11 A.A.R. 2293, effective August 6, 2005 (Supp. 05-2).

R15-5-2308. Repealed**Historical Note**

Section repealed by final rulemaking at 11 A.A.R. 2293, effective August 6, 2005 (Supp. 05-2).

R15-5-2309. Exemptions -- Purchases for Resale or Lease

- A. Purchases of tangible personal property from a retailer for resale in the ordinary course of the purchaser's business are not subject to use tax.

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- B.** Purchases of tangible personal property from a retailer for subsequent leasing or renting in the ordinary course of the purchaser's business are not subject to use tax.

Historical Note

Former Section R15-5-2309 renumbered to R15-5-2363, new Section R15-5-2309 renumbered from R15-5-2322 and amended effective September 29, 1993 (Supp. 93-3). Amended by final rulemaking at 12 A.A.R. 4099, effective December 4, 2006 (Supp. 06-4).

R15-5-2310. Payment of Use Tax by Purchaser

- A.** The Use Tax must be paid to:
1. An out-of-state vendor holding a certificate of authority for the collection of Use Tax, or
 2. The Arizona Department of Revenue in cases where the vendor is not registered for the collection of the tax.
- B.** Arizona purchasers making recurring purchases from out of state may apply to the Department for a registration certificate and remit payment directly to the state on a monthly report form in lieu of making payment to the vendor.
- C.** The purchaser will be relieved of his liability for the tax when payment is made directly to the out-of-state vendor registered and a receipt of the tax paid is obtained by him.

R15-5-2311. Renumbered**Historical Note**

Former Section R15-5-2311 repealed, new Section R15-5-2311 adopted effective August 7, 1985 (Supp. 85-4). Former Section R15-5-2311 renumbered to R15-5-2304 effective September 29, 1993 (Supp. 93-3).

R15-5-2312. Casual Sales

Tangible personal property purchased in a casual sale, as defined in R15-5-2001, is not taxable.

Historical Note

Former Section R15-5-2312 repealed, new Section R15-5-2312 adopted effective September 29, 1993 (Supp. 93-3).

R15-5-2313. Expired**Historical Note**

Former Section R15-5-2313 repealed, new Section R15-5-2313 adopted effective September 29, 1993 (Supp. 93-3). Amended by final rulemaking at 12 A.A.R. 4099, effective December 4, 2006 (Supp. 06-4). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 2207, effective March 30, 2017 (Supp. 17-3).

R15-5-2314. Purchases from Trustees, Receivers, and Assignees

- A.** Tangible personal property purchased for storage, use, or consumption in Arizona from a trustee, receiver, or assignee is subject to use tax if the purchase of the tangible personal property in the hands of the owner would be subject to use tax.
- B.** Tangible personal property purchased for storage, use, or consumption in Arizona from a trustee, receiver, or assignee is not subject to use tax if the purchase of the property from the owner would not be subject to use tax.

Historical Note

Former Section R15-5-2314 renumbered to R15-5-2321, new Section adopted effective September 29, 1993 (Supp. 93-3). Amended by final rulemaking at 12 A.A.R. 4099, effective December 4, 2006 (Supp. 06-4).

R15-5-2315. Renumbered**Historical Note**

Former Section R15-5-2315 renumbered to R15-5-3006 effective July 23, 1985 (Supp. 85-4).

R15-5-2316. Repealed**Historical Note**

Repealed effective September 29, 1993 (Supp. 93-3).

R15-5-2317. Renumbered**Historical Note**

Former Section R15-5-2317 renumbered to R15-5-2352 effective September 29, 1993 (Supp. 93-3).

R15-5-2318. Repealed**Historical Note**

Repealed effective September 29, 1993 (Supp. 93-3).

R15-5-2319. Renumbered**Historical Note**

Former Section R15-5-2319 renumbered to R15-5-2353 effective September 29, 1993 (Supp. 93-3).

R15-5-2320. Exemptions -- Machinery or Equipment

- A.** Machinery or equipment used in manufacturing or processing includes machinery or equipment that constitutes the entire primary manufacturing or processing operation from the initial stage where actual processing begins through the completion of the finished end product, and that is used in the production, manufacture, fabrication, processing, finishing, or packaging of articles of commerce. Manufacturing is the performance as a business of an integrated series of operations which place tangible personal property in a form, composition, or character different from that in which it was acquired, and transforms it into a different product with a distinctive name, character, or use.
- B.** Purchase of repair or replacement parts for exempt machinery or equipment is not subject to the use tax. Repair or replacement parts are defined as those individual component and constituent items which, together, comprise exempt machinery or equipment.

Historical Note

Amended effective November 7, 1978, unless otherwise noted (Supp. 78-6). Amended subsection (B) effective March 18, 1981 (Supp. 81-2). Former Section R15-5-2320 renumbered to R15-5-2362, new Section R15-5-2320 renumbered from R15-5-2321 and amended effective September 29, 1993 (Supp. 93-3).

R15-5-2321. Expired**Historical Note**

Amended effective November 7, 1978, unless otherwise noted (Supp. 78-6). Amended paragraphs (9) and (10) effective March 18, 1981 (Supp. 81-2). Former Section R15-5-2321 renumbered to R15-5-2320, new Section R15-5-2321 renumbered from R15-5-2314 effective September 29, 1993 (Supp. 93-3). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 2207, effective March 30, 2017 (Supp. 17-3).

R15-5-2322. Renumbered**Historical Note**

Former Section R15-5-2322 renumbered to R15-5-2309 effective September 29, 1993 (Supp. 93-3).

R15-5-2323. Repealed

Historical Note

Amended effective November 7, 1978 (Supp. 78-6).
Repealed effective September 29, 1993 (Supp. 93-3).

R15-5-2324. Repealed**Historical Note**

Repealed effective September 29, 1993 (Supp. 93-3).

R15-5-2325. Repealed**Historical Note**

Repealed effective September 29, 1993 (Supp. 93-3).

R15-5-2326. Manufacturing Labor

The cost of labor employed in the manufacturing, processing, or fabricating of tangible personal property shall not be allowed as a deduction from the sales price on a purchase of such property.

Historical Note

Former Section R15-5-2326 repealed, new Section R15-5-2326 adopted effective September 29, 1993 (Supp. 93-3).

R15-5-2327. Fuels

- A. In this Section, “aviation fuel,” “dyed diesel fuel,” and “use fuel” have the same meanings as prescribed in A.R.S. §§ 28-101 and 28-5601.
- B. Except as provided in subsection (D), a purchase of use fuel is subject to use tax under A.R.S. § 42-5155 on the date the consumer is issued a refund because the use fuel is not subject to the use fuel tax under A.R.S. § 28-5606.
- C. Dyed diesel fuel is subject to use tax if transaction privilege tax is not imposed by the Department.
- D. Liquefied petroleum gas or natural gas used to propel a motor vehicle is exempt from use tax.
- E. Aviation fuel is subject to tax under A.R.S. § 28-8344 only.
- F. A purchase of jet fuel is subject to the jet fuel excise and use tax under A.R.S. § 42-5352.

Historical Note

Former Section R15-5-2327 renumbered to R15-5-2360, new Section R15-5-2327 renumbered from R15-5-3006 and amended effective September 29, 1993 (Supp. 93-3). Section amended by final rulemaking at 10 A.A.R. 4480, effective December 4, 2004 (Supp. 04-4).

R15-5-2328. Electric Power Transmission and Distribution

Purchases of machinery, equipment, or transmission lines for direct use in producing or transmitting power but not including distribution are subject to use tax based on the same definitions as in R15-5-128.

Historical Note

Former Section R15-5-2328 renumbered to R15-5-2361, new Section R15-5-2328 adopted effective September 29, 1993 (Supp. 93-3).

R15-5-2329. Repealed**Historical Note**

Former Section R15-5-2329 repealed effective September 29, 1993 (Supp. 93-3).

R15-5-2330. Tangible Personal Property Used in Conjunction with Warranty or Service Contracts or Provisions

- A. For purposes of this rule, the following definition applies: “Covered” means covered as defined in R15-5-138 for tangible personal property under a warranty or service contract, or covered as defined in R15-5-137 for tangible personal property under a warranty or service provision.

- B. A warrantor or service person is subject to use tax on the cost of covered tangible personal property that is purchased for resale but subsequently taken out of inventory and used in the servicing of a warranty or service contract.
- C. Tangible personal property that is covered under a warranty or service contract and used in the servicing of the contract is subject to use tax unless transaction privilege tax was paid when the tangible personal property was acquired or the tangible personal property is otherwise statutorily exempt.
- D. Tangible personal property that is covered under a warranty or service provision and used in the servicing of the provision is not subject to use tax as the transaction privilege tax was paid when the tangible personal property was acquired.

Historical Note

Adopted effective September 3, 1978 (Supp. 78-6). Former Section R15-5-2330 renumbered to R15-5-2343, new Section R15-5-2330 adopted effective September 29, 1993 (Supp. 93-3). Amended by final rulemaking at 13 A.A.R. 679, effective April 7, 2007 (Supp. 07-1).

R15-5-2331. Repealed**Historical Note**

Adopted as an emergency effective July 1, 1980, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 80-3). Former emergency adoption now adopted effective October 15, 1980 (Supp. 80-5). Repealed effective September 29, 1993 (Supp. 93-3).

R15-5-2332. Delivery Charges

A charge by a retailer for delivery from the retailer’s location to the purchaser’s location, if separately stated on the sales invoice, is not taxable.

Historical Note

Adopted effective December 6, 1990 (Supp. 90-4). Former Section R15-5-2332 renumbered to R15-5-2350, new Section R15-5-2332 adopted effective September 29, 1993 (Supp. 93-3).

R15-5-2333. Reserved**R15-5-2334. Purchases of Restaurant Accessories**

- A. If a person engaged in the restaurant business purchases disposable containers, paper napkins, and other similar food accessories and, transfers these accessories in the regular course of business to facilitate the consumption of the food, drink, or condiment provided, the purchases are considered purchases for resale.
- B. If a person engaged in the restaurant business purchases matchbooks, advertisement fliers, and other similar tangible personal property and transfers this property for the convenience, operation, or benefit of the restaurant business, the purchases are subject to tax.

Historical Note

Adopted effective September 29, 1993 (Supp. 93-3). Amended by final rulemaking at 13 A.A.R. 679, effective April 7, 2007 (Supp. 07-1).

R15-5-2335. Reserved**R15-5-2336. Reserved****R15-5-2337. Reserved****R15-5-2338. Reserved****R15-5-2339. Reserved****R15-5-2340. Tangible Personal Property Used in Soil Remedi-**

ation Activities

The purchase of tangible personal property for incorporation or fabrication into any real property, structure, project, development or improvement under a contract specified in A.R.S. § 42-5075(B)(6) is exempt from tax. The purchase of tangible personal property used in soil remediation activities but not incorporated or fabricated into any real property, structure, project, development or improvement is taxable.

Historical Note

Adopted effective December 11, 1998 (Supp. 98-4).
R15-5-2340 corrected to reflect updated citation reference to Arizona Revised Statutes (Supp. 07-2).

R15-5-2341. Four-inch Pipes or Valves

Purchases of pipes, valves, or fire hydrants with an inside diameter of four inches or more are not taxable if the pipes, valves, or fire hydrants are to be used to transport oil, natural gas, artificial gas, water, or coal slurry.

Historical Note

Adopted effective September 29, 1993 (Supp. 93-3).

R15-5-2342. Computer Hardware and Software

Purchases of computer hardware and software are subject to the use tax based on the same provisions as delineated in R15-5-154.

Historical Note

Adopted effective September 29, 1993 (Supp. 93-3).

R15-5-2343. Purchases of Prescription Drugs and Prosthetic Appliances**A. In this Section:**

1. "Drug" means an article that, according to federal or state law, is:
 - a. Recognized in the official United States Pharmacopeia, official Homeopathic Pharmacopeia of the United States, official National Formulary, or any supplement to these documents; or
 - b. Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals; or
 - c. Not food and is intended to affect the structure or any function of the body of humans or animals; or
 - d. Intended for use as a component of any article specified in subsections (a), (b), or (c).
2. "Drug on a prescription" means a prescription drug.
3. "Food" means an article used for food or drink for humans or animals, chewing gum, or an article used as a component of such an article.
4. "Hearing aid" means any wearable device designed as a remedy or to compensate for defective human hearing, including parts, attachments, accessories, and earmolds.
5. "Legend drug" means a drug that 21 U.S.C. 353(b)(4)(A) requires to bear the symbol "Rx only" before dispensing.
6. "Nonprescription product" means a drug or other article that can be purchased by the final consumer of the drug or article without a prescription, regardless of whether purchased on the advice or recommendation of a member of the medical, dental, or veterinarian profession. Examples include over-the-counter drugs and those dietary supplements, vitamins, minerals, herbs, and other similar supplements that do not qualify as prescription drugs.
7. "Over-the-counter drug" means a drug that is subject to federal labeling requirements in 21 CFR 201.66.
8. "Prescriber" means a member of the medical, dental, or veterinary profession authorized by federal or state law to prescribe a drug.

9. "Prescription" means an order for a drug issued in any form.
10. "Prescription drug" means a legend drug or a drug that, according to federal or state law, can be dispensed only:
 - a. Upon a written prescription of a prescriber for the drug;
 - b. Upon an oral prescription by the prescriber for the drug that federal or state law requires be reduced promptly to a form of writing by the prescriber and then filed by a pharmacist or the prescriber; or
 - c. By refilling a written or oral prescription if refilling is authorized by the prescriber for the drug either in the original prescription or by oral order that is first reduced promptly to writing and then filed by a pharmacist or the prescriber.
11. "Prescription eyeglasses" includes frames and other component parts of eyeglasses if purchased for use with the prescription lenses.
12. "Prosthetic appliance" means an artificial device that fully or partially replaces a part or function of the human body or increases the acuity of a sense organ.

- B. The storage, use, or consumption in this state of the following kinds of tangible personal property is not subject to tax:
 1. Prescription drugs, including those used in the course of treating patients;
 2. Medical oxygen, pursuant to A.R.S. § 42-5159(A)(16);
 3. Insulin, insulin syringes, and glucose strips, whether or not prescribed;
 4. Prosthetic appliances, prescribed or recommended by a statutorily-authorized individual;
 5. Durable medical equipment, pursuant to A.R.S. § 42-5159(A)(21);
 6. Prescription eyeglasses and contact lenses; and
 7. Hearing aids. Batteries and cords are subject to tax.
- C. The purchase of component and repair parts for any tangible personal property that is exempt under either subsection (B) or (F) is not subject to tax.
- D. If a written prescription or recommendation is required to purchase tangible personal property, a taxpayer shall maintain the prescription or recommendation as part of the taxpayer's records. The taxpayer's records for documenting purchases shall provide reasonable detail to allow the Department, upon inspection, to identify property as exempt.
- E. Purchases by a final consumer of nonprescription products and those medical supplies or appliances not provided for under subsection (B) are subject to tax.
- F. Purchases of nonprescription products or other medical supplies or appliances by doctors, dentists, or veterinarians are subject to tax unless the purchase qualifies as a purchase for resale and the doctor, dentist, or veterinarian is a retailer in the business of reselling the property.

Historical Note

Renumbered from R15-5-2330 and amended effective September 29, 1993 (Supp. 93-3). Amended by final rulemaking at 11 A.A.R. 2952, effective September 10, 2005 (Supp. 05-3).

R15-5-2344. Postage Stamps

- A. The purchase of postage stamps is not subject to use tax if the stamps are purchased for the purpose of transporting mail.
- B. The purchase of postage stamps is subject to use tax if the stamps are purchased for any purpose other than transporting mail.
- C. The Department shall presume that a postage stamp is purchased for a purpose other than transporting mail if the postage stamp is purchased for at least 50% more than its face value. A

Department of Revenue - Transaction Privilege and Use Tax Section

purchaser may overcome the presumption; however, the burden of proof will remain on the purchaser.

- D. The purchase of cancelled postage stamps is subject to use tax.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 4112, effective October 4, 2000 (Supp. 00-4).

R15-5-2345. Reserved

R15-5-2346. Reserved

R15-5-2347. Reserved

R15-5-2348. Reserved

R15-5-2349. Reserved

R15-5-2350. Mail Order Retailers

This rule is not a limitation on other provisions of Arizona Revised Statutes, Title 42, Chapter 8. Article 2. A mail order retailer's transactions are substantial and recurring if the following conditions are satisfied:

1. The sale of tangible personal property would be subject to transaction privilege taxation if the transaction would have occurred in this state, and
2. During any 12-month period:
 - a. The retailer's total sales in this state exceed \$100,000.00; or
 - b. Two or more mailings, aggregating 5,000 or more solicitations, are made to points in this state.

Historical Note

Adopted effective December 6, 1990 (Supp. 90-4).
Renumbered from R15-5-2332 effective September 29, 1993 (Supp. 93-3).

R15-5-2351. Purchases by Non-U.S. Citizens

Purchases of tangible personal property by non-U.S. citizens shall be subject to the use tax unless otherwise exempt.

Historical Note

Adopted effective September 29, 1993 (Supp. 93-3).

R15-5-2352. Expired**Historical Note**

Section R15-5-2352 renumbered from R15-5-2317 and amended effective September 29, 1993 (Supp. 93-3). Section expired under A.R.S. § 41-1056(E) at 18 A.A.R. 1652, effective March 31, 2012 (Supp. 12-2).

R15-5-2353. Property Purchased Outside of the United States

- A. Tangible personal property purchased outside of the United States is taxable when purchased for business use.
- B. In any one calendar month, tangible personal property purchases with a cumulative purchase price of \$200 or less are not taxable if purchased for nonbusiness use. Purchases in excess of the \$200 exemption are taxable on the excess amount.

Historical Note

Section R15-5-2353 renumbered from R15-5-2319 and amended effective September 29, 1993 (Supp. 93-3).

R15-5-2354. Reserved

R15-5-2355. Reserved

R15-5-2356. Reserved

R15-5-2357. Reserved

R15-5-2358. Reserved

R15-5-2359. Reserved

R15-5-2360. Government Purchases

- A. Purchases of tangible personal property by any state or its political subdivisions are taxable.
- B. Purchases by the Federal Government are not taxable.

Historical Note

Section R15-5-2360 renumbered from R15-5-2327 and amended effective September 29, 1993 (Supp. 93-3).

R15-5-2361. Nonprofit Organizations

- A. Purchases of tangible personal property by nonprofit churches, schools, and other nonprofit organizations are taxable unless otherwise exempt.
- B. Purchases of tangible personal property from a charitable nonprofit organization recognized as having tax-exempt status for income tax purposes with the Internal Revenue Service and the Department are not taxable.
- C. If an organization wishes to obtain tax-exempt status by being recognized by the Department as a nonprofit charitable organization, it shall submit a letter to the Department requesting tax-exempt status and shall include a copy of its Internal Revenue Service recognition.
- D. For purposes of the statutory exemption and for this rule, the Internal Revenue Service recognition of a charitable nonprofit organization is as defined in Internal Revenue Code § 501(c)(3).

Historical Note

Section R15-5-2361 renumbered from R15-5-2328 and amended effective September 29, 1993 (Supp. 93-3).

R15-5-2362. Exempt Purchases by Health Organizations

- A. Purchases by qualifying hospitals, nursing care institutions, qualifying health care organizations, rehabilitation programs for mentally or physically handicapped persons, and qualifying community health centers are exempt from tax pursuant to statutory provisions.
- B. The Department may, upon review of the written request and any other information requested by the Department to make a proper determination, provide an Exemption Letter to organizations meeting the statutory criteria. The Exemption Letter shall be valid for a period of 12 months from the first day of the month following the issue date of the Exemption Letter unless the organization's tax exempt status changes prior to the end of the 12-month period, or the organization misrepresented or omitted material information in its exemption request.
- C. Qualifying hospitals, qualifying health care organizations, rehabilitation programs for mentally or physically handicapped persons, and qualifying community health centers shall annually submit to the Department a written request for an Exemption Letter. The request shall be submitted at least 30 days prior to the first day of the exemption period. For purposes of this rule, "exemption period" means the 12-month period beginning on the first day of the month following the issue date of the Exemption Letter or the 12-month period requested by the organization.
 1. Qualifying hospitals shall attach to their annual exemption request a copy of their current license issued by the Department of Health Services.
 2. Qualifying health care organizations shall attach to their exemption request letter the statutorily required annual financial audit and a copy of their Internal Revenue Code 501(c) recognition unless the Department has previously received a copy of this recognition.
 3. Rehabilitation programs for mentally or physically handicapped persons shall attach to their exemption request a copy of their Internal Revenue Code 501(c)(3) recogni-

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tion unless the Department has previously received a copy of this recognition.

4. Qualifying community health centers shall attach to their exemption request documentation supporting the statutory criteria and a copy of their Internal Revenue Code 501(c)(3) recognition unless the Department has previously received a copy of this recognition.

Historical Note

Section R15-5-2362 renumbered from R15-5-2310 and amended effective September 29, 1993 (Supp. 93-3).

Amended effective April 21, 1995 (Supp. 95-2).

R15-5-2363. Renumbered**Historical Note**

Renumbered from R15-5-2309 effective September 29, 1993 (Supp. 93-3). Renumbered to R15-5-2220 effective October 14, 1993 (Supp. 93-4).

ARTICLE 24. REPEALED**R15-5-2401. Repealed****Historical Note**

Repealed effective October 14, 1993 (Supp. 93-4).

R15-5-2402. Repealed**Historical Note**

Repealed effective October 14, 1993 (Supp. 93-4).

R15-5-2403. Repealed**Historical Note**

Repealed effective October 14, 1993 (Supp. 93-4).

R15-5-2404. Repealed**Historical Note**

Repealed effective October 14, 1993 (Supp. 93-4).

R15-5-2405. Repealed**Historical Note**

Repealed effective October 14, 1993 (Supp. 93-4).

R15-5-2406. Repealed**Historical Note**

Amended effective March 18, 1981 (Supp. 81-2).
Repealed effective October 14, 1993 (Supp. 93-4).

R15-5-2407. Repealed**Historical Note**

Repealed effective July 23, 1985 (Supp. 85-4).

R15-5-2408. Repealed**Historical Note**

Repealed effective July 23, 1985 (Supp. 85-4).

R15-5-2409. Repealed**Historical Note**

Repealed effective October 14, 1993 (Supp. 93-4).

R15-5-2410. Repealed**Historical Note**

Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2411. Repealed**Historical Note**

Repealed effective July 23, 1985 (Supp. 85-4).

R15-5-2412. Repealed**Historical Note**

Repealed effective July 23, 1985 (Supp. 85-4).

R15-5-2413. Repealed**Historical Note**

Repealed effective July 23, 1985 (Supp. 85-4).

R15-5-2414. Repealed**Historical Note**

Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2415. Repealed**Historical Note**

Repealed effective July 23, 1985 (Supp. 85-4).

R15-5-2416. Repealed**Historical Note**

Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2417. Repealed**Historical Note**

Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2418. Repealed**Historical Note**

Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2419. Repealed**Historical Note**

Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2420. Repealed**Historical Note**

Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2421. Repealed**Historical Note**

Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2422. Repealed**Historical Note**

Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2423. Repealed**Historical Note**

Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2424. Repealed**Historical Note**

Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2425. Repealed**Historical Note**

Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2426. Repealed**Historical Note**

Repealed effective April 21, 1995 (Supp. 95-2).

ARTICLE 25. REPEALED**R15-5-2501. Repealed****Historical Note**

Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-2502. Repealed**Historical Note**

Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-2503. Repealed**Historical Note**

Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-2504. Repealed**Historical Note**

Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-2505. Repealed**Historical Note**

Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-2506. Repealed**Historical Note**

Amended effective November 7, 1978, unless otherwise noted (Supp. 78-6). Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-2507. Repealed**Historical Note**

Amended effective March 18, 1981 (Supp. 81-2). Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

ARTICLE 26. REPEALED**R15-5-2601. Repealed****Historical Note**

Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-2602. Repealed**Historical Note**

Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-2603. Repealed**Historical Note**

Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-2604. Repealed**Historical Note**

Repealed effective July 23, 1985 (Supp. 85-4).

R15-5-2605. Repealed**Historical Note**

Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2606. Repealed**Historical Note**

Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2607. Repealed**Historical Note**

Repealed effective July 23, 1985 (Supp. 85-4).

R15-5-2608. Repealed**Historical Note**

Repealed effective July 23, 1985 (Supp. 85-4).

R15-5-2609. Repealed**Historical Note**

Repealed effective July 23, 1985 (Supp. 85-4).

R15-5-2610. Repealed**Historical Note**

Repealed effective July 23, 1985 (Supp. 85-4).

R15-5-2611. Repealed**Historical Note**

Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2612. Repealed**Historical Note**

Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2613. Repealed**Historical Note**

Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2614. Repealed**Historical Note**

Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-2615. Repealed**Historical Note**

Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2616. Repealed**Historical Note**

Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-2617. Repealed**Historical Note**

Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2618. Repealed**Historical Note**

Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2619. Repealed**Historical Note**

Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2620. Repealed**Historical Note**

Repealed effective April 21, 1995 (Supp. 95-2).

ARTICLE 27. RESERVED**ARTICLE 28. RESERVED****ARTICLE 29. RESERVED****ARTICLE 30. INTERIM RULES****R15-5-3001. Reserved****R15-5-3002. Reserved****R15-5-3003. Reserved****R15-5-3004. Renumbered**

Historical Note

(A.R.S. § 1321) Former Section R15-5-1846 renumbered as Section R15-5-3004 and amended effective July 23, 1985 (Supp. 85-4). Renumbered to R15-5-127 effective August 9, 1993 (Supp. 93-3).

R15-5-3005. Renumbered**Historical Note**

(A.R.S. § 42-1451) Former Section R15-5-2219 renumbered as Section R15-5-3005 and amended effective July 23, 1985 (Supp. 85-4). Former Section R15-5-3005 renumbered to R15-5-2212 effective October 14, 1993 (Supp. 93-4).

R15-5-3006. Renumbered**Historical Note**

(A.R.S. § 42-1409) Former Section R15-5-2315 renumbered as Section R15-5-3006 and amended effective July 23, 1985 (Supp. 85-4). Former Section R15-5-3006 renumbered to R15-5-2327 effective September 29, 1993 (Supp. 93-3).

R15-5-3007. Reserved**R15-5-3008. Reserved****R15-5-3009. Reserved****R15-5-3010. Reserved****R15-5-3011. Reserved****R15-5-3012. Reserved****R15-5-3013. Reserved****R15-5-3014. Reserved****R15-5-3015. Reserved****R15-5-3016. Repealed****Historical Note**

(A.R.S. §§ 42-1313, 42-1317) Adopted effective October 1, 1986 (Supp. 86-5). Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-3017. Reserved**R15-5-3018. Renumbered****Historical Note**

(A.R.S. § 42-1305) Adopted effective September 3, 1986 (Supp. 86-5). Renumbered to R15-5-2206 effective October 14, 1993 (Supp. 93-4).

R15-5-3019. Reserved**R15-5-3020. Reserved****R15-5-3021. Repealed****Historical Note**

Adopted effective August 13, 1987 (Supp. 87-3). Repealed effective October 14, 1993 (Supp. 93-4).

R15-5-3022. Repealed**Historical Note**

Adopted effective August 13, 1987 (Supp. 87-3). Repealed effective October 14, 1993 (Supp. 93-4).

R15-5-3023. Renumbered**Historical Note**

(A.R.S. § 42-1302) Former Section R15-5-209 renumbered and amended as Section R15-5-3023 effective August 26, 1987 (Supp. 87-3). Section R15-5-209 renumbered as Section R15-5-3023 and amended in error, see Section R15-5-209 (Supp. 88-3).

R15-5-3024. Repealed**Historical Note**

(A.R.S. § 42-1307) Former Section R15-5-2102 renumbered and amended as Section R15-5-3024 (Supp. 86-6). Correction, effective date of last amendment to read: “effective December 31, 1986” (Supp. 87-3). Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-3025. Renumbered**Historical Note**

(A.R.S. § 42-1322.01) Adopted effective September 24, 1986 (Supp. 86-5). Renumbered to R15-5-2007 (Supp. 94-2).

R15-5-3026. Reserved**R15-5-3027. Reserved****R15-5-3028. Reserved****R15-5-3029. Reserved****R15-5-3030. Reserved****R15-5-3031. Reserved****R15-5-3032. Repealed****Historical Note**

(A.R.S. § 42-1472) Adopted effective September 24, 1986 (Supp. 86-5). Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-3033. Reserved**R15-5-3034. Reserved****R15-5-3035. Expired****Historical Note**

Adopted effective September 16, 1987 (Supp. 87-3). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 2207, effective March 30, 2017 (Supp. 17-3).

R15-5-3036. Renumbered**Historical Note**

Adopted effective August 7, 1987 (Supp. 87-3). Renumbered to R15-5-157 effective August 9, 1993 (Supp. 93-3).



Supplement to the
Arizona Administrative Code
 The official compilation of Arizona Rules
Replacement Check List

For rules filed in the third quarter between
 July 1 - September 30
 2017

Within the stated calendar quarter, this Title contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information. Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

TITLE 17. Transportation

Chapter 05. Department of Transportation - Commercial Programs

Sections, Parts, Exhibits, Tables or Appendices modified

R17-5-301 through R17-5-303; R17-5-305 through R17-5-309; R17-5-311, R17-5-313, R17-5-315, R17-5-318, R17-5-323

☐ REMOVE Supp. 17-2
 Pages: 1 - 46

☐ REPLACE with Supp. 17-3
 Pages: 1 - 45

The agency's contact person who can answer questions about rules in this Chapter:

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Disclaimer: Please be advised the person listed is the contact of record as submitted in the rulemaking package for this supplement. The contact and other information may change and is provided as a public courtesy.

PUBLISHER
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Office of the Secretary of State, Administrative Rules Division

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the Administrative Code. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION
September 30, 2017

RULES

A.R.S. § 41-1001(17) states: “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions. Virtually everything in your life is affected in some way by rules published in the Arizona Administrative Code, from the quality of air you breathe to the licensing of your dentist. This chapter is one of more than 230 in the Code compiled in 21 Titles.

ADMINISTRATIVE CODE SUPPLEMENTS

Rules filed by an agency to be published in the Administrative Code are updated quarterly. Supplement release dates are printed on the footers of each chapter:

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2017 is cited as Supp. 17-1.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the Arizona Administrative Register for recent updates to rule Sections.

ARTICLES AND SECTIONS

Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering system separated into subsections.

HISTORICAL NOTES AND EFFECTIVE DATES

Historical notes inform the user when the last time a Section was updated in the Administrative Code. Be aware, since the Office publishes each quarter by entire chapters, not all Sections are updated by an agency in a supplement release. Many times just one Section or a few Sections may be updated in the entire chapter.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in the introduction of a chapter can be found at the Secretary of State’s website, www.azsos.gov/services/legislative-filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the Arizona Administrative Register online at www.azsos.gov/rules, click on the Administrative Register link.

In the Administrative Code the Office includes editor’s notes at the beginning of a chapter indicating that certain rulemaking Sections were made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR

If you are researching rules and come across rescinded chapters on a different paper color, this is because the agency filed a Notice of Exempt Rulemaking. At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

PERSONAL USE/COMMERCIAL USE

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Public Services managing rules editor, Rhonda Paschal, assisted with the editing of this chapter.

TITLE 17. TRANSPORTATION**CHAPTER 5. DEPARTMENT OF TRANSPORTATION - COMMERCIAL PROGRAMS**

Editor's Note: The Department was given an exemption to the provisions in the Arizona Administrative Procedure Act to make rules under Laws 2015, Ch. 235, § 14. Refer to the historical notes in Article 9 for more information (Supp. 15-3).

Editor's Note: The Department was given an exemption to the provisions in the Arizona Administrative Procedure Act to make or amend rules under Laws 2013, Ch. 129, § 27. Refer to the historical notes in Article 3 for more information (Supp. 15-2).

Editor's Note: 17 A.A.C. 5 was created from Sections recodified from 17 A.A.C. 4 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3).

ARTICLE 1. GENERAL PROVISIONS**ARTICLE 2. MOTOR CARRIERS**

Section	
R17-5-201.	Definitions 3
R17-5-202.	Motor Carrier Safety: Incorporation of Federal Regulations; Applicability 3
R17-5-203.	Motor Carrier Safety: 49 CFR 390 - Federal Motor Carrier Safety Regulations; General 3
R17-5-204.	Motor Carrier Safety: 49 CFR 391 - Qualifications of Drivers and Longer Combination Vehicle (LCV) Driver Instructors 4
R17-5-205.	Motor Carrier Safety: 49 CFR 383 - Commercial Driver's License Standards; Requirements and Penalties 4
R17-5-206.	Motor Carrier Safety: 49 CFR 392 - Driving of Commercial Motor Vehicles 5
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ARTICLE 8. MANDATORY INSURANCE AND FINANCIAL RESPONSIBILITY

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Article 9, consisting of Sections R17-5-901 through R17-5-906, made by exempt rulemaking at 21 A.A.R. 1825, under Laws 2015, Ch. 235, § 14, effective August 21, 2015 (Supp. 15-3).

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ARTICLE 1. GENERAL PROVISIONS**ARTICLE 2. MOTOR CARRIERS****R17-5-201. Definitions**

In addition to the definitions provided under A.R.S. §§ 28-3001 and 28-5201, the following definitions apply to this Article unless otherwise specified:

“Audit” means any inspection of a transporter’s motor vehicle, equipment, books, or records to determine compliance with this Article and A.R.S. Title 28, Chapter 14.

“Co-applicant” means an employer or potential employer.

“Danger to public safety” means any condition of a transporter likely to result in serious peril to the public if not discontinued immediately.

“Director” means the Director of the Arizona Department of Transportation or the Director’s designated agent.

“Executive Hearing Office” means the Arizona Department of Transportation’s Executive Hearing Office.

“Medical waiver evaluation summary” means the form, provided by the Department, to be completed by either a board qualified or board certified orthopedic surgeon or physiatrist and mailed to the Department, at the address provided on the form, on behalf of an Arizona intrastate medical waiver applicant.

“Physiatrist” means a doctor of medicine specialized in physical medicine and rehabilitation.

“Transporter” means any person, driver, motor carrier, shipper, manufacturer, or motor vehicle, including any motor vehicle transporting a hazardous material, hazardous substance, or hazardous waste, subject to this Article and A.R.S. Title 28, Chapter 14.

“Violation” means any conduct, act, or failure to act required or prohibited under this Article and A.R.S. Title 28, Chapter 14.

“Vision examination report” means a form provided by the Department to be completed by an ophthalmologist or a licensed optometrist on behalf of a driver or driver applicant and mailed to the Department, at the address provided on the form, for use in determining whether or not a medical condition affects the driver’s, or driver applicant’s, ability to safely perform the functional skills involved with driving a motor vehicle.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3249, effective July 10, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 3797, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 17 A.A.R. 1691, effective August 2, 2011 (Supp. 11-3).

R17-5-202. Motor Carrier Safety: Incorporation of Federal Regulations; Applicability

- A. The Department incorporates by reference 49 CFR 40, 379, 382, 383, 385, 390, 391, 392, 393, 395, 396, 397, and 399, revised as of October 1, 2012, and no later amendments or editions, as amended under this Article. The incorporated material is on file with the Department and is available from the U.S. Government Printing Office, P.O. Box 979050, St. Louis, Missouri 63197-9000. The incorporated material can be ordered online by visiting the U.S. Government Online Bookstore at <http://bookstore.gpo.gov>.
- B. The sections of 49 CFR incorporated under subsection (A) apply as amended under this Article to all intrastate and interstate motor carriers operating in Arizona and persons operat-

ing a commercial motor vehicle, except as provided under subsection (C).

- C. The intrastate operator of a tow truck with a gross vehicle weight rating of 26,000 pounds or less is exempt from the requirements of 49 CFR 390 through 399, except that the driver is subject to the physical qualifications and examination requirements of 49 CFR 391, subpart E.

Historical Note

New Section recodified from R17-4-435 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 3249, effective July 10, 2002 (Supp. 02-3). Amended by final rulemaking at 9 A.A.R. 1867, effective June 3, 2003 (Supp. 03-2). Amended by final rulemaking at 10 A.A.R. 2679, effective June 8, 2004 (Supp. 04-2). Amended by final rulemaking at 12 A.A.R. 1559, effective May 2, 2006 (Supp. 06-2). Amended by final rulemaking at 14 A.A.R. 3797, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 17 A.A.R. 1691, effective August 2, 2011 (Supp. 11-3). Amended by final rulemaking at 20 A.A.R. 2382, effective August 5, 2014 (Supp. 14-3).

R17-5-203. Motor Carrier Safety: 49 CFR 390 - Federal Motor Carrier Safety Regulations; General

- A. 49 CFR 390.3, General applicability. Paragraph (a) is amended to read:
Regulations incorporated in this section are applicable to all motor carriers operating in Arizona and any vehicle owned or operated by the state, a political subdivision, or a state public authority that is used to transport a hazardous material in an amount requiring the vehicle to be placarded as prescribed under R17-5-209.
- B. 49 CFR 390.5, Definitions. The definitions listed under 49 CFR 390.5 are amended as follows:
“Commercial Motor Vehicle” or “CMV” has the same meaning as prescribed under A.R.S. § 28-5201.
“Special agent” means an officer or agent of the Department, the Department of Public Safety, or a political subdivision, who is trained and certified by the Department of Public Safety to enforce Arizona’s Motor Carrier Safety requirements.
“State” means a state of the United States or the District of Columbia.
“Tow truck,” as used in the definition of emergency under 49 CFR 390.5, has the same meaning as prescribed under A.A.C. R13-3-701.
- C. 49 CFR 390.19, Motor carrier, hazardous material shipper, and intermodal equipment provider identification reports. Paragraph (a)(1) is amended to read:
A U.S.-, Canada-, Mexico-, or non-North America-domiciled motor carrier conducting operations in interstate commerce or in intrastate commerce in a CMV, except for intrastate commerce in a farm vehicle as defined under A.R.S. § 28-2514, must file a Motor Carrier Identification Report, Form MCS-150.
- D. 49 CFR 390.23, Relief from regulations.
 1. Paragraph (a)(2), Local emergencies, is amended by adding:
When a local emergency exists that justifies an exemption from parts 390 through 399 of this chapter, a motor carrier may request the exemption by contacting Commercial Vehicle Enforcement at the Arizona Department of Public Safety, Highway Patrol Division, P.O. Box 6638, Phoenix, Arizona 85005. The Arizona Department of Public Safety may grant the exemption with or without

restrictions as necessary to provide vital service to the public.

2. Paragraph (a)(2)(i)(A) is amended to read:
An emergency has been declared by a federal, state or local government official having authority to declare an emergency; or an emergency situation exists under A.R.S. § 28-5234(B); or

E. 49 CFR 390.25, Extension of relief from regulations - emergencies, is amended by adding:

A motor carrier seeking to extend a period of relief from these regulations may request the extension by contacting Commercial Vehicle Enforcement at the Arizona Department of Public Safety, Highway Patrol Division, P.O. Box 6638, Phoenix, Arizona 85005. The Arizona Department of Public Safety may grant the extension with any restrictions it considers necessary to provide vital service to the public.

Historical Note

New Section recodified from R17-4-435.01 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 3249, effective July 10, 2002 (Supp. 02-3). Amended by final rulemaking at 9 A.A.R. 1867, effective June 3, 2003 (Supp. 03-2). Amended by final rulemaking at 11 A.A.R. 862, effective February 1, 2005 (Supp. 05-1). Amended by final rulemaking at 12 A.A.R. 1559, effective May 2, 2006 (Supp. 06-2). Amended by final rulemaking at 13 A.A.R. 2636, effective July 10, 2007 (Supp. 07-3). Amended by final rulemaking at 14 A.A.R. 3797, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 17 A.A.R. 1691, effective August 2, 2011 (Supp. 11-3). Amended by final rulemaking at 20 A.A.R. 2382, effective August 5, 2014 (Supp. 14-3).

R17-5-204. Motor Carrier Safety: 49 CFR 391 - Qualifications of Drivers and Longer Combination Vehicle (LCV) Driver Instructors

- A.** 49 CFR 391.11, General qualifications of drivers. Paragraph (b)(1) is amended to read:
Is at least 21 years of age for interstate operation or is at least 18 years of age for operations restricted to intrastate transportation not involving the transportation of a reportable quantity of hazardous substance, hazardous waste required to be manifested, or hazardous material in an amount requiring a vehicle to be placarded as prescribed under R17-5-209;
- B.** 49 CFR 391.51, General requirements for driver qualification files. Paragraph (b)(8) is amended to read:
A Skill Performance Evaluation Certificate obtained from a Field Administrator, Division Administrator, or state Director issued in accordance with § 391.49; or the Medical Exemption document, issued by a Federal medical program in accordance with part 381 of this chapter; or a copy of the Arizona intrastate medical waiver, if a waiver is granted by the Director as prescribed under R17-5-208.

Historical Note

New Section recodified from R17-4-435.02 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 14 A.A.R. 3797, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 17 A.A.R. 1691, effective August 2, 2011 (Supp. 11-3). Amended by final rulemaking at 20 A.A.R. 2382, effective August 5, 2014 (Supp. 14-3).

R17-5-205. Motor Carrier Safety: 49 CFR 383 - Commercial Driver's License Standards; Requirements and Penalties

- A.** 49 CFR 383.5, Definitions. The definitions listed under 49 CFR 383.5 are amended as follows:

"Commercial motor vehicle" or "CMV" has the same meaning as prescribed under A.R.S. § 28-3001.

"Conviction" has the same meaning as prescribed under A.R.S. § 28-3001.

"Disqualification" has the same meaning as prescribed under A.R.S. § 28-3001.

"Motor vehicle" has the same meaning as prescribed under A.R.S. § 28-101.

"Out-of-service order" has the same meaning as prescribed under A.R.S. § 28-5241.

"School bus" has the same meaning as prescribed under A.R.S. § 28-101.

"Tank vehicle" has the same meaning as prescribed under A.R.S. § 28-3103.

- B.** 49 CFR 383.71, Driver application and certification procedures. Paragraphs (b)(1)(ii), Excepted interstate, and (b)(1)(iv), Excepted intrastate, are deleted.

C. 49 CFR 383.73, State procedures.

1. Paragraph (a)(2)(vi) is amended to read:
Require compliance with the standards for providing proof of citizenship or lawful permanent residency specified in § 383.71(a)(2)(v) and proof of state of domicile specified in § 383.71(a)(2)(vi). Exception: A state is required to check the proof of citizenship or legal presence specified in this paragraph only for initial issuance, renewal or upgrade of a CLP or non-domiciled CLP and for initial issuance, renewal, upgrade or transfer of a CDL or non-domiciled CDL for the first time after July 8, 2011, provided a notation is made on the driver's record confirming that the proof of citizenship or legal presence check required by this paragraph has been made and noting the date it was done;
2. Paragraph (b)(6) is amended to read:
Require compliance with the standards for providing proof of citizenship or lawful permanent residency specified in § 383.71(b)(9) and proof of state of domicile specified in § 383.71(b)(10). Exception: A state is required to check the proof of citizenship or legal presence specified in this paragraph only for initial issuance, renewal or upgrade of a CLP or non-domiciled CLP and for initial issuance, renewal, upgrade or transfer of a CDL or non-domiciled CDL for the first time after July 8, 2011, provided a notation is made on the driver's record confirming that the proof of citizenship or legal presence check required by this paragraph has been made and noting the date it was done;
3. Paragraph (c)(4) is amended to read:
If such applicant wishes to retain a hazardous materials endorsement, require compliance with standards for such endorsement specified in §§ 383.71(b)(8) and 383.141 and ensure that the driver has successfully completed a new test for such endorsement specified in § 383.121.
4. Paragraphs (c)(4)(i) and (c)(4)(ii) are deleted.
5. Paragraph (c)(7) is amended to read:
Require compliance with the standards for providing proof of citizenship or lawful permanent residency specified in § 383.71(b)(9) and proof of state of domicile specified in § 383.71(b)(10). Exception: A state is required to check the proof of citizenship or legal presence specified in this paragraph only for initial issuance, renewal or upgrade of a CLP or non-domiciled CLP and for initial issuance, renewal, upgrade or transfer of a CDL or non-domiciled CDL for the first time after July 8, 2011, provided a notation is made on the driver's record confirm-

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ing that the proof of citizenship or legal presence check required by this paragraph has been made and noting the date it was done;

6. Paragraph (d)(7) is amended to read:
Require compliance with the standards for providing proof of citizenship or lawful permanent residency specified in § 383.71(b)(9) and proof of state of domicile specified in § 383.71(b)(10). Exception: A state is required to check the proof of citizenship or legal presence specified in this paragraph only for initial issuance, renewal or upgrade of a CLP or non-domiciled CLP and for initial issuance, renewal, upgrade or transfer of a CDL or non-domiciled CDL for the first time after July 8, 2011, provided a notation is made on the driver's record confirming that the proof of citizenship or legal presence check required by this paragraph has been made and noting the date it was done; and
7. Paragraph (e)(5) is amended to read:
Require compliance with the standards for providing proof of citizenship or lawful permanent residency specified in § 383.71(b)(9) and proof of state of domicile specified in § 383.71(b)(10). Exception: A state is required to check the proof of citizenship or legal presence specified in this paragraph only for initial issuance, renewal or upgrade of a CLP or non-domiciled CLP and for initial issuance, renewal, upgrade, or transfer of a CDL or non-domiciled CDL for the first time after July 8, 2011, provided a notation is made on the driver's record confirming that the proof of citizenship or legal presence check required by this paragraph has been made and noting the date it was done;
8. Paragraph (f)(2)(ii) is amended to read:
The state must add the word "non-domiciled" to the face of the CLP or CDL, in accordance with § 383.153(c); and
9. Paragraph (m), Document verification, is amended to read:
The state must require at least two persons within the driver licensing agency to participate substantively in the processing and verification of the documents involved in the licensing process for initial issuance, renewal or upgrade of a CLP or non-domiciled CLP and for initial issuance, renewal, upgrade or transfer of a CDL or non-domiciled CDL. The documents being processed and verified must include, at a minimum, those provided by the applicant to prove legal presence and domicile, the information filled out on the application form, and knowledge and skills test scores. This section does not require two people to process or verify each document involved in the licensing process. Exception: For offices with only one staff member, at least some of the documents must be processed or verified by a supervisor before issuance or, when a supervisor is not available, copies must be made of some of the documents involved in the licensing process and a supervisor must verify them within one business day of issuance of the CLP, non-domiciled CLP, CDL or non-domiciled CDL.

D. 49 CFR 383.75, Third party testing.

1. Paragraph (a)(7) is amended to read:
A skills test examiner who is also a skills instructor either as a part of a school, training program or otherwise is prohibited from administering a skills test to an applicant who received skills training by that skills test examiner; and
2. Paragraph (a)(8)(v) is amended to read:
Require the third party tester to initiate and maintain a bond in an amount pursuant to A.R.S. Title 28, Chapter

13 to be sufficient to pay for re-testing drivers in the event that the third party or one or more of its examiners is involved in fraudulent activities related to conducting skills testing of applicants for a CDL. Exception: A third party tester that is a government entity is not required to maintain a bond.

E. 49 CFR 383.153, Information on the CLP and CDL documents and applications.

1. Paragraph (b)(1) is amended to read:
A CLP may, but is not required to, contain a digital color image or photograph or black and white laser engraved photograph.
2. Paragraph (e) is amended to read:
Before a CLP or CDL may be issued:
 - a. A driver applicant must provide the driver applicant's Social Security Number on the application of a CLP or CDL.
 - b. The state must provide the Social Security Number to the CDLIS.
 - c. The state must not display the Social Security Number on the CLP or CDL.
3. Paragraph (h) is amended to read:
On or after July 8, 2014 current CLP and CDL holders who do not have the standardized endorsement and restriction codes and applicants for a CLP or CDL are to be issued CLPs with the standardized codes upon initial issuance, renewal or upgrade and CDLs with the standardized codes upon initial issuance, renewal, upgrade or transfer.

Historical Note

New Section recodified from R17-4-435.03 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 3249, effective July 10, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 3797, effective November 8, 2008 (Supp. 08-3). Section repealed by final rulemaking at 17 A.A.R. 1691, effective August 2, 2011 (Supp. 11-3). New Section made by final rulemaking at 20 A.A.R. 2382, effective August 5, 2016 (Supp. 14-3).

R17-5-206. Motor Carrier Safety: 49 CFR 392 - Driving of Commercial Motor Vehicles

49 CFR 392.5, Alcohol prohibition. Paragraph (e) is amended by adding:

Drivers who violate the terms of an out-of-service order as prescribed under this section are also subject to the provisions and sanctions of A.R.S. § 28-5241.

Historical Note

New Section recodified from R17-4-435.04 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 9 A.A.R. 1867, effective June 3, 2003 (Supp. 03-2). Amended by final rulemaking at 14 A.A.R. 3797, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 17 A.A.R. 1691, effective August 2, 2011 (Supp. 11-3).

R17-5-207. Civil Penalties

To determine the amount of civil penalty for repeat findings of responsibility for the same class of violations involving vehicles required to be placarded, the higher level of civil penalty as prescribed under A.R.S. § 28-5238 applies.

Historical Note

New Section recodified from R17-4-435.05 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by

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final rulemaking at 14 A.A.R. 3797, effective November 8, 2008 (Supp. 08-3).

R17-5-208. Commercial Driver License Intrastate Medical Waiver; Intrastate Alternative Physical Qualification Standards for the Loss or Impairment of Limbs, an Insulin-Dependent Diabetic Condition, or Monocular Vision

- A. A person who is not physically qualified to drive a commercial motor vehicle in interstate commerce due to loss of limb, limb impairment, an insulin-dependent diabetic condition, or monocular vision, as provided under 49 CFR 391.41(b)(1), (b)(2), (b)(3), or (b)(10), but otherwise meets all other requirements under 49 CFR 391.41, may operate a commercial motor vehicle in intrastate commerce if granted an intrastate medical waiver by the Director. Application for an intrastate medical waiver shall be submitted according to subsection (B).
- B. A driver applicant, or a driver applicant jointly with the motor carrier co-applicant that will employ the driver applicant, may complete and submit an intrastate medical waiver application to the Department's Medical Review Program, P.O. Box 2100, Mail Drop 818Z, Phoenix, Arizona 85001-2100, which shall:
 1. Identify the applicant:
 - a. Name and complete address of the driver applicant;
 - b. Name and complete address of the motor carrier co-applicant;
 - c. U.S. Department of Transportation motor carrier identification number, if known; and
 - d. A description of the driver applicant's limb or visual impairment or insulin-dependent diabetic condition as applicable to the type of waiver being requested;
 2. Describe the type of operation the driver applicant will be employed to perform, including the following information (if known):
 - a. Average period of time the driver will be driving or on duty, per day;
 - b. Type of commodities or cargo to be transported;
 - c. Type of driver operation (i.e., sleeper team, relay, owner operator, etc.); and
 - d. Number of years experience operating each type of commercial motor vehicle requested in the intrastate medical waiver application and total years of experience operating all types of commercial motor vehicles;
 3. Describe the commercial motor vehicles the driver applicant intends to drive:
 - a. Truck, truck tractor, or bus make, model, and year (if known);
 - b. Drive train:
 - i. Transmission type (automatic or manual - if manual, designate number of forward speeds);
 - ii. Auxiliary transmission (if any) and number of forward speeds; and
 - iii. Rear axle (designate single speed, two-speed, or three-speed);
 - c. Type of brake system;
 - d. Steering, manual or power assisted;
 - e. Description of types of trailers (i.e., van, flatbed, cargo tank, drop frame, lowboy, or pole);
 - f. Number of semitrailers or full trailers to be towed at one time;
 - g. For commercial motor vehicles designed to transport passengers, indicate the seating capacity of the commercial motor vehicle; and
 - h. Description of any modifications made to the commercial motor vehicle for the driver applicant, attach photographs where applicable;
 4. Include a certification statement:
 - a. The driver applicant shall certify that the driver applicant is otherwise qualified to drive a commercial motor vehicle under the regulations of 49 CFR 391 as adopted by the Department; and
 - b. In case of a co-applicant, the co-applicant motor carrier shall certify that the driver applicant is otherwise qualified to drive a commercial motor vehicle under the regulations of 49 CFR 391 as adopted by the Department; and
5. Contain signature of each applicant and date signed:
 - a. The driver applicant's signature; and
 - b. The motor carrier official's signature and title if the application has a co-applicant. Depending on the motor carrier's organizational structure (corporation, partnership, or proprietorship), the signer of the application shall be an officer, partner, or the proprietor.
- C. The completed intrastate medical waiver application for a driver applicant not physically qualified to drive under 49 CFR 391.41(b)(1) or (2) shall be accompanied by:
 1. A copy of the medical examination report and medical examination certificate completed pursuant to 49 CFR 391.43;
 2. The Department's medical waiver evaluation summary completed by either a board-qualified or board-certified physiatrist or orthopedic surgeon. The co-applicant motor carrier or the driver applicant shall provide the physiatrist or orthopedic surgeon with a description of the job-related tasks the driver applicant will be required to perform:
 - a. The medical waiver evaluation summary for a driver applicant not physically qualified to drive under 49 CFR 391.41(b)(1) shall include:
 - i. An assessment of the functional capabilities of the driver as they relate to the ability of the driver to perform normal tasks associated with operating a commercial motor vehicle; and
 - ii. A statement by a board-qualified or board-certified physiatrist or orthopedic surgeon that the applicant is capable of demonstrating precision prehension (e.g., manipulating knobs and switches) and power grasp prehension (e.g., holding and maneuvering the steering wheel) with each upper limb separately;
 - b. The medical waiver evaluation summary for a driver applicant not physically qualified to drive under 49 CFR 391.41(b)(2) shall include:
 - i. An explanation as to how and why the impairment interferes with the ability of the applicant to perform normal tasks associated with operating a commercial motor vehicle;
 - ii. An assessment and medical opinion of whether the condition will likely remain medically stable over the lifetime of the driver applicant; and
 - iii. A statement by a board-qualified or board-certified physiatrist or orthopedic surgeon that the applicant is capable of demonstrating precision prehension (e.g., manipulating knobs and switches) and power grasp prehension (e.g., holding and maneuvering the steering wheel) with each upper limb separately;
 3. A description of the driver applicant's prosthetic or orthotic device worn, if any; and
 4. A copy of the driver applicant's state motor vehicle driving record for the past three years from each state in

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which a motor vehicle driver license or permit has been obtained.

D. The completed intrastate medical waiver application for a driver applicant not physically qualified to drive under 49 CFR 391.41(b)(3) shall be accompanied by:

1. A copy of the medical examination report and medical examination certificate completed pursuant to 49 CFR 391.43;
2. An evaluation by a board-certified or board-eligible endocrinologist. A complete endocrinologist evaluation shall consist of:
 - a. A comprehensive evaluation of the applicant's five-year medical history and current status. The applicant shall provide the examining endocrinologist with a complete medical history as it pertains to the applicant's diabetes or its complications or both, including, the date insulin use began, all hospitalization reports, consultation notes for diagnostic examinations, special studies, follow-up reports, reports of any hypoglycemic insulin reactions within the 12 months prior to the date of application, and other reports as requested by the endocrinologist. The evaluation shall also include a review of:
 - i. Daily glucose monitoring logs, glycosylated hemoglobin (A1c) indicating a result in the range of 7% to 10%, including lab reference page performed during the last six months unless recently diagnosed;
 - ii. Insulin dosages and types, diet utilized for control, and all medications taken; and
 - iii. Examinations to detect any peripheral neuropathy or circulatory insufficiency of the extremities;
 - b. A statement that the applicant is free from insulin reactions. Insulin reactions include any severe hypoglycemic reaction, which can be a reaction that results in seizure, loss of consciousness, requiring the assistance of another person, or a period of impaired cognitive function that occurs without warning. To be eligible the applicant must not have hypoglycemia unawareness and must have had no more than one documented severe hypoglycemic reaction in the previous 12 months and must have had:
 - i. No recurrent (two or more) severe hypoglycemic reactions resulting in a loss of consciousness or seizure within the past five years;
 - ii. No recurrent severe hypoglycemic reactions requiring the assistance of another person within the past five years;
 - iii. No recurrent severe hypoglycemic reactions resulting in impaired cognitive functions that occurred without warning symptoms within the past five years; and
 - iv. A period of one year of demonstrated stability following the first period of severe hypoglycemia;
 - c. A statement prepared and signed by the examining endocrinologist whose status as board-certified or board-eligible is indicated. The signed statement shall include separate declarations indicating the following medical determinations:
 - i. The endocrinologist is familiar with the applicant's medical history for the past five years through a records review, treating the patient, or consultation with the treating physician;

- ii. The applicant is able to safely operate a commercial motor vehicle while using insulin; and
- iii. The applicant has been educated in diabetes, including the last education date, and its management and is informed of and understands how to individually manage and monitor the applicant's diabetes mellitus and has demonstrated the ability and willingness to properly monitor and manage the applicant's diabetes and procedures to follow if complications arise;

3. A separate signed vision evaluation report from an ophthalmologist or optometrist indicating that the applicant has been examined and does not have diabetic retinopathy and meets the vision standard of 49 CFR 391.41(b)(10), or has been issued a valid intrastate medical waiver for monocular vision. If the applicant has any evidence of diabetic retinopathy, the applicant must be examined by an ophthalmologist and submit a separate signed statement from the ophthalmologist that the applicant does not have unstable proliferative diabetic retinopathy (i.e. unstable advancing disease of blood vessels in the retina); and
4. A copy of the driver applicant's state motor vehicle driving record for the past three years from each state in which a motor vehicle driver license or permit has been obtained.

E. The completed intrastate medical waiver application for a driver applicant not physically qualified to drive under 49 CFR 391.41(b)(10) shall be accompanied by:

1. A copy of the medical examination report and medical examination certificate completed pursuant to 49 CFR 391.43;
2. A current vision examination report issued within the last 90 days from the date the report is received by the Department, completed by an ophthalmologist or optometrist. The report shall indicate that the applicant has distant visual acuity of at least 20/40 (Snellen), with or without a corrective lens, in one eye, and the applicant's dominant eye has a visual field of at least 70° peripheral measurement in one direction and 35° in the opposite direction of the horizontal meridian and the ability to distinguish the colors of a traffic signal or device showing standard red, green, and amber, as applicable to the type of medical waiver being requested;
3. A copy of the driver applicant's state motor vehicle driving record for the past three years from each state in which a motor vehicle driver license or permit has been obtained; and
4. A statement from the employer that the driver applicant has driven the type of vehicle for which the waiver is being requested for at least two of the previous five years.

F. Agreement. A motor carrier that employs a driver subject to an intrastate medical waiver granted by the Director under subsection (A), whether the waiver was granted unilaterally to the driver, or to the driver and co-applicant motor carrier, shall agree to:

1. Report to the Department's Medical Review Program, P.O. Box 2100, Mail Drop 818Z, Phoenix, Arizona 85001-2100, in writing, any suspension, revocation, disqualification, or withdrawal of the subject driver's driver license or permit, and any accident, arrest, or conviction involving the driver within 30 days after the occurrence;
2. Provide to the Department's Medical Review Program, on request, any documents and information pertaining to the driving activities, accidents, arrests, convictions, and driver license or permit suspensions, revocations, dis-

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- qualifications, or withdrawals involving the subject driver;
 - 3. Evaluate the subject driver with a road test using the trailer types the motor carrier intends the driver to transport, or alternatively accept a certificate of a trailer road test from another motor carrier if the trailer types are similar, or accept the trailer road test completed during the skill performance evaluation if trailer types are similar to that of the prospective motor carrier;
 - 4. Evaluate the subject driver for those non-driving safety related job tasks associated with each type of trailer that will be used and any other non-driving safety related or job related tasks unique to the operations of the employing motor carrier; and
 - 5. Use the subject driver to operate the type of commercial motor vehicle indicated on the intrastate medical waiver only when the driver is in compliance with the conditions and limitations of the waiver.
- G.** A driver subject to an intrastate medical waiver, issued by the Director under subsection (A), shall supply each employing motor carrier with a copy of the intrastate medical waiver.
- H.** The Department may require the driver applicant to demonstrate the driver applicant's ability to safely operate the commercial motor vehicle the driver intends to drive.
- I.** If required by the Department during the application process, a driver applicant shall have a skill performance evaluation performed by a federally-certified state commercial driver license examiner at a Department commercial driver license facility when directed.
- J.** If the Director grants an intrastate medical waiver under subsection (A) to the driver applicant, the Department shall mail to the driver applicant and co-applicant motor carrier (if applicable) written approval of the intrastate medical waiver describing the terms, conditions, and limitations of the waiver.
- K.** The intrastate medical waiver granted by the Director under subsection (A) shall identify:
- 1. The power unit (bus, truck, truck tractor) for which the waiver is granted; and
 - 2. The trailer type used in the skill performance evaluation, if applicable, without limiting the waiver to that specific trailer type.
- L.** A subject driver may use the intrastate medical waiver with other trailer types if the driver successfully completes:
- 1. A trailer road test administered by the motor carrier under subsection (F)(3) for each type of trailer, and
 - 2. A non-driving safety related or job related task evaluation administered by the motor carrier under subsection (F)(4).
- M.** The intrastate medical waiver granted by the Director under subsection (A) is:
- 1. Valid for a period of not more than two years from the date of issuance;
 - 2. Renewable 30 days prior to the expiration date; and
 - 3. Transferable from an original motor carrier co-applicant employer to a new motor carrier employer or to the subject driver, as a unilateral applicant if becoming self-employed, upon written notification to the Department's Medical Review Program, P.O. Box 2100, Mail Drop 818Z, Phoenix, Arizona 85001-2100, stating the new employer's name and the type of equipment to be driven.
- N.** An intrastate medical waiver granted by the Director under subsection (A) to a driver applicant for monocular vision under subsection (E), shall prohibit the subject driver from transporting:
- 1. Passengers for hire; and
 - 2. Reportable quantities of hazardous substances, manifested hazardous wastes, and hazardous material required to be placarded.
- O.** A driver subject to an intrastate medical waiver, issued by the Director under subsection (A), shall have the intrastate medical waiver (or a legible copy) in the subject driver's possession while on duty.
- P.** The motor carrier employing a subject driver shall maintain a copy of the intrastate medical waiver in its driver qualification file and retain the copy in the motor carrier's file for a period of three years after the driver's employment is terminated.
- Q.** A driver subject to an intrastate medical waiver, issued by the Director under subsection (A) to an applicant for insulin-dependent diabetes under subsection (D), must comply with the following conditions:
- 1. Maintain appropriate medical supplies for glucose management while preparing for the operation of a commercial motor vehicle and during its operation. The supplies shall include the following:
 - a. A digital glucose monitor with computerized memory,
 - b. Supplies needed to obtain adequate blood samples and to measure blood glucose,
 - c. Insulin to be used as necessary, and
 - d. An amount of rapidly absorbable glucose to be used as necessary;
 - 2. Maintain a daily record of actual driving time to correlate with the daily glucose measurements;
 - 3. Monitor and maintain blood glucose levels in the range of 100 to 400 milligrams per deciliter (mg/dl) prior to and while driving.
 - a. Check glucose before starting to drive and take corrective action if necessary. If glucose is less than 100 mg/dl, take glucose or food and recheck in 30 minutes. Repeat the process until glucose is greater than 100 mg/dl. Do not drive if glucose is less than 100 mg/dl;
 - b. While driving, stop the vehicle in a safe location and check glucose every two to four hours and take appropriate action to maintain it in the range of 100 to 400 mg/dl;
 - c. Have food available at all times when driving. If glucose is less than 100 mg/dl, stop driving and eat. Recheck in 30 minutes and repeat procedure until glucose is greater than 100 mg/dl; and
 - d. If glucose is greater than 400 mg/dl, stop driving until glucose returns to the 100 to 400 mg/dl range. If more than two hours have passed since last insulin injection and eating, take additional insulin. Recheck blood glucose in 30 minutes. Do not resume driving until glucose is less than 400 mg/dl;
 - 4. Participate in a diabetes education program annually;
 - 5. Undergo the following evaluations and examinations and submit to the Department's Medical Review Program, P.O. Box 2100, Mail Drop 818Z, Phoenix, Arizona 85001-2100, within 10 days of the date of the evaluation or exam:
 - a. A quarterly evaluation completed by a board-certified or board-eligible endocrinologist. A quarterly endocrinologist evaluation shall include a review of the driver's daily glucose logs and glucose levels (from the subject driver's required monitoring device), a comparison of monitoring dates to the driving log to ensure that the subject driver is checking glucose levels prior to operating a commercial motor vehicle, a certifying statement indicating that

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the subject driver is maintaining a glucose level in the range of 100 to 400 mg/dl while driving a commercial motor vehicle, a certifying statement indicating that the subject driver is maintaining a stable insulin regimen and that the subject driver's quarterly A1c result continues to reflect stable control, reports of any severe hypoglycemic episodes, any hypoglycemic-related hospitalization, and any treatment regimen changes since the last hypoglycemic episode;

- b. An annual evaluation completed by a board-certified or board-eligible endocrinologist. In addition to the requirements of a quarterly endocrinologist evaluation under subsection (Q)(5)(a), an annual endocrinologist evaluation shall also include a general physical examination, an indication that the driver has continued to participate in a diabetes education program with the last education date provided, a certifying statement indicating that the driver understands how to individually manage and monitor the driver's diabetes mellitus, an indication of the development of, or progression, or both, in diabetes complications (i.e. renal disease, cardiovascular disease, and neurological disease), a list of all medications taken and whether any of the medications may compromise the driver's ability to operate a commercial motor vehicle, the endocrinologist's belief that the driver has demonstrated the ability and willingness to properly manage the driver's diabetes, and a certifying statement indicating that the driver is able to safely operate a commercial motor vehicle while using insulin;
 - c. An annual vision evaluation report, as prescribed under subsection (D)(3). If there is any evidence of diabetic retinopathy, provide annual documentation by an ophthalmologist that the driver does not have unstable proliferative diabetic retinopathy; and
 - d. An annual medical examination report and medical examination certificate completed pursuant to 49 CFR 391.43. Provide copies of the endocrinologist evaluation and the vision evaluation report to the medical examiner for review; and
6. Report the following information to the Department's Medical Review Program, P.O. Box 2100, Mail Drop 818Z, Phoenix, Arizona 85001-2100, within two days of occurrence:
 - a. All episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; and
 - b. Any involvement in an accident or any other adverse event in a commercial motor vehicle or personal vehicle, related to an episode of hypoglycemia or hyperglycemia.
- R.** A driver subject to an intrastate medical waiver, issued by the Director under subsection (A) to an applicant for monocular vision under subsection (E), must be physically examined every year and shall submit the following to the Department's Medical Review Program, P.O. Box 2100, Mail Drop 818Z, Phoenix, Arizona 85001-2100:
1. A vision examination report issued within the last 90 days from the date the report is received by the Department, as prescribed under subsection (E)(2); and
 2. A current medical examination report and medical examination certificate completed pursuant to 49 CFR 391.43 within the past year.
- S.** A driver subject to an intrastate medical waiver, or a driver subject to an intrastate medical waiver jointly with a motor carrier co-applicant, may renew an intrastate medical waiver by submitting to the Department's Medical Review Program, P.O. Box 2100, Mail Drop 818Z, Phoenix, Arizona 85001-2100, a new intrastate medical waiver application. The intrastate medical waiver application shall contain the following:
1. Name and complete address of the motor carrier currently employing the applicant;
 2. Name and complete address of the subject driver;
 3. Total miles driven under the current intrastate medical waiver;
 4. Number of accidents incurred while driving under the current intrastate medical waiver, including the date of each accident, number of fatalities, number of injuries, and the estimated dollar amount of any property damage;
 5. A current medical examination report and medical examination certificate completed pursuant to 49 CFR 391.43;
 6. A current medical examination or evaluation as applicable to the medical condition:
 - a. A current medical waiver evaluation summary, as prescribed under subsection (C)(2), for a driver with a loss of limb or limb impairment;
 - b. A current endocrinologist evaluation, as prescribed under subsection (D)(2), and a current vision evaluation report, as prescribed under subsection (D)(3), for a driver who is an insulin-dependent diabetic; or
 - c. A current vision examination report, as prescribed under subsection (E)(2), for a driver with monocular vision;
 7. A copy of the subject driver's current state motor vehicle driving record for the period of time the current intrastate medical waiver has been in effect;
 8. Notification of any change in the type of tractor the driver will operate;
 9. Subject driver's signature and date signed; and
 10. Motor carrier co-applicant's signature and date signed (if applicable).
- T.** The Director may deny an application for the intrastate medical waiver or may grant the waiver in whole or in part and issue the waiver subject to such terms, conditions, and limitations as the Director deems consistent with the public interest.
- U.** The Director may revoke an intrastate medical waiver after providing the driver subject to an intrastate medical waiver written notice of the proposed revocation and a reasonable opportunity to request a hearing pursuant to the procedure prescribed under 17 A.A.C. 1, Article 5. The Director may revoke an intrastate medical waiver if the:
1. Driver subject to an intrastate medical waiver, or co-applicant (if applicable), or both provided false information in the application,
 2. Driver subject to an intrastate medical waiver, or co-applicant (if applicable), or both failed to comply with the terms and conditions of the intrastate medical waiver, or
 3. Issuance of the intrastate medical waiver resulted in a lower level of safety than before the waiver was granted.
- V.** If the enforcement of any provision of this Section would result in the loss or disqualification of federal funding for any state agency or program, that provision is invalid.

Historical Note

New Section recodified from R17-4-435.06 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 3249, effective July 10, 2002 (Supp. 02-3). Section repealed; new Section made by final rulemaking at 14 A.A.R. 3797, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 17 A.A.R. 1691, effective August 2, 2011 (Supp. 11-3).

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Amended by final rulemaking at 20 A.A.R. 2382, effective August 5, 2014 (Supp. 14-3).

R17-5-209. Hazardous Materials Transportation: Incorporation of Federal Regulations; Applicability

A. Incorporation of federal regulations.

1. As relevant to the transportation of hazardous materials by highway, the Department incorporates by reference, as amended under this Section, the following Parts of the Federal Hazardous Materials Regulations; revised as of October 1, 2012, and no later amendments or editions, as 49 CFR - Transportation, Subtitle B - Other Regulations Relating to Transportation, Chapter I - Pipeline and Hazardous Materials Safety Administration, Department of Transportation:
 - a. Subchapter A - Hazardous Materials and Oil Transportation; Part 107 - Hazardous materials program procedures; and
 - b. Subchapter C - Hazardous Materials Regulations; Parts:
 - i. 171 - General information, regulations, and definitions;
 - ii. 172 - Hazardous materials table, special provisions, hazardous materials communications, emergency response information, training requirements, and security plans;
 - iii. 173 - Shippers - general requirements for shipments and packagings;
 - iv. 177 - Carriage by public highway;
 - v. 178 - Specifications for packagings; and
 - vi. 180 - Continuing qualification and maintenance of packagings.
2. The material incorporated by reference under this subsection is on file with the Department and is available from the U.S. Government Printing Office, P.O. Box 979050, St. Louis, Missouri 63197-9000. The incorporated material can be ordered online by visiting the U.S. Government Online Bookstore at <http://bookstore.gpo.gov>.

B. Application and exceptions.

1. Application.
 - a. Regulations incorporated under subsection (A) apply as amended by subsection (C) to motor carriers, shippers, and manufacturers as defined under A.R.S. § 28-5201.
 - b. Regulations incorporated under subsection (A) also apply to any vehicle owned or operated by the state, a political subdivision, or a state public authority, used to transport a hazardous material, including hazardous substances and hazardous waste.
2. Exceptions. An authorized emergency vehicle, as defined under A.R.S. § 28-101, is excepted from the provisions of this Section.

C. Amendments. The following sections of the Federal Hazardous Materials Regulations, incorporated under subsection (A), are amended as follows:

1. Part 171, General information, regulations, and definitions. Section 171.8, Definitions and abbreviations. Section 171.8 is amended by revising the definitions for "Carrier," "Hazmat employer," and "Person," and adding a definition for "Highway" as follows:

"'Carrier' means a person engaged in the transportation of passengers or property by highway as a common, contract, or private carrier and also includes the state, a political subdivision, and a state public authority engaged in the transportation of hazardous material."

"'Hazmat employer' means a person who uses one or more employees in connection with: transporting hazard-

ous material; causing hazardous material to be transported or shipped; or representing, marking, certifying, selling, offering, reconditioning, testing, repairing, or modifying containers, drums, or packagings as qualified for use in the transportation of hazardous material. This term includes motor carriers, shippers, and manufacturers defined under A.R.S. § 28-5201 and includes the state, political subdivisions, and state public authorities."

"'Highway' means a public highway defined under A.R.S. § 28-5201."

"'Person' has the same meaning as defined under A.R.S. § 28-5201."

2. Part 172, Hazardous materials table, special provisions, hazardous materials communications, emergency response information, training requirements, and security plans. Section 172.3, Applicability. Paragraph (a)(2) is amended to read: "Each motor carrier that transports hazardous materials, and each state agency, political subdivision, and state public authority that transports hazardous material by highway."
3. Part 177, Carriage by public highway.
 - a. Section 177.800, Purpose and scope of this part and responsibility for compliance and training. In paragraph (a), the phrase "by private, common, or contract carriers by motor vehicle" is amended to read, "by a motor carrier operating in Arizona, a state agency, a political subdivision, or a state public authority that transports hazardous material by highway."
 - b. Section 177.802, Inspection. Section 177.802 is amended to read: "Records, equipment, packagings, and containers under the control of a motor carrier or other persons subject to this part, affecting safety in transportation of hazardous material by motor vehicle, must be made available for examination and inspection by an authorized representative of the Department as prescribed under A.R.S. §§ 28-5204 and 28-5231."

Historical Note

New Section recodified from R17-4-436 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 3249, effective July 10, 2002 (Supp. 02-3). Amended by final rulemaking at 9 A.A.R. 1867, effective June 3, 2003 (Supp. 03-2). Amended by final rulemaking at 13 A.A.R. 1262, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 17 A.A.R. 1691, effective August 2, 2011 (Supp. 11-3). Amended by final rulemaking at 20 A.A.R. 2382, effective August 5, 2014 (Supp. 14-3).

R17-5-210. Motor Carrier Safety: Public Service Corporation, Political Subdivision of this State that is Engaged in Rendering Public Utility Service, or Railroad Contacting State Officials in an Emergency

- #### **A.**
- A public service corporation, a political subdivision of this state that is engaged in rendering public utility service, or a railroad shall notify Commercial Vehicle Enforcement, through the Arizona Department of Public Safety Duty Office, that an emergency situation under A.R.S. § 28-5234(B) exists. Notification shall be made on a form provided by the Arizona Department of Public Safety and sent by fax transmission to (602) 223-2929 immediately, but in no case longer than three hours from the time the public service corporation, political subdivision of this state that is engaged in rendering public utility service, or railroad determines that the emergency situation exists. The information to be provided includes:

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1. Date of the emergency situation,
 2. Time that the emergency situation started,
 3. Description of the emergency situation,
 4. Location of the emergency situation,
 5. Projected duration of the emergency situation,
 6. Authorized party's signature for determining that an emergency situation exists,
 7. Name and contact number of responsible party in the field, and
 8. The utility's self-generated Emergency ID or tracking number.
- B.** A public service corporation, a political subdivision of this state that is engaged in rendering public utility service, or a railroad shall maintain supporting documentation for no less than three years from the date of an emergency situation and shall make the supporting documentation available to a special agent upon request. Supporting documentation includes:
1. A list of drivers involved in the emergency situation;
 2. The duration of the emergency situation;
 3. The off-duty time provided for the affected drivers after the emergency situation concluded; and
 4. Any United States Department of Transportation recordable accidents, as defined under 49 CFR 390.5, which occurred during the emergency situation.
- C.** After an emergency situation terminates and a driver returns to the principal place of business, the driver shall not drive a commercial motor vehicle unless the driver remains off duty under 49 CFR 395.

Historical Note

New Section recodified from R17-4-438 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 7 A.A.R. 4259, effective September 13, 2001 (Supp. 01-3). Section repealed by final rulemaking at 8 A.A.R. 3249, effective July 10, 2002 (Supp. 02-3). New Section made by final rulemaking at 11 A.A.R. 862, effective February 1, 2005 (Supp. 05-1). Amended by final rulemaking at 17 A.A.R. 1691, effective August 2, 2011 (Supp. 11-3).

R17-5-211. Motor Carrier Safety: Inspection, Enforcement, Sanction

- A.** Scope. This Section applies to any transporter subject to:
1. R17-5-201 through R17-5-209; and
 2. A.R.S. Title 28, Chapter 14.
- B.** Audits.
1. The Department may conduct an audit for cause or without cause.
 2. The Department may enter the premises of any transporter for the purpose of conducting an audit.
 3. The Department may inspect a motor vehicle:
 - a. Within Arizona at:
 - i. A transporter's place of business, or
 - ii. Any other in-state location, or
 - b. Outside Arizona at a transporter's place of business.
 4. A transporter shall make records available for audit:
 - a. During the transporter's normal business hours, and
 - b. In a specific location as follows:
 - i. The transporter's Arizona place of business, or
 - ii. Either an Arizona location designated by the Director or the transporter's out-of-state place of business.
 5. The Department shall charge a transporter in advance for all expenses to be incurred in performance of an out-of-state audit.
- C.** Violation notification. Within five days after audit completion, the Department shall notify an audited transporter in writing of

all violations. The notification shall specify a deadline date for remedy of all violations.

- D.** Obligation to remedy violations. After receipt of a violation notification, a transporter shall remedy all violations by the specified date to comply with:
1. R17-5-201 through R17-5-209; and
 2. A.R.S. Title 28, Chapter 14.
- E.** Noncompliance: Failure to remedy violations. If the Department determines a transporter does not remedy a violation by the date specified in a violation notice, the Department shall initiate further enforcement action as prescribed under A.R.S. §§ 28-5237 and 28-5238.
- F.** Danger to public safety. If the Director determines a written violation report establishes probable cause of danger to public safety, the Director shall issue an order by 5:00 p.m. the next business day suspending the Arizona registration of the motor vehicle owned or leased by the transporter, or a driver's Arizona driver license or nonresident driving privilege.

Historical Note

New Section recodified from R17-4-439 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 7 A.A.R. 4259, effective September 13, 2001 (Supp. 01-3). Amended by final rulemaking at 17 A.A.R. 1691, effective August 2, 2011 (Supp. 11-3). Amended by final rulemaking at 20 A.A.R. 2382, effective August 5, 2014 (Supp. 14-3).

R17-5-212. Motor Carrier Safety: Hearing Procedure

- A.** Scope.
1. This Section applies only to a motor carrier enforcement action under:
 - a. R17-5-201 through R17-5-209; and
 - b. A.R.S. Title 28, Chapter 14.
 2. In an enforcement hearing involving a manufacturer, motor carrier, shipper, or driver under this Section, the Department shall follow the procedures prescribed under 17 A.A.C. 1, Article 5, except as modified under subsections (B) through (I).
- B.** Initiation of proceedings, pleadings.
1. The Director shall initiate a hearing under this Section by:
 - a. Signing and serving a complaint in the form prescribed under subsection (G) that cites a manufacturer, motor carrier, shipper, or driver for an alleged infraction; and
 - b. Serving the cited manufacturer, motor carrier, shipper, or driver with a hearing notice within 15 days after the date the complaint is signed.
 2. After the Director signs a complaint, the Executive Hearing Office shall act on the Director's behalf through completion of an administrative proceeding under this Section.
- C.** Order to show cause.
1. When a complaint is served, the Executive Hearing Office shall immediately issue a summons for a respondent to appear at an administrative hearing to explain why the Executive Hearing Office should not grant the requested relief.
 2. The Executive Hearing Office shall hold a hearing under this Section within 60 days after the date the complaint is served.
 3. The parties may resolve a complaint before the hearing date.
 - a. The respondent shall file any settlement condition with the Executive Hearing Office.

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- b. Complaint settlement terminates the right of both petitioner and respondent to receive additional administrative review.
- D. Service.**
 - 1. The Executive Hearing Office shall:
 - a. Send an order to show cause by certified mail as prescribed under A.R.S. § 28-5232(B), and
 - b. Maintain a proof-of-service file.
 - 2. The date of service is the date of mailing.
- E. Answer.**
 - 1. Within 15 days after service of a complaint, a respondent shall respond to the complaint by:
 - a. Filing a written answer with the Executive Hearing Office; and
 - b. Serving the Assistant Attorney General, Transportation Division, representing the Department with a copy of the answer.
 - 2. A respondent's written answer shall contain:
 - a. An admission or denial of each complaint allegation, and
 - b. A list of all defenses that the respondent intends to raise during the hearing.
 - 3. In a hearing, the Executive Hearing Office shall consider any allegation not denied in the answer as an admission to the allegation.
- F. Default.**
 - 1. The Executive Hearing Office shall find in default a respondent that fails to file an answer within 15 days after the service date of a complaint.
 - 2. If the Executive Hearing Office finds a respondent in default, the Executive Hearing Office shall:
 - a. Consider the respondent's default as an admission of all complaint allegations unless the default is cured under subsection (F)(3), and
 - b. Enter an order granting the relief requested in the Department's complaint.
 - 3. A respondent may cure a default by following Rule 60(c) of the Arizona Rules of Civil Procedure.
- G. Emergency motor carrier hearings; scope.**
 - 1. The Director shall initiate an emergency motor carrier hearing process according to R17-5-211(E) by:
 - a. Issuing a complaint and order to show cause according to the hearing scope under A.R.S. § 28-5232(C); and
 - b. Ordering immediate suspension of the registration of the motor vehicle owned or leased by the manufacturer, shipper, or motor carrier, or the driver license or driver's nonresident operating privilege, as prescribed under A.R.S. § 28-5232(A).
 - 2. The Executive Hearing Office shall set an emergency hearing date to occur within 30 days after the date on the complaint.
 - 3. The complaint and order to show cause shall contain the following:
 - a. The Department as the designated petitioner on the state's behalf;
 - b. The respondent's name and the basis of fact for the complaint, including a listing of any alleged violation of Department statute or rule;
 - c. The relief sought by the Department; and
 - d. An original copy of the written violation notice issued by a law enforcement agency that was served upon the respondent.
 - 4. At an emergency motor carrier hearing, an Executive Hearing Office administrative law judge shall determine whether the respondent:
 - a. Was operating on a public highway and the operation created a danger to the public safety,
 - b. Was responsible for the danger, and
 - c. Is responsible for preventing or remedying further danger to public safety.
 - 5. Upon a finding that the factors in subsection (G)(4) are present, the administrative law judge shall order that the motor carrier's registration and operator's driver license or driver's nonresident operating privilege suspension continue.
 - 6. If a respondent fails to appear at an emergency motor carrier hearing, any suspension previously ordered remains in effect until the respondent appears and meets all requirements under A.R.S. § 28-5232(F).
- H.** Upon a finding that the factors in subsection (G)(4) are present, the Director shall impose a civil penalty as prescribed under A.R.S. §§ 28-5232, 28-5237 and 28-5238.
- I.** A respondent may request judicial review of a motor carrier safety hearing as prescribed under A.R.S. § 28-5239.

Historical Note

New Section recodified from R17-4-440 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 4230, effective November 15, 2002 (Supp. 02-3). Amended by final rulemaking at 17 A.A.R. 1691, effective August 2, 2011 (Supp. 11-3).

ARTICLE 3. PROFESSIONAL DRIVER SERVICES**R17-5-301. Definitions**

In addition to the definitions under A.R.S. §§ 28-101 and 32-2351, the following definitions apply to this Article, unless otherwise specified:

"Activity" means a function or service that is provided by a licensed professional driver training school pursuant to A.R.S. Title 32, Chapter 23 or licensed traffic survival school pursuant to A.R.S. Title 28, Chapter 8, Article 7.1 and that is performed by a professional driver training school instructor or traffic survival school qualified instructor as defined in this Article.

"Applicant" means an individual or school, including principals, requesting in the manner set forth in this Article the issuance or renewal of a license or to become a qualified instructor under A.R.S. Title 28, Chapter 8, Article 7.1 or Title 32, Chapter 23 and this Article.

"Application date" means the date the Department or private entity receives a signed application from an applicant.

"Audit" means a review of the operations, facilities, equipment, and records of a licensee under this Article, which is performed by the Department or private entity under A.R.S. § 28-3411 or 32-2352 to assess and ensure compliance with all applicable federal and state laws and rules.

"Branch" means a licensed professional driver training school's or licensed traffic survival school's business location that is an additional established place of business, but not the school's principal place of business.

"Business day" means a day other than a Saturday, Sunday, or legal state holiday.

"Business manager" means an owner or employee of a licensed school who has primary and sufficient oversight, supervision, and responsibility for all operations necessary to ensure full compliance with all applicable federal or state laws, rules, and school guidelines.

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“Certificate of completion” means an electronic or paper document that is approved by the Department or private entity and that is issued by a traffic survival school or high school qualified instructor to a student who has demonstrated successful completion of a training or educational session or both conducted under this Article.

“Character and reputation” means a person:

- Has not been convicted of a class 1 or 2 felony by a court of competent jurisdiction,
- Has not within five years of application date been convicted of any other felony or misdemeanor offense having a reasonable relationship to the functions of the activity or the employment or category for which the qualification is sought, and
- Has not within 12 months of application date had an application or an examination required for license or qualification under this Chapter denied or revoked due to fraud or misrepresentation.

“Commercial driver license motor vehicle record” has the same meaning as a CDLIS motor vehicle record as defined in 49 CFR 384.105.

“Department-approved inventory” means educational media and related items or other resources provided and approved by the Department or private entity that are deemed necessary or useful for traffic survival school instruction, which includes curriculum, computer disks or drives, classroom training materials, instructor workbooks, instructor training manuals, or other materials, whether stored in paper or electronic formats.

“Established place of business” means a licensed professional driver training school’s or licensed traffic survival school’s business location that is:

- Approved by the Department,
- Located in Arizona,
- Not used as a residence, and
- Where the licensed school performs licensed activities.

“Good standing” means an applicant:

- Has not had a similar business license, qualification, or approval suspended, revoked, canceled, or denied within the previous three years of the application date;
- Does not have any pending corrective action, as defined under R17-5-323, relating to a Department-issued business license, qualification, or approval;
- Has not had a fingerprint clearance card required for licensure under this Article suspended, revoked, or canceled;
- Does not owe delinquent fees, taxes, or unpaid balances to the Department or private entity;
- Has not had any substantiated derogatory information relevant to the requested license reported to the Department about the applicant from any state agency contacted by the Department; or
- Has not been dismissed, or resigned in lieu of dismissal, from a position for cause following allegations of misconduct having a reasonable relationship to the person’s proposed area of licensure or qualification, if the applicant is a former Department employee or a former principal or employee of a licensed professional driver training school or licensed traffic survival school.

“Immediate family member” has the same meaning as prescribed in A.R.S. § 28-2401.

“Inactivation” or “inactive” means a temporary or permanent status, assigned by the Department to a school previously

licensed under this Article, which prohibits the school from further engaging in the previously licensed activity after the occurrence of any of the following actions:

- Cancellation of license, as defined in R17-5-323;
- Suspension of license, as defined in R17-5-323;
- Revocation of license, as defined in R17-5-323;
- Non-renewal of license; or
- Relinquishment of license.

“Licensee” means a school licensed by the Department or private entity under A.R.S. § 28-3413 or 32-2371 and this Article, to perform a licensed activity.

“Principal” means any of the following:

- If a sole proprietorship, the sole proprietor;
- If a partnership, limited partnership, limited liability partnership, limited liability company or corporation, the:
 - Partner;
 - Manager;
 - Member;
 - Officer;
 - Director;
 - Agent; or
- If a limited liability company or corporation, each stockholder owning 20 percent or more of the limited liability company or corporation; or
- If a political subdivision or government agency, the political subdivision or agency head.

“Principal place of business” means a licensed professional driver training school’s or licensed traffic survival school’s administrative headquarters, which shall not be used as a residence.

“Private entity” means an entity that contracts with the Department under A.R.S. § 28-3411 or 32-2352.

“Professional driver training school instructor” means an individual meeting the qualifications under R17-5-303 who can present specific training and educational curriculum to professional driver training school students as provided under this Article.

“Satisfactory driver record” means an applicant has not had within the past 39 months:

- A conviction for driving under the influence, reckless or aggressive driving, racing on a highway, or leaving the scene of an accident;
- A driver license previously canceled, suspended, revoked, or disqualified for any reason except for failing to meet or maintain the commercial driver license physical qualifications under 49 CFR 391.41 and A.A.C. R17-4-508; and
- More than three previous assignments to attend traffic survival school and no pending assignment.

“Traffic survival school qualified instructor” means an individual deemed qualified by the Department or private entity under this Article to conduct instruction of an education session on behalf of a licensed traffic survival school.

Historical Note

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2). Amended by final rulemaking at 23 A.A.R. 2045, effective September 5, 2017 (Supp. 17-3).

R17-5-302. Professional Driver Training School and Traffic Survival School Licensing; Eligibility and Application Require-

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ments

- A.** An applicant for a professional driver training school or traffic survival school license, issued by the Department or private entity under A.R.S. § 28-3411 or 32-2371 and this Section, shall meet all applicable licensing requirements under state law and this Article when applying for an original or renewal license.
- B.** An applicant for a professional driver training school or traffic survival school license shall complete and submit to the Department or private entity an application packet that contains all of the following:
 - 1. An application, completed on a form approved by the Department;
 - 2. Certification that each classroom used for the instruction of students is maintained in compliance with all applicable fire codes and local zoning ordinances;
 - 3. Certification that each classroom used for the instruction of students meets the accessibility requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), as amended;
 - 4. A copy of the following documents relating to the applicant's business if the applicant is a:
 - a.** Corporation:
 - i. A copy of the articles of incorporation, including any amendments filed with the Arizona Corporation Commission; and
 - ii. Any other official documents, including copies of board meeting minutes and annual reports that reflect the most recent change to the corporate name, structure, or officers;
 - b.** Limited liability company:
 - i. A copy of the articles of organization, including any amendments filed with the Arizona Corporation Commission; or
 - ii. A copy of the application for registration as a foreign limited liability company filed with the Arizona Corporation Commission and a copy of the certificate of registration issued by the Arizona Corporation Commission to a foreign limited liability company;
 - c.** Limited partnership or a limited liability partnership:
 - i. A copy of a valid certificate of existence issued by the Arizona Office of the Secretary of State;
 - ii. A copy, stamped "filed" by the Arizona Office of the Secretary of State, of a certificate of limited partnership, certificate of foreign limited partnership, limited liability partnership form, foreign limited liability partnership form, or statement of qualification for conversion of limited partnership or limited liability partnership; or
 - iii. A copy of a valid trade name certificate issued by the Arizona Office of the Secretary of State; or
 - d.** Sole proprietor:
 - i. A copy of a valid certificate of existence issued by the Arizona Office of the Secretary of State, or
 - ii. A copy of a valid trade name certificate issued by the Arizona Office of the Secretary of State;
 - 5. The name and Arizona address of the school's statutory agent, as designated in the articles of incorporation, if the applicant is a corporation;
 - 6. Documentation prescribed under A.R.S. § 41-1080 indicating that each applicant's presence in the United States is authorized under federal law if the applicant is an individual, a sole proprietor, or part of a general partnership;
 - 7. Payment of the license fees prescribed under A.R.S. § 28-3415 or 32-2374 for each activity requested; and
 - 8. A form, approved by the Department, completed for each branch license, if applicable, and accompanied by payment of any applicable branch license fees prescribed under A.R.S. § 28-3415 or 32-2374.
- C.** An applicant shall not use the following in any part of its school name, which is subject to approval by the Department or private entity:
 - 1. The terms "Arizona Department of Transportation," "Department of Transportation," "Motor Vehicle Division," "Motor Vehicle Department," "Division of Motor Vehicles," or "Department of Motor Vehicles;" or
 - 2. The acronyms "ADOT," "DOT," "MVD," or "DMV."
- D.** Professional driver training school applicants must provide the following additional documents with the school's application packet:
 - 1. A copy of the school's complete curriculum, including a sample of all written examinations and answer keys, unless the curriculum is provided by the Department or private entity;
 - 2. Verification of liability insurance coverage reflecting at least the minimum amount prescribed under A.R.S. § 32-2393 for each motor vehicle used to provide instruction; and
 - 3. Diagrams detailing a minimum of three separate behind-the-wheel final evaluation routes with a written narrative indicating all required maneuvers, if the applicant will be providing behind-the-wheel driver training.

Historical Note

New Section recodified from R17-4-512 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section amended by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2). Amended by final rulemaking at 23 A.A.R. 2045, effective September 5, 2017 (Supp. 17-3).

R17-5-303. Professional Driver Training School Instructor Qualifications and Requirements

- A.** A professional driver training school instructor shall:
 - 1. Work for a professional driver training school licensed by the Department or private entity under A.R.S. § 32-2371 and R17-5-302,
 - 2. Possess a valid Arizona commercial driver license with applicable endorsements representative of the vehicle to be used in training,
 - 3. Meet the character and reputation requirements as defined in R17-5-301, and
 - 4. Meet all applicable instructor requirements under state law and this Article.
- B.** Each professional driver training school licensed under A.R.S. § 32-2371 and this Article shall maintain a file for each professional driver training school instructor that contains the following:
 - 1. A copy of a valid Arizona commercial driver license with applicable endorsements representative of the vehicle to be used in training, and
 - 2. An annual commercial driver license motor vehicle record which indicates the instructor has maintained a satisfactory driver record as defined in R17-5-301.
- C.** A business manager of a professional driver training school licensed under A.R.S. § 32-2371 and this Article shall submit to the Department or private entity a list of all of its professional driver training school instructors, including full name

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and commercial driver license number, at the time of hiring the instructors, within 10 calendar days of making any changes to the instructors as required under R17-5-310, and when renewing the school license as required under R17-5-309.

Historical Note

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2). Amended by final rulemaking at 23 A.A.R. 2045, effective September 5, 2017 (Supp. 17-3).

R17-5-304. Fingerprint Background Check; Fingerprint Clearance Card

- A. An applicant for a license issued under A.R.S. Title 28, Chapter 8, Article 7.1 or Title 32, Chapter 23, Article 2 and this Article, as applicable, shall:
 1. Successfully complete a fingerprint background check conducted by the Arizona Department of Public Safety under A.R.S. § 41-1758.01, and
 2. Submit to the Department or private entity a copy of the fingerprint clearance card issued to the applicant under A.R.S. § 41-1758.03 as part of the application packet.
- B. An applicant is responsible for all costs associated with obtaining the fingerprint clearance card.
- C. A licensee, as applicable, shall maintain a valid fingerprint clearance card while licensed under this Article, and shall provide written notice to the Department or private entity within 10 calendar days if the fingerprint clearance card is cancelled, suspended, or revoked.

Historical Note

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2).

R17-5-305. Traffic Survival School Qualified Instructor Status; Eligibility and Application Requirements

- A. An applicant for traffic survival school qualified instructor status shall:
 1. Apply through a traffic survival school licensed by the Department or private entity under A.R.S. § 28-3413 and this Article,
 2. Possess a valid Arizona driver license,
 3. Meet all applicable requirements under this Article, and
 4. Meet the good standing and character and reputation requirements as defined in R17-5-301.
- B. Each traffic survival school qualified instructor applicant shall complete an application packet that contains the following:
 1. An application, completed on a form approved by the Department;
 2. A copy of a valid Arizona driver license;
 3. Documentation prescribed under A.R.S. § 41-1080 indicating that the applicant's presence in the United States is authorized under federal law;
 4. A motor vehicle record, dated within 30 days of the application date, which indicates that the applicant maintained a satisfactory driver record as defined in R17-5-301;
 5. An affidavit from the business manager of the traffic survival school certifying that the qualified instructor applicant has the necessary skills and abilities to give instruction at a professional level; and
 6. Payment of authorized fees as required by the private entity for application and administration of the instructor qualification process and for required instructor continuing education, which shall be negotiated by the Department and the private entity and shall be set forth in their contract.

- C. An applicant for instructor qualification shall have successfully completed a traffic survival school educational workshop or similar curriculum approved by the Department or private entity before being permitted to instruct any traffic survival school course.
- D. An applicant for instructor qualification shall have successfully completed an examination given for qualification of instructors by the Department or private entity as required under R17-5-306 before being permitted to instruct any traffic survival school course.
- E. A business manager of a traffic survival school licensed under A.R.S. § 28-3413 and this Article shall submit to the Department or private entity the complete application packet for each qualified instructor applicant.

Historical Note

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2). Amended by final rulemaking at 23 A.A.R. 2045, effective September 5, 2017 (Supp. 17-3).

R17-5-306. Required Training and Examination of School and Instructor Applicants

- A. An applicant for traffic survival school instructor qualification under this Article shall attend Department-approved training and shall pass one or more required examinations administered by the Department or private entity.
- B. The Department or private entity shall limit a traffic survival school qualified instructor applicant to three opportunities within 90 days, based on scheduling, to successfully complete and achieve a passing score or grade on each examination required under this Section.

Historical Note

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2). Amended by final rulemaking at 23 A.A.R. 2045, effective September 5, 2017 (Supp. 17-3).

R17-5-307. Approval or Denial of Application; Hearing; Appeal

- A. An application will not be approved by the Department or private entity unless it is properly and fully completed with all required supporting documents and applicable fees as identified in this Article.
- B. The Department or private entity shall provide written notification to the professional driver training school or traffic survival school of the approval or denial of a license or traffic survival school instructor qualification. A notice denying the applicant a license or qualification under this Article shall specify the basis for denial and indicate that the applicant may request a hearing on the denial with the Department's Executive Hearing Office within 30 calendar days of the date on the notice unless the application is withdrawn by the applicant.
- C. The Department or private entity may deem a traffic survival school instructor applicant qualified when a completed application is received and the applicant has successfully completed all required training and examinations.
- D. Unless the application is withdrawn by the applicant, the Department or private entity may deny an application in which the applicant has:
 1. Failed to have or to document a satisfactory driver record as required under R17-5-305, as applicable;
 2. Failed to meet the good standing or character and reputation requirements of the Department as defined in R17-5-301;

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3. Failed to meet the fingerprint clearance card requirement under R17-5-304, as applicable;
 4. Made a material misrepresentation or misstatement on the application;
 5. Violated a federal or state law or rule reasonably related in a business context to the authority applied for; or
 6. Failed to complete all applicable application requirements under this Article.
- E. If timely requested by an applicant under subsection (B), the Department shall schedule and conduct a hearing as prescribed under A.R.S. Title 41, Chapter 6, Article 6 and 17 A.A.C. 1, Article 5 for denial of a license.
- F. An applicant whose application was previously denied by the Department or private entity for making a material misrepresentation or misstatement on the application is not eligible to reapply for 12 months from the date of previous denial.

Historical Note

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2). Amended by final rulemaking at 23 A.A.R. 2045, effective September 5, 2017 (Supp. 17-3).

R17-5-308. License Issuance; Effective Date; Expiration; Display

- A. The Department or private entity may issue the following licenses upon determining an applicant meets all eligibility and application requirements provided under A.R.S. Title 28, Chapter 8, Article 7.1 or Title 32, Chapter 23 and this Article:
1. Professional driver training school,
 2. Traffic survival school, and
 3. Established place of business (branch).
- B. The Department or private entity shall license only a school that employs or contracts at least one professional driver training school instructor who meets the qualifications under this Article or at least one currently qualified traffic survival school instructor, as applicable.
- C. A license issued under this Article is:
1. Effective on the date of issuance;
 2. Effective until its expiration on the last day of each calendar year, except:
 - a. A license subject to an active duty military extension shall expire as provided under A.R.S. § 32-4301, and
 - b. A license subject to an individual's limited length of authorized stay shall expire immediately if the individual's presence in the United States is no longer authorized under federal law; and
 3. Nontransferable under any circumstances.
- D. A licensed school shall prominently and publicly display all licenses currently in effect at the school's principal place of business.
- E. A school shall surrender to the Department or private entity within three business days after the date of any license inactivation, as defined in R17-5-301, all:
1. Licenses;
 2. Records pertaining to the school's operations and the training of students; and
 3. Department-approved inventory, as applicable and as defined in this Article.

Historical Note

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2). Amended by final rulemaking

at 23 A.A.R. 2045, effective September 5, 2017 (Supp. 17-3).

R17-5-309. Renewal of License

- A. A completed renewal, consisting of the following, shall be submitted to the Department or private entity a minimum of 30 calendar days prior to license expiration, notwithstanding A.A.C. R17-1-102, failure to submit a renewal prior to December 1st shall result in the applicant being subject to all original licensing requirements:
1. A renewal application, completed on a form approved by the Department, including:
 - a. An updated list of all principals, instructors, contracted personnel, and employees of the school who are responsible for Arizona school operations, including full name and driver license number; and
 - b. The signature of all current principals on the completed application; and
 2. Payment of applicable license fees prescribed under A.R.S. § 28-3415 or 32-2374, for each activity and branch.
- B. Notwithstanding A.R.S. § 28-3415 or 32-2374, an annual license issued by the Department or private entity under this Article during the month of December shall not expire until the last day of the subsequent calendar year.

Historical Note

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2). Amended by final rulemaking at 23 A.A.R. 2045, effective September 5, 2017 (Supp. 17-3).

R17-5-310. Modifications of Original Application Information

- A. A licensee or traffic survival school qualified instructor, making or learning of any change in the content of its original application information, other than ownership, shall provide written notification of the change, completed on a form approved by the Department and signed by a principal or business manager, to the Department or private entity within two business days of making the change.
- B. A licensed school making a change to a principal or corporate structure shall submit to the Department or private entity a new application for licensing under this Article and all applicable fees, as a new applicant for licensure, within 10 calendar days of making the change.
- C. A licensed school submitting a new application to the Department or private entity, as provided under subsection (B), is subject to the fingerprint clearance card requirement under R17-5-304 unless a valid fingerprint clearance card is already on file with the Department.
- D. A licensed school shall provide written or electronic notification on a form, approved by the Department, to the Department or private entity within 10 calendar days of making any changes to the licensee's contact person, business manager, or instructors.

Historical Note

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2).

R17-5-311. Professional Conduct; Conflicts of Interest; Advertising

- A. A professional driver training school or traffic survival school representative or instructor shall not:

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1. Accompany a student into any Department office or office of an authorized third party driver license or driver license training provider; or
 2. Solicit an individual for any purpose on any premises rented, leased, operated, or owned by the Department or by an authorized third party driver license or driver license training provider.
- B.** A licensee or traffic survival school qualified instructor shall maintain good standing with the Department at all times while licensed or qualified by the Department or private entity under this Article.
- C.** A licensee shall not delegate or subcontract any licensed activity authorized by the Department or private entity under this Article.
- D.** The Department may take corrective action as provided under R17-5-321 and R17-5-323 if the Department or private entity determines or has reason to believe that a licensee or instructor has demonstrated unethical conduct in the performance of official duties, including:
1. Verbally abusing, intimidating, or sexually harassing a student or potential student; or
 2. Making a false statement that is material to the activities regulated in this Article to any personnel of the Department or private entity.
- E.** A school shall use for all licensed activities and related advertising purposes only its official business name or its doing-business-as name as indicated on the license issued under this Article.
- F.** A licensee shall not represent or imply that it is the state of Arizona, the Department, the Motor Vehicle Division, or any government agency in any printed or electronic advertising or promotional material, except to the extent expressly authorized by the Department.
- G.** Licensee advertising shall not in any way:
1. Contain false, deceptive, or misleading information;
 2. Imply that the licensee can issue or guarantee issuance of a driver license or endorsement;
 3. Imply that the licensee can influence the Department or an authorized third party provider in the issuance of a driver license or endorsement;
 4. Imply that the licensee can provide any activity the licensee is not licensed by the Department or private entity to perform;
 5. Imply that preferential or advantageous treatment by the Department can be obtained; or
 6. Use or contain a term prohibited under R17-5-302(C).
- H.** A school licensed by the Department or private entity under this Article may state in its advertising that it is "licensed" or "qualified" by the Department, but shall not indicate that the school is approved, sanctioned, or in any other way endorsed or recommended by the Department.
- I.** All printed or electronic advertising or promotional material used, issued, or published by a licensee must be pre-approved by the Department or private entity.
- J.** An instructor, in any official capacity as an instructor or for compensation, shall not provide any classroom instruction or skills training for an immediate family member or a principal or employee of any school that employs the instructor.
- K.** A full-time employee of the state of Arizona shall not receive any direct pecuniary payments from any fees paid by those who attend a licensed school.

Historical Note

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2). Amended by final rulemaking

at 23 A.A.R. 2045, effective September 5, 2017 (Supp. 17-3).

R17-5-312. Cancellation and Continuity of Services to Participants

- A.** A principal of a school ceasing operations or cancelling courses for any reason shall ensure continuity of services to each student currently enrolled in courses as follows:
1. A principal shall notify each student currently scheduled for, or enrolled in, a course that the school will be unable to provide the services previously offered 72 hours before the scheduled course; and
 2. A principal shall refund within four business days any payment received by the school for a course not yet provided.
- B.** A principal of a school ceasing operations shall provide to the Department or private entity, upon request, a written list of all students notified under subsection (A) with an explanation of the final resolution reached as a result of the principal's contact with the student.
- C.** A principal's failure to provide continuity of services to enrolled students as provided under this Section may result in the loss of the principal's status of good standing with the Department.

Historical Note

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2).

R17-5-313. Method of Instruction; Curriculum

- A.** An instructor shall teach only curriculum approved by the Department or private entity to a student attending a class.
- B.** An instructor shall not conduct personal business during a time designated for instruction.
- C.** An instructor shall not solicit students during training classes for businesses other than those licensed by the Department or private entity.
- D.** A school or instructor shall ensure that a student has both fully attended and successfully completed a course before issuing a certificate of completion to the student.
- E.** A licensed traffic survival school must use all equipment required by the Department or private entity to present the curriculum to the students, including at a minimum, a computer, a PowerPoint compatible projector, a DVD player, and a display monitor visible to all students.
- F.** Professional driver training school approved curriculum. The Department shall approve, and may modify, in writing, a uniform curriculum that the professional driver training school shall teach as applicable for each activity the licensee is authorized to perform. The curriculum shall be a standard course of instruction used by a professional driver training school for the training and education of students.
- G.** Traffic survival school approved curriculum. The Department shall approve, and may modify, in writing a uniform curriculum that the traffic survival school shall teach. The curriculum shall be selected and approved on the basis of effectiveness in improving the safety and habits of drivers.

Historical Note

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2). Amended by final rulemaking at 23 A.A.R. 2045, effective September 5, 2017 (Supp. 17-3).

R17-5-314. Certificate of Completion

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- A. A qualified instructor for traffic survival school or high school driver education program shall accurately complete all required information on a certificate of completion:
 - 1. The instructor providing the training listed on the certificate of completion shall sign the document once training is complete, or
 - 2. The instructor providing the final instruction or test shall sign the certificate of completion if training is provided by multiple instructors.
- B. A qualified instructor shall provide a certificate of completion to the student at the conclusion of the course. A traffic survival school qualified instructor shall print the certificate of completion from the web site of the Department's private entity or the Department's web site, as applicable.
- C. A high school qualified instructor shall not make a correction to a certificate of completion. If an error is made, the high school qualified instructor shall:
 - 1. Void the certificate of completion,
 - 2. Write the word "VOID" or "VOIDED" clearly on the face of each voided certificate of completion, and
 - 3. Issue a new certificate of completion.
- D. The Department may elect not to accept a certificate of completion that contains an alteration, erasure, correction, or illegible information.
- E. A school or qualified instructor shall not withhold timely issuance of a certificate of completion due to a payment dispute between the school and the student.

Historical Note

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2).

R17-5-315. Record Retention

- A. A licensed traffic survival school shall electronically transmit proof of course completion immediately following each student's satisfactory completion of a traffic survival school course in a manner and with the basic computer equipment prescribed by the Department or private entity. At a minimum, the computer equipment must be able to temporarily store, and electronically transmit over the internet, the certificates of completion required by the Department or private entity.
- B. All records pertaining to a licensed school's operations and training of students shall be:
 - 1. Stored and securely maintained at the licensee's principal place of business,
 - 2. Available for inspection by the Department or private entity during business hours, and
 - 3. Retained by the school for three years from the date of course completion.
- C. A licensed school shall establish and maintain separate records for each authorized activity.
- D. A licensed school shall maintain, for three years, attendance records for each class conducted.

Historical Note

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2). Amended by final rulemaking at 23 A.A.R. 2045, effective September 5, 2017 (Supp. 17-3).

R17-5-316. Traffic Survival School Department-Approved Inventory

- A. A traffic survival school licensed under this Article shall:
 - 1. Prohibit public or other unauthorized access to all Department-approved inventory, and

- 2. Submit to the Department or private entity a written report detailing the circumstances surrounding the loss or theft of any missing or stolen Department-approved inventory.
- B. A licensee shall use only Department-approved inventory.
- C. A school principal or business manager shall submit to the Department or private entity a written or electronic request for any additional Department-approved inventory the school may require.

Historical Note

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2).

R17-5-317. School Responsibilities

While licensed by the Department or private entity under A.R.S. § 28-3413 or 32-2371 and this Article, the school shall:

- 1. Comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and applicable federal regulations by providing appropriate auxiliary aids and services to students with disabilities requesting reasonable accommodation;
- 2. Comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and applicable federal regulations. As a requirement of compliance, the school shall:
 - a. Provide public notification of its compliance with Title VI by displaying a Department-approved notice to the public;
 - b. Take reasonable steps to ensure that Limited English Proficient (non-English speaking) customers have meaningful access to the services or activities performed under this Article, which includes, providing the school's services and authorized transactions in languages other than English and providing these services at no additional cost to the customer or student;
 - c. Report promptly any customer complaints alleging discrimination or failure to meet the requirements of this Section to the Department's Civil Rights office for processing and investigation. The school shall immediately upon receipt of such complaints provide access to its facilities, books, records, accounts, and other sources of information as may be determined or requested by the Department to be pertinent, in order to ascertain compliance with Title VI; and
 - d. Inform and formally train all school officers, principals, employees, and contractors on the requirements to comply with Title VI; and
- 3. Provide written notice to the Department or private entity within twenty-four hours if the driver license of any of the school's principals, managers, or instructors is suspended, revoked, cancelled, or disqualified.

Historical Note

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2).

R17-5-318. Instructor Responsibilities

A professional driver training school instructor or traffic survival school qualified instructor shall:

- 1. Attend all ongoing training and continuing education as required by the Department or private entity;
- 2. Provide written notice to the licensed professional driver training school or traffic survival school within twenty-

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- four hours if the instructor's driver license is suspended, revoked, cancelled, or disqualified;
- 3. Conduct training and courses only at training sites approved by the Department or private entity;
- 4. Conduct the final evaluation on behind-the-wheel final evaluation routes approved by the Department or private entity;
- 5. Follow and complete the curriculum approved by the Department or private entity for each course conducted; and
- 6. Conduct at least two courses in a calendar year.

Historical Note

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2). Amended by final rulemaking at 23 A.A.R. 2045, effective September 5, 2017 (Supp. 17-3).

R17-5-319. Traffic Survival Schools

- A. The Department shall assign an individual only to a traffic survival school licensed by the Director under this Article.
- B. A traffic survival school or qualified instructor shall allow only students who provide acceptable proof of traffic survival school assignment to register for and attend a traffic survival school course. The following documents are acceptable proof of assignment:
 - 1. Notice of traffic survival school assignment or suspension for failure to attend traffic survival school,
 - 2. An order from a court or other appropriate tribunal from Arizona or another state indicating traffic survival school assignment,
 - 3. Traffic survival school proof of assignment form obtained from the Department,
 - 4. Electronic verification of traffic survival school assignment through the Department's private entity, or
 - 5. Motor vehicle record.
- C. On enrollment of a student in, or on a student's attendance of, a traffic survival school course, a licensed traffic survival school shall collect the statutory enrollee fee provided in A.R.S. § 28-3411, unless the student has paid the enrollee fee in advance. The licensed traffic survival school also shall collect the records fee prescribed by A.R.S. § 28-446, if applicable, before the student attends the traffic survival school course. The licensed traffic survival school shall fully remit these fees to the private entity within four business days after a student completes the traffic survival school course. If a licensed traffic survival school does not timely remit the enrollee fees, the Department or private entity may notify the traffic survival school that its prospective future students will be required to prepay the enrollee fees until remittances are current. The amount of the enrollee fee charged by the private entity shall be negotiated by the Department and the private entity and shall be set forth in their contract.
- D. A traffic survival school or qualified instructor shall not:
 - 1. Conduct courses with a number of students in excess of the classroom's fire safety capacity reported to the Department or private entity by the licensee under R17-5-321;
 - 2. Conduct courses with more than 30 students per qualified instructor;
 - 3. Exclude a translator, the Director, the private entity, or Department personnel from attending courses;
 - 4. Issue a certificate of completion to a student who has not fully completed the required curriculum; or
 - 5. Issue a certificate of completion for a student whom the instructor did not personally instruct.

- E. A licensee shall retain for three years all copies of the student's acceptable proof of assignment and the signed class roster of attending students.
- F. The private entity may develop and administer a web site that allows individuals who are assigned to traffic survival school to locate and enroll online in traffic survival school courses.
- G. Only an individual who meets the qualifications under R17-5-305, remains in compliance with this Article, and who is granted and retains traffic survival school qualified instructor status, may be allowed to teach individuals assigned by the Department to attend a licensed traffic survival school.
- H. A licensed traffic survival school must hold at least one course every 60 days at the school's established place of business and each branch, as applicable.

Historical Note

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2).

R17-5-320. High School Driver Education Program

- A. The following definitions apply to this Section:
 - 1. "Accountable forms inventory" means a series of distinctly and consecutively numbered documents provided by the Department to an instructor qualified under this Section for:
 - a. Recording in a log, the assigned number of each document completed, issued, or voided by a high school qualified instructor; and
 - b. Reporting to the Department the assigned number of each document completed, issued, or voided by a high school qualified instructor.
 - 2. "Certified instructor report" means a report prepared and certified monthly by each high school qualified instructor listing all certificates of completion that were issued and voided.
- B. The Department shall cooperate with the Arizona Department of Education, under A.R.S. §§ 28-3174 and 32-2353, to enable the issuance of a certificate of completion to a regularly enrolled full-time student as part of a high school driver education program.
- C. The Director or private entity shall qualify an instructor approved by the Arizona Department of Education to issue a certificate of completion.
- D. A high school qualified instructor may issue a certificate of completion to a regularly enrolled full-time student who:
 - 1. Successfully completes the classroom course of instruction required by the Arizona Department of Education, which may waive the student's requirement to take the Department's written test; or
 - 2. Successfully completes the skills course of instruction required by the Arizona Department of Education, which may waive the student's requirement to take the Department's skills test.
- E. A high school qualified instructor shall submit to the Department, no later than the fifth day of each month, all certified instructor reports and certificates of completion issued by the school during the preceding month. A high school qualified instructor who does not issue any certificates of completion during the preceding month shall submit to the Department a certified instructor report indicating "no activity."
- F. A high school qualified instructor shall provide the status of certificates of completion to the Department, upon request, by identifying the certificates by number as either issued, not issued, lost, or stolen.

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- G. A high school representative shall promptly return all unused or un-issued certificates of completion to the Department, upon request.
 - H. A certificate of completion constitutes accountable forms inventory to be secured at all times by the high school qualified instructor or other designee of the high school and any misuse, fraud, or negligence by a high school qualified instructor involving the form in consultation with the Arizona Department of Education pursuant to A.R.S. § 28-3174 may lead to Department disqualification of the instructor's authorization to issue the form.
 - I. A high school qualified instructor shall submit to the Department all reports required under this Article by regular mail, certified mail, registered mail, electronic mail, or personal delivery. The following dates shall be used to determine whether a report was received within the required timeframes established under this Section:
 - 1. For regular mail, the postmark date;
 - 2. For certified or registered mail, the date of receipt by the designated delivery service;
 - 3. For electronic mail, the send date; and
 - 4. For personal delivery, the Department's time and date stamp of receipt.
 - J. If a high school qualified instructor fails to timely or accurately submit to the Department a certified instructor report required under this Section, the Department may initiate corrective action. The Department may:
 - 1. Provide an oral or written warning for a first untimely or inaccurate report,
 - 2. Send a letter of concern for a second untimely or inaccurate report in a 12-month period, and
 - 3. Request that the Arizona Department of Education disqualify a high school qualified instructor from issuing a certificate of completion under this Article for a third untimely or inaccurate report in a 12-month period.
 - K. A high school shall develop and maintain a driver education class training record for each student, which shall include at least the following information:
 - 1. Student's name;
 - 2. Student's phone number;
 - 3. Student's driver license or instruction permit number and its expiration date;
 - 4. Fee amounts collected for any related services;
 - 5. Date, type, and duration of all classroom lessons and practical instruction;
 - 6. Make, model, and license plate number of any motor vehicle used to conduct training, as applicable;
 - 7. Date and results of all tests administered;
 - 8. Number of certificates of completion issued; and
 - 9. Name and Department-issued number of each instructor who conducted a lesson or test.
- Historical Note**
- New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2).
- R17-5-321. Periodic Audits, Monitoring, Inspections, and Investigations**
- A. To determine compliance with license requirements, qualification requirements and applicable federal and state laws and rules, the Department or private entity may:
 - 1. Monitor for compliance by attending any licensed school's course or other activities on a scheduled or unscheduled basis;
 - 2. Audit for compliance by performing periodic reviews of the operations, facilities, equipment, and records;
 - 3. Inspect for compliance by making random, on-site visits during posted business hours; or
 - 4. Investigate for compliance by interviewing or submitting questions to school owners, instructors, and former or current students.
 - B. Failure of a school or instructor to allow or cooperate in an audit, monitoring, inspection, or investigation may result in the Department issuing an immediate cease and desist order or requesting a hearing for suspension or revocation of a license issued under this Article.
 - C. During an audit, monitoring, inspection, or investigation of a licensee, the Department, the private entity, a law enforcement agency, or employee of the Federal Motor Carrier Safety Administration may:
 - 1. Review and copy paper and electronic records;
 - 2. Examine the licensee's principal and established place of business, all branches, training, or road training sites; and
 - 3. Interview the school's employees, instructors, and customers.
 - D. A licensee shall make records available for audit, monitoring, inspection, or investigation at the licensee's principal place of business.
 - E. After an audit or monitoring, the Department or private entity shall send a report of the results in writing to the school.
 - F. If instances of non-compliance are found as a result of an audit, monitoring, inspection, or investigation, the Department or private entity may determine if either of the following actions is required:
 - 1. An informal meeting to discuss findings, or
 - 2. A written compliance plan addressing findings.
 - G. If greater instances of non-compliance are found as a result of an audit, monitoring, inspection, or investigation, the Department may determine if either of the following actions is required:
 - 1. A probationary period; or
 - 2. A request for a hearing to cancel, suspend, or revoke a license to operate a school or conduct instruction under this Article.
 - H. The Department or private entity may issue a notice of corrective action to a licensee if the licensee fails to comply with a warning letter, with an audit, inspection or investigation request, a monitoring request, or with written findings provided by the Department or private entity. Only the Department may initiate a corrective action provided under subsection (G).
 - I. Each site used by a school as an office, training location, or classroom location shall:
 - 1. Be inspected and approved by the Department or private entity prior to initial use or relocation,
 - 2. Be licensed by the Department or private entity, and
 - 3. Have office hours displayed in a conspicuous location at each site open to the public during the posted hours.
 - J. There shall be a clearly defined and visible separation between a school and any other business if a professional driver training school or traffic survival school is located in an office building, store, or other physical structure shared with any other business or enterprise.
 - K. Any request by a school for inspection and approval of a site on a recognized Indian reservation shall contain the written permission of the appropriate Tribal authority.
 - L. Any request by a school for inspection and approval of a site on a military base shall contain the written permission of the appropriate military authority.
 - M. A school shall submit to the Department or private entity a copy of the written lease or contract agreement or deed of

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ownership, if the site is owned by the school, for each site, as applicable.

- N. Any request by a traffic survival school for inspection and approval of a site to be used for educational sessions shall include the approved fire safety capacity of the classroom(s) at that site and shall be signed by a principal of the traffic survival school.

Historical Note

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2).

R17-5-322. Cease and Desist Order; Hearing and Appeal

- A. The Department may immediately issue and serve a cease and desist order on a licensee, as prescribed under A.R.S. § 28-3417 or 32-2394, if the Department or private entity has reasonable cause to believe that the licensee has violated or is violating a federal or state law or rule relating to a duty prescribed under this Article.
- B. A cease and desist order issued by the Department to a licensee under this Article shall:
1. Require the person on receipt of the order to cease and desist from further engaging in the prohibited conduct or in any activity authorized under this Article as specified in the cease and desist order, and
 2. Provide information regarding the person's right to request a hearing to show cause as to why the Department's order should not be upheld.
- C. On failure or refusal of a licensee to comply with a cease and desist order, or after a requested hearing, the Department may cancel, suspend, or revoke the license of the licensee under A.R.S. § 28-3416 or 32-2391 and R17-5-323.

Historical Note

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2).

R17-5-323. Non-compliance; Notice of Corrective Action; Cancellation, Suspension, or Revocation of a Professional Driver Training School License or Traffic Survival School License or Qualification of a Traffic Survival School Instructor; Hearing and Appeal

- A. The following definitions apply to this Section:
1. "Cancellation" means a Department action that withdraws a license or qualification of a traffic survival school instructor issued under A.R.S. Title 28, Chapter 8, Article 7.1 or Title 32, Chapter 23 and this Article.
 2. "Revocation" means a Department action that terminates, for an indefinite period of time, a licensee's or traffic survival school qualified instructor's privilege to operate a school or conduct instruction under this Article.
 3. "Suspension" means a Department action that prohibits, for a stated period of time, a licensee or traffic survival school qualified instructor from operating as a school or instructor under this Article.
- B. The Department or private entity may initiate corrective action on a licensee or a traffic survival school qualified instructor as provided under A.R.S. Title 28, Chapter 8, Article 7.1, Title 32, Chapter 23, Article 3, or Title 41, Chapter 6, Article 6, and this Article, if satisfactory evidence shows that a licensee or instructor, individually or collectively:
1. Violated a federal or state law or rule reasonably relating in a business context to a duty prescribed under this Article;
 2. Failed to maintain a status of good standing or character and reputation as defined in R17-5-301; or

3. Provided false, deceptive, or misleading information to the Department or private entity in either an application or in response to an audit or inspection conducted pursuant to R17-5-321.

- C. A corrective action initiated under subsection (B), depending on the severity or number of violations, may include the Department imposing a term of probation; issuing a cease and desist order under A.R.S. § 28-3417 or 32-2394; or requesting a hearing to cancel, suspend, or revoke an existing license under A.R.S. § 28-3416 or 32-2391.
- D. A notice of corrective action issued by the Department requesting a hearing to cancel, suspend, or revoke an existing school license shall include:
1. The grounds for the Department's action; and
 2. A brief written statement explaining that it will request that a hearing be held before the Department's Executive Hearing Office on the proposed cancellation, suspension, or revocation of a professional driver training school license or a traffic survival school license, as provided under A.R.S. § 28-3416 or 32-2391.
- E. A notice of corrective action issued by the Department to cancel, suspend, or revoke an existing qualification of a traffic survival school instructor shall include:
1. The grounds for the Department's action; and
 2. A brief written statement of the hearing and appeal rights, including that the instructor may request a hearing with the Department's Executive Hearing Office within 30 calendar days of the date on the notice for the cancellation, suspension, or revocation of the qualification of a traffic survival school instructor, as provided in A.R.S. §§ 41-1001(12) and 41-1064.
- F. The Department shall provide notice and conduct hearings as prescribed under A.R.S. Title 41, Chapter 6, Article 6, and 17 A.A.C. 1, Article 5, as applicable.

Historical Note

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2). Amended by final rulemaking at 23 A.A.R. 2045, effective September 5, 2017 (Supp. 17-3).

ARTICLE 4. DEALERS**R17-5-401. Definitions**

In addition to the definitions in A.R.S. §§ 28-4301 and 28-4410, the following definitions apply to this Article unless otherwise specified:

"Dealer" or "motor vehicle dealer" has the same meaning as "motor vehicle dealer" in A.R.S. § 28-4301.

"Director" has the same meaning as in A.R.S. § 28-101.

"Owner" means a person who holds the legal title of a motor vehicle.

"Principal place of business" means a licensed place of business from which a wholesale motor vehicle dealer or a broker conducts business and keeps the records of the business.

"State" means the state of Arizona and all its agencies and political subdivisions, their officers and agents.

"Taxpayer identification number" means a number used for tax purposes that is assigned by the Social Security Administration or the Internal Revenue Service.

"VIN" or "Vehicle Identification Number" means the unique code, including serial number, used by an automobile manufacturer to identify a specific motor vehicle.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 1434, effective July 4, 2017 (Supp. 17-2).

R17-5-402. Bond Amounts; Dealers, Brokers, and Automotive Recyclers' Business Licenses

- A. As prescribed under A.R.S. § 28-4362, the Department shall require a bond in the amount specified for the following motor vehicle business license applicants:
1. \$100,000 for:
 - a. A new motor vehicle dealer,
 - b. A used motor vehicle dealer, or
 - c. A public consignment auction dealer.
 2. \$25,000 for:
 - a. A broker,
 - b. A wholesale motor vehicle dealer, or
 - c. A wholesale motor vehicle auction dealer.
 3. \$20,000 for an automotive recycler.
- B. An applicant shall submit a bond on the original vehicle dealer bond form prescribed by the Director that meets the requirements in A.R.S. § 28-4362 and these rules. An applicant shall submit a separate, original bond for each application and for each county in which an applicant or licensee has an established place of business or a principle place of business. A power of attorney for the attorney-in-fact shall be attached to the dealer bond, if applicable.
- C. An applicant shall sign the dealer bond, in addition to all partners for a partnership, or one officer for an incorporation.
- D. The completed bond form shall contain an embossed stamp, seal, or sticker from the bond company.
- E. The Department shall not accept a handwritten bond.

Historical Note

New Section recodified from R17-4-240 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 9 A.A.R. 1864, effective August 2, 2003 (Supp. 03-2). Section amended by final rulemaking at 23 A.A.R. 1434, effective July 4, 2017 (Supp. 17-2).

R17-5-403. Expired**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 1864, effective August 2, 2003 (Supp. 03-2). Section expired under A.R.S. 1056(J) at 22 A.A.R. 3195, effective October 5, 2016 (Supp. 16-3).§

R17-5-404. Dealer Title Requirement for Vehicle Sale

For purposes of A.R.S. § 28-4409(A), the dealer's name shall be recorded on a title certificate as transferee or purchaser.

Historical Note

New Section recodified from R17-4-241 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section heading corrected as recodified at 7 A.A.R. 3483 (Supp. 09-2).

R17-5-405. Dealer Acquisition Contract

- A. For the purposes of A.R.S. § 28-4410, a dealer shall prepare a dealer acquisition contract on a Department form with contents as prescribed under subsection (B).
- B. A dealer acquisition contract shall contain the following information:
1. The heading "Dealer Acquisition Contract;"
 2. The dealer's name and dealer license number;
 3. The dealer's business address and telephone number;
 4. The owner's name, address, telephone number; driver license number or taxpayer identification number, as applicable; and type of ownership;

5. The VIN; license plate number; licensing state; and model, make, and year of the motor vehicle that has a dealer acquisition contract;
6. If there is a lien holder, for each lien holder:
 - a. The lien holder's name, address, and telephone number;
 - b. The lien balance;
 - c. The prepayment penalties, if any; and
 - d. Other information on the terms and conditions of the lien repayment.
7. A statement by the owner that the motor vehicle is free and clear of all liens and encumbrances, except those disclosed under subsection (B)(6)(a) and the unpaid lien balance is no greater than disclosed under subsection (B)(6)(b);
8. The contracted purchase price and a recital that this amount has been either paid directly to the owner or credited to the owner against the purchase price of another motor vehicle;
9. A statement indicating that the owner is selling and transferring the described motor vehicle to the dealer;
10. An authorization by the owner permitting the dealer to obtain all information necessary to verify the accuracy of the lien balance and assure that the balance is paid and the lien is released;
11. A statement by the owner that the registration document provided to the dealer is the original and most recent registration issued for the vehicle;
12. An agreement indicating whether the owner or dealer is responsible to satisfy the lien balance;
13. An authorization by the owner permitting the dealer to obtain the original title certificate from the lien holder; endorse the owner's name on the title; and if necessary, transfer the title to the dealer;
14. A statement that if the owner receives the certificate of title, the owner shall immediately deliver the title to the dealer and provide any signature and acknowledgment necessary to complete the title transfer to the dealer;
15. The date when the dealer acquisition contract is executed by each party;
16. The dealer's signature; and
17. The owner's signature.

- C. A dealer or an owner who adds to a dealer acquisition contract a provision not described in this Section shall ensure that the provision does not conflict with or alter the meaning of a provision of this Section.
- D. When a dealer prepares a dealer acquisition contract as prescribed under this Section, the dealer shall give a copy to the owner and keep the original at the dealer's established place of business for three years after the date that the contract expires or terminates, or the date the motor vehicle is sold.
- E. In complying with this Section, a dealer shall not interpret or claim compliance to be an approval by the state of the fairness, validity, or legality of a dealer acquisition contract. This Section furnishes only information required in a dealer acquisition contract. This Section does not detail any additional contractual requirements that may be defined under other Arizona statutes.

Historical Note

New Section recodified from R17-4-245 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 4234, effective November 15, 2002 (Supp. 02-3). Section amended by final

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rulemaking at 23 A.A.R. 1434, effective July 4, 2017
(Supp. 17-2).

R17-5-406. Dealer Consignment Contract

- A. For the purposes of A.R.S. § 28-4410, a motor vehicle dealer shall prepare a dealer consignment contract on a form with contents as prescribed under subsection (B).
- B. A dealer consignment contract shall contain the following information:
 1. The heading "Dealer Consignment Contract;"
 2. The dealer's name and dealer license number;
 3. The dealer's business address and telephone number;
 4. The owner's name, address, telephone number, driver license number or taxpayer identification number, and type of ownership;
 5. The VIN; license plate number; licensing state; and model, make, and year of the motor vehicle that has a dealer consignment contract;
 6. If there is a lien holder, for each lienholder:
 - a. The lien holder's name, address, and telephone number;
 - b. The lien balance;
 - c. The prepayment penalties, if any; and
 - d. Other information on the terms and conditions of the lien repayment;
 7. A statement by the owner that the vehicle is free and clear of all liens and encumbrances, except those disclosed under subsection (B)(6)(a) and the lien balance is no greater than that disclosed under subsection (B)(6)(b);
 8. An authorization by the owner permitting the dealer to market and sell the vehicle on behalf of the owner at a mutually-agreed upon, specified, minimum price;
 9. An agreement by the dealer to inform any prospective purchaser that the vehicle is on consignment;
 10. An agreement by the dealer that, upon receiving the sale proceeds, the dealer shall immediately satisfy all disclosed liens and ensure that the liens are released;
 11. An agreement by the owner that, upon the completion of the sale and after receiving the sale proceeds, the owner shall promptly deliver and endorse the title certificate for reassignment to the purchaser;
 12. The expiration date of the consignment contract;
 13. An agreement by the dealer to deliver the motor vehicle to the owner at a specified location on the date that the contract expires or terminates;
 14. An agreement by the owner to pay any specified fees due to the motor vehicle dealer on the return of the vehicle, after the expiration or termination of the consignment contract;
 15. The date the contract is executed;
 16. The dealer's signature; and
 17. The owner's signature.
- C. A dealer or an owner who adds to a dealer consignment contract a provision not described in this Section shall ensure that the provision does not conflict with or alter the meaning of a provision of this Section.
- D. When a dealer prepares a dealer consignment contract as prescribed under this Section, the dealer shall give a copy to the owner and keep the original at the dealer's established place of business for three years after the date that the dealer consignment contract expires or terminates, or the vehicle is sold.
- E. In complying with this Section, a dealer shall not interpret or claim compliance to be an approval by the state of the fairness, validity, or legality of a dealer consignment contract. This Section furnishes only information required in a dealer consignment contract. This Section does not detail any additional

contractual requirements that may be defined under other Arizona statutes.

Historical Note

New Section recodified from R17-4-246 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 4234, effective November 15, 2002 (Supp. 02-3). Section amended by final rulemaking at 23 A.A.R. 1434, effective July 4, 2017 (Supp. 17-2).

R17-5-407. Motor Vehicle Repossession

- A. The Department shall not transfer a title when the ownership of a motor vehicle titled in this state or another state reverts through operation of state law to a lienholder of record through repossession unless the following conditions are met:
 1. The motor vehicle is physically located in this state;
 2. A notice of lien is filed with the Department;
 3. A completed affidavit from the lienholder is submitted to the Department stating that the motor vehicle is physically located in this state and was repossessed on default pursuant to the terms of the lien and applicable law and that this state, its agencies, employees, and agents shall not be held liable for relying on the contents of the affidavit; and
 4. In addition to the information required in subsection (A)(3), the affidavit contains the following information:
 - a. The (VIN),
 - b. The vehicle model year,
 - c. The vehicle make,
 - d. The registered owner's name,
 - e. The date of repossession,
 - f. The state in which the vehicle is titled,
 - g. The lienholder company name,
 - h. The lienholder agent or representative name,
 - i. The lienholder signature, and
 - j. The notary or Department agent signature.
- B. The Department shall accept out-of-state affidavits of repossession that comply with the requirements in subsections (A)(3), (A)(4), and subsection (C) if all of the following apply:
 1. The affidavit is submitted by an Arizona licensed dealer, and
 2. The Arizona licensed dealer is transferring the title into the dealership's name.
- C. A lienholder may sell a repossessed motor vehicle without transferring the title into the lienholder's name by completing a Bill of Sale for submission to the Department. The Bill of Sale may be combined with the affidavit of repossession and shall contain the following information:
 1. The buyer's name;
 2. The sale date;
 3. The buyer's street address, including the city, state, and zip code;
 4. The name of the new lienholder, if applicable;
 5. The new lien date, if applicable;
 6. The odometer certification statement, if required by A.R.S. § 28-2058, including odometer reading, and an acknowledgment with the buyer's name and signature;
 7. A statement that the buyer is aware of the odometer certification made by the seller;
 8. The seller's name;
 9. The seller's notarized signature; and
 10. The seller's address, including city, state, and zip code.
- D. A completed repossession affidavit as prescribed in this Section is proof of ownership, right of possession, and right of transfer.

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- E. The Department has no responsibility relating to foreclosure on real property under A.R.S. Title 33, Chapter 7.

Historical Note

New Section recodified from R17-4-260 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 10 A.A.R. 3399, effective October 2, 2004 (Supp. 04-3). Section amended by final rulemaking at 23 A.A.R. 1434, effective July 4, 2017 (Supp. 17-2).

R17-5-408. Resale of a New Motor Vehicle

- A. A motor vehicle dealer that sells a new motor vehicle that was delivered to a previous purchaser, shall provide written notice to the new purchaser under subsection (B).
- B. A motor vehicle dealer shall ensure that the notice under A.R.S. § 28-4422 contains the following information:
1. The name of the dealership;
 2. A vehicle description, including year, make, and VIN;
 3. A statement that the new motor vehicle was delivered to a previous purchaser;
 4. The printed name of the new purchaser; and
 5. The signature of the new purchaser (initials are not acceptable) indicating that the new purchaser has received the notice.
- C. The motor vehicle dealer shall:
1. Provide a copy of the notice under subsection (B) to the new purchaser, and
 2. Keep a copy of the signed notice under subsection (B) at the new motor vehicle dealer's established place of business for at least three years.
- D. The motor vehicle dealer is not required to submit the notice to the Department under subsection (B) unless otherwise required by state or federal law.
- E. A new motor vehicle dealer shall not add additional language to the notice that would conflict with, or alter the intent of the provisions specified in subsection (B).

Historical Note

New Section made by final rulemaking at 12 A.A.R. 225, effective March 11, 2006 (Supp. 06-1). Section amended by final rulemaking at 23 A.A.R. 1434, effective July 4, 2017 (Supp. 17-2).

ARTICLE 5. MOTOR CARRIER FINANCIAL RESPONSIBILITY**R17-5-501. Definitions**

In addition to the definitions provided under A.R.S. §§ 28-4001, 28-4031, 28-5201, and 28-5431, the following terms apply to this Article, unless the context otherwise requires:

"Binder" means a contract for temporary insurance as described in A.R.S. § 20-1120.

"Initial motor vehicle registration" means the first time a motor carrier registers a specific motor vehicle or a vehicle combination in Arizona.

"Insurance company" means an entity that is in the business of issuing motor carrier liability insurance policies.

Historical Note

New Section made by final rulemaking at 9 A.A.R. 235, effective March 11, 2003 (Supp. 03-1). Amended by final rulemaking at 18 A.A.R. 2365, effective November 10, 2012 (Supp. 12-3).

R17-5-502. Repealed**Historical Note**

New Section recodified from R17-4-226 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section

repealed by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1).

R17-5-503. Repealed**Historical Note**

New Section recodified from R17-4-226.01 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section repealed by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1).

R17-5-504. Requirement to Submit Proof of Financial Responsibility; Applicability; Procedure; Exception

- A. If a person or motor carrier subject to financial responsibility requirements under A.R.S. § 28-4032 does not insure its motor vehicle or vehicle combination through an insurance company that electronically reports to the Department under A.R.S. § 28-4148 and Article 8 of this Chapter, the person or motor carrier shall submit proof of financial responsibility as prescribed in this Section, and in the amount required under A.R.S. § 28-4033(A):
1. On initial motor vehicle registration, or
 2. On written request by the Department.
- B. An insurance company, its managing general agent, broker, or agent may submit proof of financial responsibility to the Department on behalf of a person or motor carrier.
- C. As proof of financial responsibility, a person or motor carrier shall submit to the Department a photocopy of:
1. A valid liability insurance policy;
 2. A binder dated within 90 days of filing with the Department;
 3. A completed and signed Form E Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance, issued by an insurer that holds a valid certificate of authority or that is permitted to transact surplus lines insurance in this state, naming the Arizona Department of Transportation as the agency;
 4. A completed and signed Certificate of Liability Insurance form, issued by an insurer that holds a valid certificate of authority or that is permitted to transact surplus lines insurance in this state, naming the Arizona Department of Transportation as the certificate holder; or
 5. A certificate of self-insurance issued by the Department after a person or motor carrier meets the requirements of R17-5-810 and A.R.S. §§ 28-4007 and 28-4135.
- D. Before a binder submitted as proof of financial responsibility expires, a motor carrier shall submit:
1. A binder from an insurance company other than the insurance company named in the first binder; or
 2. Proof of financial responsibility listed in subsections (C)(1) or (C)(3) through (5).
- E. A person or motor carrier that maintains a valid USDOT number and files proof of financial responsibility with the Federal Motor Carrier Safety Administration under 49 CFR 387 is not required to submit additional proof of financial responsibility under this Section, except on written request by the Department.

Historical Note

New Section recodified from R17-4-445 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 9 A.A.R. 235, effective March 11, 2003 (Supp. 03-1). Amended by final rulemaking at 18 A.A.R. 2365, effective November 10, 2012 (Supp. 12-3).

R17-5-505. Repealed

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Historical Note

New Section recodified from R17-4-446 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section repealed by final rulemaking at 9 A.A.R. 235, effective March 11, 2003 (Supp. 03-1).

R17-5-506. Repealed**Historical Note**

New Section recodified from R17-4-447 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 9 A.A.R. 235, effective March 11, 2003 (Supp. 03-1). Repealed by final rulemaking at 18 A.A.R. 2365, effective November 10, 2012 (Supp. 12-3).

R17-5-507. Repealed**Historical Note**

New Section recodified from R17-4-448 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section repealed by final rulemaking at 9 A.A.R. 235, effective March 11, 2003 (Supp. 03-1).

ARTICLE 6. IGNITION INTERLOCK DEVICE MANUFACTURERS**R17-5-601. Definitions**

In addition to the definitions provided under A.R.S. §§ 28-101 and 28-1301, in this Article, unless the context otherwise requires, the following terms apply:

“Alcohol” means ethyl alcohol, also called ethanol.

“Alcohol concentration” means the weight amount of alcohol contained in a unit volume of breath or air, measured in grams of ethanol/210 liters of breath or air and expressed as grams/210 liters.

“Alveolar breath sample” means the last portion of a prolonged, uninterrupted exhalation from which breath alcohol concentrations can be determined.

“Anticircumvention feature” means any feature or circuitry incorporated into the ignition interlock device that is designed to prevent human activity that would cause the device not to operate as intended.

“Authorized installer” means a person or entity appointed by a manufacturer, and certified by the Department, to install and service a certified ignition interlock device model provided by the manufacturer.

“Breath alcohol test” means analysis of a sample of the participant’s expired alveolar breath to determine alcohol concentration.

“Business day” means a day other than a Saturday, Sunday, or state holiday.

“Calibration” means the testing, adjustment, or systematic standardization of an ignition interlock device to determine and verify its accuracy.

“Cancellation” means the withdrawal of a certification granted by the Department under this Article, which prohibits a previously certified ignition interlock device manufacturer, its authorized installer, or the authorized installer’s service center from offering, installing, or servicing an ignition interlock device under Arizona law.

“Certification” means a status granted by the Department under this Article, which permits a certified ignition interlock device manufacturer, an authorized installer, or an authorized

installer’s service center to offer, install, or service an ignition interlock device under Arizona law.

“Corrective action” means an action specified in or reasonably implied from Title 28, Chapter 4, Arizona Revised Statutes, that the Department takes in relation to a participant’s driving privilege and the usage or discontinuation of usage of a certified ignition interlock device, or an action that the Department takes in relation to the performance of the duties of a manufacturer or an installer in Articles 6 or 7 of this Chapter to deny or cancel manufacturer or installer certification.

“Customer number” means the system-generated, or other distinguishing number, assigned by the Department to each person conducting business with the Department. The customer number of a private individual is generally the person’s driver license or non-operating identification license number.

“Data storage system” means a computerized recording of all events monitored by an installed ignition interlock device, which may be reproduced in the form of specific reports.

“Emergency bypass” means an event that permits a vehicle equipped with an ignition interlock device to be started without requiring successful completion of a required breath alcohol test.

“Emergency situation” means a circumstance in which the participant declares to the installer that the vehicle needs to be moved to comply with the law or the participant has a valid and urgent need to operate the vehicle.

“Established place of business” means a business location that is:

Approved by the Department;

Located in Arizona;

Not used as a residence; and

Where a manufacturer’s authorized installer performs authorized activities.

“False sample” means any sample other than the unaltered, undiluted, or unfiltered alveolar breath sample coming from the participant.

“Filtered breath sample” means any mechanism by which there is an attempt to remove alcohol from the human breath sample.

“Fixed-site service center” means a permanent location operated by an installer for conducting business and providing services related to a certified ignition interlock device.

“Free restart” means a function of a certified ignition interlock device that will allow a participant to restart the vehicle, under the conditions provided in R17-5-603, without completing another breath alcohol test.

“Ignition interlock period” means the period in which a participant is required to use a certified ignition interlock device that is installed in a vehicle. “Improper reporting” means any of the following:

Failure of a manufacturer or its authorized reporting installer to report any violations to the Department within 24 hours as required in R17-5-610(D)(2), or failure to send participant ignition interlock reporting records, including records relating to a violation, to the Department as required in R17-5-612(B)(1);

Failure of a manufacturer or its authorized reporting installer to provide copies of participant certified ignition interlock device records to the Department within 10 days after the Department’s request;

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Failure of a manufacturer or its authorized reporting installer to provide quarterly reports as required in accordance with the schedule prescribed in R17-5-612(B);

Failure of a manufacturer or its authorized reporting installer to screen and remove invalid or unsubstantiated reporting data from a participant's ignition interlock reporting records prior to submitting these reporting records to the Department;

Failure of a manufacturer or its authorized reporting installer to electronically send each Certified Ignition Interlock Summarized Reporting Record to the Department within 24 hours, after performing an accuracy and compliance check, that results in the Department mailing a driver license suspension to a driver;

Electronic reporting by a manufacturer or its authorized reporting installer to the Department of data that is an exact duplicate of a single violation that occurs on a particular day and time and is reported multiple times;

An incident that occurs when a participant's vehicle has high or low voltage;

An incident that occurs when a participant has a free restart test to start the participant's vehicle;

An incident that occurs in which an installer downloads data from the device during an accuracy check and tampers with a certified ignition interlock device; or

An incident that occurs after the participant's vehicle is turned off.

"Independent laboratory" means a testing facility, not owned or operated by a manufacturer, that can test an ignition interlock device according to the Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs), Appendix A-Quality Assurance Plan Template, and Appendix B-Sample Format For Downloaded Data From The Interlock Data Logger, NHTSA, published at 78 FR 26862 to 26867, May 8, 2013.

"Installer-certified service representative" means any individual who has successfully completed all requirements under R17-5-705, and has received certification from an installer to install, inspect, download, calibrate, repair, monitor, maintain, service, or remove a specific certified ignition interlock device.

"Lock-out condition" means the operational status of a certified ignition interlock device, which after recording any violation of A.R.S. Title 28, Chapter 4, Article 5, immobilizes a participant's vehicle by disallowing further operation of the device. The lock-out feature is built into a certified ignition interlock device through manufacturer software or firmware, and once activated, the device must be re-set by the manufacturer's authorized installer.

"Manufacturer's authorized representative" means an individual or entity designated by a manufacturer to represent or act on behalf of the manufacturer of a certified ignition interlock device.

"Material modification" means a change to a certified ignition interlock device that affects the functionality of the device.

"Missed rolling retest" means the participant refused or failed to provide a valid and substantiated breath sample in response to a requested rolling retest within the time period described in R17-5-610(H).

"Mobile service center" means the portable operation of an installer, whether contained within a vehicle or temporarily

erected at a publicly accessible commercial location, including a kiosk, which includes all personnel and equipment necessary for an installer to conduct certified ignition interlock device related business and services, separately and simultaneously, with its parent fixed-site service center.

"NHTSA" means the United States Department of Transportation's National Highway Traffic Safety Administration.

"NHTSA specifications" means the specifications for breath alcohol ignition interlock devices published at 78 FR 26862 to 26867, May 8, 2013.

"Participant" means a person who is ordered by an Arizona court or the Department to equip each motor vehicle operated by the person with a functioning certified ignition interlock device and who becomes a customer of an installer for installation and servicing of the certified ignition interlock device.

"Positive result" means a test result indicating that the alcohol concentration meets or exceeds the startup set point value.

"Principal place of business" means the administrative headquarters of a manufacturer or a manufacturer's authorized installer that is located in Arizona and is not used as a residence.

"Purge" means any mechanism that cleanses or removes a previous breath or reference sample from the device and specifically removes alcohol.

"Reference sample device" means a device containing a sample of known alcohol concentration.

"Retest set point" has the same meaning as startup set point.

"Rolling retest" means an additional breath alcohol test required of the participant at random intervals after the start of the vehicle that is in addition to the initial test required to start the vehicle.

"Service center" means a certified ignition interlock device service center operated by an installer and considered an installer under this Section, who meets and maintains all Department certification and inspection requirements under R17-5-707, whether operated on a fixed-site or mobile.

"Startup set point" means the alcohol concentration value, established by the Department under R17-5-603(A), which is determined by the Department to be the point at which, or above, a certified ignition interlock device shall disable the ignition of a motor vehicle.

"Violation" includes, but is not limited to any of the following reportable activities performed by a participant against whom the Department shall take corrective action against the participant's driving privilege:

Tampering with the certified ignition interlock device as defined in A.R.S. § 28-1301;

Failing to provide proof of compliance or inspection of the certified ignition interlock device under A.R.S. § 28-1461(E)(4);

Attempting to operate the vehicle with an alcohol concentration of 0.08 or more as prescribed in A.R.S. § 28-1461(E) if the participant is at least 21 years of age;

Attempting to operate the vehicle with an alcohol concentration value in excess of the startup set point if the participant is under 21 years of age;

Refusing or failing to provide any set of four valid and substantiated breath samples in response to a requested

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rolling retest during a participant's ignition interlock period; or

Disconnecting or removing a certified ignition interlock device, except:

On receipt of Department authorization to remove the device;

On repair of the vehicle, if the participant provided to the manufacturer, installer, or service center advanced notice of the repair and the anticipated completion date; or

On replacement of one vehicle with another vehicle if replacement of the device is accomplished within 72 hours of device removal.

"Violation reset" means the unplanned servicing of a certified ignition interlock device and the downloading of information from its data storage system by a service center when required as a result of an over-accumulation of violations.

Historical Note

New Section recodified from R17-4-709 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4).

R17-5-602. Ignition Interlock Device Manufacturer Certification; Expiration; Cancellation of Certification; Notice

- A. An ignition interlock device manufacturer shall obtain certification by the Department under this Article before offering an ignition interlock device model for installation under Arizona law.
- B. After receiving Department certification for an ignition interlock device model and meeting all the requirements under R17-5-604, the ignition interlock device manufacturer is effectively certified by the Department to offer its certified ignition interlock device model for installation under Arizona law.
- C. An ignition interlock device manufacturer shall submit a new application to the Department under R17-5-604 for the certification of each new ignition interlock device model the manufacturer intends to offer for installation.
- D. Manufacturer certification issued by the Department under this Article shall automatically expire if:
 1. The manufacturer no longer provides at least one currently certified ignition interlock device model for installation under Arizona law; and
 2. The manufacturer has no pending application on file with the Department for the certification of a device under R17-5-604.
- E. If the Department determines that a reporting manufacturer fails to properly report ignition interlock information and data to the Department in the manner prescribed in these rules, the Department may immediately provide written notice to the authorized reporting manufacturer with the following information:
 1. The name of the participant and the date of the improper reporting; and
 2. The reporting manufacturer shall send the required record or report to the Department within ten business days, if applicable.
- F. If the reporting manufacturer fails to remedy the issues identified in the notice within ten business days, the Department may cancel the manufacturer device certification.
- G. If the Director cancels a manufacturer's device certification, the Director shall notify each participant with the manufacturer's certified ignition interlock device that the participant has 30 days to obtain another installer.

- H. After the one-year cancellation period ends, a manufacturer may reapply to the Department for certification by completing a new application for the certification of a device and meeting all certification requirements under this Article.
- I. If a manufacturer's certification expires as a result of subsections (D)(1) and (D)(2), the manufacturer may reapply for certification by submitting a new application to the Department for the certification of a device under R17-5-604.

Historical Note

New Section recodified from R17-4-709.01 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Former R17-5-602 renumbered to R17-5-604; new R17-5-602 made by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4).

R17-5-603. Device Requirements, Technical Specifications, and Standards for Setup and Calibration

- A. The startup set point value for a certified ignition interlock device shall be an alcohol concentration of 0.020 g/210 liters of breath. The accuracy of a device shall be 0.020 g/210 liters plus or minus 0.010 g/210 liters. The accuracy shall be determined by analysis of an external standard generated by a reference sample device.
- B. A device shall have a demonstrable feature designed to assure that a breath sample measured is essentially alveolar.
- C. A test of alcohol-free samples shall not yield a positive result. Endogenously produced substances capable of being present in the breath shall not yield or significantly contribute to a positive result.
- D. All devices, including those with cameras, shall meet the requirements of subsection (A) when used at ambient temperatures of -20° Celsius to 83° Celsius.
- E. A device shall be designed so that anticircumvention features will be difficult to bypass.
 1. Anticircumvention provisions shall include, but are not limited to, prevention or preservation of any evidence of cheating by attempting to use a false or filtered breath sample or electronically bypassing the breath sampling requirements of a device.
 2. A device shall use special seals or other methods that reveal attempts to bypass lawful device operation.
- F. A device shall:
 1. Allow a free restart of a motor vehicle's ignition, within three minutes after the ignition is switched off, without requiring another breath alcohol test.
 2. Automatically purge alcohol before allowing analysis.
 3. Have a data storage system with the capacity to sufficiently record and maintain a record of the participant's daily driving activities that occur between each regularly scheduled accuracy and compliance check referenced under R17-5-610 and R17-5-706. A manufacturer or its authorized installer shall download any digital images taken during a participant's accuracy and compliance check. A manufacturer or its authorized installer shall make these digital images available to the Department on request.
 4. Use the most current version of the manufacturer's software and firmware to ensure compliance with this Article and any other applicable rule or statute, and the manufacturer's software and firmware:
 - a. Shall require device settings and operational features to include, but are not limited to, sample delivery requirements, startup and retest set points, free restart, rolling retest requirements, violation settings and lock-out conditions; and

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- b. Shall not allow modification of the device settings or operational features by a service center or service representative unless the Department approves the modification under subsection (G).
- 5. Record all emergency bypasses in its data storage system.
- 6. Require a participant to perform a rolling retest within five to 15 minutes after the initial test required to start an engine, and the device shall continuously require additional rolling retests at random intervals of up to 30 minutes after each previously requested retest as follows:
 - a. A device shall emit a warning light, tone, or both, to alert a participant that a rolling retest is required.
 - b. A device shall allow a period of six minutes after the warning light, tone, or both, to allow a participant to take a rolling retest.
 - c. A device shall require a participant to perform a new test to restart an engine if it is inadvertently switched off during or after a rolling retest warning.
 - d. A device shall use the startup set point value as its retest set point value.
 - e. A device shall record, in its data storage system, the result of each rolling retest performed by a participant during the participant's ignition interlock period and any valid and substantiated missed rolling retests; and
 - f. A device shall immediately require another rolling retest each time a participant refuses to perform a requested rolling retest.
- 7. Until a participant successfully performs a rolling retest, or the engine is switched off, a device shall record in its data storage system, each subsequent refusal or failure of the participant to perform the requested rolling retest.
- 8. On recording a violation of A.R.S. Title 28, Chapter 4, Article 5, emit a unique cue, either auditory, visual, or both, to warn a participant that the device will enter into a lock-out condition in 72 hours unless reset by the installer.
- 9. When a violation results in a lock-out condition, the device shall:
 - a. Immobilize the participant's vehicle;
 - b. Uniquely record the event in the data storage system; and
 - c. Require a violation reset by the installer.
- G. No modification shall be made to the design or operational concept of a device model after the Department has certified the device for installation under Arizona law, except that:
 - 1. A software or firmware update required to maintain a device model is permissible if the update does not modify the design or operational concept of the device.
 - 2. Replacement, substitution, or repair of a part required to maintain a device model is permissible if the part does not modify the design or operational concept of the device.
 - 3. If a manufacturer determines that an existing Department-certified ignition interlock device model requires a modification that may affect the operational concept of a device, the manufacturer shall immediately notify the Department.

Historical Note

New Section recodified from R17-4-709.02 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Former R17-5-603 renumbered to R17-5-606; new R17-5-603 made by final rulemaking at 13 A.A.R. 3499, effective Decem-

ber 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4).

R17-5-604. Ignition Interlock Device Certification; Application Requirements

- A. A manufacturer shall offer for installation only an ignition interlock device that is certified by the Department under this Section.
- B. For certification of an ignition interlock device model, a manufacturer shall submit to the Department a properly completed application form that provides:
 - 1. The manufacturer's name;
 - 2. The manufacturer's principal place of business in this state, established places of business in this state, and telephone numbers;
 - 3. The manufacturer's status as a sole proprietorship, partnership, limited liability company, or corporation;
 - 4. The name of the sole proprietor or of each partner, officer, director, manager, member, agent, or 20% or more stockholder;
 - 5. The name and model number of the ignition interlock device and the name under which the ignition interlock device will be marketed; and
 - 6. The following statements, signed by the manufacturer's authorized representative and acknowledged by a notary public or Department agent:
 - a. A statement that all information provided on the application form, including all information provided on any attachment to the application form, is complete, true, and correct;
 - b. A statement that the manufacturer agrees to indemnify and hold harmless the state of Arizona and any department, division, agency, officer, employee, or agent of the state of Arizona from all liability for:
 - i. Damage to property or injury to people arising, directly or indirectly, out of any act or omission by the manufacturer or its authorized installer relating to the installation and operation of the ignition interlock device; and
 - ii. All court costs, expenses of litigation, and reasonable attorneys' fees;
 - c. A statement that the manufacturer agrees to comply with all requirements under this Article; and
 - d. A statement that the manufacturer agrees to immediately notify the Department of any change to the information provided on the application form.
- C. A manufacturer shall submit the following additional items with the application form:
 - 1. A document that provides a detailed description of the ignition interlock device and a photograph, drawing, or other graphic depiction of the device;
 - 2. A document that contains the complete technical specifications for the accuracy, reliability, security, data collection, recording, and tamper detection capabilities of the ignition interlock device;
 - 3. An independent laboratory's report that:
 - a. Presents supporting data to demonstrate that the ignition interlock device meets or exceeds the test results required by the Model Specifications For Breath Alcohol Ignition Interlock Devices (BAIIDs), Appendix A-Quality Assurance Plan Template, and Appendix B-Sample Format For Downloaded Data From The Interlock Data Logger, NHTSA, published at 78 FR 26862 to 26867, May 8, 2013. The NHTSA specifications are incorporated by reference and are on file with the Department and the NHTSA Office of Research and Technology

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- (NTS-131), 400 7th St. S.W., Washington, D.C. 20590. This incorporation by reference contains no future editions or amendments;
- b. Provides the independent laboratory's name, address, and telephone number; and
 - c. Provides the name and model number of the ignition interlock device tested.
4. A laboratory certification form, signed by an authorized representative of the independent laboratory that prepared the report required under subsection (C)(3) and acknowledged by a notary public or Department agent, that states:
 - a. The laboratory is not owned or operated by a manufacturer and no other conflict of interest exists;
 - b. The laboratory tested the ignition interlock device in accordance with the Model Specifications For Breath Alcohol Ignition Interlock Devices (BAIIDs), Appendix A-Quality Assurance Plan Template, and Appendix B-Sample Format For Downloaded Data From The Interlock Data Logger, NHTSA, published at 78 FR 26862 to 26867, May 8, 2013.
 - c. The laboratory confirms that the ignition interlock device meets or exceeds the test results required under the Model Specifications For Breath Alcohol Ignition Interlock Devices (BAIIDs), Appendix A-Quality Assurance Plan Template, and Appendix B-Sample Format For Downloaded Data From The Interlock Data Logger, NHTSA, published at 78 FR 26862 to 26867, May 8, 2013;
 - d. The laboratory used properly maintained equipment and trained personnel to test the ignition interlock device; and
 - e. The laboratory presented accurate test results to the Department;
 5. A list of all authorized installers of the ignition interlock device, including the name, location, telephone number, contact person, and hours of operation of each authorized installer;
 6. A copy of the complete written instructions the manufacturer will provide to its authorized installers under R17-5-609 for installation and operation of the ignition interlock device for which the manufacturer seeks certification. The written instructions shall include a requirement for the installer to affix, to each certified ignition interlock device installed, a warning label that conforms to the criteria prescribed under R17-5-609, as illustrated on the application form provided by the Department;
 7. A copy of the complete written instructions the manufacturer shall provide to its authorized installers under R17-5-609 for distribution under R17-5-704 to participants and other operators of a vehicle equipped with the ignition interlock device for which the manufacturer seeks certification; and
 8. A certificate of insurance, issued by an insurance company authorized to transact business in Arizona, specifying:
 - a. A product liability policy with a current effective date;
 - b. The name and model number of the ignition interlock device model covered by the policy;
 - c. Policy coverage of at least \$1,000,000;
 - d. The manufacturer as the insured and the state of Arizona as an additional insured;
 - e. Product liability coverage for defects in manufacture, materials, design, calibration, installation, and operation of the ignition interlock device; and
 - f. The insurance company shall notify the Department at least 30 days before canceling the product liability policy.
- D. On or before April 1, 2015, a manufacturer shall submit a new application form and all the information required in this Section to the Department to certify any new ignition interlock device, or recertify an existing ignition interlock device, to the NHTSA specifications in subsection (E). For each ignition interlock device, a manufacturer shall submit a new laboratory report from an independent laboratory to the Department that presents supporting data to demonstrate that the ignition interlock device meets or exceeds the test results required by the NHTSA specifications.
 - E. Beginning on April 1, 2015, for any new installation of an ignition interlock device or replacement of a device on a participant's vehicle, a manufacturer or its authorized installer shall install only a certified ignition interlock device that meets or exceeds the test results required by the Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs), Appendix A - Quality Assurance Plan Template, and Appendix B - Sample Format For Downloaded Data from the Interlock Data Logger, NHTSA, published at 78 FR 26862 to 26868, May 8, 2013.

Historical Note

New Section recodified from R17-4-709.03 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Former R17-5-604 renumbered to R17-5-607; new R17-5-604 renumbered from R17-5-602 and amended by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4).

R17-5-605. Application Processing; Time-frames; Exception

- A. The Department shall process an application for certification under this Article or Article 7, or an application for recertification under R17-5-702, only if an applicant meets all applicable application requirements.
- B. The Department shall, within 10 days of receiving an application for certification or recertification provide notice to the applicant that the application is either complete or incomplete.
 1. The date of receipt is the date the Department stamps on the application when received.
 2. If an application is incomplete, the notice shall specifically identify what required information is missing.
- C. An applicant with an incomplete application shall provide all missing information to the Department within 15 days of the date indicated on the notice provided by the Department under subsection (B).
 1. After receiving all of the required information, the Department shall notify the applicant that the application is complete.
 2. The Department may deny certification or recertification if the applicant fails to provide the required information within 15 days of the date indicated on the notice provided by the Department under subsection (B).
- D. Except as provided under subsection (F), the Department shall render a decision on an application for certification or recertification under this Article or Article 7, within 30 days of the date indicated on the notice acknowledging receipt of a complete application under subsection (B) or provided to the applicant under subsection (C).
- E. For the purpose of A.R.S. § 41-1073, the Department establishes the following time-frames for processing an application for certification or recertification under this Article or Article 7:

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1. Administrative completeness review time-frame: 10 days.
2. Substantive review time-frame: 30 days.
3. Overall time-frame: 40 days.

F. Established time-frames may be suspended by the Department under A.R.S. § 41-1074 until all external agency approvals required for certifying a new ignition interlock device model are submitted by a manufacturer under R17-5-604.

Historical Note

New Section recodified from R17-4-709.04 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Former R17-5-605 renumbered to R17-5-608; new R17-5-605 made by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4).

R17-5-606. Application Completeness; Denial of Ignition Interlock Device Certification; Hearing

- A. An application for certification of an ignition interlock device model is complete when the Department receives:
1. From the manufacturer, a properly prepared application form;
 2. From the manufacturer, all additional items required under R17-5-604(C); and
 3. From the Arizona Department of Public Safety, under A.R.S. § 28-1462, written confirmation or disapproval of the independent laboratory's report that the ignition interlock device meets the NHTSA specifications in R17-5-604(C).
- B. The Director shall deny an application for certification of an ignition interlock device model if all requirements of subsection (A) are not met, or on finding any of the following:
1. The design, materials, or workmanship contains a defect that causes the ignition interlock device model to fail to function as intended;
 2. The manufacturer's liability insurance coverage is terminated or canceled;
 3. The manufacturer no longer offers the ignition interlock device model for installation under Arizona law;
 4. The manufacturer or independent laboratory provided false or inaccurate information to the Department relating to the performance of the ignition interlock device model;
 5. The components, design, or installation and operating instructions have undergone a modification that causes the ignition interlock device model to be out of compliance with the NHTSA specifications in R17-5-604(C); or
 6. The Department receives a report of device disapproval from an independent laboratory or other external reviewer.
- C. The Department shall mail to the manufacturer, written notification of the certification or denial of certification of an ignition interlock device model. A notice denying certification of an ignition interlock device model shall specify the basis for the denial and indicate that the applicant may, within 15 days of the date on the notice, request a hearing on the Director's decision to deny certification by filing a written request with the Department's Executive Hearing Office as prescribed under 17 A.A.C. 1, Article 5.
- D. If a manufacturer timely requests a hearing on the Director's decision to deny certification of an ignition interlock device model, the Department's Executive Hearing Office shall conduct the hearing as provided under A.R.S. Title 41, Chapter 6, Article 6, and 17 A.A.C. 1, Article 5.

Historical Note

New Section recodified from R17-4-709.05 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Former R17-

5-606 renumbered to R17-5-609; new R17-5-606 renumbered from R17-5-603 and amended by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4).

R17-5-607. Cancellation of Certification; Hearing

- A. The Director shall cancel an ignition interlock device model certification and remove the device from its list of certified ignition interlock devices on finding any of the following:
1. The design, materials, or workmanship contains a defect that causes the ignition interlock device model to fail to function as intended;
 2. The manufacturer's liability insurance coverage is terminated or canceled;
 3. The manufacturer no longer offers the ignition interlock device model for installation under Arizona law;
 4. The manufacturer or independent laboratory provided false or inaccurate information to the Department relating to the performance of the ignition interlock device model;
 5. The components, design, or installation and operating instructions have undergone a modification that causes the ignition interlock device model to be out of compliance with the NHTSA specifications in R17-5-604(C);
 6. The manufacturer instructs the Department to cancel its certification of the ignition interlock device model; or
 7. The manufacturer, its authorized installer, or the device does not comply with this Article or any other applicable rule or statute.
- B. The Department, on finding any of the conditions described under subsection (A), or on finding that the reporting manufacturer failed to timely remedy the issues identified in the notice provided under R17-5-602(E), shall mail to the manufacturer a notice and order of cancellation of certification for the specific ignition interlock device model. The notice and order of cancellation shall:
1. Specify the basis for the action;
 2. Specify the date when the one-year decertification begins and ends; and
 3. State that the manufacturer may, within 15 days after receipt of a notice and order of manufacturer device model cancellation, file a written request for a hearing with the Department's Executive Hearing Office as prescribed under 17 A.A.C. 1, Article 5, to show cause as to why the ignition interlock device certification should not be cancelled.
- C. If a hearing to show cause is timely requested, the Department's Executive Hearing Office shall conduct the hearing as prescribed under A.R.S. Title 41, Chapter 6, Article 6, and 17 A.A.C. 1, Article 5. The request for a hearing stays the summary cancellation of manufacturer device model certification.
- D. Within 10 days after a hearing, the hearing officer shall issue to the manufacturer a written decision, which shall:
1. Provide findings of fact and conclusions of law; and
 2. Grant or cancel the certification.
- E. If the hearing officer affirms the manufacturer device model cancellation, the manufacturer may seek judicial review under A.R.S. Title 12, Chapter 7, Article 6, within 35 days of the date when a copy of the decision sought to be reviewed is served upon the party affected unless the court grants a stay while the appeal is pending.
- F. Within 60 days after the effective date of an order of cancellation, the manufacturer shall, at the manufacturer's own expense, ensure the removal of all ignition interlock devices that are not certified and facilitate the replacement of each device with a certified ignition interlock device.

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- G. The manufacturer of a previously decertified ignition interlock device model may reapply to the Department for certification of the ignition interlock device model under R17-5-604 after the one-year device decertification period ends.
- H. During the period of cancellation, the Department shall notify each authorized installer of the manufacturer and each service representative that each of them is prohibited from installing the ignition interlock device for which the device certification was cancelled.
- I. Cancellation of a manufacturer's device model certification prohibits the manufacturer from performing its duties with respect to the device model that has been cancelled and making the device model available for installation in the state for a period of one year from the latest of the following dates when:
 1. The Department cancels a manufacturer's device model certification, or
 2. The Department's Executive Hearing Office cancels the manufacturer's device model certification.

Historical Note

New Section recodified from R17-4-709.06 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Former R17-5-607 renumbered to R17-5-610; new R17-5-607 renumbered from R17-5-604 and amended by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4).

Appendix A. Renumbered**Historical Note**

New Appendix recodified from 17 A.A.C. 4, Article 7 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Appendix A renumbered to R17-5-610, Appendix A, by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

Appendix B. Renumbered**Historical Note**

New Appendix recodified from 17 A.A.C. 4, Article 7 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Appendix B renumbered to R17-5-610, Appendix B, by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

Appendix C. Renumbered**Historical Note**

New Appendix recodified from 17 A.A.C. 4, Article 7 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Appendix C renumbered to R17-5-610, Appendix C, by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

R17-5-608. Modification of a Certified Ignition Interlock Device Model

- A. A manufacturer shall notify the Department in writing at least 10 days before a material modification is made to a certified ignition interlock device model.
- B. Before providing a previously certified but materially modified ignition interlock device model for installation in a motor vehicle under an order of an Arizona court or the Department, a manufacturer shall:
 1. Submit to the Department a completed application form and all additional items required under R17-5-604(C), and
 2. Obtain certification of the materially modified ignition interlock device from the Department.

- C. The Department's certification of a materially modified ignition interlock device model does not affect the original certification of the unmodified model.

Historical Note

New Section recodified from R17-4-709.07 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Former R17-5-608 renumbered to R17-5-611; new R17-5-608 renumbered from R17-5-605 and amended by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4).

R17-5-609. Manufacturer Referral to Authorized Installers; Manufacturer Oversight of its Authorized Installers

- A. A manufacturer shall perform a background records check on a manufacturer's authorized installer to determine:
 1. Each authorized installer's past employment history,
 2. That each authorized installer provides good customer service and adequately serves the public interest,
 3. That each authorized installer has certified that the authorized installer has not had a felony conviction in the five years preceding the individual's request for certification, and
 4. The authorized installer's motor vehicle record, driver license status, and the existence of any driving under the influence convictions.
- B. In this Section, conviction means that a court of competent jurisdiction, after adjudication, found the individual guilty.
- C. A manufacturer shall refer a participant only to an authorized installer.
- D. A manufacturer shall provide the Department with a toll-free telephone number for a participant to call to obtain names, locations, telephone numbers, contact persons, and hours of operation for its authorized installers.
- E. A manufacturer shall notify the Department within 10 days of a change of address of its principal or established place of business in this state.
- F. A manufacturer shall ensure that its authorized installer follows the installation and operation procedures established by the manufacturer.
- G. A manufacturer shall ensure that its authorized installer receives and maintains all necessary training and skills required to install, troubleshoot, examine, and verify proper operation of the certified ignition interlock device.
- H. A manufacturer shall ensure that its authorized installer:
 1. Complies with the manufacturer's procedures for removing a certified ignition interlock device from a vehicle, and
 2. Electronically notifies the Department within 24 hours after removing a certified ignition interlock device.
- I. A manufacturer shall ensure that its authorized installer distributes and makes available for every participant operating a motor vehicle equipped with a certified ignition interlock device, the manufacturer's written instructions for the following:
 1. Operating a motor vehicle equipped with the certified ignition interlock device,
 2. Cleaning and caring for the certified ignition interlock device, and
 3. Identifying and addressing any vehicle malfunctions or repairs that may affect the certified ignition interlock device.
- J. A manufacturer shall ensure that its authorized installer provides to every participant, and makes available for any participant operating a motor vehicle equipped with a certified

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ignition interlock device, the manufacturer's specified training on how to operate a motor vehicle equipped with the device.

- K. A manufacturer or installer shall provide a warning label, for each certified ignition interlock device installed, which shall:
 1. Be of a size appropriate to each device model;
 2. Have an orange background; and
 3. Contain the following language in black lettering: "Warning! Any person tampering with, circumventing, or otherwise misusing this Ignition Interlock Device, is guilty of a Class 1 misdemeanor."
- L. A manufacturer shall ensure that its authorized installer affixes conspicuously to each installed certified ignition interlock device the warning label described under subsection (K).

Historical Note

New Section recodified from R17-4-709.08 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Former R17-5-609 renumbered to R17-5-612; new R17-5-609 renumbered from R17-5-606 and amended by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4).

R17-5-610. Installation Verification; Accuracy Check; Non-compliance and Removal Reporting; Report Review

- A. A participant shall have installed in a motor vehicle, only an ignition interlock device certified by the Department under R17-5-604.
- B. A manufacturer shall comply, and ensure that its authorized installer complies, with its written procedures for the installation of a certified ignition interlock device.
- C. Certified ignition interlock device installation verification.
 1. A manufacturer shall electronically transmit, or ensure that its authorized installer electronically transmits, a Certified Ignition Interlock Device Summarized Reporting Record to the Department within 24 hours of installing a certified ignition interlock device.
 2. The electronic Certified Ignition Interlock Device Summarized Reporting Record for installation verification shall contain all of the following information:
 - a. Installer ID;
 - b. Participant's full name (first, middle, last and suffix);
 - c. Date of birth;
 - d. Driver license or customer number;
 - e. Report date;
 - f. Install date;
 - g. Removal date; and
 - h. Report type.
- D. Certified ignition interlock device accuracy and compliance check.
 1. A manufacturer shall ensure that its authorized installer schedules a participant for accuracy and compliance checks as follows:
 - a. 30 days, 60 days, and 90 days after installation of a certified ignition interlock device; and
 - b. At least once every 90 days after the first 90-day accuracy and compliance check until the participant is eligible for device removal.
 2. A manufacturer shall electronically transmit, or ensure that the manufacturer's authorized reporting installer electronically transmits, a Certified Ignition Interlock Device Summarized Reporting Record to the Department within 24 hours after performing an accuracy and compliance check on an installed certified ignition interlock device.
- 3. A manufacturer or the manufacturer's authorized reporting installer shall submit to the Department the following valid and substantiated proof or evidence of a reportable activity related to a violation, as prescribed in subsection (F), within 10 days by electronic means or by regular mail, which shall include:
 - a. A report summarizing why the data logger or any other evidence confirms the occurrence of a violation; and
 - b. A data logger that shows at least 12 hours of data before and after the violation.
- 4. A manufacturer or the manufacturer's authorized reporting installer may submit to the Department the following additional valid and substantiated proof or evidence of a reportable activity related to a violation, as prescribed in subsection (F), if available, within 10 days by electronic means or by regular mail, which may include:
 - a. Photographs;
 - b. Video recordings;
 - c. Written statements; and
 - d. Any other evidence relevant to a violation.
- 5. The electronic Certified Ignition Interlock Device Summarized Reporting Record for the accuracy and compliance check shall contain all of the following information:
 - a. Installer ID;
 - b. Participant's full name (first, middle, last and suffix);
 - c. Date of birth;
 - d. Driver license or customer number;
 - e. Report date;
 - f. Install date;
 - g. Removal date;
 - h. Report type;
 - i. Missed rolling retest count and dates;
 - j. Noncompliance code;
 - k. Alcohol concentration violation count and dates;
 - l. Tampering violation date;
 - m. Device download date; and
 - n. Device download time.
- E. Certified ignition interlock device removal report.
 1. A manufacturer shall electronically transmit, or ensure that its authorized installer electronically transmits, a Certified Ignition Interlock Device Summarized Reporting Record to the Department within 24 hours if a certified ignition interlock device is removed before the end of a participant's certified ignition interlock device period.
 2. The electronic Certified Ignition Interlock Device Summarized Reporting Record for removal of a device shall indicate the condition of noncompliance and contain all of the following information:
 - a. Installer ID;
 - b. Participant's full name (first, middle, last and suffix);
 - c. Date of birth;
 - d. Driver license or customer number;
 - e. Report date;
 - f. Install date;
 - g. Removal date;
 - h. Report type; and
 - i. Noncompliance code.
- F. Reportable activity for a participant's noncompliance with these rules and A.R.S. Title 28, Chapter 4, Article 5, shall be limited to valid and substantiated instances by a participant of any of the following:

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1. Tampering with a certified ignition interlock device as defined in A.R.S. § 28-1301;
 2. A missed rolling retest as defined in R17-5-601;
 3. Failing to provide proof of compliance or inspection of the certified ignition interlock device as required under A.R.S. § 28-1461(E)(4);
 4. Attempting to operate the vehicle with an alcohol concentration of 0.08 or more as prescribed in A.R.S. § 28-1381(A) if the participant is at least 21 years of age;
 5. Attempting to operate the vehicle with an alcohol concentration in excess of the startup set point if the participant is under 21 years of age; or
 6. Disconnecting or removing a certified ignition interlock device, except:
 - a. On receipt of Department authorization to remove the device;
 - b. On repair of the vehicle, if the participant provided to the manufacturer, installer, or service center advance notice of the repair and the anticipated completion date; or
 - c. On replacement of one vehicle with another vehicle if replacement of the device is accomplished within 72 hours of device removal.
- G.** A participant shall not avoid compliance with the rolling retest requirement by turning off a motor vehicle's ignition. A missed rolling retest is reportable activity for a participant's noncompliance under subsection (F).
- H.** The Department shall count one missed rolling retest for a participant who refuses or fails to provide a valid and substantiated breath sample in response to a requested rolling retest if not followed by the participant providing a valid and substantiated breath sample within six minutes.
- I.** Beginning on April 1, 2015, the Department shall extend the ignition interlock period for six months, as provided in A.R.S. § 28-1461(E) for any set of four missed rolling retests that occur during the participant's ignition interlock period.
- J.** A manufacturer or its authorized reporting installer shall screen a participant's data loggers to ensure that there is no improper reporting. A manufacturer or its authorized reporting installer shall report to the Department any valid and substantiated missed rolling retests, as defined in R17-5-601, that occur during a participant's ignition interlock period.
- K.** A manufacturer shall provide written notice, as requested, to the Department of each authorized reporting installer who is authorized to send data loggers, reports, and other participant records to the Department.
- L.** A manufacturer or its authorized installer shall ensure that a certified ignition interlock device has the necessary programming to identify each participant's ignition interlock period and to report and send data and violations to the Department as required by these rules.
- M.** A manufacturer or its authorized reporting installer shall review within 10 days all reports generated by the Department and returned to the manufacturer or installer for verification of accurate reporting. If a manufacturer or its authorized installer finds that the reported information does not indicate valid and substantiated evidence of a violation, the manufacturer or its authorized installer shall immediately contact the Department to correct the participant's record before corrective action is initiated against a participant as a result of misreported ignition interlock data.
- N.** A manufacturer or its authorized reporting installer shall immediately contact the Department if the manufacturer or its authorized reporting installer finds that the reported information indicates:

1. An obvious mechanical failure of a certified ignition interlock device;
2. Obvious errors in the recorded, certified ignition interlock device data that cannot be attributed to a participant's actions; or
3. Obvious errors in the transmission of certified ignition interlock device data to the Department, including misreported instances of tampering.

Historical Note

New Section recodified from R17-4-709.09 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Former R17-5-610 renumbered to R17-5-703; new R17-5-610 renumbered from R17-5-607 and amended by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4).

Exhibit A. Renumbered**Historical Note**

New Exhibit recodified from 17 A.A.C. 4, Article 7 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Exhibit A renumbered to R17-5-703, Exhibit A, by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

Exhibit B. Renumbered**Historical Note**

New Exhibit recodified from 17 A.A.C. 4, Article 7 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Exhibit B renumbered to R17-5-703, Exhibit B, by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

Appendix A. Repealed**Historical Note**

Appendix A renumbered from R17-5-607, Appendix A, and repealed by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

Appendix B. Repealed**Historical Note**

Appendix B renumbered from R17-5-607, Appendix B, and repealed by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

Appendix C. Repealed**Historical Note**

Appendix C renumbered from R17-5-607, Appendix C, and repealed by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

R17-5-611. Emergency Assistance by Manufacturers and Authorized Installers; Continuity of Serviceto Participants

- A.** A manufacturer shall ensure that its authorized installer provides to each participant a 24-hour emergency phone number for assistance in the event a certified ignition interlock device fails to operate properly or a vehicle experiences a problem relating to the installation, operation, or failure of a certified ignition interlock device.
1. Within two hours after receiving a participant's call for emergency assistance, if the authorized installer determines that a vehicle is experiencing a problem relating to the installation, operation, or failure of a certified ignition interlock device, the authorized installer shall either:
 - a. Provide telephonically, the technical information required for the participant to resolve the issue; or

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- b. Provide or arrange for appropriate towing or roadside assistance services if unable to resolve the issue telephonically.
2. Within 48 hours after receiving a participant's call for emergency assistance, the authorized installer shall either:
- a. Make the certified ignition interlock device functional, or
- b. Replace the certified ignition interlock device.
- B.** A manufacturer shall ensure uninterrupted service to a participant for the duration of the participant's certified ignition interlock period, which shall include facilitating the immediate replacement of an authorized installer if the installer goes out of business, its recertification is denied, or its certification is cancelled by the Department under R17-5-708.
1. If a manufacturer terminates its authorized installer's appointment, or the Department cancels the installer's certification or denies recertification under R17-5-708, the manufacturer shall:
- a. Obtain participant records from its formerly authorized installer; and
- b. Provide the participant records to a new authorized installer for retention according to R17-5-612; or
- c. Retain the participant records according to R17-5-612, if a new authorized installer is not appointed.
2. If a manufacturer appoints a new authorized installer, the manufacturer shall:
- a. Ensure that the new authorized installer operates either:
- i. A mobile service center that is located within 75 miles of the Arizona residence of each participant with an installed certified ignition interlock device provided by the manufacturer; or
- ii. A service center that is a permanent facility located within 125 miles of the Arizona residence of each participant with an installed certified ignition interlock device provided by the manufacturer; and
- b. Notify each participant affected by the appointment of the new authorized installer at least 30 days before the appointment becomes effective.
3. If a manufacturer does not appoint a new authorized installer, or its new authorized installer cannot provide service as prescribed under subsection (B)(2), the manufacturer, at no cost to the participant, shall:
- a. Provide written notification to all participants affected by the change of authorized installers at least 30 days before the authorized installer is to discontinue service. The written notification shall inform the participant of the manufacturer's responsibility to facilitate removal and replacement of the certified ignition interlock device and shall provide all of the instructions necessary for the participant to successfully exchange the device;
- b. Remove the device from the vehicle of each affected participant; and
- c. Facilitate the replacement of each device through a manufacturer with an authorized installer that can provide service as prescribed under subsection (B)(2).
4. A manufacturer shall notify the Department within 72 hours of replacing its authorized installer.
5. A manufacturer shall submit to the Department an updated list of its authorized installers within 10 days after making a change to the list provided to the Department under R17-5-604.
- C.** Except in an emergency situation, a manufacturer or its authorized installer shall not remove another manufacturer's certified ignition interlock device without the express permission of that manufacturer.
1. If in an emergency situation a manufacturer or its authorized installer removes another manufacturer's certified ignition interlock device, that manufacturer or authorized installer shall return the device to the original installer within 72 hours of the emergency removal; and
2. The original installer, on receipt of the device, shall provide to the Department an electronic report of the device removal under R17-5-610, which shall include the transmission of all data stored in its data storage system.
- D.** A manufacturer shall facilitate the immediate replacement of its authorized installer's service center if the service center goes out of business or the installer's certification is cancelled or recertification is denied under R17-5-708. The manufacturer shall notify the Department within 72 hours of replacing a service center.
1. If an out-of-business or cancelled service center is replaced, the manufacturer shall make all reasonable efforts to obtain, from the service center being replaced, all participant records and data required to be retained under R17-5-612. The records shall be provided to, and maintained by the new service center.
2. If an out-of-business or cancelled service center is not replaced, the manufacturer shall retain the records and data as required under R17-5-612. The Department shall be notified of this event within 72 hours.
- a. The manufacturer shall facilitate removal of all installed certified ignition interlock devices no longer serviced by the out-of-business or cancelled service center, and shall bear the cost of replacing each device with a serviceable certified ignition interlock device, even if the replacement device must be provided through an alternate manufacturer.
- b. The manufacturer shall, within 30 days, make a reasonable effort to notify its customers of the change of service center or replacement of a device.
3. If the manufacturer cannot comply with subsection (D)(1) or subsection (D)(2) within 60 days, the manufacturer shall:
- a. Notify its customers and the Department that service will be terminated; and
- b. Remove each device at no cost to the customer.
- Historical Note**
- Section R17-5-611 renumbered from R17-5-608 and amended by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4).
- R17-5-612. Records Retention; Submission of Copies and Quarterly Reports**
- A.** Records retention. A manufacturer shall retain, or ensure that its authorized installer retains, a participant's records in an electronic or a paper format for three years after the removal of a certified ignition interlock device. The retained records shall consist of every document relating to installation and operation of the certified ignition interlock device. The installer and the service center shall maintain all daily participant driving activity records in the device's data storage system, and shall make participant records available to the Department on

Historical Note

Section R17-5-611 renumbered from R17-5-608 and amended by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4).

R17-5-612. Records Retention; Submission of Copies and Quarterly Reports

- A. Records retention. A manufacturer shall retain, or ensure that its authorized installer retains, a participant's records in an electronic or a paper format for three years after the removal of a certified ignition interlock device. The retained records shall consist of every document relating to installation and operation of the certified ignition interlock device. The installer and the service center shall maintain all daily participant driving activity records in the device's data storage system, and shall make participant records available to the Department on request at the principal place of business.

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B. Copies of records and quarterly reports.

1. A manufacturer shall ensure that its authorized reporting installer or the manufacturer provides copies of participants' records to the Department within 10 days after Department personnel make a request for copies of records, including records relating to installation and operation of the certified ignition interlock device.
2. A manufacturer shall ensure that its authorized installer mails or e-mails to the Department, by the 10th day of January, April, July, and October, a quarterly report containing the following information for the previous three months:
 - a. The number of certified ignition interlock devices the authorized installer currently has in service;
 - b. The number of certified ignition interlock devices installed since the previous quarterly report; and
 - c. The number of certified ignition interlock devices removed by the authorized installer since the previous quarterly report.

Historical Note

Section R17-5-612 renumbered from R17-5-609 and amended by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4).

R17-5-613. Inspections

- A. The Department shall investigate any complaint or report of misconduct brought against a certified ignition interlock device manufacturer, installer, or installer-certified service representative, or against a service center for noncompliance with a provision of Articles 6 or 7 of this Chapter or A.R.S. Title 28, Chapter 4, Article 5.
- B. To comply with certification and the enforcement provisions of A.R.S. § 28-1465, the Department may request the consent of a manufacturer or a manufacturer's authorized installer for periodic onsite inspections at the established place of business of a manufacturer, a manufacturer's authorized installer, or a service center to determine whether a manufacturer or a manufacturer's authorized installer is in compliance with the Department's ignition interlock program requirements established under Articles 6 and 7 of this Chapter and A.R.S. Title 28, Chapter 4, Article 5.
- C. The Department shall conduct an inspection of a manufacturer, an installer, or a service center under the provisions of A.R.S. § 41-1009. The inspection shall include an examination of participant records and verification of an adequate supply of the warning labels that meet the requirements of A.R.S. § 28-1462, R17-5-609, and R17-5-704.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4).

ARTICLE 7. IGNITION INTERLOCK DEVICE INSTALLERS**R17-5-701. Definitions**

In addition to the definitions provided under A.R.S. §§ 28-101 and 28-1301, the definitions provided under R17-5-601 apply to this Article unless the context otherwise requires.

Historical Note

New Section recodified from R17-4-801 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 2297, effective August 5, 2006 (Supp. 06-2). New Section made by final

rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4).

R17-5-702. Ignition Interlock Device Installer Certification; Application Requirements; Recertification

- A. A manufacturer's authorized installer shall be certified by the Department before installing a certified ignition interlock device, and shall be recertified annually by the Department to continue to install a certified ignition interlock device under Arizona law.
- B. The Department may establish a system of staggered recertification for authorized installers throughout the twelve months of the year. If the Department approves an installer's certification or recertification, the certification or recertification shall extend for one year from the date of Department approval. A manufacturer's authorized installer shall submit to the Department the information required in subsection (D) on an annual basis for recertification. The Department may accept documents submitted with the initial application for certification, subject to Department approval.
- C. A manufacturer's authorized installer shall obtain from the manufacturer, as provided under R17-5-609, all necessary training and skills required to install, troubleshoot, examine, and verify proper operation of the manufacturer's certified ignition interlock device.
- D. A manufacturer's authorized installer shall submit to the Department a properly completed application for installer certification or recertification. The application for installer certification or recertification shall provide:
 1. The authorized installer's name;
 2. The authorized installer's business address and telephone number;
 3. The authorized installer's status as a sole proprietorship, partnership, limited liability company, or corporation;
 4. The name of the sole proprietor or of each partner, officer, director, manager, member, agent, or 20% or more stockholder;
 5. The name and model number of each certified ignition interlock device the authorized installer intends to install; and
 6. The following statements, signed by the authorized installer and acknowledged by a notary public or Department agent:
 - a. A statement that all information provided on the application form, including all information provided on any attachment to the application form, is complete, true, and correct;
 - b. A statement that the authorized installer agrees to indemnify and hold harmless from all liability the state of Arizona and any department, division, agency, officer, employee, or agent of the state of Arizona;
 - c. A statement that the authorized installer agrees to comply with all requirements under this Article; and
 - d. A statement that the authorized installer agrees to immediately notify the Department of any change to the information provided on the application form.
- E. The Department shall process an application for installer certification or recertification as provided under R17-5-605.
- F. Department certification issued to an authorized installer under this Article shall not expire as long as the installer remains authorized by a manufacturer to install its certified ignition interlock device model under Arizona law and the installer completes all requirements for annual recertification in the time period prescribed in this Section.

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1. If a Department-certified installer is no longer authorized by a manufacturer to install its certified ignition interlock device, the manufacturer shall notify the Department within 24 hours that an installer is no longer authorized by the manufacturer.
2. If the installer again becomes authorized by a manufacturer to install its certified ignition interlock device, the installer may reapply to the Department for certification under this Article by submitting a new application.

- G.** A Department-certified ignition interlock device installer shall notify the Department within 24 hours of making a decision to relocate a fixed-site service center.
- H.** A Department-certified installer shall train and certify each of its service representatives on the proper installation of a certified ignition interlock device before allowing the service representative to install the certified ignition interlock device.
- I.** A Department-certified ignition interlock device installer shall provide to the Department a current list of the names of each of its certified service representatives on a quarterly basis. The installer shall electronically notify the Department within 24 hours after making a change to its list.

Historical Note

New Section recodified from R17-4-805 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 2297, effective August 5, 2006 (Supp. 06-2). New Section made by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4).

R17-5-703. Ignition Interlock Device Installer Bond Requirements; Recertification

- A.** Before installing, servicing, or removing a certified ignition interlock device, an installer shall:
1. Be appointed by a manufacturer as an authorized installer of its certified ignition interlock device;
 2. Obtain an ignition interlock installer bond from a surety company authorized by the Arizona Department of Insurance to conduct general surety business in Arizona. The ignition interlock installer bond shall be:
 - a. In the amount of \$25,000;
 - b. On the approved form provided by the Department; and
 - c. Maintained for as long as the installer intends to install, service, or remove Department-certified ignition interlock devices under Arizona law;
 3. Submit the original completed ignition interlock installer bond to the Arizona Department of Transportation, Motor Vehicle Division, Ignition Interlock Program, 1801 W. Jefferson St. MD530M, Phoenix, AZ 85007; and
 4. Receive Department certification or recertification under R17-5-702.
- B.** An installer authorized by a manufacturer and certified or recertified by the Department to install, service, or remove more than one certified ignition interlock device model needs only one bond, which shall extend as long as the installer is certified or recertified.

Historical Note

New Section recodified from R17-4-806 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 2297, effective August 5, 2006 (Supp. 06-2). Section R17-5-703 renumbered from R17-5-610 and amended by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132,

effective April 1, 2015 (Supp. 14-4).

Exhibit A. Repealed**Historical Note**

Exhibit A renumbered from R17-5-610, Exhibit A, and repealed by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

Exhibit B. Repealed**Historical Note**

Exhibit B renumbered from R17-5-610, Exhibit B, and repealed by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

R17-5-704. Authorized Installer Responsibilities

- A.** An authorized installer certified by the Department to install a certified ignition interlock device shall:
1. Follow the installation and operating procedures established and provided by the manufacturer;
 2. Acquire and maintain all necessary training and skills specified by the manufacturer for installing, troubleshooting, examining, and verifying the proper operation of its certified ignition interlock device;
 3. Comply with all of the manufacturer's procedures for removing the certified ignition interlock device from a vehicle;
 4. Electronically notify the Department within 24 hours after removing a certified ignition interlock device under R17-5-610;
 5. Provide to the manufacturer, or to the Department if delegated by the manufacturer, an accurate electronic reporting of all applicable information required of the manufacturer under R17-5-610 and R17-5-612;
 6. Provide to every participant, and make available for every person operating a motor vehicle equipped with the certified ignition interlock device, a copy of the manufacturer's written instructions for the following:
 - a. Operating a motor vehicle equipped with the certified ignition interlock device;
 - b. Cleaning and caring for the certified ignition interlock device; and
 - c. Identifying and addressing vehicle malfunctions or repairs that may affect the certified ignition interlock device;
 7. Ensure that each participant receives an operator's manual and is further instructed regarding all of the following:
 - a. How to use the system;
 - b. How to obtain service for the system;
 - c. How to find answers to any additional questions;
 - d. How the alcohol retest feature works;
 - e. How drinking alcohol before a test may result in a reading of sensitive or fail;
 - f. How the device shall not be removed, except by an installer-certified service representative;
 - g. How missing an appointment for a regularly scheduled accuracy check will cause the certified ignition interlock device to enter into a lock-out condition that will emit a unique cue, either auditory, visual, or both, to warn the driver that after 72 hours the vehicle will not start. It shall be the responsibility of each participant to have the car towed to the service center if a lock-out condition occurs;
 - h. How noncompliance with a regularly scheduled accuracy check shall result in suspension under A.R.S. § 28-1463 of the participant's driver license

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until proof of compliance is submitted to the Department under A.R.S. § 28-1461; and the duration of the participant's certified ignition interlock device requirement shall be extended under A.R.S. § 28-1461;

- i. What the penalties are for tampering with or misusing the system;
 - j. What will happen after failing a start-up breath alcohol test;
 - k. What will happen after a participant has a set of four valid and substantiated missed rolling retests during the participant's ignition interlock period; and that a participant shall not avoid compliance with the rolling retest requirement by turning off a motor vehicle's ignition; and
 - l. What events or actions will result in a lock-out of the certified ignition interlock device.
8. Ensure that each participant demonstrates:
 - a. A properly delivered alveolar breath sample; and
 - b. An understanding of how the abort test feature works.
 9. Affix conspicuously, the warning label provided by the manufacturer under R17-5-609.
 10. Check each device for evidence of tampering at least once every 90 days or more frequently if needed. This anticircumvention check shall be conducted at each participant's regularly scheduled accuracy and compliance check required under R17-5-610.
 11. Notify the Department electronically under R17-5-610 if any evidence of tampering is discovered and submit valid and substantiated proof or evidence of a reportable activity.

- B. An installer shall not permit a service representative whose driving privilege is limited pursuant to A.R.S. §§ 28-1381, 28-1382, 28-1383, or 28-3319, or restricted under A.R.S. § 28-1402 to install, inspect, download, calibrate, repair, monitor, maintain, service, or remove a certified ignition interlock device until the restrictive period of the service representative's driving privilege ends. An installer whose driving privilege is limited pursuant to A.R.S. §§ 28-1381, 28-1382, 28-1383, or 28-3319, or restricted under A.R.S. § 28-1402 shall not install, inspect, download, calibrate, repair, monitor, maintain, service, or remove a certified ignition interlock device until the restrictive period of the installer's driving privilege ends.

Historical Note

New Section recodified from R17-4-807 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 2297, effective August 5, 2006 (Supp. 06-2). New Section made by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4).

R17-5-705. Installer-certified Service Representatives**A. Certification requirements.**

1. To achieve certification as a service representative, an individual shall obtain written documentation from a Department-certified ignition interlock device installer documenting that the individual is currently trained in each aspect involved with the specific certified ignition interlock device for which the individual seeks certification to install or service.
2. An installer shall not certify as a service representative, any individual with a felony conviction in the five years preceding the individual's request for certification. In this

Section, conviction means that a court of competent jurisdiction adjudicated the individual guilty.

B. Proficiency requirements.

1. It is the responsibility of the installer to ensure that its certified service representatives maintain proficiency in each aspect involved with each specific certified ignition interlock device model the individual is certified to install or service.
2. The Department may at any time require an installer-certified service representative to demonstrate competency in the installation, inspection, downloading, calibrating, repairing, monitoring, maintaining, servicing or removal of a specific certified ignition interlock device. Failure of the installer-certified service representative to demonstrate proficiency to the Department may result in corrective action against the installer as provided under R17-5-601.

Historical Note

New Section recodified from R17-4-808 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 2297, effective August 5, 2006 (Supp. 06-2). New Section made by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4).

R17-5-706. Accuracy and Compliance Check; Requirements

- A. An installer-certified service representative shall inspect, maintain, and check each certified ignition interlock device for calibration accuracy and operational performance before the device is placed into, or returned to service.
- B. The installer-certified service representative shall perform each accuracy and compliance check in accordance with NHTSA specifications as referenced in R17-5-604(C) at a service center authorized by an installer certified by the Department under R17-5-702.
- C. The accuracy and compliance check performed under R17-5-610 shall include an inspection of the device to verify that it is properly functioning in accordance with all of the following criteria:
 1. Accuracy standards as prescribed under R17-5-603;
 - a. The device shall be calibrated before placed into, or returned to service.
 - b. The calibration test shall consist of introducing to the device a known alcohol concentration from a reference sample device, the analysis of which indicates the device's agreement with the known concentration. The installer's software shall be capable of performing, documenting, and reporting the result of this calibration test. The calibration test result shall verify the accuracy of the ignition interlock device according to the standards prescribed under R17-5-603; and
 2. Anticircumvention standards and operational features as prescribed under R17-5-603.
- D. The calibration test referenced under subsection (C) shall be performed when the information uploaded from a device indicates that the device has experienced an interruption in service or was completely disconnected. Additionally, the complete device shall be examined for evidence of tampering while it is still attached to the vehicle.
- E. If calibration confirmation test results reveal that the device is not properly calibrated, the device shall be recalibrated to restore the accuracy standards prescribed under R17-5-603 before the device is returned to service.

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- F. At least once every 90 days, an installer-certified service representative shall perform a physical inspection of the ignition interlock device while it is still attached to the vehicle.
- G. An installer-certified service representative shall perform a physical inspection of the ignition interlock device at other times when the data logger indicates that tampering has occurred and shall maintain a log showing the findings.
- H. If at any time an individual device fails to meet the provisions of this Section, the manufacturer, installer, service center, or installer-certified service representative shall either:
 1. Repair, recalibrate, and retest the device to ensure that it does meet all applicable standards; or
 2. Remove the device from service.

Historical Note

New Section recodified from R17-4-501 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 2297, effective August 5, 2006 (Supp. 06-2). New Section made by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4).

R17-5-707. Inspection of Service Centers; Application

- A. A service center, whether located on a fixed site or mobile, shall meet the requirements necessary to maintain installer certification under this Article before it is used by an installer to conduct certified ignition interlock device related business in this state.
 - B. An installer shall submit to the Department a separate application for each individual service center the installer intends to use for conducting certified ignition interlock device related business in this state.
 - C. On an application for a service center, available from the Department, an installer shall identify:
 1. The physical location of the service center;
 2. The certified ignition interlock device, or devices, to be merchandised and serviced at the location; and
 3. The reference sample device, or devices, that will be used at the location.
 - D. An installer shall attach to the application submitted to the Department under subsection (B), a statement from the manufacturer acknowledging that the installer is authorized to install the certified ignition interlock device, or devices, described on the application.
 - E. The Department may request an installer applying to meet the requirements for a service center to consent to allow the Department access to the service center for inspection under subsection (H).
 - F. An installer applying for a service center shall agree to comply with all provisions under this Article and A.R.S. Title 28, Chapter 4, Article 5.
 - G. To operate a service center, the installer's ignition interlock device testing facilities, equipment, and the procedures used in the service center shall meet the following conditions:
 1. A fixed-site service center shall be located in a facility that accommodates installing, inspecting, downloading, calibrating, repairing, monitoring, maintaining, servicing, and removing a specific ignition interlock device consistent with the requirements of this Article. The installer shall:
 - a. Provide a designated waiting area for the participant that is separate from the installation area; and
 - b. Ensure that no participant witnesses installation of the certified ignition interlock device.
 2. A mobile service center shall be equipped with the same materials and capacities prescribed under subsection (G)(1). An installer or service representative operating a mobile service center shall:
 - a. Provide a designated waiting area for the participant that is separate from the area used for the installation area; and
 - b. Ensure that no participant witnesses installation of the certified ignition interlock device.
3. The installer, whether operating a fixed-site service center, or mobile, shall ensure that its certified service representatives utilize all of the following:
 - a. The analysis of a reference sample such as head-space gas from a mixture of water and alcohol, the results of which shall agree with the reference sample predicted value, or other methodologies approved by the Department. The preparatory documentation on the reference sample solution, such as a certificate of analysis, shall be made available to the Department on request.
 - b. The startup set point value established under R17-5-603(A). All analytical results shall be expressed in grams of alcohol per 210 liters of breath (g/210L).
 - c. The most current versions of manufacturer software and firmware to ensure continuous compliance under this Article and A.R.S. Title 28, Chapter 4, Article 5.
 4. Only a properly trained installer-certified service representative shall perform certified ignition interlock device related services rendered through a service center.
 - a. The installer shall maintain sufficient staff at each service center to ensure an acceptable level of service. The service center shall always be staffed with at least one installer-certified service representative.
 - b. The installer shall schedule accuracy and compliance checks at each service center in a manner that will not deprive a participant of an acceptable level of service.
 - c. The installer's software shall document the certified service representative performing each accuracy and compliance check and shall record the date each service is performed.
 - d. Department-certified installers may train potential certified service representatives in the service center only under the direct supervision of a currently certified service representative.
 5. The installer shall agree to:
 - a. Submit a violation as defined in R17-5-601 regarding a participant's noncompliance to the Department by providing valid and substantiated proof or evidence of a reportable activity as required in R17-5-610(D) no later than 24 hours after the installer discovers the violation;
 - b. Maintain complete records in an electronic or paper format of each device installation for three years from the date of its removal;
 - c. Require each applicant seeking installer certification as a service representative to certify that the applicant has not been convicted of a felony within the five years preceding the date of application;
 - d. Retain the five-year felony certification required of each installer-certified service representative under subsection (G)(5)(c) for five years after the date of the employee's separation from employment; and
 - e. Make available to the Department on request, either by inspection or in hard copy form, all records relating to the installer's ignition interlock device operations.

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6. The installer shall ensure that all anticircumvention features are activated on each installed certified ignition interlock device.
7. The installer shall install and inspect each certified ignition interlock device as provided under this Article.
 - a. Each time an installer uploads the information from a participant's certified ignition interlock device, the installer-certified service representative shall perform a visual inspection of the vehicle, the device, and the device's wiring to ensure that no tampering has occurred during the monitoring period.
 - b. The calibration test referenced under R17-5-706 shall be performed if the downloaded device information indicates that the device has experienced an interruption in service or was completely disconnected.
8. The installer shall agree to abide by conditions for the removal of a certified ignition interlock device, including but not limited to the following:
 - a. Provide electronic notification to the Department of device removal under R17-5-610(E) within 24 hours and electronically submit the required reporting record.
 - b. A service representative or service center shall not remove the certified ignition interlock device of another manufacturer, except in an emergency, or other special circumstance authorized by the Department. All removals shall be documented and reported to the Department. All device removal records shall be retained as prescribed under R17-5-612.
 - c. When a participant makes a request to exchange one manufacturer's device for the device of another manufacturer, the installer of the original device shall notify the Department of the device removal under R17-5-610(E).
- H. The Department may cancel the certification of an installer, prohibiting operation of its service center if the installer or service center is not complying with any provision under this Article, engaging in improper reporting as defined in R17-5-601, not complying with reporting provisions in R17-5-610, or not complying with A.R.S. Title 28, Chapter 4, Article 5. To ensure continuous compliance with the Department's certified ignition interlock program requirements, the Department may inspect an installer's service center and take corrective action against the installer as provided under R17-5-601 if a deficiency is identified during an inspection conducted under R17-5-613.
- I. An installer shall designate a custodian of records who shall, if required in an administrative hearing or court proceeding, provide testimony concerning the interpretation of data storage system records and answer questions concerning the installer's certification and compliance with the Department's ignition interlock program requirements.
- J. Before issuing certification, the Department may perform an onsite inspection of a service center to verify compliance with this Article.
- K. After verifying compliance with subsections (A) through (G), the Department shall provide evidence of approval to the installer that shall remain valid until cancelled by the Department or terminated by the installer or service center. Evidence of approval provided to an installer or service center under this Section demonstrates that the installer's service center has met all of the criteria necessary for approval by the Department.
- L. Approval of the installer's service center is contingent on the installer's agreement to conform with and abide by all directives, orders, and policies issued by the Department regarding any service center activities regulated by the Department under this Article and A.R.S. Title 28, Chapter 4, Article 5, which may include:
 1. Program administration,
 2. Reports,
 3. Records and forms,
 4. Inspections,
 5. Methods of operations and testing protocol,
 6. Personnel training and qualifications,
 7. Criminal history considerations for installer-certified service representatives, and
 8. Records custodian.
- M. Certification of an installer issued under this Article may be cancelled by the Department if the installer's service center, or installer-certified service representative is not in compliance with a provision of this Article, provisions regarding reporting in R17-5-610 and R17-5-601, or A.R.S. Title 28, Chapter 4, Article 5, or the certified ignition interlock device equipment it is authorized by the manufacturer to install no longer meets the requirements provided under Article 6 of this Chapter.

Historical Note

New Section made by final rulemaking at 13 A.A.R.

3499, effective December 1, 2007 (Supp. 07-4).

Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4).

R17-5-708. Notice; Denial or Cancellation of Certification; Appeal; Hearing

- A. If the Department determines that an authorized reporting installer fails to properly report ignition interlock information and data to the Department in the manner prescribed in these rules, the Department may immediately provide written notice to the authorized reporting installer with the following information:
 1. The name of the participant and the date of the improper reporting; and
 2. The authorized reporting installer shall send the required record or report to the Department within ten business days, if applicable.
- B. If the authorized reporting installer fails to remedy the issues identified in the notice provided under R17-5-708(A) within ten business days, the Department may cancel the authorized reporting installer's certification.
- C. If the Department denies a pending application for certification or recertification of an installer, or cancels a certification previously issued to an installer, the installer may appeal the action as follows:
 1. Within 15 days after receipt of a notice of denial of application or a notice of cancellation of certification or a notice of denial of recertification of an installer, the installer may file a written request for a hearing on the issue of the denial or cancellation with the Department's Executive Hearing Office as prescribed under 17 A.A.C. 1, Article 5.
 2. If a hearing on the issue of the denial or cancellation is timely requested, the Department's Executive Hearing Office shall conduct the hearing as prescribed under A.R.S. Title 41, Chapter 6, Article 6, and 17 A.A.C. 1, Article 5. The request for a hearing stays the summary cancellation of an installer's certified activities.
 3. Within 10 days after a hearing, the hearing officer shall issue to the installer a written decision, which shall:
 - a. Provide findings of fact and conclusions of law; and
 - b. Grant the application, deny the application, deny recertification, or cancel the certification.

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4. If the hearing officer affirms the denial of application or recertification or cancellation of certification, the installer may seek judicial review under A.R.S. Title 12, Chapter 7, Article 6, within 35 days of the date when a copy of the decision sought to be reviewed is served upon the party affected unless the court grants a stay pending the outcome of judicial review.
- D. If an installer's certification is cancelled or denied, or recertification is denied, the installer is prohibited from performing its duties and operating under these rules for a period of one year from the latest of the following dates when:
 1. The Department denies an application or recertification, or cancels a certification of an installer, or
 2. The Department's Executive Hearing Office denies the application or recertification, or cancels a certification of an installer.
- E. After the one-year decertification period ends, an installer may reapply to the Department for certification by completing a new application and meeting all certification requirements under this Article.

Historical Note

New Section made by final rulemaking at 13 A.A.R.

3499, effective December 1, 2007 (Supp. 07-4).

Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4).

ARTICLE 8. MANDATORY INSURANCE AND FINANCIAL RESPONSIBILITY**R17-5-801. Definitions**

In addition to the definitions under A.R.S. §§ 28-101 and 28-4001, in this Chapter, unless otherwise specified:

"Company" means an insurance or indemnity company authorized to write motor vehicle liability coverage in Arizona.

"Customer number" means the system-generated, or other distinguishing number, assigned by the Division to each person conducting business with the Division. The customer number of a private individual is generally the person's driver license or non-operating identification license number. The customer number of a business is generally its federal employer identification number.

"Division" means the Arizona Department of Transportation's Motor Vehicle Division.

"EDI" means electronic data interchange, which is the transmission of data in a standardized format from one computer to another without the use of magnetic tape.

"EDI reporting" means the weekly computer-to-computer transmission of data from a company to the Division.

"Error return" means the immediate computer-to-computer transmission, from the Division to a company, of all data reporting errors received during EDI reporting.

"FEIN" means the federal employer identification number or federal tax identification number used to identify a business entity.

"FTP" means file transfer protocol, which is a common protocol used by the Division for exchanging files over any network that supports EDI reporting transmitted through the Internet or Intranet.

"Information exchange" means EDI reporting where a company or service provider transmits a report to the Division through a connection to a private information network.

"MVD" means the Arizona Department of Transportation's Motor Vehicle Division.

"NAIC" means the National Association of Insurance Commissioners.

"Private information network" means the value-added network used by a company or service provider to facilitate EDI transmissions to the Division and to provide other network services where fees are charged for the network connection based on the number of characters and messages transmitted.

"Reportable activity" means the information required to be transmitted to the Division under A.R.S. § 28-4148 and this Article.

"Self-insurer" means a person or entity that has met the qualifications, completed the application process, and received a certificate of self-insurance issued by the Division under Section R17-5-810.

"Service provider" means a person or entity that provides the connection to a private information network for EDI reporting.

"SR22" means a certification filed, by a company duly authorized to transact business in this state, as proof of financial responsibility for the future, which guarantees that the insured owner or operator has in effect at least the minimum motor vehicle liability insurance coverage required under A.R.S. Title 28, Chapter 9, Article 3.

"SR26" means a certification filed by a company duly authorized to transact business in this state, which notifies the Division that an insured owner or operator required to maintain proof of financial responsibility for the future, under A.R.S. Title 28, Chapter 9, Article 3, is no longer covered under a previously reported SR22.

"Value-added Network" means a private network provider that is hired by a company to facilitate EDI or provide other network services.

"X12" means the American National Standards Institute, Accredited Standards Committee, uniform standards for the inter-industry electronic exchange of business transactions by EDI.

"X12 (TS811)" means X12 Transaction Set 811, Consolidated Service Invoice – Statement, version 3050, which is the specific set of EDI transactions developed for the insurance industry in the X12 standard format for automobile liability insurance reporting.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1).

R17-5-802. Insurance Company Electronic Reporting Requirement; Applicability

- A. A company that provides motor vehicle liability insurance coverage for an Arizona vehicle shall electronically transmit to the Division all reportable activity under A.R.S. § 28-4148 and R17-5-803 using one of the authorized EDI reporting methods identified in R17-5-806. Each transmission shall include all of the applicable record matching criteria prescribed under R17-5-804 or R17-5-805.
- B. Effective May 1, 2007, a company that issues 1,000 or more SR22 policies per calendar year shall electronically transmit to the Division all SR22 and SR26 activity using one of the Division-authorized EDI reporting methods identified in R17-5-806. Each transmission shall include all of the applicable

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record matching criteria prescribed under R17-5-804 or R17-5-805.

- C. The Division shall not accept or record an out-of-state motor vehicle liability insurance policy for a passenger vehicle, even if written by a company authorized to transact business in this state.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1).

R17-5-803. Insurance Company Reportable Activity

- A. A company shall transmit to the Division:
1. All reportable activity, not previously reported, that was processed by the company seven or fewer days before each reporting date; or
 2. A statement of inactivity, if no reportable activity occurred by the reporting date.
- B. For the purpose of this Article, reportable activity shall include:
1. A policy cancellation;
 2. A policy non-renewal;
 3. A new policy issuance;
 4. A vehicle added to a policy;
 5. A vehicle deleted from a policy;
 6. A policy reinstatement; and
 7. Effective May 1, 2007, all SR22 and SR26 filings by insurance companies issuing 1,000 or more SR22 policies per calendar year.
- C. Reportable activity does not include the addition or deletion of a vehicle to or from a non-vehicle-specific commercial policy.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1).

R17-5-804. Record Matching Criteria for a Vehicle-specific Policy

For each vehicle-specific policy transmitted to the Division, a company shall include all of the following information to assist with the matching of policies to MVD customers:

1. The complete and valid vehicle identification number;
2. The policy number; and
3. The NAIC number of the reporting company.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1).

R17-5-805. Record Matching Criteria for a Non-vehicle-specific Commercial Policy

- A. For each non-vehicle-specific commercial policy transmitted to the Division, a company shall include all of the following information to assist with the matching of policies to MVD customers:
1. The MVD Customer number of the insured:
 - a. If a policy covers all vehicles registered in the name of a business or organization, the Customer number is the FEIN of the business or organization; or
 - b. If a policy covers all vehicles registered in the name of a private individual, the Customer number is the Arizona Driver License number of the private individual;
 2. The policy number; and
 3. The NAIC number of the reporting company.
- B. If the MVD Customer number required under subsection (A)(1) is not available to a company, the company may provide the complete and valid vehicle identification number of

each vehicle covered under the policy in-lieu of the MVD Customer number.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1).

R17-5-806. Division-authorized EDI Reporting Methods; Reporting Schedule

- A. A company shall transmit to the Division all reportable activity listed in R17-5-803 using one of the following Division-authorized EDI reporting methods:
1. EDI reporting by information exchange; or
 2. EDI reporting by encrypted FTP.
- B. A company shall transmit all reportable activity to the Division at least once every seven days.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1).

R17-5-807. X12 Data Format for Policy Receipt and Error Return

- A. Reporting format. A company shall transmit to the Division all reportable activity using the format prescribed in the Arizona Mandatory Insurance Reporting System Guide for Insurance Companies provided by the Division.
- B. Error return format. The Division shall return to a company all reporting errors received during a transmission of reportable activity using the format prescribed in the Arizona Mandatory Insurance Reporting System Guide for Insurance Companies.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1).

R17-5-808. Insurance Company Reporting Errors; Resolution; Noncompliance

- A. The Division shall:
1. Return to a company, using the X12 Error Return format provided in R17-5-807(B), all reporting errors received during a transmission; and
 2. Instruct the company to correct all reporting errors affecting the Division's processing of the required data.
- B. All companies reporting electronic policy information shall notify the Division prior to making changes to any reporting systems, or previously established policy reporting formats, that may affect the Division's ability to match and process the information received.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1).

R17-5-809. Insurance Company Failure to Submit Required Data; Request for Hearing

If a company fails to submit the data required under A.R.S. § 28-4148, and this Article, the Division shall:

1. Send to the company, a dated written notice, which:
 - a. Identifies the business week or reporting period in which the company did not submit the required information;
 - b. Instructs the company to submit the information for the identified business week or reporting period within seven days of the date of the notice;
 - c. Informs the company that a failure to respond to the Division's request within the allotted time-frame, shall result in a referral of the matter to the Arizona Department of Insurance, under A.R.S. § 20-237, which may result in a civil penalty of up to \$250 per

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- day for each day the insurer is in violation of A.R.S. § 28-4148; and
- d. Provides notice of the company's right to request a hearing with the Arizona Department of Insurance under A.R.S. § 20-237; and
 2. Advise the Arizona Department of Insurance if the company fails to comply with the Division's written notice provided under this Section.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1).

R17-5-810. Self-insurance as Alternate Proof of Financial Responsibility; Provisions; Applicability

- A. Self-insurance applicant qualification. A person or entity may apply for self-insurance under this Section if the applicant:
 1. Owns the minimum number of vehicles prescribed under A.R.S. § 28-4007(A) with current Arizona registration;
 2. Demonstrates minimum assets of \$1 million on documentation required under subsections (C) and (D);
 3. Meets any additional financial responsibility requirements under A.R.S. § 28-4033(A), according to the insured vehicle's weight and/or intended use; and
 4. Provides a business office contact for the company with a current phone number and mailing information.
- B. A self-insurance applicant shall provide, on a self-insurance application form provided by the Division, the following information:
 1. Applicant's name;
 2. Business name, if applicable;
 3. Mailing address, city, state, and ZIP code;
 4. A selection of coverage type:
 - a. Public liability only; or
 - b. Public liability and property damage;
 5. Number of vehicles in the applicant's fleet;
 6. A selection list that describes the nature of the applicant's business;
 7. A description of any hazardous materials transported by type, class, and weight;
 8. A report of all accidents in the prior 39-month period before the application date;
 9. The applicant's signature and official business title to certify that all information is true and correct; and
 10. Acknowledgment by a notary public or by the signature of an authorized Motor Vehicle Division agent.
- C. Supplementary documentation. In addition to a completed self-insurance application form, the applicant shall submit a profit and loss statement certified by a Certified Public Accountant for the 12-month period before the application date. The profit and loss statement shall include one of the following:
 1. A balance sheet; or
 2. An annual financial report.
- D. On approval of an application, the Division shall issue a certificate of self-insurance that is continuously valid but shall require the self-insurer to submit a 12-month update of supplementary documentation prescribed under subsection (C) on or before July 1 of each successive year.
- E. An initial self-insurance applicant or a self-insurer making an annual update shall submit documentation required under subsections (B) through (D) to the following address:

Motor Vehicle Division
Financial Responsibility Unit
P.O. Box 2100, Mail Drop 535M
Phoenix, AZ 85001-2100

- F. A self-insurer shall keep a copy of the self-insurance certificate in each covered vehicle at all times.
- G. A self-insurer shall submit written notification to the Division of each vehicle to be added or removed from self-insurance coverage. The written notification shall include the vehicle identification number of each vehicle.
- H. A self-insurer that terminates self-insurance shall provide new evidence of financial responsibility as required under A.R.S. § 28-4135 for each vehicle previously covered under a self-insurance certificate.
- I. In addition to the reasonable grounds prescribed under A.R.S. § 28-4007(C), the Division may cancel a self-insurance certificate under the following circumstances:
 1. A self-insurer fails to comply with provisions of the Division's annual update requirement under subsection (D), or
 2. A self-insurer no longer owns the covered business or fleet.
- J. For the purpose of A.R.S. § 28-4007(C) and this Section, the Division shall conduct a self-insurance cancellation hearing according to the provisions prescribed under 17 A.A.C. 1, Article 5.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1).

R17-5-811. Certificate of Deposit as Alternate Proof of Financial Responsibility; Applicability

For the purpose of A.R.S. §§ 28-4076(2) and 28-4084, a person depositing a \$40,000 certificate of deposit with the state treasurer as alternate proof of financial responsibility may apply the certificate to a maximum of 25 non-commercial vehicles registered in the person's name.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1).

ARTICLE 9. TRANSPORTATION NETWORK COMPANIES**R17-5-901. Definitions**

In addition to the definitions provided under A.R.S. § 28-9551, when applicable to a transportation network company, the following definitions apply to this Article unless otherwise specified:

"Applicant" means a person that meets the statutory requirements of a transportation network company as prescribed under A.R.S. Title 28, Chapter 30, Article 3.

"Designated point of contact" means a person employed by a transportation network company who has the authority to gather and provide records to the Department on request.

"Transportation network company permit" means a document issued by the Department to an applicant that meets the requirements prescribed under A.R.S. Title 28, Chapter 30, Article 3, as authorization to conduct transportation network services in this state.

"Violation" means a failure to maintain or make available to the Department any records the transportation network company is required to maintain and provide to the Department on request as provided under A.R.S. §§ 28-9554 through 28-9556.

Historical Note

New Section made by exempt rulemaking under Laws 2015, Ch. 235, § 14, at 21 A.A.R. 1825, effective August 21, 2015 (Supp. 15-3). Section repealed; new Section made by final rulemaking at 23 A.A.R. 223, effective

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March 6, 2017 (Supp. 17-1).

R17-5-902. Transportation Network Company Permit - Initial Application; Issuance; Fee

- A. An applicant for a transportation network company permit issued by the Department under A.R.S. § 28-9552, shall apply to the Department by:
1. Completing and submitting online the application form provided by the Department at www.azdot.gov;
 2. Providing the full name and contact information of the applicant's agent for service of process in this state;
 3. Certifying that the transportation network company meets the requirements of A.R.S. Title 28, Chapter 30, Article 3;
 4. Filing a legible illustration of the applicant's trade dress; and
 5. Paying a \$1,000 application fee as provided under A.R.S. § 28-9552(A).
- B. Upon receipt and acceptance of all required documents, fees, and certifications, the Department shall issue to an applicant a transportation network company permit.
- C. The application fee paid to the Department under subsection (A) is refundable in full if the transportation network company permit application is:
1. Denied by the Department, or
 2. Withdrawn by the applicant before the Department issues a transportation network company permit.
- D. A transportation network company permit issued by the Department under this Section expires three years after issuance and may be renewed as provided under R17-5-903.

Historical Note

New Section made by exempt rulemaking under Laws 2015, Ch. 235, § 14, at 21 A.A.R. 1825, effective August 21, 2015 (Supp. 15-3). Section repealed; new Section made by final rulemaking at 23 A.A.R. 223, effective March 6, 2017 (Supp. 17-1).

R17-5-903. Transportation Network Company Permit - Renewal Application; Issuance; Fee

- A. A transportation network company shall apply to the Department for renewal of a transportation network company permit issued by the Department under A.R.S. § 28-9552 and R17-5-902, no earlier than 90 days, and no later than 30 days, before the permit expires by:
1. Completing and submitting online the renewal application form provided by the Department at <https://secure.servicearizona.com>;
 2. Filing with the Department a legible illustration of the applicant's trade dress if different than the illustration already on file with the Department;
 3. Certifying that the transportation network company meets the requirements of A.R.S. Title 28, Chapter 30, Article 3; and
 4. Paying a \$1,000 renewal application fee as provided under A.R.S. § 28-9552(A).
- B. Upon receipt and acceptance of all required documents, fees, and certifications, the Department shall issue to an applicant a transportation network company permit renewal.
- C. A transportation network company permit renewal issued by the Department expires three years after the date the existing transportation network company permit expires.
- D. The holder of an expired transportation network company permit may apply to the Department for a new transportation network company permit using the renewal application procedure provided under R17-5-903(A).

Historical Note

New Section made by exempt rulemaking under Laws 2015, Ch. 235, § 14, at 21 A.A.R. 1825, effective August 21, 2015 (Supp. 15-3). Section repealed; new Section made by final rulemaking at 23 A.A.R. 223, effective March 6, 2017 (Supp. 17-1).

R17-5-904. Transportation Network Company Permit or Renewal - General Provisions

- A. A transportation network company permit or renewal issued by the Department under this Article shall include an assigned number that remains effective until either withdrawn by the Department or until it expires.
- B. A transportation network company permit or renewal issued by the Department under this Article shall not be transferred or assigned, in whole or in part, to any person other than the person to whom the permit is issued, except upon a merger, change in control, or sale of substantially all of the transportation network company's assets to an entity that assumes the duties and obligations of the permit. The transportation network company shall notify the Department within 30 days of such a transfer or assignment, and the Department shall have 30 days beginning on such notification to nullify the transfer or assignment based on the criteria set forth in this Article. An initial public offering shall not be deemed to trigger a transfer or assignment under this Section.

Historical Note

New Section made by exempt rulemaking under Laws 2015, Ch. 235, § 14, at 21 A.A.R. 1825, effective August 21, 2015 (Supp. 15-3). Section repealed; new Section made by final rulemaking at 23 A.A.R. 223, effective March 6, 2017 (Supp. 17-1).

R17-5-905. Transportation Network Company - Record Review

- A. The Department, after providing reasonable notice to a transportation network company, may review with or without cause all records a transportation network company is required to make available to the Department on request as provided under A.R.S. §§ 28-9554 through 28-9556.
- B. A transportation network company shall make all records described under subsection (A) available to the Department for review at an Arizona location.
- C. The Department shall conduct a record review during the transportation network company's normal business hours.
- D. The Department shall provide a copy of its review report to the transportation network company's designated point of contact. The report shall include the review results and indicate any violations found.

Historical Note

New Section made by exempt rulemaking under Laws 2015, Ch. 235, § 14, at 21 A.A.R. 1825, effective August 21, 2015 (Supp. 15-3). Section repealed; new Section made by final rulemaking at 23 A.A.R. 223, effective March 6, 2017 (Supp. 17-1).

R17-5-906. Transportation Network Company - Designated Point of Contact

- A. A transportation network company shall provide to the Department the name and contact information of the transportation network company's designated point of contact in this state.
- B. A transportation network company shall notify the Department within 10 business days of making a change to the name or contact information of the transportation network company's designated point of contact in this state.

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Historical Note

New Section made by exempt rulemaking under Laws 2015, Ch. 235, § 14, at 21 A.A.R. 1825, effective August 21, 2015 (Supp. 15-3). Section repealed; new Section made by final rulemaking at 23 A.A.R. 223, effective March 6, 2017 (Supp. 17-1).

ARTICLE 10. VEHICLE FOR HIRE**R17-5-1001. Definitions**

In addition to the definitions in A.R.S. §§ 28-101 and 28-9501, the following terms apply to this Article unless otherwise specified:

“Appealable agency action” has the meaning prescribed in A.R.S. § 41-1092.

“Applicant” means a company that applies to the Department for a vehicle for hire company permit as prescribed under A.R.S. Title 28, Chapter 30, Article 1, and these rules.

“Application” means forms designated as an application and all documents and additional information the Department requires a vehicle for hire company applicant to submit to obtain a vehicle for hire company permit.

“Contested case” has the meaning prescribed in A.R.S. § 41-1001.

“Designated point of contact” means a person employed by a vehicle for hire company who has the authority to gather and provide records to the Department on request.

“Good standing” means that an applicant does not have:

- Any outstanding civil penalties owed to the Department;
- Any suspension, revocation, or cancellation of a vehicle for hire company permit issued by the Department;
- Any delinquent fees, taxes, or unpaid balances owed to the Department; or
- Any open complaints submitted to the Department regarding compliance with vehicle for hire statutes or rules.

“Government agency” means this state and any political subdivision of this state that receives and uses tax revenues.

“*Handbook 44*” means the U. S. Department of Commerce, National Institute of Standards and Technology (NIST) *Handbook 44*, Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices, Section 5.54. Taximeters, revised as of 2016.

“NIST” means the National Institute of Standards and Technology of the U.S. Department of Commerce.

“Permittee” means the owner or responsible party in the vehicle for hire company that meets all permit requirements and holds a vehicle for hire company permit.

“Trade dress” means a removable and distinct logo, insignia or emblem attached to, or visible from the exterior of a taxi while providing vehicle for hire services as a taxi, and that includes the word “taxi” or “cab.”

“Vehicle for hire company permit” means the permit required in A.R.S. § 28-9503 for a vehicle for hire company to operate in this state.

“Violation” means the failure of a vehicle for hire company to:

- Provide to the Department any records the vehicle for hire company is required to maintain and provide on request, as provided in A.R.S. § 28-9507;

Follow these rules; or

Follow A.R.S. Title 28, Chapter 30, Articles 1 and 2.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 223, effective March 6, 2017 (Supp. 17-1).

R17-5-1002. Incorporation by Reference

The Department incorporates by reference the U. S. Department of Commerce, National Institute of Standards and Technology (NIST) *Handbook 44*, Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices, Section 5.54. Taximeters, revised as of 2016, and no later amendments or editions. The incorporated material is available at www.nist.gov/pml/pubs/hb44.cfm. The incorporated material is on file with the Department at 206 S. 17th Ave., Phoenix, AZ.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 223, effective March 6, 2017 (Supp. 17-1).

R17-5-1003. Vehicle for Hire Company Permit; Good Standing; Handbook 44

- A. An applicant to the Department for a vehicle for hire company permit shall be in good standing with the Department at the time the vehicle for hire company applies for or renews a vehicle for hire company permit.
- B. A vehicle for hire company that operates a vehicle for hire as a taxi shall have an operating taxi meter installed in each taxi by a person or company that uses *Handbook 44*.
- C. A vehicle for hire company operating a taxi shall maintain, and make available to the Department, records for the installation and calibration of each taxi meter for the duration of the three-year vehicle for hire company permit.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 223, effective March 6, 2017 (Supp. 17-1).

R17-5-1004. Vehicle for Hire Company Permit - Initial Application; Issuance; Fee

- A. A vehicle for hire company shall apply to the Department for a vehicle for hire company permit by:
 1. Completing and submitting the application form to the Department that is located at: www.azdot.gov;
 2. Providing the full name and contact information of the vehicle for hire company’s agent for service of process in this state;
 3. Submitting a clear illustration of the vehicle for hire company’s trade dress, if operating as a taxi;
 4. Paying the application fee of \$24 per vehicle that is used as a taxi by the vehicle for hire company at the time of application, not to exceed a total of \$1,000 per applicant, as required by A.R.S. § 28-9503;
 5. Certifying that the vehicle for hire company meets all vehicle for hire company requirements in A.R.S. Title 28, Chapter 30, Article 1; and
 6. Stating the total number of vehicles for hire in the vehicle for hire company fleet at the time of application.
- B. A vehicle for hire company shall provide to the Department the name and contact information of the vehicle for hire company’s designated point of contact in this state.
- C. After the Department receives and accepts a completed application, all certifications, and the application fee, if applicable, the Department shall issue to an applicant a vehicle for hire company permit.
- D. A vehicle for hire company permit issued by the Department expires three years after the date of issuance.

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- E. A vehicle for hire company may apply to renew a vehicle for hire company permit as provided in R17-5-1005.
- F. A vehicle for hire company shall notify the Department within 10 business days of making a change to the name or contact information of the vehicle for hire company's designated point of contact in this state.
- G. A vehicle for hire company permit or renewal issued by the Department under this Article may be transferred to a person other than the person to whom the permit is issued, if ownership of the vehicle for hire company changes. The vehicle for hire company shall notify the Department within 30 days of such a transfer.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 223, effective March 6, 2017 (Supp. 17-1).

R17-5-1005. Vehicle for Hire Company Permit - Renewal Application; Issuance; Fee

- A. A vehicle for hire company shall apply to the Department for renewal of an existing vehicle for hire company permit under A.R.S. § 28-9503, no earlier than 90 days and no later than 30 days before the three-year permit expires by:
 1. Completing and submitting the required information, all certifications, and the application fee, if applicable, to the Department at: <https://secure.servicearizona.com>;
 2. Submitting a clear illustration of the vehicle for hire company's trade dress, if operating as a taxi, and if different than the illustration already on file with the Department;
 3. Paying the renewal application fee of \$24 per vehicle that is used as a taxi at the time of permit renewal, not to exceed a total of \$1,000 per applicant, as required by A.R.S. § 28-9503; and
 4. Certifying that the vehicle for hire company meets all the vehicle for hire company requirements in A.R.S. Title 28, Chapter 30, Article 1.
- B. Upon receipt and acceptance of all required documents, fees, if applicable, and certifications, the Department shall issue to an applicant a vehicle for hire company permit renewal.
- C. A vehicle for hire company permit renewal issued by the Department expires three years after the existing vehicle for hire company permit expires.
- D. The holder of an expired vehicle for hire company permit may apply to the Department for a new vehicle for hire company permit using the renewal application procedure provided under R17-5-1005(A).

Historical Note

New Section made by final rulemaking at 23 A.A.R. 223, effective March 6, 2017 (Supp. 17-1).

R17-5-1006. Vehicle for Hire Company Permit or Renewal - General Provisions

A vehicle for hire company permit issued by the Department shall include an assigned number that remains effective until either withdrawn by the Department or until the permit expires.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 223, effective March 6, 2017 (Supp. 17-1).

R17-5-1007. Vehicle for Hire Company; Record Review; Inspection

- A. The Department, after providing reasonable notice to a company with a vehicle for hire company permit, may review, with or without cause, all records of a vehicle for hire company as prescribed in A.R.S. § 28-9507, at intervals determined by the Department.
- B. A vehicle for hire company shall make all records described under subsection (A) available to the Department for review at an Arizona location.
- C. The Department shall conduct a record review during the vehicle for hire company's normal business hours.
- D. The Department may conduct a periodic, random inspection of a taxi meter and any vehicle for hire, or in response to a complaint by the public. An inspection may include an inspection of the taxi meter in a taxi and the signage required by A.R.S. § 28-9506.
- E. After the inspection, the Department shall provide a copy of the inspection report to the vehicle for hire company or the designated point of contact. The report shall include any deficiencies or violations indicated during the inspection.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 223, effective March 6, 2017 (Supp. 17-1).

R17-5-1008. Posting of Fares

- A. When a livery vehicle provides local transportation at fares that are established in a contract with a government agency, the livery vehicle interior signage shall indicate that fares are determined by contract with a government agency when providing those services.
- B. When a livery vehicle provides local transportation services at fares that are not established in a contract with a government agency, the livery vehicle interior signage shall post fares in accordance with A.R.S. § 28-9506(A)(2).

Historical Note

New Section made by final rulemaking at 23 A.A.R. 223, effective March 6, 2017 (Supp. 17-1).

R17-5-1009. Appealable Agency Actions; Rehearing; Judicial Review

- A. A.R.S. Title 41, Chapter 6, Article 10 applies to all contested cases and all appealable agency actions of the Department under A.R.S. Title 28, Chapter 30, Article 2.
- B. A vehicle for hire company whose permit, renewal, or authority is denied has a right to a hearing, an opportunity for rehearing under A.R.S. Title 41, Chapter 6, Articles 6 and 10, and if the denial is upheld, judicial review under A.R.S. Title 12, Chapter 7, Article 6.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 223, effective March 6, 2017 (Supp. 17-1).

Supplement Separator Page



Supplement to the
Arizona Administrative Code
The official compilation of Arizona Rules
Replacement Check List

For rules filed in the third quarter between
July 1 - September 30
2017

Within the stated calendar quarter, this Title contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information. Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

TITLE 18. Environmental Quality
Chapter 02. Department of Environmental Quality - Air Pollution Control
Appendices clerical error corrected

☐ REMOVE Supp. 17-1
Pages: 1 - 230

☐ REPLACE with Supp. 17-3
Pages: 1 - 231

The agency's contact person who can answer questions about rules in this Chapter:

Name: Natalie Muilenberg
Address: 1110 W. Washington St.
Phoenix, AZ 85007
Telephone: (602) 771-1089
Fax: (602) 771-2299
E-mail: nm3@azdeq.gov
Web site: www.azdeq.gov

Disclaimer: Please be advised the person listed is the contact of record as submitted in the rulemaking package for this supplement. The contact and other information may change and is provided as a public courtesy.

PUBLISHER
Arizona Department of State
Office of the Secretary of State, Administrative Rules Division

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the Administrative Code. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION
September 30, 2017

RULES

A.R.S. § 41-1001(17) states: “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions. Virtually everything in your life is affected in some way by rules published in the Arizona Administrative Code, from the quality of air you breathe to the licensing of your dentist. This chapter is one of more than 230 in the Code compiled in 21 Titles.

ADMINISTRATIVE CODE SUPPLEMENTS

Rules filed by an agency to be published in the Administrative Code are updated quarterly. Supplement release dates are printed on the footers of each chapter:

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2017 is cited as Supp. 17-1.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the Arizona Administrative Register for recent updates to rule Sections.

ARTICLES AND SECTIONS

Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering system separated into subsections.

HISTORICAL NOTES AND EFFECTIVE DATES

Historical notes inform the user when the last time a Section was updated in the Administrative Code. Be aware, since the Office publishes each quarter by entire chapters, not all Sections are updated by an agency in a supplement release. Many times just one Section or a few Sections may be updated in the entire chapter.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in the introduction of a chapter can be found at the Secretary of State’s website, www.azsos.gov/services/legislative-filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the Arizona Administrative Register online at www.azsos.gov/rules, click on the Administrative Register link.

In the Administrative Code the Office includes editor’s notes at the beginning of a chapter indicating that certain rulemaking Sections were made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR

If you are researching rules and come across rescinded chapters on a different paper color, this is because the agency filed a Notice of Exempt Rulemaking. At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

PERSONAL USE/COMMERCIAL USE

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Public Services managing rules editor, Rhonda Paschal, assisted with the editing of this chapter.

TITLE 18. ENVIRONMENTAL QUALITY**CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY - AIR POLLUTION CONTROL****ARTICLE 1. GENERAL**

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Article 2, consisting of Sections R18-2-201 through R18-2-220, repealed effective August 8, 1991 (Supp. 91-3).

Article 2 consisting of Sections R9-3-201, R9-3-202, R9-3-204 through R9-3-207, and R9-3-215 through R9-3-219 renumbered as Article 2, Sections R18-2-201, R18-2-202, R18-2-204 through R18-2-207, and R18-2-215 through R18-2-219 (Supp. 87-3).

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Article 3, consisting of Sections R9-3-301 through R9-3-319, and R9-3-321 through R9-3-323 repealed effective November 15, 1993 (Supp. 93-4).

Article 3 consisting of Sections R9-3-301 through R9-3-319 and R9-3-321 through R9-3-323 renumbered as Article 3, Sections R18-2-301 through R18-2-319 and R18-2-321 through R18-2-323 (Supp. 87-3).

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Article 4, consisting of Sections R18-2-401 through R18-2-410, renumbered as Article 6, Sections R18-2-601 through R18-2-610 (Supp. 93-4).

Article 4 consisting of Sections R9-3-401 through R9-3-410 renumbered as Article 4, Sections R18-2-401 through R18-2-410 (Supp. 87-3).

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Article 6, consisting of Sections R18-2-601 through R18-2-605, renumbered to Article 8, Sections R18-2-801 through R18-2-805 (Supp. 93-4).

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Article 7 consisting of Sections R18-2-701 through R18-2-709 repealed effective September 26, 1990 (Supp. 90-3).

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Article 8, consisting of Sections R18-2-801 through R18-2-805, renumbered to Article 9, Sections R18-2-901 through R18-2-905 (Supp. 93-4).

Article 8 consisting of Sections R18-2-801 through R18-2-805 adopted effective February 26, 1988.

Former Article 8 consisting of Sections R9-3-801 through R9-3-829, R9-3-831, R9-3-832, R9-3-835 through R9-3-838, R9-3-840 through R9-3-848, and R9-3-857 through R9-3-859 repealed effective February 26, 1988.

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Article 9, consisting of Sections R18-2-901 through R18-2-905, renumbered to Article 11, Sections R18-2-1101 through R18-2-1105 (Supp. 93-4).

Article 9 consisting of Sections R18-2-901 and R18-2-902 adopted effective February 26, 1988.

Former Article 9 consisting of Sections R9-3-901, R9-3-903 through R9-3-906, R9-3-910, R9-3-913, and R9-3-922 repealed effective February 26, 1988.

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Article 11 consisting of Sections R18-2-1101 and R18-2-1102 repealed effective September 26, 1990 (Supp. 90-3).

Article 11 consisting of Sections R9-3-1101, R9-3-1102, and Appendices 1 through 11 renumbered as Article 11, Sections R18-2-1101, R18-2-1102, and Appendices 1 through 11 (Supp. 87-3).

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Article 13, consisting of Sections R18-2-1301 through R18-2-1307, rules expired under A.R.S. § 41-1056(J), effective April 30, 2013 (Supp. 13-3).

Article 13, consisting of Sections R18-2-1301 through R18-2-1307, made by final rulemaking at 9 A.A.R. 1295, effective April 2, 2003 (Supp. 03-2).

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			<i>Article 17, consisting of Sections R18-2-1701 through R18-2-1709, made by final rulemaking at 12 A.A.R.1953, effective January 1, 2007 (Supp. 06-2).</i>		

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Article 18, consisting of Sections R18-2-1801 through R18-2-1812 and Appendix 13, repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

Article 18, consisting of Sections R18-2-1801 through R18-2-1812 and Appendix 13, made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2).

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ARTICLE 1. GENERAL**R18-2-101. Definitions**

The following definitions apply to this Chapter. Where the same term is defined in this Section and in the definitions Section for an Article of this Chapter, the Article-specific definition shall apply.

1. “Act” means the Clean Air Act of 1963 (P.L. 88-206; 42 U.S.C. 7401 through 7671q) as amended through December 31, 2011 (and no future editions).
2. “Actual emissions” means the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in subsections (2)(a) through (e), except that this definition shall not apply for calculating whether a significant emissions increase as defined in R18-2-401 has occurred, or for establishing a plantwide applicability limitation as defined in R18-2-401. Instead, the definitions of projected actual emissions and baseline actual emissions in R18-2-401 shall apply for those purposes.
 - a. In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a consecutive 24-month period that precedes the particular date and that is representative of normal source operation. The Director may allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit’s actual operating hours, production rates, and types of materials processed, stored or combusted during the selected time period.
 - b. The Director may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.
 - c. For any emissions unit that is or will be located at a source with a Class I permit and has not begun normal operations on the particular date, actual emissions shall equal the unit’s potential to emit on that date.
 - d. For any emissions unit that is or will be located at a source with a Class II permit and has not begun normal operations on the particular date, actual emissions shall be based on applicable control equipment requirements and projected conditions of operation.
 - e. This definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL. Instead, the definitions of projected actual emissions and baseline actual emissions in R18-2-401 shall apply for those purposes.
3. “Administrator” means the Administrator of the United States Environmental Protection Agency.
4. “Affected facility” means, with reference to a stationary source, any apparatus to which a standard is applicable.
5. “Affected source” means a source that includes one or more units which are subject to emission reduction requirements or limitations under Title IV of the Act.
6. “Affected state” means any state whose air quality may be affected by a source applying for a permit, permit revision, or permit renewal and that is contiguous to Arizona or that is within 50 miles of the permitted source.
7. “Afterburner” means an incinerator installed in the secondary combustion chamber or stack for the purpose of incinerating smoke, fumes, gases, unburned carbon, and other combustible material not consumed during primary combustion.
8. “Air contaminants” means smoke, vapors, charred paper, dust, soot, grime, carbon, fumes, gases, sulfuric acid mist aerosols, aerosol droplets, odors, particulate matter, wind-borne matter, radioactive materials, or noxious chemicals, or any other material in the outdoor atmosphere.
9. “Air curtain destructor” means an incineration device designed and used to secure, by means of a fan-generated air curtain, controlled combustion of only wood waste and slash materials in an earthen trench or refractory-lined pit or bin.
10. “Air pollution” means the presence in the outdoor atmosphere of one or more air contaminants or combinations thereof in sufficient quantities, which either alone or in connection with other substances by reason of their concentration and duration are or tend to be injurious to human, plant or animal life, or cause damage to property, or unreasonably interfere with the comfortable enjoyment of life or property of a substantial part of a community, or obscure visibility, or which in any way degrade the quality of the ambient air below the standards established by the director. A.R.S. § 49-421(2).
11. “Air pollution control equipment” means equipment used to eliminate, reduce or control the emission of air pollutants into the ambient air.
12. “Air quality control region” (AQCR) means an area so designated by the Administrator pursuant to Section 107 of the Act and includes the following regions in Arizona:
 - a. Maricopa Intrastate Air Quality Control Region which is comprised of the County of Maricopa.
 - b. Pima Intrastate Air Quality Control Region which is comprised of the County of Pima.
 - c. Northern Arizona Intrastate Air Quality Control Region which encompasses the counties of Apache, Coconino, Navajo, and Yavapai.
 - d. Mohave-Yuma Intrastate Air Quality Control Region which encompasses the counties of La Paz, Mohave, and Yuma.
 - e. Central Arizona Intrastate Air Quality Control Region which encompasses the counties of Gila and Pinal.
 - f. Southeast Arizona Intrastate Air Quality Control Region which encompasses the counties of Cochise, Graham, Greenlee, and Santa Cruz.
13. “Allowable emissions” means the emission rate of a stationary source calculated using both the maximum rated capacity of the source, unless the source is subject to federally enforceable limits which restrict the operating rate or hours of operation, and the most stringent of the following:
 - a. The applicable standards as set forth in 40 CFR 60, 61 and 63;
 - b. The applicable emissions limitations approved into the state implementation plan, including those with a future compliance date; or,
 - c. The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.
14. “Ambient air” means that portion of the atmosphere, external to buildings, to which the general public has access.
15. “Applicable implementation plan” means those provisions of the state implementation plan approved by the Administrator or a federal implementation plan promulgated for Arizona or any portion of Arizona in accordance with Title I of the Act.
16. “Applicable requirement” means any of the following:
 - a. Any federal applicable requirement.

- b. Any other requirement established pursuant to this Chapter or A.R.S. Title 49, Chapter 3.
- 17. "Arizona Testing Manual" means sections 1 and 7 of the Arizona Testing Manual for Air Pollutant Emissions amended as of March 1992 (and no future editions).
- 18. "ASTM" means the American Society for Testing and Materials.
- 19. "Attainment area" means any area that has been identified in regulations promulgated by the Administrator as being in compliance with national ambient air quality standards.
- 20. "Begin actual construction" means, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. With respect to a change in method of operation this term refers to those onsite activities, other than preparatory activities, which mark the initiation of the change.
 - a. For purposes of title I, parts C and D and section 112 of the clean air act, and for purposes of applicants that require permits containing limits designed to avoid the application of title I, parts C and D and section 112 of the clean air act, these activities include installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures but do not include any of the following, subject to subsection (20)(c):
 - i. Clearing and grading, including demolition and removal of existing structures and equipment, stripping and stockpiling of topsoil.
 - ii. Installation of access roads, driveways and parking lots.
 - iii. Installation of ancillary structures, including fences, office buildings and temporary storage structures, that are not a necessary component of an emissions unit or associated air pollution control equipment for which the permit is required.
 - iv. Ordering and onsite storage of materials and equipment.
 - b. For purposes other than those identified in subsection (20)(a), these activities do not include any of the following, subject to subsection (20)(c):
 - i. Clearing and grading, including demolition and removal of existing structures and equipment, stripping and stockpiling of topsoil and earthwork cut and fill for foundations.
 - ii. Installation of access roads, parking lots, driveways and storage areas.
 - iii. Installation of ancillary structures, including fences, warehouses, storerooms and office buildings, provided none of these structures impacts the design of any emissions unit or associated air pollution control equipment.
 - iv. Ordering and onsite storage of materials and equipment.
 - v. Installation of underground pipework, including water, sewer, electric and telecommunications utilities.
 - vi. Installation of building and equipment supports, including concrete forms, footers, pilings, foundations, pads and platforms, provided none of these supports impacts the design of any emissions unit or associated air pollution control equipment.
- c. *An applicant's performance of any activities that are excluded from the definition of "begin actual construction" under subsection (20)(a) or (b) shall be at the applicant's risk and shall not reduce the applicant's obligations under this Chapter. The director shall evaluate an application for a permit or permit revision and make a decision on the same basis as if the activities allowed under subsection (20)(a) or (b) had not occurred.* A.R.S. § 49-401.01(7).
- 21. "Best available control technology" (BACT) means an emission limitation, including a visible emissions standard, based on the maximum degree of reduction for each regulated NSR pollutant which would be emitted from any proposed major source or major modification, taking into account energy, environmental, and economic impact and other costs, determined by the Director in accordance with R18-2-406(A)(4) to be achievable for such source or modification.
- 22. "Btu" means British thermal unit, which is the quantity of heat required to raise the temperature of one pound of water 1°F.
- 23. "Categorical sources" means the following classes of sources:
 - a. Coal cleaning plants with thermal dryers;
 - b. Kraft pulp mills;
 - c. Portland cement plants;
 - d. Primary zinc smelters;
 - e. Iron and steel mills;
 - f. Primary aluminum ore reduction plants;
 - g. Primary copper smelters;
 - h. Municipal incinerators capable of charging more than 250 tons of refuse per day;
 - i. Hydrofluoric, sulfuric, or nitric acid plants;
 - j. Petroleum refineries;
 - k. Lime plants;
 - l. Phosphate rock processing plants;
 - m. Coke oven batteries;
 - n. Sulfur recovery plants;
 - o. Carbon black plants using the furnace process;
 - p. Primary lead smelters;
 - q. Fuel conversion plants;
 - r. Sintering plants;
 - s. Secondary metal production plants;
 - t. Chemical process plants, which shall not include ethanol production facilities that produce ethanol by natural fermentation included in North American Industry Classification System codes 325193 or 312140;
 - u. Fossil-fuel boilers, combinations thereof, totaling more than 250 million Btus per hour heat input;
 - v. Petroleum storage and transfer units with a total storage capacity more than 300,000 barrels;
 - w. Taconite ore processing plants;
 - x. Glass fiber processing plants;
 - y. Charcoal production plants;
 - z. Fossil-fuel-fired steam electric plants and combined cycle gas turbines of more than 250 million Btus per hour heat input.
- 24. "Categorically exempt activities" means any of the following:
 - a. Any combination of diesel-, natural gas- or gasoline-fired engines with cumulative power equal to or less than 145 horsepower.
 - b. Natural gas-fired engines with cumulative power equal to or less than 155 horsepower.

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- c. Gasoline-fired engines with cumulative power equal to or less than 200 horsepower.
 - d. Any of the following emergency or stand-by engines used for less than 500 hours in each calendar year, provided the permittee keeps records documenting the hours of operation of the engines:
 - i. Any combination of diesel-, natural gas- or gasoline-fired emergency engines with cumulative power equal to or less than 2,500 horsepower.
 - ii. Natural gas-fired emergency engines with cumulative power equal to or less than 2,700 horsepower.
 - iii. Gasoline-fired emergency engines with cumulative power equal to or less than 3,700 horsepower.
 - e. Any combination of boilers with a cumulative maximum design heat input capacity of less than 10 million Btu/hr.
25. “CFR” means the Code of Federal Regulations, amended as of July 1, 2011, (and no future editions), with standard references in this Chapter by Title and Part, so that “40 CFR 51” means Title 40 of the Code of Federal Regulations, Part 51.
 26. “Charge” means the addition of metal bearing materials, scrap, or fluxes to a furnace, converter or refining vessel.
 27. “Clean coal technology” means any technology, including technologies applied at the precombustion, combustion, or post-combustion stage, at a new or existing facility that will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam, that was not in widespread use as of November 15, 1990.
 28. “Clean coal technology demonstration project” means a project using funds appropriated under the heading “Department of Energy - Clean Coal Technology,” up to a total amount of \$2,500,000,000 for commercial demonstration of clean coal technology or similar projects funded through appropriations for the Environmental Protection Agency. The federal contribution for a qualifying project shall be at least 20% of the total cost of the demonstration project.
 29. “Coal” means all solid fossil fuels classified as anthracite, bituminous, subbituminous, or lignite by ASTM D-388-91, (Classification of Coals by Rank).
 30. “Combustion” means the burning of matter.
 31. “Commence” means, as applied to construction of a source, or a major modification as defined in Article 4 of this Chapter, that the owner or operator has all necessary preconstruction approvals or permits and either has:
 - a. Begun, or caused to begin, a continuous program of actual onsite construction of the source, to be completed within a reasonable time; or
 - b. Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.
 32. “Construction” means any physical change or change in the method of operation, including fabrication, erection, installation, demolition, or modification of an emissions unit, which would result in a change in emissions.
 33. “Continuous monitoring system” means a CEMS, CERMS, or CPMS.
 34. “Continuous emissions monitoring system” or “CEMS” means the total equipment, required under the emission monitoring provisions in this Chapter, used to sample, condition (if applicable), analyze, and provide, on a continuous basis, a permanent record of emissions.
 35. “Continuous emissions rate monitoring system” or “CERMS” means the total equipment required for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).
 36. “Continuous parameter monitoring system” or “CPMS” means the total equipment, required under the emission monitoring provisions in this Chapter, to monitor process or control device operational parameters (for example, control device secondary voltages and electric currents) or other information (for example, gas flow rate, O₂ or CO₂ concentrations) and to provide, on a continuous basis, a permanent record of monitored values.
 37. “Controlled atmosphere incinerator” means one or more refractory-lined chambers in which complete combustion is promoted by recirculation of gases by mechanical means.
 38. “Conventional air pollutant” means any pollutant for which the Administrator has promulgated a primary or secondary national ambient air quality standard. A.R.S. § 49-401.01(12).
 39. “Department” means the Department of Environmental Quality. A.R.S. § 49-101(2)
 40. “Director” means the director of environmental quality who is also the director of the department. A.R.S. § 49-101(3)
 41. “Discharge” means the release or escape of an effluent from a source into the atmosphere.
 42. “Dust” means finely divided solid particulate matter occurring naturally or created by mechanical processing, handling or storage of materials in the solid state.
 43. “Dust suppressant” means a chemical compound or mixture of chemical compounds added with or without water to a dust source for purposes of preventing air entrainment.
 44. “Effluent” means any air contaminant which is emitted and subsequently escapes into the atmosphere.
 45. “Electric utility steam generating unit” means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.
 46. “Emission” means an air contaminant or gas stream, or the act of discharging an air contaminant or a gas stream, visible or invisible.
 47. “Emission standard” or “emission limitation” means a requirement established by the state, a local government, or the Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.
 48. “Emissions unit” means any part of a stationary source which emits or would have the potential to emit any regulated air pollutant and includes an electric steam generating unit.
 49. “Equivalent method” means any method of sampling and analyzing for an air pollutant which has been demon-

- strated under R18-2-311(D) to have a consistent and quantitatively known relationship to the reference method, under specified conditions.
50. “Excess emissions” means emissions of an air pollutant in excess of an emission standard as measured by the compliance test method applicable to such emission standard.
51. “Federal applicable requirement” means any of the following (including requirements that have been promulgated or approved by EPA through rulemaking at the time of issuance but have future effective compliance dates):
- Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 CFR 52.
 - Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under Title I, including parts C or D, of the Act.
 - Any standard or other requirement under section 111 of the Act, including 111(d).
 - Any standard or other requirement under section 112 of the Act, including any requirement concerning accident prevention under section 112(r)(7) of the Act.
 - Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated thereunder and incorporated pursuant to R18-2-333.
 - Any requirements established pursuant to section 504(b) or section 114(a)(3) of the Act.
 - Any standard or other requirement governing solid waste incineration, under section 129 of the Act.
 - Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act.
 - Any standard or other requirement for tank vessels under section 183(f) of the Act.
 - Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under section 328 of the Act.
 - Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in a Title V permit.
 - Any national ambient air quality standard or maximum increase allowed under R18-2-218 or visibility requirement under Part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(e) of the Act.
52. “Federal Land Manager” means, with respect to any lands in the United States, the secretary of the department with authority over such lands.
53. “Federally enforceable” means all limitations and conditions which are enforceable by the Administrator under the Act, including all of the following:
- The requirements of the new source performance standards and national emission standards for hazardous air pollutants.
 - The requirements of such other state or county rules or regulations approved by the Administrator, including the requirements of state and county operating and new source review permit and registration programs that have been approved by the Administrator. Notwithstanding this subsection, the condition of any permit or registration designated as being enforceable only by the state is not federally enforceable.
- The requirements of any applicable implementation plan.
 - Emissions limitations, controls, and other requirements, and any associated monitoring, recordkeeping, and reporting requirements that are included in a permit pursuant to R18-2-306.01 or R18-2-306.02.
54. “Federally listed hazardous air pollutant” means a pollutant listed pursuant to R18-2-1701(9).
55. “Final permit” means the version of a permit issued by the Department after completion of all review required by this Chapter.
56. “Fixed capital cost” means the capital needed to provide all the depreciable components.
57. “Fuel” means any material which is burned for the purpose of producing energy.
58. “Fuel burning equipment” means any machine, equipment, incinerator, device or other article, except stationary rotating machinery, in which combustion takes place.
59. “Fugitive emissions” means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.
60. “Fume” means solid particulate matter resulting from the condensation and subsequent solidification of vapors of melted solid materials.
61. “Fume incinerator” means a device similar to an afterburner installed for the purpose of incinerating fumes, gases and other finely divided combustible particulate matter not previously burned.
62. “Good engineering practice (GEP) stack height” means a stack height meeting the requirements described in R18-2-332.
63. “Hazardous air pollutant” means any federally listed hazardous air pollutant.
64. “Heat input” means the quantity of heat in terms of Btus generated by fuels fed into the fuel burning equipment under conditions of complete combustion.
65. “Incinerator” means any equipment, machine, device, contrivance or other article, and all appurtenances thereof, used for the combustion of refuse, salvage materials or any other combustible material except fossil fuels, for the purpose of reducing the volume of material.
66. “Indian governing body” means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.
67. “Indian reservation” means any federally recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.
68. “Insignificant activity” means any of the following activities:
- Liquid Storage and Piping
 - Petroleum product storage tanks containing the following substances, provided the applicant lists and identifies the contents of each tank with a volume of 350 gallons or more and provides threshold values for throughput or capacity or both for each such tank: diesel fuels and fuel oil in storage tanks with capacity of 40,000 gallons or less, lubricating oil, transformer oil, and used oil.

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- ii. Gasoline storage tanks with capacity of 10,000 gallons or less.
 - iii. Storage and piping of natural gas, butane, propane, or liquified petroleum gas, provided the applicant lists and identifies the contents of each stationary storage vessel with a volume of 350 gallons or more and provides threshold values for throughput or capacity or both for each such vessel.
 - iv. Piping of fuel oils, used oil and transformer oil, provided the applicant includes a system description.
 - v. Storage and handling of drums or other transportable containers where the containers are sealed during storage, and covered during loading and unloading, including containers of waste and used oil regulated under the federal Resource Conservation and Recovery Act, 42 U.S.C. 6901-6992(k). Permit applicants must provide a description of material in the containers and the approximate amount stored.
 - vi. Storage tanks of any size containing exclusively soaps, detergents, waxes, greases, aqueous salt solutions, aqueous solutions of acids that are not regulated air pollutants, or aqueous caustic solutions, provided the permit applicant specifies the contents of each storage tank with a volume of 350 gallons or more.
 - vii. Electrical transformer oil pumping, cleaning, filtering, drying and the re-installation of oil back into transformers.
 - b. Internal combustion engine-driven compressors, internal combustion engine-driven electrical generator sets, and internal combustion engine-driven water pumps used for less than 500 hours per calendar year for emergency replacement or standby service, provided the permittee keeps records documenting the hours of operation of this equipment.
 - c. Low Emitting Processes
 - i. Batch mixers with rated capacity of 5 cubic feet or less.
 - ii. Wet sand and gravel production facilities that obtain material from subterranean and subaqueous beds, whose production rate is 200 tons/hour or less, and whose permanent in-plant roads are paved and cleaned to control dust. This does not include activities in emissions units which are used to crush or grind any non-metallic minerals.
 - iii. Powder coating operations.
 - iv. Equipment using water, water and soap or detergent, or a suspension of abrasives in water for purposes of cleaning or finishing.
 - v. Blast-cleaning equipment using a suspension of abrasive in water and any exhaust system or collector serving them exclusively.
 - vi. Plastic pipe welding.
 - d. Site Maintenance
 - i. Housekeeping activities and associated products used for cleaning purposes, including collecting spilled and accumulated materials at the source, including operation of fixed vacuum cleaning systems specifically for such purposes.
 - ii. Sanding of streets and roads to abate traffic hazards caused by ice and snow.
 - iii. Street and parking lot striping.
 - iv. Architectural painting and associated surface preparation for maintenance purposes at industrial or commercial facilities.
 - e. Sampling and Testing
 - i. Noncommercial (in-house) experimental, analytical laboratory equipment which is bench scale in nature, including quality control/quality assurance laboratories supporting a stationary source and research and development laboratories.
 - ii. Individual sampling points, analyzers, and process instrumentation, whose operation may result in emissions but that are not regulated as emission units.
 - f. Ancillary Non-Industrial Activities
 - i. General office activities, such as paper shredding, copying, photographic activities, and blueprinting, but not to include incineration.
 - ii. Use of consumer products, including hazardous substances as that term is defined in the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) where the product is used at a source in the same manner as normal consumer use.
 - iii. Activities directly used in the diagnosis and treatment of disease, injury or other medical condition.
 - g. Miscellaneous Activities
 - i. Installation and operation of potable, process and waste water observation wells, including drilling, pumping, filtering apparatus.
 - ii. Transformer vents.
69. "Kraft pulp mill" means any stationary source which produces pulp from wood by cooking or digesting wood chips in a water solution of sodium hydroxide and sodium sulfide at high temperature and pressure. Regeneration of the cooking chemicals through a recovery process is also considered part of the kraft pulp mill.
70. "Lead" means elemental lead or alloys in which the predominant component is lead.
71. "Lime hydrator" means a unit used to produce hydrated lime product.
72. "Lime plant" includes any plant which produces a lime product from limestone by calcination. Hydration of the lime product is also considered to be part of the source.
73. "Lime product" means any product produced by the calcination of limestone.
74. "Major modification" is defined as follows:
- a. A major modification is any physical change in or change in the method of operation of a major source that would result in both a significant emissions increase of any regulated NSR pollutant and a significant net emissions increase of that pollutant from the stationary source.
 - b. Any emissions increase or net emissions increase that is significant for nitrogen oxides or volatile organic compounds is significant for ozone.
 - c. For the purposes of this definition, none of the following is a physical change or change in the method of operation:
 - i. Routine maintenance, repair, and replacement;
 - ii. Use of an alternative fuel or raw material by reason of an order under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act.

- dination Act of 1974, 15 U.S.C. 792, or by reason of a natural gas curtailment plan under the Federal Power Act, 16 U.S.C. 792 - 825r;
- iii. Use of an alternative fuel by reason of an order or rule under section 125 of the Act;
 - iv. Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;
 - v. For purposes of determining the applicability of R18-2-403 through R18-2-405 or R18-2-411, any of the following:
 - (1) Use of an alternative fuel or raw material by a stationary source that the source was capable of accommodating before December 21, 1976, unless the change would be prohibited under any federally enforceable permit condition established after December 12, 1976 under 40 CFR 52.21 or under Articles 3 or 4 of this Chapter; or
 - (2) Use of an alternative fuel or raw material by a stationary source that the source is approved to use under any permit issued under R18-2-403;
 - (3) An increase in the hours of operation or in the production rate, unless the change would be prohibited under any federally enforceable permit condition established after December 21, 1976, under 40 CFR 52.21, or under Articles 3 or 4 of this Chapter.
 - vi. For purposes of determining the applicability of R18-2-406 through R18-2-408 or R18-2-410, any of the following:
 - (1) Use of an alternative fuel or raw material by a stationary source that the source was capable of accommodating before January 6, 1975, unless the change would be prohibited under any federally enforceable permit condition established after January 6, 1975 under 40 CFR 52.21 or under Articles 3 or 4 of this Chapter;
 - (2) Use of an alternative fuel or raw material by a stationary source that the source is approved to use under any permit issued under 40 CFR 52.21, or under R18-2-406; or
 - (3) An increase in the hours of operation or in the production rate, unless the change would be prohibited under any federally enforceable permit condition established after January 6, 1975, under 40 CFR 52.21, or under Articles 3 or 4 of this Chapter.
 - vii. Any change in ownership at a stationary source;
 - viii. [Reserved.]
 - ix. The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, if the project complies with:
 - (1) The SIP, and
 - (2) Other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated;
 - x. For electric utility steam generating units located in attainment and unclassifiable areas only, the installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, if the project does not result in an increase in the potential to emit any regulated pollutant emitted by the unit. This exemption applies on a pollutant-by-pollutant basis; and
 - xi. For electric utility steam generating units located in attainment and unclassifiable areas only, the reactivation of a very clean coal-fired electric utility steam generating unit.
 - d. This definition shall not apply with respect to a particular regulated NSR pollutant when the major source is complying with the requirements of R18-2-412 for a PAL for that regulated NSR pollutant. Instead, the definition of PAL major modification in R18-2-401(20) shall apply.
75. "Major source" means:
- a. A major source as defined in R18-2-401.
 - b. A major source under section 112 of the Act:
 - i. For pollutants other than radionuclides, any stationary source that emits or has the potential to emit, in the aggregate, including fugitive emission 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as described in Article 11 of this Chapter. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or
 - ii. For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.
 - c. A major stationary source, as defined in section 302 of the Act, that directly emits or has the potential to emit, 100 tpy or more of any air pollutant including any major source of fugitive emissions of any such pollutant. The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to a section 302(j) category.
76. "Malfunction" means any sudden and unavoidable failure of air pollution control equipment, process equipment or a process to operate in a normal and usual manner, but does not include failures that are caused by poor maintenance, careless operation or any other upset condition or equipment breakdown which could have been prevented by the exercise of reasonable care.
77. "Minor source" means a source of air pollution which is not a major source for the purposes of Article 4 of this Chapter and over which the Director, acting pursuant to A.R.S. § 49-402(B), has asserted jurisdiction.
78. "Minor source baseline area" means the air quality control region in which the source is located.

79. “Mobile source” means any combustion engine, device, machine or equipment that operates during transport and that emits or generates air contaminants whether in motion or at rest. A.R.S. § 49-401.01(23).
80. “Modification” or “modify” means a physical change in or change in the method of operation of a source that increases the emissions of any regulated air pollutant emitted by such source by more than any relevant de minimis amount or that results in the emission of any regulated air pollutant not previously emitted by more than such de minimis amount. An increase in emissions at a minor source shall be determined by comparing the source’s potential to emit before and after the modification. The following exemptions apply:
- A physical or operational change does not include routine maintenance, repair or replacement.
 - An increase in the hours of operation or if the production rate is not considered an operational change unless such increase is prohibited under any permit condition that is legally and practically enforceable by the department.
 - A change in ownership at a source is not considered a modification. A.R.S. § 49-401.01(24).
81. “Monitoring device” means the total equipment, required under the applicable provisions of this Chapter, used to measure and record, if applicable, process parameters.
82. “Motor vehicle” means any self-propelled vehicle designed for transporting persons or property on public highways.
83. “Multiple chamber incinerator” means three or more refractory-lined combustion chambers in series, physically separated by refractory walls and interconnected by gas passage ports or ducts.
84. “Natural conditions” includes naturally occurring phenomena that reduce visibility as measured in terms of light extinction, visual range, contrast, or coloration.
85. “National ambient air quality standard” means the ambient air pollutant concentration limits established by the Administrator pursuant to section 109 of the Act. A.R.S. § 49-401.01(25).
86. “National emission standards for hazardous air pollutants” or “NESHAP” means standards adopted by the Administrator under section 112 of the Act.
87. “Necessary preconstruction approvals or permits” means those permits or approvals required under the Act and those air quality control laws and rules which are part of the SIP.
88. “Net emissions increase” means:
- The amount by which the sum of subsections (88)(a)(i) and (ii) exceeds zero:
 - The increase in emissions of a regulated NSR pollutant from a particular physical change or change in the method of operation at a stationary source as calculated pursuant to R18-2-402(D); and
 - Any other increases and decreases in actual emissions of the regulated NSR pollutant at the source that are contemporaneous with the particular change and are otherwise creditable.
 - For purposes of calculating increases and decreases in actual emissions under subsection (88)(a)(ii), baseline actual emissions shall be determined as provided in the definition of baseline actual emissions in R18-2-401(2), except that R18-2-401(2)(a)(iii) and (b)(iv) shall not apply.
 - An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:
 - The date five years before a complete application for a permit or permit revision authorizing the particular change is submitted or actual construction of the particular change begins, whichever occurs earlier, and
 - The date that the increase from the particular change occurs.
 - For purposes of determining the applicability of R18-2-403 through R18-2-405 or R18-2-411, an increase or decrease in actual emissions is creditable only if the Director has not relied on it in issuing a permit or permit revision under R18-2-403, which permit is in effect when the increase in actual emissions from the particular change occurs. For purposes of determining the applicability of R18-2-406 through R18-2-408 or R18-2-410, an increase or decrease in actual emissions is creditable only if the Director has not relied on it in issuing a permit under R18-2-406, which permit is in effect when the increase in actual emissions from the particular change occurs.
 - An increase or decrease in actual emissions of sulfur dioxide, nitrogen oxides, PM₁₀, or PM_{2.5} which occurs before the applicable minor source baseline date, as defined in R18-2-218, is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.
 - An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.
 - A decrease in actual emissions is creditable only to the extent that it satisfies all of the following conditions:
 - The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions.
 - It is enforceable as a practical matter at and after the time that actual construction on the particular change begins.
 - It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.
 - The emissions unit was actually operated and emitted the specific pollutant.
 - For purposes of determining the applicability of R18-2-403 through R18-2-405 or R18-2-411, the Director has not relied on it in issuing any permit, permit revision, or registration under Article 4, R18-2-302.01, or R18-2-334, and the state has not relied on it in demonstrating attainment or reasonable further progress.
 - An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit, as defined in R18-2-401(24), that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.
 - Subsection (2)(a) shall not apply for determining creditable increases and decreases.

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89. “New source” means any stationary source of air pollution which is subject to a new source performance standard.
90. “New source performance standards” or “NSPS” means standards adopted by the Administrator under section 111(b) of the Act.
91. “Nitric acid plant” means any facility producing nitric acid 30% to 70% in strength by either the pressure or atmospheric pressure process.
92. “Nitrogen oxides” means all oxides of nitrogen except nitrous oxide, as measured by test methods set forth in the Appendices to 40 CFR 60.
93. “Nonattainment area” means an area so designated by the Administrator acting pursuant to section 107 of the Act as exceeding national primary or secondary ambient air standards for a particular pollutant or pollutants.
94. “Nonpoint source” means a source of air contaminants which lacks an identifiable plume or emission point.
95. “Opacity” means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.
96. “Operation” means any physical or chemical action resulting in the change in location, form, physical properties, or chemical character of a material.
97. “Owner or operator” means any person who owns, leases, operates, controls, or supervises an affected facility or a stationary source.
98. “Particulate matter” means any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.
99. “Particulate matter emissions” means all finely divided solid or liquid materials other than uncombined water, emitted to the ambient air as measured by applicable test methods and procedures described in R18-2-311.
100. “Permitting authority” means the department or a county department, agency or air pollution control district that is charged with enforcing a permit program adopted pursuant to A.R.S. § 49-480(A). A.R.S. § 49-401.01(28).
101. “Permitting exemption thresholds” for a regulated minor NSR pollutant means the following:

Regulated Air Pollutant	Emission Rate in tons per year (TPY)
PM _{2.5} (primary emissions only; levels for precursors are set below)	5
PM ₁₀	7.5
SO ₂	20
NO _x	20
VOC	20
CO	50
Pb	0.3

102. “Person” means any public or private corporation, company, partnership, firm, association or society of persons, the federal government and any of its departments or agencies, the state and any of its agencies, departments or political subdivisions, as well as a natural person.
103. “Planning agency” means an organization designated by the governor pursuant to 42 U.S.C. 7504. A.R.S. § 49-401.01(29).
104. “PM_{2.5}” means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on 40 CFR 50 Appendix L, or by an equivalent method designated according to 40 CFR 53.
105. “PM₁₀” means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method contained within 40 CFR 50 Appendix J or by an equivalent method designated in accordance with 40 CFR 53.
106. “PM₁₀ emissions” means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by applicable test methods and procedures described in R18-2-311.
107. “Plume” means visible effluent.
108. “Pollutant” means an air contaminant the emission or ambient concentration of which is regulated pursuant to this Chapter.
109. “Portable source” means any stationary source that is capable of being operated at more than one location.
110. “Potential to emit” or “potential emission rate” means the maximum capacity of a stationary source to emit a pollutant, excluding secondary emissions, under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is legally and practically enforceable by the Department or a county under A.R.S. Title 49, Chapter 3; any rule, ordinance, order or permit adopted or issued under A.R.S. Title 49, Chapter 3 or the state implementation plan.
111. “Predictive Emissions Monitoring System” or “PEMS” means the total equipment, required under the emission monitoring provisions in this Chapter, to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O₂ or CO₂ concentrations), and calculate and record the mass emissions rate (for example, lb/hr) on a continuous basis.
112. “Primary ambient air quality standards” means the ambient air quality standards which define levels of air quality necessary, with an adequate margin of safety, to protect the public health, as specified in Article 2 of this Chapter.
113. “Process” means one or more operations, including equipment and technology, used in the production of goods or services or the control of by-products or waste.
114. “Project” means a physical change in, or change in the method of operation of, an existing major source.
115. “Proposed final permit” means the version of a Class I permit or Class I permit revision that the Department proposes to issue and forwards to the Administrator for review in compliance with R18-2-307(A). A proposed final permit constitutes a final and enforceable authorization to begin actual construction of, but not to operate, a new Class I source or a modification to a Class I source.
116. “Proposed permit” means the version of a permit for which the Director offers public participation under R18-2-330 or affected state review under R18-2-307(D).
117. “Reactivation of a very clean coal-fired electric utility steam generating unit” means any physical change or change in the method of operation associated with com-

- mencing commercial operations by a coal-fired utility unit after a period of discontinued operation if the unit:
- a. Has not been in operation for the two-year period before enactment of the Clean Air Act Amendments of 1990, and the emissions from the unit continue to be carried in the Director's emissions inventory at the time of enactment;
 - b. Was equipped before shutdown with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85% and a removal efficiency for particulates of no less than 98%;
 - c. Is equipped with low-NO_x burners before commencement of operations following reactivation; and
 - d. Is otherwise in compliance with the Act.
118. "Reasonable further progress" means the schedule of emission reductions defined within a nonattainment area plan as being necessary to come into compliance with a national ambient air quality standard by the primary standard attainment date.
119. "Reasonably available control technology" (RACT) means devices, systems, process modifications, work practices or other apparatus or techniques that are determined by the Director to be reasonably available taking into account:
- a. The necessity of imposing the controls in order to attain and maintain a national ambient air quality standard;
 - b. The social, environmental, energy and economic impact of the controls;
 - c. Control technology in use by similar sources; and
 - d. The capital and operating costs and technical feasibility of the controls.
120. "Reclaiming machinery" means any machine, equipment device or other article used for picking up stored granular material and either depositing this material on a conveyor or reintroducing this material into the process.
121. "Reference method" means the methods of sampling and analyzing for an air pollutant as described in the Arizona Testing Manual; 40 CFR 50, Appendices A through K; 40 CFR 51, Appendix M; 40 CFR 52, Appendices D and E; 40 CFR 60, Appendices A through F; and 40 CFR 61, Appendices B and C, as incorporated by reference in 18 A.A.C. 2, Appendix 2.
122. "Regulated air pollutant" means any of the following:
- a. Any conventional air pollutant.
 - b. Nitrogen oxides and volatile organic compounds.
 - c. Any pollutant that is subject to a new source performance standard.
 - d. Any pollutant that is subject to a national emission standard for hazardous air pollutants or other requirements established under section 112 of the Act, including sections 112(g), (j), and (r), including the following:
 - i. Any pollutant subject to requirements under section 112(j) of the act. If the administrator fails to promulgate a standard by the date established pursuant to section 112(e) of the act, any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to section 112(e) of the Act; and
 - ii. Any pollutant for which the requirements of section 112(g)(2) of the Act have been met, but only with respect to the individual source subject to the section 112(g)(2) requirement.
 - e. Any Class I or II substance subject to a standard promulgated under title VI of the Act.
123. "Regulated minor NSR pollutant" means any pollutant for which a national ambient air quality standard has been promulgated and the following precursors for such pollutants:
- a. VOC and nitrogen oxides as precursors to ozone.
 - b. Nitrogen oxides and sulfur dioxide as precursors to PM_{2.5}.
124. "Regulated NSR pollutant" is defined as follows:
- a. For purposes of determining the applicability of R18-2-403 through R18-2-405 and R18-2-411, regulated NSR pollutant means any pollutant for which a national ambient air quality standard has been promulgated and any pollutant identified under this subsection as a constituent of or precursor to such pollutant, provided that such constituent or precursor pollutant may only be regulated under NSR as part of the regulation of the general pollutant. Precursors for purposes of NSR are the following:
 - i. Volatile organic compounds and nitrogen oxides are precursors to ozone in all areas.
 - ii. Sulfur dioxide is a precursor to PM_{2.5} in all areas.
 - iii. Nitrogen oxides are precursors to PM_{2.5} in all areas.
 - iv. VOC and ammonia are precursors to PM_{2.5} in PM_{2.5} nonattainment areas.
 - b. For all other purposes, regulated NSR pollutant means the pollutants identified in subsection (a) and the following:
 - i. Any pollutant that is subject to any new source performance standard except greenhouse gases as defined in 40 CFR 86.1818-12(a).
 - ii. Any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act as of July 1, 2011.
 - iii. Any pollutant that is otherwise subject to regulation under the Act, except greenhouse gases as defined in 40 CFR 86.1818-12(a).
 - c. Notwithstanding subsections (124)(a) and (b), the term regulated NSR pollutant shall not include any or all hazardous air pollutants either listed in section 112 of the Act, or added to the list pursuant to section 112(b)(2) of the Act, unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under section 108 of the Act.
 - d. PM_{2.5} emissions and PM₁₀ emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On and after January 1, 2011, condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM_{2.5} and PM₁₀ in permits issued under Article 4.
125. "Repowering" means:
- a. Replacing an existing coal-fired boiler with one of the following clean coal technologies:
 - i. Atmospheric or pressurized fluidized bed combustion;
 - ii. Integrated gasification combined cycle;
 - iii. Magnetohydrodynamics;
 - iv. Direct and indirect coal-fired turbines;

- v. Integrated gasification fuel cells; or
- vi. As determined by the Administrator, in consultation with the United States Secretary of Energy, a derivative of one or more of the above technologies; and
- vii. Any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.
- b. Repowering also includes any oil, gas, or oil and gas-fired unit that has been awarded clean coal technology demonstration funding as of January 1, 1991, by the United States Department of Energy.
- c. The Director shall give expedited consideration to permit applications for any source that satisfies the requirements of this subsection (and) is granted an extension under section 409 of the Act.
126. "Run" means the net period of time during which an emission sample is collected, which may be, unless otherwise specified, either intermittent or continuous within the limits of good engineering practice.
127. "Secondary ambient air quality standards" means the ambient air quality standards which define levels of air quality necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant, as specified in Article 2 of this Chapter.
128. "Secondary emissions" means emissions which are specific, well defined, quantifiable, occur as a result of the construction or operation of a major source or major modification, but do not come from the major source or major modification itself, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not otherwise be constructed or increase its emissions except as a result of the construction or operation of the major source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.
129. "Section 302(j) category" means:
- a. Any of the classes of sources listed in the definition of categorical source in subsection (23); or
- b. Any category of affected facility which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.
130. "Shutdown" means the cessation of operation of any air pollution control equipment or process equipment for any purpose, except routine phasing out of process equipment.
131. "Significant" means, in reference to a significant emissions increase, a net emissions increase, a stationary source's potential to emit or a stationary source's maximum capacity to emit with any elective limits as defined in R18-2-301(13):
- a. A rate of emissions of conventional pollutants that would equal or exceed any of the following:
- | Pollutant | Emissions Rate |
|-----------------|-------------------------|
| Carbon monoxide | 100 tons per year (tpy) |
| Nitrogen oxides | 40 tpy |
| Sulfur dioxide | 40 tpy |
- PM₁₀ 15 tpy
- PM_{2.5} 10 tpy of direct PM_{2.5} emissions; 40 tpy of sulfur dioxide emissions; 40 tpy of nitrogen oxide emissions.
- Ozone 40 tpy of VOC or nitrogen oxides
- Lead 0.6 tpy
- b. For purposes of determining the applicability of R18-2-302(B)(2) or R18-2-406, in addition to the rates specified in subsection (131)(a), a rate of emissions of non-conventional pollutants that would equal or exceed any of the following:
- | Pollutant | Emissions Rate |
|---|----------------------------|
| Particulate matter | 25 tpy |
| Fluorides | 3 tpy |
| Sulfuric acid mist | 7 tpy |
| Hydrogen sulfide (H ₂ S) | 10 tpy |
| Total reduced sulfur (including H ₂ S) | 10 tpy |
| Reduced sulfur compounds (including H ₂ S) | 10 tpy |
| Municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans) | 3.5 x 10 ⁻⁶ tpy |
| Municipal waste combustor metals (measured as particulate matter) | 15 tpy |
| Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride) | 40 tpy |
| Municipal solid waste landfill emissions (measured as nonmethane organic compounds) | 50 tpy |
| Any regulated NSR pollutant not specifically listed in this subsection (or) subsection (131)(a). | Any emission rate |
- c. In ozone nonattainment areas classified as serious or severe, the emission rate for nitrogen oxides or VOC determined under R18-2-405.
- d. In a carbon monoxide nonattainment area classified as serious, a rate of emissions that would equal or exceed 50 tons per year, if the Administrator has determined that stationary sources contribute significantly to carbon monoxide levels in that area.
- e. In PM_{2.5} nonattainment areas, 40 tons per year of VOC as a precursor of PM_{2.5}.
- f. Notwithstanding the emission rates listed in subsection (131)(a) or (b), for purposes of determining the applicability of R18-2-406, any emissions rate or

- any net emissions increase associated with a major source or major modification, which would be constructed within 10 kilometers of a Class I area and have an impact on the ambient air quality of such area equal to or greater than $1 \mu\text{g}/\text{m}^3$ (24-hour average).
132. "Significant emissions increase" means, for a regulated NSR pollutant, an increase in emissions that is significant as defined in this Section for that pollutant.
 133. "Smoke" means particulate matter resulting from incomplete combustion.
 134. "Source" means any building, structure, facility or installation that may cause or contribute to air pollution or the use of which may eliminate, reduce or control the emission of air pollution. A.R.S. § 49-401.01(23).
 135. "Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.
 136. "Stack in existence" means that the owner or operator had either:
 - a. Begun, or caused to begin, a continuous program of physical onsite construction of the stack;
 - b. Entered into binding agreements or contractual obligations, which could not be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time.
 137. "Start-up" means the setting into operation of any air pollution control equipment or process equipment for any purpose except routine phasing in of process equipment.
 138. "State implementation plan" or "SIP" means the accumulated record of enforceable air pollution control measures, programs and plans adopted by the Director and submitted to and approved by the Administrator pursuant to 42 U.S.C. 7410.
 139. "Stationary rotating machinery" means any gas engine, diesel engine, gas turbine, or oil fired turbine operated from a stationary mounting and used for the production of electric power or for the direct drive of other equipment.
 140. "Stationary source" means any building, structure, facility or installation which emits or may emit any regulated NSR pollutant, any regulated air pollutant or any pollutant listed under section 112(b) of the act. "Building," "structure," "facility," or "installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" as described in the "Standard Industrial Classification Manual, 1987."
 141. "Subject to regulation" means, for any air pollutant, that the pollutant is subject to either a provision in the Act, or a nationally-applicable regulation codified by the administrator in 40 CFR chapter I, subchapter C, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity.
 142. "Sulfuric acid plant" means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, or acid sludge, but does not include facilities where conversion to sulfuric acid is utilized as a means of preventing emissions of sulfur dioxide or other sulfur compounds to the atmosphere.
 143. "Temporary clean coal technology demonstration project" means a clean coal technology demonstration project operated for five years or less, and that complies with the applicable implementation plan and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after the project is terminated.
 144. "Temporary source" means a source which is portable, as defined in A.R.S. § 49-401.01(23) and which is not an affected source.
 145. "Total reduced sulfur" (TRS) means the sum of the sulfur compounds, primarily hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide, that are released during kraft pulping and other operations and measured by Method 16 in 40 CFR 60, Appendix A.
 146. "Trivial activities" means activities and emissions units, such as the following, that may be omitted from a permit or registration application. Certain of the following listed activities include qualifying statements intended to exclude similar activities:
 - a. Low-Emitting Combustion
 - i. Combustion emissions from propulsion of mobile sources;
 - ii. Emergency or backup electrical generators at residential locations;
 - iii. Portable electrical generators that can be moved by hand from one location to another. "Moved by hand" means capable of being moved without the assistance of any motorized or non-motorized vehicle, conveyance, or device;
 - b. Low- Or Non-Emitting Industrial Activities
 - i. Blacksmith forges;
 - ii. Hand-held or manually operated equipment used for buffing, polishing, carving, cutting, drilling, sawing, grinding, turning, routing or machining of ceramic art work, precision parts, leather, metals, plastics, fiberboard, masonry, carbon, glass, or wood;
 - iii. Brazing, soldering, and welding equipment, and cutting torches related to manufacturing and construction activities that do not result in emission of HAP metals. Brazing, soldering, and welding equipment, and cutting torches related to manufacturing and construction activities that emit HAP metals are insignificant activities based on size or production level thresholds. Brazing, soldering, and welding equipment, and cutting torches directly related to plant maintenance and upkeep and repair or maintenance shop activities that emit HAP metals are treated as trivial and listed separately in this definition;
 - iv. Drop hammers or hydraulic presses for forging or metalworking;
 - v. Air compressors and pneumatically operated equipment, including hand tools;
 - vi. Batteries and battery charging stations, except at battery manufacturing plants;
 - vii. Drop hammers or hydraulic presses for forging or metalworking;
 - viii. Equipment used exclusively to slaughter animals, not including other equipment at slaughterhouses, such as rendering cookers, boilers,

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- heating plants, incinerators, and electrical power generating equipment;
- ix. Hand-held applicator equipment for hot melt adhesives with no VOC in the adhesive formulation;
- x. Equipment used for surface coating, painting, dipping, or spraying operations, except those that will emit VOC or HAP;
- xi. CO₂ lasers used only on metals and other materials that do not emit HAP in the process;
- xii. Electric or steam-heated drying ovens and autoclaves, but not the emissions from the articles or substances being processed in the ovens or autoclaves or the boilers delivering the steam;
- xiii. Salt baths using nonvolatile salts that do not result in emissions of any regulated air pollutants;
- xiv. Laser trimmers using dust collection to prevent fugitive emissions;
- xv. Process water filtration systems and demineralizers;
- xvi. Demineralized water tanks and demineralizer vents;
- xvii. Oxygen scavenging or de-aeration of water;
- xviii. Ozone generators;
- xix. Steam vents and safety relief valves;
- xx. Steam leaks; and
- xxi. Steam cleaning operations and steam sterilizers;
- xxii. Use of vacuum trucks and high pressure washer/cleaning equipment within the stationary source boundaries for cleanup and in-source transfer of liquids and slurried solids to waste water treatment units or conveyances;
- xxiii. Equipment using water, water and soap or detergent, or a suspension of abrasives in water for purposes of cleaning or finishing.
- xxiv. Electric motors.
- c. Building and Site Maintenance Activities
 - i. Plant and building maintenance and upkeep activities, including grounds-keeping, general repairs, cleaning, painting, welding, plumbing, re-tarring roofs, installing insulation, and paving parking lots, if these activities are not conducted as part of a manufacturing process, are not related to the source's primary business activity, and do not otherwise trigger a permit revision. Cleaning and painting activities qualify as trivial activities if they are not subject to VOC or hazardous air pollutant control requirements;
 - ii. Repair or maintenance shop activities not related to the source's primary business activity, not including emissions from surface coating, de-greasing, or solvent metal cleaning activities, and not otherwise triggering a permit revision;
 - iii. Janitorial services and consumer use of janitorial products;
 - iv. Landscaping activities;
 - v. Routine calibration and maintenance of laboratory equipment or other analytical instruments;
 - vi. Sanding of streets and roads to abate traffic hazards caused by ice and snow;
 - vii. Street and parking lot striping;
 - viii. Caulking operations which are not part of a production process.
- d. Incidental, Non-Industrial Activities
 - i. Air-conditioning units used for human comfort that do not have applicable requirements under Title VI of the Act;
 - ii. Ventilating units used for human comfort that do not exhaust air pollutants into the ambient air from any manufacturing, industrial or commercial process;
 - iii. Tobacco smoking rooms and areas;
 - iv. Non-commercial food preparation;
 - v. General office activities, such as paper shredding, copying, photographic activities, pencil sharpening and blueprinting, but not including incineration;
 - vi. Laundry activities, except for dry-cleaning and steam boilers;
 - vii. Bathroom and toilet vent emissions;
 - viii. Fugitive emissions related to movement of passenger vehicles, if the emissions are not counted for applicability purposes under subsection (146)(c) of the definition of major source in this Section and any required fugitive dust control plan or its equivalent is submitted with the application;
 - ix. Use of consumer products, including hazardous substances as that term is defined in the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) where the product is used at a source in the same manner as normal consumer use;
 - x. Activities directly used in the diagnosis and treatment of disease, injury or other medical condition;
 - xi. Circuit breakers;
 - xii. Adhesive use which is not related to production.
- e. Storage, Piping and Packaging
 - i. Storage tanks, vessels, and containers holding or storing liquid substances that will not emit any VOC or HAP;
 - ii. Storage tanks, reservoirs, and pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, if appropriate lids and covers are used;
 - iii. Chemical storage associated with water and wastewater treatment where the water is treated for consumption and/or use within the permitted facility;
 - iv. Chemical storage associated with water and wastewater treatment where the water is treated for consumption and/or use within the permitted facility;
 - v. Storage cabinets for flammable products;
 - vi. Natural gas pressure regulator vents, excluding venting at oil and gas production facilities;
 - vii. Equipment used to mix and package soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, if appropriate lids and covers are used;
- f. Sampling and Testing
 - i. Vents from continuous emissions monitors and other analyzers;

- ii. Bench-scale laboratory equipment used for physical or chemical analysis, but not laboratory fume hoods or vents;
 - iii. Equipment used for quality control, quality assurance, or inspection purposes, including sampling equipment used to withdraw materials for analysis;
 - iv. Hydraulic and hydrostatic testing equipment;
 - v. Environmental chambers not using HAP gases;
 - vi. Soil gas sampling;
 - vii. Individual sampling points, analyzers, and process instrumentation, whose operation may result in emissions but that are not regulated as emission units;
 - g. Safety Activities
 - i. Fire suppression systems;
 - ii. Emergency road flares;
 - h. Miscellaneous Activities
 - i. Shock chambers;
 - ii. Humidity chambers;
 - iii. Solar simulators;
 - iv. Cathodic protection systems;
 - v. High voltage induced corona; and
 - vi. Filter draining.
147. "Unclassified area" means an area which the Administrator, because of a lack of adequate data, is unable to classify as an attainment or nonattainment area for a specific pollutant, and which, for purposes of this Chapter, is treated as an attainment area.
148. "Uncombined water" means condensed water containing analytical trace amounts of other chemical elements or compounds.
149. "Urban or suburban open area" means an unsubdivided tract of land surrounding a substantial urban development of a residential, industrial, or commercial nature and which, though near or within the limits of a city or town, may be uncultivated, used for agriculture, or lie fallow.
150. "Vacant lot" means a subdivided residential or commercial lot which contains no buildings or structures of a temporary or permanent nature.
151. "Vapor" means the gaseous form of a substance normally occurring in a liquid or solid state.
152. "Visibility impairment" means any humanly perceptible change in visibility (light extinction, visual range, contrast, coloration) from that which would have existed under natural conditions.
153. "Visible emissions" means any emissions which are visually detectable without the aid of instruments and which contain particulate matter.
154. "Volatile organic compounds" or "VOC" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, that participates in atmospheric photochemical reactions. This includes any such organic compound other than the following:
- a. Methane;
 - b. Ethane;
 - c. Methylene chloride (dichloromethane);
 - d. 1,1,1-trichloroethane (methyl chloroform);
 - e. 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);
 - f. Trichlorofluoromethane (CFC-11);
 - g. Dichlorodifluoromethane (CFC-12);
 - h. Chlorodifluoromethane (HCFC-22);
 - i. Trifluoromethane (HFC-23);
 - j. 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114);
 - k. Chloropentafluoroethane (CFC-115);
 - l. 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123);
 - m. 1,1,1,2-tetrafluoroethane (HFC-134(a));
 - n. 1,1-dichloro 1-fluoroethane (HCFC-141(b));
 - o. 1-chloro 1,1-difluoroethane (HCFC-142(b));
 - p. 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);
 - q. Pentafluoroethane (HFC-125);
 - r. 1,1,2,2-tetrafluoroethane (HFC-134);
 - s. 1,1,1-trifluoroethane (HFC-143(a));
 - t. 1,1-difluoroethane (HFC-152(a));
 - u. Parachlorobenzotrifluoride (PCBTF);
 - v. Cyclic, branched, or linear completely methylated siloxanes;
 - w. Acetone;
 - x. Perchloroethylene (tetrachloroethylene);
 - y. 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225(ca));
 - z. 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225(cb));
 - aa. 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee);
 - bb. Difluoromethane (HFC-32);
 - cc. Ethylfluoride (HFC-161);
 - dd. 1,1,1,3,3,3-hexafluoropropane (HFC-236(fa));
 - ee. 1,1,2,2,3-pentafluoropropane (HFC-245(ca));
 - ff. 1,1,2,3,3-pentafluoropropane (HFC-245(ea));
 - gg. 1,1,1,2,3-pentafluoropropane (HFC-245(eb));
 - hh. 1,1,1,3,3-pentafluoropropane (HFC-245(fa));
 - ii. 1,1,1,2,3,3-hexafluoropropane (HFC-236(ea));
 - jj. 1,1,1,3,3-pentafluorobutane (HFC-365(mfc));
 - kk. Chlorofluoromethane (HCFC-31);
 - ll. 1-chloro-1-fluoroethane (HCFC-151(a));
 - mm. 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123(a));
 - nn. 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C₄F₉OCH₃);
 - oo. 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CFCF₂OCH₃);
 - pp. 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C₄F₉OC₂H₅);
 - qq. 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CFCF₂OC₂H₅);
 - rr. Methyl acetate; and
 - ss. 1,1,1,2,2,3,3-heptafluoro-3-methoxypropane (n-C₃F₇OCH₃, HFE—7000);
 - tt. 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane (HFE – 7500);
 - uu. 1,1,1,2,3,3,3-hentafluoropropane (HFC 227ea);
 - vv. Methyl formate (HCOOCH₃); and
 - ww. (1) 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE—7300);
 - xx. Propylene carbonate;
 - yy. Dimethyl carbonate; and
 - zz. Trans -1,3,3,3-tetrafluoropropene;
 - aaa. HCF₂OCF₂H (HFE-134);
 - bbb. HCF₂OCF₂OCF₂H (HFE-236(cal2));
 - ccc. HCF₂OCF₂CF₂OCF₂H (HFE-338(pcc13));
 - ddd. HCF₂OCF₂OCF₂CF₂OCF₂H (H-Galden 1040x or H-Galden ZT 130 (or 150 or 180));
 - eee. Trans 1-chloro-3,3,3-trifluoroprop-1-ene;
 - fff. 2,3,3,3-tetrafluoropropene;
 - ggg. 2-amino-2-methyl-1-propanol; and
 - hhh. Perfluorocarbon compounds that fall into these classes:
 - i. Cyclic, branched, or linear, completely fluorinated alkanes.
 - ii. Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations.

- iii. Cycle, branched, or linear, completely fluorinated tertiary amines with no unsaturations; or
 - iv. Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.
 - iii. The following compound is VOC for purposes of all recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements which apply to VOC and shall be uniquely identified in emission reports, but is not VOC for purposes of VOC emissions limitations or VOC content requirements: t-butyl acetate.
155. “Wood waste burner” means an incinerator designed and used exclusively for the burning of wood wastes consisting of wood slabs, scraps, shavings, barks, sawdust or other wood material, including those that generate steam as a by-product.

Historical Note

Former Section R9-3-101 repealed, new Section R9-3-101 adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Editorial correction, paragraph (133) (Supp. 80-1). Editorial correction, paragraph (58) (Supp. 80-2). Amended effective July 9, 1980. Amended by adding new paragraphs (24), (55), (102), and (115) and renumbering accordingly, effective August 29, 1980 (Supp. 80-4). Amended effective May 28, 1982 (Supp. 82-3). Amended effective September 22, 1983 (Supp. 83-5). Amended paragraph (133), added paragraph (156) and renumbered accordingly effective September 28, 1984 (Supp. 84-5). Amended paragraph (29) by deleting (aa) and (bb) effective August 9, 1985 (Supp. 85-4). Former Section R9-3-101 renumbered without change as R18-2-101 (Supp. 87-3). Amended paragraph (98) effective December 1, 1988 (Supp. 88-4). Amended effective September 26, 1990 (Supp. 90-3). Amended effective November 15, 1993 (Supp. 93-4). Amended effective June 10, 1994 (Supp. 94-2). Amended effective October 7, 1994 (Supp. 94-4). Amended effective February 28, 1995 (Supp. 95-1). Amended effective August 1, 1995 (Supp. 95-3). Amended effective January 31, 1997; filed with the Office of Secretary of State January 10, 1997 (Supp. 97-1). Amended effective June 4, 1998 (Supp. 98-2). Amended by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 8 A.A.R. 2543, effective May 24, 2002 (Supp. 02-2). Amended by final rulemaking at 9 A.A.R. 4541, effective December 2, 2003 (Supp. 03-4). Amended by final rulemaking at 11 A.A.R. 3305, effective October 3, 2005 (Supp. 05-3). Amended by final rulemaking at 11 A.A.R. 5504, effective February 4, 2006 (Supp. 05-4). Amended by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-102. Incorporated Materials

- A. The following documents are incorporated by reference and are on file with the Office of the Secretary of State (1700 W. Washington St., Suite 103, Phoenix, AZ 85007) and the Department (1110 W. Washington St., Phoenix, AZ 85007):
 1. Sections 1 and 7 of the Department’s “Arizona Testing Manual for Air Pollutant Emissions,” amended as of March 1992 (and no future editions).

2. All ASTM test methods referenced in this Chapter as of the year specified in the reference (and no future amendments). They are available from the American Society for Testing and Materials, 1916 Race St., Philadelphia, PA 19103-1187.
 3. The U.S. Government Printing Office’s “Standard Industrial Classification Manual, 1987” (and no future editions).
- B. The Code of Federal Regulations is published by the United States Government Printing Office, 732 North Capital Street, NW, Washington, DC 20401-0001, is on file with the Department of Environmental Quality, 1110 West Washington Street, Phoenix, Arizona 85007, and is available at the Arizona State Library, Archives & Public Records, 1700 West Washington Street, Phoenix, Arizona 85007 and at other Federal depository libraries in the state (see http://catalog.gpo.gov/fdlpdire/FDLP-dir.jsp?st_12=AZ&flag=searchp). It is also available online at <http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>.

Historical Note

Adopted effective September 26, 1990 (Supp. 90-3). Amended effective February 3, 1993 (Supp. 93-1). Amended effective November 15, 1993 (Supp. 93-4). Amended effective June 10, 1994 (Supp. 94-2). Amended effective December 7, 1995 (Supp. 95-4). Amended by final rulemaking at 5 A.A.R. 3221, effective August 12, 1999 (Supp. 99-3). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-103. Applicable Implementation Plan; Savings

No rule adopted in this Chapter shall preempt or nullify any applicable requirement or emission standard in an applicable implementation plan unless the Director revises the applicable implementation plan in conformance with the requirements of 40 CFR 51, Subpart F, and the Administrator approves the revision.

Historical Note

Adopted effective September 26, 1990 (Supp. 90-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4).

ARTICLE 2. AMBIENT AIR QUALITY STANDARDS; AREA DESIGNATIONS; CLASSIFICATIONS

R18-2-201. Particulate Matter: PM₁₀ and PM_{2.5}

- A. PM₁₀ Standards
 1. The level of the primary and secondary ambient air quality standards for PM₁₀ is 150 micrograms per cubic meter of PM₁₀ – 24-hour average concentration.
 2. To determine attainment of the primary and secondary standards, a person shall measure PM₁₀ in the ambient air by:
 - a. A reference method based on 40 CFR 50, Appendix J, and designated according to 40 CFR 53; or
 - b. An equivalent method designated according to 40 CFR 53.
 3. The primary and secondary 24-hour ambient air quality standards for PM₁₀ are attained when the expected number of days per calendar year with a 24-hour average concentration above 150 micrograms per cubic meter, determined according to 40 CFR 50, Appendix K, is less than or equal to one.
- B. PM_{2.5} Standards
 1. The primary ambient air quality standards for PM_{2.5} are:
 - a. 12 micrograms per cubic meter of PM_{2.5} – annual arithmetic mean concentration.

- b. 35 micrograms per cubic meter of PM_{2.5} – 24-hour average concentration.
- 2. The secondary ambient air quality standards for PM_{2.5} are:
 - a. 15 micrograms per cubic meter of PM_{2.5} – annual arithmetic mean concentration.
 - b. 35 micrograms per cubic meter of PM_{2.5} – 24-hour average concentration.
- 3. To determine attainment of the primary and secondary standards, a person shall measure PM_{2.5} in the ambient air by:
 - a. A reference method based on 40 CFR 50, Appendix L, and designated according to 40 CFR 53; or
 - b. An equivalent method designated according to 40 CFR 53.
- 4. The primary annual ambient air quality standard for PM_{2.5} is met when the annual arithmetic mean concentration, determined according to 40 CFR 50, Appendix N, is less than or equal to 12 micrograms per cubic meter.
- 5. The secondary annual ambient air quality standard for PM_{2.5} is met when the annual arithmetic mean concentration, determined according to 40 CFR 50, Appendix N, is less than or equal to 15 micrograms per cubic meter.
- 6. The primary and secondary 24-hour ambient air quality standards for PM_{2.5} are met when the 98th percentile 24-hour concentration, determined according to 40 CFR 50, Appendix N, is less than or equal to 35 micrograms per cubic meter.

Historical Note

Amended effective December 22, 1976 (Supp. 76-5). Former Section R9-3-201 repealed, new Section R9-3-201 adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Editorial correction, subsection (E) (Supp. 80-2). Amended effective August 29, 1980 (Supp. 80-4). Amended subsection(B)(1) and deleted subsections (C) through (E) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-201 renumbered without change as Section R18-2-201 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Amended by final rulemaking at 11 A.A.R. 3305, effective October 3, 2005 (Supp. 05-3). Section corrected to include subsection (B), which was inadvertently omitted in Supp. 05-3 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-202. Sulfur Oxides (Sulfur Dioxide)

- A. The primary ambient air quality standards for sulfur oxides, measured as sulfur dioxide, are:
 - 1. 0.03 parts per million (ppm) (80 µg/m³) -- annual arithmetic mean.
 - 2. 0.14 parts per million (ppm) (365 µg/m³) – maximum 24-hour concentration not to be exceeded more than once per calendar year.
 - 3. 75 parts per billion (ppb) – maximum one-hour concentration. The one-hour primary standard is met at an ambient air quality monitoring site when the three-year average of the annual 99th percentile of the daily maximum one-hour average concentrations is less than or equal to 75 parts per billion, as determined according to 40 CFR 50, Appendix T.
- B. The secondary ambient air quality standard for sulfur oxides, measured as sulfur dioxide, is 0.5 parts per million (ppm)

(1300 µg/m³) -- maximum three-hour concentration not to be exceeded more than once per year.

- C. The level of the standards shall be measured by a reference method based on 40 CFR 50, Appendix A or A-1, or by a Federal Equivalent Method designated according to 40 CFR 53.
- D. The standards in subsections (A)(1) and (2) shall apply:
 - 1. In an area designated nonattainment for a standard in subsection (A)(1) or (2) as of August 23, 2011, and areas not meeting a state implementation plan call for a standard in subsection (A)(1) or (2), until the state submits pursuant to section 191 of the Act, and the Administrator approves, a state implementation plan providing for attainment the standard in subsection (A)(3) in that area.
 - 2. In areas other than those identified in subsection (D)(1), until the effective date of the designation of that area, pursuant to section 107 of the act, for the standard in subsection (A)(3).

Historical Note

Amended effective December 22, 1976 (Supp. 76-5). Former Section R9-3-202 repealed, new Section R9-3-202 adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective August 29, 1980 (Supp. 80-4). Amended subsection (B) effective May 28, 1982 (Supp. 82-3). Amended by deleting subsections (C) through (E) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-202 renumbered without change as Section R18-2-202 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Amended by final rulemaking at 11 A.A.R. 3305, effective October 3, 2005 (Supp. 05-3). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2).

R18-2-203. Ozone

- A. The eight-hour average primary ambient air quality standard for ozone is 0.070 ppm.
- B. The eight-hour average secondary ambient air quality standard for ozone is 0.070 ppm.
- C. To determine attainment of the primary and secondary standards, a person shall measure ozone in the ambient air by:
 - 1. A reference method based on 40 CFR 50, Appendix D, and designated according to 40 CFR 53; or
 - 2. An equivalent method designated according to 40 CFR 53.
- D. The eight-hour average primary ambient air quality standard for ozone is met at an ambient air quality monitoring site when the three-year average of the annual fourth highest daily maximum eight-hour average ozone concentration is less than or equal to 0.070 ppm, determined according to 40 CFR 50, Appendix U.

Historical Note

Amended effective December 22, 1976 (Supp. 76-5). Former Section R9-3-204 repealed, new Section R9-3-204 adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective August 29, 1980 (Supp. 80-4). Amended by deleting subsections (B) through (D) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-204 renumbered without change as Section R18-2-204 (Supp. 87-3). Section R18-2-103 renumbered from R18-2-204 and amended effective September 26, 1990 (Supp. 90-3). Amended by final rulemaking at 11 A.A.R. 3305, effective October 3, 2005 (Supp. 05-3). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23

A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-204. Carbon monoxide

- A. The primary ambient air quality standards for carbon monoxide are:
1. 9 parts per million (10 milligrams per cubic meter) -- maximum eight-hour concentration not to be exceeded more than once per year.
 2. 35 parts per million (40 milligrams per cubic meter) -- maximum one-hour concentration not to be exceeded more than once per year.
- B. An eight-hour average shall be considered valid if at least 75% of the hourly averages for the eight-hour period are available. In the event that only six or seven hourly averages are available, the eight-hour average shall be computed on the basis of the hours available using 6 or 7 as the divisor.
- C. When summarizing data for comparison with the standards, averages shall be stated to one decimal place. Comparison of the data with the levels of the standards in parts per million shall be made in terms of integers with fractional parts of 0.5 or greater rounding up.

Historical Note

Amended effective December 22, 1976 (Supp. 76-5).
Former Section R9-3-205 repealed, new Section R9-3-205 adopted effective May 14, 1979 (Supp. 79-1).
Amended effective October 2, 1979 (Supp. 79-5).
Amended effective August 29, 1980 (Supp. 80-4).
Amended by deleting subsections (B) through (D) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-205 renumbered without change as Section R18-2-205 (Supp. 87-3). Former Section R18-2-204 renumbered to R18-2-203, new Section R18-2-204 renumbered from R18-2-205 and amended effective September 26, 1990 (Supp. 90-3).

R18-2-205. Nitrogen Oxides (Nitrogen Dioxide)

- A. The primary ambient air quality standards for oxides of nitrogen, measured in the ambient air as nitrogen dioxide, are:
1. 53 parts per billion – annual average concentration.
 2. 100 parts per billion – one-hour average concentration.
- B. The secondary ambient air quality standard for nitrogen dioxide is 0.053 (parts per million (100 micrograms per cubic meter) -- annual arithmetic mean.
- C. The levels of the standards shall be measured by a reference method based on 40 CFR 50, Appendix F or a federal equivalent method designated in accordance with 40 CFR 53.
- D. The annual primary standard is met when the annual average concentration in a calendar year is less than or equal to 53 ppb, as determined in accordance with 40 CFR, Appendix S for the annual standard.
- E. The one-hour primary standard is met when the three-year average of the annual 98th percentile of the daily maximum one-hour average concentration is less than or equal to 100 parts per billion, as determined in accordance with 40 CFR 50, Appendix S.
- F. The secondary standard is attained when the annual arithmetic mean concentration in a calendar year is less than or equal to 0.053 ppm, rounded to three decimal places, with fractional parts equal to or greater than 0.0005 ppm rounded up. To demonstrate attainment, an annual mean shall be based upon hourly data that is at least 75% complete or upon data derived from the manual methods, that is at least 75% complete for the scheduled sampling days in each calendar quarter.

Historical Note

Amended effective December 22, 1976 (Supp. 76-5).
Former Section R9-3-206 repealed, new Section R9-3-

206 adopted effective May 14, 1979 (Supp. 79-1).
Amended effective October 2, 1979 (Supp. 79-5).
Amended effective August 29, 1980 (Supp. 80-4).
Amended by deleting subsections (B) through (D) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-206 renumbered without change as Section R18-2-206 (Supp. 87-3). Former Section R18-2-205 renumbered to R18-2-204, new Section R18-2-205 renumbered from R18-2-206 and amended effective September 26, 1990 (Supp. 90-3). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2).

R18-2-206. Lead

- A. The primary ambient air quality standard for lead and its compounds, measured as elemental lead, is 0.15 micrograms per cubic meter – maximum arithmetic mean averaged over a three-month period.
- B. The secondary ambient air quality standard for lead and its compounds, measured as elemental lead, is 0.15 micrograms per cubic meter – maximum arithmetic mean averaged over a three-month period.
- C. The level of the standards shall be measured by a reference method based on 40 CFR 50, Appendix G and designated in accordance with 40 CFR 53, or by an equivalent designated in accordance with part 53 of this chapter.
- D. The national primary and secondary ambient air quality standards for lead are met when the maximum arithmetic three-month mean concentration for a three-year period, as determined in accordance with 40 CFR 50, Appendix R, is less than or equal to 0.15 micrograms per cubic meter.
- E. The former primary and secondary ambient air quality standards for lead of 1.5 micrograms per cubic meter averaged over a calendar quarter shall apply to an area until one year after the effective date of the designation of that area, pursuant to section 107 of the Act, for the standards in subsections (A) and (B).

Historical Note

Former Section R9-3-207 repealed effective May 14, 1979 (Supp. 79-1). New Section R9-3-207 adopted effective October 2, 1979 (Supp. 79-5). Amended effective August 29, 1980 (Supp. 80-4). Amended by deleting subsections (B) through (D) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-207 renumbered without change as Section R18-2-207 (Supp. 87-3). Former Section R18-2-206 renumbered to R18-2-205, new Section R18-2-206 renumbered from R18-2-207 and amended effective September 26, 1990 (Supp. 90-3). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2).

R18-2-207. Renumbered

Historical Note

Former Section R9-3-207 renumbered to R18-2-206 effective September 26, 1990 (Supp. 90-3).

R18-2-208. Reserved

R18-2-209. Reserved

R18-2-210. Attainment, Nonattainment, and Unclassifiable Area Designations

40 CFR 81.303 as amended as of July 1, 2014 (and no future amendments or editions) is incorporated by reference as an applicable requirement and on file with the Department of Environmental Quality. 40 CFR 81.303 is available from the U.S. Government Printing Office, Superintendent of Documents, bookstore.gpo.gov, Mail Stop: SSOP IDCC-SSOM, Washington, D.C. 20402-9328.

Historical Note

Adopted effective November 15, 1993 (Supp. 93-4).
 Amended effective December 7, 1995 (Supp. 95-4).
 Amended by final rulemaking at 5 A.A.R. 3221, effective August 12, 1999 (Supp. 99-3). Amended by final rulemaking at 8 A.A.R. 2543, effective May 24, 2002 (Supp. 02-2). Amended by final rulemaking at 10 A.A.R. 3281, effective September 27, 2004 (Supp. 04-3).
 Amended by final rulemaking at 11 A.A.R. 3305, effective October 3, 2005 (Supp. 05-3). Amended by final rulemaking at 13 A.A.R. 4199, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3).

R18-2-211. Reserved**R18-2-212. Reserved****R18-2-213. Reserved****R18-2-214. Reserved****R18-2-215. Ambient air quality monitoring methods and procedures**

- A. Only those methods which have been either designated by the Administrator as reference or equivalent methods or approved by the Director shall be used to monitor ambient air.
- B. Quality assurance, monitor siting, and sample probe installation procedures shall be in accordance with procedures described in the Appendices to 40 CFR 58.
- C. The Director may approve other procedures upon a finding that the proposed procedures are substantially equivalent or superior to procedures in the Appendices to 40 CFR 58.

Historical Note

Adopted effective September 22, 1983 (Supp. 83-5). Former Section R9-3-215 renumbered without change as Section R18-2-215 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3).

R18-2-216. Interpretation of Ambient Air Quality Standards and Evaluation of Air Quality Data

Unless otherwise specified, interpretation of all ambient air quality standards contained in this Article shall be in accordance with 40 CFR 50, incorporated by reference in Appendix 2 of this Chapter.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-216 repealed, new Section R9-3-216 adopted effective August 29, 1980 (Supp. 80-4). Former Section R9-3-216 renumbered without change as Section R18-2-216 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1).

R18-2-217. Designation and Classification of Attainment Areas

- A. All areas shall be classified as either Class I, Class II or Class III.
- B. All of the following areas which were in existence on August 7, 1977 shall be Class I areas irrespective of attainment status and shall not be redesignated:
 - 1. International parks;
 - 2. National wilderness areas which exceed 5,000 acres in size;
 - 3. National memorial parks which exceed 5,000 acres in size; and
 - 4. National parks which exceed 6,000 acres in size.

- C. Areas which were redesignated as Class I under regulations promulgated before August 7, 1977, shall remain Class I, but may be redesignated as provided in this Section.
- D. Any other area, unless otherwise specified in the legislation creating such an area, is initially designated Class II, but may be redesignated as provided in this Section.
- E. The following areas shall be designated only as Class I or II:
 - 1. An area which as of August 7, 1977, exceeds 10,000 acres in size and is one of the following:
 - a. A national monument,
 - b. A national primitive area,
 - c. A national preserve,
 - d. A national recreational area,
 - e. A national wild and scenic river,
 - f. A national wildlife refuge,
 - g. A national lakeshore or seashore.
 - 2. A national park or national wilderness area established after August 7, 1977, which exceeds 10,000 acres in size.
- F. Except as otherwise provided in subsections (B) to (E), the Governor may redesignate areas of the state as Class I or Class II, provided that the following requirements are fulfilled:
 - 1. At least one public hearing is held in or near the area affected in accordance with 40 CFR 51.102;
 - 2. Other states, Indian governing bodies and Federal Land Managers, whose land may be affected by the proposed redesignation are notified at least 30 days prior to the public hearing.
 - 3. A discussion document of the reasons for the proposed redesignation including a description and analysis of health, environmental, economic, social and energy effects of the proposed redesignation is prepared by the Governor or the Governor's designee. The discussion document shall be made available for public inspection at least 30 days prior to the hearing and the notice announcing the hearing shall contain appropriate notification of the availability of such discussion document.
 - 4. Prior to the issuance of notice respecting the redesignation of an area which includes any federal lands, the Governor or the Governor's designee has provided written notice to the appropriate Federal Land Manager and afforded the Federal Land Manager adequate opportunity, not in excess of 60 days, to confer with the state respecting the redesignation and to submit written comments and recommendations. The Governor or the Governor's designee shall publish a list of any inconsistency between such redesignation and such recommendations, together with the reasons for making such redesignation against the recommendation of the Federal Land Manager, if any Federal Land Manager has submitted written comments and recommendations.
 - 5. The redesignation is proposed after consultation with the elected leadership of local governments in the area covered by the proposed redesignation.
 - 6. The redesignation is submitted to the Administrator as a revision to the SIP.
- G. Except as otherwise provided in subsections (B) to (E), the Governor may redesignate areas of the state as Class III if all of the following criteria are met:
 - 1. Such redesignation meets the requirements of subsection (F);
 - 2. Such redesignation has been approved after consultation with the appropriate committee of the legislature if it is in session or with the leadership of the legislature if it is not in session.

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3. The general purpose units of local government representing a majority of the residents of the area to be redesignated concur in the redesignation;
 4. Such redesignation shall not cause, or contribute to, a concentration of any air pollutant which exceeds any national ambient air quality standard or any maximum increase allowed under R18-2-218;
 5. For any new major source as defined in R18-2-401 or a major modification of such source which may be permitted to be constructed and operated only if the area in question is redesignated as Class III, any permit application and materials submitted as part of the application shall be available for public inspection prior to any public hearing on the redesignation of the area as Class III.
 6. The redesignation is submitted to the Administrator as a revision to the SIP.
- H.** A redesignation shall not be effective until approved by the Administrator as part of an applicable implementation plan. If the Administrator disapproves the redesignation, the classification of the area shall be that which was in effect before the disapproved redesignation.
- I.** Lands within the exterior boundaries of Indian reservations may be redesignated only by the appropriate Indian governing body.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Editorial correction, subsection (A), paragraph (5), subparagraph (d) (Supp. 80-2). Amended effective May 28, 1982 (Supp. 82-3). Former Section R9-3-217 renumbered without change as Section R18-2-217 (Supp. 87-3). Amended and subsection (B) renumbered to Section R18-2-218 effective September 26, 1990 (Supp. 90-3). Amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-218. Limitation of Pollutants in Classified Attainment Areas

- A.** Areas designated as Class I, II, or III shall be limited to the following increases in air pollutant concentrations occurring over the baseline concentration; provided that for any period other than an annual period, the applicable maximum allowable increase may be exceeded once per year at any one location:

CLASS I

Maximum Allowable Increase (Micrograms per cubic meter)

Particulate matter: PM_{2.5}

Annual arithmetic mean 1

24-hr maximum 2

Particulate matter: PM₁₀

Annual arithmetic mean 4

24-hour maximum 8

Sulfur dioxide:

Annual arithmetic mean 2

24-hour maximum 5

3-hour maximum 25

Nitrogen dioxide:

Annual arithmetic mean 2.5

CLASS II

Particulate matter: PM_{2.5}

Annual arithmetic mean 4

24-hr maximum 9

Particulate matter: PM₁₀

Annual arithmetic mean 17

24-hour maximum 30

Sulfur dioxide:

Annual arithmetic mean 20

24-hour maximum 91

3-hour maximum 512

Nitrogen dioxide:

Annual arithmetic mean 25

CLASS III

Particulate matter: PM_{2.5}

Annual arithmetic mean 8

24-hr maximum 18

Particulate matter: PM₁₀

Annual arithmetic mean 34

24-hour maximum 60

Sulfur dioxide:

Annual arithmetic mean 40

24-hour maximum 182

3-hour maximum 700

Nitrogen dioxide:

Annual arithmetic mean 50

- B.** The baseline concentration is that ambient concentration level which exists in the baseline area at the time of the applicable minor source baseline data.

1. The major source baseline date is:
 - a. January 6, 1975, for sulfur dioxide and PM₁₀.
 - b. February 8, 1988, for nitrogen dioxide.
 - c. October 20, 2010, for PM_{2.5}.
2. The minor source baseline date shall be the earliest date after the trigger date on which a major source as defined in R18-2-401 or major modification subject to 40 CFR 52.21 or R18-2-406 submits a complete application under the relevant regulations.
 - a. The trigger date is:
 - i. August 7, 1977, for PM₁₀ and sulfur dioxide.
 - ii. February 8, 1988, for nitrogen dioxide.
 - iii. October 20, 2011, for PM_{2.5}.
 - b. Any minor source baseline date established originally for total suspended particulates shall remain in effect and shall apply for purposes of determining the amount of available PM-10 increments, except that the Department may rescind any such minor source baseline date where it can be shown, to the satisfaction of the Department, that the emissions increase from the major source, or the net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM-10 emissions.
3. A baseline concentration shall be determined for each pollutant for which there is a minor source baseline date and shall include both:

- a. The actual emissions representative of sources in existence on the minor source baseline date, except as provided in subsection (B)(4); and
 - b. The allowable emissions of major sources as defined in R18-2-401 which commenced construction before the major source baseline date but were not in operation by the applicable minor source baseline date.
4. The following shall not be included in the baseline concentration and shall affect the applicable maximum allowable increase:
 - a. Actual emissions from any major source as defined in R18-2-401 on which construction commenced after the major source baseline date; and
 - b. Actual emissions increases and decreases at any stationary source occurring after the minor source baseline date.
- C. The baseline date shall be established for each pollutant for which maximum allowable increases or other equivalent measures have been established if both:
 1. The area in which the proposed source or modification would construct is designated as attainment or unclassifiable under section 107(d)(1)(A)(ii) or (iii) of the Act for the pollutant on the date of its complete application under 40 CFR 52.21 or R18-2-406; and
 2. In the case of a major source as defined in R18-2-401, the pollutant would be emitted in significant amounts, or in the case of a major modification, there would be a significant net emissions increase of the pollutant.
- D. The baseline area shall be the AQCR that contains the area, designated as attainment or unclassifiable under section 107(d)(1)(A)(ii) or (iii) of the Act, in which the major source as defined in R18-2-401 or major modification establishing the minor source baseline date would construct or would have an air quality impact for the pollutant for which the minor source baseline date is established, as follows: greater than or equal to 1 microgram per cubic meter (annual average) for sulfur dioxide, nitrogen dioxide or PM₁₀; or greater than or equal to 0.3 microgram per cubic meter (annual average) for PM_{2.5}.
 1. Area redesignations under section 107(d)(1)(A)(ii) or (iii) of the Act that would redesignate a baseline area may not intersect or be smaller than the area of impact of any new major source as defined in R18-2-401 or a major modification which either:
 - a. Establishes a minor source baseline date, or
 - b. Is subject to either 40 CFR 52.21 or R18-2-406 and would be constructed in Arizona.
 2. Any baseline area established originally for total suspended particulates shall remain in effect and shall apply for purposes of determining the amount of available PM₁₀ increments, except that such baseline area shall not remain in effect if the Department rescinds the corresponding minor source baseline date in accordance with subsection (B)(2)(b).
- E. The maximum allowable concentration of any air pollutant in any area to which subsection (A) applies shall not exceed a concentration for each pollutant equal to the concentration permitted under the national ambient air quality standards.
- F. For purposes of determining compliance with the maximum allowable increases in ambient concentrations of an air pollutant, the following concentrations of such pollutant shall not be taken into account:
 1. Concentration of such pollutant attributable to the increase in emissions from major and stationary sources which have converted from the use of petroleum products, or natural gas, or both, by reason of a natural gas curtailment order which is in effect under the provisions of sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, 15 U.S.C. 792, over the emissions from such sources before the effective date of such order;
2. The concentration of such pollutant attributable to the increase in emissions from major and stationary sources which have converted from using gas by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act, 16 U.S.C. 792 - 825r, over the emissions from such sources before the effective date of the natural gas curtailment plan;
3. Concentrations of PM₁₀ or PM_{2.5} attributable to the increase in emissions from construction or other temporary emission related activities of a new or modified source;
4. The increase in concentrations attributable to new sources outside the United States over the concentrations attributable to existing sources which are included in the baseline concentration; and
5. Concentrations attributable to the temporary increase in emissions of sulfur dioxide, nitrogen oxides, PM_{2.5}, or PM₁₀ from major sources as defined in R18-2-401 when the following conditions are met:
 - a. The permits issued to such sources specify the time period during which the temporary emissions increase of sulfur dioxide, nitrogen oxides, PM_{2.5} or PM₁₀ would occur. Such time period shall not be renewable and shall not exceed two years.
 - b. The temporary emissions increase will not:
 - i. Impact any Class I area or any area where a maximum increase allowed by subsection (A) is known to be violated; or
 - ii. Cause or contribute to the violation of a national ambient air quality standard.
 - c. The operating permit issued to such sources specifies that, at the end of the time period described in subsection (F)(5)(a), the emissions levels from the sources would not exceed the levels occurring before the temporary emissions increase was approved.
6. The exception granted by subsections (F)(1) and (2) with respect to maximum increases allowed under subsection (A) shall not apply more than five years after the effective date of the order or natural gas curtailment plan on which the exception is based.
- G. If the Director or the Administrator determines that the SIP is substantially inadequate to prevent significant deterioration or that an applicable maximum allowable increase as specified in subsection (A) is being violated, the SIP shall be revised to correct the inadequacy or the violation. The SIP shall be revised within 60 days of such a finding by the Director or within 60 days following notification by the Administrator, or by such later date as prescribed by the Administrator after consultation with the Director.
- H. The Director shall review the adequacy of the SIP on a periodic basis and within 60 days of such time as information becomes available that an applicable maximum allowable increase is being violated.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Editorial correction, subsection (A), paragraph (5), subparagraph (d) (Supp. 80-2). Amended effective May 28, 1982 (Supp. 82-3). Former Section R9-3-217 renumbered without change as Section R18-2-217 (Supp. 87-3). Former Section R18-2-218 renumbered to R18-2-219, new Section

R18-2-218 renumbered from R18-2-217(B) and amended effective September 26, 1990 (Supp. 90-3). Amended effective November 15, 1993 (Supp. 93-4). Amended effective February 28, 1995 (Supp. 95-1). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-219. Repealed

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-218 repealed, new Section R9-3-218 adopted effective September 22, 1983 (Supp. 83-5). Former Section R9-3-218 renumbered without change as Section R18-2-218 (Supp. 87-3). Former Section R18-2-219 renumbered to R18-2-220, new Section R18-2-219 renumbered from R18-2-218 and amended effective September 26, 1990 (Supp. 90-3). Section repealed by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2).

R18-2-220. Air pollution emergency episodes

- A. Procedures shall be implemented by the Director in order to prevent the occurrence of ambient air pollutant concentrations which would cause significant harm to the health of persons, as specified in subsection (B)(4). The procedures and actions required for each stage are described in the Department's "Procedures for Prevention of Emergency Episodes," amended as of October 18, 1988 (and no future edition), which is incorporated herein by reference and on file with the Office of the Secretary of State.
- B. The following stages are identified by air quality criteria in order to provide for sequential emissions reductions, public notification and increased Department monitoring and forecast responsibilities. The declaration of any stage, and the area of the state affected, shall be based on air quality measurements and meteorological analysis and forecast.
 1. A Stage I air pollution alert shall be declared when any of the alert level concentrations listed in subsection (B)(4) are exceeded at any monitoring site and when meteorological conditions indicate that there will be a continuance or recurrence of alert level concentrations for the same pollutant during the subsequent 24-hour period. If, 48 hours after an alert has been initially declared, air pollution concentrations and meteorological conditions do not improve, the warning stage control actions shall be implemented but no warning shall be declared, unless air quality has deteriorated to the extent described in subsection (B)(2).
 2. A Stage II air pollution warning shall be declared when any of the warning level concentrations listed in subsection (B)(4) are exceeded at any monitoring site and when meteorological conditions indicate that there will be a continuance or recurrence of concentrations of the same pollutant exceeding the warning level during the subsequent 24-hour period. If, 48 hours after a warning has been initially declared, air pollution concentrations and meteorological conditions do not improve, the emergency stage shall be declared and its control actions implemented.
 3. A Stage III air pollution emergency shall be declared when any of the emergency level concentrations listed in subsection (B)(4) are exceeded at any monitoring site and when meteorological conditions indicate that there will be a continuance or recurrence of concentrations of the

same pollutant exceeding the emergency level during the subsequent 24-hour period.

4. Summary of emergency episode and significant harm levels:

Pollutant	Averaging Time	Alert	Warning	Emergency	Significant Harm
Carbon monoxide (mg/m ³)	1-hr	--	--	--	144
	4-hr	--	--	--	86.3
	8-hr	17	34	46	57.5
Nitrogen dioxide (ug/m ³)	1-hr	1,130	2,260	3,000	3,750
	24-hr	282	565	750	938
	1-hr	.2	.4	.5	.6
Ozone (ppm)	1-hr				
PM ₁₀ (ug/m ³)	24-hr	350	420	500	600
Sulfur dioxide (ug/m ³)	24-hr	800	1,600	2,100	2,620

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Editorial correction, subsection (B), paragraph (2) (Supp. 80-1). Editorial correction, subsection (A) (Supp. 80-2). Former Section R9-3-219 repealed, new Section R9-3-219 adopted effective May 28, 1982 (Supp. 82-3). Former Section R9-3-219 renumbered without change as Section R18-2-219 (Supp. 87-3). Section R18-2-220 renumbered from R18-2-219 and amended effective September 26, 1990 (Supp. 90-3).

ARTICLE 3. PERMITS AND PERMIT REVISIONS

R18-2-301. Definitions

The following definitions apply to this Article:

1. "Alternative method" means any method of sampling and analyzing for an air pollutant which is not a reference or equivalent method but which has been demonstrated to produce results adequate for the Director's determination of compliance in accordance with R18-2-311(D).
2. "Billable permit action" means the issuance or denial of a new permit, significant permit revision, or minor permit revision, or the renewal of an existing permit.
3. "Capacity factor" means the ratio of the average load on a machine or equipment for the period of time considered to the capacity rating of the machine or equipment.
4. "CEM" means a continuous emission monitoring system as defined in R18-2-101.
5. "Complete" means, in reference to an application for a permit, permit revision or registration, that the application contains all the information necessary for processing the application. Designating an application complete for purposes of a permit, permit revisions or registration processing does not preclude the Director from requesting or accepting any additional information.
6. "Dispersion technique" means any technique which attempts to affect the concentration of a pollutant in the ambient air by any of the following:
 - a. Using that portion of a stack which exceeds good engineering practice stack height;
 - b. Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or
 - c. Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust

gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. This shall not include any of the following:

- i. The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream.
 - ii. The merging of exhaust gas streams under any of the following conditions:
 - (1) The source owner or operator demonstrates that the facility was originally designed and constructed with such merged gas streams;
 - (2) After July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant, applying only to the emission limitation for that pollutant; or
 - (3) Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, an increase in the quantity of pollutants actually emitted prior to the merging, the reviewing agency shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by such intent, the reviewing agency shall deny credit for the effects of such merging in calculating the allowable emissions for the source.
 - iii. Smoke management in agricultural or silvicultural prescribed burning programs.
 - iv. Episodic restrictions on residential woodburning and open burning.
 - v. Techniques which increase final exhaust gas plume rise where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.
7. "Emissions allowable under the permit" means a permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or an emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.
 8. "Fossil fuel-fired steam generator" means a furnace or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer.
 9. "Fuel oil" means Number 2 through Number 6 fuel oils as specified in ASTM D-396-90a (Specification for Fuel Oils), gas turbine fuel oils Numbers 2-GT through 4-GT as specified in ASTM D-2880-90a (Specification for Gas Turbine Fuel Oils), or diesel fuel oils Numbers 2-D and 4-D as specified in ASTM D-975-90a (Specification for Diesel Fuel Oils).
 10. "Itemized bill" means a breakdown of the permit processing time into the categories of pre-application activities, completeness review, substantive review, and public involvement activities, and within each category, a further breakdown by employee name.
 11. "Major source threshold" means the lowest applicable emissions rate for a pollutant that would cause the source to be a major source at the particular time and location, under the definition of major source in R18-2-101.
 12. "Maximum capacity to emit" means the maximum amount a source is capable of emitting under its physical and operational design without taking any limitations on operations or air pollution controls into account.
 13. "Maximum capacity to emit with any elective limits" means the maximum amount a source is capable of emitting under its physical and operational design taking into account the effect on emissions of any elective limits included in the source's registration under R18-2-302.01(F).
 14. "Minor NSR Modification" means any of the following changes that do not qualify as a major source or major modification:
 - a. Any physical change in or change in the method of operation of an emission unit or a stationary source that either:
 - i. Increases the potential to emit of a regulated minor NSR pollutant by an amount greater than or equal to the permitting exemption thresholds, or
 - ii. Results in emissions of a regulated minor NSR pollutant not previously emitted by such emission unit or stationary source in an amount greater than or equal to the permitting exemption thresholds.
 - b. Construction of one or more new emissions units that have the potential to emit regulated minor NSR pollutants at an amount greater than or equal to the permitting exemption threshold.
 - c. A change covered by subsection (12)(a) or (b) of this Section constitutes a minor NSR modification regardless of whether there will be a net decrease in total source emissions or a net increase in total source emissions that is less than the permitting exemption threshold as a result of decreases in the potential to emit of other emission units at the same stationary source.
 - d. For the purposes of this subsection (the) following do not constitute a physical change or change in the method of operation:
 - i. A change consisting solely of the construction of, or changes to, a combination of emissions units qualifying as a categorically exempt activity.
 - ii. For a stationary source that is required to obtain a Class II permit under R18-2-302 and that is subject to source-wide emissions caps under R18-2-306.01 or R18-2-306.02, a change that will not result in the violation of the existing emissions cap for that regulated minor NSR pollutant.
 - iii. Replacement of an emission unit by a unit with a potential to emit regulated minor NSR pollutants that is less than or equal to the potential to emit of the existing unit, provided the replace-

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- ment does not cause an increase in emissions at other emission units at the stationary source. A unit installed under this provision is subject to any limits applicable to the unit it replaced.
- iv. Routine maintenance, repair, and replacement.
 - v. Use of an alternative fuel or raw material by reason of an order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, 15 U.S.C. 792, or by reason of a natural gas curtailment plan under the Federal Power Act, 16 U.S.C. 792 to 825r.
 - vi. Use of an alternative fuel by reason of an order or rule under Section 125 of the Act.
 - vii. Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste.
 - viii. Use of an alternative fuel or raw material by a stationary source that either:
 - (1) The source was capable of accommodating before December 12, 1976, unless the change would be prohibited under any federally enforceable permit condition established after December 12, 1976, under 40 CFR 52.21, or under Articles 3 or 4 of this Chapter; or
 - (2) The source is approved to use under any permit issued under 40 CFR 52.21, or under Articles 3 or 4 of this Chapter.
 - ix. An increase in the hours of operation or in the production rate, unless the change would be prohibited under any federally enforceable permit condition established after December 12, 1976, under 40 CFR 52.21, or under Articles 3 or 4 of this Chapter.
 - x. Any change in ownership at a stationary source
 - xi. The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, if the project complies with:
 - (1) The SIP, and
 - (2) Other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.
 - xii. For electric utility steam generating units located in attainment and unclassifiable areas only, the installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, if the project does not result in an increase in the potential to emit any regulated pollutant emitted by the unit. This exemption applies on a pollutant-by-pollutant basis.
 - xiii. For electric utility steam generating units located in attainment and unclassifiable areas only, the reactivation of a very clean coal-fired electric utility steam generating unit.
- e. For purposes of this subsection:
- i. “Potential to emit” means the lower of a source’s or emission unit’s potential to emit or its allowable emissions.
 - ii. In determining potential to emit, the fugitive emissions of a stationary source shall not be considered unless the source belongs to a section 302(j) category.
 - iii. All of the roadways located at a stationary source constitute a single emissions unit.
15. “NAICS” means the five- or six-digit North American Industry Classification System-United States, 1997, number for industries used by the U.S. Department of Commerce.
 16. “Permit processing time” means all time spent by Air Quality Division staff or consultants on tasks specifically related to the processing of an application for the issuance or renewal of a particular permit or permit revision, including time spent processing an application that is denied.
 17. “Quantifiable” means, with respect to emissions, including the emissions involved in equivalent emission limits and emission trades, capable of being measured or otherwise determined in terms of quantity and assessed in terms of character. Quantification may be based on emission factors, stack tests, monitored values, operating rates and averaging times, materials used in a process or production, modeling, or other reasonable measurement practices.
 18. “Registration” means a registration under R18-2-302.01.
 19. “Replicable” means, with respect to methods or procedures, sufficiently unambiguous that the same or equivalent results would be obtained by the application of the method or procedure by different users.
 20. “Responsible official” means one of the following:
 - a. For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:
 - i. The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or
 - ii. The delegation of authority to such representatives is approved in advance by the permitting authority;
 - b. For a partnership or sole proprietorship: a general partner or the proprietor, respectively;
 - c. For a municipality, state, federal, or other public agency: Either a principal executive officer or ranking elected official. For the purposes of this Article, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or
 - d. For affected sources:
 - i. The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Act or the regulations promulgated thereunder are concerned; and
 - ii. The designated representative for any other purposes under 40 CFR 70.
 21. “Screening model” means air dispersion modeling performed with screening techniques in accordance with 40 CFR 51 Appendix W.
 22. “Small source” means a source with a potential to emit, without controls, less than the rate defined as permitting

exemption thresholds in R18-2-101, but required to obtain a permit solely because it is subject to a standard under 40 CFR 63.

23. “Startup” means the setting in operation of a source for any purpose.
24. “Synthetic minor” means a source with a permit that contains voluntarily accepted emissions limitations, controls, or other requirements (for example, a cap on production rates or hours of operation, or limits on the type of fuel) under R18-2-306.01 to reduce the potential to emit to a level below the major source threshold.

Historical Note

Former Section R18-2-301 renumbered to R18-2-302, new Section R18-2-301 adopted effective September 26, 1990 (Supp. 90-3). Correction to table in subsection (A)(13) (Supp. 93-1). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4).

Amended effective August 1, 1995 (Supp. 95-3). Amended by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 6 A.A.R. 343, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 7 A.A.R. 5670, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-302. Applicability; Registration; Classes of Permits

- A. Except as otherwise provided in this Article, no person shall begin actual construction of, operate, or make a modification to any stationary source subject to regulation under this Article, without obtaining a registration, permit or permit revision from the Director.
- B. Class I and II permits and registrations shall be required as follows:
 1. A Class I permit shall be required for a person to begin actual construction of or operate any of the following:
 - a. Any major source,
 - b. Any solid waste incineration unit required to obtain a permit pursuant to Section 129(e) of the Act,
 - c. Any affected source, or
 - d. Any stationary source in a source category designated by the Administrator pursuant to 40 CFR 70.3 and adopted by the Director by rule.
 2. Unless a Class I permit is required, a Class II permit shall be required for:
 - a. A person to begin actual construction of or operate any stationary source that emits, or has the maximum capacity to emit with any elective limits, any regulated NSR pollutant in an amount greater than or equal to the significant level.
 - b. A person to make a physical or operational change to a stationary source that would cause the source to emit, or have the maximum capacity to emit with any elective limits, any regulated NSR pollutant in an amount greater than or equal to the significant level.
 - c. A person to begin actual construction of or modify a stationary source that otherwise would be subject to registration but that the Director has determined requires a permit under R18-2-302.01(C)(4) or (D).
 3. Unless a Class I or II permit is required, registration shall be required for:
 - a. A person to begin actual construction of or operate any stationary source that emits or has the maximum capacity to emit any regulated minor NSR pollutant

in an amount greater than or equal to a permitting exemption threshold.

- b. A person to begin actual construction of or operate any stationary source subject to a standard under section 111 of the Act, except that a stationary source is not required to register solely because it is subject to any of the following standards:
 - i. 40 CFR 60, Subpart AAA (Residential Wood Heaters).
 - ii. 40 CFR 60, Subpart IIII (Stationary Compression Ignition Internal Combustion Engines).
 - iii. 40 CFR 60, Subpart JJJJ (Stationary Spark Ignition Internal Combustion Engines).
 - iv. 40 CFR 60, Subpart QQQQ (Residential Hydronic Heaters and Forced-Air Furnaces).
- c. A person to begin actual construction of or operate any stationary source, including an area source, subject to a standard under section 112 of the Act, except that a stationary source is not required to register solely because it is subject to any of the following standards:
 - i. 40 CFR 61.145.
 - ii. 40 CFR 63, Subpart ZZZZ (Reciprocating Internal Combustion Engines).
 - iii. 40 CFR 63, Subpart WWWW (Ethylene Oxide Sterilizers).
 - iv. 40 CFR 63, Subpart CCCCCC (Gasoline Distribution).
 - v. 40 CFR 63, Subpart HHHHHH (Paint Stripping and Miscellaneous Surface Coating Operations).
 - vi. 40 CFR 63, Subpart JJJJJJ (Industrial, Commercial, and Institutional Boilers Area Sources), published at 76 FR 15554 (March 21, 2011).
 - vii. A regulation or requirement under section 112(r) of the Act.
- d. A physical or operational change to a source that would cause the source to emit or have the maximum capacity to emit any regulated minor NSR pollutant in an amount greater than or equal to the permitting exemption threshold.
- C. Notwithstanding subsections (A) and (B), the following stationary sources do not require a permit or registration unless the source is a major source, or unless operation without a permit would result in a violation of the Act:
 1. A stationary source that consists solely of a single categorically exempt activity plus any combination of trivial activities.
 2. Agricultural equipment used in normal farm operations. “Agricultural equipment used in normal farm operations” does not include equipment classified as a source that requires a permit under Title V of the Act, or that is subject to a standard under 40 CFR 60, 61 or 63.
- D. No person may construct or reconstruct any major source of hazardous air pollutants, unless the Director determines that maximum achievable control technology emission limitation (MACT) for new sources under Section 112 of the Act will be met. If MACT has not been established by the Administrator, such determination shall be made on a case-by-case basis pursuant to 40 CFR 63.40 through 63.44, as incorporated by reference in R18-2-1101(B). For purposes of this subsection, constructing and reconstructing a major source shall have the meaning prescribed in 40 CFR 63.41.
- E. Elective limits or controls adopted under R18-2-302.01(F) shall not be considered in determining whether a source

requires registration or a Class I permit but shall be considered in determining any of the following:

1. Whether the registration is subject to the public participation requirements of R18-2-330, as provided in R18-2-302.01(B)(3).
 2. Whether review for possible interference with attainment or maintenance of ambient standards is required under R18-2-302.01(C).
 3. Whether the source requires a Class II permit, as provided in subsection (B)(2)(a) or (b).
- F.** The fugitive emissions of a stationary source shall not be considered in determining whether the source requires a Class II permit under subsection (B)(2)(a) or (b) or a registration under subsection (B)(3)(a) or (d), unless the source belongs to a section 302(j) category. If a permit is required for a stationary source, the fugitive emissions of the source shall be subject to all of the requirements of this Article.
- G.** Notwithstanding subsections (A) and (B) of this Section, a person may begin actual construction, but not operation, of a source requiring a Class I permit or Class I permit revision upon the Director's issuance of the proposed final permit or proposed final permit revision.

Historical Note

Amended effective August 7, 1975 (Supp. 75-1).
 Amended as an emergency effective December 15, 1975 (Supp. 75-2). Amended effective May 10, 1976 (Supp. 76-3). Amended effective April 12, 1977 (Supp. 77-2).
 Amended effective March 24, 1978 (Supp. 78-2). Former Section R9-3-301 repealed, new Section R9-3-301 adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective July 9, 1980 (Supp. 80-4). Amended effective May 28, 1982 (Supp. 82-3). Amended subsections (B) and (C) effective September 22, 1983 (Supp. 83-5). Amended subsection (B), paragraph (3) effective September 28, 1984 (Supp. 84-5). Former Section R9-3-301 renumbered without change as Section R18-2-301 (Supp. 87-3). Former Section R18-2-302 renumbered to R18-2-302.01, new Section R18-2-302 renumbered from R18-2-301 and amended effective September 26, 1990 (Supp. 90-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended effective June 4, 1998 (Supp. 98-2). Amended by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-302.01. Source Registration Requirements

- A.** Application. An application for registration shall be submitted on the form specified by the Director and shall include the following information:
1. The name of the applicant.
 2. The physical location of the source, including the street address, city, county, zip code and latitude and longitude coordinates.
 3. The source's maximum capacity to emit with any elective limits each regulated minor NSR pollutant.
 4. Identification of any elective limits or controls adopted under subsection (F).
 5. In the case of a modification, each increase in the source's maximum capacity to emit with any elective limits that exceeds the applicable threshold in subsection (G)(1)(a).
 6. Identification of the method used to determine the maximum capacity to emit under R18-2-302(B)(3)(a), a

change in the maximum capacity to emit under R18-2-302(B)(3)(d), or the maximum capacity to emit with any elective limits under subsection (G)(1)(a) of this Section.

7. Process information for the source, including a list of emission units, design capacity, operations schedule, and identification of emissions control devices.

B. Registration Processing Procedures.

1. The Department shall complete a review of a registration application for administrative completeness within 30 calendar days, calculated in accordance with A.A.C. R18-1-503, after its receipt.
 2. The Department shall complete a substantive review and take final action on a registration application within 60 calendar days if no hearing is requested, and 90 calendar days if a hearing is requested, calculated in accordance with A.A.C. R18-1-504, after the application is administratively complete.
 3. Except as provided in subsection (B)(5), a registration for construction of a source shall be subject to the public notice and participation requirements of R18-2-330. The materials relevant to the registration decision made available to the public under R18-2-330(D) shall include any determination made or modeling conducted by the Director under subsection (C).
 4. The Department shall also send a copy of the notice required by subsection (B)(3) to the administrator through the appropriate regional office, and to all other state and local air pollution control agencies having jurisdiction in the region in which the source subject to the registration will be located. The notice shall also be sent to any other agency in the region having responsibility for implementing the procedures required under 40 CFR 51, I.
 5. A registration for construction of a source shall not be subject to subsection (B)(3) or (4), if the source's maximum capacity to emit with any elective limits each regulated minor NSR pollutant is less than the applicable permitting exemption threshold.
- C.** Review for National Ambient Air Quality Standards Compliance; Requirement to Obtain a Permit.
1. The Director shall review each application for registration of a source with the maximum capacity to emit with any elective limits any regulated minor NSR pollutant in an amount equal to or greater than the permitting exemption threshold. The purpose of the review shall be to determine whether the new or modified source may interfere with attainment or maintenance of a national ambient air quality standard in Arizona or any affected state or Indian reservation. In making the determination required by this subsection, the Director shall take into account the following factors:
 - a. The source's emission rates, including fugitive emission rates, taking into account any elective limits or controls adopted under subsection (F).
 - b. The location of emission units within the facility and their proximity to the ambient air.
 - c. The terrain in which the source is or will be located.
 - d. The source type.
 - e. The location and emissions of nearby sources.
 - f. Background concentrations of regulated minor NSR pollutants.
 2. The Director may undertake the review specified in subsection (C)(1) for a source with the maximum capacity to emit with any elective limits regulated minor NSR pollutants in an amount less than the permitting exemption threshold.

3. If the Director determines under subsection (C)(1) or (C)(2) that a source's emissions may interfere with attainment or maintenance of a national ambient air quality standard, the Director shall perform a screening model run for each regulated minor NSR pollutant for which that determination has been made.
 4. If the Director determines, based on performance of the screening model pursuant to subsection (C)(3), that a source's emissions, taking into account any elective limits or controls adopted under subsection (F), will interfere with attainment or maintenance of a national ambient air quality standard, the Director shall deny the application for registration. Notwithstanding R18-2-302(B)(3), the owner or operator of the source shall be required to obtain a permit under R18-2-302 and shall comply with R18-2-334 before beginning actual construction of the source or modification.
- D. Requirement to Obtain a Permit.** Notwithstanding R18-2-302(B)(3)(b) and (c), the Director shall deny an application for registration for a source subject to a standard under section 111 or 112 of the Act and require the owner or operator to obtain a permit under R18-2-302, if the Director determines based on the following factors that the requirement to obtain a permit is warranted:
1. The size and complexity of the source.
 2. The complexity of the section 111 or 112 standard applicable to the source.
 3. The public health or environmental risks posed by the pollutants subject to regulation under the section 111 or 112 standard.
- E. Registration Contents.** A registration shall contain the following elements:
1. Enforceable emission limitations and standards, including operational requirements and limitations, that ensure compliance with all applicable SIP requirements at the time of issuance and any testing, monitoring, recordkeeping and reporting obligations imposed by the applicable requirement or by R18-2-312.
 2. Any elective limits or controls and associated operating, maintenance, monitoring and recordkeeping requirements adopted pursuant to subsection (F).
 3. A requirement to retain any records required by the registration at the source for at least three years in a form that is suitable for expeditious inspection and review.
 4. For any source that has adopted elective limits or controls under subsection (F), a requirement to submit an annual compliance report on the form provided by the Director in the registration.
- F. Elective Limits or Controls.** The owner or operator of a source requiring registration may elect to include any of the following emission limitations in the registration, provided the Department approves the limitation and the registration also includes the operating, maintenance, monitoring, and recordkeeping requirements specified below for the limitation.
1. A limitation on the hours of operation of any process or combination of processes.
 - a. The registration shall express the limitation in terms of hours per rolling 12-month period and shall specify the process or combination of processes subject to the limitation.
 - b. The owner or operator shall maintain a log or readily available business records showing actual operating hours through the preceding operating day for the process or processes subject to the limitation.
 2. A limitation on the production rate for any process or combination of processes.
 - a. The registration shall express the limitation in terms of an appropriate unit of mass or production per rolling 12-month period and shall specify the process or combination of processes subject to the limitation.
 - b. The owner or operator shall maintain a log or readily available business records showing the actual production rate through the preceding operating day for the process or processes subject to the limitation. The owner or operator shall update the log or business records at least once per operating day.
3. A requirement to operate a fabric filter for the control of particulate matter emissions.
- a. The owner or operator shall operate the fabric filter at all times that the emission unit controlled by the fabric filter is operated.
 - b. The owner or operator shall inspect the fabric filter at least once per month for tears and leaks and shall promptly repair any tears or leaks identified. If the fabric filter is subject to a limit on the opacity of emissions, the inspection shall include an opacity observation in accordance with the applicable reference method.
 - c. The owner or operator shall operate and maintain the fabric filter in substantial compliance with the manufacturer's operation and maintenance recommendations.
 - d. The owner or operator shall keep a log or readily available business records of the inspections required by subsection (F)(3)(b) and the maintenance activities required by subsection (F)(3)(c). The owner or operator shall update the log or business records within 24 hours after an inspection or maintenance activity is performed.
 - e. The registration shall identify the fabric filters and processes subject to this requirement.
4. Limitations on the total amount of VOC or hazardous air pollutants in solvents, coatings or other process materials used at the registered source.
- a. The registration shall identify the pollutants and processes covered by the limitations and shall express the limitations in terms of pounds per rolling 12-month period.
 - b. The owner or operator shall maintain a log or readily available business records showing the concentration of each covered VOC or hazardous air pollutant in each VOC or hazardous air pollutant containing material used at the source. The owner or operator shall update the records whenever the concentration in any material changes or a new material is used. The presence at the source of a current material safety data sheet for a material used without dilution or other alteration satisfies this requirement.
 - c. The owner or operator shall maintain a spreadsheet or database to record the amount of each material containing a covered VOC or hazardous air pollutant used. The spreadsheet or database shall calculate the total pounds of the VOC or hazardous air pollutant used by multiplying the concentration of VOC or hazardous air pollutant in a material by the amount of material used and shall employ appropriate units of measurement and conversion factors. The owner or operator shall update the spreadsheet or database at least once per operating day.
- G. Revised Registrations.**
1. Unless a Class II permit is required under R18-2-302(B)(2)(b), the owner or operator of a registered source

shall file a revised registration on the occurrence of any of the following:

- a. A modification to the source that would result in an increase in the source's maximum capacity to emit with any elective limits exceeding any of the following amounts:
 - i. 2.5 tons per year for NO_x, SO₂, PM₁₀, PM_{2.5}, VOC or CO.
 - ii. 0.3 tons per year for lead.
 - b. Relocation of a portable source.
 - c. The transfer of the source to a new owner.
2. The requirements of subsection (B) shall not apply to a revised registration. The owner or operator may begin actual construction and operation of the modified, relocated or transferred source on filing the revised registration.

H. Registration Term.

1. A source's registration shall expire five years after the date of issuance of the last registration for the source or any modification to the source.
2. A source shall submit an application for renewal of a registration not later than six months before expiration of the registration's term.
3. If a source submits a timely and complete application for renewal of a registration, the source's authorization to operate under its existing registration shall continue until the Director takes final action on the application.
4. The Director may terminate a registration under R18-2-321(C). If the Director terminates a registration under R18-2-321(C)(3), the owner or operator shall be required to apply for a permit for the source under R18-2-302.

- I. Issuance of a registration shall not relieve the owner or operator of the responsibility to comply fully with applicable provisions of the SIP and any other requirements under local, state, or federal law.

Historical Note

Amended effective August 7, 1975 (Supp. 75-1); Former Section R9-3-302 repealed, new Section R9-3-302 adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-302 repealed, new Section R9-3-302 adopted effective October 2, 1979 (Supp. 79-5). Former Section R9-3-302 repealed, new Section R9-3-302 adopted effective May 28, 1982 (Supp. 82-3). Former Section R9-3-302 renumbered without change as Section R18-2-302 (Supp. 87-3). Section R18-2-302.01 renumbered from Section R18-2-302 and amended effective September 26, 1990 (Supp. 90-3). Section repealed effective November 15, 1993 (Supp. 93-4). New Section made by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-303. Transition from Installation and Operating Permit Program to Unitary Permit Program; Registration Transition; Minor NSR Transition

- A. An installation or operating permit issued before September 1, 1993, and the authority to operate, as provided in Laws 1992, Ch. 299, § 65, continues in effect until the installation or operating permit is terminated, or until the Director issues or denies a Class I or Class II permit to the source, whichever is earlier.
- B. The terms and conditions of installation permits issued before September 1, 1993, or in permits or permit revisions issued under R18-2-302 and authorizing the construction or modification of a stationary source, remain federal applicable requirements unless modified or revoked by the Director.

- C. All sources in existence on September 1, 2012, requiring a registration shall provide notice to the Director by no later than December 1, 2012, on a form provided by the Director.
- D. All sources requiring a registration that are in existence on the date R18-2-302.01 becomes effective under R18-2-302.01(I) may submit applications for registration at any time after R18-2-302.01 is effective and shall submit an application no later than 180 days after receipt of written notice from the Director that an application is required.
- E. Sources in existence on December 2, 2015 are not subject to R18-2-334, unless the source undertakes a minor NSR modification after that date. Notwithstanding any other provision of this Chapter, R18-2-334 shall apply only to applications for permits or permit revisions filed after December 2, 2015.

Historical Note

Amended effective August 7, 1975 (Supp. 75-1). Amended effective August 6, 1976 (Supp. 76-4). Former Section R9-3-303 repealed, new Section R9-3-303 adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-303 repealed, new Section R9-3-303 adopted effective October 2, 1979 (Supp. 79-5). Amended effective May 28, 1982 (Supp. 82-3). Amended subsection (D), paragraph (1) effective September 28, 1984 (Supp. 84-5). Former Section R9-3-303 renumbered without change as Section R18-2-303 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-304. Permit Application Processing Procedures

- A. Unless otherwise noted, this Section applies to each source requiring a Class I or II permit or permit revision.
- B. Standard Application Form and Required Information. To apply for a permit required by this Chapter, applicants shall complete the applicable standard application form provided by the Director and supply all information required by the form's filing instructions. The application forms and filing instructions for Class I Permits shall at a minimum require submission of the following elements:
 1. Identifying information, including company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager/contact.
 2. A description of the source's processes and products (by Standard Industrial Classification (SIC) Code), including those associated with any proposed alternative operating scenarios (AOS) identified by the source.
 3. The following emission-related information:
 - a. All emissions of pollutants for which the source is major, and all emissions of regulated air pollutants. A permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit, except as otherwise provided in R18-2-304(F)(8). The Director shall require additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to collect any permit fees owed under R18-2-326.
 - b. Identification and description of all points of emissions described in subsection (B)(3)(a) of this section in sufficient detail to establish the basis for fees and applicability of requirements.

- c. Emissions rate in tons per year (tpy) and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method. For emissions units subject to an annual emissions cap, tpy can be reported as part of the aggregate emissions associated with the cap, except where more specific information is needed, including where necessary to determine and/or assure compliance with an applicable requirement.
- d. The following information to the extent it is needed to determine or regulate emissions: fuels, fuel use, raw materials, production rates, and operating schedules.
- e. Identification and description of air pollution control equipment and compliance monitoring devices or activities.
- f. Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated pollutants at the Class I source.
- g. Other information required by any applicable requirement (including information related to stack height limitations in R18-2-332).
- h. Calculations on which the information in subsections (B)(3)(a) through (g) of this section is based.
- 4. The following air pollution control requirements:
 - a. Citation and description of all applicable requirements, and
 - b. Description of or reference to any applicable test method for determining compliance with each applicable requirement.
- 5. Other specific information that may be necessary to implement and enforce other applicable requirements or to determine the applicability of such requirements.
- 6. An explanation of any proposed exemptions from otherwise applicable requirements.
- 7. Additional information as determined to be necessary by the Director to define proposed AOS identified by the source pursuant to R18-2-306(A)(11) or to define permit terms and conditions implementing any AOS under R18-2-306(A)(11) or implementing R18-2-317, R18-2-306(A)(12), R18-2-306(A)(14), or R18-2-306.02. The permit application shall include documentation demonstrating that the source has obtained all authorizations required under the applicable requirements relevant to any proposed AOS, or a certification that the source has submitted all relevant materials to the Director for obtaining such authorizations.
- 8. A compliance plan for all Class I sources that contains all of the following:
 - a. A description of the compliance status of the source with respect to all applicable requirements.
 - b. A description as follows:
 - i. For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.
 - ii. For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis.
 - iii. For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.
 - iv. For applicable requirements associated with a proposed AOS, a statement that the source will meet such requirements upon implementation of the AOS. If a proposed AOS would implicate an applicable requirement that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis.
- c. A compliance schedule as follows:
 - i. For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.
 - ii. For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet, in a timely manner, applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.
 - iii. A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction non-compliance with, the applicable requirements on which it is based.
 - iv. For applicable requirements associated with a proposed AOS, a statement that the source will meet such requirements upon implementation of the AOS. If a proposed AOS would implicate an applicable requirement that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet, in a timely manner, applicable requirements that become effective during the permit term will satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.
- d. A schedule for submission of certified progress reports no less frequently than every 6 months for sources required to have a schedule of compliance to remedy a violation.
- e. The compliance plan content requirements specified in subsection (B)(8) shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under title IV of the Act with regard to the schedule and methods the source will use to achieve compliance with the acid rain emissions limitations.
- 9. Requirements for compliance certification, including the following:
 - a. A certification of compliance with all applicable requirements by a responsible official, which shall include:

- i. Identification of the applicable requirement that is the basis of the certification;
 - ii. The method used for determining the compliance status of the source, including a description of monitoring, recordkeeping, and reporting requirements and test methods;
 - iii. The compliance status; and
 - iv. Such other facts as the Director may require;
 - b. A schedule for submission of compliance certifications during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the permitting authority;
 - c. A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act; and
 - d. A certification of truth, accuracy, and completeness pursuant to R18-2-304(I).
 10. The use of nationally-standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under title IV of the act.
- C. The Director, either upon the Director's own initiative or on the request of a permit applicant, may waive a requirement that specific information or data be submitted in the application for a Class II permit for a particular source or category of sources if the Director determines that the information or data would be unnecessary to determine all of the following:
1. The applicable requirements to which the source may be subject;
 2. That the source is so designed, controlled, or equipped with such air pollution control equipment that it may be expected to operate without emitting or without causing to be emitted air contaminants in violation of the provisions of A.R.S. Title 49, Chapter 3, Article 2 and this Chapter;
 3. The fees to which the source may be subject; and
 4. A proposed emission limitation, control, or other requirement that meets the requirements of R18-2-306.01 or R18-2-306.02.
- D. A timely application is:
1. For a source, that becomes subject to the permit program as a result of a change in regulation and not as a result of construction or a physical or operational change, one that is submitted within 12 months after the source becomes subject to the permit program.
 2. For purposes of permit renewal, a timely application is one that is submitted at least six months, but not more than 18 months, prior to the date of permit expiration.
 3. Any source under R18-2-326(A)(3) which becomes subject to a standard promulgated by the Administrator pursuant to section 112(d) of the Act shall, within 12 months of the date on which the standard is promulgated, submit an application for a permit revision demonstrating how the source will comply with the standard.
- E. If an applicable implementation plan allows the determination of an alternative emission limit, a source may, in its application, propose an emission limit that is equivalent to the emission limit otherwise applicable to the source under the applicable implementation plan. The source shall also demonstrate that the equivalent limit is quantifiable, accountable, enforceable, and subject to replicable compliance determination procedures.
- F. A complete application shall comply with all of the following:
1. To be complete, an application shall provide all information required by subsection (B) (standard application form section). An application for permit revision only need supply information related to the proposed change, unless the source's proposed permit revision will change the permit from a Class II permit to a Class I permit. A responsible official shall certify the submitted information consistent with subsection (H) (Certification of Truth, Accuracy, and Completeness).
 2. An application for a new permit or permit revision shall contain an assessment of the applicability of the requirements of Article 4 of this Chapter. If the applicant determines that the proposed new source is a major source as defined in R18-2-401, or the proposed permit revision constitutes a major modification as defined in R18-2-101, then the application shall comply with all applicable requirements of Article 4.
 3. An application for a new permit or permit revision shall contain an assessment of the applicability of Minor New Source Review requirements in R18-2-334. If the applicant determines that the proposed new source is subject to R18-2-334, or the proposed permit revision constitutes a Minor NSR Modification, then the application shall comply with all applicable requirements of R18-2-334.
 4. Except for proposed new major sources or major modifications subject to the requirements of Article 4 of this Chapter, an application for a new permit, a permit revision, or a permit renewal shall be deemed to be complete unless, within 60 days of receipt of the application, the Director notifies the applicant by certified mail that the application is not complete.
 5. If a source wishes to voluntarily enter into an emissions limitation, control, or other requirement pursuant to R18-2-306.01, the source shall describe that emissions limitation, control, or other requirement in its application, along with proposed associated monitoring, recordkeeping, and reporting requirements necessary to demonstrate that the emissions limitation, control, or other requirement is permanent, quantifiable, and otherwise enforceable as a practical matter.
 6. If, while processing an application that has been determined or deemed to be complete, the Director determines that additional information is necessary to evaluate or take final action on that application, the Director may request such information in writing and set a reasonable deadline for a response. Except for minor permit revisions as set forth in R18-2-319, a source's ability to continue operating without a permit, as set forth in subsection (J), shall be in effect from the date the application is determined to be complete until the final permit is issued, provided that the applicant submits any requested additional information by the deadline specified by the Director.
 7. The completeness determination shall not apply to revisions processed through the minor permit revision process.
 8. Activities which are insignificant pursuant to the definition of insignificant activities in R18-2-101 shall be listed in the application. Except as necessary to complete the assessment required by subsection (E)(2) or (3), the application need not provide emissions data regarding insignificant activities. If the Director determines that an activity listed as insignificant does not meet the requirements of the definition of insignificant activities in R18-2-101 or that emissions data for the activity is required to complete the assessment required by subsection (E)(2) or

- (3), the Director shall notify the applicant in writing and specify additional information required.
9. If a permit applicant requests terms and conditions allowing for the trading of emission increases and decreases in the permitted facility solely for the purpose of complying with a federally enforceable emission cap that is established in the permit independent of otherwise applicable requirements, the permit applicant shall include in its application proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable.
 10. The Director is not in disagreement with a notice of confidentiality submitted with the application pursuant to A.R.S. § 49-432.
- G.** A source applying for a Class I permit that has submitted information with an application under a claim of confidentiality pursuant to A.R.S. § 49-432 and R18-2-305 shall submit a copy of such information directly to the Administrator.
- H.** Duty to Supplement or Correct Application. Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a proposed permit.
- I.** Certification of Truth, Accuracy, and Completeness. Any application form, report, or compliance certification submitted pursuant to this Chapter shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this Article shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.
- J.** Action on Application.
1. The Director shall issue or deny each permit according to the provisions of A.R.S. § 49-427. The Director may issue a permit with a compliance schedule for a source that is not in compliance with all applicable requirements at the time of permit issuance.
 2. In addition, a permit may be issued, revised, or renewed only if all of the following conditions have been met:
 - a. The application received by the Director for a permit, permit revision, or permit renewal shall be complete according to subsection (E).
 - b. Except for revisions qualifying as administrative or minor under R18-2-318 and R18-2-319, all of the requirements for public notice and participation under R18-2-330 shall have been met.
 - c. For Class I permits, the Director shall have complied with the requirements of R18-2-307 for notifying and responding to affected states, and if applicable, other notification requirements of R18-2-402(D)(2) and R18-2-410(C)(2).
 - d. For Class I and II permits, the conditions of the permit shall require compliance with all applicable requirements.
 - e. For permits for which an application is required to be submitted to the Administrator under R18-2-307(A), and to which the Administrator has properly objected to its issuance in writing within 45 days of receipt of the proposed final permit and all necessary supporting information from the Department, the Director has revised and submitted a proposed final permit in response to the objection and EPA has not objected to this proposed final permit within 45 days of receipt.
- f. For permits to which the Administrator has objected to issuance pursuant to a petition filed under 40 CFR 70.8(d), the Administrator's objection has been resolved.
- g. For a Class II permit that contains voluntary emission limitations, controls, or other requirements established pursuant to R18-2-306.01, the Director shall have complied with the requirement of R18-2-306.01(C) to provide the Administrator with a copy of the proposed permit.
3. If the Director denies a permit under this Section, a notice shall be served on the applicant by certified mail, return receipt requested. The notice shall include a statement detailing the grounds for the denial and a statement that the permit applicant is entitled to a hearing.
 4. The Director shall provide a statement that sets forth the legal and factual basis for the proposed permit conditions including references to the applicable statutory or regulatory provisions. The Director shall send this statement to any person who requests it and, for Class I permits, to the Administrator.
 5. Priority shall be given by the Director to taking action on applications for construction or modification submitted pursuant to Title I, Parts C (Prevention of Significant Deterioration) and D (New Source Review) of the Act.
- K.** Requirement for a Permit. Except as noted under the provisions in R18-2-317 and R18-2-319, no source may operate after the time that it is required to submit a timely and complete application, except in compliance with a permit issued pursuant to this Chapter. However, if a source under R18-2-326(A)(3) submits a timely and complete application for continued operation under a permit revision or renewal, the source's failure to have a permit is not a violation of this Article until the Director takes final action on the application. This protection shall cease to apply if, subsequent to the completeness determination, the applicant fails to submit, by the deadline specified in writing by the Director, any additional information identified as being needed to process the application. This subsection does not affect a source's obligation to obtain a permit revision before making a modification to the source.

Historical Note

Amended effective August 7, 1975 (Supp. 75-1). Former Section R9-3-304 repealed, new Section R9-3-304 formerly Section R9-3-305 renumbered and amended effective August 6, 1976 (Supp. 76-4). Former Section R9-3-304 repealed, new Section R9-3-304 adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Former Section R9-3-304 repealed, new Section R9-3-304 adopted effective May 28, 1982 (Supp. 82-3). Former Section R9-3-304 renumbered without change as Section R18-2-304 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended effective October 7, 1994 (Supp. 94-4). Amended effective August 1, 1995 (Supp. 95-3). The reference to R18-2-101(54) in subsection (E)(8) corrected to reference R18-2-101(57) (Supp. 99-3). Amended by final rulemaking at 6 A.A.R. 343, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21,

2017 (Supp. 17-1).

R18-2-305. Public Records; Confidentiality

- A. The Director shall make all permits, including all elements required to be in the permit pursuant to R18-2-306, available to the public. No permit shall be issued unless the information required by R18-2-306 is present in the permit.
- B. A notice of confidentiality pursuant to A.R.S. § 49-432(C) shall:
 1. Precisely identify the information in the documents submitted which is considered confidential.
 2. Contain sufficient supporting information to allow the Director to evaluate whether such information satisfies the requirements related to trade secrets or, if applicable, how the information, if disclosed, is likely to cause substantial harm to the person's competitive position.
- C. Within 30 days of receipt of a notice of confidentiality that complies with subsection (B) above, the Director shall make a determination as to whether the information satisfies the requirements for trade secret or competitive position pursuant to A.R.S. § 49-432(C)(1) and so notify the applicant in writing. If the Director agrees with the applicant that the information covered by the notice of confidentiality satisfies the statutory requirements, the Director shall include a notice in the file for the permit or permit application that certain information has been considered confidential.
- D. If the Director takes action pursuant to A.R.S. § 49-432(D) and obtains a final order authorizing disclosure, the Director shall place the information in the public file and shall notify any person who has requested disclosure. If the court determines that the information is not subject to disclosure, the Director shall provide the notice specified in subsection (C) above.

Historical Note

Amended effective August 7, 1975 (Supp. 75-1).
 Amended as an emergency effective December 15, 1975 (Supp. 75-2). Amended effective May 10, 1976 (Supp. 76-3). Former Section R9-3-306 renumbered as Section R9-3-305 effective August 6, 1976. References changed to conform (Supp. 76-4). Amended effective April 12, 1977 (Supp. 77-2). Amended effective March 24, 1978 (Supp. 78-2). Former Section R9-3-305 repealed, new Section R9-3-305 adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Former Section R9-3-305 repealed, new Section R9-3-305 adopted effective May 28, 1982 (Supp. 82-3). Former Section R9-3-305 renumbered without change as R18-2-305 (Supp. 87-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4).

R18-2-306. Permit Contents

- A. Each permit issued by the Director shall include the following elements:
 1. The date of issuance and the permit term.
 2. Enforceable emission limitations and standards, including operational requirements and limitations that ensure compliance with all applicable requirements at the time of issuance and operational requirements and limitations that have been voluntarily accepted under R18-2-306.01.
 - a. The permit shall specify and reference the origin of and authority for each term or condition and identify any difference in form as compared to the applicable requirement upon which the term or condition is based.
 - b. The permit shall state that, if an applicable requirement of the Act is more stringent than an applicable requirement of regulations promulgated under Title

IV of the Act, both provisions shall be incorporated into the permit and shall be enforceable by the Administrator.

- c. Any permit containing an equivalency demonstration for an alternative emission limit submitted under R18-2-304(E) shall contain provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.
 - d. The permit shall specify applicable requirements for fugitive emission limitations, regardless of whether the source category in question is included in the list of sources contained in the definition of major source in R18-2-101.
3. Each permit shall contain the following requirements with respect to monitoring:
 - a. All monitoring and analysis procedures or test methods required under applicable monitoring and testing requirements, including:
 - i. Monitoring and analysis procedures or test methods under 40 CFR 64;
 - ii. Other procedures and methods promulgated under sections 114(a)(3) or 504(b) of the Act; and
 - iii. Monitoring and analysis procedures or test methods required under R18-2-306.01.
 - b. 40 CFR 64 as adopted July 1, 1998, is incorporated by reference and on file with the Department and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments. If more than one monitoring or testing requirement applies, the permit may specify a streamlined set of monitoring or testing provisions if the specified monitoring or testing is adequate to assure compliance at least to the same extent as the monitoring or testing applicable requirements not included in the permit as a result of such streamlining;
 - c. If the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit as reported under subsection (A)(4). The monitoring requirements shall ensure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement, and as otherwise required under R18-2-306.01. Recordkeeping provisions may be sufficient to meet the requirements of this subsection; and
 - d. As necessary, requirements concerning the use, maintenance, and, if appropriate, installation of monitoring equipment or methods.
 4. The permit shall incorporate all applicable recordkeeping requirements including recordkeeping requirements established under R18-2-306.01, for the following:
 - a. Records of required monitoring information that include the following:
 - i. The date, place as defined in the permit, and time of sampling or measurement;
 - ii. The date any analyses was performed;
 - iii. The name of the company or entity that performed the analysis;

- iv. A description of the analytical technique or method used;
- v. The results of any analysis; and
- vi. The operating conditions existing at the time of sampling or measurement;
- b. Retention of records of all required monitoring data and support information for a period of at least five years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation and copies of all reports required by the permit.
- 5. The permit shall incorporate all applicable reporting requirements including reporting requirements established under R18-2-306.01 and require the following:
 - a. Submittal of reports of any required monitoring. All instances of deviations from permit requirements shall be clearly identified in the reports. All required reports shall be certified by a responsible official consistent with R18-2-304(I) and R18-2-309(A)(5) and shall be submitted with the following frequency:
 - i. For a Class I permit, at least once every six months;
 - ii. For a Class II permit, at least once per year.
 - b. Prompt reporting of deviations from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of the deviations, and any corrective actions or preventive measures taken. Where the applicable requirement contains a definition of prompt or otherwise specifies a timeframe for reporting deviations, that definition or timeframe shall govern. Where the applicable requirement does not address the timeframe for reporting deviations, the permittee shall submit reports of deviations in compliance with the following schedule:
 - i. Notice that complies with timeframe in R18-2-310.01(A) is prompt for deviations that constitute excess emissions;
 - ii. Except as otherwise provided in the permit, notice that complies with subsection (A)(5)(a) is prompt for all other types of deviation.
- 6. A permit condition prohibiting emissions exceeding any allowances the source lawfully holds under Title IV of the Act or the regulations promulgated thereunder.
 - a. A permit revision is not required for increases in emissions that are authorized by allowances acquired under the acid rain program, if the increases do not require a permit revision under any other applicable requirement.
 - b. A limit shall not be placed on the number of allowances held by the source. The source shall not, however, use allowances as a defense to noncompliance with any other applicable requirement.
 - c. Any allowance shall be accounted for according to the procedures established in regulations promulgated under Title IV of the Act.
 - d. Any permit issued under the requirements of this Chapter and Title V of the Act to a unit subject to the provisions of Title IV of the Act shall include conditions prohibiting all of the following:
 - i. Annual emissions of sulfur dioxide in excess of the number of allowances to emit sulfur dioxide held by the owner or operator of the unit or the designated representative of the owner or operator,
 - ii. Exceedances of applicable emission rates,
 - iii. Use of any allowance before the year for which it is allocated, and
 - iv. Contravention of any other provision of the permit.
- 7. A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portion of the permit.
- 8. Provisions stating the following:
 - a. The permittee shall comply with all conditions of the permit including all applicable requirements of Arizona air quality statutes A.R.S. Title 49, Chapter 3, and the air quality rules, 18 A.A.C. 2. Any permit noncompliance is grounds for enforcement action; for a permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application. Noncompliance with any federally enforceable requirement in a permit is a violation of the Act.
 - b. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.
 - c. The permit may be revised, reopened, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit revision, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.
 - d. The permit does not convey any property rights of any sort, or any exclusive privilege to the permit holder.
 - e. The permittee shall furnish to the Director, within a reasonable time, any information that the Director may request in writing to determine whether cause exists for revising, revoking and reissuing, or terminating the permit, or to determine compliance with the permit. Upon the Director's request, the permittee shall also furnish to the Director copies of records required to be kept by the permit. For information claimed to be confidential, the permittee shall furnish a copy of the records directly to the Administrator along with a claim of confidentiality.
 - f. For any major source operating in a nonattainment area for all pollutants for which the source is classified as a major source, the source shall comply with reasonably available control technology.
- 9. A provision to ensure that the source pays fees to the Director under A.R.S. § 49-426(E), R18-2-326, and R18-2-511.
- 10. A provision stating that a permit revision shall not be required under any approved economic incentives, marketable permits, emissions trading, and other similar programs or processes for changes provided for in the permit.
- 11. Terms and conditions for reasonably anticipated operating scenarios identified by the source in its application as approved by the Director. The terms and conditions shall:
 - a. Require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario under which it is operating;

- b. Extend the permit shield described in R18-2-325 to all terms and conditions under each such operating scenario; and
 - c. Ensure that the terms and conditions of each such alternative scenario meet all applicable requirements and the requirements of this Chapter.
 - 12. Terms and conditions, if the permit applicant requests them, and as approved by the Director, for the trading of emissions increases and decreases in the permitted facility, to the extent that the applicable requirements provide for trading the increases and decreases without a case-by-case approval of each emissions trade. The terms and conditions:
 - a. Shall include all terms required under subsections (A) and (C) to determine compliance;
 - b. Shall not extend the permit shield in subsection (D) to all terms and conditions that allow the increases and decreases in emissions;
 - c. Shall not include trading that involves emission units for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trades; and
 - d. Shall meet all applicable requirements and requirements of this Chapter.
 - 13. Terms and conditions, if the permit applicant requests them and they are approved by the Director, setting forth intermittent operating scenarios including potential periods of downtime. If the terms and conditions are included, the state's emissions inventory shall not reflect the zero emissions associated with the periods of downtime.
 - 14. Upon request of a permit applicant, the Director shall issue a permit that contains terms and conditions allowing for the trading of emission increases and decreases in the permitted facility solely for the purpose of complying with a federally enforceable emission cap established in the permit independent of otherwise applicable requirements. The permit applicant shall include in its application proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable. The Director shall not include in the emissions trading provisions any emissions units for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trades. The permit shall also require compliance with all applicable requirements. Changes made under this subsection (shall) not include modifications under any provision of Title I of the Act and shall not exceed emissions allowable under the permit. The terms and conditions shall provide, for Class I sources, for notice that conforms to R18-2-317(D) and (E), and for Class II sources, for logging that conforms to R18-2-317.02(B)(5). In addition, the notices for Class I and Class II sources shall describe how the increases and decreases in emissions will comply with the terms and conditions of the permit.
 - 15. Other terms and conditions as are required by the Act, A.R.S. Title 49, Chapter 3, Articles 1 and 2, and the rules adopted in 18 A.A.C. 2.
- B. Federally-enforceable Requirements.**
- 1. The following permit conditions shall be enforceable by the Administrator and citizens under the Act:
 - a. Except as provided in subsection (B)(2), all terms and conditions in a Class I permit, including any provision designed to limit a source's potential to emit;
 - b. Terms or conditions in a Class II permit setting forth federal applicable requirements; and
 - c. Terms and conditions in any permit entered into voluntarily under R18-2-306.01, as follows:
 - i. Emissions limitations, controls, or other requirements; and
 - ii. Monitoring, recordkeeping, and reporting requirements associated with the emissions limitations, controls, or other requirements in subsection (B)(1)(c)(i).
 - 2. Notwithstanding subsection (B)(1)(a), the Director shall specifically designate as not being federally enforceable under the Act any terms and conditions included in a Class I permit that are not required under the Act or under any of its applicable requirements.
- C.** Each permit shall contain a compliance plan as specified in R18-2-309.
- D.** Each permit shall include the applicable permit shield provisions under R18-2-325.
- E.** Emergency provision.
- 1. An "emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, that requires immediate corrective action to restore normal operation and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.
 - 2. An emergency constitutes an affirmative defense to an action brought for noncompliance with technology-based emission limitations if the conditions of subsection (E)(3) are met.
 - 3. The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An emergency occurred and the permittee can identify the cause or causes of the emergency;
 - b. At the time of the emergency the permitted facility was being properly operated;
 - c. During the period of the emergency, the permittee took all reasonable steps to minimize levels of emissions that exceeded the emissions standards or other requirements in the permit; and
 - d. The permittee submitted notice of the emergency to the Director by certified mail, facsimile, or hand delivery within two working days of the time when emission limitations were exceeded due to the emergency. This notice shall contain a description of the emergency, any steps taken to mitigate emissions, and corrective action taken.
 - 4. In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.
 - 5. This provision is in addition to any emergency or upset provision contained in any applicable requirement.
- F.** A Class I permit issued to a major source shall require that revisions be made under R18-2-321 to incorporate additional applicable requirements adopted by the Administrator under the Act that become applicable to a source with a permit with a remaining permit term of three or more years. A revision shall not be required if the effective date of the applicable requirement is after the expiration of the permit. The revisions shall be made as expeditiously as practicable, but not later than 18

months after the promulgation of the standards and regulations. Any permit revision required under this subsection (shall) comply with R18-2-322 for permit renewal and shall reset the five-year permit term.

Historical Note

Adopted effective August 7, 1975 (Supp. 75-1). Former Section R9-3-307 renumbered as Section R9-3-306 effective August 6, 1976. Reference changed to conform (Supp. 76-4). Former Section R9-3-306 repealed, new Section R9-3-306 adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (A) effective May 28, 1982 (Supp. 82-3). Amended subsection (A) effective September 28, 1984 (Supp. 84-5). Former Section R9-3-306 renumbered without change as R18-2-306 (Supp. 87-3). Amended subsection (I) effective December 1, 1988 (Supp. 88-4). Amended effective September 26, 1990 (Supp. 90-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended effective August 1, 1995 (Supp. 95-3). Amended effective June 4, 1998 (Supp. 98-2). Amended by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 6 A.A.R. 343, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-306.01. Permits Containing Voluntarily Accepted Emission Limitations and Standards

- A. A source may voluntarily propose in its application, and accept in its permit, emissions limitations, controls, or other requirements that are permanent, quantifiable, and otherwise enforceable as a practical matter in order to avoid classification as a source that requires a Class I permit or to avoid one or more other applicable requirements. For the purposes of this Section, “enforceable as a practical matter” means that specific means to assess compliance with an emissions limitation, control, or other requirement are provided for in the permit in a manner that allows compliance to be readily determined by an inspection of records and reports.
- B. In order for a source to obtain a permit containing voluntarily accepted emissions limitations, controls, or other requirements, the source shall demonstrate all of the following in its permit application:
 1. The emissions limitations, controls, or other requirements to be imposed for the purpose of avoiding an applicable requirement are at least as stringent as the emissions limitations, controls, or other requirements that would otherwise be applicable to that source, including those that originate in an applicable implementation plan; and the permit does not waive, or make less stringent, any limitations or requirements contained in or issued pursuant to an applicable implementation plan, or that are otherwise federally enforceable.
 2. All voluntarily accepted emissions limitations, controls, or other requirements will be permanent, quantifiable, and otherwise enforceable as a practical matter.
- C. At the same time as notice of proposed issuance is first published pursuant to A.R.S. § 49-426(D), the Director shall send a copy of any Class II permit proposed to be issued pursuant to this Section to the Administrator for review during the comment period described in the notice pursuant to R18-2-330(C)(3).
- D. The Director shall send a copy of each final permit issued pursuant to this Section to the Administrator.

Historical Note

Adopted effective August 1, 1995 (Supp. 95-3). Amended by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-306.02. Expired

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3). Section expired under A.R.S. § 41-1056(J) at 22 A.A.R. 2982, effective September 15, 2016 (Supp. 16-3).

R18-2-307. Permit Review by the EPA and Affected States

- A. Except as provided in R18-2-304(G) and as waived by the Administrator, for each Class I permit, a copy of each of the following shall be provided to the Administrator as follows:
 1. The applicant shall provide a complete copy of the application including any attachments, compliance plans, and other information required by R18-2-304(F) at the time of submittal of the application to the Director.
 2. The Director shall provide the proposed final permit after public and affected state review.
 3. The Director shall provide the final permit at the time of issuance.
- B. The Director shall keep all records associated with all permits for a minimum of five years from issuance.
- C. No permit for which an application is required to be submitted to the Administrator under subsection (A) shall be issued if the Administrator properly objects to its issuance in writing within 45 days of receipt of the proposed final permit from the Department and all necessary supporting information.
- D. Review by Affected States.
 1. For each Class I permit, the Director shall provide notice of each proposed permit to any affected state on or before the time that the Director provides this notice to the public as required under R18-2-330 except to the extent R18-2-319 requires the timing of the notice to be different.
 2. If the Director refuses to accept a recommendation of any affected state submitted during the public or affected state review period, the Director shall notify the Administrator and the affected state in writing. The notification shall include the Director's reasons for not accepting any such recommendation and shall be provided to the Administrator as part of the submittal of the proposed final permit. The Director shall not be required to accept recommendations that are not based on federal applicable requirements or requirements of state law.
- E. Any person who petitions the Administrator pursuant to 40 CFR 70.8(d) shall notify the Department by certified mail of such petition as soon as possible, but in no case more than 10 days following such petition. Such notice shall include the grounds for objection and whether such objections were raised during the public comment period. If the Administrator objects to the permit as a result of a petition filed under this subsection, the Director shall not issue the permit until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day administrative review period and prior to the Administrator's objection.
- F. If the Director has issued a permit prior to receipt of the Administrator's objection under subsection (E), and the Administrator indicates that it should be revised, terminated, or revoked and reissued, the Director shall reopen the permit in accordance with R18-2-321 and may thereafter issue only a revised permit that satisfies the Administrator's objection. In

any case, the source shall not be in violation of the requirement to have submitted a timely and complete application.

G. Prohibition on Default Issuance.

1. No Class I permit including a permit renewal or revision shall be issued until affected states and the Administrator have had an opportunity to review the proposed permit.
2. No permit or renewal shall be issued unless the Director has acted on the application.

Historical Note

Adopted effective August 7, 1975 (Supp. 75-1). Former Section R9-3-307 renumbered as Section R9-3-306 effective August 6, 1976 (Supp. 76-4). New Section R9-3-307 adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Former Section R9-3-307 repealed, new Section R9-3-307 adopted effective May 28, 1982 (Supp. 82-3). Amended subsection (B)(4)(b) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-307 renumbered without change as R18-2-307 (Supp. 87-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-308. Emission Standards and Limitations

Wherever applicable requirements apply different standards or limitations to a source for the same item, all applicable requirements shall be included in the permit.

Historical Note

Adopted effective August 7, 1975 (Supp. 75-1). Former Section R9-3-308 repealed, new Section R9-3-308 adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-308 renumbered without change as R18-2-308 (Supp. 87-3). Amended effective December 1, 1988 (Supp. 88-4). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4).

R18-2-309. Compliance Plan; Certification

All permits shall contain the following elements with respect to compliance:

1. The elements required by R18-2-306(A)(3), (4), and (5).
2. Requirements for certifications of compliance with terms and conditions contained in the permit, including emissions limitations, standards, and work practices. Permits shall include each of the following:
 - a. The frequency of submissions of compliance certifications, which shall not be less than annually;
 - b. The means to monitor the compliance of the source with its emissions limitations, standards, and work practices;
 - c. A requirement that the compliance certification include all of the following (the identification of applicable information may cross-reference the permit or previous reports, as applicable):
 - i. The identification of each term or condition of the permit that is the basis of the certification;
 - ii. The identification of the methods or other means used by the owner or operator for determining the compliance status with each term and condition during the certification period. The methods and other means shall include, at a minimum, the methods and means required under R18-2-306(A)(3). If necessary, the owner or operator also shall identify any other material information that must be included in the certification to comply with section 113(c)(2) of the Act, which prohibits knowingly making
- a false certification or omitting material information;
- iii. The status of compliance with the terms and conditions of the permit for the period covered by the certification, including whether compliance during the period was continuous or intermittent. The certification shall be based on the methods or means designated in subsection (2)(c)(ii). The certification shall identify each deviation and take it into account in the compliance certification. For emission units subject to 40 CFR 64, the certification shall also identify as possible exceptions to compliance any period during which compliance is required and in which an excursion or exceedance defined under 40 CFR 64 occurred; and
- iv. Other facts the Director may require to determine the compliance status of the source.
- d. A requirement that permittees submit all compliance certifications to the Director. Class I permittees shall also submit compliance certifications to the Administrator.
- e. Additional requirements specified in sections 114(a)(3) and 504(b) of the Act or pursuant to R18-2-306.01.
3. A requirement for any document required to be submitted by a permittee, including reports, to contain a certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this Section shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.
4. Inspection and entry provisions that require that upon presentation of proper credentials, the permittee shall allow the Director to:
 - a. Enter upon the permittee's premises where a source is located, emissions-related activity is conducted, or records are required to be kept under the conditions of the permit;
 - b. Have access to and copy, at reasonable times, any records that are required to be kept under the conditions of the permit;
 - c. Inspect, at reasonable times, any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit;
 - d. Sample or monitor, at reasonable times, substances or parameters for the purpose of assuring compliance with the permit or other applicable requirements; and
 - e. Record any inspection by use of written, electronic, magnetic, or photographic media.
5. A compliance plan that contains all the following:
 - a. A description of the compliance status of the source with respect to all applicable requirements;
 - b. A description as follows:
 - i. For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with the requirements;
 - ii. For applicable requirements that will become effective during the permit term, a statement that the source will meet the requirements on a timely basis; and

- iii. For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements;
- c. A compliance schedule as follows:
 - i. For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with the requirements;
 - ii. For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement;
 - iii. A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. The schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirement for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. The schedule of compliance shall supplement, and shall not sanction noncompliance with, the applicable requirements on which it is based.
- d. A schedule for submission of certified progress reports no less frequently than every six months for sources required to have a schedule of compliance to remedy a violation. The progress reports shall contain:
 - i. Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones, or compliance were achieved; and
 - ii. An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.
- 6. The compliance plan content requirements specified in subsection (5) shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the Act, and incorporated under R18-2-333 with regard to the schedule and each method the source will use to achieve compliance with the acid rain emissions limitations.
- 7. If there is a Federal Implementation Plan (FIP) applicable to the source, a provision that compliance with the FIP is required.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amendment filed September 18, 1979, effective following the adoption of Article 7. Nonferrous Smelter Orders. Amended effective October 2, 1979 (Supp. 79-5). Article 7. Nonferrous Smelter Orders adopted effective January 8, 1980. Amendment filed September 18, 1979 effective January 8, 1980 (Supp. 80-2). Amended effective Sep-

tember 28, 1984 (Supp. 84-5). Former Section R9-3-309 renumbered without change as R18-2-309 (Supp. 87-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended effective October 7, 1994 (Supp. 94-4). Amended effective August 1, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 343, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 10 A.A.R. 2833, effective June 17, 2004 (Supp. 04-2).

R18-2-310. Affirmative Defenses for Excess Emissions Due to Malfunctions, Startup, and Shutdown

A. Applicability.

This rule establishes affirmative defenses for certain emissions in excess of an emission standard or limitation and applies to all emission standards or limitations except for standards or limitations:

1. Promulgated pursuant to Sections 111 or 112 of the Act,
2. Promulgated pursuant to Titles IV or VI of the Clean Air Act,
3. Contained in any Prevention of Significant Deterioration (PSD) or New Source Review (NSR) permit issued by the U.S. E.P.A.,
4. Contained in R18-2-715(F), or
5. Included in a permit to meet the requirements of R18-2-406(A)(5).

B. Affirmative Defense for Malfunctions.

Emissions in excess of an applicable emission limitation due to malfunction shall constitute a violation. The owner or operator of a source with emissions in excess of an applicable emission limitation due to malfunction has an affirmative defense to a civil or administrative enforcement proceeding based on that violation, other than a judicial action seeking injunctive relief, if the owner or operator of the source has complied with the reporting requirements of R18-2-310.01 and has demonstrated all of the following:

1. The excess emissions resulted from a sudden and unavoidable breakdown of process equipment or air pollution control equipment beyond the reasonable control of the operator;
2. The air pollution control equipment, process equipment, or processes were at all times maintained and operated in a manner consistent with good practice for minimizing emissions;
3. If repairs were required, the repairs were made in an expeditious fashion when the applicable emission limitations were being exceeded. Off-shift labor and overtime were utilized where practicable to ensure that the repairs were made as expeditiously as possible. If off-shift labor and overtime were not utilized, the owner or operator satisfactorily demonstrated that the measures were impracticable;
4. The amount and duration of the excess emissions (including any bypass operation) were minimized to the maximum extent practicable during periods of such emissions;
5. All reasonable steps were taken to minimize the impact of the excess emissions on ambient air quality;
6. The excess emissions were not part of a recurring pattern indicative of inadequate design, operation, or maintenance;
7. During the period of excess emissions there were no exceedances of the relevant ambient air quality standards established in Article 2 of this Chapter that could be attributed to the emitting source;
8. The excess emissions did not stem from any activity or event that could have been foreseen and avoided, or

planned, and could not have been avoided by better operations and maintenance practices;

9. All emissions monitoring systems were kept in operation if at all practicable; and
10. The owner or operator's actions in response to the excess emissions were documented by contemporaneous records.

C. Affirmative Defense for Startup and Shutdown.

1. Except as provided in subsection (C)(2), and unless otherwise provided for in the applicable requirement, emissions in excess of an applicable emission limitation due to startup and shutdown shall constitute a violation. The owner or operator of a source with emissions in excess of an applicable emission limitation due to startup and shutdown has an affirmative defense to a civil or administrative enforcement proceeding based on that violation, other than a judicial action seeking injunctive relief, if the owner or operator of the source has complied with the reporting requirements of R18-2-310.01 and has demonstrated all of the following:
 - a. The excess emissions could not have been prevented through careful and prudent planning and design;
 - b. If the excess emissions were the result of a bypass of control equipment, the bypass was unavoidable to prevent loss of life, personal injury, or severe damage to air pollution control equipment, production equipment, or other property;
 - c. The source's air pollution control equipment, process equipment, or processes were at all times maintained and operated in a manner consistent with good practice for minimizing emissions;
 - d. The amount and duration of the excess emissions (including any bypass operation) were minimized to the maximum extent practicable during periods of such emissions;
 - e. All reasonable steps were taken to minimize the impact of the excess emissions on ambient air quality;
 - f. During the period of excess emissions there were no exceedances of the relevant ambient air quality standards established in Article 2 of this Chapter that could be attributed to the emitting source;
 - g. All emissions monitoring systems were kept in operation if at all practicable; and
 - h. The owner or operator's actions in response to the excess emissions were documented by contemporaneous records.
2. If excess emissions occur due to a malfunction during routine startup and shutdown, then those instances shall be treated as other malfunctions subject to subsection (B).

D. Affirmative Defense for Malfunctions During Scheduled Maintenance.

If excess emissions occur due to a malfunction during scheduled maintenance, then those instances will be treated as other malfunctions subject to subsection (B).

E. Demonstration of Reasonable and Practicable Measures.

For an affirmative defense under subsection (B) or (C), the owner or operator of the source shall demonstrate, through submission of the data and information required by this Section and R18-2-310.01, that all reasonable and practicable measures within the owner or operator's control were implemented to prevent the occurrence of the excess emissions.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective June 19, 1981 (Supp. 81-3). Amended Arizona Testing Manual for Air Pollutant Emissions, effective

September 22, 1983 (Supp. 83-5). Amended Arizona Testing Manual for Air Pollutant Emissions, as of September 15, 1984, effective August 9, 1985 (Supp. 85-4). Amended effective September 28, 1984 (Supp. 84-5). Former Section R9-3-310 renumbered without change as R18-2-310 (Supp. 87-3). Amended effective February 26, 1988 (Supp. 88-1). Amended effective September 26, 1990 (Supp. 90-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Section repealed; new Section adopted by final rulemaking at 7 A.A.R. 1164, effective February 15, 2001 (Supp. 01-1).

R18-2-310.01. Reporting Requirements

- A.** The owner or operator of any source shall report to the Director any emissions in excess of the limits established by this Chapter or the applicable permit. The owner or operator of any registered source may report excess emissions in accordance with this Section in order to qualify for the affirmative defense established in R18-2-310. The report shall be in two parts as specified below:
 1. Notification by telephone or facsimile within 24 hours of the time the owner or operator first learned of the occurrence of excess emissions that includes all available information from subsection (B).
 2. Detailed written notification by submission of an excess emissions report within 72 hours of the notification under subsection (A)(1).
- B.** The excess emissions report shall contain the following information:
 1. The identity of each stack or other emission point where the excess emissions occurred;
 2. The magnitude of the excess emissions expressed in the units of the applicable emission limitation and the operating data and calculations used in determining the magnitude of the excess emissions;
 3. The time and duration or expected duration of the excess emissions;
 4. The identity of the equipment from which the excess emissions emanated;
 5. The nature and cause of the emissions;
 6. The steps taken, if the excess emissions were the result of a malfunction, to remedy the malfunction and the steps taken or planned to prevent the recurrence of the malfunctions;
 7. The steps that were or are being taken to limit the excess emissions; and
 8. If the source's permit contains procedures governing source operation during periods of startup or malfunction and the excess emissions resulted from startup or malfunction, a list of the steps taken to comply with the permit procedures.
- C.** In the case of continuous or recurring excess emissions, the notification requirements of this Section shall be satisfied if the source provides the required notification after excess emissions are first detected and includes in the notification an estimate of the time the excess emissions will continue. Excess emissions occurring after the estimated time period or changes in the nature of the emissions as originally reported shall require additional notification pursuant to subsections (A) and (B).

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1164, effective February 15, 2001 (Supp. 01-1). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2).

R18-2-311. Test Methods and Procedures

- A. Except as otherwise specified in this Chapter, the applicable procedures and testing methods contained in the Arizona Testing Manual; 40 CFR 52, Appendices D and E; 40 CFR 60, Appendices A through F; and 40 CFR 61, Appendices B and C shall be used to determine compliance with the requirements established in this Chapter or contained in permits issued pursuant to this Chapter.
- B. Except as otherwise provided in this subsection the opacity of visible emissions shall be determined by Reference Method 9 of the Arizona Testing Manual or by alternative method ALT-082 approved by the Administrator on May 15, 2012. A permit may specify a method, other than Method 9 or ALT-082, for determining the opacity of emissions from a particular emissions unit, if the method has been promulgated by the Administrator in 40 CFR 60, Appendix A or approved by the Administrator as an alternative method.
- C. Except as otherwise specified in this Chapter, the heat content of solid fuel shall be determined according to ASTM method D-3176-89, (Practice for Ultimate Analysis of Coal and Coke) and ASTM method D-2015-91, (Test Method for Gross Calorific Value of Coal and Coke by the Adiabatic Bomb Calorimeter).
- D. Except for ambient air monitoring and emissions testing required under Articles 9 and 11 of this Chapter, alternative and equivalent test methods in any test plan submitted to the Director may be approved by the Director for the duration of that plan provided that the following three criteria are met:
 1. The alternative or equivalent test method measures the same chemical and physical characteristics as the test method it is intended to replace.
 2. The alternative or equivalent test method has substantially the same or better reliability, accuracy, and precision as the test method it is intended to replace.
 3. Applicable quality assurance procedures are followed in accordance with the Arizona Testing Manual, 40 CFR 60 or other quality assurance methods which are consistent with principles contained in the Arizona Testing Manual or 40 CFR 60 as approved by the Director.
- 4. Waives the requirement for performance tests because the owner or operator of a source has demonstrated by other means to the Director's satisfaction that the source is in compliance with the standard.
- 5. Nothing in this Section shall be construed to abrogate the Director's authority to require testing.
- C. Performance tests shall be conducted under such conditions as the Director shall specify to the plant operator based on representative performance of the source. The owner or operator shall make available to the Director such records as may be necessary to determine the conditions of the performance tests. Operations during periods of start-up, shutdown, and malfunction shall not constitute representative conditions of performance tests unless otherwise specified in the applicable standard.
- D. The owner or operator of a permitted source shall provide the Director two weeks prior notice of the performance test to afford the Director the opportunity to have an observer present.
- E. The owner or operator of a permitted source shall provide, or cause to be provided, performance testing facilities as follows:
 1. Sampling ports adequate for test methods applicable to such facility.
 2. Safe sampling platform(s).
 3. Safe access to sampling platform(s).
 4. Utilities for sampling and testing equipment.
- F. Each performance test shall consist of three separate runs using the applicable test method. Each run shall be conducted for the time and under the conditions specified in the applicable standard. For the purpose of determining compliance with an applicable standard, the arithmetic means of results of the three runs shall apply. In the event that a sample is accidentally lost or conditions occur in which one of the three runs is required to be discontinued because of forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances beyond the owner or operator's control, compliance may, upon the Director's approval, be determined using the arithmetic means of the results of the two other runs. If the Director, or the Director's designee is present, tests may only be stopped with the Director's or such designee's approval. If the Director, or the Director's designee is not present, tests may only be stopped for good cause, which includes forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances beyond the operator's control. Termination of testing without good cause after the first run is commenced shall constitute a failure of the test.
- G. Except as provided in subsection (H) compliance with the emission limits established in this Chapter or as prescribed in permits issued pursuant to this Chapter shall be determined by the performance tests specified in this Section or in the permit.
- H. In addition to performance tests specified in this Section, compliance with specific emission limits may be determined by:
 1. Opacity tests.
 2. Emission limit compliance tests specifically designated as such in the regulation establishing the emission limit to be complied with.
 3. Continuous emission monitoring, where applicable quality assurance procedures are followed and where it is designated in the permit or in an applicable requirement to show compliance.
- I. Nothing in this Section shall be so construed as to prevent the utilization of measurements from emissions monitoring devices or techniques not designated as performance tests as evidence of compliance with applicable good maintenance and operating requirements.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective July 9, 1980 (Supp. 80-4). Amended effective September 28, 1984 (Supp. 84-5). Former Section R9-3-311 renumbered without change as R18-2-311 (Supp. 87-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-312. Performance Tests

- A. Except as provided in subsection (J), within 60 days after a source subject to the permit requirements of this Article has achieved the capability to operate at its maximum production rate on a sustained basis but no later than 180 days after initial start-up of such source and at such other times as may be required by the Director, the owner or operator of such source shall conduct performance tests and furnish the Director a written report of the results of the tests.
- B. Performance tests shall be conducted and data reduced in accordance with the test method and procedures contained in the Arizona Testing Manual unless the Director:
 1. Specifies or approves, in specific cases, the use of a reference method with minor changes in methodology;
 2. Approves the use of an equivalent method;
 3. Approves the use of an alternative method the results of which he has determined to be adequate for indicating whether a specific source is in compliance; or

- J.** The owner or operator of a source subject to this Section may request an extension to the performance test deadline due to a force majeure event as follows:
1. If a force majeure event is about to occur, occurs, or has occurred for which the owner or operator intends to assert a claim of force majeure, the owner or operator shall notify the Director in writing as soon as practicable following the date the owner or operator first knew, or through due diligence should have known that the event may cause or caused a delay in testing beyond the regulatory deadline. The notification must occur before the performance test deadline unless the initial force majeure or a subsequent force majeure event delays the notice, and in such cases, the notification shall be given as soon as practicable.
 2. The owner or operator shall provide to the Director a written description of the force majeure event and a rationale for attributing the delay in testing beyond the regulatory deadline to the force majeure; describe the measures taken or to be taken to minimize the delay; and identify a date by which the owner or operator proposes to conduct the performance test. The performance test shall be conducted as soon as practicable after the force majeure event occurs.
 3. The decision as to whether or not to grant an extension to the performance test deadline is solely within the discretion of the Director. The Director shall notify the owner or operator in writing of approval or disapproval of the request for an extension as soon as practicable.
 4. Until an extension of the performance test deadline has been approved by the Director under paragraphs (1), (2), and (3) of this subsection, the owner or operator remains subject to the requirements of this Section.
 5. For purposes of this subsection, a “force majeure event” means an event that will be or has been caused by circumstances beyond the control of the source, its contractors, or any entity controlled by the source that prevents the owner or operator from complying with the regulatory requirement to conduct performance tests within the specified timeframe despite the source's best efforts to fulfill the obligation. Examples of such events are acts of nature, acts of war or terrorism, or equipment failure or safety hazard beyond the control of the source.
- c.** Sulfuric acid plants, as specified in subsection (C)(3) of this Section, shall be monitored for sulfur dioxide emissions.
- d.** Nitric acid plants, as specified in subsection (C)(2), shall be monitored for nitrogen oxides emissions.
- 2.** Emission monitoring shall not be required when the source of emissions is not operating.
- 3.** Variations.
- a. Unless otherwise prohibited by the Act, the Director may approve, on a case-by-case basis, alternative monitoring requirements different from the provisions of this Section if the installation of a continuous emission monitoring system cannot be implemented by a source due to physical plant limitations or extreme economic reasons. Alternative monitoring procedures shall be specified by the Director on a case-by-case basis and shall include, as a minimum, annual manual stack tests for the pollutants identified for each type of source in this Section. Extreme economic reasons shall mean that the requirements of this Section would cause the source to be unable to continue in business.
 - b. Alternative monitoring requirements may be prescribed when installation of a continuous emission monitoring system or monitoring device specified by this Section would not provide accurate determinations of emissions (e.g., condensed, uncombined water vapor may prevent an accurate determination of opacity using commercially available continuous emission monitoring systems).
 - c. Alternative monitoring requirements may be prescribed when the affected facility is infrequently operated (e.g., some affected facilities may operate less than one month per year).
- 4.** Monitoring system malfunction: A temporary exemption from the monitoring and reporting requirements of this Section may be provided during any period of monitoring system malfunction, provided that the source owner or operator demonstrates that the malfunction was unavoidable and is being repaired expeditiously.
- B.** Installation and performance testing required under this Section shall be completed and monitoring and recording shall commence within 18 months of the effective date of this Section.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective September 28, 1984 (Supp. 84-5). Former Section R9-3-312 renumbered without change as R18-2-312 (Supp. 87-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-313. Existing Source Emission Monitoring

- A.** Every source subject to an existing source performance standard as specified in this Chapter shall install, calibrate, operate, and maintain all monitoring equipment necessary for continuously monitoring the pollutants and other gases specified in this Section for the applicable source category.
1. Applicability.
 - a. Fossil-fuel fired steam generators, as specified in subsection (C)(1), shall be monitored for opacity, nitrogen oxides emissions, sulfur dioxide emissions, and oxygen or carbon dioxide.
 - b. Fluid bed catalytic cracking unit catalyst regenerators, as specified in subsection (C)(4), shall be monitored for opacity.
- c.** A continuous emission monitoring system for the measurement of opacity which meets the performance specifications of this Section shall be installed, calibrated, maintained, and operated in accordance with the procedures of this Section by the owner or operator of any such steam generator of greater than 250 million Btu per hour heat input except where:
- i. Gaseous fuel is the only fuel burned; or
 - ii. Oil or a mixture of gas and oil are the only fuels burned and the source is able to comply with the applicable particulate matter and opacity

- regulations without utilization of particulate matter collection equipment, and where the source has never been found to be in violation through any administrative or judicial proceedings, or accepted responsibility for any violation of any visible emission standard.
- b. A continuous emission monitoring system for the measurement of sulfur dioxide which meets the performance specifications of this Section shall be installed, calibrated, using sulfur dioxide calibration gas mixtures or other gas mixtures approved by the Director, maintained and operated on any fossil-fuel fired steam generator of greater than 250 million Btu per hour heat input which has installed sulfur dioxide pollutant control equipment.
 - c. A continuous emission monitoring system for the measurement of nitrogen oxides which meets the performance specification of this Section shall be installed, calibrated using nitric oxide calibration gas mixtures or other gas mixtures approved by the Director, maintained and operated on fossil-fuel fired steam generators of greater than 1000 million Btu per hour heat input when such facility is located in an air quality control region where the Director has specifically determined that a control strategy for nitrogen dioxide is necessary to attain the ambient air quality standard specified in R18-2-205, unless the source owner or operator demonstrates during source compliance tests as required by the Department that such a source emits nitrogen oxides at levels 30% or more below the emission standard within this Chapter.
 - d. A continuous emission monitoring system for the measurement of the percent oxygen or carbon dioxide which meets the performance specifications of this Section shall be installed, calibrated, operated, and maintained on fossil-fuel fired steam generators where measurements of oxygen or carbon dioxide in the flue gas are required to convert either sulfur dioxide or nitrogen oxides continuous emission monitoring data, or both, to units of the emission standard within this Chapter.
2. Nitric acid plants: Each nitric acid plant of greater than 300 tons per day production capacity, the production capacity being expressed as 100% acid located in an air quality control region where the Director has specifically determined that a control strategy for nitrogen dioxide is necessary to attain the ambient air quality standard specified in R18-2-205, shall install, calibrate using nitrogen dioxide calibration gas mixtures, maintain, and operate a continuous emission monitoring system for the measurement of nitrogen oxides which meets the performance specifications of this Section for each nitric acid producing facility within such plant.
 3. Sulfuric acid plants: Each sulfuric acid plant as defined in R18-2-101, of greater than 300 tons per day production capacity, the production being expressed as 100% acid, shall install, calibrate using sulfur dioxide calibration gas mixtures or other gas mixtures approved by the Director, maintain and operate a continuous emission monitoring system for the measurement of sulfur dioxide which meets the performance specifications of this Section for each sulfuric acid producing facility within such a plant.
 4. Fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries. Each catalyst regenerator for fluid bed catalytic cracking units of greater than 20,000 barrels per day fresh-feed capacity shall install, calibrate, maintain and operate a continuous emission monitoring system for the measurement of opacity which meets the performance specifications of this Section for each regenerator within such refinery.
- D. Minimum specifications:** Owners or operators of monitoring equipment installed to comply with this Section shall demonstrate compliance with the following performance specifications.
1. The performance specifications set forth in Appendix B of 40 CFR 60 are incorporated herein by reference and shall be used by the Director to determine acceptability of monitoring equipment installed pursuant to this Section. However where reference is made to the Administrator in Appendix B of 40 CFR 60, the Director may allow the use of either the state-approved reference method or the federally approved reference method as published in 40 CFR 60. The performance specifications to be used with each type of monitoring system are listed below.
 - a. Continuous emission monitoring systems for measuring opacity shall comply with performance specification 1.
 - b. Continuous emission monitoring systems for measuring nitrogen oxides shall comply with performance specification 2.
 - c. Continuous emission monitoring systems for measuring sulfur dioxide shall comply with performance specification 2.
 - d. Continuous emission monitoring systems for measuring sulfur dioxide shall comply with performance specification 3.
 - e. Continuous emission monitoring systems for measuring carbon dioxide shall comply with performance specification 3.
 2. Calibration gases: Span and zero gases shall be traceable to National Bureau of Standards reference gases whenever these reference gases are available. Every six months from date of manufacture, span and zero gases shall be reanalyzed by conducting triplicate analyses using the reference methods in Appendix A of 40 CFR 60 (Chapter 1) as amended: For sulfur dioxide, use Reference Method 6; for nitrogen oxides, use Reference Method 7; and for carbon dioxide or oxygen, use Reference Method 3. The gases may be analyzed at less frequent intervals if longer shelf lives are guaranteed by the manufacturer.
 3. Cycling time: Time includes the total time required to sample, analyze, and record an emission measurement.
 - a. Continuous emission monitoring systems for measuring opacity shall complete a minimum of one cycle of sampling and analyzing for each successive six-minute period.
 - b. Continuous emission monitoring systems for measuring oxides of nitrogen, carbon dioxide, oxygen, or sulfur dioxide shall complete a minimum of one cycle of operation (sampling, analyzing, and date recording) for each successive 15-minute period.
 4. Monitor location: All continuous emission monitoring systems or monitoring devices shall be installed such that representative measurements of emissions of process parameter (i.e., oxygen, or carbon dioxide) from the affected facility are obtained. Additional guidance for location of continuous emission monitoring systems to obtain representative samples are contained in the applicable performance specifications of Appendix B of 40 CFR 60.

5. Combined effluents: When the effluents from two or more affected facilities of similar design and operating characteristics are combined before being released to the atmosphere through more than one point, separate monitors shall be installed.
 6. Zero and drift: Owners or operators of all continuous emission monitoring systems installed in accordance with the requirements of this Section shall record the zero and span drift in accordance with the method prescribed by the manufacturer's recommended zero and span check at least once daily, using calibration gases specified in subsection (C) as applicable, unless the manufacturer has recommended adjustments at shorter intervals, in which case such recommendations shall be followed; shall adjust the zero span whenever the 24-hour zero drift or 24-hour calibration drift limits of the applicable performance specifications in Appendix B of Part 60, Chapter 1, Title 40 CFR are exceeded.
 7. Span: Instrument span should be approximately 200% of the expected instrument data display output corresponding to the emission standard for the source.
- E. Minimum data requirement:** The following subsections set forth the minimum data reporting requirements for sources employing continuous monitoring equipment as specified in this Section. These periodic reports do not relieve the source operator from the reporting requirements of R18-2-310.01.
1. The owners or operators of facilities required to install continuous emission monitoring systems shall submit to the Director a written report of excess emissions for each calendar quarter and the nature and cause of the excess emissions, if known. The averaging period used for data reporting shall correspond to the averaging period specified in the emission standard for the pollutant source category in question. The required report shall include, as a minimum, the data stipulated in this subsection.
 2. For opacity measurements, the summary shall consist of the magnitude in actual percent opacity of all six-minute opacity averages greater than any applicable standards for each hour of operation of the facility. Average values may be obtained by integration over the averaging period or by arithmetically averaging a minimum of four equally spaced, instantaneous opacity measurements per minute. Any time periods exempted shall be deleted before determining any averages in excess of opacity standards.
 3. For gaseous measurements the summary shall consist of emission averages in the units of the applicable standard for each averaging period during which the applicable standard was exceeded.
 4. The date and time identifying each period during which the continuous emission monitoring system was inoperative, except for zero and span checks and the nature of system repair or adjustment shall be reported. The Director may require proof of continuous emission monitoring system performance whenever system repairs or adjustments have been made.
 5. When no excess emissions have occurred and the continuous emission monitoring system(s) have not been inoperative, repaired, or adjusted, such information shall be included in the report.
 6. Owners or operators of affected facilities shall maintain a file of all information reported in the quarterly summaries, and all other data collected either by the continuous emission monitoring system or as necessary to convert monitoring data to the units of the applicable standard for a minimum of two years from the date of collection of such data or submission of such summaries.
- F. Data reduction:** Owners or operators of affected facilities shall use the following procedures for converting monitoring data to units of the standard where necessary.
1. For fossil-fuel fired steam generators the following procedures shall be used to convert gaseous emission monitoring data in parts per million to g/million cal (lb/million Btu) where necessary.
 - a. When the owner or operator of a fossil-fuel fired steam generator elects under subsection (C)(1)(d) to measure oxygen in the flue gases, the measurements of the pollutant concentration and oxygen concentration shall each be on a consistent basis (wet or dry).
 - i. When measurements are on a wet basis, except where wet scrubbers are employed or where moisture is otherwise added to stack gases, the following conversion procedure shall be used:

$$E(Q) = C(ws)F(w)\left[\frac{20.9}{20.9(1 - B(wa)) - \%O(2ws)}\right]$$
 - ii. When measurements are on a wet basis and the water vapor content of the stack gas is determined at least once every 15 minutes the following conversion procedure shall be used:

$$E(Q) = C(ws)F\left[\frac{20.9}{20.9(1 - B(wa))\%O(2ws)}\right]$$

Use of this equation is contingent upon demonstrating the ability to accurately determine B(ws) such that any absolute error in B(ws) will not cause an error of more than $\pm 1.5\%$ in the term:

$$\left[\frac{20.9}{20.9(1 - B(wa)) - \%O(2ws)}\right]$$
 - iii. When measurements are on a dry basis, the following conversion procedure shall be used:

$$E(Q) = CF\left[\frac{20.9}{20.9 - \%O(2ws)}\right]$$
 - b. When the owner or operator elects under subsection (C)(1)(d) to measure carbon dioxide in the flue gases, the measurement of the pollutant concentration and the carbon dioxide concentration shall each be on a consistent basis (wet or dry) and the following conversion procedure used:

$$E(Q) = CF(c)\left[\frac{100}{\%CO(2)}\right]$$
 - c. The values used in the equations under subsection (F)(1) above are derived as follows:
 $E(Q)$ = pollutant emission, g/million cal (lb/million Btu).

C = pollutant concentration, g/dscm (lb/dscf), determined by multiplying the average concentration (ppm) for each hourly period by 4.16×10^{-5} M g/dscm per ppm (2.64×10^{-9} M lb/dscf per ppm) where M = pollutant molecular weight, g/g-mole (lb/lb-mole), M = 64 for sulfur dioxide and 46 for oxides of nitrogen.

C(ws) = pollutant concentrations at stack conditions, g/wscm (lb/wscf), determined by multiplying the average concentration (ppm) for each one-hour period by 4.15×10^{-5} M lb/wscm per ppm (2.59×10^{-5} M lb/wscf per ppm) where M = pollutant molecular weight, g/g mole (lb/lb mole). M = 64 for sulfur dioxide and 46 for nitrogen oxides.

%O(2), %CO(2) = Oxygen or carbon dioxide volume (expressed as percent) determined with equipment specified under subsection (D)(1)(d).

F, F(c) = A factor representing a ratio of the volume of dry flue gases generated to the calorific value of the fuel combusted (F), a factor representing a ratio of the volume of carbon dioxide generated to the calorific value of the fuel combusted (F(c)), respectively. Values of F and F(c) are given in 40 CFR 60.45(f) (Chapter 1).

F(w) = A factor representing a ratio of the volume of wet flue gases generated to the calorific value of the fuel combusted. Values of F(w) are given in Reference Method 19 of the Arizona Testing Manual.

B(wa) = Proportion by volume of water vapor in the ambient air. Approval may be given for determination of B(wa) by on-site instrumental measurement provided that the absolute accuracy of the measurement technique can be demonstrated to be within $\pm 0.7\%$ water vapor. Estimation methods for B(wa) are given in Reference Method 19 of the Arizona Testing Manual.

B(ws) = Proportion by volume of water vapor in the stack gas.

2. For sulfuric acid plants as defined in R18-2-101, the owner or operator shall:
 - a. Establish a conversion factor three times daily according to the procedures of 40 CFR 60.84(b) (Chapter 1),
 - b. Multiply the conversion factor by the average sulfur dioxide concentration in the flue gases to obtain average sulfur dioxide emissions in Kg/metric ton (lb/short ton), and
 - c. Report the average sulfur dioxide emission for each averaging period in excess of the applicable emission standard in the quarterly summary.
3. For nitric acid plants, the owner or operator shall:
 - a. Establish a conversion factor according to the procedures of 40 CFR 60.73(b) (Chapter 1),
 - b. Multiply the conversion factor by the average nitrogen oxides concentration in the flue gases to obtain the nitrogen oxides emissions in the units of the applicable standard,
 - c. Report the average nitrogen oxides emission for each averaging period in excess of applicable emission standard in the quarterly summary.
4. The Director may allow data reporting or reduction procedures varying from those set forth in this Section if the

owner or operator of a source shows to the satisfaction of the Director that his procedures are at least as accurate as those in this Section. Such procedures may include but are not limited to the following:

- a. Alternative procedures for computing emission averages that do not require integration of data (e.g., some facilities may demonstrate that the variability of their emissions is sufficiently small to allow accurate reduction of data based upon computing averages from equally spaced data points over the averaging period).
- b. Alternative methods of converting pollutant concentration measurements to the units of the emission standards.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Editorial correction, subsection (C), paragraph (1), subparagraph (d) (Supp. 80-2). Amended effective July 9, 1980 (Supp. 80-4). Former Section R9-3-313 renumbered without change as R18-2-313 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 7 A.A.R. 1164, effective February 15, 2001 (Supp. 01-1).

R18-2-314. Quality Assurance

Facilities subject to the permit requirements of this Article shall submit a quality assurance plan to the Director that meets the requirements of R18-2-311(D)(3) within 12 months of the effective date of this Section. Facilities subject to the requirements of R18-2-313 shall submit a quality assurance plan as specified in the permit.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective July 9, 1980 (Supp. 80-4). Former Section R9-3-314 renumbered without change as R18-2-314 (Supp. 87-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4).

R18-2-315. Posting of Permit

- A. Any person who has been granted an individual or general permit shall post such permit or a certificate of permit issuance on location where the equipment is installed in such a manner as to be clearly visible and accessible. All equipment covered by the permit shall be clearly marked with one of the following:
 1. The current permit number,
 2. A serial number or other equipment number that is also listed in the permit to identify that piece of equipment.
- B. A copy of the complete permit shall be kept on the site.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective July 9, 1980 (Supp. 80-4). Former Section R9-3-315 renumbered without change as R18-2-315 (Supp. 87-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4).

R18-2-316. Notice by Building Permit Agencies

All agencies of the county or political subdivisions of the county that issue or grant building permits or approvals shall examine the plans and specifications submitted by an applicant for a permit or approval to determine if an air pollution permit will possibly be required under the provisions of this Chapter. If it appears that an air pollution permit will be required, the agency or political subdivision shall give written notice to the applicant to contact the Director and shall furnish a copy of that notice to the Director.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-316 renumbered without change as R18-2-316 (Supp. 87-3).

R18-2-317. Facility Changes Allowed Without Permit Revisions - Class I

- A.** A facility with a Class I permit may make changes that contravene an express permit term without a permit revision if all of the following apply:
1. The changes are not modifications under any provision of Title I of the Act or under A.R.S. § 49-401.01(24);
 2. The changes do not exceed the emissions allowable under the permit whether expressed therein as a rate of emissions or in terms of total emissions;
 3. The changes do not violate any applicable requirements or trigger any additional applicable requirements;
 4. The changes satisfy all requirements for a minor permit revision under R18-2-319(A);
 5. The changes do not contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements; and
 6. The changes do not constitute a minor NSR modification.
- B.** The substitution of an item of process or pollution control equipment for an identical or substantially similar item of process or pollution control equipment shall qualify as a change that does not require a permit revision, if the substitution meets all of the requirements of subsections (A), (D), and (E).
- C.** Except for sources with authority to operate under general permits, permitted sources may trade increases and decreases in emissions within the permitted facility, as established in the permit under R18-2-306(A)(12), if an applicable implementation plan provides for the emissions trades without applying for a permit revision and based on the seven working days notice prescribed in subsection (D). This provision is available if the permit does not provide for the emissions trading as a minor permit revision.
- D.** For each change under subsections (A) through (C), a written notice by certified mail or hand delivery shall be received by the Director and the Administrator a minimum of seven working days in advance of the change. Notifications of changes associated with emergency conditions, such as malfunctions necessitating the replacement of equipment, may be provided less than seven working days in advance of the change but must be provided as far in advance of the change or, if advance notification is not practicable, as soon after the change as possible.
- E.** Each notification shall include:
1. When the proposed change will occur;
 2. A description of the change;
 3. Any change in emissions of regulated air pollutants;
 4. The pollutants emitted subject to the emissions trade, if any;
 5. The provisions in the implementation plan that provide for the emissions trade with which the source will comply and any other information as may be required by the provisions in the implementation plan authorizing the trade;
 6. If the emissions trading provisions of the implementation plan are invoked, then the permit requirements with which the source will comply; and
 7. Any permit term or condition that is no longer applicable as a result of the change.
- F.** The permit shield described in R18-2-325 shall not apply to any change made under subsections (A) through (C). Compliance with the permit requirements that the source will meet using the emissions trade shall be determined according to

requirements of the implementation plan authorizing the emissions trade.

- G.** Except as otherwise provided for in the permit, making a change from one alternative operating scenario to another as provided under R18-2-306(A)(11) shall not require any prior notice under this Section.
- H.** The Director shall make available to the public monthly summaries of all notices received under this Section.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-317 renumbered without change as R18-2-317 (Supp. 87-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2).

R18-2-317.01. Facility Changes that Require a Permit Revision - Class II

- A.** The following changes at a source with a Class II permit shall require a permit revision:
1. A change that would trigger a new applicable requirement or violate an existing applicable requirement.
 2. Establishment of, or change in, an emissions cap under R18-2-306.02;
 3. A change that will require a case-by-case determination of an emission limitation or other standard, or a source-specific determination of ambient impacts, or a visibility or increment analysis;
 4. A change that results in emissions that are subject to monitoring, recordkeeping or reporting under R18-2-306(A)(3), (4), or (5) if the emissions cannot be measured or otherwise adequately quantified by monitoring, recordkeeping, or reporting requirements already in the permit;
 5. A change that will authorize the burning of used oil, used oil fuel, hazardous waste, or hazardous waste fuel, or any other fuel not currently authorized by the permit;
 6. A change that requires the source to obtain a Class I permit;
 7. Replacement of an item of air pollution control equipment listed in the permit with one that does not have the same or better pollutant removal efficiency;
 8. Establishment or revision of a limit under R18-2-306.01;
 9. Increasing operating hours or rates of production above the permitted level;
 10. A change that relaxes monitoring, recordkeeping, or reporting requirements, except when the change results:
 - a. From removing equipment that results in a permanent decrease in actual emissions, if the source keeps onsite records of the change in a log that satisfies Appendix 3 of this Chapter and if the requirements that are relaxed are present in the permit solely for the equipment that was removed; or
 - b. From a change in an applicable requirement; and
 11. A minor NSR modification.
- B.** A source with a Class II permit may make any physical change or change in the method of operation without revising the source's permit unless the change is specifically prohibited in the source's permit or is a change described in subsection (A). A change that does not require a permit revision may still be subject to requirements in R18-2-317.02.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R.

4074, effective September 22, 1999 (Supp. 99-3).
Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2).

R18-2-317.02. Procedures for Certain Changes that Do Not Require a Permit Revision - Class II

- A. Except for a physical change or change in the method of operation at a Class II source requiring a permit revision under R18-2-317.01, or a change subject to logging or notice requirements in subsection (B) or (C), a change at a Class II source shall not be subject to revision, notice, or logging requirements under this Chapter.
- B. Except as otherwise provided in the conditions applicable to an emissions cap created under R18-2-306.02, the following changes may be made if the source keeps onsite records of the changes according to Appendix 3:
 - 1. Implementing an alternative operating scenario, including raw material changes;
 - 2. Changing process equipment, operating procedures, or making any other physical change if the permit requires the change to be logged;
 - 3. Engaging in any new insignificant activity listed in the definition of insignificant activities in R18-2-101 but not listed in the permit;
 - 4. Replacing an item of air pollution control equipment listed in the permit with an identical (same model, different serial number) item. The Director may require verification of efficiency of the new equipment by performance tests; and
 - 5. A change that results in a decrease in actual emissions if the source wants to claim credit for the decrease in determining whether the source has a net emissions increase for any purpose. The logged information shall include a description of the change that will produce the decrease in actual emissions. A decrease that has not been logged is creditable only if the decrease is quantifiable, enforceable, and otherwise qualifies as a creditable decrease.
- C. Except as provided in the conditions applicable to an emissions cap created under R18-2-306.02, the following changes may be made if the source provides written notice to the Department in advance of the change as provided below:
 - 1. Replacing an item of air pollution control equipment listed in the permit with one that is not identical but that is substantially similar and has the same or better pollutant removal efficiency: seven days. The Director may require verification of efficiency of the new equipment by performance tests;
 - 2. A physical change or change in the method of operation that increases actual emissions more than 10% of the major source threshold for any conventional pollutant but does not require a permit revision: seven days;
 - 3. Replacing an item of air pollution control equipment listed in the permit with one that is not substantially similar but that has the same or better efficiency: 30 days. The Director may require verification of efficiency of the new equipment by performance tests;
 - 4. A change that would trigger an applicable requirement that already exists in the permit: 30 days unless otherwise required by the applicable requirement;
 - 5. A change that amounts to reconstruction of the source or an affected facility: seven days. For purposes of this subsection, reconstruction of a source or an affected facility shall be presumed if the fixed capital cost of the new components exceeds 50% of the fixed capital cost of a comparable entirely new source or affected facility and the changes to the components have occurred over the 12

consecutive months beginning with commencement of construction; and

- 6. A change that will result in the emissions of a new regulated air pollutant above an applicable regulatory threshold but that does not trigger a new applicable requirement for that source category: 30 days. For purposes of this requirement, an applicable regulatory threshold for a conventional air pollutant shall be 10% of the applicable major source threshold for that pollutant.
- D. For each change under subsection (C), the written notice shall be by certified mail or hand delivery and shall be received by the Director the minimum amount of time in advance of the change. Notifications of changes associated with emergency conditions, such as malfunctions necessitating the replacement of equipment, may be provided with less than required notice, but must be provided as far in advance of the change, or if advance notification is not practicable, as soon after the change as possible. The written notice shall include:
 - 1. When the proposed change will occur,
 - 2. A description of the change,
 - 3. Any change in emissions of regulated air pollutants, and
 - 4. Any permit term or condition that is no longer applicable as a result of the change.
- E. A source may implement any change in subsection (C) without the required notice by applying for a minor permit revision under R18-2-319 and complying with R18-2-319(D)(2) and (G).
- F. The permit shield described in R18-2-325 shall not apply to any change made under this Section, other than implementation of an alternate operating scenario under subsection (B)(1).
- G. Notwithstanding any other part of this Section, the Director may require a permit to be revised for any change that, when considered together with any other changes submitted by the same source under this Section over the term of the permit, constitutes a change under R18-317.01(A).
- H. If a source change is described under both subsections (B) and (C), the source shall comply with subsection (C). If a source change is described under both subsection (C) and R18-2-317.01(B), the source shall comply with R18-2-317.01(B).
- I. A copy of all logs required under subsection (B) shall be filed with the Director within 30 days after each anniversary of the permit issue date. If no changes were made at the source requiring logging, a statement to that effect shall be filed instead.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3).
Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2).

R18-2-318. Administrative Permit Amendments

- A. Except for provisions pursuant to Title IV of the Act, an administrative permit amendment is a permit revision that does any of the following:
 - 1. Corrects typographical errors;
 - 2. Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;
 - 3. Requires more frequent monitoring or reporting by the permittee;
 - 4. Allows for a change in ownership or operational control of a source as approved under R18-2-323 where the Director determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility cover-

age, and liability between the current and new permittee has been submitted to the Director;

- B. Administrative permit amendments to Title IV provisions of the permit shall be governed by regulations promulgated by the Administrator under Title IV of the Act.
- C. The Director shall take no more than 60 days from receipt of a request for an administrative permit amendment to take final action on such request, and for Class I permits may incorporate such changes without providing notice to the public or affected states provided that it designates any such permit revisions as having been made pursuant to this Section.
- D. The Director shall submit a copy of Class I permits revised under this Section to the Administrator.
- E. Except for administrative permit amendments involving a transfer under R18-2-323, the source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-318 renumbered without change as R18-2-318 (Supp. 87-3). Amended subsection (A) effective December 1, 1988 (Supp. 88-4). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4).

R18-2-318.01. Annual Summary Permit Amendments for Class II Permits

The Director may amend any Class II permit annually without following R18-2-321 in order to incorporate changes reflected in logs or notices filed under R18-2-317.02. The amendment shall be effective to the anniversary date of the permit. The Director shall make available to the public for any source:

- 1. A complete record of logs and notices sent to the Department under R18-2-317.02; and
- 2. Any amendments or revisions to the source's permit.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3).

R18-2-319. Minor Permit Revisions

- A. Minor permit revision procedures may be used only for those changes at a Class I source that satisfy all of the following:
 - 1. Do not violate any applicable requirement;
 - 2. Do not involve substantive changes to existing monitoring, reporting, or recordkeeping requirements in the permit;
 - 3. Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination of ambient impacts, or an analysis of impacts on visibility or maximum increases allowed under R18-2-218;
 - 4. Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed in order to avoid an applicable requirement to which the source would otherwise be subject. The terms and conditions include:
 - a. A federally enforceable emissions cap that the source would assume to avoid classification as a modification under any provision of Title I of the Act; and
 - b. An alternative emissions limit approved under regulations promulgated under the section 112(i)(5) of the Act.
 - 5. Are not modifications under any provision of Title I of the Act;

- 6. Are not changes in fuels not represented in the permit application or provided for in the permit;
- 7. Are not minor NSR modifications subject to R18-2-334; and
- 8. Are not required to be processed as a significant permit revision under R18-2-320.
- B. Minor permit revision procedures shall be used for the following changes at a Class II source:
 - 1. A change that triggers a new applicable requirement if all of the following apply:
 - a. The change is not a minor NSR modification subject to R18-2-334;
 - b. A case-by-case determination of an emission limitation or other standard is not required; and
 - c. The change does not require the source to obtain a Class I permit.
 - 2. A change that increases emissions above the permitted level unless the increase otherwise creates a condition that requires a significant permit revision;
 - 3. A change in fuel from fuel oil or coal, to natural gas or propane, if not authorized in the permit;
 - 4. A change that results in emissions subject to monitoring, recordkeeping, or reporting under R18-2-306(A)(3),(4), or (5) and that cannot be measured or otherwise adequately quantified by monitoring, recordkeeping, or reporting requirements already in the permit;
 - 5. A decrease in the emissions permitted under an emissions cap unless the decrease requires a change in the conditions required to enforce the cap or to ensure that emissions trades conducted under the cap are quantifiable and enforceable; and
 - 6. Replacement of an item of air pollution control equipment listed in the permit with one that does not have the same or better efficiency.
- C. As approved by the Director, minor permit revision procedures may be used for permit revisions involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that the minor permit revision procedures are explicitly provided for in an applicable implementation plan or in applicable requirements promulgated by the Administrator.
- D. An application for minor permit revision shall be on the standard application form provided under R18-2-304(B) and include the following:
 - 1. A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;
 - 2. For Class I sources, and any source that is making the change immediately after it files the application, the source's suggested draft permit;
 - 3. Certification by a responsible official, consistent with standard permit application requirements, that the proposed revision meets the criteria for use of minor permit revision procedures and a request that the procedures be used;
- E. EPA and affected state notification. For Class I permits, within five working days of receipt of an application for a minor permit revision, the Director shall notify the Administrator and affected states of the requested permit revision in accordance with R18-2-307.
- F. For Class I permits, the Director shall not issue a final permit revision until after the Administrator's 45-day review period or until the Administrator has notified the Director that the Administrator will not object to issuance of the permit revision, whichever is first, although the Director may approve the permit revision before that time. Within 90 days of the Direc-

tor's receipt of an application under minor permit revision procedures, or 15 days after the end of the Administrator's 45-day review period, whichever is later, the Director shall do one or more of the following:

1. Issue the permit revision as proposed,
 2. Deny the permit revision application,
 3. Determine that the proposed permit revision does not meet the minor permit revision criteria and should be reviewed under the significant revision procedures, or
 4. Revise the proposed permit revision and transmit to the Administrator the new proposed permit revision as required in R18-2-307.
- G.** The source may make the change proposed in its minor permit revision application immediately after it files the application. After a Class I source makes a change allowed by the preceding sentence, and until the Director takes any of the actions specified in subsection (F), the source shall comply with both the applicable requirements governing the change and the proposed revised permit terms and conditions. During this time period, the Class I source need not comply with the existing permit terms and conditions it seeks to modify. However, if the Class I source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to revise may be enforced against it.
- H.** The permit shield under R18-2-325 shall not extend to minor permit revisions.
- I.** Notwithstanding any other part of this Section, the Director may require a permit to be revised under R18-2-320 for any change that, when considered together with any other changes submitted by the same source under this Section or R18-2-317.02 over the life of the permit, do not satisfy subsection (A) for Class I sources or subsection (B) for Class II sources.
- J.** The Director shall make available to the public monthly summaries of all applications for minor permit revisions.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-319 renumbered without change as R18-2-319 (Supp. 87-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-320. Significant Permit Revisions

- A.** For Class I sources, a significant revision shall be used for an application requesting a permit revision that does not qualify as a minor permit revision or as an administrative amendment. A significant revision that is only required because of a change described in R18-2-319(A)(6) or (7) shall not be considered a significant permit revision under part 70 for the purposes of 40 CFR 64.5(a)(2). Every significant change in existing monitoring permit terms or conditions and every relaxation of reporting or recordkeeping permit terms or conditions shall follow significant revision procedures.
- B.** A source with a Class II permit shall make the following changes only after the permit is revised following the public participation requirements of R18-2-330:
1. Establishing or revising a voluntarily accepted emission limitation or standard as described by R18-2-306.01 or R18-2-306.02, except a decrease in the limitation authorized by R18-2-319(B)(5);
 2. Making any change in fuel not authorized by the permit and that is not fuel oil or coal, to natural gas or propane;

3. A change that is a minor NSR modification subject to R18-2-334;
 4. A change that relaxes monitoring, recordkeeping, or reporting requirements, except when the change results from:
 - a. Removing equipment that results in a permanent decrease in actual emissions, if the source keeps onsite records of the change in a log that satisfies Appendix 3 of this Chapter and if the requirements that are relaxed are present in the permit solely for the equipment that was removed; or
 - b. A change in an applicable requirement.
 5. A change that will cause the source to violate an existing applicable requirement including the conditions establishing an emissions cap;
 6. A change that will require any of the following:
 - a. A case-by-case determination of an emission limitation or other standard;
 - b. A source-specific determination of ambient impacts, or an analysis of impacts on visibility or maximum allowable increases allowed under R18-2-218; or
 - c. A case-by-case determination of a monitoring, recordkeeping, and reporting requirement.
 7. A change that requires the source to obtain a Class I permit.
- C.** Any modification to a major source of federally listed hazardous air pollutants, and any reconstruction of a source, or a process or production unit, under section 112(g) of the Act and regulations promulgated thereunder, shall follow significant permit revision procedures and any rules adopted under A.R.S. § 49-426.03.
- D.** Significant permit revisions shall meet all requirements of this Article for applications, public participation, review by affected states, and review by the Administrator that apply to permit issuance and renewal. Notwithstanding R18-2-330(C), the Director may provide notice for changes requiring a significant permit revision solely under subsection (B)(2), (4) or (6)(c) by posting a notice on the Department's web site, sending e-mails to persons who have requested electronic notification of the Department's proposed air quality permit actions and by mailing a copy of the notice as provided in R18-2-330(C)(1).
- E.** When an existing source applies for a significant permit revision to revise its permit from a Class II permit to a Class I permit, it shall submit a Class I permit application in accordance with R18-2-304. The Director shall issue the entire permit, and not just the portion being revised, in accordance with Class I permit content and issuance requirements, including requirements for public, affected state, and EPA review, contained in R18-2-307 and R18-2-330.

Historical Note

Adopted effective September 26, 1990 (Supp. 90-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended effective June 4, 1998 (Supp. 98-2). Amended by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 6 A.A.R. 343, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-321. Permit Reopenings; Revocation and Reissuance; Termination

- A.** Reopening for Cause.

1. Each issued permit shall include provisions specifying the conditions under which the permit shall be reopened prior to the expiration of the permit. A permit shall be reopened and revised under any of the following circumstances:
 - a. Additional applicable requirements under the Act become applicable to a major source with a remaining permit term of three or more years. Such a reopening shall be completed not later than 18 months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions has been extended pursuant to R18-2-322(B). Any permit revision required pursuant to this subsection shall comply with provisions in R18-2-322 for permit renewal and shall reset the five-year permit term.
 - b. Additional requirements, including excess emissions requirements, become applicable to an affected source under the acid rain program. Upon approval by the Administrator, excess emissions offset plans shall be deemed to be incorporated into the Class I permit.
 - c. The Director or the Administrator determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.
 - d. The Director or the Administrator determines that the permit needs to be revised or revoked to assure compliance with the applicable requirements.
 2. Proceedings to reopen and issue a permit, including appeal of any final action relating to a permit reopening, shall follow the same procedures as apply to initial permit issuance and shall, except for reopenings under subsection (A)(1)(a), affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable.
 3. Reopenings under subsection (A)(1) shall not be initiated before a notice of such intent is provided to the source by the Director at least 30 days in advance of the date that the permit is to be reopened, except that the Director may provide a shorter time period in the case of an emergency.
 4. When a permit is reopened and revised pursuant to this Section, the Director may make appropriate revisions to the permit shield established pursuant to R18-2-325.
- B.** Within 10 days of receipt of notice from the Administrator that cause exists to reopen a Class I permit, the Director shall notify the source. The source shall have 30 days to respond to the Director. Within 90 days of receipt of notice from the Administrator that cause exists to reopen a permit, or within any extension to the 90 days granted by EPA, the Director shall forward to the Administrator and the source a proposed determination of termination, revision, or revocation and reissuance of the permit. Within 90 days of receipt of an EPA objection to the Director's proposal, the Director shall resolve the objection and act on the permit.
- C.** The Director may issue a notice of termination of a permit or registration issued pursuant to this Chapter if:
1. The Director has reasonable cause to believe that the permit or registration was obtained by fraud or misrepresentation.
 2. The person applying for the permit or registration failed to disclose a material fact required by the application form or the regulation applicable to the permit or registration, of which the applicant had or should have had knowledge at the time the application was submitted.
 3. The terms and conditions of the permit or registration have been or are being violated.
- D.** If the Director issues a notice of termination under this Section, the notice shall be served on the permittee by certified mail, return receipt requested. The notice shall include a statement detailing the grounds for the revocation and a statement that the permittee is entitled to a hearing.

Historical Note

Adopted effective September 22, 1983 (Supp. 83-5). Former Section R9-3-321 renumbered without change as R18-2-321 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2).

R18-2-322. Permit Renewal and Expiration

- A.** A permit being renewed is subject to the same procedural requirements, including any for public participation and affected states and Administrator review, that would apply to that permit's initial issuance.
- B.** Except as provided in R18-2-303(A), permit expiration terminates the source's right to operate unless a timely application for renewal that is sufficient under A.R.S. § 41-1064 has been submitted in accordance with R18-2-304. Any testing that is required for renewal shall be completed before the proposed permit is issued by the Director.
- C.** The Director shall act on an application for a permit renewal within the same time-frames as on an initial permit.

Historical Note

Adopted effective September 22, 1983 (Supp. 83-5). Former Section R9-3-322 renumbered without change as R18-2-322 (Supp. 87-3). Amended effective December 1, 1988 (Supp. 88-4). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4).

R18-2-323. Permit Transfers

- A.** Except as provided in A.R.S. § 49-429 and subsection (B), a Class I or II permit may be transferred to another person if the person who holds the permit gives notice to the Director in writing at least 30 days before the proposed transfer. The notice shall contain the following:
1. The permit number and expiration date;
 2. The name, address, and telephone number of the current permit holder;
 3. The name, address and telephone number of the person to receive the permit;
 4. The name and title of the individual within the organization who is accepting responsibility for the permit along with a signed statement by that person indicating such acceptance;
 5. A description of the equipment to be transferred;
 6. A written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee;
 7. Provisions for the payment of any fees pursuant to R18-2-326 or R18-2-501 that will be due and payable before the effective date of transfer;
 8. Sufficient information about the source's technical and financial capabilities of operating the source to allow the Director to make the decision in subsection (B) including:
 - a. The qualifications of each person principally responsible for the operation of the source;

- b. A statement by the chief financial officer of the new permittee that it is financially capable of operating the facility in compliance with the law, and the information that provides the basis for that statement;
 - c. A brief description of any action for the enforcement of any federal or state law, or any county, city, or local government ordinance relating to the protection of the environment, instituted against any person employed by the new permittee and principally responsible for operating the facility during the five years preceding the date of application. In lieu of this description, the new permittee may submit a copy of the certificate of disclosure or 10-K form required under A.R.S. § 49-109, or a statement that this information has been filed in compliance with A.R.S. § 49-109.
- B.** The Director shall deny the transfer if the Director determines that the organization receiving the permit is not capable of operating the source in compliance with A.R.S. Title 49, Chapter 3, Article 2, the provisions of this Chapter or the provisions of the permit. Notice of the denial shall be sent to the original permit holder by certified mail stating the reason for the denial within 10 working days of the Director's receipt of the application. If the transfer is not denied within 10 working days after receipt of the notice, it shall be deemed approved.
- C.** To appeal the transfer denial:
- 1. Both the transferor and transferee shall petition the Office of Administrative Hearings in writing for a public hearing; and
 - 2. All parties shall follow the appeal process for a permit.
- D.** The Director shall make available to the public monthly summaries of all notices received under this Section.

Historical Note

Adopted effective September 22, 1983 (Supp. 83-5). Former Section R9-3-323 renumbered without change as R18-2-323 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 12 A.A.R. 4698, effective February 3, 2007 (Supp. 06-4).

R18-2-324. Portable Sources

- A.** A portable source that will operate for the duration of its permit solely in one county that has established a local air pollution control program pursuant to A.R.S. § 49-479 shall obtain a permit from that county. A portable source with a county permit shall not operate in any other county. A portable source that has a permit issued by the Director and obtains a county permit shall request that the Director terminate the permit. Upon issuance of the county permit, the permit issued by the Director is no longer valid.
- B.** A portable source which has a county permit but proposes to operate outside that county shall obtain a permit from the Director. A portable source that has a permit issued by a county and obtains a permit issued by the Director shall request that the county terminate the permit. Upon issuance of a permit by the Director, the county permit is no longer valid. Before commencing operation in the new county, the source shall notify the Director and the control officer who has jurisdiction in the county that includes the new location according to subsection (C).
- C.** A portable source may be transferred from one location to another provided that the owner or operator of such equipment notifies the Director and any control officer who has jurisdiction over the geographic area that includes the new location of

the transfer prior to the transfer. The notification required under this subsection shall include:

- 1. A description of the equipment to be transferred including the permit number for such equipment;
 - 2. A description of the present location;
 - 3. A description of the new location;
 - 4. The date on which the equipment is to be moved; and
 - 5. The date on which operation of the equipment will begin at the new location.
- D.** Any permit for a portable source shall contain conditions that will assure compliance with all applicable requirements at all authorized locations.

Historical Note

Adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-325. Permit Shields

- A.** Each Class I or II permit issued under this Chapter shall specifically identify all federal, state, and local air pollution control requirements applicable to the source at the time the permit is issued. The permit shall state that compliance with the conditions of the permit shall be deemed compliance with any applicable requirement as of the date of permit issuance, provided that such applicable requirements are included and expressly identified in the permit. The Director may include in a permit determinations that other requirements specifically identified are not applicable. Any permit under this Chapter that does not expressly state that a permit shield exists shall not provide such a shield.
- B.** Nothing in this Section or in any permit shall alter or affect the following:
- 1. The provisions of Section 303 of the Act (emergency orders), including the authority of the Administrator under that Section;
 - 2. The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance;
 - 3. The applicable requirements of the acid rain program, consistent with Section 408(a) of the Act;
 - 4. The ability of the Administrator or the Director to obtain information from a source pursuant to Section 114 of the Act, or any provision of state law;
 - 5. The authority of the Director to require compliance with new applicable requirements adopted after the permit is issued.
- C.** In addition to the provisions of R18-2-321, a permit may be reopened by the Director and the permit shield revised when it is determined that standards or conditions in the permit are based on incorrect information provided by the applicant.

Historical Note

Emergency rule adopted effective September 17, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-3). Emergency rule re-adopted without change effective December 16, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency expired; text deleted (Supp. 93-1). New Section adopted effective November 15, 1993 (Supp. 93-4).

R18-2-326. Fees Related to Individual Permits

- A.** Source Categories. The owner or operator of a source required to have an air quality permit from the Director shall pay the fees described in this Section unless authorized to operate under a general permit issued under Article 5. The fees are

based on a source being classified in one of the following three categories:

1. Class I Title V sources are those required or that elect to have a permit under R18-2-302(B)(1).
2. Class II Title V sources are those required to have a permit under R18-2-302(B)(2) and that are subject to new source performance standards or national emission standards for hazardous air pollutants.
3. Class II Non-Title V sources are those required to have a permit under R18-2-302(B)(2) and that are not subject to new source performance standards or national emission standards for hazardous air pollutants.

B. Fees for Permit Actions.

1. The owner or operator of a Class I Title V source, Class II Title V source, or Class II Non-Title V source shall pay to the Director the following:
 - a. \$133.50 per hour, adjusted annually under subsection (H), for all permit processing time required for a billable permit action; and
 - b. The actual costs of public notice conducted according to R18-2-330.
2. The Director may require periodic payment of permit processing fees based on the most recent accounting of time spent processing the permit including any fees for contractors.
3. Upon completion of permit processing activities other than issuance or denial of the permit or permit revision, the Director shall send notice of the decision to the applicant along with a final itemized bill. The maximum fee for any billable permit action for a non-Title V source is \$25,000. Except as provided in subsection (G), the Director shall not issue a permit or permit revision until the final bill is paid in full.

C. Class I Title V Fees. The owner or operator of a Class I Title V source that has undergone initial startup by January 1 shall annually pay to the Director an administrative fee plus an emissions-based fee as follows:

1. The applicable administrative fee from the table below, as adjusted annually under subsection (H). The fee is due by February 1 or 60 days after the Director mails the invoice under subsection (F), whichever is later.

Class I Title V Source Category	Administrative Fee
Aerospace	\$20,800
Air Curtain Destructors	\$750
Cement Plants	\$63,690
Combustion/Boilers	\$15,480
Compressor Stations	\$12,730
Electronics	\$20,490
Expandable Foam	\$14,680
Foundries	\$19,520
Landfills	\$15,960
Lime Plants	\$60,160
Copper & Nickel Mines	\$15,000
Gold Mines	\$15,000
Mobile Home Manufacturing	\$14,830
Paper Mills	\$20,480
Paper Coaters	\$15,480
Petroleum Products Terminal Facilities	\$22,730
Polymeric Fabric Coaters	\$20,480
Reinforced Plastics	\$15,480
Semiconductor Fabrication	\$26,930

Copper Smelters	\$63,690
Utilities - Fossil Fuel Fired Except Coal	\$16,440
Utilities - Coal Fired	\$32,570
Vitamin/Pharmaceutical Manufacturing	\$15,800
Wood Furniture	\$15,480
Others	\$20,490
Others with Continuous Emissions Monitoring	\$20,490

2. An emissions-based fee of \$38.25 per ton of actual emissions of all regulated pollutants emitted during the previous calendar year ending 12 months earlier. The fee is adjusted annually under subsection (C)(2)(d) and due by February 1 or 60 days after the Director mails the invoice under subsection (F), whichever is later.
 - a. For purposes of this Section, "actual emissions" means the quantity of all regulated pollutants emitted during the calendar year, as determined by the annual emissions inventory under R18-2-327.
 - b. For purposes of this Section, regulated pollutants consist of the following:
 - i. Nitrogen oxides and any volatile organic compounds;
 - ii. Conventional air pollutants, except carbon monoxide and ozone;
 - iii. Any pollutant that is subject to any standard promulgated under Section 111 of the Act, including fluorides, sulfuric acid mist, hydrogen sulfide, total reduced sulfur, and reduced sulfur compounds; and
 - iv. Any federally listed hazardous air pollutant.
 - c. For purposes of this Section, the following emissions of regulated pollutants are excluded from a source's actual emissions:
 - i. Emissions of any regulated pollutant from the source in excess of 4,000 tons per year;
 - ii. Emissions of any regulated pollutant already included in the actual emissions for the source, such as a federally listed hazardous air pollutant that is already accounted for as a VOC or as PM₁₀;
 - iii. Emissions from insignificant activities listed in the permit application for the source under R18-2-304(F)(8);
 - iv. Fugitive emissions of PM₁₀ from activities other than crushing, belt transfers, screening, or stacking; and
 - v. Fugitive emissions of VOC from solution-extraction units.
 - d. The Director shall adjust the rate for emission-based fees every November 1, after December 4, 2007, by multiplying \$38.25 by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2007. The Consumer Price Index for any year is the average of the Consumer Price Index for all-urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of that year.
- D. Class II Title V Fees.** The owner or operator of a Class II Title V source that has undergone initial startup by January 1 shall pay the applicable administrative fee from the table below, adjusted under subsection (H), for that calendar year, and annually thereafter. The fee is due by February 1 or 60 days

after the Director mails the invoice under subsection (F), whichever is later.

Class II Title V Source Category	Administrative Fee
Synthetic minor sources, except portable sources	Administrative fee from Class I Title V table for category
Stationary	\$8,070
Portables	\$8,070
Small Source	\$750

- E. Class II Non-Title V Fees. The owner or operator of a Class II Non-Title V source that has undergone initial startup by January 1 shall pay the applicable inspection fee from the table below, adjusted under subsection (H), for that calendar year, and annually thereafter. The fee is due by February 1 or 60 days after the Director mails the invoice under subsection (F), whichever is later.

Class II Non-Title V Source Category	Inspection Fee
Stationary	\$5,230
Portables	\$5,230
Gasoline Service Stations	\$750

- F. The Director shall mail the owner or operator of each source an invoice for all fees due under subsections (C), (D), or (E) by December 1.
- G. Any person who receives a final itemized bill from the Director under this Section for a billable permit action may request an informal review of the hours billed and may pay the bill under protest as provided below:
1. The request shall be made in writing, and received by the Director within 30 days of the date of the final bill. Unless the Director and person agree otherwise, the informal review shall take place within 30 days after the Director's receipt of the request. The Director shall arrange the date and location of the informal review with the person at least 10 business days before the informal review. The Director shall review whether the amounts of time billed are correct and reasonable for the tasks involved. The Director shall mail his or her decision on the informal review to the person within 10 business days after the informal review date.
 2. The Director's decision after informal review shall become final unless, within 30 days after person's receipt of the informal review decision, the person requests a hearing under R18-1-202.
 3. If the final itemized bill is paid under protest, the Director shall take final action on the permit or permit revision.
- H. The Director shall adjust the hourly rate every November 1, to the nearest 10 cents per hour, after December 4, 2007, by multiplying \$133.50 by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2007. The Director shall adjust the administrative or inspection fees listed in subsections (C), (D), and (E) every November 1, to the nearest \$10, beginning December 4, 2007, by multiplying the administrative or inspection fee by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2007. The Consumer Price Index for any year is the average of the Consumer Price Index for all-urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of that year.

- I. An applicant for a Class I or Class II permit or permit revision may request that the Director provide accelerated processing of the application by providing the Director written notice 60 days before filing the application. The request shall be accompanied by an initial fee of \$15,000. The fee is non-refundable to the extent of the Director's costs for accelerating the processing if the Director undertakes the accelerated processing described below:
1. If an applicant requests accelerated permit processing, the Director may, to the extent practicable, undertake to process the permit or permit revision according to the following schedule:
 - a. For applications for initial Class I and II permits under R18-2-302 or significant permit revisions under R18-2-320, the Director shall issue or deny the proposed permit or permit revision within 120 days after the Director determines that the application is complete.
 - b. For minor permit revisions under R18-2-319, the Director shall issue or deny the permit revision within 60 days after receiving a complete application.
 2. At any time after an applicant requests accelerated permit processing, the Director may require additional advance payments based on the most recent estimate of additional costs.
 3. Upon completion of permit processing activities but before issuance or denial of the permit or permit revision, the Director shall send notice of the decision to the applicant along with a final bill. The maximum fee for any billable permit action for a non-Title V source is \$25,000. The final bill shall include all regular permit processing and other fees due, and, in addition, the difference between the cost of accelerating the permit application, including any costs incurred by the Director in contracting for, hiring, or supervising the work of outside consultants, and all advance payments submitted for accelerated processing. In the event all payments made exceed actual accelerated permit costs, the Director shall refund the excess advance payments. Nothing in this subsection affects the public participation requirements of R18-2-330, or EPA and affected state review as required under R18-2-307 or R18-2-319.
- J. Inactive Sources. The owner or operator of a permitted source that has undergone initial startup but was shut down for the entire preceding year shall pay 50 percent of the administrative or inspection fee required under subsection (C), (D), or (E). The owner or operator of a source claiming inactive status under this subsection shall submit a letter to the Director by December 15 of the calendar year for which the source was inactive. Termination of a permit does not relieve a source of any past fees due.
- K. If an applicant uses the Tier 4 method for conducting a risk management analysis (RMA) according to R18-2-1708(B), the applicant shall pay any costs incurred by the Director in contracting for, hiring or supervising work of outside consultants.
- L. Transition.
1. Subsections (A) through (J) of this Section are effective December 4, 2007. The first administrative or inspection fees are due on February 1, 2008.
 2. Except as provided in subsection (b), all fees incurred after December 4, 2007, are payable in accordance with the rates contained in this Section.
 - a. Emission-based fees for calendar year 2006 shall be billed at \$38.25 per ton and be due February 1, 2008.

- b. The hourly rates and maximum fees for a new permit or permit revision are those in effect when the application for the permit or revision is determined to be complete.
- c. Fees accrued but not yet paid before the effective date of this Section remain as obligations to be paid to the Department

Historical Note

Emergency rule adopted effective September 17, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-3). Emergency rule re-adopted without change effective December 16, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency expired; text deleted (Supp. 93-1). New Section adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 7 A.A.R. 5670, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 10 A.A.R. 4767, effective November 4, 2004 (Supp. 04-4). Amended by final rulemaking at 13 A.A.R. 4379, effective December 4, 2007 (Supp. 07-4). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-326.01. Expired

Historical Note

New Section made by exempt rulemaking at 16 A.A.R. 844, effective July 1, 2010 (Supp. 10-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 613, effective February 14, 2017 (Supp. 17-1).

R18-2-327. Annual Emissions Inventory Questionnaire

- A. Every source subject to permit requirements under this Chapter shall complete and submit to the Director an annual emissions inventory questionnaire. The questionnaire is due by March 31 or 90 days after the Director makes the inventory form available, whichever occurs later, and shall include emission information for the previous calendar year. These requirements apply whether or not a permit has been issued and whether or not a permit application has been filed.
- B. The questionnaire shall be on a form provided by the Director and shall include the following information:
 - 1. The source's name, description, mailing address, contact person and contact person phone number, and physical address and location, if different than the mailing address.
 - 2. Process information for the source, including design capacity, operations schedule, and emissions control devices, their description and efficiencies.
 - 3. The actual quantity of emissions from permitted emission points and fugitive emissions as provided in the permit, including documentation of the method of measurement, calculation, or estimation, determined pursuant to subsection (C), of the following regulated air pollutants:
 - a. Any single regulated air pollutant in a quantity greater than 1 ton or the amount listed for the pollutant in the definition of "significant" in R18-2-101(131)(a) or (b), whichever is less.
 - b. Any combination of regulated air pollutants in a quantity greater than 2 1/2 tons.
- C. Actual quantities of emissions shall be determined using the following emission factors or data:
 - 1. Whenever available, emissions estimates shall either be calculated from continuous emissions monitors certified pursuant to 40 CFR 75, Subpart C and referenced appendices, or data quality assured pursuant to Appendix F of 40 CFR 60.
 - 2. When sufficient data pursuant to subsection (C)(1) is not available, emissions estimates shall be calculated from data from source performance tests conducted pursuant to R18-2-312 in the calendar year being reported or, when not available, conducted in the most recent calendar year representing the operating conditions of the year being reported.
 - 3. When sufficient data pursuant to subsection (C)(1) or (2) is not available, emissions estimates shall be calculated using emissions factors from EPA Publication No. AP-42 "Compilation of Air Pollutant Emission Factors," Volume I: Stationary Point and Area Sources, Fifth Edition, 1995, U.S. Environmental Protection Agency, Research Triangle Park, NC, including Supplements A through F and all updates published through July 1, 2011 (and no future editions). AP-42 is incorporated by reference and is on file with the Department of Environmental Quality and can be obtained from the Government Printing Office, 732 North Capitol Street, NW, Washington, D.C. 20401, telephone (202) 512-1800, or by downloading the document from the web site for the EPA Clearinghouse for Emission Inventories and Emission Factors.
 - 4. When sufficient data pursuant to subsections (C)(1) through (C)(3) is not available, emissions estimates shall be calculated from material balance using engineering knowledge of process.
 - 5. When sufficient data pursuant to subsections (C)(1) through (4) is not available, emissions estimates shall be calculated by equivalent methods approved by the Director. The Director shall only approve methods that are demonstrated as accurate and reliable as one of the methods in subsections (C)(1) through (4).
- D. Actual quantities of emissions calculated under subsection (C) shall be determined on the basis of actual operating hours, production rates, in-place process control equipment, operational process control data, and types of materials processed, stored, or combusted.
- E. An amendment to an annual emission inventory questionnaire, containing the documentation required by subsection (B)(3), shall be submitted to the Director by any source whenever it discovers or receives notice, within two years of the original submittal, that incorrect or insufficient information was submitted to the Director by a previous questionnaire. If the incorrect or insufficient information resulted in an incorrect annual emissions fee, the Director shall require that additional payment be made or shall apply an amount as a credit to a future annual emissions fee. The submittal of an amendment under this subsection (shall) not subject the owner or operator to an enforcement action or a civil or criminal penalty if the original submittal of incorrect or insufficient information was due to reasonable cause and not willful neglect.
- F. The Director may require submittal of supplemental emissions inventory questionnaires for air contaminants pursuant to A.R.S. §§ 49-422, 49-424, and 49-426.03 through 49-426.08.

Historical Note

Emergency rule adopted effective September 17, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-3). Emergency rule re-adopted without change effective December 16, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency expired; text deleted (Supp. 93-1). New Section adopted effective November 15, 1993 (Supp. 93-4). Amended effective December 7, 1995 (Supp. 95-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23

A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-328. Conditional Orders

- A.** The Director may grant to any person a conditional order for each air pollution source which allows such person to vary from any provision of A.R.S. Title 49, Chapter 3, Article 2, or this Chapter, for any non-federally enforceable requirement of a permit issued pursuant to this Chapter if the Director makes each of the following findings:
 1. Issuance of the conditional order will not endanger public health or the environment, impede attainment or maintenance of the national ambient air quality standards, or constitute a violation of the Act; and
 2. Either of the following is true:
 - a. There has been a breakdown of equipment or upset of operations beyond the control of the petitioner which causes the source to be out of compliance with the requirements of this Chapter; the source was in compliance with the requirements of this Chapter before the breakdown or upset, and the breakdown or upset may be corrected within a reasonable time;
 - b. There is no reasonable relationship between the economic and social cost of, and benefits to be obtained from, achieving compliance.
- B.** The following procedures shall apply to a person seeking a conditional order:
 1. The person shall file a petition for a conditional order with the Director. The petition shall contain at a minimum:
 - a. A description of the breakdown or upset;
 - b. A description of corrective action being undertaken to bring the source back into compliance;
 - c. An estimate of emissions related to the breakdown or upset;
 - d. A compliance schedule with a date of final compliance and interim dates as appropriate;
 - e. A detailed analysis of the economic and social costs and benefits of achieving compliance with the requirement for which the variance is sought, if the petition is based on subsection (A)(2)(b).
 2. If the issuance of the conditional order requires a public hearing pursuant to R18-2-330, the Director shall set the hearing date within 30 days after the filing of the petition and the hearing shall be held within 60 days after the filing of the petition.
 3. Notice of the filing of a petition for a conditional order and of the hearing date on said petition shall be published in the manner provided in A.R.S. § 49-444 and R18-2-330.
- C.** Decisions on petitions for a conditional order shall be made as follows:
 1. For any conditional order that requires a revision to the SIP, the Director shall comply with the requirements contained in 40 CFR 51, Subpart F.
 2. For any other conditional order, the Director shall grant or deny the petition with such terms and conditions as are listed in subsection (E)(2) within 30 days after the conclusion of any required hearing, or, if no hearing is held, within 60 days after the filing of the petition.
- D.** A fee to cover the costs of processing conditional orders may be charged by the Director prior to issuance consistent with R18-2-326(I) or (J). The fee shall be deposited in the permit administration fund established in A.R.S. § 49-455.
- E.** The terms of a conditional order or its renewal shall conform to the following:
 1. A conditional order issued by the Director shall be valid for such period as the Director prescribes but in no event for more than one year in the case of a source that is required to obtain a permit pursuant to this Chapter and Title V of the Act, and three years in the case of any other source that is required to obtain a permit pursuant to this Chapter.
 2. The terms and conditions which are imposed as a condition to the granting or the continued existence of a conditional order shall include:
 - a. A detailed plan for completion of corrective steps needed to conform to the provisions of A.R.S. Title 49, Chapter 3, Article 2, this Chapter, and the requirements of any permit issued pursuant to this Chapter;
 - b. A requirement that necessary construction shall begin as expeditiously as practicable and proceed as specified in the compliance schedule;
 - c. Written reports, at least quarterly, of the status of the source and construction progress;
 - d. The right of the Director to make periodic inspection of the facilities for which the conditional order is granted;
 - e. Such additional terms and conditions as the Director finds necessary to meet the requirements of this Section and A.R.S. § 49-437.
 3. A holder of a conditional order may petition the Director to renew the order. The total term of the initial period and all renewals shall not exceed three years from the date of initial issuance of the order. Petitions for renewal may be filed at any time not more than 60 days nor less than 30 days prior to the expiration of the order. The Director, within 30 days of receipt of a petition, shall renew the conditional order for one year if the petitioner is in compliance and conforming with the terms and conditions imposed. The Director may refuse to renew the conditional order if, after a public hearing held within 30 days of receipt of a petition, the Director finds that the petitioner is not in compliance and conforming with the terms and conditions of the conditional order. If, after a period of three years from the date of original issuance, the petitioner is not in compliance and conforming with the terms and conditions, the Director may renew a conditional order for a total term of two additional years only if the Director finds that failure to comply and conform is due to conditions beyond the control of such petitioner.
 4. If the Director amends or adopts any rule imposing conditions on the operation of an air pollution source which have become effective as to the source by reason of the action of the Director or otherwise, and which require the implementation of control strategies necessitating the installation of additional or different air pollution control equipment, the Director may renew a conditional order for an additional term. The term of the renewal shall be governed by the preceding subsections of this Section, except that the total term of the renewal shall not exceed two years.
 5. A conditional order issued by the Director shall be effective when issued unless:
 - a. The conditional order varies from the requirements of the applicable implementation plan, in which case the conditional order shall be submitted to the Administrator as a revision to the applicable implementation plan pursuant to Section 110(I) of the Act and shall become effective upon approval by the Administrator.

- b. The conditional order varies from the requirements of a permit issued for a facility that is required to obtain a permit pursuant to Title V of the Act, in which case the conditional order shall be submitted to the Administrator if required by Section 505 of the Act and shall be effective at the end of the review period specified in such section, unless objected to within such period by the Administrator.
- F. Violation of the terms and conditions of the conditional order shall subject the source to suspension or revocation of the conditional order in accordance with A.R.S. § 49-441.
- d. The activity or activities involved in the permit action;
- e. The emissions change involved in any permit revisions;
- f. The air contaminants to be emitted;
- g. If applicable, that a notice of confidentiality has been filed under R18-2-305;
- h. If applicable, that the source has submitted a risk management analysis under R18-2-1708;
- i. A statement that any person may submit written comments, or a written request for a public hearing, or both, on the proposed permit action, along with the deadline for such requests or comments;
- j. The name, address, and telephone number of a person from the Department from whom additional information may be obtained;
- k. Locations where the materials identified in subsection (D) may be reviewed and the times at which they shall be available for public inspection.
- l. The Director shall include a statement in the public notice if the permit or permit revision would result in the generation of emission reduction credits under R18-2-1204, or the utilization of emission reduction credits under R18-2-1206.

Historical Note

Adopted effective November 15, 1993 (Supp. 93-4).

R18-2-329. Permits Containing the Terms and Conditions of Federal Delayed Compliance Orders (DCO) or Consent Decrees

- A. The terms and conditions of either a delayed compliance order (DCO) or consent decree shall be incorporated into a permit through a permit revision. In the event the permit expires prior to the expiration of the DCO or consent decree, the DCO or consent decree shall be incorporated into any permit renewal.
- B. The owner or operator of a source subject to a DCO or consent decree shall submit to the Director a quarterly report of the status of the source and construction progress and copies of any reports to the Administrator required under the order or decree. The Director may require additional reporting requirements and conditions in permits issued under this Article.
- C. For the purpose of this Chapter, sources subject to a consent decree issued by a federal court shall meet the same requirements as those subject to a DCO.

Historical Note

Adopted effective November 15, 1993 (Supp. 93-4).

R18-2-330. Public Participation

- A. The Director shall provide public notice, an opportunity for public comment, and an opportunity for a hearing before taking any of the following actions:
 - 1. The issuance or denial of a permit or permit renewal,
 - 2. The issuance or denial of a significant permit revision,
 - 3. The revocation and reissuance or reopening of a permit,
 - 4. The grant of any conditional orders pursuant to R18-2-328,
 - 5. The issuance or denial of a registration for the construction of a source, except as provided in R18-2-302.01(B)(5).
- B. The Director shall provide public notice of receipt of complete applications for permits or permit revisions subject to Article 4 of this Chapter by publishing a notice in a newspaper of general circulation in the county where the source is or will be located.
- C. The Director shall provide the notice required pursuant to subsection (A) as follows:
 - 1. The Director shall publish the notice once each week for two consecutive weeks in two newspapers of general circulation in the county where the source is or will be located.
 - 2. The Director shall mail a copy of the notice to persons on a mailing list developed by the Director consisting of those persons who have requested in writing to be placed on such a mailing list.
 - 3. The notice shall include the following:
 - a. Identification of the affected facility;
 - b. Name and address of the permittee or applicant;
 - c. Name and address of the permitting authority processing the permit action;
- D. By no later than the date notice is first published under subsection (A), the Department shall make copies of the following materials available at a public location in the same county as the stationary source that is the subject of the application and at the closest Department office:
 - 1. The application;
 - 2. The proposed permit or permit revision, if applicable;
 - 3. The Department's analysis in support of the grant or denial of the permit or permit revision; and
 - 4. All other materials available to the Director that are relevant to the permit decision.
- E. The Director shall hold a public hearing to receive comments on petitions for conditional orders which would vary from requirements of the applicable implementation plan. For all other actions involving a proposed permit, the Director shall hold a public hearing only upon written request. If a public hearing is requested, the Director shall schedule the hearing and publish notice as described in A.R.S. § 49-444 and subsection (D). The Director shall give notice of any public hearing at least 30 days in advance of the hearing.
- F. At the time the Director publishes the first notice under subsection (C)(1), the applicant shall post a notice containing the information required in subsection (C)(3) at the site where the source is or may be located. Consistent with federal, state, and local law, the posting shall be prominently placed at a location under the applicant's legal control, adjacent to the nearest public roadway, and visible to the public using the public roadway. If a public hearing is to be held, the applicant shall place an additional posting providing notice of the hearing. Any posting shall be maintained until the public comment period is closed.
- G. The Director shall provide at least 30 days from the date of its first notice for public comment to receive comments and requests for a hearing. The Director shall keep a record of the commenters and of the issues raised during the public participation process and shall prepare written responses to all comments received. At the time a final proposed permit is submitted to EPA, in the case of a Class I permit, or a final decision is made, in the case of a Class II permit, the record and copies of the Director's responses shall be made available to the applicant and all commenters.

Historical Note

Adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 8 A.A.R. 1815, effective March 18, 2002 (Supp. 02-1). R18-2-330 has been corrected to include subsection (D)(12), which was omitted when the Section was amended in the 02-1 supplement (Supp. 05-1). Amended by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-331. Material Permit Conditions

- A. For the purposes of A.R.S. §§ 49-464(G) and 49-514(G), a “material permit condition” shall mean a condition which satisfies all of the following:
1. The condition is in a permit or permit revision issued by the Director or a control officer after November 15, 1993.
 2. The condition is identified within the permit as a material permit condition.
 3. The condition is one of the following:
 - a. An enforceable emission standard imposed to avoid classification as a major modification or major source or to avoid triggering any other applicable requirement;
 - b. A requirement to install, operate, or maintain a maximum achievable control technology or hazardous air pollutant reasonably available control technology required under Article 17 of this Chapter;
 - c. A requirement for the installation or certification of a monitoring device;
 - d. A requirement for the installation of air pollution control equipment;
 - e. A requirement for the operation of air pollution control equipment;
 - f. An opacity standard required by Section 111 or Title I, Part C or D of the Act.
 4. Violation of the condition is not covered by A.R.S. § 49-464(A) through (F), or (H) through (J) or A.R.S. § 49-514(A) through (F), or (H) through (J).
- B. For the purposes of subsections (A)(3)(c), (d), and (e), a permit condition shall not be material where the failure to comply resulted from circumstances which were outside the control of the source. As used in this Section, “circumstances outside the control of the source” shall mean circumstances where the violation resulted from a sudden and unavoidable breakdown of the process or the control equipment, resulted from unavoidable conditions during a start up or shut down or resulted from upset of operations.
- C. For purposes of this Section, the term “emission standard” shall have the meaning specified in A.R.S. §§ 49-464(U) and 49-514(T).

Historical Note

Adopted effective November 15, 1993 (Supp. 93-4). Amended effective June 4, 1998 (Supp. 98-2). Amended by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2).

R18-2-332. Stack Height Limitation

- A. The degree of emission limitation required of any source for control of any pollutant shall not be affected by so much of the source’s stack height that exceeds good engineering practice or by any other dispersion technique, except as provided in subsection (B). This section does not require the plan to restrict, in any manner, the actual stack height of any source.
- B. Subsection (A) shall not apply to:

1. Stacks in existence, or dispersion techniques implemented, on or before December 31, 1970, unless the stationary source or emission unit emitting pollutants through the stack, or employing the dispersion technique, was constructed, reconstructed or underwent a major modification after December 31, 1970; or
 2. Coal-fired steam electric generating units, subject to the provisions of Section 118 of the Act which commenced operation before July 1, 1957, with stacks constructed under a construction contract awarded before February 8, 1974.
- C. Good engineering practice stack height is the greater of the following heights:
1. 213.25 feet (65 meters) measured from the ground-level elevation at the base of the stack;
 2. The result of one of the following equations, where “Hg” = good engineering practice stack height measured from the ground-level elevation at the base of the stack; “H” = height of nearby structures measured from the ground-level elevation at the base of the stack; and “L” = lesser dimension (height or projected width) of nearby structures:
 - a. For stacks in existence on January 12, 1979, and for which the owner or operator had obtained all applicable preconstruction permits or approvals required under 40 CFR 51 and 52, $H_g = 2.5H$, provided the owner or operator produces evidence that this equation was actually relied on in establishing an emission limitation; or
 - b. For all other stacks, $H_g = H + 1.5L$, provided that EPA, the Director, or local control agency may require the use of a field study or fluid model to verify good engineering practice stack height for the source;
 3. The height demonstrated by a fluid model or a field study approved by the reviewing agency, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain features.
- D. As used in this Section:
1. For a specific structure or terrain feature, “nearby” means:
 - a. For purposes of applying the formulae in subsection (C)(2), that distance up to five times the lesser of the height or the width dimension of a structure but not greater than 0.8 km (1/2 mile).
 - b. For conducting demonstrations under subsection (C)(3), not greater than 0.8 km (1/2 mile). An exception is that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height (Ht) of the feature, not to exceed 2 miles if such feature achieved a height (Ht) 0.8 km from the stack that is at least 40% of the good engineering practice stack height determined by the formula provided in subsection (C)(2)(b), or 85 feet (26 meters), whichever is greater, as measured from the ground-level elevation at the base of the stack.
 2. “Excessive concentrations” means:
 - a. For sources seeking credit for stack height exceeding that established under subsection (C)(2), a maximum ground-level concentration due to emissions from a stack due in whole or in part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is

at least 40% in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than a national ambient air quality standard. For sources subject to R18-2-406, an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40% in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than the applicable maximum allowable increase contained in R18-2-218. The allowable emission rate to be used in making demonstrations under subsection (C)(3) shall be prescribed by the new source performance standard which is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the Director, an alternative emission rate shall be established in consultation with the source owner or operator;

- b. For sources seeking credit after October 11, 1983, for increases in existing stack heights up to the heights established under subsection (C)(2), either:
 - i. A maximum ground-level concentration due in whole or in part to downwash, wakes, or eddy effects as provided in subsection (D)(2)(a), except that emission rate specified by any applicable SIP (or, in the absence of such a limit, the actual emission rate) shall be used; or
 - ii. The actual presence of a local nuisance caused by the existing stack, as determined by the Director; and
- c. For sources seeking credit after January 12, 1979, for a stack height determined under subsection (C)(2), where the Director requires the use of a field study or fluid model to verify good engineering practice stack height, for sources seeking stack height credit after November 9, 1984, based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970, based on the aerodynamic influence of structures not adequately represented by the equations in subsection (C)(2), a maximum ground-level concentration due in whole or in part to downwash, wakes, or eddy effects that is at least 40% in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

- E. Before the Director issues a permit or permit revision under R18-2-334 or Article 4 to a source based on a good engineering practice stack height that exceeds the height allowed by subsection (B)(1) or (2), the Director shall notify the public of the availability of the demonstration study and provide opportunity for a public hearing in accordance with the requirements of R18-2-330.

Historical Note

Adopted effective November 15, 1993 (Supp. 93-4).
Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-333. Acid Rain

- A. 40 CFR 72, 74, 75 and 76 and all accompanying appendices, adopted as of June 28, 2013, (and no future amendments) are

incorporated by reference as applicable requirements. These standards are on file with the Department and shall be applied by the Department. These standards can be obtained from the U.S. Government Printing Office, Superintendent of Documents, bookstore.gpo.gov, Mail Stop: SSOP IDCC-SSOM, Washington, D.C. 20402-9328.

- B. When used in 40 CFR 72, 74, 75 or 76, "Permitting Authority" means the Arizona Department of Environmental Quality and "Administrator" means the Administrator of the United States Environmental Protection Agency.
- C. If the provisions or requirements of the regulations incorporated in this Section conflict with any of the remaining portions of this Title, the regulations incorporated in this Section apply and take precedence.

Historical Note

Adopted effective October 7, 1994 (Supp. 94-4).
Amended effective December 7, 1995 (Supp. 95-4).
Amended effective December 4, 1997 (Supp. 97-4).
Amended by final rulemaking at 5 A.A.R. 3221, effective August 12, 1999 (Supp. 99-3). Amended by final rulemaking at 6 A.A.R. 4170, effective October 11, 2000 (Supp. 00-4). Amended by final rulemaking at 8 A.A.R. 2543, effective May 24, 2002 (Supp. 02-2). Amended by final rulemaking at 10 A.A.R. 3281, effective September 27, 2004 (Supp. 04-3). Amended by final rulemaking at 11 A.A.R. 5504, effective February 4, 2006 (Supp. 05-4). Amended by final rulemaking at 13 A.A.R. 4199, effective January 5, 2008 (Supp. 07-4). Amended by final expediated rulemaking at 21 A.A.R. 2747, effective December 13, 2015 (Supp. 15-4).

R18-2-334. Minor New Source Review

- A. Applicability.
 1. Except as provided in subsection (A)(4), this Section shall apply to the following activities:
 - a. Construction of any new Class I or Class II source, including the construction of any source requiring a Class II permit under R18-2-302.01(C)(4); or
 - b. Any minor NSR modification to a Class I or Class II source.
 2. This Section shall apply to a regulated minor NSR pollutant emitted by a new stationary source subject to this Section, if the source will have the potential to emit that pollutant at an amount equal to or greater than the permitting exemption threshold.
 3. This Section shall apply to an increase in emissions of a regulated minor NSR pollutant from a minor NSR modification, if the modification would increase the source's potential to emit that pollutant by an amount equal to or greater than the permitting exemption threshold.
 4. This Section shall not apply to the emissions of a pollutant from any of the activities identified in this subsection, if the emissions of that pollutant are subject to Article 4 of this Chapter.
- B. No person shall begin actual construction of a new stationary source, or minor NSR modification, subject to this Section without first obtaining a permit, a permit revision, a proposed final permit, or a proposed final permit revision from the Director in accordance with R18-2-304.
- C. The Director shall not issue a proposed final Class I permit or permit revision or a Class II permit or permit revision subject to this Section to a person proposing to construct a new source or make a minor NSR modification unless the source or modification meets one of the following conditions for each regulated minor NSR pollutant subject to this section:
 1. The owner or operator elects to implement RACT.

- a. In the case of a new source, the owner or operator shall implement RACT for each emissions unit that has the potential to emit a regulated minor NSR pollutant in an amount equal to or greater than 20% of the permitting exemption threshold.
 - b. In the case of a minor NSR modification, the owner or operator shall implement RACT for each emissions unit that will experience an increase in the potential to emit a regulated minor NSR pollutant equal to or greater than 20% of the permitting exemption threshold.
 - c. When it is technically feasible and otherwise consistent with the definition of RACT to apply the same devices, systems, process modifications, work practices or other apparatus or techniques to a group of emissions units, that group of emissions units shall be treated as a single emissions unit for purposes of subsections (C)(1)(a) and (b). The following are examples of situations to which this subsection (may) apply:
 - i. Emissions from a group of emissions units can be vented to a single control device.
 - ii. A low-VOC coating can be used in several spray-painting booths.
2. An ambient air quality assessment demonstrates that emissions from the source or minor NSR modification will not interfere with attainment or maintenance of a national ambient air quality standard in Arizona or any affected state.
 - a. An owner or operator may elect to have the Director perform a screening model of its emissions. If the results of the screening model indicate that the source or minor NSR modification will interfere with attainment or maintenance of a national ambient air quality standard, the owner or operator may perform a more refined model to make the demonstration required by this subsection.
 - b. The requirements of this subsection shall be satisfied, if the results of the screening or more refined model conducted pursuant to subsection (B)(2)(a) demonstrate either of the following:
 - i. Ambient concentrations resulting from emissions from the source or modification combined with existing concentrations of regulated minor NSR pollutants will not interfere with attainment or maintenance of a national ambient air quality standard.
 - ii. Emissions from the source or minor modification will have an ambient impact below the significance levels as defined in R18-2-401.
 - c. The assessment required by this subsection shall take into account any limitations, controls or emissions decreases that are or will be enforceable in the permit or permit revision for the source.
- D. RACT Determinations.**
1. Except as otherwise provided in this subsection, the Director shall determine RACT on the basis of a case-by-case analysis performed by the permit applicant of the emission reduction methods available for each emission unit subject to the RACT requirement under subsection (C)(1).
 2. The Director shall accept a requirement proposed by a permit applicant as RACT under subsection (C)(1) if it complies with the most recently adopted of the following guidelines or standards in effect at the time of the application:
 - a. A control technique guideline issued by the Administrator under section 108(f)(1) of the Act.
 - b. An emissions standard established or revised by the Administrator for the same type of source under section 111 or 112 of the Act after November 15, 1990.
 - c. An applicable requirement of this Chapter or of air quality control regulations adopted by a County under A.R.S. § 49-479 that has been specifically identified as constituting RACT.
 - d. A RACT standard imposed on the same type of source by a general permit.
 - e. A RACT standard imposed on the same type of source under this Section no more than 10 years before submission of the application by the permit applicant. To facilitate identification of previously imposed RACT standards, the Director shall establish an online database of RACT determinations made under this Section.
- E.** Notwithstanding an election to adopt RACT under subsection (C)(1), a permit applicant subject to this Section shall conduct an ambient air quality impact assessment under subsection (C)(2) upon the Director's request. The Director shall make such a request, if there is reason to believe that a source or minor NSR modification could interfere with attainment or maintenance of a national ambient air quality standards. In making that determination, the Director shall take into consideration:
1. The source's emission rates.
 2. The location of emission units within the facility and their proximity to the ambient air.
 3. The terrain in which the source is or will be located.
 4. The source type.
 5. The location and emissions of nearby sources.
 6. Background concentrations of regulated minor NSR pollutants.
- F.** The Director shall deny an application for a Class I permit or permit revision or a Class II permit or permit revision subject to this Section, if an assessment conducted pursuant to subsection (C)(2) demonstrates that the source or modification will interfere with attainment or maintenance of a national ambient air quality standard.
- G.** A copy of the notice required by R18-2-330 for permits or significant permit revisions subject to this Section must also be sent to the Administrator through the appropriate regional office, and to all other state and local air pollution control agencies having jurisdiction in the region in which the source subject to the permit or permit revision will be located. The notice also must be sent to any other agency in the region having responsibility for implementing the procedures required under 40 CFR 51, I.
- H.** All modeling required pursuant to this Section shall be conducted in accordance with 40 CFR 51, Appendix W.
- I.** The Director shall specify those conditions in the permit that are implemented pursuant to this Section. The specified conditions shall be included in subsequent permit renewals unless modified pursuant to this Section or Article 4 of this Chapter.
- J.** The issuance of a permit or permit revision under this Section shall not relieve the owner or operator of the responsibility to comply fully with applicable provisions of the SIP and any other requirements under local, state, or federal law.

Historical Note

New Section made by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

ARTICLE 4. PERMIT REQUIREMENTS FOR NEW MAJOR SOURCES AND MAJOR MODIFICATIONS TO EXISTING MAJOR SOURCES

R18-2-401. Definitions

The following definitions apply to this Article:

1. “Adverse impact on visibility” means visibility impairment that interferes with the management, protection, preservation, or enjoyment of the visitor’s visual experience of a federal Class I area, as determined according to R18-2-410. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with times of visitor use of the federal Class I area and the frequency and timing of natural conditions that reduce visibility. This term does not include effects on integral vistas.
2. “Baseline actual emissions” means the rate of emissions, in tons per year, of a regulated NSR pollutant, as determined in accordance with subsections (2)(a) through (d).
 - a. For any existing electric utility steam generating unit, baseline actual emissions means the average rate, in tons per year, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the five-year period immediately preceding when the owner or operator begins actual construction of the project. The Director shall allow the use of a different time period upon a determination that it is more representative of normal source operation.
 - i. The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.
 - ii. The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period.
 - iii. For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.
 - iv. The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by subsection (2)(a)(ii).
 - b. For any existing emissions unit (other than an electric utility steam generating unit), baseline actual emissions means the average rate, in tons per year, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 10-year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the Administrator for a permit required under 40 CFR 52.21 or by the Director for a permit required under the state implementation plan, whichever is earlier, except that the 10-year period shall not include any period earlier than November 15, 1990.
 - i. The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.
 - ii. The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period. However, if an emission limitation is part of a maximum achievable control technology standard that the Administrator proposed or promulgated under 40 CFR 63, the baseline actual emissions need only be adjusted if the state of Arizona has taken credit for such emissions reductions in an attainment demonstration or maintenance plan consistent with the requirements of 40 CFR 51.165(a)(3)(ii)(G).
 - iii. The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major source must currently comply, had such major source been required to comply with such limitations during the consecutive 24-month period.
 - iv. For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units affected by the project. A different consecutive 24-month period may be used for each regulated NSR pollutant.
 - v. The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by subsection (2)(b)(ii) or (iii).
 - c. For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit’s potential to emit.
 - d. For a PAL for a stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures in subsection (2)(a), for other existing emissions units in accordance with the procedures contained in subsection (2)(b), and for new emissions units in accordance with the procedures contained in subsection (2)(c).
3. “Basic design parameter” means:
 - a. Except as provided in subsection (3)(c), for a process unit at a steam electric generating facility, the owner or operator may select as its basic design parameters either maximum hourly heat input and maximum hourly fuel consumption rate or maximum hourly electric output rate and maximum steam flow rate. When establishing fuel consumption specifications in terms of weight or volume, the minimum fuel quality based on Btu content shall be used for determining the basic design parameters for a coal-fired electric utility steam generating unit.

- b. Except as provided in subsection (3)(c), the basic design parameters for any process unit that is not at a steam electric generating facility are maximum rate of fuel or heat input, maximum rate of material input, or maximum rate of product output. Combustion process units will typically use maximum rate of fuel input. For sources having multiple end products and raw materials, the owner or operator should consider the primary product or primary raw material when selecting a basic design parameter.
 - c. If the owner or operator believes the basic design parameters in subsections (3)(a) and (b) are not appropriate for a specific industry or type of process unit, the owner or operator may propose to the Director an alternative basic design parameters for the source's process unit. If the Director approves of the use of an alternative basic design parameters, the Director shall issue a permit that is legally enforceable that records such basic design parameters and requires the owner or operator to comply with such parameters.
 - d. The owner or operator shall use credible information, such as results of historic maximum capability tests, design information from the manufacturer, or engineering calculations, in establishing the magnitude of the basic design parameters specified in subsections (3)(a) and (b).
 - e. If design information is not available for a process unit, then the owner or operator shall determine the process unit's basic design parameters using the maximum value achieved by the process unit in the five-year period immediately preceding the planned activity.
 - f. Efficiency of a process unit is not a basic design parameter.
 - g. The replacement activity shall not cause the process unit to exceed any emission limitation, or operational limitation that has the effect of constraining emissions, that applies to the process unit and that is legally enforceable.
4. "Complete" means, in reference to an application for a permit or permit revision, that the application contains all the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the Department from requesting or accepting any additional information.
5. "Dispersion technique" means any technique that attempts to affect the concentration of a pollutant in the ambient air by any of the following:
- a. Using that portion of a stack that exceeds good engineering practice stack height;
 - b. Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or
 - c. Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams that increases the exhaust gas plume rise. This shall not include any of the following:
 - i. The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream.
 - ii. The merging of exhaust gas streams under any of the following conditions:
 - (1) The source owner or operator demonstrates that the facility was originally designed and constructed with the merged gas streams;
 - (2) After July 8, 1985, the merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant, applying only to the emission limitation for that pollutant; or
 - (3) Before July 8, 1985, the merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, an increase in the quantity of pollutants actually emitted prior to the merging, the Department shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by such intent, the Department shall deny credit for the effects of the merging in calculating the allowable emissions for the source.
 - iii. Smoke management in agricultural or silvicultural prescribed burning programs.
 - iv. Episodic restrictions on residential woodburning and open burning.
 - v. Techniques that increase final exhaust gas plume rise if the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.
6. "Existing emissions unit" is any emissions unit that is currently in existence and that is not a new emissions unit. A replacement unit is an existing emissions unit.
7. "Federal Class I area" means an area designated as Class I under R18-2-217.
8. "High terrain" means any area having an elevation of 900 feet or more above the base of the stack of a source.
9. "Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice, or of achieving at least comparable reductions at lower cost in terms of energy, economics, or nonair quality environmental impacts.
10. "Low terrain" means any area other than high terrain.
11. "Lowest achievable emission rate" (LAER) means, for any source, the more stringent rate of emissions based on one of the following:
- a. The most stringent emissions limitation that is contained in any implementation plan approved or promulgated under sections 110 or 172 of the Act for the class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that the limitation is not achievable; or

- b. The most stringent emissions limitation that is achieved in practice by the class or category of stationary source. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the stationary source. The application of this term shall not permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under the applicable new source performance standards.
12. “Major emissions unit” means:
- Any emissions unit that emits or has the potential to emit 100 tons per year or more of the PAL pollutant in an attainment area; or
 - Any emissions unit that emits or has the potential to emit the PAL pollutant in an amount that is equal to or greater than the major source threshold for the PAL pollutant for nonattainment areas. For example, in accordance with the definition of major stationary source in section 182(c) of the Act, an emissions unit would be a major emissions unit for VOC if the emissions unit is located in a serious ozone nonattainment area and it emits or has the potential to emit 50 or more tons of VOC per year.
13. “Major source” is defined as follows:
- For purposes of determining the applicability of R18-2-403 through R18-2-405 or R18-2-411, major source means any stationary source that emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant, except that the following thresholds shall apply in areas subject to subpart 2, subpart 3 or subpart 4 of part D, Title I of the Act:
- | Pollutant Emitted | Nonattainment Pollutant and Classification | Quantity Threshold tons/year or more |
|--|--|--------------------------------------|
| Carbon Monoxide (CO) | CO, Serious, if stationary sources contribute significantly to CO levels in the area as determined under rules issued by the Administrator | 50 |
| VOC | Ozone, Serious | 50 |
| VOC | Ozone, Severe | 25 |
| PM ₁₀ | PM ₁₀ , Serious | 70 |
| PM _{2.5} | PM _{2.5} Serious | 70 |
| PM _{2.5} precursors identified in R18-2-101(124)(a) | PM _{2.5} Serious | 70 |
| NO _x | Ozone, Serious | 50 |
| NO _x | Ozone, Severe | 25 |
- For purposes of determining the applicability of R18-2-406 through R18-2-408 or R18-2-410, major source means any stationary source that emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant if the source is classified as a categorical source, or 250 tons per year or more of any regulated NSR pollutant if the source is not classified as a categorical source;
- A major source includes a physical change that would occur at a stationary source, not otherwise qualifying under subsection (13)(a) or (b) as a major source, if the change would constitute a major source by itself.
 - A major source that is major for VOC or nitrogen oxides shall be considered major for ozone.
 - The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this Article whether it is a major source, unless the source belongs to a section 302(j) category.
14. “Mandatory federal Class I area” means an area identified in R18-2-217(B).
15. “New emissions unit” means any emissions unit which is (or will be) newly constructed and which has existed for less than two years from the date such emissions unit first operated.
16. “Plantwide applicability limitation” or “PAL” means an emission limitation that is based on the baseline actual emissions of all emissions units at the stationary source that emit or have the potential to emit the PAL pollutant, expressed in tons per year, for a pollutant at a major source, that is enforceable as a practical matter and established source-wide in accordance with this Section.
17. “PAL allowable emissions” means “allowable emissions” as defined in R18-2-101, except that the allowable emissions for any emissions unit shall be calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit’s potential to emit.
18. PAL effective date generally means the date of issuance of the PAL permit. However, the PAL effective date for an increased PAL is the date any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.
19. “PAL effective period” means the period beginning with the PAL effective date and ending 10 years later.
20. “PAL major modification” means any physical change in or change in the method of operation of the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.
21. “PAL permit” means the permit issued by the Director that establishes a PAL for a major source under Article 3 or 4 of this Chapter.
22. “PAL pollutant” means the pollutant for which a PAL is established at a major source.
23. “Projected actual emissions” means:
- The maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated NSR pollutant during any 12-month period in the 60 calendar months following the date the unit resumes regular operation after the project, or in any 12-month period in the 120 calendar months following that date if the project involves increasing the design capacity or potential to emit of any emissions unit for that regulated NSR pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major source.
 - In determining the projected actual emissions before beginning actual construction, the owner or operator of the major source:
 - Shall consider all relevant information, including but not limited to, historical operational

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- data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the county, state or federal regulatory authorities, and compliance plans under these regulations; and
- ii. Shall include fugitive emissions to the extent quantifiable;
 - iii. Shall include emissions associated with start-ups, shutdowns, and malfunctions ; and
 - iv. Shall exclude, only for calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or
- c. In lieu of using the method set out subsections 23(b)(i) through (iv), the owner or operator may elect to use the emissions unit's potential to emit, in tons per year.
24. "Replacement unit" means an emissions unit for which all the criteria listed in subsections (24)(a) through (d) are met. No creditable emission reductions shall be generated from shutting down the existing emissions unit that is replaced.
- a. The emissions unit is a reconstructed unit within the meaning of 40 CFR 60.15(b)(1), or the emissions unit completely takes the place of an existing emissions unit.
 - b. The emissions unit is identical to or functionally equivalent to the replaced emissions unit.
 - c. The replacement does not alter the basic design parameters of the process unit.
 - d. The replaced emissions unit is permanently removed from the major source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.
25. "Resource recovery project" means any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse. Only energy conversion facilities that utilize solid waste that provides more than 50% of the heat input shall be considered a resource recovery project under this Article.
26. "Significant emissions unit" means an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is equal to or greater than the significant level for that PAL pollutant, but less than the amount that would qualify the unit as a major emissions unit.
27. "Significance levels" means the following ambient concentrations for the enumerated pollutants:

Averaging Time					
Pollutant	Annual	24-Hour	8-Hour	3-Hour	1-Hour
SO ₂	1 µg/m ³	5 µg/m ³		25 µg/m ³	
NO ₂	1 µg/m ³				

CO			0.5 mg/m ³		2 mg/m ³
PM ₁₀	1 µg/m ³	5 µg/m ³			
PM _{2.5} federal Class I area	0.06 µg/m ³	0.07 µg/m ³			
PM _{2.5} federal Class II area	0.3 µg/m ³	1.2 µg/m ³			
PM _{2.5} federal Class III area	0.3 µg/m ³	1.2 µg/m ³			

Except for the annual pollutant concentrations, the Department shall deem that exceedance of significance levels has occurred when the ambient concentration of the above pollutant is exceeded more than once per year at any one location. If the concentration occurs at a specific location and at a time when the national ambient air quality standards for the pollutant are not violated, the significance level does not apply.

28. "Small emissions unit" means an emissions unit that emits or has the potential to emit the PAL pollutant in an amount less than the significant level for that PAL pollutant.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Former Section R9-3-401 renumbered without change as Section R18-2-401 (Supp. 87-3). Section R18-2-401 renumbered to R18-2-601. New Section R18-2-401 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3). Typographical error corrected in R18-2-401(9)(a) (Supp. 00-4). Amended by final rulemaking at 13 A.A.R. 1134, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-402. General

- A. The preconstruction review requirements of this Article shall apply to the construction of any new major source or any project at an existing major source.
- B. The requirements of R18-2-403 through R18-2-410 apply to the construction of any new major source or any major modification of any existing major source, except as this Article otherwise provides.
- C. No person shall begin actual construction of a new major source or a major modification subject to the requirements of R18-2-403 through R18-2-410 without first obtaining a proposed final permit from the Director, pursuant to R18-2-307(A)(2), stating that the major source or major modification shall meet those requirements.
- D. The requirements of this Article apply to projects at major sources in accordance with the following principles.
 1. Except as otherwise provided in subsection (E), a project is a major modification for a regulated NSR pollutant if it causes both a significant emissions increase and a significant net emissions increase. The project is not a major modification if it does not cause a significant emissions

- increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.
2. The procedure for calculating before beginning actual construction whether a significant emissions increase will occur depends upon the types of emissions units being modified as set forth in subsections (D)(3) through (6). The procedure for calculating before beginning actual construction whether a significant net emissions increase will occur at the major source is set forth in the definition of net emissions increase in R18-2-101. Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.
 3. Actual-to-projected-actual applicability test for projects that only involve existing emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions and the baseline actual emissions, for each existing emissions unit, equals or exceeds the significant amount for that pollutant.
 4. Actual-to-potential applicability test for projects that only involve new emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit from each new emissions unit following completion of the project and the baseline actual emissions of these units before the project equals or exceeds the significant amount for that pollutant.
 5. [Reserved.]
 6. Hybrid applicability test for projects that involve both new emissions units and existing emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in subsections (D)(3) through (D)(4), as applicable with respect to each emissions unit, equals or exceeds the significant amount for that pollutant.
- E. Any major source with a PAL for a regulated NSR pollutant shall comply with R18-2-412.
- F. This subsection applies with respect to any regulated NSR pollutant emitted from projects at existing emissions units at a major stationary source (other than projects at a source with a PAL) in circumstances where there is a reasonable possibility, within the meaning of subsection (F)(6), that a project that is not a part of a major modification may result in a significant emissions increase of such pollutant and the owner or operator elects to use the method specified in R18-2-401(23)(b)(i) through (iv) of the definition of projected actual emissions for calculating projected actual emissions.
1. Before beginning actual construction of the project, the owner or operator shall document and maintain a record of the following information:
 - a. A description of the project;
 - b. Identification of the emissions unit(s) with emissions of a regulated NSR pollutant that could be affected by the project;
 - c. A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions the amount of emissions excluded under R18-2-401(23)(b)(iv) of the definition of projected actual emissions, and an explanation for why such amount was excluded; and
 - d. Any netting calculations, if applicable.
 2. If the emissions unit is an existing electric utility steam generating unit, before beginning actual construction, the owner or operator shall provide a copy of the information set out in subsection (F)(1) to the Director. Nothing in this subsection shall be construed to require the owner or operator of such a unit to obtain any determination from the Director before beginning actual construction.
 3. The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in subsection (F)(1)(b); and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of five years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity or potential to emit of that regulated NSR pollutant at such emissions unit. For purposes of this subsection, fugitive emissions (to the extent quantifiable) shall be monitored if the emissions unit is part of a section 302(j) category or if the emissions unit is located at a major stationary source that belongs to a section 302(j) category.
 4. The owner or operator shall submit a report to the Director if for a calendar year the annual emissions, in tons per year, from the project identified in subsection (F)(1) exceed the sum of the baseline actual emissions, as documented and maintained under subsection (F)(1)(c), by a significant amount for that regulated NSR pollutant, and if the emissions differ from the preconstruction projection as documented and maintained under subsection (F)(1)(c). The owner or operator shall submit the report to the Director within 60 days after the end of the calendar year. The report shall contain the following:
 - a. The name, address and telephone number of the major source;
 - b. The annual emissions as calculated pursuant to subsection (F)(3); and
 - c. Any other information that the owner or operator wishes to include in the report, such as an explanation as to why the emissions differ from the preconstruction projection.
 5. Notwithstanding subsection (F)(4), if any existing emissions unit identified in subsection (F)(1)(b) is an electric utility steam generating unit, the owner or operator shall submit a report to the Director within 60 days after the end of each calendar year during which the owner or operator must generate records under subsection (F)(3). The report shall document the unit's post-project annual emissions during the calendar year that preceded submission of the report.
 6. A "reasonable possibility" under subsection (F) occurs when the owner or operator calculates the project to result in one of the following:
 - a. A projected actual emissions increase of at least 50% of the amount that is a significant emissions increase (without reference to the amount that is a significant net emissions increase) for the regulated NSR pollutant.
 - b. A projected actual emissions increase that, added to the amount of emissions excluded under subsection R18-2-401(23)(b)(iv) of the definition of projected actual emissions, sums to at least 50% of the amount that is a significant emissions increase (without reference to the amount that is a significant net emissions increase) for the regulated NSR pollutant. For

- a project for which a reasonable possibility occurs only within the meaning of subsection (F)(6)(b), and not also within the meaning of subsection (F)(6)(a), subsections (F)(2) through (5) do not apply to the project.
7. The owner or operator of the source shall make the information required to be documented and maintained under subsection (F) available for review upon request for inspection by the Department or the general public.
- G.** An application for a permit or permit revision under this Article, other than a PAL permit pursuant to R18-2-412, shall not be considered complete unless the application demonstrates that:
1. The requirements in subsection (H) are met;
 2. The more stringent of the applicable new source performance standards or the existing source performance standards in Article 7 of this Chapter are applied to the proposed new major source or major modification of a major source;
 3. The visibility requirements contained in R18-2-410 are satisfied;
 4. All applicable provisions of Article 3 of this Chapter are met;
 5. The new major source or major modification will be in compliance with whatever emission limitation, design, equipment, work practice or operational standard, or combination thereof is applicable to the source or modification. The degree of emission limitation required for control of any pollutant under this Article shall not be affected in any manner by:
 - a. Stack height in excess of GEP stack height except as provided in R18-2-332; or
 - b. Any other dispersion technique, unless implemented prior to December 31, 1970;
 6. The new major source or major modification will not exceed the applicable standards for hazardous air pollutants contained in this Chapter;
 7. The new major source or major modification will not exceed the limitations, if applicable, on emission from nonpoint sources contained in Article 6 of this Chapter;
 8. The new major source or major modification will not have an adverse impact on visibility, as determined according to R18-2-410.
- H.** Except for assessing air quality impacts within federal Class I areas, the air impact analysis required to be conducted as part of a permit application shall initially consider only the geographical area located within a 50 kilometer radius from the point of greatest emissions for the new major source or major modification. The Director, on his own initiative or upon receipt of written notice from any person shall have the right at any time to request an enlargement of the geographical area for which an air quality impact analysis is to be performed by giving the person applying for the permit or permit revision written notice thereof, specifying the enlarged radius to be so considered. In performing an air impact analysis for any geographical area with a radius of more than 50 kilometers, the person applying for the permit or permit revision may use monitoring or modeling data obtained from major sources having comparable emissions or having emissions which are capable of being accurately used in such demonstration, and which are subjected to terrain and atmospheric stability conditions which are comparable or which may be extrapolated with reasonable accuracy for use in such demonstration.
- I.** The Director shall comply with following requirements with respect to an application for a permit or permit revision subject to this Article:
1. Within 60 days after receipt of the application, or any addition to the application, the Director shall advise the applicant of any deficiency. The date of receipt of a complete application shall be, for the purpose of this Section, the date on which the Director receives all required information. The permit application shall not be deemed complete if the Director fails to meet the requirements of this subsection.
 2. Within one year after receipt of a complete application, the Director shall do all of the following:
 - a. Make a preliminary determination as to whether the permit or permit revision should be granted or denied.
 - b. Make the application, all materials the applicant submitted, the preliminary determination, and materials relating to the application available under R18-2-330(D).
 - c. Notify the public of the application, the preliminary determination and the opportunity for a public hearing and to submit written comments in accordance with R18-2-330(C). In the case of an application subject to R18-2-406, the notice shall include the degree of consumption of the maximum allowable increases allowed under R18-2-218 that is expected to occur as a result of emissions from the proposed source or modification.
 - d. Take final action on the application by denying the permit or permit revision or issuing a proposed final permit or permit revision.
 - e. Notify the applicant in writing of the approval or denial and make the notification, comments on the proposed action, and materials supporting the final action available for public inspection at the location where materials relating to the proposed action were placed under R18-2-330(D).
 3. A copy of any notice required by R18-2-330 and subsection (I)(2)(c) shall be sent to the permit applicant, to the Administrator, and to the following officials and agencies having cognizance over the location where the proposed major source or major modification would occur:
 - a. The air pollution control officer, if one exists, for the county wherein the proposed or existing source that is the subject of the permit or permit revision application is located;
 - b. The county manager for the county wherein the proposed or existing source that is the subject of the permit or permit revision application is located;
 - c. The city or town managers of the city or town which contains, and any city or town the boundaries of which are within 5 miles of, the location of the proposed or existing source that is the subject of the permit or permit revision application;
 - d. Any regional land use planning agency with authority for land use planning in the area where the proposed or existing source that is the subject of the permit or permit revision application is located; and
 - e. Any state, Federal Land Manager, or Indian governing body whose lands may be affected by emissions from the proposed source or modification.
- J.** The authority to construct and operate a new major source or major modification under a permit or permit revision issued under this Article shall terminate if the owner or operator does not commence the proposed construction or major modification within 18 months of issuance or if, during the construction or major modification, the owner or operator suspends work for more than 18

months. The Director may extend the 18-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within 18 months of the projected and approved commencement date.

Historical Note

Amended effective August 6, 1976 (Supp. 76-4). Former Section R9-3-402 repealed, new Section R9-3-402 adopted effective May 14, 1979 (Supp. 79-1). Amended and adopted by reference Open Burning Guidelines for Air Pollution Control effective September 22, 1983 (Supp. 83-5). Former Section R9-3-402 renumbered without change as Section R18-2-402 (Supp. 87-3). Section R18-2-402 renumbered to R18-2-602, new Section R18-2-402 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-403. Permits for Sources Located in Nonattainment Areas

- A. Except as provided in subsections (C) through (G) below, no permit or permit revision shall be issued under this Article to a person proposing to construct a new major source or make a major modification that is major for the pollutant for which the area is designated nonattainment unless:
1. The person demonstrates that the new major source or the major modification will meet an emission limitation which is the lowest achievable emission rate (LAER) for that source for that regulated NSR pollutant.
 2. The person demonstrates that all existing major sources owned or operated by that person (or any entity controlling, controlled by, or under common control with that person) in the state are in compliance with, or on a schedule of compliance for, all conditions contained in permits of each of the sources and all other applicable emission limitations and standards under the Act and this Chapter.
 3. The person demonstrates that emission reductions for the specific pollutant(s) from source(s) in existence in the allowable offset area of the new major source or major modification (whether or not under the same ownership) meet the offset requirements of R18-2-404.
 4. The Administrator has not determined that the applicable implementation plan is not being adequately implemented for the nonattainment area in which the proposed source is to be constructed or modified in accordance with the requirements in this Section.
- B. No permit or permit revision under this Article shall be issued to a person proposing to construct a new major source or make a major modification to a major source located in a nonattainment area unless:
1. The person performs an analysis of alternative sites, sizes, production processes, and environmental control techniques for such new major source or major modification; and
 2. The Director determines that the analysis demonstrates that the benefits of the new major source or major modification significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.
- C. At such time that a particular source or modification becomes a major source or major modification solely by virtue of a relaxation in any enforceable limitation which was established

after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as restriction on hours of operation, then the requirements of this Section shall apply to the source or modification as though construction had not yet commenced on the source or modification.

- D. Secondary emissions shall not be considered in determining the potential to emit of a new source or modification and therefore whether the new source or modification is major. However, if a new source or modification is subject to this Section on the basis of its direct emissions, a permit or permit revision under this Article to construct the new source or modification shall be denied unless the requirements of R18-2-403(A)(3) and R18-2-404 are met for reasonably quantifiable secondary emissions caused by the new source or modification.
- E. A permit to construct a new major source or major modification shall be denied unless the conditions specified in subsections (A)(1), (2), and (3) are met for fugitive emissions caused by the new source or modification. However, these conditions shall not apply to a new major source or major modification that would be a major source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential emissions of the source or modification, and the source does not belong to a section 302(j) category.
- F. The requirements of subsection (A)(3) shall not apply to temporary emissions units, such as pilot plants, portable facilities that will be relocated outside of the nonattainment area and the construction phase of a new source, if those units will operate for no more than 24 months in the nonattainment area, are otherwise in compliance with the requirement to obtain a permit under this Chapter and are in compliance with the conditions of that permit.
- G. A decrease in actual emissions shall be considered in determining the potential of a new source or modification to emit only to the extent that the Director has not relied on it in issuing any permit or permit revision under this Article or the state has not relied on it in demonstrating attainment or reasonable further progress.
- H. The Director shall transmit to the Administrator a copy of each permit application relating to a major stationary source or major modification under this Section. Within 30 days of the issuance of any permit under this Section, the Director shall also submit control technology information from the permit to the Administrator for the purposes listed in Section 173(d) of the Act.
- I. The issuance of a permit or permit revision under this Article in accordance with this Section shall not relieve the owner or operator of the responsibility to comply fully with applicable provisions of the SIP and any other requirements under local, state, or federal law.

Historical Note

Former Section R9-3-403 repealed, new Section R9-3-403 adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-403 renumbered without change as Section R18-2-403 (Supp. 87-3). Section R18-2-403 renumbered to R18-2-603, new Section R18-2-403 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-404. Offset Standards

- A. Increased emissions by a major source or major modification subject to R18-2-403 of each pollutant for which the area has been designated as nonattainment and for which the source or modification is classified as major shall be offset by real

reductions in the actual emissions of the pollutant. Offsets shall be for the same regulated NSR Pollutant, except that emissions of the ozone precursors NO_x and VOC may be offset by reductions in emissions of either of those pollutants, provided that all other applicable requirements of this Section and R18-2-405 are satisfied. Except as provided in R18-2-405 and subsection (J), the ratio of the total actual reductions to the emissions increase shall be at least 1 to 1.

B. Except as provided in subsection (B)(1) or (2), for sources and modifications subject to this Section, the baseline for determining credit for emissions reductions is the emissions limit for the source generating the offset credit under the applicable implementation plan in effect at the time the application for a permit or permit revision is filed.

1. The offset baseline shall be the actual emissions of the source from which offset credit is obtained where either of the following conditions is satisfied:

- a. The demonstration of reasonable further progress and attainment of ambient air quality standards is based upon the actual emissions of sources located within a designated nonattainment area for which the preconstruction review program was adopted.
- b. The applicable implementation plan does not contain an emissions limitation for that source or source category.

2. Where the emissions limit under the applicable implementation plan allows greater emissions than the potential to emit of the source, emissions offset credit will be allowed only for control below this potential.

C. For an existing fuel combustion source, emissions offset credit shall be based on the allowable emissions under the applicable implementation plan for the type of fuel being burned at the time the application to construct is filed. If the existing source commits to switch to a cleaner fuel at some future date, emissions offset credit based on the allowable or actual emissions for the fuels involved is not acceptable, unless the permit for the existing source is conditioned to require the use of a specified alternative control measure which would achieve the same degree of emissions reduction should the source switch back to a fuel generating higher emissions. The owner or operator of the existing source must demonstrate that adequate long-term supplies of the new fuel are available before granting emissions offset credit for fuel switches.

D. Offset Credit for Shutdowns.

1. Emissions reductions achieved by shutting down an existing emission unit or curtailing production or operating hours may be credited for offsets if they meet both of the following conditions.

- a. The reductions are surplus, permanent, quantifiable, and federally enforceable.
- b. The shutdown or curtailment occurred after the last day of the base year for the SIP planning process. For purposes of this subsection, the Director may choose to consider a prior shutdown or curtailment to have occurred after the last day of the base year if the projected emissions inventory used to develop the attainment demonstration explicitly includes the emissions from such previously shutdown or curtailed emission units. However, in no event may credit be given for shutdowns that occurred before August 7, 1977.

2. Emissions reductions achieved by shutting down an existing emissions unit or curtailing production or operating hours and that do not meet the requirements in subsection (D)(1)(b) may be credited only if one of the following conditions is satisfied:

- a. The shutdown or curtailment occurred on or after the date the construction permit application is filed.
- b. The applicant can establish that the proposed new emissions unit is a replacement for the shutdown or curtailed emissions unit, and the emissions reductions achieved by the shutdown or curtailment met the requirements of subsection (D)(1)(a).

E. No emissions credit may be allowed for replacing one hydrocarbon compound with another of lesser reactivity, except for those compounds listed in Table 1 of EPA's "Recommended Policy on Control of Volatile Organic Compounds," 42 FR 35314 (July 8, 1977).

F. All emission reductions claimed as offset credits shall be federally enforceable by the time a proposed final permit is issued to the owner or operator of the major source subject to this Section and shall be in effect by the time the new or modified source subject to the permit commences operation.

G. The owner or operator of a major source or major modification subject to this Section must obtain offset credits from the same source or from other sources in the same nonattainment area, except that the Director may allow the owner or operator to obtain offset credits from another nonattainment area if both of the following conditions are satisfied:

1. The other area has an equal or higher nonattainment classification than the area in which the source is located.
2. Emissions from such other area contribute to a violation of the national ambient air quality standard in the nonattainment area in which the source is located.

H. Credit for an emissions reduction can be claimed to the extent that the Director has not relied on it in issuing any permit under this Article, R18-2-334, or the state has not relied on it in a demonstration of attainment or reasonable further progress.

I. The total tonnage of increased emissions, in tons per year, resulting from a major modification that must be offset under this Section shall be determined by summing the difference between the allowable emissions after the modification and the actual emissions before the modification for each emissions unit.

J. In ozone nonattainment areas classified as marginal, total emissions of VOC and oxides of nitrogen from other sources shall offset those proposed or permitted from the major source or major modification by a ratio of at least 1.10 to 1. In ozone nonattainment areas classified as moderate, total emissions of VOC and oxides of nitrogen from other sources shall offset those proposed or permitted from the major source or major modification by a ratio of at least 1.15 to 1. New major sources and major modifications in serious and severe ozone nonattainment areas shall comply with this Section and R18-2-405.

Historical Note

Former Section R9-3-404 repealed, new Section R9-3-404 adopted effective May 14, 1979 (Supp. 79-1).

Amended by adding subsection (C) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-404 renumbered without change as Section R18-2-404 (Supp. 87-3).

Amended subsection (C) effective December 1, 1988 (Supp. 88-4). Section R18-2-404 renumbered to R18-2-604, new Section R18-2-404 adopted effective November 15, 1993 (Supp. 93-4). Amended effective February 28, 1995 (Supp. 95-1). Amended by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 8 A.A.R. 1815, effective March 18, 2002 (Supp. 02-1). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R.

333, effective March 21, 2017 (Supp. 17-1).

R18-2-405. Special Rule for Major Sources of VOC or Nitrogen Oxides in Ozone Nonattainment Areas Classified as Serious or Severe

- A. Applicability. The provisions of this Section only apply to stationary sources of VOC or nitrogen oxides in ozone nonattainment areas classified as serious or severe. Unless otherwise provided in this Section, all requirements of Articles 3 and 4 of this Chapter apply.
- B. "Significant" means, in reference to an emissions increase or a net emissions increase, any increase in actual emissions of volatile organic compounds or nitrogen oxides that would result from any physical change in, or change in the method of operation of, a major source, if the emissions increase of volatile organic compounds or nitrogen oxides exceeds 25 tons per year.
- C. For any major source that emits or has the potential to emit less than 100 tons of VOC or oxides of nitrogen per year, a physical or operational change that results in a significant increase in VOC or oxides of nitrogen, respectively, from any discrete operation, unit, or other pollutant emitting activity at the source shall constitute a major modification, except that the increase shall not constitute a major modification, if the owner or operator of the source elects to offset the increase by a greater reduction in emissions of VOC or oxides of nitrogen, as applicable, from other operations, units or activities at the source at an internal offset ratio of at least 1.3 to 1. If the owner or operator does not make such an election, the change shall constitute a major modification but BACT shall be substituted for LAER when applying R18-2-403(A)(1) to the major modification.
- D. For any stationary source that emits or has the potential to emit 100 tons or more of VOC or oxides of nitrogen per year, a physical or operational change that results in any significant increase in VOC from any discrete operation, unit or other pollutant emitting activity at the source or oxides of nitrogen, respectively, shall constitute a major modification except that if the owner or operator of the source elects to offset the increase by a greater reduction in emissions of VOC or oxides of nitrogen, as applicable, from other operations, units or activities within the source at an internal offset ratio of at least 1.3 to 1, R18-2-403(A)(1) shall not apply to the change.
- E. For any new major source or major modification that is classified as major because of emissions or potential to emit VOC or nitrogen oxides in an ozone nonattainment area classified as serious, the increase in emissions of these pollutants from the source or modification shall be offset at a ratio of 1.2 to 1. The offset shall be made in accordance with the provisions of R18-2-404.
- F. For any new major source or major modification that is classified as such because of emissions or potential to emit VOC or nitrogen oxides in an ozone nonattainment area classified as severe, the increase in emissions of these pollutants from the source or modification shall be offset at a ratio of 1.3 to 1. These offsets shall be made in accordance with the provisions of R18-2-404.

Historical Note

Former R9-3-405, Other industries, renumbered R9-3-406, new Section adopted effective September 17, 1975 (Supp. 75-1). Former Section R9-3-405 repealed, new Section R9-3-405 adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Former Section R9-3-405 renumbered without change as Section R18-2-405 (Supp. 87-3). Section R18-2-405 renumbered to R18-2-605, new Section R18-2-405

adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-406. Permit Requirements for Sources Located in Attainment and Unclassifiable Areas

- A. Except as provided in subsections (B) through (J) below and R18-2-408 (Innovative control technology), no permit or permit revision under this Article shall be issued to a person proposing to construct a new major source or make a major modification to a major source that would be constructed in an area designated as attainment or unclassifiable for any regulated NSR pollutant unless the source or modification meets the following conditions:
 1. A new major source shall apply best available control technology (BACT) for each regulated NSR pollutant for which the potential to emit is significant.
 2. A major modification shall apply BACT for each regulated NSR pollutant for which the project would result in a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.
 3. For phased construction projects, the determination of BACT shall be reviewed and modified as appropriate at the latest reasonable time which occurs no later than 18 months prior to commencement of construction of each independent phase of the project. At such time the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of BACT for the source.
 4. BACT shall be determined on a case-by-case basis and may constitute application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment, clean fuels, or innovative fuel combustion techniques, for control of such pollutant. In no event shall such application of BACT result in emissions of any pollutant, which would exceed the emissions allowed by any applicable new source performance standard or national emission standard for hazardous air pollutants or by the applicable implementation plan. If the Director determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof may be prescribed instead to satisfy the requirement for the application of BACT. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice, or operation and shall provide for compliance by means which achieve equivalent results.
 5. The person applying for the permit or permit revision under this Article performs an air impact analysis and monitoring as specified in R18-2-407, and the analysis demonstrates that allowable emission increases from the proposed new major source or major modification, in conjunction with all other applicable emission increases or reductions, including secondary emissions, would not cause or contribute to concentrations of conventional air pollutants in violation of:
 - a. Any national ambient air quality standard in any air quality control region; or

- b. Any applicable maximum increase allowed under R18-2-218 over the baseline concentration in any area.
- 6. Air quality models:
 - a. All estimates of ambient concentrations required under this Section shall be based on the applicable air quality models, databases, and other requirements specified in 40 CFR 51, Appendix W, "Guideline On Air Quality Models," as of July 1, 2015 (and no future amendments or editions), which shall be referred to hereinafter as "Guideline" and is adopted by reference and is on file with the Department.
 - b. Where an air quality impact model specified in the "Guideline" is not applicable, the model may be modified or another model substituted. Such a change shall be subject to notice and opportunity for public comment under R18-2-330. Written approval of the EPA Administrator shall be obtained for any modification or substitution.
- B. This Section and R18-2-407 shall not apply to a new major source or major modification to a source with respect to a particular pollutant if the person applying for the permit or permit revision under this Article demonstrates that, as to that pollutant, the source or modification is located in an area designated as nonattainment for the pollutant. This exemption shall not apply to an area designated nonattainment for a revoked national ambient air quality standard in 40 CFR 81.
- C. This Section, R18-2-407, and R18-2-410(B), (F), and (G) shall not apply to a new major source or a major modification if the source or modification would be a major source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential emissions of the source or modification, and the source does not belong to a section 302(j) category.
- D. This Section, R18-2-407, and R18-2-410(B), (F), and (G) shall not apply to a new major source or major modification to a source when the owner or operator of the source is a nonprofit health or educational institution.
- E. This Section, R18-2-407, and R18-2-410(B), (F) and (G) shall not apply to a portable source which would otherwise be a new major source or major modification to an existing source if all of the following conditions are satisfied:
 - 1. The portable source proposes to relocate and will operate for no more than 24 months at its new location.
 - 2. The source is subject to a permit or permit revision issued under this Section or 40 CFR 52.21.
 - 3. The source is in compliance with the conditions of that permit or permit revision.
 - 4. Emissions from the source will not impact a federal Class I area or an area where an applicable maximum increase allowed under R18-2-218 is known to be violated.
 - 5. Reasonable notice is given to the Director prior to the relocation identifying the proposed new location and the probable duration of operation at the new location at least 10 calendar days in advance of the proposed relocation, unless a different time duration is previously approved by the Director.
- F. Subsection (A)(5), R18-2-407, and R18-2-410(B) shall not apply to a proposed major source or major modification with respect to a particular pollutant, if the allowable emissions of that pollutant from the source, or the net emissions increase of that pollutant from the modification, would be temporary and impact no federal Class I area and no area where a maximum increase allowed under R18-2-218 is known to be violated.
- G. Subsection (A)(5), R18-2-407, and R18-2-410(B) as they relate to any maximum allowable increase for a Class II area shall not apply to a modification of a major stationary source that was in existence on March 1, 1978, if the net increase in allowable emissions of each regulated NSR pollutant from the modification after the application of best available control technology would be less than 50 tons per year.
- H. Subsection (A)(5)(b) shall not apply to a stationary source or modification with respect to any maximum increase allowed for nitrogen oxides under R18-2-218 if the owner or operator of the source or modification submitted an application for a permit under the applicable permit program approved or promulgated under the Act before the provisions embodying the maximum allowable increase took effect as part of the state implementation plan and the Director subsequently determined that the application as submitted before that date was complete.
- I. Subsection (A)(5)(b) shall not apply to a stationary source or modification with respect to any maximum increase allowed for PM₁₀ under R18-2-218 if the owner or operator of the source or modification submitted an application for a permit under the applicable permit program approved under the Act before the provisions embodying the maximum allowable increases for PM₁₀ took effect as part of the state implementation plan and the Director subsequently determined that the application as submitted before that date was complete. Instead, subsection (A)(5)(b) shall apply with respect to the maximum allowable increases for total suspended particulate as in effect on the date the application was submitted.
- J. Subsection (A)(5)(a) shall not apply to a stationary source or modification with respect to the national ambient air quality standards for PM_{2.5} in effect on March 18, 2013 if either of the following is true:
 - 1. The Director determined a permit application subject to this Section was complete on or before December 14, 2012. Instead, subsection (A)(5)(a) shall apply with respect to the national ambient air quality standards for PM_{2.5} in effect at the time the Director determined the permit application to be complete.
 - 2. The Director first published before March 18, 2013 a public notice of a proposed permit subject to this Section. Instead, subsection (A)(5)(a) shall apply with respect to the national ambient air quality standards for PM_{2.5} in effect at the time of first publication of the public notice.
- K. Subsection (A)(5)(a) of this section shall not apply to a stationary source or modification with respect to the revised national ambient air quality standards for ozone published on October 26, 2015 if:
 - 1. The Director has determined the permit application subject to this section to be complete on or before October 1, 2015. Instead, subsection (A)(5)(a) shall apply with respect to the national ambient air quality standards for ozone in effect at the time the Director determined the permit application to be complete.
 - 2. The Director has first published, before December 25, 2015, a public notice of a preliminary determination or draft permit for the permit application subject to this section. Instead, subsection (A)(5)(a) shall apply with respect to the national ambient air quality standards for ozone in effect at the time the Director determined the permit application to be complete.
- L. The owner or operator of a proposed source or modification shall submit all information necessary to perform any analysis or make a determination required under this Section. The owner or operator shall also provide information regarding:
 - 1. The air quality impact of the source or modification, including meteorological and topographical data necessary to estimate such impact, and

2. The air quality impacts and the nature and extent of any or all general commercial, residential, industrial, and other growth which has occurred since August 7, 1977, in the area the source or modification would affect.
- M. The issuance of a permit or permit revision under this Article in accordance with this Section shall not relieve the owner or operator of the responsibility to comply fully with applicable provisions of the SIP and any other requirements under local, state, or federal law.
- N. At such time that a particular source or modification becomes a major source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of this Section shall apply to the source or modification as though construction had not yet commenced on the source or modification.
- E. The owner or operator of a proposed stationary source or modification to a source of volatile organic compounds who satisfies all conditions of 40 CFR 51, Appendix S, Section IV, may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required under subsections (B), (C), and (D) above.
- F. Post-construction monitoring. The owner or operator of a new major source or major modification shall, after construction of the source or modification, conduct such ambient monitoring as the Director determines is necessary to determine the effect emissions from the new source or modification may have, or are having, on air quality in any area.
- G. Operations of monitoring stations. The owner or operator of a new major source or major modification shall meet the requirements of 40 CFR 58, Appendix B, during the operation of monitoring stations for purposes of satisfying subsections (B) through (F) above.
- H. The requirements of subsections (B) through (G) above shall not apply to a new major source or major modification to an existing source with respect to monitoring for a particular pollutant if:
 1. The emissions increase of the pollutant from the new source or the net emissions increase of the pollutant from the modification would cause, in any area, air quality impacts less than the following amounts:
 - a. Carbon Monoxide - 575 $\mu\text{g}/\text{m}^3$, eight-hour average;
 - b. Nitrogen dioxide - 14 $\mu\text{g}/\text{m}^3$, annual average;
 - c. $\text{PM}_{2.5}$ - 0 $\mu\text{g}/\text{m}^3$, 24-hour average;
 - d. PM_{10} - 10 $\mu\text{g}/\text{m}^3$, 24-hour average;
 - e. Sulfur dioxide - 13 $\mu\text{g}/\text{m}^3$, 24-hour average;
 - f. Lead - 0.1 $\mu\text{g}/\text{m}^3$, 3-month average;
 - g. Fluorides - 0.25 $\mu\text{g}/\text{m}^3$, 24-hour average;
 - h. Total reduced sulfur - 10 $\mu\text{g}/\text{m}^3$, one-hour average;
 - i. Hydrogen sulfide - 0.04 $\mu\text{g}/\text{m}^3$, one-hour average;
 - j. Reduced sulfur compounds - 10 $\mu\text{g}/\text{m}^3$, one-hour average;
 - k. Ozone - net emissions increases of less than 100 tons per year of volatile organic compounds or oxides of nitrogen;
 2. The concentrations of the pollutant in the area that the new source or modification would affect are less than the concentrations listed in subsection (H)(1); or
 3. The pollutant is not listed in subsection (H)(1).

Historical Note

Former Section R9-3-405, renumbered effective September 17, 1975 (Supp. 75-1). Former Section R9-3-406 repealed, new Section R9-3-406 adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-406 renumbered without change as Section R18-2-406 (Supp. 87-3). Section R18-2-406 renumbered to R18-2-606, new Section R18-2-406 adopted effective November 15, 1993 (Supp. 93-4). Amended effective February 28, 1995 (Supp. 95-1). The references to R18-2-101(97)(a) in subsection (A)(1) and (2) amended to reference R18-2-101(104)(a) (Supp. 99-3). Amended by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-407. Air Quality Impact Analysis and Monitoring Requirements

- A. Any application for a permit or permit revision under R18-2-406 to construct a new major source or major modification to a major source shall contain an analysis of ambient air quality in the area that the new major source or major modification would affect for each of the following pollutants:
 1. For the new source, each pollutant that it would have the potential to emit in a significant amount;
 2. For the modification, each pollutant for which it would result in a significant net emissions increase.
- B. With respect to any such pollutant for which no national ambient air quality standard exists, the analysis shall contain all air quality monitoring data as the Director determines is necessary to assess ambient air quality for that pollutant in any area that the emissions of the pollutant would affect.
- C. With respect to any such pollutant (other than nonmethane hydrocarbons) for which such a standard does exist, the analysis shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of the standard or any maximum allowable increase.
- D. In general, the continuous air quality monitoring data that is required shall have been gathered over a period of at least one year and shall represent at least the year preceding receipt of the application, except that, if the Director determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one year (but not to be less than four months), the data that is required shall have been gathered over at least that shorter period.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-407 renumbered without change as Section R18-2-407 (Supp. 87-3). Section R18-2-407 renumbered to R18-2-607, new Section R18-2-407 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-408. Innovative Control Technology

- A. Notwithstanding the provisions of R18-2-406(A)(1) through (3), the owner or operator of a proposed new major source or major modification may request that the Director approve a system of innovative control technology rather than the best available control technology requirements otherwise applicable to the new source or modification.
- B. The Director shall approve the installation of a system of innovative control technology if the following conditions are met:
 1. The owner or operator of the proposed source or modification satisfactorily demonstrates that the proposed control system would not cause or contribute to an

unreasonable risk to public health, welfare, or safety in its operation or function;

2. The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under R18-2-406(A)(1) or (2) by a date specified in the permit or permit revision under this Article for the source. Such date shall not be later than four years from the time of start-up or seven years from the issuance of a permit or permit revision under this Article;
 3. The source or modification would meet requirements equivalent to those in R18-2-406(A) based on the emissions rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified in the permit or permit revision under this Article.
 4. Before the date specified in the permit or permit revision under this Article, the source or modification would not:
 - a. Cause or contribute to any violation of an applicable national ambient air quality standard; or
 - b. Impact any area where an applicable maximum increase allowed under R18-2-208 is known to be violated.
 5. All other applicable requirements including those for public participation have been met.
 6. The Director receives the consent of the governors of other affected states.
 7. The requirements of R18-2-410 for federal Class I areas will be met for all periods during the life of the source or modification.
- C. The Director shall withdraw any approval to employ a system of innovative control technology made under this Section if:
1. The proposed system fails by the specified date to achieve the required continuous emissions reduction rate; or
 2. The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare, or safety; or
 3. The Director decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare, or safety.
- D. If the new source or major modification fails to meet the required level of continuous emissions reduction within the specified time period, or if the approval is withdrawn in accordance with subsection (C) above, the Director may allow the owner or operator of the source or modification up to an additional three years to meet the requirement for the application of best available control technology through use of a demonstrated system of control.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Former Section R9-3-408 renumbered without change as Section R18-2-408 (Supp. 87-3). Section R18-2-408 renumbered to R18-2-608, new Section R18-2-408 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-409. Air Quality Models

- A. Where the Director requires a person requesting a permit or permit revision under this Article to perform air quality impact modeling to obtain such permit or permit revision under this Article, the modeling shall be performed in a manner consistent with the Guideline specified in R18-2-406(A)(6)(a).
- B. Where the person requesting a permit or permit revision under this Article can demonstrate that an air quality impact model

specified in the Guideline is inappropriate, the model may be modified or another model substituted. However, before such modification or substitution can occur, the Director shall make a written finding that:

1. No model in the Guideline is appropriate for a particular permit or permit revision under this Article under consideration, or
 2. The data base required for the appropriate model in the Guideline is not available, and
 3. The model proposed as a substitute or modification is likely to produce results equal or superior to those obtained by models in the Guideline, and
 4. The model proposed as a substitute or modification has been approved by the Administrator.
- C. The substitution or modification of an air quality model under this Section shall be included in the public notice under R18-2-330(C).

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-409 renumbered without change as Section R18-2-409 (Supp. 87-3). Section R18-2-409 renumbered to R18-2-609, new Section R18-2-409 adopted effective November 15, 1993 (Supp. 93-4).

R18-2-410. Visibility and Air Quality Related Value Protection

- A. Applicability.
 1. All of the requirements of this Section apply to a new major source or major modification that would be constructed in an area that is designated attainment or unclassified.
 2. Subsections (B) to (D) apply to the following:
 - a. A new major source or major modification that may have an impact on any integral vista of a mandatory federal Class I area, if it is identified in accordance with 40 CFR 51.304 by the Federal Land Manager at least twelve months before submission of a complete permit application for the source or modification, except where the Federal Land Manager has provided notice and opportunity for public comment on the integral vista, in which case the review must include impacts on any integral vista identified at least six months before submission of a complete permit application. This subsection shall not apply if the Director determines under 40 CFR 51.304(d) that the identification was not in accordance with the identification criteria.
 - b. A new major source or major modification that proposes to locate in an area designated as nonattainment and that may have an impact on visibility in any mandatory federal Class I area.
- B. Application Requirements. Any application for a permit or permit revision to construct a major source or major modification subject to this section shall contain:
 1. An analysis of the impairment to visibility, soils, and vegetation that would occur as a result of the new source or modification and general commercial, residential, industrial, and other growth associated with the new source or modification. The applicant need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.
 2. An analysis of the air quality impact projected for the area as a result of general commercial, residential, industrial, and other growth associated with the new source or modification.
- C. Notification Requirements.

1. The Director shall provide written notice of the application for a permit or permit revision subject to this section to the Administrator, the Federal Land Manager and the federal official charged with direct responsibility for management of any lands within any Class I area that may be affected by the source or modification. The notice shall be provided within 30 days of receipt of the application and at least 60 days before any public hearing on the application. The notice shall:
 - a. Include a copy of the application and all information relevant to the permit or permit revision under this Article;
 - b. Include an analysis of the anticipated impacts of the proposed source on visibility in any federal Class I area; and
 - c. Provide for no less than a 30-day period within which written comments may be submitted.
 2. The Director shall notify the individuals identified in subsection (C)(1) within 30 days of receipt of any advance notification of any such permit or permit revision.
 3. The Director shall notify the individuals identified in subsection (C)(1) of the preliminary determination for the application under R18-2-402(I)(2)(c) and shall make available any materials used in making that determination.
 4. The Director shall provide notice to the administrator of every action related to the consideration of such permit or permit revision.
- D. Consideration of Federal Land Manager Analysis.**
1. The Federal Land Manager and the federal official charged with direct responsibility for management of federal Class I areas have an affirmative responsibility to protect the air quality related values, including visibility, of any such areas and to consider, in consultation with the Administrator, whether a proposed source or modification would have an adverse impact on such values.
 2. The Director shall consider any analysis performed by the Federal Land Manager and provided within 30 days of the notification required by subsection (C)(1) that shows that a proposed new major stationary source or major modification may have an adverse impact on visibility in a federal Class I area or integral vista.
 3. In considering the analysis, the Director shall ensure that the source's emissions will be consistent with making reasonable progress toward the national visibility goal referred to in 40 CFR 51.300(a), taking into account the costs of compliance, the time necessary for compliance, the energy and nonair quality environmental impacts of compliance, and the useful life of the source.
 4. If the Director concurs with the analysis, the Director shall deny the permit or permit revision.
 5. If the Director finds that the analysis does not demonstrate to the satisfaction of the Director that an adverse impact on visibility will result in the federal Class I area or integral vista, the Director shall, in the notice required by R18-2-402(I)(2)(c), either explain that decision or give notice as to where the explanation can be obtained.
- E. Federal Land Manager Analysis Showing Adverse Impact Despite Compliance with Maximum Allowable Increases for Class I Area.**
1. Within 30 days after the notification required by subsection (C)(3), the Federal Land Manager may present to the Director a demonstration that the emissions attributed to a new major source or major modification would have an adverse impact on visibility or other specifically defined air quality related values of any mandatory federal Class I area, even though the change in air quality resulting from emissions attributable to the source or modification will not cause or contribute to concentrations that exceed the maximum increases allowed for the area in R18-2-218.
 2. If the Director concurs with the demonstration, the Director shall not issue a permit or permit revision for the major source or major modification.
- F. Class I Variance with Federal Land Manager Concurrence.**
1. The owner or operator of a proposed source or modification may demonstrate to the Federal Land Manager that emissions from the source will have no adverse impact on the air quality related values (including visibility) of federal Class I areas, even though the change in air quality resulting from emissions from the source or modification are projected to cause or contribute to concentrations that exceed the maximum increases allowed for a Class I area under R18-2-218.
 2. If the Federal land manager concurs with the demonstration and so certifies to the Director, the Director may issue the permit, provided that:
 - a. Applicable requirements are otherwise met; and
 - b. The permit contains emission limits necessary to assure that emissions of sulfur dioxide, PM_{2.5}, PM₁₀, and nitrogen oxides will not cause increases in ambient concentrations of those pollutants exceeding the following maximum allowable increases over minor source baseline concentrations:
- | Pollutant | Maximum allowable increase (micrograms per cubic meter) |
|------------------------|---|
| PM _{2.5} : | |
| Annual arithmetic mean | 4 |
| 24-hr maximum | 9 |
| PM ₁₀ : | |
| Annual arithmetic mean | 17 |
| 24-hr maximum | 30 |
| Sulfur dioxide: | |
| Annual arithmetic mean | 20 |
| 24-hr maximum | 91 |
| 3-hr maximum | 325 |
| Nitrogen dioxide | |
| Annual arithmetic mean | 25 |
- G. Class I Sulfur Dioxide Variance by Governor with Concurrence by Federal Land Manager or President.**
1. The owner or operator of a proposed source or modification that cannot be approved under subsection (F) may demonstrate to the Governor that the source cannot be constructed by reason of any maximum allowable increase for sulfur dioxide for a period of twenty-four hours or less applicable to any Class I area and, in the case of mandatory federal Class I areas, that a variance under this clause would not adversely affect the air quality related values of the area (including visibility). The Governor, after consideration of the Federal Land Manager's recommendation (if any) and subject to his concurrence, may, after notice and public hearing, grant a variance from the maximum allowable increase. If the variance is granted, the Director shall issue a permit or permit to the source or modification pursuant to the requirements of subsection (G)(3), provided that the applicable requirements of R18-2-406 are otherwise met.

2. In any case where the Governor recommends a variance in which the Federal Land Manager does not concur, the recommendations of the Governor and the Federal Land Manager shall be transmitted to the President. The President may approve the Governor's recommendation if the President finds that the variance is in the national interest. If the variance is approved, the Director shall issue a permit pursuant to subsection (G)(3), provided that the applicable requirements of R18-2-406 are otherwise met.
3. In the case of a permit issued pursuant to subsection (G)(1) or (G)(2) the source or modification shall comply with emission limitations necessary to assure that emissions of sulfur dioxide from the source or modification will not (during any day on which the otherwise applicable maximum allowable increases are exceeded) cause or contribute to concentrations that would exceed the following maximum allowable increases over the baseline concentration and to assure that the emissions will not cause or contribute to concentrations that exceed the otherwise applicable maximum allowable increases for periods of exposure of 24 hours or less for more than 18 days, not necessarily consecutive, during any annual period:

Maximum Allowable Increase [Micrograms per cubic meter]		
Period of exposure	Terrain areas	
	Low	High
24-hr maximum	36	62
3-hr maximum	130	221

- H. Visibility Monitoring. The Director may require monitoring of visibility in any federal Class I area near a proposed major source or major modification for such purposes and by such means as the Director deems necessary and appropriate.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-410 renumbered without change as Section R18-2-410 (Supp. 87-3). Section R18-2-410 renumbered to R18-2-610, new Section R18-2-410 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-411. Permit Requirements for Sources that Locate in Attainment or Unclassifiable Areas and Cause or Contribute to a Violation of Any National Ambient Air Quality Standard

- A. Except as provided in subsection (C) or (D), the Director shall deny a permit or permit revision to any major source or major modification that would locate in any attainment or unclassified area, if the source or modification would cause or contribute to a violation of any national ambient air quality standard.
- B. A major source or major modification will be considered to cause or contribute to a violation of a national ambient air quality standard when the source or modification would, at a minimum, cause an increase in the concentrations of a regulated NSR pollutant that exceeds the significance level at any locality that does not, or as a result of the increase would not, meet the standard.
- C. A proposed major source or major modification subject to subsection (A) may reduce the impact of its emissions upon air quality by obtaining sufficient emission reductions to, at a minimum, compensate for its adverse ambient impact where the major source or major modification would otherwise cause or contribute to a violation of any national ambient air quality standard.

- D. Subsection (A) shall not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or modification is located in an area designated as non-attainment pursuant to section 107 of the Act.

Historical Note

Adopted effective November 15, 1993 (Supp. 93-4). Section repealed by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). New Section made by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-412. PALs

- A. Applicability.
 1. The Director may approve the use of a PAL for any existing major source if the PAL meets the requirements of this Section.
 2. Any physical change in or change in the method of operation of a major stationary source that maintains its total source-wide emissions below the PAL level, meets the requirements of this Section, and complies with the PAL permit:
 - a. Is not a major modification for the PAL pollutant,
 - b. Does not have to be approved under R18-2-403 or R18-2-406, and
 - c. Is not subject to the provisions in R18-2-403(C) or R18-2-406(M).
 3. Except as provided under subsection (A)(2)(c), a major stationary source shall continue to comply with all applicable federal or state requirements, emission limitations, and work practice requirements that were established prior to the effective date of the PAL.
- B. Permit application requirements. As part of a permit application requesting a PAL, the owner or operator of a major source shall submit the following information to the Director for approval:
 1. A list of all emissions units at the source designated as small, significant or major based on their potential to emit. In addition, the owner or operator of the source shall indicate which, if any, federal or state applicable requirements, emission limitations, or work practices apply to each unit.
 2. Calculations of the baseline actual emissions (with supporting documentation). Baseline actual emissions shall include emissions associated not only with operation of the unit, but also emissions associated with the startup, shutdown and malfunction.
 3. The calculation procedures that the major source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by subsection (L)(1).
- C. General requirements for establishing PALs.
 1. The Director is allowed to establish a PAL at a major source, provided that at a minimum, the following requirements are met:
 - a. The PAL shall impose an annual emission limitation in tons per year, that is enforceable as a practical matter, for the entire major source. For each month during the PAL effective period after the first 12 months of establishing a PAL, the major source owner or operator shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous 12 consecutive months is less than the PAL (a 12-month sum, rolled monthly). For each month during the first 11 months from the

- PAL effective date, the major source owner or operator shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.
- b. The PAL shall be established in a PAL permit that meets the requirements in subsection (D).
 - c. The PAL permit shall contain all the requirements of subsection (F).
 - d. The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major source.
 - e. Each PAL shall regulate emissions of only one pollutant.
 - f. Each PAL shall have a PAL effective period of 10 years.
 - g. The owner or operator of the major source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in subsections (K) through (M) for each emissions unit under the PAL through the PAL effective period.
2. At no time (during or after the PAL effective period) are emissions reductions of a PAL pollutant that occur during the PAL effective period creditable as decreases for purposes of offsets under R18-2-404 unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.
- D. Action on PAL permit application.** A PAL permit application shall be processed in accordance with one of the following:
1. As an initial Class I permit pursuant to R18-2-304.
 2. As a renewal of a Class I permit pursuant to R18-2-322.
 3. As a significant revision to a Class I permit pursuant to R18-2-320.
- E. Setting the 10-year actuals PAL level.**
1. Except as provided in subsection (E)(2), the PAL level for a major source shall be established as the sum of the baseline actual emissions of the PAL pollutant for each emissions unit at the source; plus an amount equal to the applicable significant level for the PAL pollutant. When establishing the PAL level, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level. The Director shall specify a reduced PAL level(s) (in tons/yr) in the PAL permit to become effective on the future compliance date(s) of any applicable federal or state regulatory requirement(s) that the Director is aware of prior to issuance of the PAL permit. For instance, if the source owner or operator will be required to reduce emissions from industrial boilers in half from baseline emissions of 60 ppm NO_x to a new rule limit of 30 ppm, then the permit shall contain a future effective PAL level that is equal to the current PAL level reduced by half of the original baseline emissions of such unit(s).
 2. For newly constructed units (which do not include modifications to existing units) on which actual construction began after the 24-month period, in lieu of adding the baseline actual emissions as specified in subsection (E)(1), the emissions must be added to the PAL level in an amount equal to the potential to emit of the units.
- F. Contents of the PAL permit.** The PAL permit must contain, at a minimum, the following information:
1. The PAL pollutant and the applicable source-wide emission limitation in tons per year.
 2. The PAL permit effective date and the expiration date of the PAL (PAL effective period).
 3. Specification in the PAL permit that if a major source owner or operator applies to renew a PAL in accordance with subsection (I) before the end of the PAL effective period, then the PAL shall not expire at the end of the PAL effective period. It shall remain in effect until a revised PAL permit is issued by the Director.
 4. A requirement that emission calculations for compliance purposes must include emissions from startups, shutdowns, and malfunctions.
 5. A requirement that, once the PAL expires, the major source is subject to the requirements of subsection (H).
 6. The calculation procedures that the major source owner or operator shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total as required by subsection (L)(1).
 7. A requirement that the major source owner or operator monitor all emissions units in accordance with the provisions under subsection (K).
 8. A requirement to retain the records required under subsection (L) onsite. Such records may be retained in an electronic format.
 9. A requirement to submit the reports required under subsection (M) by the required deadlines.
 10. Any other requirements that the Director deems necessary to implement and enforce the PAL.
- G. PAL effective period and reopening of the PAL permit.**
1. PAL effective period. The Director shall specify a PAL effective period of 10 years.
 2. Reopening of the PAL permit.
 - a. During the PAL effective period, the Director must reopen the PAL permit to:
 - i. Correct typographical/calculation errors made in setting the PAL or reflect a more accurate determination of emissions used to establish the PAL,
 - ii. Reduce the PAL if the owner or operator of the major source creates creditable emissions reductions for use as offsets under R18-2-404, and
 - iii. Revise the PAL to reflect an increase in the PAL as provided under subsection (J).
 - b. The Director shall have discretion to reopen the PAL permit for the following:
 - i. Reduce the PAL to reflect new federal applicable requirements with compliance dates after the PAL effective date;
 - ii. Reduce the PAL consistent with any other requirement, that is enforceable as a practical matter, and that the state may impose on the major source under the State Implementation Plan; and
 - iii. Reduce the PAL if the Director determines that a reduction is necessary to avoid causing or contributing to a violation of a national ambient air quality standard or a maximum increase allowed under R18-2-208, or to an adverse impact on an air quality related value that has been identified for a federal Class I area by a Federal Land Manager and for which information is available to the general public.

- c. Except for the permit reopening in subsection (G)(2)(a)(i) for the correction of typographical/calculation errors that do not increase the PAL level, all other reopenings shall be carried out in accordance with the public participation requirements of subsection (D).
- H. Expiration of a PAL.** Any PAL that is not renewed in accordance with the procedures in subsection (I) shall expire at the end of the PAL effective period, and the following requirements shall apply.
1. Each emissions unit (or each group of emissions units) that existed under the PAL shall comply with an allowable emission limitation under a revised permit established according to the following procedures.
 - a. Within the time-frame specified for PAL renewals in subsection (I)(2), the major source shall submit a proposed allowable emission limitation for each emissions unit (or each group of emissions units, if such a distribution is more appropriate) by distributing the PAL allowable emissions for the major source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as would be required under subsection (I)(5), such distribution shall be made as if the PAL had been adjusted.
 - b. The Director shall decide how the PAL allowable emissions will be distributed and issue a revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as the Director determines is appropriate.
 2. Each emissions unit(s) shall comply with the allowable emission limitation on a 12-month rolling basis. The Director may approve the use of monitoring systems (source testing, emission factors, etc.) other than CEMS, CERMS, PEMS, or CPMS to demonstrate compliance with the allowable emission limitation.
 3. Until the Director issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under subsection (H)(1)(b), the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.
 4. Any physical change or change in the method of operation at the major source will be subject to the nonattainment major NSR requirements if such change meets the definition of major modification.
 5. The major source owner or operator shall continue to comply with any applicable requirements that may have applied either during the PAL effective period or before the PAL effective period except for those emission limitations that had been established pursuant to R18-2-403(C) or R18-2-406(H), but were eliminated by the PAL in accordance with subsection (A)(2)(c).
- I. Renewal of a PAL.**
1. The Director shall follow the procedures specified in subsection (D) in approving any request to renew a PAL for a major source, and shall provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During such public review, any person may propose a PAL level for the source for consideration by the Director.
 2. Application deadline. A major source owner or operator shall submit a timely application to the Director to request renewal of a PAL. A timely application is one that is submitted at least six months prior to, but not earlier than 18 months from, the date of permit expiration. This deadline for application submittal is to ensure that the permit will not expire before the permit is renewed. If the owner or operator of a major source submits a complete application to renew the PAL within this time period, then the PAL shall continue to be effective until the revised permit with the renewed PAL is issued.
- J. Increasing a PAL during the PAL effective period.**
1. The Director may increase a PAL emission limitation only if the following requirements are met:
 - a. The owner or operator of the major source shall submit a complete application to request an increase in the PAL limit for a PAL major modification. Such application shall identify the emissions unit(s) contributing to the increase in emissions so as to cause the major source's emissions to equal or exceed its PAL.
 - b. As part of this application, the major source owner or operator shall demonstrate that the sum of the baseline actual emissions of the small emissions
 3. Application requirements. The application to renew a PAL permit shall contain the following information.
 - a. The information required in subsections (B)(1) through (3).
 - b. A proposed PAL level.
 - c. The sum of the potential to emit of all emissions units under the PAL (with supporting documentation).
 - d. Any other information the owner or operator wishes the Director to consider in determining the appropriate level for renewing the PAL.
 4. PAL adjustment. In determining whether and how to adjust the PAL, the Director shall consider the options outlined in subsections (I)(4)(a) and (b). However, in no case may any such adjustment fail to comply with subsection (I)(4)(c).
 - a. If the emissions level calculated in accordance with subsection (E) is equal to or greater than 80% of the PAL level, the Director may renew the PAL at the same level without considering the factors set forth in subsection (I)(4)(b); or
 - b. The Director may set the PAL at a level that the Director determines to be more representative of the source's baseline actual emissions, or that the Director determines to be more appropriate considering air quality needs, advances in control technology, anticipated economic growth in the area, desire to reward or encourage the source's voluntary emissions reductions, or other factors as specifically identified by the Director in the Director's written rationale.
 - c. Notwithstanding subsections (I)(4)(a) and (b):
 - i. If the potential to emit of the major source is less than the PAL, the Director shall adjust the PAL to a level no greater than the potential to emit of the source; and
 - ii. The Director shall not approve a renewed PAL level higher than the current PAL, unless the PAL has been increased in accordance with subsection (J).
 5. If the compliance date for an applicable requirement that applies to the PAL source occurs during the PAL effective period, and if the Director has not already adjusted for such requirement, the PAL shall be adjusted at the time of PAL permit renewal or renewal of the source's Class I permit, whichever occurs first.

units, plus the sum of the baseline actual emissions of the significant and major emissions units assuming application of BACT or LAER equivalent controls, plus the sum of the PAL allowable emissions of the new or modified emissions unit(s) exceeds the PAL. The level of control that would result from BACT or LAER equivalent controls on each significant or major emissions unit shall be determined by conducting a new BACT or LAER analysis at the time the application is submitted, as applicable for the particular PAL pollutant, unless the emissions unit is currently required to comply with a BACT or LAER requirement that was established within the preceding 10 years. In such a case, the assumed control level for that emissions unit shall be equal to the level of BACT or LAER with which that emissions unit must currently comply.

- c. The owner or operator obtains a major NSR permit for all emissions unit(s) identified in subsection (J)(1)(a), regardless of the magnitude of the emissions increase resulting from them (that is, no significant levels apply). These emissions unit(s) shall comply with any emissions requirements resulting from the major NSR process (for example, BACT), even though they have also become subject to the PAL or continue to be subject to the PAL.
 - d. The PAL permit shall require that the increased PAL level shall be effective on the day any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.
2. The Director shall calculate the new PAL level as the sum of the PAL allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units (assuming application of BACT or LAER equivalent controls as determined in accordance with subsection (J)(1)(b), plus the sum of the baseline actual emissions of the small emissions units.
 3. The PAL permit shall be revised to reflect the increased PAL level pursuant to the public notice requirements of subsection (D).

K. Monitoring requirements for PALs.

1. General requirements.
 - a. Each PAL permit must contain enforceable requirements for the monitoring system that accurately determines plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL permit must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by such system must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL permit.
 - b. The PAL monitoring system must employ one or more of the four general monitoring approaches meeting the minimum requirements set forth in subsections (K)(2)(a) through (d) and must be approved by the Director.
 - c. Notwithstanding subsection (K)(1)(b), the owner or operator may also employ an alternative monitoring approach if approved by the Director as meeting the requirements of subsection (K)(1)(a).
 - d. Failure to use a monitoring system that meets the requirements of this Section renders the PAL invalid.

2. Minimum performance requirements for approved monitoring approaches. The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in subsections (K)(3) through (9):
 - a. Mass balance calculations for activities using coatings or solvents,
 - b. CEMS,
 - c. CPMS or PEMS, and
 - d. Emission factors.
3. Mass balance calculations. An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coating or solvents shall meet the following requirements:
 - a. Provide a demonstrated means of validating the published content of the PAL pollutant that is contained in or created by all materials used in or at the emissions unit;
 - b. Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process; and
 - c. Where the vendor of a material or fuel, which is used in or at the emissions unit, publishes a range of pollutant content from such material, the owner or operator must use the highest value of the range to calculate the PAL pollutant emissions unless the Director determines there is site-specific data or a site-specific monitoring program to support another content within the range.
4. CEMS. An owner or operator using CEMS to monitor PAL pollutant emissions shall meet the following requirements:
 - a. CEMS must comply with applicable Performance Specifications found in 40 CFR 60, Appendix B; and
 - b. CEMS must sample, analyze and record data at least every 15 minutes while the emissions unit is operating.
5. CPMS or PEMS. An owner or operator using CPMS or PEMS to monitor PAL pollutant emissions shall meet the following requirements:
 - a. The CPMS or the PEMS must be based on current site-specific data demonstrating a correlation between the monitored parameter(s) and the PAL pollutant emissions across the range of operation of the emissions unit; and
 - b. Each CPMS or PEMS must sample, analyze, and record data at least every 15 minutes, or at another less frequent interval approved by the Director, while the emissions unit is operating.
6. Emission factors. An owner or operator using emission factors to monitor PAL pollutant emissions shall meet the following requirements:
 - a. All emission factors shall be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development;
 - b. The emissions unit shall operate within the designated range of use for the emission factor, if applicable; and
 - c. If technically practicable, the owner or operator of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emission factor within six months of PAL per-

mit issuance, unless the Director determines that testing is not required.

7. A source owner or operator must record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time that there is no monitoring data, unless another method for determining emissions during such periods is specified in the PAL permit.
 8. Notwithstanding the requirements in subsections (K)(3) through (7), where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameter(s) and the PAL pollutant emissions rate at all operating points of the emissions unit, the Director shall, at the time of permit issuance:
 - a. Establish default value(s) for determining compliance with the PAL based on the highest potential emissions reasonably estimated at such operating point(s), or
 - b. Determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameter(s) and the PAL pollutant emissions is a violation of the PAL.
 9. Re-validation. All data used to establish the PAL pollutant must be re-validated through performance testing or other scientifically valid means approved by the Director. Such testing must occur at least once every five years after issuance of the PAL.
- L. Recordkeeping requirements.**
1. The PAL permit shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of this Section and with the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for five years from the date of such record.
 2. The PAL permit shall require an owner or operator to retain a copy of the following records for the duration of the PAL effective period plus five years:
 - a. A copy of the PAL permit application and any applications for revisions to the PAL, and
 - b. Each annual certification of compliance pursuant to R18-2-309(2) and the data relied on in certifying compliance.
- M. Reporting and notification requirements.** The owner or operator shall submit semi-annual monitoring reports and prompt deviation reports to the Director in accordance with R18-2-306(A)(5). The reports shall meet the following requirements:
1. Semi-annual report. The semi-annual report shall be submitted to the Director within 30 days of the end of each reporting period. This report shall contain the following information:
 - a. The identification of owner and operator and the permit number.
 - b. Total annual emissions (tons/year) based on a 12-month rolling total for each month in the reporting period recorded pursuant to subsection (L)(1).
 - c. All data relied upon, including, but not limited to, any Quality Assurance or Quality Control data, in calculating the monthly and annual PAL pollutant emissions.
 - d. A list of any emissions units modified or added to the major source during the preceding six-month period.
 - e. The number, duration, and cause of any deviations or monitoring malfunctions (other than the time associated with zero and span calibration checks), and any corrective action taken.
 - f. A notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, and whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by method included in the permit, as provided by subsection (K)(7).
 - g. A certification by the responsible official consistent with R18-2-304(I).
2. Deviation report. The major source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL permit requirements, including periods where no monitoring is available, in accordance with R18-2-306(A)(5). The reports shall contain the following information:
 - a. The identification of owner and operator and the permit number,
 - b. The PAL permit requirement that experienced the deviation or that was exceeded,
 - c. Emissions resulting from the deviation or the exceedance, and
 - d. A certification by the responsible official consistent with R18-2-304(I).
 3. Re-validation results. The owner or operator shall submit to the Director the results of any re-validation test or method within three months after completion of such test or method.

Historical Note

New Section made by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

ARTICLE 5. GENERAL PERMITS

R18-2-501. Applicability

- A.** The Director may issue general permits for a facility class that contains 10 or more facilities that are similar in nature, have substantially similar emissions, and would be subject to the same or substantially similar requirements governing operations, emissions, monitoring, reporting, or recordkeeping. "Similar in nature" refers to facility size, processes, and operating conditions.
- B.** The Director may issue general permits, in accordance with subsection (A), with emission limitations, controls, or other requirements that meet the requirements of R18-2-306.01. A source that seeks to vary from such a general permit, and obtain an emission limitation, control, or other requirement not contained in that general permit, shall apply for a permit pursuant to Article 3 of this Chapter.
- C.** General permits shall not be issued for affected sources except as provided in regulations promulgated by the Administrator under Title IV of the Act.
- D.** Unless otherwise stated, the provisions of Article 3 shall apply to general permits.

Historical Note

Former Section R18-2-501 renumbered to R18-2-502, new Section R18-2-501 adopted effective September 26, 1990 (Supp. 90-3). Former Section R18-2-501 renumbered to R18-2-701; new Section adopted effective November 15, 1993 (Supp. 93-4). Amended effective

August 1, 1995 (Supp. 95-3).

R18-2-502. General Permit Development

- A. The Director may issue a general permit on the Director's own initiative or in response to a petition.
- B. Any person may submit a petition to the Director requesting the issuance of a general permit for a defined class of facilities. The petition shall propose a particular class of facilities, and list the approximate number of facilities in the proposed class along with their size, processes, and operating conditions, and demonstrate how the class meets the criteria for a general permit as specified in R18-2-501 and A.R.S. § 49-426(H). The Director shall provide a written response to the petition within 120 days of receipt.
- C. General permits shall be issued for classes of facilities using the same engineering principles that applies to permits for individual sources and following the public notice requirements of R18-2-504.
- D. General permits shall include all of the following:
 1. All elements required by R18-2-306(A) except R18-2-306(A)(2)(b) and (6).
 2. The process for individual sources to apply for coverage under the general permit.
- E. General permits may include conditions imposed under R18-2-515.

Historical Note

Former Section R9-3-501 repealed, new Section R9-3-501 adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (D) effective June 19, 1981 (Supp. 81-3). Amended subsections (C) and (D) effective February 2, 1982 (Supp. 82-1). Amended subsection (D) effective May 25, 1982 (Supp. 82-3). Former Section R9-3-501 renumbered without change as Section R18-2-501 (Supp. 87-3). Former Section R18-2-502 repealed, new Section R18-2-502 renumbered from R18-2-501 and amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-502 renumbered to R18-2-702; new Section R18-2-502 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-503. Application for Coverage under General Permit

- A. Once the Director has issued a general permit, any source which is a member of the class of facilities covered by the general permit may apply to the Director for authority to operate under the general permit. At the time the Director issues a general permit, the Director may also establish a specific application form with filing instructions for sources in the category covered by the general permit. Applicants shall complete the specific application form or, if a specific form has not been adopted, the standard application form provided under R18-2-304(B). The specific application form shall, at a minimum, require the applicant to submit the following information:
 1. Information identifying and describing the source, its processes, and operating conditions in sufficient detail to allow the Director to determine qualification for, and to assure compliance with, the general permit.
 2. A compliance plan that meets the requirements of R18-2-514.
- B. For sources required to obtain a permit under Title V of the Act, the Director shall provide the Administrator with a permit application summary form and any relevant portion of the permit application and compliance plan. To the extent possible,

this information shall be provided in computer-readable format compatible with the Administrator's national database management system.

- C. The Director shall act on the application for coverage under a general permit as expeditiously as possible. The source may operate under the terms of the applicable general permit during that time. The Director may defer acting on an application under this subsection (if) the Director has provided notice of intent to renew or not renew the permit.
- D. The Director shall deny an application for coverage from any Class I source that is subject to case-by-case standards or requirements.
- E. Upon notification from the Director of the availability of a web portal to apply for and obtain a general permit, an applicant shall file all applications and conduct all transactions related to the general permit through the portal.

Historical Note

Former Section R9-3-503 repealed, new Section R9-3-503 adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (C), paragraph (6) effective June 19, 1981 (Supp. 81-3). Amended subsection (C) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-503 renumbered without change as Section R18-2-503 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-503 renumbered to R18-2-703; new Section R18-2-503 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-504. Public Notice

- A. This Section applies to issuance, revision, or renewal of a general permit.
- B. The Director shall provide public notice for any proposed new general permit, for any revision of an existing general permit, and for renewal of an existing general permit.
- C. The Director shall publish notice of the proposed general permit once each week for two consecutive weeks in a newspaper of general circulation in each county and shall provide at least 30 days from the date of the first notice for public comment. The notice shall describe the following:
 1. The proposed permit;
 2. The category of sources that would be affected;
 3. The air contaminants which the Director expects to be emitted by a typical facility in the class and the class as a whole;
 4. The Director's proposed actions and effective date for the actions;
 5. Locations where documents relevant to the proposed permit will be available during normal business hours;
 6. The name, address, and telephone number of a person within the Department who may be contacted for further information;
 7. The address where any person may submit comments or request a public hearing and the date and time by which comments or a public hearing request are required to be received;
 8. The process by which sources may obtain authorization to operate under the general permit.
- D. A copy of the notice required by subsection (C), shall be sent to the Administrator through the appropriate regional office, and to all other state and local air pollution control agencies in the state. The notice shall also be sent to any other agency in

the state having responsibility for implementing the procedures required under 40 CFR 51, I. For general permits under which operation may be authorized in lieu of Class I permits, the Director shall provide the proposed final permit to the Administrator after public and affected state review. No Class I permit shall be issued if the Administrator properly objects to its issuance in writing within 45 days from receipt of the proposed final permit and any necessary supporting information from the Director.

- E. By no later than the date notice is first published under subsection (A), the Department shall make copies of the following materials available at a public location in each county and at each Department office:
 1. The proposed general permit;
 2. The Department's analysis in support of the grant of the general permit;
 3. All other materials available to the Director that are relevant to the permit decision.
- F. Written comments to the Director shall include the name of the person and the person's agent or attorney and shall clearly set forth reasons why the general permit should or should not be issued pursuant to the criteria for issuance in A.R.S. §§ 49-426 and 49-427 and this Chapter.
- G. At the time a general permit is issued, the Director shall make available a response to all relevant comments on the proposed permit raised during the public comment period and during any requested public hearing. The response shall specify which provisions, if any, of the proposed permit have been changed and the reason for the changes. The Director shall also notify in writing any petitioner and each person who has submitted written comments on the proposed general permit or requested notice of the final permit decision.

Historical Note

Former Section R9-3-504 repealed, new Section R9-3-504 adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective July 9, 1980 (Supp. 80-4). Former Section R9-3-504 renumbered without change as Section R18-2-504 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-504 renumbered to R18-2-704; new Section R18-2-504 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-505. General Permit Renewal

- A. The Director shall review and may renew general permits every five years. A source's authorization to operate under a general permit shall coincide with the term of the general permit regardless of when the authorization began during the five-year period, except as provided in R18-2-510(C). In addition to the public notice required to issue a proposed permit under R18-2-504, the Director shall notify in writing all sources who have been granted, or who have applications pending for, authorization to operate under the permit. The written notice shall describe the source's duty to reapply and may include requests for information required under the proposed permit.
- B. At the time a general permit is renewed, the Director shall notify in writing all sources who were granted coverage under the previous permit and shall require them to submit a timely renewal application. For purposes of general permits, a timely application is one that is submitted within the time-frame specified by the Director in the written notification. Until such time that a timely application is submitted, the source shall continue to comply with the previously issued general permit coverage. Upon submittal of a timely application, the source shall com-

ply with the renewed permit. Failure to submit a timely application terminates the source's right to operate.

Historical Note

Former Section R9-3-1007 renumbered effective January 13, 1976 (Supp. 76-1). Former Section R9-3-505 repealed, new Section R9-3-505 adopted effective May 14, 1979 (Supp. 79-1). Editorial corrections, subsection (B), paragraph (5), and subsection (D), paragraph (1), subparagraph (d) (Supp. 80-2). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (B) effective May 28, 1982 (Supp. 82-3). Amended subsection (B) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-505 renumbered without change as Section R18-2-505 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-505 renumbered to R18-2-705; new Section R18-2-505 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2).

R18-2-506. Relationship to Individual Permits

Any source covered under a general permit may request to be excluded from coverage by applying for an individual source permit. Coverage under the general permit shall terminate on the date the individual permit is issued.

Historical Note

Former Section R9-3-1008 renumbered effective January 13, 1976 (Supp. 76-1). Former Section R9-3-506 repealed, new Section R9-3-506 adopted effective May 14, 1979 (Supp. 79-1). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (C), paragraph (1) effective June 19, 1981 (Supp. 81-3). Former Section R9-3-506 renumbered without change as Section R18-2-506 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-506 renumbered to R18-2-706; new Section R18-2-506 adopted effective November 15, 1993 (Supp. 93-4).

R18-2-507. Repealed

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective July 9, 1980 (Supp. 80-4). Former Section R9-3-507 renumbered without change as Section R18-2-507 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-507 renumbered to R18-2-707; new Section R18-2-507 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Repealed by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-508. Repealed

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (B) effective May 28, 1982 (Supp. 82-3). Amended subsection (B) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-508 renumbered without change as Section R18-2-508 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-508 renumbered to R18-2-708; new Section R18-2-508 adopted effective November 15, 1993 (Supp. 93-4). Repealed by final rulemaking at 23 A.A.R. 333, effective

March 21, 2017 (Supp. 17-1).

R18-2-509. General Permit Appeals

Any person who filed a comment on a proposed general permit as provided in R18-2-504 may appeal the terms and conditions of the general permit, as they apply to the facility class covered under a general permit, by filing an appeal with the Office of Administrative Hearings within 30 days after receipt of notice that the general permit has been issued.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective July 9, 1980 (Supp. 80-4). Former Section R9-3-509 renumbered without change as Section R18-2-509 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-509 renumbered to R18-2-709; new Section R18-2-509 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 12 A.A.R. 4698, effective February 3, 2007 (Supp. 06-4).

R18-2-510. Terminations of General Permits and Revocations of Authority to Operate under a General Permit

- A. The Director may terminate a general permit at any time if:
 1. The Director has determined that the emissions from the sources in the facility class cause or contribute to ambient air quality standard violations which are not adequately addressed by the requirements in the general permit, or
 2. The Director has determined that the terms and conditions of the general permit no longer meet the requirements of A.R.S. §§ 49-426 and 49-427.
- B. The Director shall provide written notice to all sources operating under a general permit prior to termination of a general permit. Such notice shall include an explanation of the basis for the proposed action. Within 180 days of receipt of the notice of the expiration, termination or cancellation of any general permit, sources notified shall submit an application to the Director for an individual permit.
- C. The Director may require a source authorized to operate under a general permit to apply for and obtain an individual source permit at any time if the source is not in compliance with the terms and conditions of the general permit.
- D. If the Director revokes a source's authority to operate under a general permit pursuant to subsection (C), the Director shall notify the permittee by certified mail, return receipt requested. The notice shall include a statement detailing the grounds for the revocation of authority and a statement that the permittee is entitled to a hearing. A source previously authorized to operate under a general permit may operate under the terms of the general permit until the earlier of the date it submits a complete application for an individual permit, at which time it may operate under that application, or 180 days after receipt of the notice of revocation of authority to operate under the general permit.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective July 9, 1980 (Supp. 80-4). Amended subsections (E)(3) and (E)(4) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-510 renumbered without change as Section R18-2-510 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-510 renumbered to R18-2-710; new Section R18-2-510 adopted effective November 15, 1993 (Supp. 93-4).

R18-2-511. Fees Related to General Permits

- A. **Permit Processing Fee.** The owner or operator of a source that applies for authority to operate under a general permit shall pay to the Director \$500 with the submittal of each application. This fee applies to the owner or operator of any source who intends to continue operating under the authority of a general permit that has been proposed for renewal. This fee also applies to requests for new Authorizations to Operate (ATOs) for new equipment.
- B. **Administrative or Inspection Fee.** The owner or operator of a source required to have a general permit, that has undergone initial startup by January 1, shall pay, for each calendar year, the applicable administrative or inspection fee from the table below, by February 1 or 60 days after the Director mails the invoice, whichever is later.

General Permit Source Category	Administrative Fee
Class I Title V General Permits	Administrative fee for category from R18-2-326(C)
Class II Title V Small Source	\$750
Other Class II Title V General Permits	\$4,520
	Inspection Fee
Class II Non-Title V Crematories	\$1,500
Other Class II Non-Title V General Permits	\$3,020

Historical Note

Former Section R18-2-511 renumbered to R18-2-711; new Section R18-2-511 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 7 A.A.R. 5670, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 10 A.A.R. 4767, effective November 4, 2004 (Supp. 04-4). Amended by final rulemaking at 13 A.A.R. 4379, effective December 4, 2007 (Supp. 07-4).

R18-2-512. Changes to Facilities Granted Coverage under General Permits

- A. This Section applies to changes made at a facility that has been granted coverage under a general permit.
- B. **Facility Changes that Require New Authorization to Operate.** The following changes at a source that has been granted coverage under a general permit shall be made only after the source requests new authorization to operate from the Director:
 1. Adding new emissions units that require new authorization to operate,
 2. Installing replacement emissions units that require authorization to operate.
- C. **Facility Changes that Do Not Require Authorization to Operate.** The following changes at a source that has been granted coverage under a general permit shall be made only after the source provides notification to the Department:
 1. Adding new emissions units that do not require authorization to operate,
 2. Installing a replacement emissions unit with a higher capacity that does not require authorization to operate,
 3. Adding or replacing air pollution control equipment.
- D. A source that has been granted coverage under a general permit shall keep a record of any physical change or change in the method of operation that could affect emissions. The record shall include a description of the change and the date the change occurred.
- E. For sources that submit a request or notification under subsection (B) or (C), the applicant shall provide information identifying and describing the source, its processes, and operating

conditions in sufficient detail to allow the Director to determine continued qualification for, and to assure compliance with, the general permit. The Director shall act on a request for new authority to operate under a general permit as expeditiously as possible. The source may operate under the terms of the applicable general permit during that time.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (A) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-512 renumbered without change as Section R18-2-512 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-712 effective November 15, 1993 (Supp. 93-4). New Section made by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-513. Portable Sources Covered under a General Permit

- A. This Section applies to sources that have been granted coverage under a general permit that allows for the operation of a source at more than one location.
- B. General permits developed by the Director for portable sources shall contain conditions that assure compliance with all applicable requirements at all authorized locations.
- C. Owners and operators that hold multiple coverages under the same general permit:
 - 1. Shall have separate coverage under the general permit for each location at which each portable source operates.
 - 2. Until the Director notifies permittees of the availability of a web portal under R18-2-503(E), may move equipment between portable sources without obtaining a new authorization to operate. At no time shall an owner or operator move equipment to a portable source if the move would cause emissions from the portable source to exceed emission limitations in the general permit. Equipment from a portable source covered by one general permit shall not be moved to a portable source covered by a different general permit, unless the owner or operator obtains a new authorization to operate under the general permit covering the new location.
 - 3. After the Director notifies permittees of the availability of a web portal under R18-2-503(E), must use the portal to obtain authorizations to operate for each location at which the equipment will operate.
- D. A portable source that will operate for the duration of its permit solely in one county that has established a local air pollution control program pursuant to A.R.S. § 49-479 shall obtain a permit from that county. A portable source with a county permit shall not operate in any other county. A portable source that has been granted coverage under a general permit that subsequently obtains a county permit shall request that the Director terminate the coverage under the general permit. Upon issuance of the county permit, the coverage under the general permit issued by the Director is no longer valid.
- E. A portable source which has a county permit but proposes to operate outside that county may obtain coverage under a general permit from the Director. A portable source that has a permit issued by a county and obtains coverage under a general permit issued by the Director shall request that the county terminate the permit. Upon issuance of coverage under a general permit by the Director, the county permit is no longer valid. Before commencing operation in the new county, the source shall notify the Director and the control officer who has jurisdiction in the county that includes the new location according to subsection (F).

diction in the county that includes the new location according to subsection (F).

- F. A portable source granted coverage under a general permit may be transferred from one location to another provided that the owner or operator of the portable source notifies the Director and any control officer who has jurisdiction over the geographic area that includes the new location of the transfer prior to the transfer. The notification required under this subsection (shall) include:
 - 1. A description of the equipment to be transferred including the permit number and as appropriate the Authorization-to-Operate number for each piece of equipment;
 - 2. A description of the present location;
 - 3. A description of the new location;
 - 4. The date on which the equipment is to be moved;
 - 5. The date on which operation of the equipment will begin at the new location;
 - 6. A complete list of all equipment requiring authorization to operate that may be located at the new location; and
 - 7. Revised emissions calculations demonstrating that the equipment at the new location continues to qualify for the general permit under which the portable source has coverage.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Editorial correction, subsection (A), paragraph (2) (Supp. 80-2). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (A) effective May 28, 1982 (Supp. 82-3). Amended subsection (A) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-513 renumbered without change as Section R18-2-513 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-713 effective November 15, 1993 (Supp. 93-4). New Section made by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-514. General Permit Compliance Certification

- A. A compliance certification submitted by the owner or operator of a stationary source covered by a general permit shall be on a form provided by the Director and shall include the following information:
 - 1. The source's name, mailing address, contact person and contact person phone number, permit number, compliance reporting period, and physical address and location, if different than the mailing address.
 - 2. A certification of truth, accuracy, and completeness signed by the facility's responsible officer.
 - 3. Process information for the source, including design capacity, operations schedule, hours of operation, and total production.
 - 4. Method of documenting compliance and the status of compliance with all recordkeeping, reporting, monitoring, and testing requirements and all emission limitations and standards imposed in the permit.
- B. Upon notification from the Director of the availability of a web portal to complete and submit a compliance certification, the owner or operator shall complete and submit all compliance certifications through the portal.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective July 9, 1980 (Supp. 80-4). Former Section R9-3-514 renumbered without change as Section R18-2-514 (Supp. 87-3).

87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-714 effective November 14, 1993 (Supp. 93-4). New Section made by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-515. Minor NSR in General Permits

- A. A general permit may include emission standards designed to assure that a stationary source covered by the permit will comply with minor new source review under R18-2-334(C). The emission standards may consist of any combination of the following:
1. Limits designed to assure that emissions from a stationary source that is a member of the class of facilities covered by the permit will not interfere with attainment or maintenance of a NAAQS.
 2. Limits imposing reasonably available control technology.
- B. Except as provided in subsection (C), if a general permit includes emission standards under subsection (A), then any stationary source that is a member of the class of facilities covered by the permit or any minor NSR modification to such a source may comply with R18-2-334 by obtaining coverage under the permit.
- C. An owner or operator seeking coverage under a general permit in order to obtain authorization to construct or make a minor NSR modification to a stationary source shall instead apply for an individual permit, if the Department determines there is reason to believe the source or modification could interfere with attainment or maintenance of any national ambient air quality standard. In making this determination, the Department:
1. Shall consider the factors in R18-2-334(E)(1) to (6).
 2. Shall consider whether the dispersion characteristics of the source are likely to result in higher ambient concentrations of a conventional pollutant than the modeling assumptions used to establish an emission standard under subsection (A)(1).
 3. May apply a screening model to the source's emissions.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Section R9-3-515 will be repealed and new Section R9-3-515 adopted effective following the adoption of Article 7. Nonferrous Smelter Orders, filed September 18, 1979 for public hearing (Supp. 79-5). Section R9-3-515 adopted effective May 14, 1979, amended effective October 2, 1979 (Supp. 79-5). Article 7. Nonferrous Smelter Orders adopted effective January 8, 1980. Section R9-3-515 filed September 18, 1979 for public hearing and effective following the adoption of Article 7 now amended and effective January 8, 1980 (Supp. 80-1). Amended as an emergency effective March 6, 1980, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 80-2). Emergency adoption effective March 6, 1980 now adopted and amended effective July 9, 1980. Amended subsection (C), paragraph (1) effective August 29, 1980 (Supp. 80-4). Amended as an emergency effective October 9, 1980, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 80-5). Former emergency adoption effective October 9, 1980, now adopted and amended effective June 19, 1981 (Supp. 81-3). Amended subsection (B), paragraph (1) effective February 2, 1982 (Supp. 82-1). Amended effective May 25, 1982 (Supp. 82-3). Amended subsections ((C)(3) and (C)(5) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-515 renumbered without change as Section R18-2-515 (Supp. 87-3). Section amended and subsections (C)(1)(h) through (C)(7)

renumbered to R18-2-515.01 and subsections (C)(8) through (C)(9) renumbered to R18-2-515.02 effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-715 effective November 15, 1993 (Supp. 93-4). New Section made by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-515.01. Renumbered

Historical Note

Section R18-2-515.01 renumbered from R18-2-515(C)(1)(h) through (C)(7) and amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-715.01 effective November 15, 1993 (Supp. 93-4).

R18-2-515.02. Renumbered

Historical Note

R18-2-515.02 renumbered from R18-2-515(C)(8) through (C)(9) and amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-715.02 effective November 15, 1993 (Supp. 93-4).

R18-2-516. Renumbered

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (A) effective May 28, 1982 (Supp. 82-3). Amended subsection (A) effective September 22, 1983 (Supp. 83-4). Former Section R9-3-516 renumbered without change as Section R18-2-516 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-716 effective November 15, 1993 (Supp. 93-4).

R18-2-517. Renumbered

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Editorial correction, subsection (C), paragraph (1) (Supp. 80-1). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (A) effective May 28, 1982 (Supp. 82-3). Amended subsection (A) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-517 renumbered without change as Section R18-2-517 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-2). Renumbered to R18-2-717 effective November 15, 1993 (Supp. 93-4).

R18-2-518. Renumbered

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (A) effective May 28, 1982 (Supp. 82-3). Amended effective September 22, 1983 (Supp. 83-4). Former Section R9-3-518 renumbered without change as Section R18-2-518 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-718 effective November 15, 1993 (Supp. 93-4).

R18-2-519. Renumbered

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Editorial correction, subsection (A), paragraph (1) (Supp. 80-1). Amended effective July 9, 1980 (Supp. 80-4). Former Section R9-3-519 renumbered without change as Section R18-2-519 (Supp. 87-3). Amended effective September

26, 1990 (Supp. 90-3). Renumbered to R18-2-719 effective November 15, 1993 (Supp. 93-4).

R18-2-520. Renumbered

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Editorial correction, subsection (A), paragraph (1) (Supp. 80-2). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (A) effective May 28, 1982 (Supp. 82-3). Amended subsection (A) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-520 renumbered without change as Section R18-2-520 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-720 effective November 15, 1993 (Supp. 93-4).

R18-2-521. Renumbered

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (A) effective May 28, 1982 (Supp. 82-3). Amended subsection (A) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-521 renumbered without change as Section R18-2-521 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-721 effective November 15, 1993 (Supp. 93-4).

R18-2-522. Renumbered

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (A) effective May 28, 1982 (Supp. 82-3). Amended subsection (A) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-522 renumbered without change as Section R18-2-522 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-722 effective November 15, 1993 (Supp. 93-4).

R18-2-523. Renumbered

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective July 9, 1980 (Supp. 80-4). Former Section R9-3-523 renumbered without change as Section R18-2-523 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-2). Renumbered to R18-2-723 effective November 15, 1993 (Supp. 93-4).

R18-2-524. Renumbered

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (A) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-524 renumbered without change as Section R18-2-524 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-724 effective November 15, 1993 (Supp. 93-4).

R18-2-525. Renumbered

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Editorial correction, subsection (B) (Supp. 79-6). Amended effective July 9, 1980 (Supp. 80-4). Former Section R9-3-525 renumbered without change as Section R18-2-525 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3).

3). Renumbered to R18-2-725 effective November 15, 1993 (Supp. 93-4).

R18-2-526. Renumbered

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-526 renumbered without change as Section R18-2-526 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-726 effective November 15, 1993 (Supp. 93-4).

R18-2-527. Renumbered

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-527 renumbered without change as Section R18-2-527 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-727 effective November 15, 1993 (Supp. 93-4).

R18-2-528. Renumbered

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective July 9, 1980 (Supp. 80-4). Former Section R9-3-528 renumbered without change as Section R18-2-528 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-728 effective November 15, 1993 (Supp. 93-4).

R18-2-529. Renumbered

Historical Note

Adopted effective September 22, 1983 (Supp. 83-5). Former Section R9-3-529 renumbered without change as Section R18-2-529 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-729 effective November 15, 1993 (Supp. 93-4).

R18-2-530. Renumbered

Historical Note

Adopted effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-730 effective November 15, 1993 (Supp. 93-4).

ARTICLE 6. EMISSIONS FROM EXISTING AND NEW NONPOINT SOURCES

R18-2-601. General

For purposes of this Article, any source of air contaminants which due to lack of an identifiable emission point or plume cannot be considered a point source, shall be classified as a nonpoint source. In applying this criteria, such items as air-curtain destructors, heater-planners, and conveyor transfer points shall be considered to have identifiable plumes. Any affected facility subject to regulation under Article 7 of this Chapter or Title 18, Chapter 2, Article 9, shall not be subject to regulation under this Article.

Historical Note

Former Section R9-3-601 repealed, new Section R9-3-601 adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-601 renumbered without change as Section R18-2-601 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-601 renumbered to R18-2-801, new Section R18-2-601 renumbered from R18-2-401 and amended effective November 15, 1993 (Supp. 93-4). Section updated to reflect corrected citation reference (Supp. 08-1).

R18-2-602. Unlawful Open Burning

- A. In addition to the definitions contained in A.R.S. § 49-501, in this Section:
1. "Agricultural burning" means burning vegetative materials related to producing and harvesting crops and raising animals for the purpose of marketing for profit, or providing a livelihood, but does not include burning of household waste or prohibited materials. A person may conduct agricultural burns in fields, piles, ditch banks, fence rows, or canal laterals for purposes such as weed control, waste disposal, disease and pest prevention, or site preparation.
 2. "Approved waste burner" means an incinerator constructed of fire resistant material with a cover or screen that is closed when in use, and has openings in the sides or top no greater than one inch in diameter.
 3. "Class I Area" means any one of the Arizona mandatory federal Class I areas defined in A.R.S. § 49-401.01.
 4. "Construction burning" means burning wood or vegetative material from land clearing, site preparation, or fabrication, erection, installation, demolition, or modification of any buildings or other land improvements, but does not include burning household waste or prohibited material.
 5. "Dangerous material" means any substance or combination of substances that is capable of causing bodily harm or property loss unless neutralized, consumed, or otherwise disposed of in a controlled and safe manner.
 6. "Delegated authority" means any of the following:
 - a. A county, city, town, air pollution control district, or fire district that has been delegated authority to issue open burning permits by the Director under A.R.S. § 49-501(E); or
 - b. A private fire protection service provider that has been assigned authority to issue open burning permits by one of the authorities in subsection (A)(6)(a).
 7. "Director" means the Director of the Department of Environmental Quality, or designee.
 8. "Emission reduction techniques" means methods for controlling emissions from open outdoor fires to minimize the amount of emissions output per unit of area burned.
 9. "Flue," as used in this Section, means any duct or passage for air or combustion gases, such as a stack or chimney.
 10. "Household waste" means any solid waste including garbage, rubbish, and sanitary waste from a septic tank that is generated from households including single and multiple family residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas, but does not include construction debris, landscaping rubble, or demolition debris.
 11. "Independent authority to permit fires" means the authority of a county to permit fires by a rule adopted under Arizona Revised Statutes, Title 49, Chapter 3, Article 3, and includes only Maricopa, Pima, and Pinal counties.
 12. "Open outdoor fire or open burning" means the combustion of material of any type, outdoors and in the open, where the products of combustion are not directed through a flue. Open outdoor fires include agricultural, residential, prescribed, and construction burning, and fires using air curtain destructors.
 13. "Prohibited materials" means nonpaper garbage from the processing, storage, service, or consumption of food; chemically treated wood; lead-painted wood; linoleum flooring, and composite counter-tops; tires; explosives or ammunition; oleanders; asphalt shingles; tar paper; plastic and rubber products, including bottles for household chemicals; plastic grocery and retail bags; waste petroleum products, such as waste crankcase oil, transmission oil, and oil filters; transformer oils; asbestos; batteries; anti-freeze; aerosol spray cans; electrical wire insulation; thermal insulation; polyester products; hazardous waste products such as paints, pesticides, cleaners and solvents, stains and varnishes, and other flammable liquids; plastic pesticide bags and containers; and hazardous material containers including those that contained lead, cadmium, mercury, or arsenic compounds.
 14. "Residential burning" means open burning of vegetative materials conducted by or for the occupants of residential dwellings, but does not include burning household waste or prohibited material.
 15. "Prescribed burning" has the same meaning as in R18-2-1501.
- B. Unlawful open burning. Notwithstanding any other rule in this Chapter, a person shall not ignite, cause to be ignited, permit to be ignited, allow, or maintain any open outdoor fire in a county without independent authority to permit fires except as provided in A.R.S. § 49-501 and this Section.
- C. Open outdoor fires exempt from a permit. The following fires do not require an open burning permit from the Director or a delegated authority:
1. Fires used only for:
 - a. Cooking of food,
 - b. Providing warmth for human beings,
 - c. Recreational purposes,
 - d. Branding of animals,
 - e. Orchard heaters for the purpose of frost protection in farming or nursery operations, and
 - f. The proper disposal of flags under 4 U.S.C. 1, § 8.
 2. Any fire set or permitted by any public officer in the performance of official duty, if the fire is set or permission given for the following purpose:
 - a. Control of an active wildfire; or
 - b. Instruction in the method of fighting fires, except that the person setting these fires must comply with the reporting requirements of subsection (D)(3)(f).
 3. Fire set by or permitted by the Director of Department of Agriculture for the purpose of disease and pest prevention in an organized, area-wide control of an epidemic or infestation affecting livestock or crops.
 4. Prescribed burns set by or assisted by the federal government or any of its departments, agencies, or agents, or the state or any of its agencies, departments, or political subdivisions, regulated under Article 15 of this Chapter.
- D. Open outdoor fires requiring a permit.
1. The following open outdoor fires are allowed with an open burning permit from the Director or a delegated authority:
 - a. Construction burning;
 - b. Agricultural burning;
 - c. Residential burning;
 - d. Prescribed burns conducted on private lands without the assistance of a federal or state land manager as defined under R18-2-1501;
 - e. Any fire set or permitted by a public officer in the performance of official duty, if the fire is set or permission given for the purpose of weed abatement, or the prevention of a fire hazard, unless the fire is exempt from the permit requirement under subsection (C)(3);
 - f. Open outdoor fires of dangerous material under subsection (E);
 - g. Open outdoor fires of household waste under subsection (F); and

- h. Open outdoor fires that use an air curtain destructor, as defined in R18-2-101.
- 2. A person conducting an open outdoor fire in a county without independent authority to permit fires shall obtain a permit from the Director or a delegated authority unless exempted under subsection (C). Permits may be issued for a period not to exceed one year. A person shall obtain a permit by completing an ADEQ-approved application form.
- 3. Open outdoor fire permits issued under this Section shall include:
 - a. A list of the materials that the permittee may burn under the permit;
 - b. A means of contacting the permittee authorized by the permit to set an open fire in the event that an order to extinguish the open outdoor fire is issued by the Director or the delegated authority;
 - c. A requirement that burns be conducted during the following periods, unless otherwise waived or directed by the Director on a specific day basis:
 - i. Year-round: ignite fire no earlier than one hour after sunrise; and
 - ii. Year-round: extinguish fire no later than two hours before sunset;
 - d. A requirement that the permittee conduct all open burning only during atmospheric conditions that:
 - i. Prevent dispersion of smoke into populated areas;
 - ii. Prevent visibility impairment on traveled roads or at airports that result in a safety hazard;
 - iii. Do not create a public nuisance or adversely affect public safety;
 - iv. Do not cause an adverse impact to visibility in a Class I area; and
 - v. Do not cause uncontrollable spreading of the fire;
 - e. A list of the types of emission reduction techniques that the permittee shall use to minimize fire emissions.;
 - f. A reporting requirement that the permittee shall meet by providing the following information in a format provided by the Director for each date open burning occurred, on either a daily basis on the day of the fire, or an annual basis in a report to the Director or delegated authority due on March 31 for the previous calendar year:
 - i. The date of each burn;
 - ii. The type and quantity of fuel burned for each date open burning occurred;
 - iii. The fire type, such as pile or pit, for each date open burning occurred; and
 - iv. For each date open burning occurred, the legal location, to the nearest section, or latitude and longitude, to the nearest degree minute, or street address for residential burns;
 - g. A requirement that the person conducting the open burn notify the local fire-fighting agency or private fire protection service provider, if the service provider is a delegated authority, before burning. If neither is in existence, the person conducting the burn shall notify the state forester.;
 - h. A requirement that the permittee start each open outdoor fire using items that do not cause the production of black smoke;
 - i. A requirement that the permittee attend the fire at all times until it is completely extinguished;
 - j. A requirement that the permittee provide fire extinguishing equipment on-site for the duration of the burn;
 - k. A requirement that the permittee ensure that a burning pit, burning pile, or approved waste burner be at least 50 feet from any structure;
 - l. A requirement that the permittee have a copy of the burn permit on-site during open burning;
 - m. A requirement that the permittee not conduct open burning when an air stagnation advisory, as issued by the National Weather Service, is in effect in the area of the burn or during periods when smoke can be expected to accumulate to the extent that it will significantly impair visibility in Class I areas;
 - n. A requirement that the permittee not conduct open burning when any stage air pollution episode is declared under R18-2-220;
 - o. A statement that the Director, or any other public officer, may order that the burn be extinguished or prohibit burning during periods of inadequate smoke dispersion, excessive visibility impairment, or extreme fire danger; and
 - p. A list of the activities prohibited and the criminal penalties provided under A.R.S. § 13-1706.
- 4. The Director or a delegated authority shall not issue an open burning permit under this Section:
 - a. That would allow burning prohibited materials other than under a permit for the burning of dangerous materials;
 - b. If the applicant has applied for a permit under this Section to burn a dangerous material which is also hazardous waste under 40 CFR 261, but does not have a permit to burn hazardous waste under 40 CFR 264, or is not an interim status facility allowed to burn hazardous waste under 40 CFR 265; or
 - c. If the burning would occur at a solid waste facility in violation of 40 CFR 258.24 and the Director has not issued a variance under A.R.S. § 49-763.01.
- E. Open outdoor fires of dangerous material. A fire set for the disposal of a dangerous material is allowed by the provisions of this Section, when the material is too dangerous to store and transport, and the Director has issued a permit for the fire. A permit issued under this subsection shall contain all provisions in subsection (D)(3) except for subsections (D)(3)(e) and (D)(3)(f). The Director shall permit fires for the disposal of dangerous materials only when no safe alternative method of disposal exists, and burning the materials does not result in the emission of hazardous or toxic substances either directly or as a product of combustion in amounts that will endanger health or safety.
- F. Open outdoor fires of household waste. An open outdoor fire for the disposal of household waste is allowed by provisions of this Section when permitted in writing by the Director or a delegated authority. A permit issued under this subsection shall contain all provisions in subsection (D)(3) except for subsections (D)(3)(e) and (D)(3)(f). The permittee shall conduct open outdoor fires of household waste in an approved waste burner and shall either:
 - 1. Burn household waste generated on-site on farms or ranches of 40 acres or more where no household waste collection or disposal service is available; or
 - 2. Burn household waste generated on-site where no household waste collection and disposal service is available and where the nearest other dwelling unit is at least 500 feet away.

- G.** Permits issued by a delegated authority. The Director may delegate authority for the issuance of open burning permits to a county, city, town, air pollution control district, or fire district. A delegated authority may not issue a permit for its own open burning activity. The Director shall not delegate authority to issue permits to burn dangerous material under subsection (E). A county, city, town, air pollution control district, or fire district with delegated authority from the Director may assign that authority to one or more private fire protection service providers that perform fire protection services within the county, city, town, air pollution control district, or fire district. A private fire protection provider shall not directly or indirectly condition the issuance of open burning permits on the applicant being a customer. Permits issued under this subsection shall comply with the requirements in subsection (D)(3) and be in a format prescribed by the Director. Each delegated authority shall:
1. Maintain a copy of each permit issued for the previous five years available for inspection by the Director;
 2. For each permit currently issued, have a means of contacting the person authorized by the permit to set an open fire if an order to extinguish open burning is issued; and
 3. Annually submit to the Director by May 15 a record of daily burn activity, excluding household waste burn permits, on a form provided by the Director for the previous calendar year containing the information required in subsections (D)(3)(e) and (D)(3)(f).
- H.** The Director shall hold an annual public meeting for interested parties to review operations of the open outdoor fire program and discuss emission reduction techniques.
- I.** Nothing in this Section is intended to permit any practice that is a violation of any statute, ordinance, rule, or regulation.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Correction, subsection (C) repealed effective October 2, 1979, not shown (Supp. 80-1). Former Section R9-3-602 renumbered without change as Section R18-2-602 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-602 renumbered to R18-2-802, new Section R18-2-602 renumbered from R18-2-401 effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1).

R18-2-603. Repealed

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-603 renumbered without change as Section R18-2-603 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-603 renumbered to R18-2-803, new Section R18-2-603 renumbered from R18-2-403 effective November 15, 1993 (Supp. 93-4). Repealed effective October 8, 1996 (Supp. 96-4).

R18-2-604. Open Areas, Dry Washes, or Riverbeds

- A.** No person shall cause, suffer, allow, or permit a building or its appurtenances, or a building or subdivision site, or a driveway, or a parking area, or a vacant lot or sales lot, or an urban or suburban open area to be constructed, used, altered, repaired, demolished, cleared, or leveled, or the earth to be moved or excavated, without taking reasonable precautions to limit excessive amounts of particulate matter from becoming airborne. Dust and other types of air contaminants shall be kept to a minimum by good modern practices such as using an

approved dust suppressant or adhesive soil stabilizer, paving, covering, landscaping, continuous wetting, detouring, barring access, or other acceptable means.

- B.** No person shall cause, suffer, allow, or permit a vacant lot, or an urban or suburban open area, to be driven over or used by motor vehicles, trucks, cars, cycles, bikes, or buggies, or by animals such as horses, without taking reasonable precautions to limit excessive amounts of particulates from becoming airborne. Dust shall be kept to a minimum by using an approved dust suppressant, or adhesive soil stabilizer, or by paving, or by barring access to the property, or by other acceptable means.
- C.** No person shall operate a motor vehicle for recreational purposes in a dry wash, riverbed or open area in such a way as to cause or contribute to visible dust emissions which then cross property lines into a residential, recreational, institutional, educational, retail sales, hotel or business premises. For purposes of this subsection “motor vehicles” shall include, but not be limited to trucks, cars, cycles, bikes, buggies and 3-wheelers. Any person who violates the provisions of this subsection shall be subject to prosecution under A.R.S. § 49-463.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-604 renumbered without change as Section R18-2-604 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-604 renumbered to R18-2-804, new Section R18-2-604 renumbered from R18-2-404 and amended effective November 15, 1993 (Supp. 93-4).

R18-2-605. Roadways and Streets

- A.** No person shall cause, suffer, allow or permit the use, repair, construction or reconstruction of a roadway or alley without taking reasonable precautions to prevent excessive amounts of particulate matter from becoming airborne. Dust and other particulates shall be kept to a minimum by employing temporary paving, dust suppressants, wetting down, detouring or by other reasonable means.
- B.** No person shall cause, suffer, allow or permit transportation of materials likely to give rise to airborne dust without taking reasonable precautions, such as wetting, applying dust suppressants, or covering the load, to prevent particulate matter from becoming airborne. Earth or other material that is deposited by trucking or earth moving equipment shall be removed from paved streets by the person responsible for such deposits.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-605 renumbered without change as Section R18-2-605 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-605 renumbered to R18-2-805, new Section R18-2-605 renumbered from R18-2-405 effective November 15, 1993 (Supp. 93-4).

R18-2-606. Material Handling

No person shall cause, suffer, allow or permit crushing, screening, handling, transporting or conveying of materials or other operations likely to result in significant amounts of airborne dust without taking reasonable precautions, such as the use of spray bars, wetting agents, dust suppressants, covering the load, and hoods to prevent excessive amounts of particulate matter from becoming airborne.

Historical Note

Section R18-2-606 renumbered from R18-2-406 effective November 15, 1993 (Supp. 93-4).

R18-2-607. Storage Piles

- A. No person shall cause, suffer, allow, or permit organic or inorganic dust producing material to be stacked, piled, or otherwise stored without taking reasonable precautions such as chemical stabilization, wetting, or covering to prevent excessive amounts of particulate matter from becoming airborne.
- B. Stacking and reclaiming machinery utilized at storage piles shall be operated at all times with a minimum fall of material and in such manner, or with the use of spray bars and wetting agents, as to prevent excessive amounts of particulate matter from becoming airborne.

Historical Note

Section R18-2-607 renumbered from R18-2-407 effective November 15, 1993 (Supp. 93-4).

R18-2-608. Mineral Tailings

No person shall cause, suffer, allow, permit construction of, or otherwise own or operate, mineral tailing piles without taking reasonable precautions to prevent excessive amounts of particulate matter from becoming airborne. Reasonable precautions shall mean wetting, chemical stabilization, revegetation or such other measures as are approved by the Director.

Historical Note

Section R18-2-608 renumbered from R18-2-408, new Section R18-2-408 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 15 A.A.R. 228, effective March 7, 2009 (Supp. 09-1).

R18-2-609. Agricultural Practices

A person shall not cause, suffer, allow, or permit the performance of agricultural practices outside the Phoenix and Yuma planning areas, as defined in 40 CFR 81.303, which is incorporated by reference in R18-2-210, including tilling of land and application of fertilizers without taking reasonable precautions to prevent excessive amounts of particulate matter from becoming airborne.

Historical Note

Section R18-2-609 renumbered from R18-2-409 effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 6 A.A.R. 2009, effective May 12, 2000 (Supp. 00-2). Amended by final rulemaking at 11 A.A.R. 2210, effective July 18, 2005 (Supp. 05-2).

R18-2-610. Definitions for R18-2-610.01, R18-2-610.02, and R18-2-610.03

The definitions in R18-2-101 and the following definitions apply to R18-2-610.01, R18-2-610.02, and R18-2-610.03:

1. "Access restriction" means reducing PM emissions by reducing the number of trips driven on agricultural aprons and access roads by restricting or eliminating public access to noncropland or commercial farm roads with signs or physical obstruction at locations that effectively control access to the area.
2. "Aggregate cover" means reducing PM emissions and wind erosion and stabilizing soil by applying and maintaining gravel, concrete, recycled road base, caliche, or other similar material to noncropland or commercial farm roads. The aggregate should be clean, hard and durable, and should be applied and maintained to a depth sufficient to reduce PM emissions.
3. "Area A" means the area delineated according to A.R.S. § 49-541(1).
4. "Best management practice" (BMP) means a technique verified by scientific research, that on a case-by-case basis is practical, economically feasible, and effective in reducing PM emissions from a regulated agricultural activity.

5. "Cessation of Night Tilling" means the discontinuation of tillage from sunset to sunrise on a day identified by the Maricopa or Pinal County Dust Control Forecast as being high risk of dust generation.
6. "Chemical irrigation" means reducing a minimum of one ground operation across a commercial farm by applying a fertilizer, pesticide, or other agricultural chemical to cropland through an irrigation system, which reduces soil disturbance and increases efficiency of application.
7. "Chips/ mulches" means reducing PM emissions and soil movement and preserving soil moisture by applying and maintaining nontoxic chemical or organic dust suppressants to a depth sufficient to reduce PM emissions. Materials shall meet all specifications required by federal, state, or local water agencies, and is not prohibited for use by any applicable regulations.
8. "Combining tractor operations" means reducing soil compaction and a minimum of one tillage or ground operation across a commercial farm by using a tractor, implement, harvester, or other farming support vehicle to perform two or more tillage, cultivation, planting, or harvesting operations at the same time. If Equipment modification is also chosen as a BMP, and uses the same practices as described in this BMP, this action is considered one BMP.
9. "Commercial farm" means 10 or more contiguous acres of land used for agricultural purposes within the boundary of the Maricopa PM nonattainment area and Maricopa County portion of Area A, a PM nonattainment area designated after June 1, 2009 as stated in A.R.S. § 49-457(P)(1)(f), or the Pinal County PM Nonattainment Area.
10. "Commercial farm road" means a road that is unpaved, owned by a commercial farmer, and is used exclusively to service a commercial farm.
11. "Commercial farmer" means an individual, entity, or joint operation in general control of a commercial farm.
12. "Committee" means the Governor's Agricultural Best Management Practices Committee as established by A.R.S. § 49-457.
13. "Conservation Tillage" means a tillage system that reduces a minimum of three tillage operations. This system reduces soil and water loss by planting into existing plant stubble on the field after harvest as well as managing the stubble so that it remains intact during the planting season.
14. "Cover crop" means establishing cover crops that maintain a minimum of 60 percent ground cover. Native or volunteer vegetation that meets the minimum ground cover requirement is acceptable. Compliance shall be determined by the Line Transect Test Method, NRCS National Agronomy Manual, Subpart 503.51, Estimating Crop Residue Cover, amended through February 2011 (and no future editions).
15. "Critical area planting" means reducing PM₁₀ emissions and wind erosion by planting trees, shrubs, vines, grasses, or other vegetative cover on noncropland in order to maintain at least 60 percent ground cover. Compliance shall be determined by the Line Transect Test Method, NRCS National Agronomy Manual, Subpart 503.51, Estimating Crop Residue Cover, amended through February 2011 (and no future editions).
16. "Cropland" means land on a commercial farm that:
 - a. Is within the time-frame of final harvest to plant emergence, but does not include tillage activities;

- b. Has been tilled in a prior year and is suitable for crop production, but is currently fallow; or
 - c. Is a turn-row.
17. "Cross-wind ridges" means stabilizing soil and reducing PM emissions and wind erosion by creating soil ridges in a commercial farm by tillage or planting operations. Ridges should be at least four inches in height, and be aligned as perpendicular as possible to the prevailing wind direction.
 18. "Dust Control Forecast" means a forecast, which shall identify a low, moderate or high risk of dust generation for the next five consecutive days and shall be issued by noon on each day the forecast is generated. When developing these forecasts, the department shall consider all of the following:
 - a. Projected meteorological conditions, including:
 - i. Wind speed and direction,
 - ii. Stagnation,
 - iii. Recent precipitation, and
 - iv. Potential for precipitation;
 - b. Existing concentrations of air pollution at the time of the forecast; and
 - c. Historic air pollution concentrations that have been observed during meteorological conditions similar to those that are predicted to occur in the forecast.
 19. "Equipment modification" means reducing PM emissions and soil erosion during tillage or ground operations by modifying and maintaining an existing piece of agricultural equipment, installing shielding equipment, modifying land planting and land leveling, matching the equipment to row spacing, or grafting to new varieties or technological improvements. If combining tractor operations is also chosen as a BMP, and uses the same practices as described in this BMP, this action is considered one BMP.
 20. "Fallow Field" means an area of land that is routinely cultivated, planted and harvested and is unplanted for one or more growing seasons or planting cycles, but is intended to be placed back in agricultural production.
 21. "Field Capacity" means the amount of water remaining in the soil two days after having been saturated and after free drainage has ceased.
 22. "Forage Crop" means a product grown for consumption by any domestic animal.
 23. "Genetically Modified" (GMO) means a living organism whose genetic material has been altered, changing one or more of its characteristics.
 24. "GPS: Global Position Satellite System" means using a satellite navigation system on farm equipment to calculate position in the field.
 25. "Green chop" means reducing soil compaction, soil disturbance and a minimum of one ground operation across a commercial farm by harvesting a Forage Crop without allowing it to dry in the field.
 26. "Ground operation" means an agricultural operation that is not a tillage operation, which involves equipment passing across the field. A ground operation includes harvest activities. A pass through the field may be a subset of a ground operation.
 27. "Harvest" means the time after planting up through harvest, including gathering mature crops from a commercial farm, as well as all actions taken immediately after crop removal, such as cooling, sorting, cleaning, and packing.
 28. "Integrated Pest Management" means reducing soil compaction and a minimum of one ground operation across a commercial farm for spraying by using a combination of techniques including organic, conventional, and biological farming practices to suppress pest problems.
 29. "Limited harvest activity" means performing no ground operations on a day identified by the Maricopa or Pinal County Dust Control Forecast to be high risk for dust generation.
 30. "Limited tillage activity" means performing no tillage operations on a day identified by the Maricopa or Pinal County Dust Control Forecast to be high risk for dust generation.
 31. "Maricopa PM nonattainment area" means the Phoenix planning area as defined in 40 CFR 81.303, which is incorporated by reference in R18-2-210.
 32. "Multi-year crop" means reducing PM emissions from wind erosion and a minimum of one tillage and ground operation across a commercial farm, by protecting the soil surface by growing a crop, pasture, or orchard that is grown, or will be grown, on a continuous basis for more than one year.
 33. "Noncropland" means any commercial farm land that:
 - a. Is no longer used for agricultural production;
 - b. Is no longer suitable for production of crops;
 - c. Is subject to a restrictive easement or contract that prohibits use for the production of crops; or
 - d. Includes a ditch, ditch bank, equipment yard, storage yard, or well head.
 34. "NRCS" means the Natural Resource Conservation Service.
 35. "Organic material cover" means reducing PM emissions and wind erosion and preserving soil moisture by applying and maintaining cover material such as animal waste or plant residue, to a soil surface to reduce soil movement. Material shall be evenly applied and maintained to a depth sufficient to reduce PM emissions and coverage should be a minimum of 70 percent.
 36. "Permanent cover" means reducing PM emissions and wind erosion by maintaining a long-term perennial vegetative cover on cropland that is temporarily not producing a major crop. Perennial species such as grasses and/or legumes shall be used to establish at least 60 percent cover. Compliance shall be determined by the Line Transect Test Method, NRCS National Agronomy Manual, Subpart 503.51, Estimating Crop Residue Cover, amended through February 2011 (and no future editions).
 37. "Pinal County PM Nonattainment Area" means the West Pinal PM₁₀ planning area and the West Central PM_{2.5} planning area, as defined in 40 CFR 81.303, and incorporated by reference in R18-2-210.
 38. "Plant stubble" means stubble on the soil surface, which insulates soil to reduce evaporation of moisture, and also protects the soil from wind and water erosion.
 39. "Planting based on soil moisture" means reducing PM emissions and wind erosion by applying water or having enough moisture in the soil to germinate the seed prior to planting. Soil must have a minimum soil moisture content of 60% of field capacity at planting depth. Compliance shall be determined by NRCS Estimating Soil Moisture by Feel and Appearance Method, amended through April 1998 (and no future editions).
 40. "PM" includes both particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on 40 CFR 50 Appendix L, or by an equivalent method designated according to 40 CFR 53; and particulate matter with an aerodynamic diameter less than or equal to a

- nominal 10 micrometers as measured by a reference method contained within 40 CFR 50 Appendix J or by an equivalent method designated in accordance with 40 CFR 53, as incorporated by reference in Appendix 2.
41. "Precision Farming" means reducing the number of passes across a commercial farm by at least 12 inches per pass by using GPS to precisely guide farm equipment in the field.
 42. "Reduce vehicle speed" means reducing PM emissions and soil erosion from the operation of farm vehicles or farm equipment on noncropland or commercial farm roads at speeds not to exceed 15. This can be achieved through installation of engine speed governors, signage, or speed control devices.
 43. "Reduced harvest activity" means reducing soil disturbance, soil and water loss, and the number of mechanical harvest passes by a minimum of one ground operation across a commercial farm, by means other than equipment modification or combining tractor operations.
 44. "Reduced tillage system" means reducing soil disturbance, soil and water loss, by using a single piece of equipment that reduces a minimum of three tillage operations, by means other than equipment modification or combining tractor operations.
 45. "Regulated agricultural activity" means a regulated agricultural activity as defined in A.R.S. § 49-457(P)(1)(a) through (P)(1)(d).
 46. "Regulated area" means the regulated area as defined in A.R.S. § 49-457(P)(6).
 47. "Residue management" means reducing PM emissions and wind erosion by maintaining a minimum of 60 percent ground cover of crop and other plant residues on a soil surface between the time of harvest of one crop and the commencement of tillage for a new crop. Compliance shall be determined by the Line Transect Test Method, NRCS National Agronomy Manual, Subpart 503.51, Estimating Crop Residue Cover, amended through February 2011 (and no future editions).
 48. "Sequential cropping" means reducing PM emissions and wind erosion by growing crops in a sequence or close rotation that limits the amount of time bare soil is exposed on a commercial farm to 30 days or less.
 49. "Shuttle System/Larger Carrier" means reducing one out of every four trips across a commercial farm by using multiple or larger bins/trailers to haul commodity from the field.
 50. "Significant Agricultural Earth Moving Activities" means either leveling activities conducted on a commercial farm that disturb the soil more than 4 inches below the surface, or the creation, maintenance and relocation of: ditches, canals, ponds, irrigation lines, tailwater recovery systems (agricultural sumps) and other water conveyances, not to include activities performed on cropland for tillage, ground operations or harvest.
 51. "Silt content test method" means the test method as described in Appendix 2.
 52. "Stabilization of soil prior to plant emergence" means reducing PM emissions by applying water to soil prior to crop emergence in order to cause the soil to form a visible crust.
 53. "Surface roughening" means reducing PM emissions or wind erosion by manipulating a soil surface by means such as rough discing or tillage in order to produce or maintain clods on the land surface. Compliance shall be determined by NRCS Practice Code 609, Surface Roughening, amended through November 2008 (and no future editions).
 54. "Synthetic particulate suppressant" means reducing PM emissions and wind erosion by providing a stabilized soil surface on noncropland or commercial farm roads with a manufactured product such as lignosulfate, calcium chloride, magnesium chloride, an emulsion of a petroleum product, an enzyme product, or polyacrylamide that is used to control particulate matter.
 55. "Tillage" means any mechanical practice that physically disturbs the soil, and includes preparation for planting, such as plowing, ripping, or discing.
 56. "Tillage based on soil moisture" means reducing PM emissions by irrigating fields to the depth of the proposed cut prior to soil disturbances or conducting tillage to coincide with precipitation. Soil must have a minimum soil moisture content of 40-60% of field capacity at planting depth. Compliance shall be determined by NRCS Estimating Soil Moisture by Feel and Appearance Method, amended through April 1998 (and no future editions).
 57. "Timing of a tillage operation" means reducing wind erosion and PM emissions by performing tillage operations that minimize the amount of time within 45 days.
 58. "Tillage operation" means an agricultural operation that mechanically manipulates the soil for the enhancement of crop production. Examples include discing or bedding. A pass through the field may be a subset of a tillage operation.
 59. "Track-out control system" means minimizing any and all material that adheres to and agglomerates on all vehicles and equipment from noncropland or commercial farm roads or and falls onto paved public roads or shoulders to paved public roads by using a device or system to remove mud or soil from a vehicle or equipment before the vehicle enters a paved public road. Devices such as a grizzly, a gravel pad or a wheel wash system can be used.
 60. "Transgenic Crops" means reducing a minimum of one tillage or ground operation, the number of chemical spray applications, or soil disturbances by using plants that are genetically modified.
 61. "Transplanting" means reducing a minimum of one ground operation across a commercial farm and minimizing soil disturbance by utilizing plants already in a growth state as compared to seeding.
 62. "VDT" (Vehicle trips per day) means trips per day made by one vehicle, in one direction.
 63. "Watering" means reducing PM emissions and wind erosion by applying water to noncropland or commercial farm road bare soil surfaces during periods of high traffic until the surfaces are visibly moist.
 64. "Watering on a high risk day" means reducing PM emissions and wind erosion by applying water to commercial farm road bare soil surfaces until the surfaces are visibly moist, on a day forecast to be high risk for dust generation by the Maricopa or Pinal County Dust Control Forecast.
 65. "Wind barrier" means reducing PM emissions and wind erosion by constructing a fence or structure, or providing a woody vegetative barrier by planting a row of trees or shrubs, perpendicular or across the prevailing wind direction to reduce wind speed by changing the pattern of air flow over the land surface. For fences and structures, the wind barrier shall have a density of no less than 50% and the height of the wind barrier must be proportionate to the downwind protected area. The downwind protected area is considered ten times the height of the wind barrier. For

vegetative barriers, compliance shall be determined by NRCS Conservation Practice Standard, Code 380, Wind-break/Shelterbelt Establishment, amended through August 21, 2009 (and no future editions).

Historical Note

Former Section R18-2-610 renumbered to R18-2-612; new Section R18-2-610 adopted by final rulemaking at 6

A.A.R. 2009, effective May 12, 2000 (Supp. 00-2).

Amended by exempt rulemaking at 13 A.A.R. 4326, effective November 14, 2007 (Supp. 07-4). Amended by exempt rulemaking at 18 A.A.R. 137, effective December 29, 2011 (Supp. 11-4). Subsection (A) corrected at the request of the Department, Office File No. M12-133, filed April 5, 2012 (Supp. 11-4). Amended by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3).

R18-2-610.01. Agricultural PM General Permit for Crop Operations; Maricopa County PM Nonattainment Area

- A.** A commercial farmer within the Maricopa County PM Nonattainment Area shall implement at least two best management practices from each category to reduce PM emissions.
- B.** A commercial farmer shall implement from the following best management practices, as described in subsection (A), to reduce PM emissions during tillage, harvest or ground operation activities:
 1. Chemical irrigation,
 2. Combining tractor operations,
 3. Equipment modification,
 4. Green Chop,
 5. Integrated Pest Management,
 6. Limited harvest activity,
 7. Limited tillage activity,
 8. Multi-year crop,
 9. Cessation of Night Tilling,
 10. Planting based on soil moisture,
 11. Precision Farming,
 12. Reduced harvest activity,
 13. Reduced tillage system,
 14. Tillage based on soil moisture,
 15. Timing of a tillage operation,
 16. Transgenic Crops,
 17. Transplanting,
 18. Shuttle System/Larger Carrier, or
 19. Conservation Tillage.
- C.** A commercial farmer shall implement from the following best management practices, as described in subsection (A), to reduce PM emissions from noncropland and commercial farm roads:
 1. Access restriction,
 2. Aggregate cover,
 3. Wind barrier,
 4. Critical area planting,
 5. Organic material cover,
 6. Reduce vehicle speed,
 7. Synthetic particulate suppressant,
 8. Track-out control system, or
 9. Watering.
- D.** A commercial farmer shall implement from the following best management practices, as described in subsection (A), to reduce PM emissions from cropland:
 1. Wind barrier,
 2. Cover crop,
 3. Cross-wind ridges,
 4. Chips/mulches,
 5. Multi-year crop,
 6. Permanent cover,
 7. Stabilization of soil prior to plant emergence,
 8. Residue management,
 9. Sequential cropping, or
 10. Surface roughening.
- E.** A commercial farmer shall implement from the following best management practices, as described in subsection (A), to reduce PM emissions when conducting Significant Agricultural Earth Moving Activities as defined in R18-2-610:
 1. Apply water prior to conducting Significant Agricultural Earth Moving Activities and/or time Significant Agricultural Earth Moving Activities to coincide with precipitation. Soil must have a minimum soil moisture content of 50% of field capacity. Compliance shall be determined by NRCS Estimating Soil Moisture by Feel and Appearance Method, amended through April 1998 (and no future editions);
 2. Apply water during Significant Agricultural Earth Moving Activities. Soil must have a minimum soil moisture content of 30% of field capacity. Compliance shall be determined by NRCS Estimating Soil Moisture by Feel and Appearance Method, amended through April 1998 (and no future editions);
 3. Limit activities on a day identified by the Maricopa or Pinal County Dust Control Forecast to be high risk for dust generation; or
 4. Conduct Significant Agricultural Earth Moving Activities in a manner to reduce a minimum of one ground operation across a commercial farm by using equipment that is the most efficient means of moving the soil.
- F.** From and after December 31, 2015, a commercial farmer who engages in a regulated agricultural activity shall complete and maintain a Best Management Practices Program General Permit Record Form demonstrating compliance with this Section. Thereafter, a new Best Management Practices Program General Permit Record Form shall be completed every year by March 31. The Form shall be provided to the Director within two business days of notice to the commercial farmer. The Best Management Practice Program General Permit Record Form shall include the following information:
 1. The name of the commercial farmer, signature, and date signed;
 2. The mailing address or physical address of the commercial farm; and
 3. The best management practices selected for tillage, harvest, and ground operation activities, cropland, noncropland and commercial farm roads, and significant earth moving activities (if applicable).
- G.** Records of any changes to the Best Management Practices identified in the most recently submitted Best Management Practices Program General Permit Record Form shall be kept by the commercial farmer onsite and made available for review by the Director within two business days of notice to the commercial farmer.
- H.** A person may develop different practices to control PM emissions not contained in subsections (B), (C), (D), or (E) and may submit such practices that are proven effective through on-farm demonstration trials to the Committee. The proposed new practices shall not become effective unless submitted as described in A.R.S. § 49-457(L).
- I.** A commercial farmer shall maintain a record demonstrating compliance with this Section for three years. Records shall include a copy of the complete Best Management Practice Program General Permit Record Form to confirm implementation of each best management practice.

- J. The Director shall not assess a fee to a commercial farmer for coverage under the agricultural PM₁₀ general permit.
- K. A commercial farmer shall ensure that the implementation of all selected best management practices does not violate any other local, state, or federal law.
- L. The Director shall document noncompliance with this Section before issuing a compliance order.
- M. A commercial farmer who is not in compliance with this Section is subject to the provisions in A.R.S. § 49-457(I), (J), and (K).

Historical Note

New Section made by exempt rulemaking at 18 A.A.R. 137, effective December 29, 2011 (Supp. 11-4).

Amended by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3).

R18-2-610.02. Agricultural PM General Permit for Crop Operations; Moderate PM Nonattainment Areas, Designated After June 1, 2009

- A. A commercial farmer within a PM Moderate Nonattainment Area, designated after June 1, 2009, shall implement at least one best management practice from each category to reduce PM emissions.
- B. A commercial farmer shall implement from the following best management practices, as described in subsection (A), to reduce PM emissions during tillage, harvest and ground operation activities:
 - 1. Chemical irrigation,
 - 2. Combining tractor operations,
 - 3. Equipment modification,
 - 4. Green Chop,
 - 5. Integrated Pest Management,
 - 6. Limited harvest activity,
 - 7. Limited tillage activity,
 - 8. Multi-year crop,
 - 9. Cessation of Night Tilling,
 - 10. Planting based on soil moisture,
 - 11. Precision Farming,
 - 12. Reduced harvest activity,
 - 13. Reduced tillage system,
 - 14. Tillage based on soil moisture,
 - 15. Timing of a tillage operation,
 - 16. Transgenic Crops,
 - 17. Transplanting, or
 - 18. Shuttle System/Larger Carrier, or
 - 19. Conservation Tillage.
- C. A commercial farmer shall implement from the following best management practices, as described in subsection (A), to reduce PM emissions from noncropland and commercial farm roads:
 - 1. Access restriction,
 - 2. Aggregate cover,
 - 3. Wind barrier,
 - 4. Critical area planting,
 - 5. Organic material cover,
 - 6. Reduce vehicle speed,
 - 7. Synthetic particulate suppressant,
 - 8. Track-out control system, or
 - 9. Watering.
- D. A commercial farmer shall implement from the following best management practices, as described in subsection (A), to reduce PM emissions from cropland:
 - 1. Wind barrier,
 - 2. Cover crop,
 - 3. Cross-wind ridges,
 - 4. Chips/mulches,
 - 5. Multi-year crop,
 - 6. Permanent cover,
 - 7. Stabilization of soil prior to plant emergence,
 - 8. Residue management,
 - 9. Sequential cropping, or
 - 10. Surface roughening.
- E. A commercial farmer shall implement from the following best management practices, as described in subsection (A), when conducting Significant Agricultural Earth Moving Activities as defined in R18-2-610:
 - 1. Apply water prior to conducting Significant Agricultural Earth Moving Activities and/or time Significant Agricultural Earth Moving Activities to coincide with precipitation. Soil must have a minimum soil moisture content of 50% of field capacity. Compliance shall be determined by NRCS Estimating Soil Moisture by Feel and Appearance Method, amended through April 1998 (and no future editions);
 - 2. Apply water during Significant Agricultural Earth Moving Activities. Soil must have a minimum soil moisture content of 30% of field capacity. Compliance shall be determined by NRCS Estimating Soil Moisture by Feel and Appearance Method, amended through April 1998 (and no future editions);
 - 3. Limit activities on a day identified by the Maricopa or Pinal County Dust Control Forecast to be high risk for dust generation; or
 - 4. Conduct Significant Agricultural Earth Moving Activities in a manner to reduce a minimum of one ground operation across a commercial farm by using equipment that is the most efficient means of moving the soil.
- F. From and after December 31, 2015, a commercial farmer who engages in a regulated agricultural activity shall complete and maintain a Best Management Practices Program General Permit Record Form demonstrating compliance with this Section. Thereafter, a new Best Management Practices Program General Permit Record Form shall be completed every year by March 31. The Form shall be provided to the Director within two business days of notice to the commercial farmer. The Best Management Practice Program General Permit Record Form shall include the following information:
 - 1. The name of the commercial farmer, signature, and date signed;
 - 2. The mailing address or physical address of the commercial farm; and
 - 3. The best management practice selected for tillage, harvest and ground operation activities, cropland, noncropland and commercial farm roads, and significant earth moving activities (if applicable).
- G. Records of any changes to the Best Management Practices shall be noted on the Best Management Practices Program General Permit Record Form and shall be kept by the commercial farmer onsite and made available for review by the Director within two business days of notice to the commercial farmer.
- H. A person may develop different practices to control PM emissions not contained in subsections (B), (C), (D), or (E) and may submit such practices that are proven effective through on-farm demonstration trials to the Committee. The proposed new practices shall not become effective unless submitted as described in A.R.S. § 49-457(L).
- I. A commercial farmer shall maintain a record demonstrating compliance with this Section for three years. Records shall include a copy of the complete Best Management Practice Pro-

gram General Permit Record Form to confirm implementation of each best management practice.

- J. The Director shall not assess a fee to a commercial farmer for coverage under the agricultural PM general permit.
- K. A commercial farmer shall ensure that the implementation of all selected best management practices does not violate any other local, state, or federal law.
- L. The Director shall document noncompliance with this Section before issuing a compliance order.
- M. A commercial farmer who is not in compliance with this Section is subject to the provisions in A.R.S. § 49-457(I), (J), and (K).

Historical Note

New Section made by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3).

R18-2-610.03. Agricultural PM General Permit for Crop Operations; Pinal County PM Nonattainment Area

- A. On the day before and during the day that is forecast to be high risk for dust generation by the Pinal County Dust Control Forecast, a commercial farmer shall ensure implementation of best management practices as described in sections (B)(1)(b), (B)(2)(b), (B)(3)(b), (B)(4)(b), and (B)(5)(b).
- B. On all days, a commercial farmer shall implement at least one best management practice from each category to reduce PM emissions, as described below in subsections (1)(a), (2)(a), (3)(a), (4)(a), and (6), and at least two best management practices from subsection (5)(a). If a commercial farmer implements the Conservation tillage or Reduced tillage system best management practice for the tillage category, they do not have to implement a best management practice from the subsections (2)(a), (2)(b), (5)(a) and (5)(b).
 - 1. Tillage:
 - a. A commercial farmer shall implement at least one of the following:
 - i. Combining tractor operations,
 - ii. Equipment modification,
 - iii. Multi-year crop,
 - iv. Cessation of night tilling,
 - v. Planting based on soil moisture,
 - vi. Precision farming,
 - vii. Tillage based on soil moisture,
 - viii. Timing of a tillage operation,
 - ix. Transgenic crops,
 - x. Transplanting,
 - xi. Reduced tillage system, or
 - xii. Conservation tillage.
 - b. Unless choosing limited tillage activity (subsection iv, below), on the day before and during the day that is forecast to be high risk for dust generation by the Pinal County Dust Control Forecast, a commercial farmer shall ensure implementation of at least one of the following:
 - i. Multi-year crop,
 - ii. Planting based on soil moisture,
 - iii. Tillage based on soil moisture,
 - iv. Limited tillage activity,
 - v. Reduced tillage system, or
 - vi. Conservation tillage.
 - 2. Ground Operations and Harvest:
 - a. A commercial farmer shall implement at least one of the following:
 - i. Combining tractor operations,
 - ii. Equipment modification,
 - iii. Chemical irrigation,

- iv. Green chop,
 - v. Integrated pest management,
 - vi. Multi-year crop,
 - vii. Precision farming,
 - viii. Reduced harvest activity,
 - ix. Transgenic crops, or
 - x. Shuttle System/Larger Carrier.
 - b. Unless choosing limited harvest activity (subsection iv, below), on the day before and during the day that is forecast to be high risk for dust generation by the Pinal County Dust Control Forecast, a commercial farmer shall ensure implementation of at least one of the following:
 - i. Green chop,
 - ii. Integrated pest management,
 - iii. Multi-year crop, or
 - iv. Limited harvest activity.
- 3. Noncropland:
 - a. A commercial farmer shall implement at least one of the following best management practices:
 - i. Access restriction,
 - ii. Aggregate cover,
 - iii. Wind barrier,
 - iv. Critical area planting,
 - v. Organic material cover,
 - vi. Reduce vehicle speed,
 - vii. Synthetic particulate suppressant, or
 - viii. Watering.
 - b. Unless choosing watering on a high risk day (subsection vi, below), on the day before and during a day forecast to be high risk for dust generation by the Pinal County Dust Control Forecast, on a non-cropland area that experiences more than 20 VDT from 2 or more axle vehicles, commercial farmer shall ensure implementation of at least one of the following best management practices:
 - i. Aggregate cover,
 - ii. Wind barrier,
 - iii. Critical area planting,
 - iv. Organic material cover,
 - v. Synthetic particulate suppressant, or
 - vi. Watering on a high risk day.
 - 4. Commercial farm roads:
 - a. A commercial farmer shall implement at least one of the following best management practices:
 - i. Access restriction,
 - ii. Reduce vehicle speed,
 - iii. Track-out control system,
 - iv. Aggregate cover,
 - v. Synthetic particulate suppressant,
 - vi. Watering, or,
 - vii. Organic material cover.
 - b. Unless choosing watering on a high risk day (subsection vi, below), on the day before and during a day forecast to be high risk for dust generation by the Pinal County Dust Control Forecast, on a road that experiences more than 20 VDT from 2 or more axle vehicles, a commercial farmer shall ensure implementation of at least one of the following best management practices:
 - i. Aggregate cover,
 - ii. Synthetic particulate suppressant,
 - iii. Wind barrier,
 - iv. Organic material cover,
 - v. Roads are stabilized as determined by the silt content test method,

- vi. Watering on a high risk day.
- 5. Cropland:
 - a. A commercial farmer shall implement at least two of the following best management practices, one from subsection (i) through (vii), and one from subsection (viii) through (xi), to reduce PM emissions from cropland:
 - i. Wind barrier,
 - ii. Cover crop,
 - iii. Cross-wind ridges,
 - iv. Chips/mulches,
 - v. Sequential cropping
 - vi. Residue management,
 - vii. Surface roughening,
 - viii. Multi-year crop,
 - ix. Permanent cover, or
 - x. Stabilization of soil prior to plant emergence.
 - b. On the day before and during the day that is forecast to be high risk for dust generation by the Pinal County Dust Control Forecast, a commercial farmer shall ensure implementation of at least one of the following:
 - i. Wind barrier,
 - ii. Cover crop,
 - iii. Cross-wind ridges,
 - iv. Chips/mulches,
 - v. Surface roughening,
 - vi. Multi-year crop,
 - vii. Permanent cover,
 - viii. Stabilization of soil prior to plant emergence, or
 - ix. Residue management.
- 6. A commercial farmer shall implement at least one of the following best management practices, when conducting Significant Agricultural Earth Moving Activities as defined in R18-2-610:
 - a. Apply water prior to conducting Significant Agricultural Earth Moving Activities and/or time Significant Agricultural Earth Moving Activities to coincide with precipitation. Soil must have a minimum soil moisture content of 50% of field capacity. Compliance shall be determined by NRCS Estimating Soil Moisture by Feel and Appearance Method, amended through April 1998 (and no future editions);
 - b. Apply water during Significant Agricultural Earth Moving Activities. Soil must have a minimum soil moisture content of 30% of field capacity. Compliance shall be determined by NRCS Estimating Soil Moisture by Feel and Appearance Method, amended through April 1998 (and no future editions);
 - c. Limit activities on a day identified by the Maricopa or Pinal County Dust Control Forecast to be high risk for dust generation; or
 - d. Conduct Significant Agricultural Earth Moving Activities in a manner to reduce a minimum of one ground operation across a commercial farm by using equipment that is the most efficient means of moving the soil.
- C. From and after December 31, 2015, a commercial farmer who engages in a regulated agricultural activity shall complete a Best Management Practices Program General Permit Record Form demonstrating compliance with this rule. Thereafter, a new Best Management Practices Program General Permit Record Form shall be completed every year by March 31. The Form shall be provided to the Director within two business days of notice to the commercial farmer. The Best Management Practice Program General Permit Record Form shall include the following information:
 - 1. The name of the commercial farmer, signature, and date signed;
 - 2. The mailing address or physical address of the commercial farm; and
 - 3. The best management practices selected for tillage, ground operations and harvest, cropland, noncropland, commercial farm roads, and significant earth moving activities (if applicable); and
 - 4. Any additional best management practices selected for high risk days as predicted by the Pinal County Dust Control Forecast.
- D. Beginning in calendar year 2017, and no more than once every subsequent three calendar years, the Director, in conjunction with the Arizona Department of Agriculture, shall provide the commercial farmer with a Best Management Practices Program 3-year Survey. The commercial farmer shall complete the Survey with data from the preceding calendar year and submit the Survey to the Arizona Department of Agriculture (ADA) by January 31, 2018, and every three years thereafter. The Survey information submitted to the ADA shall be compiled by the ADA without reference to a commercial farmer's name, shall aggregate the data from the Surveys received, and be submitted to the Department. The 3-year Survey shall include the following information:
 - 1. The name, business address, and phone number of the commercial farmer responsible for the preparation and implementation of the best management practices;
 - 2. The signature of the commercial farmer and the date the form was signed;
 - 3. The acreage of each crop type planted/growing during the calendar year that the survey is conducted;
 - 4. The total miles of commercial farm roads at the commercial farm;
 - 5. The total acreage of the noncropland at the commercial farm;
 - 6. The best management practices selected for tillage, ground operations and harvest, cropland, noncropland, commercial farm roads, and significant earth moving activities (if applicable); and
 - 7. Any additional best management practices selected for high risk days as predicted by the Pinal County Dust Control Forecast.
- E. Records of any changes to the Best Management Practices shall be noted on the Best Management Practices Program General Permit Record Form and shall be kept by the commercial farmer onsite and made available for review by the Director within two business days of notice to the commercial farmer.
- F. A person may develop different practices to control PM emissions not contained in subsections (B)(1) through (B)(6) and may submit such practices that are proven effective through on-farm demonstration trials to the Committee. The proposed new practices shall not become effective unless submitted as described in A.R.S. § 49-457(L).
- G. A commercial farmer shall maintain a record demonstrating compliance with this Section for three years. Records shall include a copy of the complete Best Management Practice Program General Permit Record Form to confirm implementation of each best management practice.
- H. The Director shall not assess a fee to a commercial farmer for coverage under the agricultural PM general permit.
- I. A commercial farmer shall ensure that the implementation of all selected best management practices does not violate any other local, state, or federal law.

- J. The Director shall document noncompliance with this Section before issuing a compliance order.
- K. A commercial farmer who is not in compliance with this Section is subject to the provisions in A.R.S. § 49-457(I), (J), and (K).

Historical Note

New Section made by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3).

R18-2-611. Definitions for R18-2-611.01, R18-2-611.02, and R18-2-611.03

The definitions in R18-2-101 and the following definitions apply to R18-2-611.01, R18-2-611.02, and R18-611.03:

1. The following definitions apply to a commercial dairy operation, a commercial beef feedlot, a commercial poultry facility, and commercial swine facility:
 - a. "Animal waste handling and transporting" means the processes by which any animal excretions and mixtures containing animal excretions are collected and transported.
 - b. "Arenas, corrals and pens" means areas where animals are confined for the purposes of, but not limited to, feeding, displaying, safety, racing, exercising, or husbandry.
 - c. "Commercial animal operation" means a commercial dairy operation, a commercial beef feedlot, a commercial poultry facility, and a commercial swine facility, as defined in this Section.
 - d. "Commercial animal operator" means an individual, entity, or joint operation in general control of a commercial animal operation.
 - e. "Dust Control Forecast" means a forecast, which shall identify a low, moderate or high risk of dust generation for the next five consecutive days and shall be issued by noon on each day the forecast is generated. When developing these forecasts, the department shall consider all of the following:
 - i. Projected meteorological conditions, including:
 - (1) Wind speed and direction,
 - (2) Stagnation,
 - (3) Recent precipitation, and
 - (4) Potential for precipitation;
 - ii. Existing concentrations of air pollution at the time of the forecast; and
 - iii. Historic air pollution concentrations that have been observed during meteorological conditions similar to those that are predicted to occur in the forecast.
 - f. "High traffic areas" means areas that experience more than 20 VDT from 2 or more axle vehicles.
 - g. "Maricopa PM nonattainment area" means the Phoenix planning area as defined in 40 CFR 81.303, which is incorporated by reference in R18-2-210.
 - h. "Paved Public Road" means any paved roadways that are open to public travel and maintained by a City, County, State, or Federal entities.
 - i. "Pinal County PM Nonattainment Area" means the West Pinal PM₁₀ planning area and the West Central PM_{2.5} planning area, as defined in 40 CFR 81.303, and incorporated by reference in R18-2-210.
 - j. "PM" includes both particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on 40 CFR 50 Appendix L, or by an equivalent method designated according to 40 CFR 53; and particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method contained within 40 CFR 50 Appendix J or by an equivalent method designated in accordance with 40 CFR 53, as incorporated by reference in Appendix 2.
 - k. "Regulated agricultural activity" means a regulated agricultural activity as defined in A.R.S. § 49-457(P)(5).
 - l. "Regulated area" means the regulated area as defined in A.R.S. § 49-457(P)(6).
 - m. "Track-out control device" means minimizing any and all material that adheres to and agglomerates on all vehicles and equipment from unpaved access connections and falls onto paved public roads or shoulders to paved public roads by using a device or system to remove mud or soil from a vehicle or equipment before the vehicle enters a paved public road. Devices such as a grizzly, a gravel pad or a wheel wash system can be used.
 - n. "Unpaved access connections" means any unpaved road connection which connects to a paved public road.
 - o. "Unpaved roads or feed lanes" means roads and feed lanes that are unpaved, owned by a commercial animal operator, and used exclusively to service a commercial animal operation.
 - p. "VDT" (Vehicle trips per day) means trips per day made by one vehicle, in one direction.
2. The following definitions apply to a commercial dairy operation:
 - a. "Aggregate cover" means reducing PM emissions, wind erosion and stabilizing soil by applying and maintaining gravel, concrete, recycled road base, caliche, or other similar material to unpaved roads or feed lanes. The aggregate should be clean, hard and durable, and should be applied and maintained to a minimum of three inches deep.
 - b. "Apply a fibrous layer" means reducing PM emissions and soil movement, and preserving soil moisture by spreading shredded or deconstructed plant materials to cover loose soil in high animal traffic areas. Material shall be consistently applied to a minimum depth of two inches above the soil surface and coverage should be a minimum of 70 percent.
 - c. "Bunkers" means below ground level storage systems for storing large amount of silage, which is covered with a plastic tarp.
 - d. "Calves" means young dairy stock under two months of age.
 - e. "Cement cattle walkways to milk barn" means reducing PM emissions by fencing pathways from the corrals to the milking barn, restricting dairy cattle to surfaces with concrete floors.
 - f. "Commercial dairy operation" means a dairy operation with more than 150 dairy cattle within the boundary of the Maricopa PM nonattainment area and Maricopa County portion of Area A, a PM nonattainment area designated after June 1, 2009 as stated in A.R.S. § 49-457(P)(1)(f), or the Pinal County PM Nonattainment Area.
 - g. "Cover manure hauling trucks" means reducing PM emissions by completely covering the top of the loaded area.

- h. “Covers for silage” means reducing PM emissions and wind erosion by using large plastic tarps to completely cover silage.
 - i. “Do not run cattle” means reducing PM emissions by walking dairy cattle to the milking barn.
 - j. “Feed higher moisture feed to dairy cattle” means reducing PM emissions by feeding dairy cattle one or any combination of the following:
 - i. Add water to ration mix to achieve a 20% minimum moisture level,
 - ii. Add molasses or tallow to ration mix at a minimum of 1%,
 - iii. Add silage, or
 - iv. Add green chop.
 - k. “Feed green chop” means feeding high moisture feed that contains at least 30% moisture directly to dairy cattle.
 - l. “Groom manure surface” means reducing PM emissions and wind erosion by:
 - i. Flushing or vacuuming lanes daily,
 - ii. Scraping and harrowing pens on a weekly basis, and
 - iii. Removing manure every four months with equipment that leaves an even corral surface of compacted manure on top of the soil.
 - m. “Hutches” means raised, roofed enclosures that protect the calves from the elements.
 - n. “Pile manure between cleanings” means reducing PM emissions by collecting loose surface materials within the confines of the surface area of the occupied feed pen every two weeks.
 - o. “Provide cooling in corral” means reducing PM emissions by using cooling systems under the corral shades to reduce the ambient air temperature, thereby increasing stocking density in the cool areas of the corrals.
 - p. “Provide shade in corral” means reducing PM emissions by increasing stocking density and reducing animal movement by using a permanent structure, which provides at least 16 square feet per animal of shaded pen surface.
 - q. “Push equipment” means manure harvesting equipment pushed in front of a tractor.
 - r. “Silage” means fermented, high-moisture fodder that can be fed to ruminants, such as cattle and sheep; usually made from grass crops including corn, sorghum or other cereals, by using the entire green plant.
 - s. “Store and maintain feed stock” means reducing PM emissions and wind erosion by storing feed stock in a covered area where the commodity is surrounded on at least three sides by a structure.
 - t. “Synthetic particulate suppressant” means reducing PM emissions and wind erosion by providing a stabilized soil surface on a commercial dairy operation with a manufactured product such as lignosulfate, calcium chloride, magnesium chloride, an emulsion of a petroleum product, an enzyme product, or polyacrylamide that is used to control particulate matter.
 - u. “Use drag equipment to maintain pens” means reducing PM emissions by using manure equipment pulled behind a tractor instead of using push equipment, which avoids dust accumulation in floor depressions.
 - v. “Use free stall housing” means reducing PM emissions by enclosing one cow per stall, which are outfitted with concrete floors.
 - w. “Water misting systems” means reducing PM emissions from dry manure by using systems that project a cloud of very small water particles onto the manure surface, keeping the surface visibly moist.
 - x. “Wind barrier” means reducing PM₁₀ emissions and wind erosion by constructing a fence or structure, or providing a woody vegetative barrier by planting a row of trees or shrubs, perpendicular or across the prevailing wind direction to reduce wind speed by changing the pattern of air flow over the land surface. For fences and structures, the wind barrier shall have a density of no less than 50% and the height of the wind barrier must be proportionate to the downwind protected area. The downwind protected area is considered ten times the height of the wind barrier. For vegetative barriers, compliance shall be determined by NRCS Conservation Practice Standard, Code 380, Windbreak/Shelterbelt Establishment, amended through August 21, 2009 (and no future editions).
3. The following definitions apply to a commercial beef cattle feedlot:
- a. “Add moisture to pen surface” means reducing PM emissions and wind erosion by applying at least three to six gallons of water per head/per day in pens occupied by beef cattle.
 - b. “Add molasses or tallow to feed” means reducing PM emissions by adding molasses or tallow so that it equals three percent of the total ration.
 - c. “Aggregate cover” means reducing PM emissions, wind erosion and stabilizing soil by applying and maintaining gravel, concrete, recycled road base, caliche, or other similar material to unpaved roads or feed lanes. The aggregate should be clean, hard and durable, and should be applied and maintained to a minimum of three inches deep.
 - d. “Apply a fibrous layer in working areas” means reducing PM emissions and soil movement, and preserving soil moisture by spreading shredded or deconstructed plant materials to cover loose soil in high animal traffic areas. Material shall be consistently applied to a minimum depth of two inches above the soil surface and coverage should be a minimum of 70 percent.
 - e. “Bulk materials” means reducing PM emissions by using a closed conveyor system instead of vehicular means to move grain or other.
 - f. “Commercial beef cattle feedlot” means a beef cattle feedlot with more than 500 beef cattle within the boundary of the Maricopa PM nonattainment area and Maricopa County portion of Area A, a PM nonattainment area designated after June 1, 2009 as stated in A.R.S. § 49-457(P)(1)(f), or the Pinal County PM Nonattainment Area.
 - g. “Concrete apron” means reducing PM emissions by using solidly formed concrete surface, at least 4 inches thick on top of the soil surface, inside the feed pen for 8 feet approaching the feed bunk or water trough.
 - h. “Control cattle during movements” means reducing PM emissions by suppressing the animal’s ability to run by driving them forward while intruding on their “flight zones” or restraining the animal’s movement.

- i. “Cover manure hauling trucks” means reducing PM emissions by completely covering the top of the loaded area.
 - j. “Feed higher moisture feed to beef cattle” means reducing PM emissions by feeding beef cattle feed that contains at least 30% moisture.
 - k. “Frequent manure removal” means reducing PM emissions and wind erosion by harvesting loose manure on top of the pen surface at least once every six months.
 - l. “Pile manure between cleanings” means reducing PM emissions by collecting loose manure surface materials, by scraping or pushing, within the confines of the surface area of the occupied feed pen at least four times per year.
 - m. “Provide shade in corral” means reducing PM emissions by increasing stocking density and reducing animal movement by using a permanent structure, which provides at least 16 square feet per animal of shaded pen surface.
 - n. “Push equipment” means manure harvesting equipment pushed in front of a tractor.
 - o. “Store and maintain feed stock” means reducing PM emissions and wind erosion by storing feed stock in a covered area where the commodity is surrounded on at least three sides by a structure.
 - p. “Synthetic particulate suppressant” means reducing PM emissions and wind erosion by providing a stabilized soil surface on a commercial beef feedlot with a manufactured product such as lignosulfate, calcium chloride, magnesium chloride, an emulsion of a petroleum product, an enzyme product, or polyacrylamide that is used to control particulate matter.
 - q. “Use drag equipment to maintain pens” means reducing PM emissions by using manure harvesting equipment pulled behind a tractor instead of using push equipment, which avoids dust accumulation in floor depressions.
 - r. “Wind barrier” means reducing PM₁₀ emissions and wind erosion by constructing a fence or structure, or providing a woody vegetative barrier by planting a row of trees or shrubs, perpendicular or across the prevailing wind direction to reduce wind speed by changing the pattern of air flow over the land surface. For fences and structures, the wind barrier shall have a density of no less than 50% and the height of the wind barrier must be proportionate to the downwind protected area. The downwind protected area is considered ten times the height of the wind barrier. For vegetative barriers, compliance shall be determined by NRCS Conservation Practice Standard, Code 380, Windbreak/Shelterbelt Establishment, amended through August 21, 2009 (and no future editions).
4. The following definitions apply to a commercial poultry facility:
- a. “Add moisture through ventilation systems” means reducing PM emissions by using a ventilation system that is designed to allow stock to maintain their normal body temperature without difficulty while maintaining a minimum of 20% moisture in the air within the housing system to bind small particles to larger particles.
 - b. “Add oil and/or moisture to the feed” means reducing PM emissions by adding a minimum of 1% edible oil and/or moisture to feed rations to bind small particles to larger particles.
 - c. “Aggregate cover” means reducing PM emissions, wind erosion and stabilizing soil by applying and maintaining gravel, concrete, recycled road base, caliche, or other similar material to unpaved roads or feed lanes. The aggregate should be clean, hard and durable, and should be applied and maintained to a minimum of three inches deep.
 - d. “Clean aisles between cage rows” means reducing PM emissions by cleaning the aisles between cage rows at least twice every 14 days to prevent dried manure, spilled feed, and debris accumulation.
 - e. “Clean fans, louvers, and soffit inlets in a commercial poultry facility” means reducing PM emissions by cleaning fans, louvers, and soffit inlets when the facility is empty between depopulating and populating the facility.
 - f. “Clean floors and walls in a commercial poultry facility” means reducing PM emissions by cleaning floors and walls to prevent dried manure, spilled feed, and debris accumulation when the facility is empty between depopulating and populating the facility.
 - g. “Commercial poultry facility” means a poultry operation with more than 25,000 egg laying hens within the boundary of the Maricopa PM nonattainment area and Maricopa County portion of Area A, a PM nonattainment area designated after June 1, 2009 as stated in A.R.S. § 49-457(P)(1)(f), or the Pinal County PM Nonattainment Area.
 - h. “Control vegetation on building exteriors” means reducing PM emissions by removing, cutting, or trimming vegetation that accumulates PM and restricts ventilation of the building, so as to leave approximately 3 feet between the vegetation and building.
 - i. “Enclose transfer points” means reducing PM emissions by enclosing the points of transfer between the enclosed, weatherproof storage structure and the enclosed feed distribution system, which reduce air contact with the feed rations during feed conveyance.
 - j. “House in fully enclosed ventilated buildings” means reducing PM emissions by utilizing fully enclosed buildings with sufficient ventilation.
 - k. “Maintain moisture in manure solids” means reducing PM emissions by maintaining a moisture content of a minimum of 15% in the solids sufficient to bind small particles to larger particles.
 - l. “Minimize drop distance” means reducing PM emissions by designing the feed distribution system so that the distance the feed ration drops from the feed distribution system into feeders is approximately 1 foot or less, which reduces air contact with the feed rations during feed conveyance.
 - m. “Poultry” means any domesticated bird including chickens, turkeys, ducks, geese, guineas, ratites and squabs.
 - n. “Remove spilled feed” means reducing PM emissions by removing spilled feed from the housing facility at least once every 14 days.
 - o. “Stack separated manure solids” means reducing PM emissions and wind erosion by reducing the amount of exposed surface area of manure solids.

- p. “Store feed” means reducing PM emissions by storing feed in a structure that is enclosed and weather-proof, which reduces air contact with the feed rations during feed storage.
 - q. “Synthetic particulate suppressant” means reducing PM emissions and wind erosion by providing a stabilized soil surface on a commercial poultry operation with a manufactured product such as lignosulfate, calcium chloride, magnesium chloride, an emulsion of a petroleum product, an enzyme product, or polyacrylamide that is used to control particulate matter.
 - r. “Use enclosed feed distribution system” means reducing PM emissions by using an enclosed feed conveyance system that distributes feed rations throughout the housing facility, which reduces air contact with the feed rations during feed conveyance.
 - s. “Use a flexible discharge spout” means reducing PM emissions and wind erosion at the time of bulk feed deliveries to the housing units by using a flexible discharge spout on the end of the feed truck transfer auger.
 - t. “Use no bedding in the production facility” means reducing PM emissions by not using bedding such as wood shavings, sawdust, peanut hulls, straw, or other organic material.
 - u. “Use of a rotary dryer to dry manure waste” means reducing PM₁₀ emissions by drying the manure waste in a rotary dryer fitted with a baghouse or wet scrubber. A commercial poultry facility using a rotary dryer must comply with all of the following:
 - i. Install, maintain, and operate the baghouse or wet scrubber in a manner consistent with the manufacturer’s specifications at all times the rotary dryer is operated. The manufacturer specifications must be available on site upon request.
 - ii. Conduct monthly observations using EPA Method 22 on the control equipment to ensure proper operation. If improper operation is observed through EPA Method 22, the dryer must stop immediately and the equipment repaired before resuming operations.
 - iii. For baghouses, conduct an annual black light inspection of the bags to detect broken or leaking bags. If broken or leaking bags are detected it must be repaired or replaced immediately.
 - iv. Maintain a record of all repair activity required under (ii) and (ii) that must be made available within two days of Director’s request for inspection.
5. The following definitions apply to a commercial swine facility:
- a. “Add oil and/or moisture to the feed” means reducing PM emissions by adding a minimum of 0.5% edible oil and/or moisture to feed rations to bind small particles to larger particles.
 - b. “Add moisture through ventilation systems” means reducing PM emissions by using a ventilation system that is designed to allow stock to maintain their normal body temperature without difficulty while maintaining minimum of 15% moisture in the air within the housing system to bind small particles to larger particles.
 - c. “Aggregate cover” means reducing PM emissions, wind erosion and stabilizing soil by applying and maintaining gravel, concrete, recycled road base, caliche, or other similar material to unpaved roads or feed lanes. The aggregate should be clean, hard and durable, and should be applied and maintained to a minimum of three inches deep.
 - d. “Clean aisles between pens and stalls” means reducing PM emissions by cleaning the aisles between pens and stalls at least twice every 14 days to prevent dried manure, spilled feed, and debris accumulation.
 - e. “Clean fans, louvers, and soffit inlets in a commercial swine facility” means reducing PM emissions by cleaning fans, louvers, and soffit inlets between transfer of animal groups, but in any case, at least every 6 months.
 - f. “Clean pens, floors and walls in a commercial swine facility” means reducing PM emissions by cleaning pens, floors, and walls between transfer of animal groups to prevent dried manure, spilled feed, and debris accumulation, but in any case, at least every 6 months.
 - g. “Commercial swine facility” means a swine operation with more than 50 animal units for more than 30 consecutive days within the boundary of the Maricopa PM nonattainment area and Maricopa County portion of Area A, a PM nonattainment area designated after June 1, 2009 as stated in A.R.S. § 49-457(P)(1)(f), or the Pinal County PM Nonattainment Area. One thousand pounds equals one animal unit.
 - h. “Control vegetation on building exteriors” means reducing PM emissions by removing, cutting, or trimming vegetation that accumulates PM and restricts ventilation of the building, so as to leave approximately 3 feet between the vegetation and the building.
 - i. “Enclose transfer points” means reducing PM emissions by enclosing the points of transfer between the enclosed, weatherproof storage structure and the enclosed feed distribution system, which reduces air contact with the feed rations during feed conveyance.
 - j. “House in fully enclosed ventilated buildings” means reducing PM emissions by utilizing fully enclosed buildings with sufficient ventilation.
 - k. “Lagoon” means a liquid manure storage and treatment pond.
 - l. “Maintain moisture in manure solids” means reducing PM₁₀ emissions by maintaining a minimum moisture content of 10% in the solids sufficient to bind small particles to larger particles.
 - m. “Minimize drop distance” means reducing PM emissions by designing the feed distribution system so that the distance the feed ration drops from the feed distribution system into feeders is 3 feet or less, which reduces air contact with the feed rations during feed conveyance.
 - n. “Remove spilled feed” means reducing PM emissions by removing spilled feed from the housing facility at least once every 14 days.
 - o. “Slatted flooring” means reducing PM emissions by using flooring that is a slotted concrete or wire-mesh floor set above a liquid manure collection pit, which allows the excrement to fall through the flooring into the liquid pit below, which prevents solids build-up.

- Slats 4 to 8 inches wide with spacing of about 1 inch in between are recommended.
- p. “Sloped concrete flooring” means reducing PM emissions by pouring concrete with a minimum of 0.25% grade inside of the barns which provides drainage and easier cleaning of floor areas.
 - q. “Stack separated manure solids” means reducing PM emissions and wind erosion by reducing the amount of exposed surface area of manure solids.
 - r. “Store feed” means reducing PM emissions by storing feed in a structure that is enclosed and weather-proof, which reduces air contact with the feed rations during feed storage.
 - s. “Store separated manure solids” means reducing PM emissions by storing manure solids in a wind-blocked area behind a wall, structure, or area with natural wind protection to minimize blowing air movement over the manure stack.
 - t. “Synthetic particulate suppressant” means reducing PM emissions and wind erosion by providing a stabilized soil surface on a commercial swine operation with a manufactured product such as lignosulfate, calcium chloride, magnesium chloride, an emulsion of a petroleum product, an enzyme product, or polyacrylamide that is used to control particulate matter.
 - u. “Use a flexible discharge spout” means reducing PM emissions and wind erosion at the time of bulk feed deliveries to the housing units by using a flexible discharge spout on the end of the feed truck transfer auger.
 - v. “Use enclosed feed distribution system” means reducing PM emissions by using an enclosed feed conveyance system that distributes feed rations throughout the housing facility, which reduces air contact with the feed rations during the feed conveyance.
 - w. “Use no bedding in the production facility” means reducing PM emissions by not using bedding such as wood shavings, sawdust, peanut hulls, straw, or other organic material.
- b. Provide shade in corral,
 - c. Provide cooling in corral,
 - d. Cement cattle walkways to milk barn,
 - e. Groom manure surface,
 - f. Water misting systems,
 - g. Use drag equipment to maintain pens,
 - h. Pile manure between cleanings,
 - i. Feed green chop,
 - j. Keep calves in barns or hutches,
 - k. Do not run cattle,
 - l. Apply a fibrous layer, or
 - m. Wind barrier.
2. Animal Waste (and Feed) Handling and Transporting:
 - a. Feed higher moisture feed to dairy cattle,
 - b. Store and maintain feed stock,
 - c. Covers for silage,
 - d. Store silage in bunkers,
 - e. Cover manure hauling trucks, or
 - f. Do not load manure trucks with dry manure when wind exceeds 15 mph.
 3. Unpaved Access Connections:
 - a. Install signage to limit vehicle speed to 15 mph,
 - b. Install speed control devices,
 - c. Restrict access to through traffic,
 - d. Install and maintain a track-out control device,
 - e. Apply and maintain pavement in high traffic areas,
 - f. Apply and maintain aggregate cover,
 - g. Apply and maintain synthetic particulate suppressant, or
 - h. Apply and maintain water as a dust suppressant.
 4. Unpaved Roads or Feed Lanes:
 - a. Install engine speed governors on feed truck to 15 mph,
 - b. Install signage to limit vehicle speed to 15 mph,
 - c. Install speed control devices,
 - d. Restrict access to through traffic,
 - e. Apply and maintain pavement in high traffic areas,
 - f. Apply and maintain aggregate cover,
 - g. Apply and maintain synthetic particulate suppressant,
 - h. Apply and maintain water as a dust suppressant,
 - i. Use appropriate vehicles such as electric carts or small utility vehicles instead of trucks, or
 - j. Apply and maintain pavement or cement feed lanes.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2009, effective May 12, 2000 (Supp. 00-2). Amended by exempt rulemaking at 13 A.A.R. 4326, effective November 14, 2007 (Supp. 07-4). Section repealed; new Section made by exempt rulemaking at 18 A.A.R. 137, effective December 29, 2011 (Supp. 11-4). Subsection (2)(a) corrected at request of the Department, Office File No. M12-133, filed April 5, 2012 (Supp. 11-4). Amended by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3). Amended by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 22 A.A.R. 987, effective April 5, 2016 (Supp. 16-2).

R18-2-611.01. Agricultural PM General Permit for Animal Operations; Maricopa County Serious PM Nonattainment Areas

- A. A commercial animal operator within a Serious PM Nonattainment Area shall implement at least two best management practices from each category to reduce PM emissions.
- B. A commercial dairy operation shall implement the following best management practices, as described in subsection (A), from each of the following categories:
 1. Arenas, Corrals, and Pens:
 - a. Use free stall housing,

- C. A commercial beef cattle feedlot shall implement the following best management practices, as described in subsection (A), from each of the following categories:
 1. Arenas, Corrals, and Pens:
 - a. Concrete aprons,
 - b. Provide shade in corral,
 - c. Add moisture to pen surface,
 - d. Manure removal,
 - e. Pile manure between cleanings,
 - f. Feed higher moisture feed to beef cattle,
 - g. Control cattle during movements,
 - h. Use drag equipment to maintain pens,
 - i. Apply a fibrous layer, or
 - j. Wind barrier.
 2. Animal Waste (and Feed) Handling and Transporting:
 - a. Feed higher moisture feed to beef cattle,
 - b. Add molasses or tallow to feed,
 - c. Store and maintain feed stock,
 - d. Bulk materials,
 - e. Use drag equipment to maintain pens,
 - f. Cover manure hauling trucks, or
 - g. Do not load manure when wind exceeds 15 mph.

3. Unpaved Access Connections:
 - a. Install and maintain a track-out control device,
 - b. Apply and maintain pavement in high traffic areas,
 - c. Apply and maintain aggregate cover,
 - d. Apply and maintain synthetic particulate suppressant, or
 - e. Apply and maintain water as a dust suppressant.
 4. Unpaved Roads or Feed Lanes:
 - a. Install engine speed governors on feed truck to 15 mph,
 - b. Install signage to limit vehicle speed to 15 mph,
 - c. Install speed control devices,
 - d. Restrict access to through traffic,
 - e. Apply and maintain pavement in high traffic areas,
 - f. Apply and maintain aggregate cover,
 - g. Apply and maintain synthetic particulate suppressant,
 - h. Apply and maintain water as a dust suppressant, or
 - i. Apply and maintain oil on roads or feed lanes.
- D.** A commercial poultry facility shall implement the following best management practices, as described in subsection (A), from each of the following categories:
1. Arenas, Corrals, and Pens (Housing):
 - a. Clean fans, louvers, and soffit inlets in a commercial poultry facility,
 - b. Use no bedding,
 - c. Control vegetation on building exteriors,
 - d. Add moisture through ventilation systems, or
 - e. House in fully enclosed ventilated buildings.
 2. Animal Waste (and Feed) Handling and Transporting:
 - a. Remove spilled feed,
 - b. Store feed,
 - c. Add oil and/or moisture to the feed,
 - d. Use enclosed feed distribution system,
 - e. Use flexible discharge spout,
 - f. Minimize drop distance,
 - g. Enclose transfer points,
 - h. Clean floors and walls in a commercial poultry facility,
 - i. Clean aisles between cage rows,
 - j. Stack separated manure solids,
 - k. Maintain moisture in manure solids, or
 - l. Use of a rotary dryer to dry manure waste.
 3. Unpaved Access Connections:
 - a. Install speed control devices,
 - b. Restrict traffic access,
 - c. Install and maintain a track-out control system, or
 - d. Install signage to limit vehicle speed to 15 mph.
 4. Unpaved Roads or Feed Lanes:
 - a. Install engine speed governors on feed trucks to 15 mph,
 - b. Install signage to limit vehicle speed to 15 mph,
 - c. Install speed control devices,
 - d. Restrict traffic access,
 - e. Apply and maintain aggregate cover,
 - f. Apply and maintain synthetic particulate suppressant,
 - g. Apply and maintain water, or
 - h. Apply and maintain oil on roads or feed lanes.
- E.** A commercial swine facility shall implement the following best management practices, as described in subsection (A), from each of the following categories:
1. Arenas, Corrals, and Pens (Housing):
 - a. House in fully enclosed ventilated buildings,
 - b. Use no bedding,
 - c. Use a slatted floor system,
 - d. Use sloped concrete flooring,
 - e. Clean fans, louvers, and soffit inlets in a commercial swine facility,
 - f. Control vegetation on building exteriors, or
 - g. Add moisture through ventilation systems.
 2. Animal Waste (and Feed) Handling and Transporting:
 - a. Remove spilled feed,
 - b. Store feed,
 - c. Add oil and/or moisture to feed,
 - d. Use enclosed feed distribution system,
 - e. Use flexible discharge spout,
 - f. Minimize drop distance,
 - g. Enclose transfer points,
 - h. Clean pens, floors, and walls in a commercial swine facility,
 - i. Clean aisles between pens and stalls,
 - j. Store separated manure solids in a wind-blocked area,
 - k. Stack separated manure solids,
 - l. Maintain moisture in manure solids, or
 - m. Maintain liquid lagoon level.
 3. Unpaved Access Connections:
 - a. Install speed control devices,
 - b. Restrict traffic access,
 - c. Install and maintain a track-out control system,
 - d. Install signage to limit vehicle speed to 15 mph.
 4. Unpaved Roads or Feed Lanes:
 - a. Install engine speed governors on feed trucks to 15 mph,
 - b. Install signage to limit vehicle speed to 15 mph,
 - c. Install speed control devices,
 - d. Restrict traffic access,
 - e. Apply and maintain aggregate cover,
 - f. Apply and maintain synthetic particulate suppressant,
 - g. Apply and maintain water,
 - h. Apply and maintain oil on roads or feed lanes, or
 - i. Wind barrier.
- F.** From and after December 31, 2015, a commercial animal operator who engages in a regulated agricultural activity shall complete a Best Management Practices Program General Permit Record Form. Thereafter, a new Best Management Practices Program General Permit Record Form shall be completed every year by March 31. The Form shall be provided to the Director within two business days of notice to the commercial animal operator. The Best Management Practice Program General Permit Record form shall include the following information:
1. The name of the commercial animal operator, signature, and date signed,
 2. The mailing address or physical address of the commercial animal operation, and
 3. The best management practices selected for Arenas, Corrals, and Pens, Animal Waste Handling and Transporting, Unpaved Access Connections, and Unpaved Roads or Feed Lanes.
- G.** Beginning January 1, 2016, a commercial animal operator shall maintain records demonstrating compliance with this Section for three years. Records shall include a copy of the complete Best Management Practice Program General Permit Record Form to confirm implementation of each best management practice and any changes to the best management practices. Records shall be kept by the commercial animal operator onsite and made available for review by the Director within two business days of notice to the commercial animal operator.

- H. A person may develop different practices not contained in subsection (B), (C), (D), or (E), that reduce PM and may submit such practices that are proven effective through on-operation demonstration trials to the Committee.
 - I. The Director shall not assess a fee to a commercial animal operator for coverage under the Best Management Practice Program General Permit Record Form.
 - J. A commercial animal operator shall ensure that the implementation of all selected best management practices does not violate any other local, state, or federal law.
 - K. The Director shall document noncompliance with this Section before issuing a compliance order.
 - L. A commercial animal operator who is not in compliance with this Section is subject to the provisions in A.R.S. § 49-457(I), (J), and (K).
- 4. Unpaved Roads or Feed Lanes:
 - a. Install engine speed governors on feed truck to 15 mph,
 - b. Install signage to limit vehicle speed to 15 mph,
 - c. Install speed control devices,
 - d. Restrict access to through traffic,
 - e. Apply and maintain pavement in high traffic areas,
 - f. Apply and maintain aggregate cover,
 - g. Apply and maintain synthetic particulate suppressant,
 - h. Apply and maintain water as a dust suppressant,
 - i. Use appropriate vehicles such as electric carts or small utility vehicles instead of trucks, or
 - j. Apply and maintain pavement or cement feed lanes.

Historical Note

New Section made by exempt rulemaking at 18 A.A.R. 137, effective December 29, 2011 (Supp. 11-4).
 Amended by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3). Amended by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 22 A.A.R. 987, effective April 5, 2016 (Supp. 16-2).

R18-2-611.02. Agricultural PM General Permit for Animal Operations; Moderate PM Nonattainment Areas Designated After June 1, 2009, Except Pinal County PM Nonattainment Area

- A. A commercial animal operator within a Moderate PM Nonattainment Area, designated after June 1, 2009, shall implement at least one best management practice from each category to reduce PM emissions.
- B. A commercial dairy operation shall implement the following best management practices, as described in subsection (A), from each of the following categories:
 - 1. Arenas, Corrals, and Pens:
 - a. Use free stall housing,
 - b. Provide shade in corral,
 - c. Provide cooling in corral,
 - d. Cement cattle walkways to milk barn,
 - e. Groom manure surface,
 - f. Water misting systems,
 - g. Use drag equipment to maintain pens,
 - h. Pile manure between cleanings,
 - i. Feed green chop,
 - j. Keep calves in barns or hutches,
 - k. Do not run cattle,
 - l. Apply a fibrous layer, or
 - m. Wind barrier.
 - 2. Animal Waste (and Feed) Handling and Transporting:
 - a. Feed higher moisture feed to dairy cattle,
 - b. Store and maintain feed stock,
 - c. Covers for silage,
 - d. Store silage in bunkers,
 - e. Cover manure hauling trucks, or
 - f. Do not load manure trucks with dry manure when wind exceeds 15 mph.
 - 3. Unpaved Access Connections:
 - a. Install signage to limit vehicle speed to 15 mph,
 - b. Install speed control devices,
 - c. Restrict access to through traffic,
 - d. Install and maintain a track-out control device,
 - e. Apply and maintain pavement in high traffic areas,
 - f. Apply and maintain aggregate cover,
 - g. Apply and maintain synthetic particulate suppressant, or
- C. A commercial beef cattle feedlot shall implement the following best management practices, as described in subsection (A), from each of the following categories:
 - 1. Arenas, Corrals, and Pens:
 - a. Concrete aprons,
 - b. Provide shade in corral,
 - c. Add moisture to pen surface,
 - d. Manure removal,
 - e. Pile manure between cleanings,
 - f. Feed higher moisture feed to beef cattle,
 - g. Control cattle during movements,
 - h. Use drag equipment to maintain pens,
 - i. Apply a fibrous layer, or
 - j. Wind barrier.
 - 2. Animal Waste (and Feed) Handling and Transporting:
 - a. Feed higher moisture feed to beef cattle,
 - b. Add molasses or tallow to feed,
 - c. Store and maintain feed stock,
 - d. Bulk materials,
 - e. Use drag equipment to maintain pens,
 - f. Cover manure hauling trucks, or
 - g. Do not load manure when wind exceeds 15 mph.
 - 3. Unpaved Access Connections:
 - a. Install and maintain a track-out control device,
 - b. Apply and maintain pavement in high traffic areas,
 - c. Apply and maintain aggregate cover,
 - d. Apply and maintain synthetic particulate suppressant, or
 - e. Apply and maintain water as a dust suppressant.
 - 4. Unpaved Roads or Feed Lanes:
 - a. Install engine speed governors on feed truck to 15 mph,
 - b. Install signage to limit vehicle speed to 15 mph,
 - c. Install speed control devices,
 - d. Restrict access to through traffic,
 - e. Apply and maintain pavement in high traffic areas,
 - f. Apply and maintain aggregate cover,
 - g. Apply and maintain synthetic particulate suppressant,
 - h. Apply and maintain water as a dust suppressant, or
 - i. Apply and maintain oil on roads or feed lanes.
- D. A commercial poultry facility shall implement the following best management practices, as described in subsection (A), from each of the following categories:
 - 1. Arenas, Corrals, and Pens (Housing):
 - a. Clean fans, louvers, and soffit inlets in a commercial poultry facility,
 - b. Use no bedding,
 - c. Control vegetation on building exteriors;
 - d. Add moisture through ventilation systems, or
 - e. House in fully enclosed ventilated buildings.

2. Animal Waste (and Feed) Handling and Transporting:
 - a. Remove spilled feed,
 - b. Store feed,
 - c. Add oil and/or moisture to the feed,
 - d. Use enclosed feed distribution system,
 - e. Use flexible discharge spout,
 - f. Minimize drop distance,
 - g. Enclose transfer points,
 - h. Clean floors and walls in a commercial poultry facility,
 - i. Clean aisles between cage rows,
 - j. Stack separated manure solids, or
 - k. Maintain moisture in manure solids.
 3. Unpaved Access Connections:
 - a. Install speed control devices,
 - b. Restrict traffic access,
 - c. Install and maintain a track-out control system, or
 - d. Install signage to limit vehicle speed to 15 mph.
 4. Unpaved Roads or Feed Lanes:
 - a. Install engine speed governors on feed trucks to 15 mph,
 - b. Install signage to limit vehicle speed to 15 mph,
 - c. Install speed control devices,
 - d. Restrict traffic access,
 - e. Apply and maintain aggregate cover,
 - f. Apply and maintain synthetic particulate suppressant,
 - g. Apply and maintain water, or
 - h. Apply and maintain oil on roads or feed lanes.
- E.** A commercial swine facility shall implement the following best management practices, as described in subsection (A), from each of the following categories:
1. Arenas, Corrals, and Pens (Housing):
 - a. House in fully enclosed ventilated buildings,
 - b. Use no bedding,
 - c. Use a slatted floor system,
 - d. Use sloped concrete flooring,
 - e. Clean fans, louvers, and soffit inlets in a commercial swine facility,
 - f. Control vegetation on building exteriors, or
 - g. Add moisture through ventilation systems.
 2. Animal Waste (and Feed) Handling and Transporting:
 - a. Remove spilled feed,
 - b. Store feed,
 - c. Add oil and/or moisture to feed,
 - d. Use enclosed feed distribution system,
 - e. Use flexible discharge spout,
 - f. Minimize drop distance,
 - g. Enclose transfer points,
 - h. Clean pens, floors, and walls in a commercial swine facility,
 - i. Clean aisles between pens and stalls,
 - j. Store separated manure solids in a wind-blocked area,
 - k. Stack separated manure solids,
 - l. Maintain moisture in manure solids, or
 - m. Maintain liquid lagoon level.
 3. Unpaved Access Connections:
 - a. Install speed control devices,
 - b. Restrict traffic access,
 - c. Install and maintain a track-out control system,
 - d. Install signage to limit vehicle speed to 15 mph.
 4. Unpaved Roads or Feed Lanes:
 - a. Install engine speed governors on feed trucks to 15 mph,
 - b. Install signage to limit vehicle speed to 15 mph,
 - c. Install speed control devices,
 - d. Restrict traffic access,
 - e. Apply and maintain aggregate cover,
 - f. Apply and maintain synthetic particulate suppressant,
 - g. Apply and maintain water,
 - h. Apply and maintain oil on roads or feed lanes, or
 - i. Wind barrier.
- F.** From and after December 31, 2015, a commercial animal operator who engages in a regulated agricultural activity shall complete a Best Management Practices Program General Permit Record Form. Thereafter, a new Best Management Practices Program General Permit Record Form shall be completed every year by March 31. The Form shall be provided to the Director within two business days of notice to the commercial animal operator. The Best Management Practices Program General Permit Record Form shall include the following information:
1. The name of the commercial animal operator, signature, and date signed,
 2. The mailing address or physical address of the commercial animal operation, and
 3. The best management practices selected for Arenas, Corrals, and Pens, Animal Waste Handling and Transporting, Unpaved Access Connections, and Unpaved Roads or Feed Lanes.
- G.** Beginning January 1, 2016, a commercial animal operator shall maintain records demonstrating compliance with this Section for three years. Records shall include a copy of the complete Best Management Practice Program General Permit Record Form to confirm implementation of each best management practice and any changes to the best management practices. Records shall be kept by the commercial animal operator onsite and made available for review by the Director within two business days of notice to the commercial animal operator.
- H.** A person may develop different practices not contained in subsection (B), (C), (D), or (F) that reduce PM and may submit such practices that are proven effective through on-operation demonstration trials to the Committee. The new best management practices shall not become effective unless submitted as described in A.R.S. § 49-457(L).
- I.** The Director shall not assess a fee to a commercial animal operator for coverage under the agricultural PM general permit.
- J.** A commercial animal operator shall ensure that the implementation of all selected best management practices does not violate any other local, state, or federal law.
- K.** The Director shall document noncompliance with this Section before issuing a compliance order.
- L.** A commercial animal operator who is not in compliance with this Section is subject to the provisions in A.R.S. § 49-457(I), (J), and (K).

Historical Note

New Section made by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3).

R18-2-611.03. Agricultural PM General Permit for Animal Operations; Pinal County PM Nonattainment Area

- A.** A commercial animal operator within the Pinal County PM Nonattainment Area shall implement at least one best management practice from each category to reduce PM emissions.
- B.** In addition to subsection (A), on the day that is forecast to be high risk for dust generation by the Pinal County Dust Control Forecast, commercial dairy operations within the Pinal County PM Nonattainment Area shall apply and maintain one of the

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four following BMPs on unpaved roads that experience more than 20 VDT from 2 or more axle vehicles:

1. Apply and maintain pavement in high traffic areas,
 2. Apply and maintain aggregate cover,
 3. Apply and maintain synthetic particulate suppressant, or
 4. Apply and maintain water as a dust suppressant.
- C.** In addition to subsection (A), commercial beef feedlots within the Pinal County PM Nonattainment Area, shall add water to pen surface, as defined in R18-2-611(3)(a), on the day that is forecast to be high risk for dust generation by the Pinal County Dust Control Forecast.
- D.** A commercial dairy operation shall implement the following best management practices, as described in subsection (A), from each of the following categories:
1. Arenas, Corrals, and Pens:
 - a. Use free stall housing,
 - b. Provide shade in corral,
 - c. Provide cooling in corral,
 - d. Cement cattle walkways to milk barn,
 - e. Groom manure surface,
 - f. Water misting systems,
 - g. Use drag equipment to maintain pens,
 - h. Pile manure between cleanings,
 - i. Feed green chop,
 - j. Keep calves in barns or hutches,
 - k. Do not run cattle,
 - l. Apply a fibrous layer, or
 - m. Wind barrier.
 2. Animal Waste (and Feed) Handling and Transporting:
 - a. Feed higher moisture feed to dairy cattle,
 - b. Store and maintain feed stock,
 - c. Covers for silage,
 - d. Store silage in bunkers,
 - e. Cover manure hauling trucks, or
 - f. Do not load manure trucks with dry manure when wind exceeds 15 mph.
 3. Unpaved Access Connections:
 - a. Install signage to limit vehicle speed to 15 mph,
 - b. Install speed control devices,
 - c. Restrict access to through traffic,
 - d. Install and maintain a track-out control device,
 - e. Apply and maintain pavement in high traffic areas,
 - f. Apply and maintain aggregate cover,
 - g. Apply and maintain synthetic particulate suppressant, or
 - h. Apply and maintain water as a dust suppressant.
 4. Unpaved Roads or Feed Lanes:
 - a. Install engine speed governors on feed truck to 15 mph,
 - b. Install signage to limit vehicle speed to 15 mph,
 - c. Install speed control devices,
 - d. Restrict access to through traffic,
 - e. Apply and maintain pavement in high traffic areas,
 - f. Apply and maintain aggregate cover,
 - g. Apply and maintain synthetic particulate suppressant,
 - h. Apply and maintain water as a dust suppressant,
 - i. Use appropriate vehicles such as electric carts or small utility vehicles instead of trucks, or
 - j. Apply and maintain pavement or cement feed lanes.
- E.** A commercial beef cattle feedlot shall implement the following best management practices, as described in subsection (A), from each of the following categories:
1. Arenas, Corrals, and Pens:
 - a. Concrete aprons,
 - b. Provide shade in corral,
 - c. Add water to pen surface,
 - d. Manure removal,
 - e. Pile manure between cleanings,
 - f. Feed higher moisture feed to beef cattle,
 - g. Control cattle during movements,
 - h. Use drag equipment to maintain pens,
 - i. Apply a fibrous layer, or
 - j. Wind barrier.
 2. Animal Waste (and Feed) Handling and Transporting:
 - a. Feed higher moisture feed to beef cattle;
 - b. Add molasses or tallow to feed,
 - c. Store and maintain feed stock,
 - d. Bulk materials,
 - e. Use drag equipment to maintain pens,
 - f. Cover manure hauling trucks, or
 - g. Do not load manure when wind exceeds 15 mph.
 3. Unpaved Access Connections:
 - a. Install and maintain a track-out control device,
 - b. Apply and maintain pavement in high traffic areas,
 - c. Apply and maintain aggregate cover,
 - d. Apply and maintain synthetic particulate suppressant, or
 - e. Apply and maintain water as a dust suppressant.
 4. Unpaved Roads or Feed Lanes:
 - a. Install engine speed governors on feed truck to 15 mph,
 - b. Install signage to limit vehicle speed to 15 mph,
 - c. Install speed control devices,
 - d. Restrict access to through traffic,
 - e. Apply and maintain pavement in high traffic areas,
 - f. Apply and maintain aggregate cover,
 - g. Apply and maintain synthetic particulate suppressant,
 - h. Apply and maintain water as a dust suppressant, or
 - i. Apply and maintain oil on roads or feed lanes.
- F.** A commercial poultry facility shall implement the following best management practices, as described in subsection (A), from each of the following categories:
1. Arenas, Corrals, and Pens (Housing):
 - a. Clean fans, louvers, and soffit inlets in a commercial poultry facility,
 - b. Use no bedding,
 - c. Control vegetation on building exteriors,
 - d. Add moisture through ventilation systems, or
 - e. House in fully enclosed ventilated buildings.
 2. Animal Waste (and Feed) Handling and Transporting:
 - a. Remove spilled feed,
 - b. Store feed,
 - c. Add oil and/or moisture to the feed,
 - d. Use enclosed feed distribution system,
 - e. Use flexible discharge spout,
 - f. Minimize drop distance,
 - g. Enclose transfer points,
 - h. Clean floors and walls in a commercial poultry facility,
 - i. Clean aisles between cage rows,
 - j. Stack separated manure solids, or
 - k. Maintain moisture in manure solids.
 3. Unpaved Access Connections:
 - a. Install speed control devices,
 - b. Restrict traffic access,
 - c. Install and maintain a track-out control system, or
 - d. Install signage to limit vehicle speed to 15 mph.
 4. Unpaved Roads or Feed Lanes:
 - a. Install engine speed governors on feed trucks to 15 mph,

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- b. Install signage to limit vehicle speed to 15 mph,
 - c. Install speed control devices,
 - d. Restrict traffic access,
 - e. Apply and maintain aggregate cover,
 - f. Apply and maintain synthetic particulate suppressant,
 - g. Apply and maintain water, or
 - h. Apply and maintain oil on roads or feed lanes.
- G.** A commercial swine facility shall implement the following best management practices, as described in subsection (A), from each of the following categories:
 - 1. Arenas, Corrals, and Pens (Housing):
 - a. House in fully enclosed ventilated buildings,
 - b. Use no bedding,
 - c. Use a slatted floor system,
 - d. Use sloped concrete flooring,
 - e. Clean fans, louvers, and soffit inlets in a commercial swine facility,
 - f. Control vegetation on building exteriors, or
 - g. Add moisture through ventilation systems.
 - 2. Animal Waste (and Feed) Handling and Transporting:
 - a. Remove spilled feed,
 - b. Store feed,
 - c. Add oil and/or moisture to feed,
 - d. Use enclosed feed distribution system,
 - e. Use flexible discharge spout,
 - f. Minimize drop distance,
 - g. Enclose transfer points,
 - h. Clean pens, floors, and walls in a commercial swine facility,
 - i. Clean aisles between pens and stalls,
 - j. Store separated manure solids in a wind-blocked area,
 - k. Stack separated manure solids,
 - l. Maintain moisture in manure solids, or
 - m. Maintain liquid lagoon level.
 - 3. Unpaved Access Connections:
 - a. Install speed control devices,
 - b. Restrict traffic access,
 - c. Install and maintain a track-out control system,
 - d. Install signage to limit vehicle speed to 15 mph.
 - 4. Unpaved Roads or Feed Lanes:
 - a. Install engine speed governors on feed trucks to 15 mph,
 - b. Install signage to limit vehicle speed to 15 mph,
 - c. Install speed control devices,
 - d. Restrict traffic access,
 - e. Apply and maintain aggregate cover,
 - f. Apply and maintain synthetic particulate suppressant,
 - g. Apply and maintain water,
 - h. Apply and maintain oil on roads or feed lanes, or
 - i. Wind barrier.
- H.** From and after December 31, 2015, a commercial animal operator who engages in a regulated agricultural activity shall complete a Best Management Practices Program General Permit Record Form. Thereafter, a new Best Management Practices Program General Permit Record Form shall be completed every year by March 31. The Form shall be provided to the Director within two business days of notice to the commercial animal operator. The Best Management Practices Program General Permit Record Form shall include the following information:
 - 1. The name of the commercial animal operator, signature, and date signed,
 - 2. The mailing address or physical address of the commercial animal operation, and
 - 3. The best management practices selected for Arenas, Corrals, and Pens, Animal Waste Handling and Transporting, Unpaved Access Connections, and Unpaved Roads or Feed Lanes.
- I.** Beginning in calendar year 2017, and no more than once every subsequent three calendar years, the Director shall provide the commercial animal operator with a Best Management Practices Program 3-year Survey. The commercial animal operator shall complete the Survey with data from the preceding calendar year and submit the Survey to the Arizona Department of Agriculture (ADA) by January 31, 2018, and every three years thereafter. The Survey information submitted to the ADA shall be compiled by the ADA in a format that does not refer to a commercial animal operator's name, shall aggregate the data from the Surveys received, and be submitted to the Department. The 3-year Survey shall include the following information:
 - 1. The name, business address, and phone number of the commercial farmer responsible for the preparation and implementation of the best management practices;
 - 2. The signature of the commercial farmer and the date the form was signed;
 - 3. The number of animals in a commercial dairy operation, beef cattle feed lot, poultry facility or swine facility;
 - 4. The total miles of unpaved roads at the commercial dairy operation, beef cattle feed lot, poultry facility or swine facility;
 - 5. The total acreage of the unpaved access connections and equipment areas at the commercial dairy operation, beef cattle feed lot, poultry facility or swine facility;
 - 6. The best management practices selected for each category; and
 - 7. For commercial dairy operations and beef cattle feedlots, an acknowledgement that water was applied on the day of a high risk day as predicted by the Pinal County Dust Control Forecast.
- J.** Beginning January 1, 2016, a commercial animal operator shall maintain records demonstrating compliance with this Section for three years. Records shall include a copy of the complete Best Management Practice Program General Permit Record Form to confirm implementation of each best management practice and any changes to the best management practices. Records shall be kept by the commercial animal operator onsite and made available for review by the Director within two business days of notice to the commercial animal operator.
- K.** A person may develop different practices not contained in subsection (D), (E), (F), or (G) that reduce PM and may submit such practices that are proven effective through on-operation demonstration trials to the Committee. The new best management practices shall not become effective unless submitted as described in A.R.S. § 49-457(L).
- L.** The Director shall not assess a fee to a commercial animal operator for coverage under the agricultural PM general permit.
- M.** A commercial animal operator shall ensure that the implementation of all selected best management practices does not violate any other local, state, or federal law.
- N.** The Director shall document noncompliance with this Section before issuing a compliance order.
- O.** A commercial animal operator who is not in compliance with this Section is subject to the provisions in A.R.S. § 49-457(I), (J), and (K).

Historical Note

New Section made by exempt rulemaking pursuant to

Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3).

R18-2-612. Definitions for R18-2-612.01

The definitions in R18-2-101 and the following definitions apply to R18-2-612.01:

1. “Access restriction” means reducing PM emission by reducing the number of trips driven on unpaved operation and maintenance and unpaved utility roads by restricting or eliminating public access by the use of signs or physical obstruction at locations that effectively control access to roads.
2. “Aggregate cover” means reducing PM emissions, wind erosion and stabilizing soil by applying and maintaining gravel, concrete, recycled road base, caliche, or other similar material to unpaved roads. The aggregate should be clean, hard and durable, and should be applied a depth sufficient to create soil stabilization in accordance with material specifications. A minimum depth of three inches is the standard in the absence of such specifications.
3. “Apply and maintain water” means reducing PM emissions and wind erosion by applying water to bare soil surfaces until the surfaces are visibly moist.
4. “Best management practice” means a technique verified by scientific research, that on a case-by-case basis is practical, economically feasible, and effective in reducing PM emissions from a regulated agricultural activity.
5. “Biological control of aquatic weeds” means reducing at least one trip, or to one trip if only one trip is needed, per treatment, made by vehicles for the purposes of removing aquatic weeds from canals by using fish, and other biologic means, within the canal through the use of to control the growth of aquatic weeds that reduce operating capacities and create debris that causes other operational issues.
6. “Canals” means facilities constructed for the sole purpose of the control, conveyance, and delivery of water. These facilities may be either open earthen channels, lined or unlined, or buried pipelines, which are used to convey water uphill and under obstructions, such as roadways and wash and river channels. These facilities include, but are not limited to, gate, inlet, outlet, safety, and measuring structures required to control water along the canals and deliver water to irrigation district customers, as well as compacted earthen banks constructed to protect these facilities from storm runoff events.
7. “Committee” means the Governor's Agricultural Best Management Practices Committee.
8. “Debris” means trash, rubble, and other non-soil materials.
9. “Dredge canals” means reducing PM emissions by mechanically removing muck, debris, and other foreign objects from canals while material is still wet or damp.
10. “Dust Control Forecast” means a forecast, which shall identify a low, moderate or high risk of dust generation for the next five consecutive days and shall be issued by noon on each day the forecast is generated. When developing these forecasts, the department shall consider all of the following:
 - a. Projected meteorological conditions, including:
 - i. Wind speed and direction,
 - ii. Stagnation,
 - iii. Recent precipitation, and
 - iv. Potential for precipitation;
 - b. Existing concentrations of air pollution at the time of the forecast; and
 - c. Historic air pollution concentrations that have been observed during meteorological conditions similar to those that are predicted to occur in the forecast.
11. “Earth materials” means natural materials covering the ground surface, which includes, but are not limited to, dirt, rocks, or soil.
12. “Grading roadways” means mechanically smoothing and compacting the roadway surface.
13. “Irrigation District” means a political subdivision, governed by title 48, chapter 19.
14. “Limit activity” means performing only critical operational or emergency activity on a day forecast to be high risk for dust generation as forecasted by the Pinal County Dust Control Forecast.
15. “Major earth moving activities” means the mechanical movement of earth materials to reconstruct, relocate, reshape, reconfigure canals, including operation and maintenance roads and utility access roads.
16. “Maricopa PM nonattainment area” means the Phoenix planning area as defined in 40 CFR 81.303, which is incorporated by reference in R18-2-210.
17. “Minor earth moving activities” means the mechanical movement of earth materials to repair and maintain the existing configuration, location, bank slopes, or inclines of canals.
18. “Muck” means water that is saturated with mud, dirt, and soil, which accumulates over time along the bottom of canals.
19. “Paved Public Road” means any paved roadways that are open to public travel and maintained by a City, County, or the State.
20. “Pinal County PM Nonattainment Area” means the West Pinal PM₁₀ planning area and the West Central PM_{2.5} planning area, as defined in 40 CFR 81.303, and incorporated by reference in R18-2-210.
21. “PM” includes both particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on 40 CFR 50 Appendix L, or by an equivalent method designated according to 40 CFR 53; and particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method contained within 40 CFR 50 Appendix J or by an equivalent method designated in accordance with 40 CFR 53, as incorporated by reference in Appendix 2.
22. “Reduce vehicle speed” means reducing PM emissions and soil erosion from the use of vehicles owned or operated by the irrigation district on unpaved operation, maintenance, and utility access roads, at speeds not to exceed 25 mph. This can be achieved through worker behavior modifications, signage, or any other necessary means.
23. “Regulated agricultural activity” means activities of an irrigation district, which affects those lands and facilities that are under the jurisdiction and control of an irrigation district, as described in § 49-457(P)(1)(f) and A.R.S. § 49-457(P)(5)(b).
24. “Regulated area” means a regulated area as defined in A.R.S. § 49-457(P)(6)(c).
25. “Sediment” means muck that has dried after removal from canals.
26. “Supervisory control system” means a system that allows the irrigation district to control operational structures from a remote computer location in order to reduce at least one trip made by vehicles to access structures for operational purposes.

27. “Synthetic or natural particulate suppressant” means reducing PM emissions and wind erosion by providing a stabilized soil surface with organic material, such as muck, animal waste or biosolids, or with a manufactured product such as lignosulfate, calcium chloride, magnesium chloride, an emulsion of a petroleum product, an enzyme product, or polyacrylamide.
 28. “Track-out control system” means minimizing any and all material that adheres to and agglomerates on all vehicles and equipment and falls onto paved public roads or shoulders to paved public roads by using a device or system to remove mud or soil from a vehicle or equipment before the vehicle enters a paved public road. Devices such as a grizzly, a gravel pad or a wheel wash system can be used.
 29. “Unauthorized use” means any travel or access by non-district personnel in non-district vehicles along roadways under the control of an irrigation district without the permission of the irrigation district.
 30. “Unpaved operation and maintenance roads” means unpaved roadways that lay adjacent to canals, which provide access for irrigation district personnel and equipment for direct operation and maintenance of canals, and are under the control of the irrigation district.
 31. “Unpaved utility access roads” means unpaved roadways used to provide access to canals, and also includes office and shop facilities, equipment yards, staging areas and other lands under the control of the irrigation district.
 32. “Weed management” means reducing at least one trip made by vehicles for the purposes of removing weeds by using a combination of techniques, including organic, chemical, or biological means, to control weeds along canal banks and land surfaces not used for conveying water, excluding unpaved roadways.
 33. “Wind barrier” means reducing PM₁₀ emissions and wind erosion by constructing a fence or structure, or providing a woody vegetative barrier by planting a row of trees or shrubs, perpendicular or across the prevailing wind direction to reduce wind speed by changing the pattern of air flow over the land surface. For fences and structures, the wind barrier shall have a density of no less than 50% and the height of the wind barrier must be proportionate to the downwind protected area. The downwind protected area is considered ten times the height of the wind barrier. For vegetative barriers, compliance shall be determined by NRCS Conservation Practice Standard, Code 380, Windbreak/Shelterbelt Establishment, amended through August 21, 2009 (and no future editions).
- a. Access restriction,
 - b. Apply and maintain aggregate cover,
 - c. Install supervisory control system to limit vehicle travel,
 - d. Limit activity,
 - e. Install signage to limit vehicle speed to 25 mph,
 - f. Post warning signs for unauthorized use at point of entry to roads,
 - g. Reduce vehicle speed,
 - h. Install and maintain a track-out control system,
 - i. Apply and maintain synthetic or natural particulate suppressant,
 - j. Apply and maintain water before, during, and after major and minor earth moving activities,
 - k. Apply and maintain water when grading roadways,
 - l. Use paved non-district or paved public roads to access structures, or
 - m. Install wind barriers.
2. Canals:
 - a. Dredge canals while muck or debris is still wet,
 - b. Dispose of muck or debris while still damp,
 - c. Weed management,
 - d. Biological control of aquatic weeds, or
 - e. Apply and maintain water before, during and after major and minor earth moving activities.
 3. Unpaved utility access roads:
 - a. Access restriction,
 - b. Apply and maintain aggregate cover,
 - c. Limit activity,
 - d. Install signage to limit vehicle speed to 25 mph,
 - e. Post warning signs for unauthorized use at points of entry to roads,
 - f. Reduce vehicle speed,
 - g. Install and maintain a track-out control system,
 - h. Apply and maintain pavement,
 - i. Apply and maintain synthetic or natural particulate suppressant,
 - j. Apply and maintain water before, during and after major and minor earth moving activities,
 - k. Apply and maintain water when grading roadways,
 - l. Use paved non-district or paved public roads to access structures, or
 - m. Install wind barriers.

- B. From and after December 31, 2015, an irrigation district engaged in a regulated agricultural activity shall complete a Best Management Practices Program General Permit Record Form. Thereafter, a new Best Management Practices Program General Permit Record Form shall be completed every year by March 31. The Form shall be provided to the Director within two business days of notice to the irrigation district. The Best Management Practice Program General Permit Record form shall include the following information:
 1. The name, business address, and the irrigation district representative responsible for the preparation and implementation of the best management practices;
 2. The signature of the irrigation district representative and the date the form was signed; and
 3. The best management practice selected for unpaved operation and utility roads, canals, and unpaved utility access roads.
- C. Beginning in calendar year 2017, and no more than once every subsequent three calendar years, the Director, in conjunction with the Arizona Department of Agriculture, shall provide the irrigation district with a Best Management Practices Program 3-year Survey. The irrigation district shall complete the Survey with data from the preceding calendar year and submit the

Historical Note

New Section R18-2-612 renumbered from R18-2-610 at 6 A.A.R. 2009, effective May 12, 2000 (Supp. 00-2). Former Section R18-2-612 renumbered to R18-2-614; new Section R18-2-612 made by final rulemaking at 11 A.A.R. 2210, effective July 18, 2005 (Supp. 05-2). Amended by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3).

R18-2-612.01. Agricultural PM General Permit For Irrigation Districts; PM Nonattainment Areas Designated After June 1, 2009

- A. An irrigation district within a PM Nonattainment Area, designated after June 1, 2009, shall implement at least one best management practice from each of the following categories to reduce PM emissions:
 1. Unpaved operation and maintenance roads:

Survey to the Arizona Department of Agriculture (ADA) by January 31, 2018, and every three years thereafter. The Survey information submitted to the ADA shall be compiled by the ADA then be submitted to the Department. The 3-year Survey shall include the following information:

1. The name, business address, and phone number of the irrigation district representative responsible for the preparation and implementation of the best management practices;
 2. The signature of the irrigation district representative and the date the form was signed;
 3. The total miles of canals that the irrigation district controls;
 4. The total miles of unpaved operation and maintenance roads;
 5. The total miles of the unpaved utility access roads; and
 6. The best management practices selected for unpaved operation and utility roads, canals, and unpaved utility access roads.
- D.** Records of any changes to those Best Management Practices shall be noted on the Best Management Practices Program General Permit Record Form and shall be kept by the irrigation district onsite and made available for review by the Director within two business days of notice to the irrigation district by the Department.
- E.** An irrigation district may develop different practices not contained in either of the categories of subsection (A)(1), (A)(2), or (A)(3) that reduce PM and may submit such practices that are proven effective through in-district trials. The proposed new practices shall not become effective unless submitted as described in A.R.S. § 49-457(L).
- F.** An irrigation district shall maintain a record demonstrating compliance with this Section for three years. Records shall include a copy of the complete Best Management Practice Program General Permit Record Form to confirm implementation of each best management practice.
- G.** The Director shall not assess a fee to an irrigation district for coverage under the agricultural PM general permit.
- H.** An irrigation district shall ensure that the implementation of all selected best management practices does not violate any other local, state, or federal law.
- I.** The Director shall document noncompliance with this Section before issuing a compliance order.
- J.** An irrigation district that is not in compliance with this Section is subject to the provisions in A.R.S. § 49-457(I), (J), and (K).

Historical Note

New Section made by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3).

R18-2-613. Definitions for R18-2-613.01

1. “Access restriction” means restricting or eliminating public access to noncropland with signs or physical obstruction.
2. “Aggregate cover” means gravel, concrete, recycled road base, caliche, or other similar material applied to noncropland.
3. “Artificial wind barrier” means a physical barrier to the wind.
4. “Bed row spacing” means increasing or decreasing the size of a planting bed area to reduce the number of passes and soil disturbance by increasing plant density.
5. “Best management practice” means a technique verified by scientific research, that on a case-by-case basis is practical, economically feasible, and effective in reducing PM₁₀ emissions from a regulated agricultural activity.
6. “Chemical irrigation” means applying a fertilizer, pesticide, or other agricultural chemical to cropland through an irrigation system.
7. “Combining tractor operations” means performing two or more tillage, cultivation, planting, or harvesting operations with a single tractor or harvester pass.
8. “Commercial farm” means 10 or more contiguous acres of land used for agricultural purposes within the boundary of the Yuma PM₁₀ nonattainment area.
9. “Commercial farmer” means an individual, entity, or joint operation in general control of a commercial farm.
10. “Conservation irrigation” means the use of drips, sprinklers, or underground lines to conserve water, and to reduce the weed population, the need for tillage, and soil compaction.
11. “Conservation tillage” means types of tillage that reduce the number of passes and the amount of soil disturbance.
12. “Cover crop” means plants or a green manure crop grown for seasonal soil protection or soil improvement.
13. “Critical area planting” means using trees, shrubs, vines, grasses, or other vegetative cover on noncropland.
14. “Cropland” means land on a commercial farm that:
 - a. Is within the time-frame of final harvest to plant emergence;
 - b. Has been tilled in a prior year and is suitable for crop production, but is currently fallow; or
 - c. Is a turn-row.
15. “Cross-wind ridges” means soil ridges formed by a tillage operation.
16. “Cross-wind strip-cropping” means planting strips of alternating crops within the same field.
17. “Cross-wind vegetative strips” means herbaceous cover established in one or more strips within the same field.
18. “Equipment modification” means modifying agricultural equipment to prevent or reduce particulate matter generation from cropland.
19. “Limited activity during a high-wind event” means performing no tillage or soil preparation activity when the measured wind speed at six feet in height is more than 25 mph at the commercial farm site.
20. “Manure application” means applying animal waste or biosolids to a soil surface.
21. “Mulching” means applying plant residue or other material that is not produced onsite to a soil surface.
22. “Multi-year crop” means a crop, pasture, or orchard that is grown, or will be grown, on a continuous basis for more than one year.
23. “Night farming” means performing regulated agricultural activities at night when moisture levels are higher and winds are lighter.
24. “Noncropland” means any commercial farmland that:
 - a. Is no longer used for agricultural production;
 - b. Is no longer suitable for production of crops;
 - c. Is subject to a restrictive easement or contract that prohibits use for the production of crops; or
 - d. Includes a private farm road, ditch, ditch bank, equipment yard, storage yard, or well head.
25. “Permanent cover” means a perennial vegetative cover on cropland.
26. “Planting based on soil moisture” means applying water to soil before performing planting operations.
27. “Precision farming” means use of satellite navigation to calculate position in the field, to reduce overlap during field operations, and allow operations to occur during nighttime and inclement weather, thus generating less PM₁₀.

28. “Reduce vehicle speed” means operating farm vehicles or farm equipment on unpaved farm roads at speeds not to exceed 20 mph.
 29. “Reduced harvest activity” means reducing the number of harvest passes using a mechanized method to cut and remove crops from a field.
 30. “Regulated agricultural activity” means a commercial farming practice that may produce PM₁₀ within the Yuma PM₁₀ nonattainment area.
 31. “Residue management” means managing the amount and distribution of crop and other plant residues on a soil surface.
 32. “Sequential cropping” means growing crops in a sequence that minimizes the amount of time bare soil is exposed on a field.
 33. “Surface roughening” means manipulating a soil surface to produce or maintain clods.
 34. “Synthetic particulate suppressant” means a manufactured product such as lignosulfate, calcium chloride, magnesium chloride, and polyacrylamide, an emulsion of a petroleum product, and an enzyme product that is used to control particulate matter.
 35. “Tillage and harvest” means any mechanical practice that physically disturbs cropland or crops on a commercial farm.
 36. “Tillage based on soil moisture” means applying water to soil before or during tillage, or delaying tillage to coincide with precipitation.
 37. “Timing of a tillage operation” means performing tillage operations at a time that will minimize the soil’s susceptibility to generate PM₁₀.
 38. “Transgenic crops” means the use of genetically modified crops such as “herbicide ready” crops, which reduces the need for tillage or cultivation operations, and reduces soil disturbance.
 39. “Track-out control system” means a device to remove mud or soil from a vehicle before the vehicle enters a paved public road.
 40. “Tree, shrub, or windbreak planting” means providing a woody vegetative barrier to the wind.
 41. “Watering” means applying water to noncropland.
 42. “Yuma PM₁₀ nonattainment area” means the Yuma PM₁₀ planning area as defined in 40 CFR 81.303, which is incorporated by reference in R18-2-210.
- D.** A commercial farmer shall ensure that the implementation of each selected best management practice does not violate any other local, state, or federal law.
- E.** A commercial farmer shall implement at least one of the following best management practices to reduce PM₁₀ emissions from tillage and harvest:
1. Bed row spacing,
 2. Chemical irrigation,
 3. Combining tractor operations,
 4. Conservation irrigation,
 5. Conservation tillage,
 6. Equipment modification,
 7. Limited activity during a high-wind event,
 8. Multi-year crop,
 9. Night farming,
 10. Planting based on soil moisture,
 11. Precision farming,
 12. Reduced harvest activity,
 13. Tillage based on soil moisture,
 14. Timing of a tillage operation, or
 15. Transgenic crops.
- F.** A commercial farmer shall implement at least one of the following best management practices to reduce PM₁₀ emissions from noncropland:
1. Access restriction;
 2. Aggregate cover;
 3. Artificial wind barrier;
 4. Critical area planting;
 5. Manure application;
 6. Reduce vehicle speed;
 7. Synthetic particulate suppressant;
 8. Track-out control system;
 9. Tree, shrub, or windbreak planting; or
 10. Watering.
- G.** A commercial farmer shall implement at least one of the following best management practices to reduce PM₁₀ emissions from cropland:
1. Artificial wind barrier;
 2. Cover crop;
 3. Cross-wind ridges;
 4. Cross-wind strip-cropping;
 5. Cross-wind vegetative strips;
 6. Manure application;
 7. Mulching;
 8. Multi-year crop;
 9. Permanent cover;
 10. Planting based on soil moisture;
 11. Precision farming;
 12. Residue management;
 13. Sequential cropping;
 14. Surface roughening; or
 15. Tree, shrub, or windbreak planting.
- H.** A person may develop different practices not contained in subsections (E), (F), or (G) that reduce PM₁₀. A person may submit practices that are proven effective through demonstration trials to the Director. The Director shall review the submitted practices.
- I.** A commercial farmer shall maintain records demonstrating compliance with this Section. The commercial farmer shall provide the records to the Director within two business days of written notice to the commercial farmer. The records shall contain:
1. The name of the commercial farmer,
 2. The mailing address or physical location of the commercial farm, and

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2210, effective July 18, 2005 (Supp. 05-2). Section R18-2-313 renumbered to R18-2-313.01; new Section made by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3).

R18-2-613.01. Yuma PM₁₀ Nonattainment Area; Agricultural Best Management Practices

- A.** A commercial farmer shall comply with this Section by August 1, 2005.
- B.** A commercial farmer who begins a regulated agricultural activity after August 1, 2005, shall comply with this Section within 60 days after beginning the regulated agricultural activity.
- C.** A commercial farmer shall implement at least one of the best management practices from each of the following categories at each commercial farm:
1. Tillage and harvest, subsection (E);
 2. Noncropland, subsection (F); and
 3. Cropland, subsection (G).

3. The best management practices selected for tillage and harvest, noncropland, and cropland by the commercial farmer, and the date each best management practice was implemented.

Historical Note

New Section R18-2-313.01 renumbered from Section R18-2-313 by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3).

R18-2-614. Evaluation of Nonpoint Source Emissions

Opacity of an emission from any nonpoint source shall not be greater than 40% measured according to the 40 CFR 60, Appendix A, Reference Method 9. An open fire permitted under R18-2-602 or regulated under Article 15 is exempt from this requirement.

Historical Note

Section R18-2-614 renumbered from R18-2-612; amended by final rulemaking at 11 A.A.R. 2210, effective July 18, 2005 (Supp. 05-2). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2).

ARTICLE 7. EXISTING STATIONARY SOURCE PERFORMANCE STANDARDS

R18-2-701. Definitions

For purposes of this Article:

1. "Acid mist" means sulfuric acid mist as measured in the Arizona Testing Manual and 40 CFR 60, Appendix A.
2. "Architectural coating" means a coating used commercially or industrially for residential, commercial or industrial buildings and their appurtenances, structural steel, and other fabrications such as storage tanks, bridges, beams and girders.
3. "Asphalt concrete plant" means any facility used to manufacture asphalt concrete by heating and drying aggregate and mixing with asphalt cements. This is limited to facilities, including drum dryer plants that introduce asphalt into the dryer, which employ two or more of the following processes:
 - a. A dryer.
 - b. Systems for screening, handling, storing, and weighing hot aggregate.
 - c. Systems for loading, transferring, and storing mineral filler.
 - d. Systems for mixing asphalt concrete.
 - e. The loading, transferring, and storage systems associated with emission control systems.
4. "Black liquor" means waste liquor from the brown stock washer and spent cooking liquor which have been concentrated in the multiple-effect evaporator system.
5. "Calcine" means the solid materials produced by a lime plant.
6. "Coal" means any solid fuel classified as anthracite, bituminous, subbituminous, or lignite by the ASTM Method D388-05 "Standard Classification of Coals by Rank" and coal refuse. Synthetic fuels derived from coal for the purpose of creating useful heat including but not limited to, coal derived gases (not meeting the definition of natural gas), solvent-refined coal, coal-oil mixtures, and coal-water mixtures, are considered "coal" for the purposes of this subpart.
7. "Coal refuse" means any by-product of coal mining, physical coal cleaning, and coal preparation operations (e.g., culm, gob, etc.) containing coal, matrix material, clay, and other organic and inorganic material with an ash content greater than 50 percent (by weight) and a heating value less than 13,900 kilojoules per kilogram (6,000 Btu per pound) on a dry basis.
8. "Concentrate" means enriched copper ore recovered from the froth flotation process.
9. "Concentrate dryer" means any facility in which a copper sulfide ore concentrate charge is heated in the presence of air to eliminate a portion of the moisture from the charge, provided less than 5% of the sulfur contained in the charge is eliminated in the facility.
10. "Concentrate roaster" means any facility in which a copper sulfide ore concentrate is heated in the presence of air to eliminate 5% or more of the sulfur contained in the charge.
11. "Condensate stripper system" means a column, and associated condensers, used to strip, with air or steam, TRS compounds from condensate streams from various processes within a kraft pulp mill.
12. "Control device" means the air pollution control equipment used to remove particulate matter or gases generated by a process source from the effluent gas stream.
13. "Converter" means any vessel to which copper matte is charged and oxidized to copper.
14. "Electric generating plant" means all electric generating units located at a stationary source.
15. "Electric generating unit" means a combustion unit of more than 25 megawatts electric that serves a generator that produces electricity for sale and that burns coal for more than 10.0 percent of the average annual heat input during any three consecutive calendar years or for more than 15.0 percent of the annual heat input during any one calendar year. A unit that cogenerates steam and electricity and supplies more than one-third of its potential electric output capacity and more than 25 megawatts electric output to any utility power distribution system for sale is considered an electric generating unit.
16. "Existing source" means any source which does not have an applicable new source performance standard under Article 9 of this Chapter.
17. "Facility" means an identifiable piece of stationary process equipment along with all associated air pollution equipment.
18. "Federal mercury standards" means the emissions limits, monitoring, testing, recordkeeping, reporting and notification requirements applicable or relating to emissions of mercury from electric generating units under 40 CFR Part 63, Subpart UUUUU.
19. "Fugitive dust" means fugitive emissions of particulate matter.
20. "High sulfur oil" means fuel oil containing 0.90% or more by weight of sulfur.
21. "Inlet mercury" means the average concentration of mercury in the coal burned at an electric generating unit, as determined by ASTM methods, EPA-approved methods or alternative methods approved by the Director.
22. "Lime kiln" means a unit used to calcinate lime rock or kraft pulp mill lime mud, which consists primarily of calcium carbonate, into quicklime, which is calcium oxide.
23. "Low sulfur oil" means fuel oil containing less than 0.90% by weight of sulfur.
24. "Matte" means a metallic sulfide made by smelting copper sulfide ore concentrate or the roasted product of copper sulfide ores.
25. "Mercury" means mercury or mercury compounds in either a gaseous or particulate form.
26. "Miscellaneous metal parts and products" for purposes of industrial coating include all of the following:

- a. Large farm machinery, such as harvesting, fertilizing and planting machines, tractors, and combines;
- b. Small farm machinery, such as lawn and garden tractors, lawn mowers, and rototillers;
- c. Small appliances, such as fans, mixers, blenders, crock pots, dehumidifiers, and vacuum cleaners;
- d. Commercial machinery, such as office equipment, computers and auxiliary equipment, typewriters, calculators, and vending machines;
- e. Industrial machinery, such as pumps, compressors, conveyor components, fans, blowers, and transformers;
- f. Fabricated metal products, such as metal-covered doors and frames;
- g. Any other industrial category which coats metal parts or products under the Code in the “Standard Industrial Classification Manual, 1987” of Major Group 33 (primary metal industries), Major Group 34 (fabricated metal products), Major Group 35 (non-electric machinery), Major Group 36 (electrical machinery), Major Group 37 (transportation equipment), Major Group 38 (miscellaneous instruments), and Major Group 39 (miscellaneous manufacturing industries), except all of the following:
 - i. Automobiles and light-duty trucks;
 - ii. Metal cans;
 - iii. Flat metal sheets and strips in the form of rolls or coils;
 - iv. Magnet wire for use in electrical machinery;
 - v. Metal furniture;
 - vi. Large appliances;
 - vii. Exterior of airplanes;
 - viii. Automobile refinishing;
 - ix. Customized top coating of automobiles and trucks, if production is less than 35 vehicles per day;
 - x. Exterior of marine vessels.
27. “Multiple-effect evaporator system” means the multiple-effect evaporators and associated condenser and hotwell used to concentrate the spent cooking liquid that is separated from the pulp.
28. “Neutral sulfite semichemical pulping” means any operation in which pulp is produced from wood by cooking or digesting wood chips in a solution of sodium sulfite and sodium bicarbonate, followed by mechanical defibrating or grinding.
29. “Petroleum liquids” means petroleum, condensate, and any finished or intermediate products manufactured in a petroleum refinery but does not mean Number 2 through Number 6 fuel oils as specified in ASTM D396-90a (Specification for Fuel Oils), gas turbine fuel oils Numbers 2-GT through 4-GT as specified in ASTM D2880-90a (Specification for Gas Turbine Fuel Oils), or diesel fuel oils Numbers 2-D and 4-D as specified in ASTM D975-90 (Specification for Diesel Fuel Oils).
30. “Potential electric output capacity” means 33% of a unit’s maximum design heat input, divided by 3,413 Btu per kilowatt-hour, divided by 1,000 kilowatt-hours/per megawatt-hour, and multiplied by 8,760 hours per year.
31. “Process source” means the last operation or process which produces an air contaminant resulting from either:
 - a. The separation of the air contaminants from the process material, or
 - b. The conversion of constituents of the process materials into air contaminants which is not an air pollution abatement operation.
32. “Process weight” means the total weight of all materials introduced into a process source, including fuels, where these contribute to pollution generated by the process.
33. “Process weight rate” means a rate established pursuant to R18-2-702(E).
34. “Recovery furnace” means the unit, including the direct-contact evaporator for a conventional furnace, used for burning black liquor to recover chemicals consisting primarily of sodium carbonate and sodium sulfide.
35. “Reid vapor pressure” means the absolute vapor pressure of volatile crude oil and volatile non-viscous petroleum liquids, except liquified petroleum gases, as determined by ASTM D-323-90 (Test Method for Vapor Pressure of Petroleum Products) (Reid Method).
36. “Reveratory smelting furnace” means any vessel in which the smelting of copper sulfide ore concentrates or calcines is performed and in which the heat necessary for smelting is provided primarily by combustion of a fossil fuel.
37. “Rotary lime kiln” means a unit with an included rotary drum which is used to produce a lime product from limestone by calcination.
38. “Slag” means fused and vitrified matter separated during the reduction of a metal from its ore.
39. “Smelt dissolving tank” means a vessel used for dissolving the smelt collected from the kraft mill recovery furnace.
40. “Smelter feed” means all materials utilized in the operation of a copper smelter, including metals or concentrates, fuels and chemical reagents, calculated as the aggregate sulfur content of all fuels and other feed materials whose products of combustion and gaseous by-products are emitted to the atmosphere.
41. “Smelting” means processing techniques for the smelting of a copper sulfide ore concentrate or calcine charge leading to the formation of separate layers of molten slag, molten copper, or copper matte.
42. “Smelting furnace” means any vessel in which the smelting of copper sulfide ore concentrates or calcines is performed and in which the heat necessary for smelting is provided by an electric current, rapid oxidation of a portion of the sulfur contained in the concentrate as it passes through an oxidizing atmosphere, or the combustion of a fossil fuel.
43. “Standard conditions” means a temperature of 293K (68°F or 20°C) and a pressure of 101.3 kilopascals (29.92 in. Hg or 1013.25 mb).
44. “Supplementary control system” (SCS) means a system by which sulfur dioxide emissions are curtailed during periods when meteorological conditions conducive to ground-level concentrations in excess of ambient air quality standards for sulfur dioxide either exist or are anticipated.
45. “Vapor pressure” means the pressure exerted by the gaseous form of a substance in equilibrium with its liquid or solid form.

Historical Note

Former Section R18-2-701 repealed effective September 26, 1990 (Supp. 90-3). New Section R18-2-701 renumbered from R18-2-501 and amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 12 A.A.R. 4701, effective January 29, 2007 (Supp. 06-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 21 A.A.R. 711, effective June 30, 2015

(Supp. 15-2).

R18-2-702. General Provisions

- A. The provisions of this Article shall only apply to a source that is all of the following:
 1. An existing source, as defined in R18-2-101;
 2. A point source. For the purposes of this Section, "point source" means a source of air contaminants that has an identifiable plume or emissions point; and
 3. A stationary source, as defined in R18-2-101.
- B. Except as otherwise provided in this Chapter relating to specific types of sources, the opacity of any plume or effluent, from a source described in subsection (A), as determined by Reference Method 9 in 40 CFR 60, Appendix A, shall not be:
 1. Greater than 20% in an area that is nonattainment or maintenance for any particulate matter standard, unless an alternative opacity limit is approved by the Director and the Administrator as provided in subsections (D) and (E), after February 2, 2004;
 2. Greater than 40% in an area that is attainment or unclassifiable for each particulate matter standard; and
 3. After April 23, 2006, greater than 20% in any area that is attainment or unclassifiable for each particulate matter standard except as provided in subsections (D) and (E).
- C. If the presence of uncombined water is the only reason for an exceedance of any visible emissions requirement in this Article, the exceedance shall not constitute a violation of the applicable opacity limit.
- D. A person owning or operating a source may petition the Director for an alternative applicable opacity limit. The petition shall be submitted to ADEQ by May 15, 2004.
 1. The petition shall contain:
 - a. Documentation that the affected facility and any associated air pollution control equipment are incapable of being adjusted or operated to meet the applicable opacity standard. This includes:
 - i. Relevant information on the process operating conditions and the control devices operating conditions during the opacity or stack tests;
 - ii. A detailed statement or report demonstrating that the source investigated all practicable means of reducing opacity and utilized control technology that is reasonably available considering technical and economic feasibility; and
 - iii. An explanation why the source cannot meet the present opacity limit although it is in compliance with the applicable particulate mass emission rule.
 - b. If there is an opacity monitor, any certification and audit reports required by all applicable subparts in 40 CFR 60 and in Appendix B, Performance Specification 1.
 - c. A verification by a responsible official of the source of the truth, accuracy, and completeness of the petition. This certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.
 2. If the unit for which the alternative opacity standard is being applied is subject to a stack test, the petition shall also include:
 - a. Documentation that the source conducted concurrent EPA Reference Method stack testing and visible emissions readings or is utilizing a continuous opacity monitor. The particulate mass emission test results shall clearly demonstrate compliance with the applicable particulate mass emission limitation by being at least 10% below that limit. For multiple units that are normally operated together and whose emissions vent through a single stack, the source shall conduct simultaneous particulate testing of each unit. Each control device shall be in good operating condition and operated consistent with good practices for minimizing emissions.
 - b. Evidence that the source conducted the stack tests according to R18-2-312, and that they were witnessed by the Director or the Director's agent or representative.
 - c. Evidence that the affected facility and any associated air pollution control equipment were operated and maintained to the maximum extent practicable to minimize the opacity of emissions during the stack tests.
 3. If the source for which the alternative opacity standard is being applied is located in a nonattainment area, the petitioner shall include all the information listed in subsections (D)(1) and (D)(2), and in addition:
 - a. In subsection (D)(1)(a)(ii), the detailed statement or report shall demonstrate that the alternative opacity limit fulfills the Clean Air Act requirement for reasonably available control technology; and
 - b. In subsection (D)(2)(b), the stack tests shall be conducted with an opportunity for the Administrator or the Administrator's agent or representative to be present.
- E. If the Director receives a petition under subsection (D) the Director shall approve or deny the petition as provided below by October 15, 2004:
 1. If the petition is approved under subsection (D)(1) or (D)(2), the Director shall include an alternative opacity limit in a proposed significant permit revision for the source under R18-2-320 and R18-2-330. The proposed alternative opacity limit shall be set at a value that has been demonstrated during, and not extrapolated from, testing, except that an alternative opacity limit under this Section shall not be greater than 40%. For multiple units that are normally operated together and whose emissions vent through a single stack, any new alternative opacity limit shall reflect the opacity level at the common stack exit, and not individual in-duct opacity levels.
 2. If the petition is approved under subsection (D)(3), the Director shall include an alternative opacity limit in a proposed revision to the applicable implementation plan, and submit the proposed revision to EPA for review and approval. The proposed alternative opacity limit shall be set at a value that has been demonstrated during, and not extrapolated from, testing, except that the alternative opacity limit shall not be greater than 40%.
 3. If the petition is denied, the source shall either comply with the 20% opacity limit or apply for a significant permit revision to incorporate a compliance schedule under R18-2-309(5)(c)(iii) by April 23, 2006.
 4. A source does not have to petition for an alternative opacity limit under subsection (D) to enter into a revised compliance schedule under R18-2-309(5)(c).
- F. The Director, Administrator, source owner or operator, inspector or other interested party shall determine the process weight rate, as used in this Article, as follows:
 1. For continuous or long run, steady-state process sources, the process weight rate is the total process weight for the entire period of continuous operation, or for a typical portion of that period, divided by the number of hours of the period, or portion of hours of that period.

2. For cyclical or batch process sources, the process weight rate is the total process weight for a period which covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during the period.

Historical Note

Former Section R18-2-702 repealed effective September 26, 1990 (Supp. 90-3). New Section R18-2-702 renumbered from R18-2-502 and amended effective November 15, 1993 (Supp. 93-4). Amended by exempt rulemaking at 9 A.A.R. 5550, effective February 3, 2004 (Supp. 03-4).

R18-2-703. Standards of Performance for Existing Fossil-fuel Fired Steam Generators and General Fuel-burning Equipment

A. This Section applies to the following:

1. Installations in which fuel is burned for the primary purpose of producing power, steam, hot water, hot air or other liquids, gases or solids and in the course of doing so the products of combustion do not come into direct contact with process materials. When any products or by-products of a manufacturing process are burned for the same purpose or in conjunction with any fuel, the same maximum emission limitation shall apply, except for wood waste burners as regulated under R18-2-704.
2. All fossil-fuel fired steam generating units or general fuel burning equipment which are greater than or equal to 73 megawatts capacity.

B. For purposes of this Section, the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack or other outlet. The heat content of solid fuel shall be determined in accordance with R18-2-311. Compliance tests shall be conducted during operation at the nominal rated capacity of each unit.

C. No person shall cause, allow or permit the emission of particulate matter in excess of the amounts calculated by one of the following equations:

1. For equipment having a heat input rate of 4200 million Btu per hour or less, the maximum allowable emissions shall be determined by the following equation:

$$E = 1.02Q^{0.769}$$
 where:
 E = the maximum allowable particulate emissions rate in pounds-mass per hour.
 Q = the heat input in million Btu per hour.

2. For equipment having a heat input rate greater than 4200 million Btu per hour, the maximum allowable emissions shall be determined by the following equation:

$$E = 17.0Q^{0.432}$$
 where "E" and "Q" have the same meaning as in subsection (C)(1).

D. Actual values shall be calculated from the applicable equations and rounded off to two decimal places.

E. When low sulfur oil is fired:

1. Existing fuel-burning equipment or steam-power generating installations which commenced construction or a major modification prior to May 30, 1972, shall not emit more than 1.0 pounds sulfur dioxide maximum three-hour average, per million Btu (430 nanograms per joule) heat input.
2. Existing fuel-burning equipment or steam-power generating installations which commenced construction or a major modification after May 30, 1972, shall not emit more than 0.80 pounds of sulfur dioxide maximum three-hour average per million Btu (340 nanograms per joule) heat input.

- F. When high sulfur oil is fired, all existing steam-power generating and general fuel-burning installations which are subject to the provisions of this Section shall not emit more than 2.2 pounds of sulfur dioxide maximum three-hour average per million Btu (946 nanograms per joule) heat input.

G. When solid fuel is fired:

1. Existing general fuel-burning equipment and steam-power generating installations which commenced construction or a major modification prior to May 30, 1972, shall not emit more than 1.0 pounds of sulfur dioxide maximum three-hour average, per million Btu (430 nanograms per joule) heat input.
2. Existing general fuel-burning equipment and steam-power generating installations which commenced construction or a major modification after May 30, 1972, shall not emit more than 0.80 pounds of sulfur dioxide, maximum three-hour average, per million Btu (340 nanograms per joule) heat input.

H. Any permit issued for the operation of an existing source, or any renewal or modification of such a permit, shall include a condition prohibiting the use of high sulfur oil by the permittee, unless the applicant demonstrates to the satisfaction of the Director that sufficient quantities of low sulfur oil are not available for use by the source and that it has adequate facilities and contingency plans to ensure that the sulfur dioxide ambient air quality standards set forth in R18-2-202 will not be violated.

1. The terms of the permit may authorize the use of high sulfur oil under such conditions as are justified.
2. In cases where the permittee is authorized to use high sulfur oil, it shall submit to the Department monthly reports detailing its efforts to obtain low sulfur oil.
3. When the conditions justifying the use of high sulfur oil no longer exists, the permit shall be modified accordingly.
4. Nothing in this Section shall be construed as allowing the use of a supplementary control system or other form of dispersion technology.

I. Existing steam-power generating installations which commenced construction or a major modification after May 30, 1972, shall not emit nitrogen oxides in excess of the following amounts:

1. 0.20 pounds of nitrogen oxides, maximum three-hour average, calculated as nitrogen dioxide, per million Btu heat input when gaseous fossil fuel is fired.
2. 0.30 pounds of nitrogen oxides, maximum three-hour average, calculated as nitrogen dioxide, per million Btu heat input when liquid fossil fuel is fired.
3. 0.70 pounds of nitrogen oxides, maximum three-hour average, calculated as nitrogen dioxide, per million Btu heat input when solid fossil fuel is fired.

J. Emission and fuel monitoring systems, where deemed necessary by the Director for sources subject to the provisions of this Section shall, conform to the requirements of R18-2-313.

K. The applicable reference methods given in the Appendices to 40 CFR 60 shall be used to determine compliance with the standards as prescribed in subsections (C) through (G) and (I). All tests shall be run at the heat input calculated under subsection (B).

Historical Note

Former Section R18-2-703 repealed effective September 26, 1990 (Supp. 90-3). New Section R18-2-703 renumbered from R18-2-503 and amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 13 A.A.R. 2157, effective August 4, 2007 (Supp. 07-2). Amended by final rulemaking at 15 A.A.R. 281, effective

March 7, 2009 (Supp. 09-1).

R18-2-704. Standards of Performance for Incinerators

- A.** No person shall cause, allow or permit to be emitted into the atmosphere, from any type of incinerator, smoke, fumes, gases, particulate matter or other gas-borne material which exceeds 20% opacity except during the times specified in subsection (D).
- B.** No person shall cause, allow or permit the discharge of particulate matter into the atmosphere in any one hour from any incinerator, in excess of the following limits:
 1. For multiple chamber incinerators, controlled atmosphere incinerators, fume incinerators, afterburners or other unspecified types of incinerators, emissions shall not exceed 0.1 grain per cubic foot, based on dry flue gas at standard conditions, corrected to 12% carbon dioxide.
 2. For wood waste burners other than air curtain destructors, emissions discharged from the stack or burner top opening shall not exceed 0.2 grain per cubic foot, based on dry flue gas at standard conditions, corrected to 12% carbon dioxide.
- C.** Air curtain destructors shall not be used within 500 feet of the nearest dwelling.
- D.** Incinerators shall be exempt from the opacity and emission requirements described in subsections (A) and (B) as follows:
 1. For multiple chamber incinerators, controlled atmosphere incinerators, fume incinerators, afterburners or other unspecified types of incinerators, such exemption shall be for not more than 30 seconds in any 60-minute period.
 2. Wood waste burners shall be exempt both:
 - a. For a period once each day for the purpose of building a new fire but not to exceed 60 minutes, and
 - b. For an upset of operations not to exceed three minutes in any 60-minute period.
- E.** The owner or operator of any incinerator subject to the provisions of this Section shall record the daily charging rates and hours of operation.
- F.** The test methods and procedures required by this Section are as follows:
 1. The reference methods in 40 CFR 60, Appendix A, shall be used to determine compliance with the standards prescribed in subsection (B) as follows:
 - a. Method 5 for the concentration of particulate matter and the associated moisture content;
 - b. Method 1 for sample and velocity traverses;
 - c. Method 2 for velocity and volumetric flow rate;
 - d. Method 3 for gas analysis and calculation of excess air, using the integrated sampling technique.
 2. For Method 5, the sampling time for each run shall be at least 60 minutes and the minimum sample volume shall be 0.85 dscm (30.0 dscf) except that smaller sampling times or sample volumes, when necessitated by process variables or other factors, may be approved by the Director.

Historical Note

Former Section R18-2-704 repealed effective September 26, 1990 (Supp. 90-3). New Section R18-2-704 renumbered from R18-2-504 effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 13 A.A.R. 2157, effective August 4, 2007 (Supp. 07-2).

R18-2-705. Standards of Performance for Existing Portland Cement Plants

- A.** The provisions of this Section are applicable to the following affected facilities in portland cement plants: kiln, clinker

cooler, raw mill system, finish mill system, raw mill dryer, raw material storage, clinker storage, finished product storage, conveyor transfer points, bagging and bulk loading and unloading systems.

- B.** No person shall cause, allow or permit the discharge of particulate matter from any identifiable process source within any existing cement plant subject to the provisions of this Section which exceeds the amounts calculated by one of the following equations:
 1. For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the maximum allowable emissions shall be determined by the following equation:
$$E = 4.10P^{0.67}$$
where:
E = the maximum allowable particulate emissions rate in pounds-mass per hour.
P = the process weight rate in tons-mass per hour.
 2. For process sources having a process weight rate greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:
$$E = 55.0P^{0.11}-40$$
where "E" and "P" are defined as indicated in subsection (B)(1).
- C.** No process source within any portland cement plant shall exceed 20% opacity.
- D.** No person shall cause, allow or permit discharge into the atmosphere of an amount in excess of 6 pounds of sulfur oxides, calculated as sulfur dioxide, per ton cement kiln feed from cement plants subject to the provisions of this Section.
- E.** The owner or operator of any portland cement plant subject to the provisions of this Section shall record the daily production rates and the kiln feed rates.
- F.** The test methods and procedures required by this Section are as follows:
 1. The reference methods in 40 CFR 60, Appendix A, except as provided for in R18-2-312 shall be used to determine compliance with the standards prescribed in subsection (B) as follows:
 - a. Method 5 for the concentration of particulate matter and the associated moisture content;
 - b. Method 1 for sample and velocity traverses;
 - c. Method 2 for velocity and volumetric flow rate;
 - d. Method 3 for gas analysis.
 2. For Method 5, the minimum sampling time and minimum sample volume for each run except when process variables or other factors justifying otherwise to the satisfaction of the Director, shall be as follows:
 - a. 60 minutes and 0.85 dscm (30.0 dscf) for the kiln,
 - b. 60 minutes and 1.15 dscm (40.6 dscf) for the clinker cooler.
 3. Total kiln feed rate, except fuels, expressed in metric tons per hour on a dry basis, shall be both:
 - a. Determined during each testing period by suitable methods; and
 - b. Confirmed by a material balance over the production system.
 4. For each run, particulate matter emissions, expressed in g/metric ton of kiln feed, shall be determined by dividing the emission rate in g/hr by the kiln feed rate. The emission rate shall be determined by the equation, $g/hr = Q_s \times c$, where Q_s = volumetric flow rate of the total effluent in dscm/hr as determined in accordance with subsection (F)(1)(c), and c = particulate concentration in g/dscm as determined in accordance with subsection (F)(1)(a).

Historical Note

Former Section R18-2-705 repealed effective September 26, 1990 (Supp. 90-3). New Section R18-2-705 renumbered from R18-2-505 effective November 15, 1993 (Supp. 93-4).

R18-2-706. Standards of Performance for Existing Nitric Acid Plants

- A. No person shall cause, allow or permit discharge from any nitric acid plant producing weak nitric acid, which is either:
 1. 30 to 70% in strength by either the increased pressure or atmospheric pressure process, or
 2. More than 1.5 kg of total oxides of nitrogen per metric ton (3.0 lbs/ton) of acid produced expressed as nitrogen dioxide.
- B. The opacity of any plume subject to the provisions of this Section shall not exceed 10%.
- C. A continuous monitoring system for the measurement of nitrogen oxides shall be installed, calibrated, maintained and operated by the owner or operator, in accordance with Section R18-2-313.
- D. The test methods and procedures required by this Section are as follows:
 1. The reference methods in 40 CFR 60, Appendix A shall be used to determine compliance with the standard prescribed in subsection (A) as follows:
 - a. Method 7 for the concentration of NO_x ;
 - b. Method 1 for sample and velocity traverses;
 - c. Method 2 for velocity and volumetric flow rate;
 - d. Method 3 for gas analysis.
 2. For Method 7, the sample site shall be selected according to Method 1 and the sampling point shall be the centroid of the stack or duct or at a point no closer to the walls than 1 m (3.28 ft.). Each run shall consist of at least four grab samples taken at approximately 15-minute intervals. The arithmetic mean of the samples shall constitute the run value. A velocity traverse shall be performed once per run.
 3. Acid production rate, expressed in metric tons per hour of 100% nitric acid, shall be both:
 - a. Determined during each testing period by suitable methods, and
 - b. Confirmed by a material balance over the production system.
 4. For each run, nitrogen oxides, expressed in g/metric ton of 100% nitric acid, shall be determined by dividing the emission rate in g/hr by the acid production rate. The emission rate shall be determined by the equation:

$$\text{g/hr} = Q_s \times c$$
 where Q_s = volumetric flow rate of the effluent in dscm/hr, as determined in accordance with subsection (D)(1)(c), and c = NO_x concentration in g/dscm, as determined in accordance with subsection (D)(1)(a).

Historical Note

Former Section R18-2-706 repealed effective September 26, 1990 (Supp. 90-3). New Section R18-2-706 renumbered from R18-2-506 effective November 15, 1993 (Supp. 93-4).

R18-2-707. Standards of Performance for Existing Sulfuric Acid Plants

- A. Facilities that produce sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, organic sulfide and mercaptans or acid sludge shall not discharge into the atmosphere:
 1. Greater than 2 kg of sulfur dioxide per metric ton (4 lbs/ton) of sulfuric acid produced (calculated as 100% H_2SO_4), or
 2. Greater than 0.075 kg of sulfuric acid mist per metric ton (0.15 lbs/ton) or sulfuric acid produced (calculated as 100% H_2SO_4).

- B. This Section shall not apply to metallurgical plants or other facilities where conversion to sulfuric acid is utilized as a means of controlling emissions to the atmosphere of sulfur dioxide or other sulfur compounds.
- C. A continuous monitoring system for the measurement of sulfur dioxide shall be installed, calibrated, maintained and operated by the owner or operator, in accordance with R18-2-313.
- D. The test methods and procedures required by this Section are as follows:
 1. The reference methods in 40 CFR 60, Appendix A shall be used to determine compliance with standards prescribed in subsection (A) as follows:
 - a. Method 8 for concentration of SO_2 and acid mist;
 - b. Method 1 for sample and velocity traverses;
 - c. Method 2 for velocity and volumetric flow rate;
 - d. Method 3 for gas analysis.
 2. The moisture content can be considered to be zero. For Method 8 the sampling time for each run shall be at least 60 minutes and the minimum sample volume shall be 1.15 dscm (40.6 dscf) except that smaller sampling times or sample volumes, when necessitated by process variables or other factors, may be approved by the Director.
 3. Acid production rate, expressed in metric tons per hour of 100% H_2SO_4 , shall be both:
 - a. Determined during each testing period by suitable methods, and
 - b. Confirmed by a material balance over the production system.
 4. Acid mist and sulfur dioxide emissions, expressed in g/metric ton of 100% H_2SO_4 , shall be determined by dividing the emission rate in g/hr by the acid production rate. The emission rate shall be determined by the equation, $\text{g/hr} = Q_s \times c$, where Q_s = volumetric flow rate of the effluent in dscm/hr as determined in accordance with subsection (D)(1)(c), and c = acid mist and SO_2 concentrations in g/dscm as determined in accordance with subsection (D)(1)(a).

Historical Note

Former Section R18-2-707 repealed effective September 26, 1990 (Supp. 90-3). New Section R18-2-707 renumbered from R18-2-507 effective November 15, 1993 (Supp. 93-4).

R18-2-708. Standards of Performance for Existing Asphalt Concrete Plants

- A. Fixed asphalt concrete plants and portable asphalt concrete plants shall meet the standards set forth in this Section.
- B. No person shall cause, allow or permit the discharge of particulate matter into the atmosphere in any one hour from any existing asphalt concrete plant in total quantities in excess of the amounts calculated by one of the following equations:
 1. For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the maximum allowable emissions shall be determined by the following equation:

$$E = 4.10P^{0.67}$$
 where:
 - E = the maximum allowable particulate emission rate in pounds-mass per hour.
 - P = the process weight rate in tons-mass per hour.

2. For process sources having a process weight rate greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:

$$E = 55.0P^{0.11-40}$$

where "E" and "P" are defined as indicated in subsection (B)(1).

- C. Actual values shall be calculated from the applicable equations and rounded off to two decimal places.
- D. For purposes of this Section, the total process weight from all similar units employing a similar type process shall be used in determining the maximum allowable emission of particulate matter.
- E. Liquid fuel containing greater than 0.9% sulfur by weight shall not be utilized for asphalt concrete plants subject to this Section.
- F. Solid fuel containing greater than 0.5% sulfur by weight shall not be utilized for asphalt concrete plants subject to this Section.
- G. The test methods and procedures required under this Section are:
 1. The referenced methods given in 40 CFR 60, Appendix A, as incorporated by reference in Appendix 2 of this Chapter, shall be used to determine compliance with the standards prescribed in subsection (B).
 - a. Method 5 for the concentration of particulate matter and the associated moisture content,
 - b. Method 1 for sample and velocity traverses,
 - c. Method 2 for velocity and volumetric flow rate,
 - d. Method 3 for gas analysis.
 2. For Method 5, the sampling time for each run shall be at least 60 minutes and the sampling rate shall be at least 0.9 dscm/hr (0.53 dscf/min) except that shorter sampling times, when necessitated by process variables or other factors, may be approved by the Director.
 3. Percent sulfur in liquid fuel shall be determined by ASTM method D-129-91 (Test Method for Sulfur in Petroleum Products) (General Bomb Method), and the percent sulfur in solid fuel shall be determined by ASTM method D-3177-89 (Test Method for Total Sulfur in the Analysis Sample of Coal and Coke).

Historical Note

Former Section R18-2-708 repealed effective September 26, 1990 (Supp. 90-3). New Section R18-2-708 renumbered from R18-2-508 and amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1).

R18-2-709. Expired

Historical Note

Former Section R18-2-709 repealed effective September 26, 1990 (Supp. 90-3). New Section R18-2-709 renumbered from R18-2-509 and amended effective November 15, 1993 (Supp. 93-4). Section expired under A.R.S. § 41-1056(J) at 21 A.A.R. 15, effective September 30, 2015 (Supp. 15-4).

R18-2-710. Standards of Performance for Existing Storage Vessels for Petroleum Liquids

- A. No person shall place, store or hold in any reservoir, stationary tank or other container having a capacity of 40,000 (151,400 liters) or more gallons any petroleum liquid having a vapor pressure of 1.5 pounds per square inch absolute or greater under actual storage conditions, unless such tank, reservoir or other container is a pressure tank maintaining working pressure sufficient at all times to prevent hydrocarbon vapor or gas

loss to the atmosphere, or is equipped with one of the following vapor loss control devices, properly installed, in good working order and in operation:

1. A floating roof consisting of a pontoon type double-deck type roof resting on the surface of the liquid contents and equipped with a closure seal to close the space between the roof eave and tank wall and a vapor balloon or vapor dome, designed in accordance with accepted standards of the petroleum industry. The control equipment shall not be used if the petroleum liquid has a vapor pressure of 12 pounds per square inch absolute or greater under actual storage conditions.
 - a. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.
 - b. There shall be no visible holes, tears, or other openings in the seal or any seal fabric. Where applicable, all openings except drains shall be equipped with a cover, seal, or lid. The cover, seal, or lid shall be in a closed position at all times, except when the device is in actual use.
 - c. Automatic bleeder vents shall be closed at all times, except when the roof is floated off or landed on the roof leg supports.
 - d. Rim vents, if provided, shall be set to open when the roof is being floated off the roof leg supports, or at the manufacturer's recommended setting.
2. Other equipment proven to be of equal efficiency for preventing discharge of hydrocarbon gases and vapors to the atmosphere.
- B. Any other petroleum liquid storage tank shall be equipped with a submerged filling device, or acceptable equivalent, for the control of hydrocarbon emissions.
- C. All facilities for dock loading of petroleum products, having a vapor pressure of 1.5 pounds per square inch absolute or greater at loading pressure, shall provide for submerged filling or acceptable equivalent for control of hydrocarbon emissions.
- D. All pumps and compressors which handle volatile organic compounds shall be equipped with mechanical seals or other equipment of equal efficiency to prevent the release of organic contaminants into the atmosphere.
- E. The monitoring of operations required by this Section is as follows:
 1. The owner or operator of any petroleum liquid storage vessel to which this Section applies shall for each such storage vessel maintain a file of each type of petroleum liquid stored, of the typical Reid vapor pressure of each type of petroleum liquid stored and of dates of storage. Dates on which the storage vessel is empty shall be shown.
 2. The owner or operator of any petroleum liquid storage vessel to which this Section applies shall for such storage vessel determine and record the average monthly storage temperature and true vapor pressure of the petroleum liquid stored at such temperature if either:
 - a. The petroleum liquid has a true vapor pressure, as stored, greater than 26 mm Hg (0.5 psia) but less than 78 mm Hg (1.5 psia) and is stored in a storage vessel other than one equipped with a floating roof, a vapor recovery system or their equivalents; or
 - b. The petroleum liquid has a true vapor pressure, as stored, greater than 470 mm Hg (9.1 psia) and is stored in a storage vessel other than one equipped with a vapor recovery system or its equivalent.
 3. The average monthly storage temperature shall be an arithmetic average calculated for each calendar month, or

portion thereof, if storage is for less than a month, from bulk liquid storage temperatures determined at least once every seven days.

4. The true vapor pressure shall be determined by the procedures in American Petroleum Institute Bulletin 2517, amended as of February 1980 (and no future editions), which is incorporated herein by reference and on file with the Office of the Secretary of State. This procedure is dependent upon determination of the storage temperature and the Reid vapor pressure, which requires sampling of the petroleum liquids in the storage vessels. Unless the Director requires in specific cases that the stored petroleum liquid be sampled, the true vapor pressure may be determined by using the average monthly storage temperature and the typical Reid vapor pressure. For those liquids for which certified specifications limiting the Reid vapor pressure exist, the Reid vapor pressure may be used. For other liquids, supporting analytical data must be made available upon request to the Director when typical Reid vapor pressure is used.

Historical Note

Section R18-2-710 renumbered from R18-2-510 effective November 15, 1993 (Supp. 93-4).

R18-2-711. Expired

Historical Note

Section R18-2-711 renumbered from R18-2-511 effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1). Section expired under A.R.S. § 41-1056(J) at 21 A.A.R. 15, effective September 30, 2015 (Supp. 15-4).

R18-2-712. Expired

Historical Note

Section R18-2-712 renumbered from R18-2-512 effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1). Section expired under A.R.S. § 41-1056(J) at 21 A.A.R. 15, effective September 30, 2015 (Supp. 15-4).

R18-2-713. Expired

Historical Note

Section R18-2-713 renumbered from R18-2-513 effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1). Section expired under A.R.S. § 41-1056(J) at 21 A.A.R. 15, effective September 30, 2015 (Supp. 15-4).

R18-2-714. Standards of Performance for Existing Sewage Treatment Plants

- A. No person shall cause, allow or permit to be emitted into the atmosphere, from any municipal sewage treatment plant sludge incinerator:
 1. Smoke, fumes, gases, particulate matter or other gas-borne material which exceeds 20% opacity for more than 30 seconds in any 60-minute period.
 2. Particulate matter in concentrations in excess of 0.1 grain per cubic foot, based on dry flue gas at standard conditions, corrected to 12% carbon dioxide.
- B. The owner or operator of any sludge incinerator subject to the provisions of this Section shall monitor operations by doing all of the following:
 1. Install, calibrate, maintain and operate a flow measuring device which can be used to determine either the mass or volume of sludge charged to the incinerator. The flow measuring device shall have an accuracy of $\pm 5\%$ over its operating range.
 2. Provide access to the sludge charged so that a well-mixed representative grab sample of the sludge can be obtained.
 3. Install, calibrate, maintain and operate a weighing device for determining the mass of any municipal solid waste charged to the incinerator when sewage sludge and municipal solid wastes are incinerated together. The weighing device shall have an accuracy of $\pm 5\%$ over its operating range.

C. The test methods and procedures required by this Section are as follows:

1. The reference methods set forth in 40 CFR 60, Appendix A shall be used to determine compliance with the standards prescribed in subsection (A) as follows:
 - a. Method 5 for concentration of particulate matter and associated moisture content;
 - b. Method 1 for sample and velocity traverses;
 - c. Method 2 for volumetric flow rate; and
 - d. Method 3 for gas analysis.
2. For Method 5, the sampling time for each run shall be at least 60 minutes and the sampling rate shall be at least 0.015 dscm/min (0.53 dscf/min), except that shorter sampling times, when necessitated by process variables or other factors, may be approved by the Director.

Historical Note

Section R18-2-714 renumbered from R18-2-514 effective November 15, 1993 (Supp. 93-4).

R18-2-715. Standards of Performance for Existing Primary Copper Smelters; Site-specific Requirements

- A. No owner or operator of a primary copper smelter shall cause, allow or permit the discharge of particulate matter into the atmosphere from any process in total quantities in excess of the amount calculated by one of the following equations:
 1. For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the maximum allowable emissions shall be determined by the following equation:

$$E = 4.10P^{0.67}$$
 where
 E = the maximum allowable particulate emissions rate in pounds-mass per hour.
 P = the process weight rate in tons-mass per hour.
 2. For process sources having a process weight rate greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:

$$E = 55.0P^{0.11-40}$$
 where "E" and "P" are defined as indicated in subsection (A)(1).
- B. Actual values shall be calculated from the applicable equations and rounded off to two decimal places.
- C. For purposes of this Section, the total process weight from all similar units employing a similar type process shall be used in determining the maximum allowable emission of particulate matter for that process.
- D. The opacity of emissions subject to the provisions of this Section shall not exceed 20%.
- E. The reference methods set forth in the Arizona Testing Manual and 40 CFR 60, Appendix A, as incorporated by reference in

Appendix 2 of this Chapter, shall be used to determine compliance with the standards prescribed in this Section as follows:

1. Method A1 or Reference Method 5 for concentration of particulate matter and associated moisture content,
 2. Reference Method 1 for sample and velocity traverses,
 3. Reference Method 2 for volumetric flow rate,
 4. Reference Method 3 for gas analysis.
- F.** Except as provided in a consent decree or a delayed compliance order, the owner or operator of any primary copper smelter shall not discharge or cause the discharge of sulfur dioxide into the atmosphere from any stack required to be monitored by R18-2-715.01(K) in excess of the following:
1. For the copper smelter located near Hayden, Arizona at latitude 33°0'29"N and longitude 110°47'17" W:
 - a. Annual average emissions, as calculated under R18-2-715.01(C), shall not exceed 6,882 pounds per hour.
 - b. The number of three-hour average emissions, as calculated under R18-2-715.01(C), shall not exceed n cumulative occurrences in excess of E, the emission level, shown in the following table in any compliance period as defined in R18-2-715.01(J):

n, Cumulative Occurrences	E, (lb/hr)
0	24,641
1	22,971
2	21,705
4	20,322
7	19,387
12	18,739
20	17,656
32	16,988
48	16,358
68	15,808
94	15,090
130	14,423
180	13,777
245	13,212
330	12,664
435	12,129
560	11,621
710	11,165
890	10,660
1100	10,205
1340	9,748
1610	9,319
1910	8,953
2240	8,556

2. For the copper smelter located near Miami, Arizona at latitude 33°24'50"N and longitude 110°51'25"W:
 - a. Annual average emissions, as calculated under R18-2-715.01(C), shall not exceed 604 pounds per hour.
 - b. The number of three-hour average emissions, as calculated under R18-2-715.01(C), shall not exceed n cumulative occurrences in excess of E, the emission level, shown in the following table in any compliance period as defined in R18-2-715.01(J):

n, Cumulative Occurrences	E, (lb/hr)
0	8678
1	7158
2	5903
4	4575
7	4074
12	3479
20	3017
32	2573
48	2111
68	1703
94	1461
130	1274
180	1145
245	1064
330	1015
435	968
560	933
710	896
890	862
1100	828
1340	797
1610	765
1910	739
2240	712

- G.** Except as provided in a consent decree or a delayed compliance order, for the copper smelter located near Hayden, Arizona at latitude 33°0'29"N and longitude 110°47'17"W, annual average fugitive emissions calculated under R18-2-715.01(T) shall not exceed 295 pounds per hour.
- H.** In addition to the limits in subsection (F)(3), except as provided in a consent decree or a delayed compliance order, the owner or operator of the copper smelter located near Miami, Arizona at latitude 33°24'50"N and longitude 110°51'25"W shall not discharge or cause the discharge of sulfur dioxide into the atmosphere from combined stack and fugitive emissions units in excess of the 2420 pounds per hour annual average calculated under R18-2-715.01(U).
- I.** The owner and operator of the copper smelter located near Hayden, Arizona at the latitude and longitude provided in R18-2-715(F)(1) shall comply with Section R18-2-715(F)(1) and R18-2-715(G) until the effective date of R18-2-B1302 as determined by R18-2-B1302(A)(2). The owner and operator of the copper smelter located near Miami, Arizona at the latitude and longitude provided in R18-2-715(F)(2) shall comply with Section R18-2-715(F)(2) and R18-2-715(H) until the effective date of R18-2-C1302 as determined by R18-2-C1302(A)(2).

Historical Note

Section R18-2-715 renumbered from R18-2-515 and amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 8 A.A.R. 575, effective January 15, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 3365, effective July 18, 2002 (Supp. 02-3). Amended by final rulemaking at 13 A.A.R. 2157, effective August 4, 2007 (Supp. 07-2). Amended by final rulemaking at 15 A.A.R. 281, effective March 7,

2009 (Supp. 09-1). Amended by final rulemaking at 23 A.A.R. 767, effective May 7, 2017, (Supp. 17-1).

R18-2-715.01. Standards of Performance for Existing Primary Copper Smelters; Compliance and Monitoring

- A.** The cumulative occurrence and emission limits in R18-2-715(F) apply to the total of sulfur dioxide emissions from the smelter processing units and sulfur dioxide control and removal equipment, but not uncaptured fugitive emissions or emissions due solely to the use of fuel for space heating or steam generation.
- B.** The owner or operator shall include periods of malfunction, startup, shutdown or other upset conditions when determining compliance with the cumulative occurrence or annual average emission limits in R18-2-715(F), (G), or (H).
- C.** The owner or operator shall determine compliance with the cumulative occurrence and emission limits contained in R18-2-715(F) as follows:
 1. The owner or operator shall calculate annual average emissions at the end of each day by averaging the emissions for all hours measured during the compliance period defined in subsection (J) ending on that day. An annual emissions average in excess of the allowable annual average emission limit is a violation of R18-2-715(F) if either:
 - a. The annual average is greater than the annual average computed for the preceding day; or
 - b. The annual averages computed for the five preceding days all exceed the allowable annual average emission limit.
 2. The owner or operator shall calculate a three-hour emissions average at the end of each clock hour by averaging the hourly emissions for the preceding three consecutive hours provided each hour was measured according to the requirements in subsection (K).
- D.** For purposes of this Section, the compliance date, unless otherwise provided in a consent decree or a delayed compliance order, shall be January 14, 1986, except that:
 1. The compliance date for the cumulative occurrence and emissions limits in R18-2-715(F)(1) and R18-2-715(G) is January 15, 2002, and
 2. The compliance date for the cumulative occurrence and emissions limits in R18-2-715(F)(2), (F)(3), (G), and (H) is the effective date of this rule.
- E.** For purposes of subsection (C), a three-hour emissions average in excess of an emission level E violates the associated cumulative occurrence limit n listed in R18-2-715(F) if:
 1. The number of all three-hour emissions averages calculated during the compliance period in excess of that emission level exceeds the cumulative occurrence limit associated with the emission level; and
 2. The average is calculated during the last operating day of the compliance period being reported.
- F.** A three-hour emissions average only violates the cumulative occurrence limit n of an emission level E on the day containing the last hour in the average.
- G.** Multiple violations of the same cumulative occurrence limit on the same day and violations of different cumulative occurrence limits on the same day constitute a single violation of R18-2-715(F).
- H.** The violation of any cumulative occurrence limit and an annual average emission limit on the same day constitutes only a single violation of the requirements of R18-2-715(F).
- I.** Multiple violations of a cumulative occurrence limit by different three-hour emissions averages containing any common hour constitutes a single violation of R18-2-715(F).
- J.** To determine compliance with subsections (C) through (I), the compliance period consists of the 365 calendar days immediately preceding the end of each day of the month being reported unless that period includes less than 300 operating days, in which case the number of days preceding the last day of the compliance period shall be increased until the compliance period contains 300 operating days. For purposes of this Section, an operating day is any day on which sulfur-containing feed is introduced into the smelting process.
- K.** To determine compliance with R18-2-715(F) or (H), the owner or operator of any smelter subject to R18-2-715(F) or (H) shall install, calibrate, maintain, and operate a measurement system for continuously monitoring sulfur dioxide concentrations and stack gas volumetric flow rates in each stack that could emit five percent or more of the allowable annual average sulfur dioxide emissions from the smelter.
 1. The owner or operator shall continuously monitor sulfur dioxide concentrations and stack gas volumetric flow rates in the outlet of each piece of sulfur dioxide control equipment.
 2. The owner or operator shall continuously monitor captured fugitive emissions for sulfur dioxide concentrations and stack gas volumetric flow rates and include these emissions as part of total plant emissions when determining compliance with the cumulative occurrence and emission limits in R18-2-715(F) and (H).
 3. If the owner or operator demonstrates to the Director that measurement of stack gas volumetric flow in the outlet of any particular piece of sulfur dioxide control equipment would yield inaccurate results once operational or would be technologically infeasible, then the Director may allow measurement of the flow rate at an alternative sampling point.
 4. For purposes of this subsection, continuous monitoring means the taking and recording of at least one measurement of sulfur dioxide concentration and stack gas flow rate reading from the effluent of each affected stack, outlet, or other approved measurement location in each 15-minute period. Fifteen-minute periods start at the beginning of each clock hour, and run consecutively. An hour of smelter emissions is considered continuously monitored if the emissions from all monitored stacks, outlets, or other approved measurement locations are measured for at least 45 minutes of any hour according to the requirements of this subsection.
 5. The owner or operator shall demonstrate that the continuous monitoring system meets all of the following requirements:
 - a. The sulfur dioxide continuous emission monitoring system installed and operated under this Section meets the requirements of 40 CFR 60, Appendix B, Performance Specification 6.
 - b. The sulfur dioxide continuous emission monitoring system installed and operated under this Section meets the quality assurance requirements of 40 CFR 60, Appendix F.
 - c. The owner or operator shall notify the Director in writing at least 30 days in advance of the start of relative accuracy test audit (RATA) procedures performed on the continuous monitoring system.
 - d. The Director shall approve the location of all sampling points for monitoring sulfur dioxide concentrations and stack gas volumetric flow rates in writing before installation and operation of measurement instruments.

- e. The measurement system installed and used under this subsection is subject to the manufacturer's recommended zero adjustment and calibration procedures at least once per 24-hour operating period unless the manufacturer specifies or recommends calibration at shorter intervals, in which case specifications or recommendations shall be followed. The owner or operator shall make available a record of these procedures that clearly shows instrument readings before and after zero adjustment and calibration.
- L. The owner or operator of a smelter subject to this Section shall measure at least 95 percent of the hours during which emissions occurred in any month.
- M. Failure of the owner or operator of a smelter subject to this Section to measure any 12 consecutive hours of emissions according to the requirements of subsection (K) or (S) is a violation of this Section.
- N. The owner or operator of any smelter subject to this Section shall maintain on hand and ready for immediate installation sufficient spare parts or duplicate systems for the continuous monitoring equipment required by this Section to allow for the replacement within six hours of any monitoring equipment part that fails or malfunctions during operation.
- O. To determine total overall emissions, the owner or operator of any smelter subject to this Section shall perform material balances for sulfur according to the procedures prescribed by Appendix 8 of this Chapter.
- P. The owner or operator of any smelter subject to this Section shall maintain a record of all average hourly emissions measurements and all calculated average monthly emissions required by this Section. The record of the emissions shall be retained for at least five years following the date of measurement or calculation. The owner or operator shall record the measurement or calculation results as pounds per hour of sulfur dioxide. The owner or operator shall summarize the following data monthly and submit the summary to the Director within 20 days after the end of each month:
 1. For all periods described in subsection (C) and (R), the annual average emissions as calculated at the end of each day of the month;
 2. The total number of hourly periods during the month in which measurements were not taken and the reason for loss of measurement for each period;
 3. The number of three-hour emissions averages that exceeded each of the applicable emissions levels listed in R18-2-715(F) and (G) for the compliance periods ending on each day of the month being reported;
 4. The date on which a cumulative occurrence limit listed in R18-2-715(F) or (G) was exceeded if the exceedance occurred during the month being reported; and
 5. For all periods described in subsection (T) and (U), the annual average emissions as calculated at the end of the last day of each month.
- Q. An owner or operator shall install instrumentation to monitor each point in the smelter facility where a means exists to bypass the sulfur removal equipment, to detect and record all periods that the bypass is in operation. An owner or operator of a copper smelter shall report to the Director, not later than the 15th day of each month, the recorded information required by this Section, including an explanation for the necessity of the use of the bypass.
- R. The owner or operator shall determine compliance with the cumulative occurrence and fugitive emission limits contained in R18-2-715(G) as follows:
 1. The owner or operator shall calculate annual average emissions at the end of each day by averaging the emissions for all hours measured during the compliance period, as defined in subsection (R)(8), ending on that day. An annual emissions average in excess of the allowable annual average emission limit is a violation of R18-2-715(G) if either:
 - a. The annual average is greater than the annual average computed for the preceding day; or
 - b. The annual averages computed for the five preceding days all exceed the allowable annual average emission limit.
 2. The owner or operator shall calculate a three-hour emissions average at the end of each clock hour by averaging the hourly emissions for the preceding three consecutive hours provided each hour was measured according to the requirements contained in subsection (S).
 3. For purposes of subsection (R)(2), a three-hour emissions average in excess of an emission level E_f violates the associated cumulative occurrence limit listed in R18-2-715(G) if:
 - a. The number of all three-hour emissions averages calculated during the compliance period in excess of that emission level exceeds the cumulative occurrence limit associated with the emission level; and
 - b. The average is calculated during the last operating day of the compliance period being reported.
 4. A three-hour emissions average only violates the cumulative occurrence limit n of an emission level E_f on the day containing the last hour in the average.
 5. Multiple violations of the same cumulative occurrence limit on the same day and violations of different cumulative occurrence limits on the same day constitute a single violation of R18-2-715(G).
 6. The violation of any cumulative occurrence limit and an annual average emission limit on the same day constitutes only a single violation of the requirements of R18-2-715(G).
 7. Multiple violations of a cumulative occurrence limit by different three-hour emissions averages containing any common hour constitutes a single violation of R18-2-715(G).
 8. To determine compliance with subsections (R)(1) through (7), the compliance period consists of the 365 calendar days immediately preceding the end of each day of the month being reported unless that period includes less than 300 operating days, in which case the number of days preceding the last day of the compliance period shall be increased until the compliance period contains 300 operating days. For purposes of this Section, an operating day is any day on which sulfur-containing feed is introduced into the smelting process.
- S. To determine compliance with R18-2-715(G), the owner or operator of the smelter subject to R18-2-715(G) shall install, calibrate, maintain, and operate a measurement system for continuously monitoring sulfur dioxide concentrations of the converter roof fugitive emissions.
 1. For purposes of this subsection, continuous monitoring means the taking and recording of at least one measurement of sulfur dioxide concentration from an approved measurement location in each 15-minute period. Fifteen-minute periods start at the beginning of each clock hour, and run consecutively. An hour of smelter emissions is considered continuously monitored if the emissions from all approved measurement locations are measured for at

least 45 minutes of any hour according to the requirements of this subsection.

2. The owner or operator of a smelter subject to the requirements of this subsection shall conduct quality assurance procedures on the continuous monitoring system according to the methods in 40 CFR 60, Appendix F, except that an annual relative accuracy test audit (RATA) is not required.
- T. The emission limit in R18-2-715(G) applies to the total of uncaptured fugitive sulfur dioxide emissions from the smelter processing units and sulfur dioxide control and removal equipment, but not emissions due solely to the use of fuel for space heating or steam generation. The owner or operator shall determine compliance with the emission limit contained in R18-2-715(G) as follows:
 1. The owner or operator shall calculate annual average fugitive emissions at the end of the last day of each month by averaging the monthly emissions for the previous 12-month period ending on that day. To determine monthly fugitive emissions, the owner or operator shall perform material balances for sulfur according to the sulfur balance procedures prescribed in Appendix 8 of this Chapter.
 2. An annual emissions average in excess of the allowable annual average emission limit violates R18-2-715(G) if the fugitive annual average computed at the end of each month exceeds the allowable annual average emission limit.
- U. The emission limit in R18-2-715(H) applies to the total of stack and uncaptured fugitive sulfur dioxide emissions from the smelter processing units and sulfur dioxide control and removal equipment, but not emissions due solely to the use of fuel for space heating or steam generation. The owner or operator shall determine compliance with the emission limit contained in R18-2-715(H) as follows:
 1. The owner or operator shall calculate annual average stack emissions at the end of the last day of each month by averaging the emissions for all hours measured during the previous 12-month period ending on that day according to the requirements contained in subsection (K).
 2. The owner or operator shall calculate annual average fugitive emissions at the end of the last day of each month by averaging the monthly emissions for the previous 12-month period ending on that day. To determine monthly fugitive emissions, the owner or operator shall perform material balances for sulfur according to the sulfur balance procedures prescribed in Appendix 8 of this Chapter.
 3. An annual emissions average in excess of the allowable annual average emission limit violates R18-2-715(H) if the total of the stack and fugitive annual averages computed at the end of each month exceeds the allowable annual average emission limit.
- V. The owner and operator of the copper smelter located near Hayden, Arizona at the latitude and longitude provided in R18-2-715(F)(1) shall comply with Section R18-2-715.01 until the effective date of R18-2-B1302 as determined by R18-2-B1302(A)(2). The owner and operator of the copper smelter located near Miami, Arizona at the latitude and longitude provided in R18-2-715(F)(2) shall comply with Section R18-2-715.01 until the effective date of R18-2-C1302 as determined by R18-2-C1302(A)(2).

Historical Note

Section R18-2-715.01 renumbered from R18-2-515.01 and amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 8 A.A.R. 575, effective

January 15, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 3365, effective July 18, 2002 (Supp. 02-3). Amended by final rulemaking at 23 A.A.R. 767, effective May 7, 2017, (Supp. 17-1).

R18-2-715.02. Standards of Performance for Existing Primary Copper Smelters; Fugitive Emissions

- A. For purposes of this Section, the compliance date, unless otherwise provided in a consent decree or a delayed compliance order, shall be January 14, 1986.
- B. No later than 24 months before the compliance date, the owner or operator of a smelter subject to R18-2-715 shall submit to the Director the results of an evaluation of the fugitive emissions from the smelter. The evaluation results shall contain all of the following information:
 1. A measurement or accurate estimate of total fugitive emissions from the smelter during typical operations, including planned start-up and shutdown. The measurement or estimate shall contain the amount of both average short-term (24 hours) and average long-term (monthly) fugitive emissions from the smelter. The evaluation plan shall be approved in advance by the Department and shall specify the method used to determine the fugitive emission amounts, including the conditions determined to be "typical operations" for the smelter.
 2. A measurement or accurate estimate of the relative proportion, expressed as a percentage, of total fugitive emissions during typical operations, including planned start-up and shutdown, produced by any of the following smelter processes:
 - a. Roaster or dryer operation;
 - b. Calcine or dried concentrate transfer;
 - c. Reverberatory furnace operations, including feeding, slag return, matte and slag tapping;
 - d. Matte transfer; and
 - e. Converter operations.
 3. The measurement technique or method of estimation used to fulfill the requirement in subsection (B)(2) shall be approved in advance by the Department.
 4. The results of at least a six-month fugitive emission impact analysis conducted during that part of the year when fugitive emissions are expected to have the greatest ambient air quality impact. The study shall utilize sufficient measurements of fugitive emissions, meteorological conditions and ambient sulfur dioxide concentrations to associate fugitive emissions with specific measured ambient concentrations of sulfur dioxide. The study shall describe in detail the techniques used to make the required determinations. The design of the study shall be approved in advance by the Department.
- C. On the basis of the results of the evaluation as well as other data and information contained in the records of the Department, the Director shall determine whether fugitive emissions from a particular smelter have the potential to cause or significantly contribute to violations of the ambient sulfur dioxide standards in the vicinity of the smelter. If the Director finds that fugitive emissions from a particular smelter have the potential to cause or significantly contribute to violations of ambient sulfur dioxide standards in the vicinity of a smelter, then the Director shall adopt rules specifying the emission limits and undertake other appropriate measures necessary to maintain ambient sulfur dioxide standards.
- D. The requirements of subsection (B) shall not apply to a smelter subject to this Section if the owner or operator of that smelter can demonstrate to the Director both that:
 1. Compliance with the applicable cumulative occurrence and emission limits listed in R18-2-715(F) will require

the smelter to undergo major modifications to its physical configuration or work practices prior to the compliance date, and

2. That the modification will reduce fugitive emissions to such an extent that such emissions will not cause or significantly contribute to violations of ambient sulfur dioxide standards in the vicinity of the smelter.
- E. In order to assess the sufficiency of the cumulative occurrence and emission limits contained in R18-2-715(F) to maintain the ambient air quality standards for sulfur dioxide set forth in R18-2-202, an owner or operator of a smelter subject to this Section shall continue to calibrate, maintain and operate any ambient sulfur dioxide monitoring equipment owned by the smelter owner or operator and in operation within the area of the smelter enclosed by a circle with 10-mile radius as calculated from a center point which shall be the point of the smelter's greatest sulfur dioxide emissions, for a period of at least three years after the compliance date.
 1. Such monitors shall be operated and maintained in accordance with 40 CFR 50 and 58 and such other conditions as the Director deems necessary.
 2. The location of ambient sulfur dioxide monitors and length of time such monitors remain at a location shall be determined by the Director.
- F. The owner and operator of the copper smelter located near Hayden, Arizona at the latitude and longitude provided in R18-2-715(F)(1) shall comply with Section R18-2-715.02 until the effective date of R18-2-B1302 as determined by R18-2-B1302(A)(2). The owner and operator of the copper smelter located near Miami, Arizona at the latitude and longitude provided in R18-2-715(F)(2) shall comply with Section R18-2-715.02 until the effective date of R18-2-C1302 as determined by R18-2-C1302(A)(2).

Historical Note

Section R18-2-715.02 renumbered from R18-2-515.02 and amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 23 A.A.R. 767, effective May 7, 2017, (Supp. 17-1).

R18-2-716. Standards of Performance for Existing Coal Preparation Plants

- A. The provisions of this Section are applicable to any of the following affected facilities in coal preparation plants: thermal dryers, pneumatic coal-cleaning equipment, coal processing and conveying equipment including breakers and crushers, coal storage systems, and coal transfer and loading systems. For purposes of this Section, the definitions contained in 40 CFR 60.251 are adopted by reference and incorporated herein.
- B. No person shall cause, allow or permit the discharge of particulate matter into the atmosphere in any one hour from any existing coal preparation plant in total quantities in excess of the amounts calculated by one of the following equations:
 1. For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the maximum allowable emissions shall be determined by the following equation:

$$E = 4.10P^{0.67}$$
 where:
 E = the maximum allowable particulate emissions rate in pounds-mass per hour.
 P = the process weight rate in tons-mass per hour.
 2. For process sources having a process weight rate greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:

$$E = 55.0P^{0.11-40}$$

where "E" and "P" are defined as indicated in subsection (B)(1).

- C. Actual values shall be calculated from the applicable equations and rounded off to two decimal places.
- D. For purposes of this Section, the total process weight from all similar units employing a similar type process shall be used in determining the maximum allowable emission of particulate matter.
- E. Fugitive emissions from coal preparation plants shall be controlled in accordance with R18-2-604 through R18-2-607.
- F. The test methods and procedures required by this Section are as follows:
 1. The reference methods in the 40 CFR 60, Appendix A, as incorporated by reference in Appendix 2 of this Chapter, are used to determine compliance with standards prescribed in subsection (B) as follows:
 - a. Method 5 for the concentration of particulate matter and associated moisture content,
 - b. Method 1 for sample and velocity traverses,
 - c. Method 2 for velocity and volumetric flow rate,
 - d. Method 3 for gas analysis.
 2. For Method 5, the sampling time for each run shall be at least 60 minutes and the minimum sample volume is 0.85 dscm (30 dscf) except that short sampling times or smaller volumes, when necessitated by process variables or other factors, may be approved by the Director. Sampling shall not be started until 30 minutes after start-up and shall be terminated before shutdown procedures commence. The owner or operator of the affected facility shall eliminate cyclonic flow during performance tests in a manner acceptable to the Director.
 3. The owner or operator shall construct the facility so that particulate emissions from thermal dryers or pneumatic coal cleaning equipment can be accurately determined by applicable test methods and procedures under subsection (F)(1).

Historical Note

Section R18-2-716 renumbered from R18-2-516 and amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1).

R18-2-717. Expired

Historical Note

Section R18-2-717 renumbered from R18-2-517 effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1). Section expired under A.R.S. § 41-1056(J) at 21 A.A.R. 15, effective September 30, 2015 (Supp. 15-4).

R18-2-718. Repealed

Historical Note

Section R18-2-718 renumbered from R18-2-518 effective November 15, 1993 (Supp. 93-4). Section repealed by final rulemaking at 13 A.A.R. 2157, effective August 4, 2007 (Supp. 07-2).

R18-2-719. Standards of Performance for Existing Stationary Rotating Machinery

- A. The provisions of this Section are applicable to the following affected facilities: all stationary gas turbines, oil-fired turbines, or internal combustion engines. This Section also applies to an installation operated for the purpose of producing electric or mechanical power with a resulting discharge of sulfur dioxide in the installation's effluent gases.

- B.** For purposes of this Section, the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack or other outlet. Compliance tests shall be conducted during operation at the normal rated capacity of each unit. The total heat input of all operating fuel-burning units on a plant or premises shall be used for determining the maximum allowable amount of particulate matter which may be emitted.
- C.** No person shall cause, allow or permit the emission of particulate matter, caused by combustion of fuel, from any stationary rotating machinery in excess of the amounts calculated by one of the following equations:
- For equipment having a heat input rate of 4200 million Btu per hour or less, the maximum allowable emissions shall be determined by the following equation:

$$E = 1.02Q^{0.769}$$
 where:
 E = the maximum allowable particulate emissions rate in pounds-mass per hour.
 Q = the heat input in million Btu per hour.
 - For equipment having a heat input rate greater than 4200 million Btu per hour, the maximum allowable emissions shall be determined by the following equation:

$$E = 17.0Q^{0.432}$$
 where "E" and "Q" have the same meaning as in subsection (C)(1).
- D.** Actual values shall be calculated from the applicable equations and rounded off to two decimal places.
- E.** No person shall cause, allow or permit to be emitted into the atmosphere from any stationary rotating machinery, smoke for any period greater than 10 consecutive seconds which exceeds 40% opacity. Visible emissions when starting cold equipment shall be exempt from this requirement for the first 10 minutes.
- F.** When low sulfur oil is fired, stationary rotating machinery installations shall burn fuel which limits the emission of sulfur dioxide to 1.0 pound per million Btu heat input.
- G.** When high sulfur oil is fired, stationary rotating machinery installations shall not emit more than 2.2 pounds of sulfur dioxide per million Btu heat input.
- H.** Any permit issued for the operation of an existing source, or any renewal or modification of such a permit, shall include a condition prohibiting the use of high sulfur oil by the permittee. This condition may not be included in the permit if the applicant demonstrates to the satisfaction of the Director both that sufficient quantities of low sulfur oil are not available for use by the source and that it has adequate facilities and contingency plans to ensure that the sulfur dioxide ambient air quality standards set forth in R18-2-202 will not be violated.
- The terms of the permit may authorize the use of high sulfur oil under such conditions as are justified.
 - In cases where the permittee is authorized to use high sulfur oil, it shall submit to the Department monthly reports detailing its efforts to obtain low sulfur oil.
 - When the conditions justifying the use of high sulfur oil no longer exist, the permit shall be modified accordingly.
 - Nothing in this Section shall be construed as allowing the use of a supplementary control system or other form of dispersion technology.
- I.** The owner or operator of any stationary rotating machinery subject to the provisions of this Section shall record daily the sulfur content and lower heating value of the fuel being fired in the machine.
- J.** The owner or operator of any stationary rotating machinery subject to the provisions of this Section shall report to the Director any daily period during which the sulfur content of the fuel being fired in the machine exceeds 0.8%.
- K.** The test methods and procedures required by this Section are as follows:
- To determine compliance with the standards prescribed in subsections (C) through (H), the following reference methods shall be used:
 - Reference Method 20 in 40 CFR 60, Appendix A, as incorporated by reference in Appendix 2 of this Chapter, for the concentration of sulfur dioxide and oxygen.
 - ASTM Method D129-91 (Test Method for Sulfur in Petroleum Products) (General Bomb Method) for the sulfur content of liquid fuels.
 - ASTM Method D1072-90 (Test Method for Total Sulfur in Fuel Gases for the sulfur content of gaseous fuels).
 - To determine compliance with the standards prescribed in subsection (J), the following reference methods shall be used:
 - ASTM Method D129-91 (Test Method for Sulfur in Petroleum Products) (General Bomb Method) for the sulfur content of liquid fuels.
 - ASTM Method D1072-90 (Test Method for Total Sulfur in Fuel Gases) for the sulfur content of gaseous fuels.

Historical Note

Section R18-2-719 renumbered from R18-2-519 and amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2).

R18-2-720. Standards of Performance for Existing Lime Manufacturing Plants

- A.** The provisions of this Section are applicable to the following affected facilities used in the manufacture of lime: rotary lime kilns, vertical lime kilns, lime hydrators, and limestone crushing facilities. This Section is also applicable to limestone crushing equipment which exists apart from other lime manufacturing facilities.
- B.** No person shall cause, allow or permit the discharge of particulate matter into the atmosphere in any one hour from any lime manufacturing or limestone crushing facility in total quantities in excess of the amounts calculated by one of the following equations:
- For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the maximum allowable emissions shall be determined by the following equation:

$$E = 4.10P^{0.67}$$
 where:
 E = the maximum allowable particulate emissions rate in pounds-mass per hour.
 P = the process weight rate in tons-mass per hour.
 - For process sources having a process weight rate greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:

$$E = 55.0P^{0.11-40}$$
 where "E" and "P" are defined as indicated in subsection (B)(1).
- C.** Actual values shall be calculated from the applicable equations and rounded off to two decimal places.
- D.** For purposes of this Section, the total process weight from all similar units employing a similar type process shall be used in

determining the maximum allowable emission of particulate matter.

- E. Fugitive emissions from lime plants shall be controlled in accordance with R18-2-604 through R18-2-607.
- F. The owner or operator subject to the provisions of this Section shall install, calibrate, maintain, and operate a continuous monitoring system, except as provided in subsection (G), to monitor and record the opacity of the gases discharged into the atmosphere from any rotary lime kiln. The span of this system shall be set at 70% opacity.
- G. The owner or operator of any rotary lime kiln using a wet scrubbing emission control device subject to the provisions of this Section shall not be required to monitor the opacity of the gases discharged as required in subsection (F).
- H. The test methods and procedures required by this Section are as follows:
 1. The reference methods in 40 CFR 60, Appendix A, as incorporated by reference in Appendix 2 of this Chapter, shall be used to determine compliance with this Section as follows:
 - a. Method 5 for the measurement of particulate matter,
 - b. Method 1 for sample and velocity traverses,
 - c. Method 2 for velocity and volumetric flow rate,
 - d. Method 3 for gas analysis,
 - e. Method 4 for stack gas moisture,
 - f. Method 9 for visible emissions.
 2. For Method 5, the sampling time for each run shall be at least 60 minutes and the sampling rate shall be at least 0.85 dscm/hr (0.53 dscf/min), except that shorter sampling times, when necessitated by process variables or other factors, may be approved by the Director.
 3. Because of the high moisture content of the exhaust gases from the hydrators, in the range of 40 to 85% by volume, the Method 5 sample train may be modified to include a calibrated orifice immediately following the sample nozzle when testing lime hydrators. In this configuration, the sampling rate necessary for maintaining isokinetic conditions can be directly related to exhaust gas velocity without a correction for moisture content.

Historical Note

Section R18-2-720 renumbered from R18-2-520 and amended effective November 15, 1993 (Supp. 93-4).
Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1).

R18-2-721. Standards of Performance for Existing Nonferrous Metals Industry Sources

- A. The provisions of this Section are applicable to the following affected facilities:
 1. Mines,
 2. Mills,
 3. Concentrators,
 4. Crushers,
 5. Screens,
 6. Material handling facilities,
 7. Fine ore storage,
 8. Dryers,
 9. Roasters, and
 10. Loaders.
- B. No person shall cause, allow or permit the discharge of particulate matter into the atmosphere in any one hour from any process source subject to the provisions of this Section in total quantities in excess of the amounts calculated by one of the following equations:
 1. For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the

maximum allowable emissions shall be determined by the following equation:

$$E = 4.10P^{0.67}$$

where:

E = the maximum allowable particulate emissions rate in pounds-mass per hour.

P = the process weight rate in tons-mass per hour.

2. For process sources having a process weight greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:

$$E = 55.0P^{0.11-40}$$

where "E" and "P" are defined as indicated in subsection (B)(1).

- C. Actual values shall be calculated from the applicable equations and rounded off to two decimal places.
- D. For purposes of this Section, the total process weight from all similar units employing a similar type process shall be used in determining the maximum allowable emission of particulate matter.
- E. No person shall cause, allow or permit to be discharged into the atmosphere from any dryer or roaster the operating temperature of which exceeds 700°F, reduced sulfur in excess of 10% of the sulfur entering the process as feed. Reduced sulfur includes sulfur equivalent from all sulfur emissions including sulfur dioxide, sulfur trioxide, and sulfuric acid.
- F. The owner or operator of any mining property subject to the provisions of this Section shall record the daily process rates and hours of operation of all material handling facilities.
- G. A continuous monitoring system for measuring sulfur dioxide emissions shall be installed, calibrated, maintained and operated by the owner or operator where dryers or roasters are not expected to achieve compliance with the standard under subsection (E).
- H. The test methods and procedures required by this Section are as follows:
 1. The reference methods in 40 CFR 60, Appendix A, as incorporated by reference in Appendix 2 of this Chapter, shall be used to determine compliance with the standard prescribed in this Section as follows:
 - a. Method 5 for the concentration of particulate matter and the associated moisture content;
 - b. Method 1 for sample and velocity traverses;
 - c. Method 2 for velocity and volumetric flow rate;
 - d. Method 3 for gas analysis and calculation of excess air, using the integrated sample technique;
 - e. Method 6 for concentration of SO₂.
 2. For Method 5, Method 1 shall be used to select the sampling site and the number of traverse sampling points. The sampling time for each run shall be at least 60 minutes and the minimum sampling volume shall be 0.85 dscm (30 dscf), except that smaller sampling times or volumes, when necessitated by process variables or other factors, may be approved by the Director. The probe and filter holder heating systems in the sampling train shall be set to provide a gas temperature no greater than 160°C. (320°F).
 3. For Method 6, the sampling site shall be the same as that selected for Method 5. The sampling point in the duct shall be at the centroid of the cross section or at a point no closer to the walls than 1 m (3.28 ft.). For Method 6, the sample shall be extracted at a rate proportional to the gas velocity at the sampling point.
 4. For Method 6, the minimum sampling time shall be 20 minutes and the minimum sampling volume 0.02 dscm (0.71 dscf) for each sample. The arithmetic mean of two

samples shall constitute one run. Samples shall be taken at approximately 30-minute intervals.

Historical Note

Section R18-2-721 renumbered from R18-2-521 effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1).

R18-2-722. Standards of Performance for Existing Gravel or Crushed Stone Processing Plants

- A. The provisions of this Section are applicable to the following affected facilities: primary rock crushers, secondary rock crushers, tertiary rock crushers, screens, conveyors and conveyor transfer points, stackers, reclaimers, and all gravel or crushed stone processing plants and rock storage piles.
- B. No person shall cause, allow or permit the discharge of particulate matter into the atmosphere except as fugitive emissions in any one hour from any gravel or crushed stone processing plant in total quantities in excess of the amounts calculated by one of the following equations:
 1. For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the maximum allowable emissions shall be determined by the following equation:

$$E = 4.10P^{0.67}$$
 where:
 E = the maximum allowable particulate emissions rate in pounds-mass per hour.
 P = the process weight rate in tons-mass per hour.
 2. For process sources having a process weight rate greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:

$$E = 55.0P^{0.11-40}$$
 where “E” and “P” are defined as indicated in subsection (B)(1).
- C. Actual values shall be calculated from the applicable equations and rounded off to two decimal places.
- D. Spray bar pollution controls shall be utilized in accordance with “EPA Control of Air Emissions From Process Operations In The Rock Crushing Industry” (EPA 340/1-79-002), “Wet Suppression System” (pages 15-34, amended as of January 1979 (and no future amendments or editions)), as incorporated herein by reference and on file with the Office of the Secretary of State, with placement of spray bars and nozzles as required by the Director to minimize air pollution.
- E. Fugitive emissions from gravel or crushed stone processing plants shall be controlled in accordance with R18-2-604 through R18-2-607.
- F. The owner or operator of any affected facility subject to the provisions of this Section shall install, calibrate, maintain, and operate monitoring devices which can be used to determine daily the process weight of gravel or crushed stone produced. The weighing devices shall have an accuracy of $\pm 5\%$ over their operating range.
- G. The owner or operator of any affected facility shall maintain a record of daily production rates of gravel or crushed stone produced.
- H. The test methods and procedures required by this Section are as follows:
 1. The reference methods in 40 CFR 60, Appendix A, as incorporated by reference in Appendix 2 of this Chapter, shall be used to determine compliance with the standards prescribed in this Section as follows:
 - a. Method 5 for concentration of particulate matter and moisture content,

- b. Method 1 for sample and velocity traverses,
 - c. Method 2 for velocity and volumetric flow rate,
 - d. Method 3 for gas analysis.
2. For Method 5, the sampling time for each run shall be at least 60 minutes and the minimum sample volume is 0.85 dscm (30 dscf), except that shorter sampling times or smaller volumes, when necessitated by process variables or other factors, may be approved by the Director. Sampling shall not be started until 30 minutes after start-up and shall be terminated before shutdown procedures commence. The owner or operator of the affected facility shall eliminate cyclonic flow during performance tests in a manner acceptable to the Director.

Historical Note

Section R18-2-722 renumbered from R18-2-522 and amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1).

R18-2-723. Standards of Performance for Existing Concrete Batch Plants

Fugitive dust emitted from concrete batch plants shall be controlled in accordance with R18-2-604 through R18-2-607.

Historical Note

Section R18-2-723 renumbered from R18-2-523 and amended effective November 15, 1993 (Supp. 93-4).

R18-2-724. Standards of Performance for Fossil-fuel Fired Industrial and Commercial Equipment

- A. This Section applies to industrial and commercial installations which are less than 73 megawatts capacity (250 million Btu per hour), but in the aggregate on any premises are rated at greater than 500,000 Btu per hour (0.146 megawatts), and in which fuel is burned for the primary purpose of producing steam, hot water, hot air or other liquids, gases or solids and in the course of doing so the products of combustion do not come into direct contact with process materials. When any products or by-products of a manufacturing process are burned for the same purpose or in conjunction with any fuel, the same maximum emission limitations shall apply.
- B. For purposes of this Section, the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack or other outlet. The heat content of solid fuel shall be determined in accordance with R18-2-311. Compliance tests shall be conducted during operation at the nominal rated capacity of each unit. The total heat input of all fuel-burning units on a plant or premises shall be used for determining the maximum allowable amount of particulate matter which may be emitted.
- C. No person shall cause, allow or permit the emission of particulate matter, caused by combustion of fuel, from any fuel-burning operation in excess of the amounts calculated by one of the following equations:
 1. For equipment having a heat input rate of 4200 million Btu per hour or less, the maximum allowable emissions shall be determined by the following equation:

$$E = 1.02Q^{0.769}$$
 where:
 E = the maximum allowable particulate emissions rate in pounds-mass per hour.
 Q = the heat input in million Btu per hour.
 2. For equipment having a heat input rate greater than 4200 million Btu per hour, the maximum allowable emissions shall be determined by the following equation:

$$E = 17.0Q^{0.432}$$

where “E” and “Q” have the same meanings as in subsection (C)(1).

- D. Actual values shall be calculated from the applicable equations and rounded off to two decimal places.
- E. Fossil-fuel fired industrial and commercial equipment installations shall not emit more than 1.0 pounds of sulfur dioxide per million Btu heat input when low sulfur oil is fired.
- F. Fossil-fuel fired industrial and commercial equipment installations shall not emit more than 2.2 pounds of sulfur dioxide per million Btu heat input when high sulfur oil is fired.
- G. Any permit issued for the operation of an existing source, or any renewal or modification of such a permit, shall include a condition prohibiting the use of high sulfur oil by the permittee. This condition may be omitted from the permit if the applicant demonstrates to the satisfaction of the Director both that sufficient quantities of low sulfur oil are not available for use by the source and that it has adequate facilities and contingency plans to ensure that the sulfur dioxide ambient air quality standards set forth in R18-2-202 will not be violated.
 - 1. The terms of the permit may authorize the use of high sulfur oil under such conditions as are justified.
 - 2. In cases where the permittee is authorized to use high sulfur oil, it shall submit to the Department monthly reports detailing its efforts to obtain low sulfur oil.
 - 3. When the conditions justifying the use of high sulfur oil no longer exist, the permit shall be modified accordingly.
 - 4. Nothing in this Section shall be construed as allowing the use of a supplementary control system or other form of dispersion technology.
- H. When coal is fired, fossil-fuel fired industrial and commercial equipment installations shall not emit more than 1.0 pounds of sulfur dioxide per million Btu heat input.
- I. The owner or operator subject to the provisions of this Section shall install, calibrate, maintain and operate a continuous monitoring system for measurement of the opacity of emissions discharged into the atmosphere from the control device.
- J. For the purpose of reports required under excess emissions reporting required by R18-2-310.01, the owner or operator shall report all six-minute periods in which the opacity of any plume or effluent exceeds 15%.
- K. The test methods and procedures required by this Section are as follows:
 - 1. The reference methods in 40 CFR 60, Appendix A, as incorporated by reference in Appendix 2 of this Chapter, shall be used to determine compliance with the standards as prescribed in this Section.
 - a. Method 1 for selection of sampling site and sample traverses,
 - b. Method 3 for gas analysis to be used when applying Reference Methods 5 and 6,
 - c. Method 5 for concentration of particulate matter and the associated moisture content,
 - d. Method 6 for concentration of SO₂.
 - 2. For Method 5, Method 1 shall be used to select the sampling site and the number of traverse sampling points. The sampling time for each run shall be at least 60 minutes and the minimum sampling volume shall be 0.85 dscm (30 dscf), except that smaller sampling times or volumes, when necessitated by process variables or other factors, may be approved by the Director. The probe and filter holder heating systems in the sampling train shall be set to provide a gas temperature no greater than 160°C. (320°F.).
 - 3. For Method 6, the sampling site shall be the same as that selected for Method 5. The sampling point in the duct shall be at the centroid of the cross section or at a point no

closer to the walls than 1 m (3.28 ft). For Method 6, the sample shall be extracted at a rate proportional to the gas velocity at the sampling point.

- 4. For Method 6, the minimum sampling time shall be 20 minutes and the minimum sampling volume 0.02 dscm (0.71 dscf) for each sample. The arithmetic mean of two samples shall constitute one run. Samples shall be taken at approximately 30-minute intervals.
- 5. Gross calorific value shall be determined in accordance with the applicable ASTM methods: D-2015-91 (Test for Gross Calorific Value of Solid Fuel by the Adiabatic Bomb Calorimeter) for solid fuels; D-240-87 (Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter) for liquid fuels; and D-1826-88 (Test Method for Calorific Value of Gases in Natural Gas Range by Continuous Recording Calorimeter) for gaseous fuels. The rate of fuels burned during each testing period shall be determined by suitable methods and shall be confirmed by a material balance over the fossil-fuel fired system.

Historical Note

Section R18-2-724 renumbered from R18-2-524 and amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 7 A.A.R. 1164, effective February 15, 2001 (Supp. 01-1). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1).

R18-2-725. Standards of Performance for Existing Dry Cleaning Plants

- A. No person shall conduct any dry cleaning operation using chlorinated synthetic solvents without minimizing organic solvent emissions by good modern practices including but not limited to the use of an adequately sized and properly maintained activated carbon absorber or other equally effective control device.
- B. No person shall operate any dry cleaning establishment using petroleum solvents other than non-photochemically reactive solvents without reducing solvent emissions by at least 90%. For purposes of this subsection, a photochemically reactive solvent shall be any solvent with an aggregate of more than 20% of its total volume composed of the chemical compounds classified in subsections (B)(1) through (3), or which exceeds any of the following percentage composition limitations, referred to the total volume of solvent:
 - 1. A combination of the following types of compounds having an olefinic or cyclo-olefinic type of unsaturation -- hydrocarbons, alcohols, aldehydes, esters, ethers, or ketones: 5%.
 - 2. A combination of aromatic compounds with 8 or more carbon atoms to the molecule except ethylbenzene: 8%.
 - 3. A combination of ethylbenzene, ketones having branched hydrocarbon structures, trichlorethylene or toluene: 20%.
- C. Where a stack, vent or other outlet is at such a level that fumes, gas mist, odor, smoke, vapor or any combination thereof constituting air pollution is discharged to adjoining property, the Director may require the installation of abatement equipment or the alteration of such stack, vent, or other outlet by the owner or operator thereof to a degree that will adequately dilute, reduce or eliminate the discharge of air pollution to the adjoining property.

Historical Note

Section R18-2-725 renumbered from R18-2-525 effective November 15, 1993 (Supp. 93-4).

R18-2-726. Standards of Performance for Sandblasting

Operations

No person shall cause or permit sandblasting or other abrasive blasting without minimizing dust emissions to the atmosphere through the use of good modern practices. Examples of good modern practices include wet blasting and the use of effective enclosures with necessary dust collecting equipment.

Historical Note

Section R18-2-726 renumbered from R18-2-526 effective November 15, 1993 (Supp. 93-4).

R18-2-727. Standards of Performance for Spray Painting Operations

- A. No person shall conduct any spray paint operation without minimizing organic solvent emissions. Such operations other than architectural coating and spot painting, shall be conducted in an enclosed area equipped with controls containing no less than 96% of the overspray.
- B. No person shall either:
 1. Employ, apply, evaporate or dry any architectural coating containing photochemically reactive solvents for industrial or commercial purposes; or
 2. Thin or dilute any architectural coating with a photochemically reactive solvent.
- C. For purposes of subsection (B), a photochemically reactive solvent shall be any solvent with an aggregate of more than 20% of its total volume composed of the chemical compounds classified in subsections (1) through (3), or which exceeds any of the following percentage composition limitations, referred to the total volume of solvent:
 1. A combination of the following types of compounds having an olefinic or cyclo-olefinic type of unsaturation -- hydrocarbons, alcohols, aldehydes, esters, ethers, or ketones: 5%.
 2. A combination of aromatic compounds with 8 or more carbon atoms to the molecule except ethylbenzene: 8%.
 3. A combination of ethylbenzene, ketones having branched hydrocarbon structures, trichlorethylene or toluene: 20%.
- D. Whenever any organic solvent or any constituent of an organic solvent may be classified from its chemical structure into more than one of the groups or organic compounds described in subsection (C)(1) through (3), it shall be considered to be a member of the group having the least allowable percent of the total volume of solvents.

Historical Note

Section R18-2-727 renumbered from R18-2-527 effective November 15, 1993 (Supp. 93-4).

R18-2-728. Standards of Performance for Existing Ammonium Sulfide Manufacturing Plants

- A. The provisions of this Section are applicable to the following affected facilities in ammonium sulfide manufacturing plants: sulfide unloading facilities, reactor-absorbers, bubble cap scrubbers, and fume incinerators.
- B. No person shall cause, allow or permit to be emitted into the atmosphere, from any type of incinerator or other outlet smoke, fumes, gases, particulate matter or other gas-borne material, the opacity of which exceeds 20%.
- C. No person shall cause, allow or permit to be emitted into the atmosphere from any emission point from any incinerator, or to pass a convenient measuring point near such emission point, particulate matter of concentrations in excess of 0.1 grain per cubic foot, based on dry flue gas at standard conditions, corrected to 12% carbon dioxide.
- D. No person shall allow hydrogen sulfide to be emitted from any location in such manner and amount that the concentration of such emissions into the ambient air at any occupied place

beyond the premises on which the source is located exceeds 0.03 parts per million by volume for any averaging period of 30 minutes or more.

- E. Where a stack, vent or other outlet is at such a level that fumes, gas mist, odor, smoke, vapor or any combination thereof constituting air pollution are discharged to adjoining property, the Director may require the installation of abatement equipment or the alteration of such stack, vent, or other outlet by the owner or operator thereof to a degree that will adequately dilute, reduce or eliminate the discharge of air pollution to adjoining property.
- F. The owner or operator of any ammonium sulfide tailgas incinerator subject to the provisions of this Section shall do both of the following:
 1. Install, calibrate, maintain, and operate a flow measuring device which can be used to determine either the mass or volume of tailgas charged to the incinerator. The flow measuring device shall have an accuracy of $\pm 5\%$ over its operating range.
 2. Provide access to the tailgas charged so that a well-mixed representative grab sample can be obtained.
- G. The test methods and procedures required by this Section are as follows:
 1. The reference methods in 40 CFR 60, Appendix A shall be used to determine compliance with the standards prescribed in this Section as follows:
 - a. Method 5 for the concentration of particulate matter and the associated moisture content;
 - b. Method 1 for sample and velocity traverse;
 - c. Method 2 for velocity and volumetric flow rate;
 - d. Method 3 for gas analysis and calculation of excess air, using the integrated sample technique;
 - e. Method 11 shall be used to determine the concentration of H_2S and Method 6 shall be used to determine the concentration of SO_2 .
 2. For Method 5, the sampling time for each run shall be at least 60 minutes and the minimum sample volume shall be 0.85 dscm (30.0 dscf) except that shorter sampling times and smaller sample volumes, when necessitated by process variables or other factors, may be approved by the Director.
 3. Particulate matter emissions, expressed in g/dscm, shall be corrected to 12% CO_2 by using the following formula:

$$C_{12} = \frac{12c}{\% \text{CO}_2}$$
 where:
 C_{12} = the concentration of particulate matter corrected to 12% CO_2 ,
 c = the concentration of particulate matter as measured by Method 5, and
 $\% \text{CO}_2$ = the percentage of CO_2 as measured by Method 3, or, when applicable, the adjusted outlet CO_2 percentage.
 4. If Method 11 is used, the gases sampled shall be introduced into the sampling train at approximately atmospheric pressure. Where fuel gas lines are operating at pressures substantially above atmosphere, this may be accomplished with a flow control valve. If the line pressure is high enough to operate the sampling train without a vacuum pump, the pump may be eliminated from the sampling train. The sample shall be drawn from a point near the centroid of the fuel gas line. The minimum sampling time shall be 10 minutes and the minimum sampling volume 0.01 dscm (0.35 dscf) for each sample. The arithmetic average of two samples of equal sampling time shall constitute one run. Samples shall be taken at

approximately one-hour intervals. For most fuel gases, sample times exceeding 20 minutes may result in depletion of the collecting solution, although fuel gases containing low concentrations of hydrogen sulfide may necessitate sampling for longer periods of time.

5. If Method 5 is used, Method 1 shall be used for velocity traverses and Method 2 for determining velocity and volumetric flow rate. The sampling site for determining CO₂ concentration by Method 3 shall be the same as for determining volumetric flow rate by Method 2. The sampling point in the duct for determining SO₂ concentration by Method 3 shall be at the centroid of the cross section if the cross sectional area is less than 5 m² (54 ft²) or at a point no closer to the walls than 1 m (3.28 feet) if the cross sectional area is 5 m² or more and the centroid is more than 1 meter from the wall. The sample shall be extracted at a rate proportional to the gas velocity at the sampling point. The minimum sampling time shall be 10 minutes and the minimum sampling volume 0.01 dscm (0.36 dscf) for each sample. The arithmetic average of two samples of equal sampling time shall constitute one run. Samples shall be taken at approximately one-hour intervals.

Historical Note

Section R18-2-728 renumbered from R18-2-528 effective November 15, 1993 (Supp. 93-4).

R18-2-729. Standards of Performance for Cotton Gins

- A. Fugitive dust, lint, bolls, cotton seed or other material emitted from a cotton gin or lying loose in a yard shall be collected and disposed of in an efficient manner or shall be treated in accordance with R18-2-604 through R18-2-607.
- B. No person shall cause, allow or permit to be emitted into the atmosphere, from any type of incinerator, smoke, fumes, gases, particulate matter or other gas-borne material which exceeds 40% opacity.
- C. No person shall cause, allow, or permit the discharge of particulate matter into the atmosphere in any one hour from any cotton gin in total quantities in excess of the amounts calculated by one of the following equations:
 1. For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the maximum allowable emissions shall be determined by the following equation:

$$E = 4.10P^{0.67}$$
 where:
 E = the maximum allowable particulate emissions rate in pounds-mass per hour.
 P = the process weight rate in tons-mass per hour.
 2. For process sources having a process weight rate greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:

$$E = 55.0P^{0.11-40}$$
 where "E" and "P" are defined as indicated in subsection (C)(1).
- D. The test methods and procedures required by this Section are as follows:
 1. The reference methods in the Arizona Testing Manual and 40 CFR 60, Appendix A shall be used to determine compliance with this Section as follows:
 - a. Method A-2 for the measurement of particulate matter,
 - b. Method 1 for sample and velocity traverses,
 - c. Method 2 for velocity and volumetric flow rate,
 - d. Method 3 for gas analysis,

e. Method 9 for visible emissions.

2. For Method A-2, the sampling time for each run shall be at least 60 minutes and the sampling rate shall be at least 0.85 dry standard cubic meters per hour (0.53 dry standard cubic feet per minute), except that shorter sampling times, when necessitated by progress variables or other factors, may be approved by the Director.

Historical Note

Section R18-2-729 renumbered from R18-2-529 and amended effective November 15, 1993 (Supp. 93-4).
 Amended by final rulemaking at 13 A.A.R. 2157, effective August 4, 2007 (Supp. 07-2).

R18-2-730. Standards of Performance for Unclassified Sources

- A. No existing source which is not otherwise subject to standards of performance under this Article or Article 9 or 11 of this Chapter, shall cause or permit the emission of pollutants at rates greater than the following:
 1. For particulate matter discharged into the atmosphere in any one hour from any unclassified process source in total quantities in excess of the amounts calculated by one of the following equations:
 - a. For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the maximum allowable emissions shall be determined by the following equation:

$$E = 4.10P^{0.67}$$
 where:
 E = the maximum allowable particulate emissions rate in pounds-mass per hour.
 P = the process weight rate in tons-mass per hour.
 - b. For process weight rate greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:

$$E = 55.0P^{0.11-40}$$
 where "E" and "P" are defined as indicated in subsection (A)(1)(a).
 2. Sulfur dioxide – 600 parts per million.
 3. Nitrogen oxides expressed as NO₂ – 500 parts per million.
- B. For purposes of this Section, the total process weight from all similar units employing a similar type process shall be used in determining the maximum allowable emission of particulate matter.
- C. Actual values shall be calculated from the applicable equations and rounded off to two decimal places.
- D. No person shall emit gaseous or odorous materials from equipment, operations or premises under the person's control in such quantities or concentrations as to cause air pollution.
- E. No person shall operate or use any machine, equipment, or other contrivance for the treatment or processing of animal or vegetable matter, separately or in combination, unless all gaseous vapors and gas entrained effluents from such operations, equipment, or contrivance have been either:
 1. Incinerated to destruction, as indicated by a temperature measuring device, at not less than 1,200°F if constructed or reconstructed prior to January 1, 1989, or 1,600°F with a minimum residence time of 0.5 seconds if constructed or reconstructed thereafter; or
 2. Passed through such other device which is designed, installed and maintained to prevent the emission of odors or other air contaminants and which is approved by the Director.

- F. Materials including solvents or other volatile compounds, paints, acids, alkalies, pesticides, fertilizers and manure shall be processed, stored, used and transported in such a manner and by such means that they will not evaporate, leak, escape or be otherwise discharged into the ambient air so as to cause or contribute to air pollution. Where means are available to reduce effectively the contribution to air pollution from evaporation, leakage or discharge, the installation and use of such control methods, devices, or equipment shall be mandatory.
- G. Where a stack, vent or other outlet is at such a level that fumes, gas mist, odor, smoke, vapor or any combination thereof constituting air pollution is discharged to adjoining property, the Director may require the installation of abatement equipment or the alteration of such stack, vent, or other outlet by the owner or operator thereof to a degree that will adequately dilute, reduce or eliminate the discharge of air pollution to adjoining property.
- H. No person shall allow hydrogen sulfide to be emitted from any location in such manner and amount that the concentration of such emissions into the ambient air at any occupied place beyond the premises on which the source is located exceeds 0.03 parts per million by volume for any averaging period of 30 minutes or more.
- I. No person shall cause, allow or permit discharge from any stationary source carbon monoxide emissions without the use of complete secondary combustion of waste gases generated by any process source.
- J. No person shall allow hydrogen cyanide to be emitted from any location in such manner and amount that the concentration of such emissions into the ambient air at any occupied place beyond the premises on which the source is located exceeds 0.3 parts per million by volume for any averaging period of eight hours.
- K. No person shall allow sodium cyanide dust or dust from any other solid cyanide to be emitted from any location in such manner and amount that the concentration of such emissions into the ambient air at any occupied place beyond the premises on which the source is located exceeds 140 micrograms per cubic meter for any averaging period of eight hours.
- L. No owner or operator of a facility engaged in the surface coating of miscellaneous metal parts and products may operate a coating application system subject to this Section that emits volatile organic compounds in excess of any of the following:
 1. 4.3 pounds per gallon (0.5 kilograms per liter) of coating, excluding water, delivered to a coating applicator that applies clear coatings.
 2. 3.5 pounds per gallon (0.42 kilograms per liter) of coating, excluding water delivered to a coating applicator in a coating application system that is air dried or forced warm air dried at temperatures up to 194°F (90°C).
 3. 3.5 pounds per gallon (0.42 kilograms per liter) of coating, excluding water, delivered to a coating applicator that applies extreme performance coatings.
 4. 3.0 pounds per gallon (0.36 kilograms per liter) of coating, excluding water, delivered to a coating applicator for all other coatings and application systems.
- M. If more than one emission limitation in subsection (L) applies to a specific coating, then the least stringent emission limitation shall be applied.
- N. All VOC emissions from solvent washings shall be considered in the emission limitations in subsection (L), unless the solvent is directed into containers that prevent evaporation into the atmosphere.

Historical Note

Renumbered from R18-2-530 and amended effective November 15, 1993 (Supp. 93-4). Amended by final

rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1).

R18-2-731. Standards of Performance for Existing Municipal Solid Waste Landfills

- A. This Section applies to each municipal solid waste landfill (MSW landfill) at which:
 1. Construction, reconstruction, or modification began before May 30, 1991; and
 2. Waste was accepted at any time since November 8, 1987, or additional design capacity is available for future waste deposition.
- B. For the purposes of this Section, “Municipal solid waste landfill or MSW landfill” means an entire disposal facility in a contiguous geographical space where household waste is placed in or on land. An MSW landfill may also receive other types of RCRA (Resource Conservation and Recovery Act) Subtitle D wastes such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of an MSW landfill may be separated by access roads. An MSW landfill may be publicly or privately owned.
- C. MSW landfills covered by this Section shall comply with 40 CFR 60, Subpart WWW, as modified by this subsection. 40 CFR 60, Subpart WWW, “Standards of Performance for Municipal Solid Waste Landfills,” is incorporated by reference in R18-2-901.
 1. Definitions. In addition to the definitions in 40 CFR 60.751, “Administrator” means the Director of the Department of Environmental Quality.
 2. Reporting. Each MSW landfill shall comply with the reporting requirements of 40 CFR 60.757. The initial design capacity report and initial NMOC emission rate report shall be due 90 days after the effective date of this rule.
 3. Design plan. An MSW landfill that is required to install a collection and control system shall submit a design plan for the system to the Director with a Standard Permit Application Form not later than 12 months after it submitted or should have submitted a NMOC emission rate report indicating emissions greater than 50 Mg per year. The design plan shall be prepared by a professional engineer registered in Arizona. The Director shall not approve the design plan if it does not meet the requirements of 40 CFR 60.752(b)(2)(ii).
 4. System installation. An MSW landfill that is required to install a collection and control system shall complete installation of the system not later than 30 months after the effective date of this rule.
 5. An MSW landfill that first becomes subject to the collection and control system requirement after the effective date of this rule shall submit a design plan for the system to the Director not later than 12 months after it submitted or should have submitted a NMOC emission rate report indicating emissions greater than 50 Mg per year.

Historical Note

Adopted effective April 4, 1997; filed with the Office of the Secretary of State March 14, 1997 (Supp. 97-1).

R18-2-732. Expired**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 3058, effective August 10, 1999 (Supp. 99-3). Amended by final rulemaking at 13 A.A.R. 2157, effective August 4, 2007 (Supp. 07-2). Section expired under A.R.S. § 41-1056(J) at 21 A.A.R. 15, effective September 30, 2015

(Supp. 15-4).

R18-2-733. Repealed

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4701, effective January 29, 2007 (Supp. 06-4). Section repealed by final rulemaking at 21 A.A.R. 711, effective June 30, 2015 (Supp. 15-2).

R18-2-733.01. Repealed

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4701, effective January 29, 2007 (Supp. 06-4). Section repealed by final rulemaking at 21 A.A.R. 711, effective June 30, 2015 (Supp. 15-2).

R18-2-734. Standards of Performance for Mercury Emissions from Electric Generating Units

- A.** Applicability and Purpose. The requirements of this Section apply to owners and operators of electric generating units. The purpose of this Section is to establish:
1. Interim standards for mercury emissions from electric generating units that shall apply until compliance with the emissions limits in the federal mercury standards is required.
 2. State standards for mercury emissions from electric generating units that shall apply if the federal mercury standards are vacated by a federal court or repealed by the administrator.
- B.** Interim Standards. The following requirements shall apply until the date that compliance with the federal mercury standards or subsection (G) is required:
1. The owners and operators shall comply with the mercury control strategy operations and maintenance plan approved as part of the permit for the electric generating plant.
 2. The owners and operators shall operate and maintain the electric generating plant, including any associated air pollution control equipment, in a manner consistent with good air pollution control practices for minimizing mercury emissions. This requirement shall apply to any air pollution control equipment installed pursuant to subsection (B)(1) or to any new air pollution control equipment installed to comply with the federal mercury standards if such equipment replaces equipment installed pursuant to subsection (B)(1).
- C.** Incorporation of Federal Mercury Standards. The federal mercury standards in 40 CFR Part 63, Subpart UUUUU, as of July 1, 2013 (and no future amendments or editions) are incorporated by reference and shall remain effective to the extent specified in this Section regardless of whether they are vacated by a federal court or repealed by the administrator. Subpart UUUUU of 40 C.F.R. Part 63 is published by the United States Government Printing Office, 732 North Capital Street, NW, Washington, DC 20401-0001, is on file with the Department of Environmental Quality, 1110 West Washington Street, Phoenix, Arizona 85007, and is available at the Arizona State Library, Archives & Public Records, 1700 West Washington Street, Phoenix, Arizona 85007 and at other Federal depository libraries in the state (see http://catalog.gpo.gov/fdlpdir/FDLP-dir.jsp?st_12=AZ&flag=searchp). It is also available online at <http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>. The owners and operators shall provide to the director a copy of all notices and reports submitted to the Administrator under the federal mercury standards, except for any reports or data submitted to the Administrator through

electronic systems (for example, Compliance and Emissions Data Reporting Interface (CEDRI), Emission Collection Monitoring Plan System Client Tool (ECMPS) or the Emissions Reporting Tool (ERT)).

- D.** Notice of State Standard Applicability. The director shall provide notice to the responsible official for each electric generating plant of any repeal or federal court vacatur of the federal mercury standards. If the repeal or vacatur occurred after the date the electric generating plant was required to comply with the emission limits in the federal mercury standards, the plant shall continue to comply with the federal mercury standards until the date that compliance with subsection (G) is required.
- E.** Application for Permit Revision. Within 120 days of receipt of written notice from the director under subsection (D), the owners and operators shall submit an application for a permit revision that proposes:
1. The mercury emission limit or limits in subsection (G) that shall apply to the electric generating plant.
 2. A date for demonstrating compliance with the mercury emission limit consistent with subsection (F)(2).
 3. A mercury monitoring plan consistent with subsection (H)(2).
- F.** Permit Revision Setting State Standard. A permit revision granted in response to the application submitted under subsection (E) shall contain the following conditions:
1. The mercury emission limit or limits in subsection (G) that shall apply to the electric generating plant.
 2. The date compliance with the emission limit or limits shall be required. Unless the application requests an earlier date, the compliance date shall be the later of December 31, 2016 or the end of the first averaging period commencing no later than 180 days after permit issuance.
 3. The date for demonstrating initial compliance with the emission limit or limits, which shall be 45 days after completion of the first full averaging period after the compliance date established under subsection (F)(2).
 4. The date on which compliance with subsection (B), or the obligation to comply with the federal mercury standards in subsection (D), as applicable, shall no longer be required.
 5. A mercury monitoring plan consistent with subsection (H).
 6. Compliance reporting requirements consistent with subsection (I).
- G.** State Mercury Emission Limits. Emissions from an electric generating unit shall comply with one or more of the emission limits specified in the following table, as selected by the owners and operators under subsection (F).

No.	Limit	Averaging Period	Applicable To
1.	10 percent of inlet mercury	Rolling 12-month	Electric generating plant
2.	0.0087 pounds per gigawatt-hour	Rolling 12-month	Electric generating plant
3.	0.011 pounds per gigawatt-hour	Rolling 90-boiler operating days	EGUs identified in averaging group
4.	1.0 pounds per Trillion Btu	Rolling 90-boiler operating days	EGUs identified in averaging group

5.	0.013 pounds per gigawatt-hour	Rolling 30-boiler operating days	Individual electric generating unit
6.	1.2 pounds per Trillion Btu	Rolling 30-boiler operating days	Individual electric generating unit

H. Compliance Monitoring and Recordkeeping.

1. Compliance with subsection (G) shall be determined using a mercury CEMS or sorbent trap monitoring system pursuant to Appendix A of the federal mercury standards and in accordance with an approved mercury monitoring plan.
2. The mercury monitoring plan shall include the following elements:
 - a. Identification of the emission limit or limits in subsection (G) for which compliance will be demonstrated.
 - b. Identification of whether a mercury CEMS or sorbent trap monitoring system will be used as the primary compliance method. Backup methods may be identified and approved in the plan.
 - c. Description of the parameters that will be monitored, including mercury concentration, stack flow, fuel mercury content, fuel rate, electricity generation rate, moisture percent, and any diluent or other gas or process parameters necessary to calculate compliance in terms of the applicable emission limit.
 - d. Description and example of the calculations required to convert monitored parameters to mercury emissions in terms of the emission limit.
 - e. Establishment of CEMS analyzer data availability, and QA/QC requirements.
 - f. Procedures for completing an initial demonstration of compliance, except as otherwise provided in subsection (I)(1).
2. At least once per month, the mercury emissions data shall be compiled into a record demonstrating compliance with the emission limit or limits established in the permit revision issued under subsection (F). This record shall be completed no later than the 15th day of the following month.
3. Records shall be maintained as follows:
 - a. Records demonstrating compliance with the emissions limits shall be maintained for five years.
 - b. If a mercury CEMS is used, daily CEMS data, QA/QC data identified in the mercury monitoring plan, any maintenance work conducted on the CEMS or data logging system, and a calculation of all mercury CEMS downtime shall be maintained for five years.
 - c. If a sorbent trap monitoring system is used, all sorbent monitoring data and any maintenance work conducted on the system shall be maintained for five years.
- I. Reporting.** The owners and operators shall submit to the director the following reports:
 1. An initial demonstration of compliance, which must be submitted to the director within 180 days after comple-

tion of the first full averaging period. This requirement shall not apply to an electric generating unit if an initial demonstration of compliance has been completed for that unit under 40 C.F.R. 63.10005(d)(3) and the demonstration shows compliance with subsection (G) for that unit. The report shall include:

- a. The name of the electric generating plant and electric generating units.
 - b. The applicable emission limit or limits for the plant or the electric generating units.
 - c. The mercury emissions for the plant, group of averaged units, or each unit, as applicable, during the initial compliance demonstration in terms of the applicable standard.
 - d. A certification by a responsible official.
2. Semiannual compliance reports, which must be submitted to the director on the dates established in the electric generating plant's air quality permit. The report shall include:
 - a. The name of the electric generating plant and electric generating units;
 - b. The applicable emission limit or limits for the plant or the electric generating units.
 - c. The mercury emissions for the plant, or each unit, as applicable, for each month during the six month period ending the month prior to the semiannual report in terms of the applicable standard.
 - d. An explanation of any excess emissions, the duration of the excess emissions, and corrective actions taken, if any, to resolve those excess emissions.
 - e. A certification by a responsible official.
 - J. Exemption.** After receipt of notice under subsection (D), in lieu of submitting the permit revision application required by subsection (E), the owners and operators may notify the director in writing that they elect to comply with the vacated or repealed federal mercury standards at an electric generating plant. If the owners and operators for an electric generating plant make this election, the plant shall be exempt from subsections (E) through (I). If the owners and operators of an electric plant elect this option:
 1. "Administrator" shall mean "Director" whenever it appears in the federal mercury standards or regulations referenced therein.
 2. "EPA" shall mean "ADEQ, Air Quality Division" whenever it appears in the federal mercury standards or regulations referenced therein.
 3. In lieu of reports submitted to the Administrator through electronic systems (for example, Compliance and Emissions Data Reporting Interface (CEDRI), Emission Collection Monitoring Plan System Client Tool (ECMPS) or Emissions Reporting Tool (ERT)) pursuant to the federal mercury standards, the owners or operators shall submit to the Director, semiannually at the time required by permit, the RATA or the rolling 30-day or rolling 90-day average mercury value for each EGU or the plant, as applicable.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4701, effective January 29, 2007 (Supp. 06-4). Amended by final rulemaking at 21 A.A.R. 711, effective June 30, 2015 (Supp. 15-2).

Table 1. Emission Limitations for Small, Medium, and Large HMIWI

Pollutant	Units (7% oxygen, dry basis)	Emission Limitation		
		Small HMIWI	Medium HMIWI	Large HMIWI
Particulate matter	Milligrams per dry standard cubic meter (grains per dry standard cubic foot).	115 (0.05)	69 (0.03)	34 (0.015)
Carbon monoxide	Parts per million by volume	40	40	40
Dioxin/furans	Nanograms per dry standard cubic meter total dioxin/furans (grains per billion dry standard cubic foot) or nanograms per dry standard cubic meter toxic equivalent quantity (grains per billion dry standard cubic foot).	125 (55) or 2.3 (1.0)	125 (55) or 2.3 (1.0)	125 (55) or 2.3 (1.0)
Hydrogen chloride	Parts per million by volume or percent reduction.	100 or 93%	100 or 93%	100 or 93%
Sulfur dioxide	Parts per million by volume	55	55	55
Nitrogen oxides	Parts per million by volume	250	250	250
Lead	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic foot) or percent reduction	1.2 (0.52) or 70%	1.2 (0.52) or 70%	1.2 (0.52) or 70%
Cadmium	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic foot) or percent reduction	0.16 (0.07) or 65%	0.16 (0.07) or 65%	0.16 (0.07) or 65%
Mercury	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic foot) or percent reduction	0.55 (0.24) or 85%	0.55 (0.24) or 85%	0.55 (0.24) or 85%

Historical Note

Table 1 adopted by final rulemaking at 5 A.A.R. 3058, effective August 10, 1999 (Supp. 99-3).

Table 2. Emissions Limitations for Rural HMIWI

Pollutant	Units (7% oxygen, dry basis)	Emission Limitation
Particulate matter	Milligrams per dry standard cubic meter (grains per dry standard cubic foot)	197 (0.086)
Carbon monoxide	Parts per million by volume	40
Dioxin/furans	Nanograms per dry standard cubic meter total dioxin/furans (grains per billion dry standard cubic foot) or nanograms per dry standard cubic meter toxic equivalent quantity (grains per billion dry standard cubic foot)	800 (350) or 15 (6.6)
	Parts per million by volume	3100 (1.0)
Hydrogen chloride	Parts per million by volume	55
Sulfur dioxide	Parts per million by volume	250
Nitrogen oxides	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic foot)	10 (4.4)
Lead	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic foot)	4 (1.7)
Cadmium	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic foot)	7.5 (3.3)
Mercury		

Historical Note

Table 2 adopted by final rulemaking at 5 A.A.R. 3058, effective August 10, 1999 (Supp. 99-3).

ARTICLE 8. EMISSIONS FROM MOBILE SOURCES (NEW AND EXISTING)**R18-2-801. Classification of Mobile Sources**

- A. This Article is applicable to mobile sources which either move while emitting air contaminants or are frequently moved during the course of their utilization but are not classified as motor vehicles, agricultural vehicles, or agricultural equipment used in normal farm operations.
- B. Unless otherwise specified, no mobile source shall emit smoke or dust the opacity of which exceeds 40%.

Historical Note

Adopted effective February 26, 1988 (Supp. 88-1).
 Amended effective September 26, 1990 (Supp. 90-3).
 Amended effective February 3, 1993 (Supp. 93-1). Former Section R18-2-801 renumbered to Section R18-2-901, new Section R18-2-801 renumbered from R18-2-601 effective November 15, 1993 (Supp. 93-4).

R18-2-802. Off-road Machinery

- A. No person shall cause, allow or permit to be emitted into the atmosphere from any off-road machinery, smoke for any period greater than 10 consecutive seconds, the opacity of which exceeds 40%. Visible emissions when starting cold equipment shall be exempt from this requirement for the first 10 minutes.
- B. Off-road machinery shall include trucks, graders, scrapers, rollers, locomotives and other construction and mining machinery not normally driven on a completed public roadway.

Historical Note

Adopted effective February 26, 1988 (Supp. 88-1).
 Amended effective September 26, 1990 (Supp. 90-3).
 Former Section R18-2-802 renumbered to Section R18-2-902, new Section R18-2-802 renumbered from R18-2-602 effective November 15, 1993 (Supp. 93-4).

R18-2-803. Heater-planer Units

No person shall cause, allow or permit to be emitted into the atmosphere from any heater-planer operated for the purpose of reconstructing asphalt pavements smoke the opacity of which exceeds 20%. However three minutes' upset time in any one hour shall not constitute a violation of this Section.

Historical Note

Adopted effective February 26, 1988 (Supp. 88-1).
 Amended effective September 26, 1990 (Supp. 90-3).
 Former Section R18-2-803 renumbered to Section R18-2-903, new Section R18-2-803 renumbered from R18-2-603 effective November 15, 1993 (Supp. 93-4).

R18-2-804. Roadway and Site Cleaning Machinery

- A. No person shall cause, allow or permit to be emitted into the atmosphere from any roadway and site cleaning machinery smoke or dust for any period greater than 10 consecutive seconds, the opacity of which exceeds 40%. Visible emissions when starting cold equipment shall be exempt from this requirement for the first 10 minutes.
- B. In addition to complying with subsection (A), no person shall cause, allow or permit the cleaning of any site, roadway, or alley without taking reasonable precautions to prevent particulate matter from becoming airborne. Reasonable precautions may include applying dust suppressants. Earth or other material shall be removed from paved streets onto which earth or other material has been transported by trucking or earth moving equipment, erosion by water or by other means.

Historical Note

Adopted effective February 26, 1988 (Supp. 88-1).
 Amended effective September 26, 1990 (Supp. 90-3).
 Amended effective February 3, 1993 (Supp. 93-1). Former Section R18-2-804 renumbered to Section R18-2-904, new Section R18-2-804 renumbered from R18-2-604 effective November 15, 1993 (Supp. 93-4).

R18-2-805. Asphalt or Tar Kettles

- A. No person shall cause, allow or permit to be emitted into the atmosphere from any asphalt or tar kettle smoke for any period greater than 10 consecutive seconds, the opacity of which exceeds 40%.
- B. In addition to complying with subsection (A), no person shall cause, allow or permit the operation of an asphalt or tar kettle without minimizing air contaminant emissions by utilizing all of the following control measures:
1. The control of temperature recommended by the asphalt or tar manufacturer;
 2. The operation of the kettle with lid closed except when charging;
 3. The pumping of asphalt from the kettle or the drawing of asphalt through cocks with no dipping;
 4. The dipping of tar in an approved manner;
 5. The maintaining of the kettle in clean, properly adjusted, and good operating condition;
 6. The firing of the kettle with liquid petroleum gas or other fuels acceptable to the Director.

Historical Note

Adopted effective February 26, 1988 (Supp. 88-1).
 Amended effective September 26, 1990 (Supp. 90-3).
 Former Section R18-2-805 renumbered to Section R18-2-905, new Section R18-2-805 renumbered from R18-2-605 effective November 15, 1993 (Supp. 93-4).

ARTICLE 9. NEW SOURCE PERFORMANCE STANDARDS**R18-2-901. Standards of Performance for New Stationary Sources**

Except as provided in R18-2-902 through R18-2-905, the following subparts of 40 CFR 60, New Source Performance Standards (NSPS), and all accompanying appendices, adopted as of June 28, 2013, and no future editions or amendments, are incorporated by reference as applicable requirements. These standards are on file with the Department and shall be applied by the Department. These standards can be obtained from the U.S. Government Printing Office, Superintendent of Documents, bookstore.gpo.gov, Mail Stop: SSOP IDCC-SSOM, Washington, D.C. 20402-9328.

1. Subpart A - General Provisions.
2. Subpart D - Standards of Performance for Fossil-Fuel-Fired Steam Generators for Which Construction is Commenced After August 17, 1971.
3. Subpart Da - Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978.
4. Subpart Db - Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units.
5. Subpart Dc - Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units.
6. Subpart E - Standards of Performance for Incinerators.
7. Subpart Ea - Standards of Performance for Municipal Waste Combustors for Which Construction is Commenced after December 20, 1989 and on or Before September 20, 1994.
8. Subpart Eb - Standards of Performance for Large Municipal Waste Combustors for Which Construction is Com-

- menced after September 20, 1994 or for Which Modification or Reconstruction is Commenced After June 19, 1996.
9. Subpart Ec - Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996.
 10. Subpart F - Standards of Performance for Portland Cement Plants.
 11. Subpart G - Standards of Performance for Nitric Acid Plants.
 12. Subpart Ga - Standards of Performance for Nitric Acid Plants for which Construction, Reconstruction, or Modification Commenced after October 14, 2011.
 13. Subpart H - Standards of Performance for Sulfuric Acid Plants.
 14. Subpart I - Standards of Performance for Hot Mix Asphalt Facilities.
 15. Subpart J - Standards of Performance for Petroleum Refineries.
 16. Subpart Ja - Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007.
 17. Subpart K - Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978.
 18. Subpart Ka - Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984.
 19. Subpart Kb - Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced after July 23, 1984.
 20. Subpart L - Standards of Performance for Secondary Lead Smelters.
 21. Subpart M - Standards of Performance for Secondary Brass and Bronze Production Plants.
 22. Subpart N - Standards of Performance for Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973.
 23. Subpart Na - Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983.
 24. Subpart O - Standards of Performance for Sewage Treatment Plants.
 25. Subpart P - Standards of Performance for Primary Copper Smelters.
 26. Subpart Q - Standards of Performance for Primary Zinc Smelters.
 27. Subpart R - Standards of Performance for Primary Lead Smelters.
 28. Subpart S - Standards of Performance for Primary Aluminum Reduction Plants.
 29. Subpart T - Standards of Performance for Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants.
 30. Subpart U - Standards of Performance for Phosphate Fertilizer Industry: Superphosphoric Acid Plants.
 31. Subpart V - Standards of Performance for Phosphate Fertilizer Industry: Diammonium Phosphate Plants.
 32. Subpart W - Standards of Performance for Phosphate Fertilizer Industry: Triple Superphosphate Plants.
 33. Subpart X - Standards of Performance for Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.
 34. Subpart Y - Standards of Performance for Coal Preparation Plants.
 35. Subpart Z - Standards of Performance for Ferroalloy Production Facilities.
 36. Subpart AA - Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and On or Before August 17, 1983.
 37. Subpart AAa - Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 7, 1983.
 38. Subpart BB - Standards of Performance for Kraft Pulp Mills.
 39. Subpart CC - Standards of Performance for Glass Manufacturing Plants.
 40. Subpart DD - Standards of Performance for Grain Elevators.
 41. Subpart EE - Standards of Performance for Surface Coating of Metal Furniture.
 42. Subpart GG - Standards of Performance for Stationary Gas Turbines.
 43. Subpart HH - Standards of Performance for Lime Manufacturing Plants.
 44. Subpart KK - Standards of Performance for Lead-Acid Battery Manufacturing Plants.
 45. Subpart LL - Standards of Performance for Metallic Mineral Processing Plants.
 46. Subpart MM - Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations.
 47. Subpart NN - Standards of Performance for Phosphate Rock Plants.
 48. Subpart PP - Standards of Performance for Ammonium Sulfate Manufacture.
 49. Subpart QQ - Standards of Performance for Graphic Arts Industry: Publication Rotogravure Printing.
 50. Subpart RR - Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations.
 51. Subpart SS - Standards of Performance for Industrial Surface Coating: Large Appliances.
 52. Subpart TT - Standards of Performance for Metal Coil Surface Coating.
 53. Subpart UU - Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture.
 54. Subpart VV - Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry.
 55. Subpart VVa - Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for Which Construction, Reconstruction, or Modification Commenced after November 7, 2006.
 56. Subpart WW - Standards of Performance for Beverage Can Surface Coating Industry.
 57. Subpart XX - Standards of Performance for Bulk Gasoline Terminals.
 58. Subpart AAA - Standards of Performance for New Residential Wood Heaters.
 59. Subpart BBB - Standards of Performance for Rubber Tire Manufacturing Industry.
 60. Subpart DDD - Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry.
 61. Subpart FFF - Standards of Performance for Flexible Vinyl and Urethane Coating and Printing.

62. Subpart GGG - Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries.
63. Subpart GGGa - Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006.
64. Subpart HHH - Standards of Performance for Synthetic Fiber Production Facilities.
65. Subpart III - Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes.
66. Subpart JJJ - Standards of Performance for Petroleum Dry Cleaners.
67. Subpart KKK - Standards of Performance for Equipment Leaks of VOC from Onshore Natural Gas Processing Plants.
68. Subpart LLL - Standards of Performance for Onshore Natural Gas Processing; SO₂ Emissions.
69. Subpart NNN - Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.
70. Subpart OOO - Standards of Performance for Nonmetallic Mineral Processing Plants.
71. Subpart PPP - Standards of Performance for Wool Fiberglass Insulation Manufacturing Plants.
72. Subpart QQQ - Standards of Performance for VOC Emissions From Petroleum Refinery Wastewater Systems.
73. Subpart RRR - Standards of Performance for Volatile Organic Compound Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.
74. Subpart SSS - Standards of Performance for Magnetic Tape Coating Facilities.
75. Subpart TTT - Standards of Performance for Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.
76. Subpart UUU - Standards of Performance for Calciners and Dryers in Mineral Industries.
77. Subpart VVV - Standards of Performance for Polymeric Coating of Supporting Substrates Facilities.
78. Subpart WWW - Standards of Performance for Municipal Solid Waste Landfills.
79. Subpart AAAA - Standards of Performance for Small Municipal Waste Combustion Units for Which Construction Is Commenced after August 30, 1999, or for Which Modification or Reconstruction Is Commenced after June 6, 2001.
80. Subpart CCCC - Standards of Performance for Commercial and Industrial Solid Waste Incineration Units for Which Construction Is Commenced after November 30, 1999, or for Which Modification or Reconstruction Is Commenced on or after June 1, 2001.
81. Subpart EEEE - Standards of Performance for Other Solid Waste Incineration Units for Which Construction is Commenced After December 9, 2004, or for Which Modification or Reconstruction is Commenced on or After June 16, 2006.
82. Subpart IIII - Standards of Performance for Stationary Compression Ignition Combustion Engines.
83. Subpart JJJJ - Standards of Performance for Stationary Spark Ignition Internal Combustion Engines.
84. Subpart KKKK - Standards of Performance for Stationary Combustion Turbines.

85. Subpart LLLL - Standards of Performance for New Sewage Sludge Incineration Units.
86. Subpart OOOO - Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution.

Historical Note

Adopted effective February 26, 1988 (Supp. 88-1). Amended effective September 26, 1990 (Supp. 90-3). Amended effective February 3, 1993 (Supp. 93-1). Section R18-2-901 renumbered to R18-2-1101, new Section R18-2-901 renumbered from R18-2-801 and amended effective November 15, 1993 (Supp. 93-4). Amended effective June 10, 1994 (Supp. 94-2). Amended effective December 7, 1995 (Supp. 95-4). Amended effective May 9, 1996 (Supp. 96-2). Amended effective April 4, 1997; filed with the Office of the Secretary of State March 14, 1997 (Supp. 97-1). Amended effective December 4, 1997 (Supp. 97-4). Amended by final rulemaking at 5 A.A.R. 3058, effective August 10, 1999, and at 5 A.A.R. 3221, effective August 12, 1999 (Supp. 99-3). Amended by final rulemaking at 6 A.A.R. 4170, effective October 11, 2000 (Supp. 00-4). Amended by final rulemaking at 8 A.A.R. 2543, effective May 24, 2002 (Supp. 02-2). Amended by final rulemaking at 10 A.A.R. 3281, effective September 27, 2004 (Supp. 04-3). Amended by final rulemaking at 11 A.A.R. 5504, effective February 4, 2006 (Supp. 05-4). Amended by final rulemaking at 13 A.A.R. 4199, effective January 5, 2008 (Supp. 07-4). Amended by final expedited rulemaking at 21 A.A.R. 2747, effective December 13, 2015 (Supp. 15-4).

R18-2-902. General Provisions

- A. As used in 40 CFR 60: "Administrator" means the Director of the Arizona Department of Environmental Quality, except that the Director shall not be authorized to approve alternate or equivalent test methods or alternative standards or work practices.
- B. From the general standards identified in R18-2-901, delete the following:
 1. 40 CFR 60.4. All requests, reports, applications, submittals, and other communications to the Director pursuant to this Article shall be submitted to the Arizona Department of Environmental Quality, Air Quality Division, 1110 West Washington Street, Phoenix, Arizona 85007.
 2. 40 CFR 60.5 and 60.6.
- C. The Director shall not be delegated authority to deal with equivalency determinations or innovative technology waivers as covered in Sections 111(h)(3) and 111(j) of the Act.

Historical Note

Adopted effective February 26, 1988 (Supp. 88-1). Amended effective September 26, 1990 (Supp. 90-3). Section R18-2-902 renumbered to R18-2-1102, new Section R18-2-902 renumbered from R18-2-802 and amended effective November 15, 1993 (Supp. 93-4). Amended effective June 10, 1994 (Supp. 94-2). Amended by final rulemaking at 13 A.A.R. 4199, effective January 5, 2008 (Supp. 07-4).

R18-2-903. Standards of Performance for Fossil-fuel Fired Steam Generators

As exceptions to 40 CFR 60.40 through 60.47:

1. In place of 40 CFR 60.43(a)(2), the following language shall be substituted: 340 nanograms per joule heat input (0.8 pounds per million Btu) derived from solid fossil fuel or solid fossil fuel and wood residue.

2. Delete 40 CFR 60.43(b).
3. If an owner or operator of a fossil-fuel fired steam generator obtained an installation permit for two or more fuel-burning equipment or steam-power generating installations before May 14, 1979, that permitted the installation to comply with the sulfur dioxide emission standards specified in R18-2-901 and this Section as if the equipment or installations were one emission discharge point:
 - a. The owner or operator shall comply with the applicable sulfur dioxide emission standards in the manner specified in the installation permit;
 - b. The Department shall incorporate the emission standards under subsection (3)(a) into each owner's or operator's operating permit as an enforceable permit condition;
 - c. No single fuel-burning equipment or steam-power generating installation shall emit sulfur dioxide in excess of:
 - i. 520 nanograms per joule heat input (1.2 pounds per million BTU) for solid fossil fuel or solid fossil fuel and wood residue; or
 - ii. 340 nanograms per joule heat input (0.8 pounds per million BTU) for liquid fossil fuel or liquid fossil fuel and wood residue.
4. When an owner or operator subject to subsection (3) changes the equipment configuration so that each fuel-burning equipment or steam-powered generating installation constitutes one emission discharge point:
 - a. The owner or operator shall comply with the emissions standards specified in subsection (1) and R18-2-901; and
 - b. The Department shall incorporate the emissions standards into the owner's or operator's operating permit as enforceable permit conditions.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective May 28, 1982 (Supp. 82-3). Former Section R9-3-903 renumbered without change as Section R18-2-903 (Supp. 87-3). Repealed effective February 26, 1988 (Supp. 88-1). New Section R18-2-903 renumbered from R18-2-803 and amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 14 A.A.R. 230, effective March 8, 2008 (Supp. 08-1).

R18-2-904. Standards of Performance for Incinerators

- A. Incinerators with a charging rate of more than 45 metric tons or 49.6 tons per day shall conform to the requirements of 40 CFR 60.50 through 60.54.
- B. Incinerators with a charging rate of 45 metric tons or 49.6 tons per day or less that commence construction or modification after May 14, 1979, shall conform to the requirements of 40 CFR 60.52 through 60.54 and of R18-2-704(A).

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective May 28, 1982 (Supp. 82-3). Former Section R9-3-904 renumbered without change as Section R18-2-904 (Supp. 87-3). Repealed effective February 26, 1988 (Supp. 88-1). New Section R18-2-904 renumbered from R18-2-804 and amended effective November 15, 1993 (Supp. 93-4).

R18-2-905. Standards of Performance for Storage Vessels for Petroleum Liquids

In addition to 40 CFR 60.110 - 60.113:

1. Any petroleum liquid storage tank of less than 40,000 gallons (151,412 liters) capacity shall be equipped with a

submerged filling device or acceptable equivalent as determined by the Director for the control of hydrocarbon emissions.

2. All facilities for dock loading of petroleum products having a vapor pressure of 2.0 pounds per square inch absolute, or greater, at loading pressure shall provide for submerged filling or other acceptable equivalent for control of hydrocarbon emissions.
3. All pumps and compressors which handle volatile organic compounds shall be equipped with mechanical seals or other equipment of equal efficiency to prevent the release of organic contaminants into the atmosphere.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective May 28, 1982 (Supp. 82-3). Former Section R9-3-905 renumbered without change as Section R18-2-905 (Supp. 87-3). Repealed effective February 26, 1988 (Supp. 88-1). New Section R18-2-905 renumbered from R18-2-805 effective November 15, 1993 (Supp. 93-4).

R18-2-906. Repealed**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective May 28, 1982 (Supp. 82-3). Former Section R9-3-906 renumbered without change as Section R18-2-906 (Supp. 87-3). Repealed effective February 26, 1988 (Supp. 88-1).

R18-2-907. Reserved**R18-2-908. Reserved****R18-2-909. Reserved****R18-2-910. Repealed****Historical Note**

Adopted effective August 9, 1985 (Supp. 85-4). Former Section R9-3-910 renumbered without change as Section R18-2-910 (Supp. 87-3). Repealed effective February 26, 1988 (Supp. 88-1).

R18-2-911. Reserved**R18-2-912. Reserved****R18-2-913. Repealed****Historical Note**

Adopted effective August 9, 1985 (Supp. 85-4). Former Section R9-3-913 renumbered without change as Section R18-2-913 (Supp. 87-3). Repealed effective February 26, 1988 (Supp. 88-1).

R18-2-914. Reserved**R18-2-915. Reserved****R18-2-916. Reserved****R18-2-917. Reserved****R18-2-918. Reserved****R18-2-919. Reserved****R18-2-920. Reserved****R18-2-921. Reserved****R18-2-922. Repealed****Historical Note**

Adopted effective August 9, 1985 (Supp. 85-4). Former Section R9-3-922 renumbered without change as Section

R18-2-922 (Supp. 87-3). Repealed effective February 26, 1988 (Supp. 88-1).

ARTICLE 10. MOTOR VEHICLES; INSPECTIONS AND MAINTENANCE

R18-2-1001. Definitions

In this Article, unless the context otherwise requires:

1. Abbreviations and symbols are as follows:
 - a. "A/F" means air/fuel,
 - b. "CO" means carbon monoxide.
 - c. "CO₂" means carbon dioxide.
 - d. "EGR" means exhaust gas recirculation.
 - e. "GVWR" means gross vehicle weight rating.
 - f. "HC" means hydrocarbon.
 - g. "HP" means horsepower.
 - h. "LNG" means liquefied natural gas.
 - i. "LPG" means liquid petroleum gas.
 - j. "MIL" means Malfunction Indicator Lamp.
 - k. "MPH" means miles per hour.
 - l. "MVD" means the Motor Vehicle Division of the Arizona Department of Transportation.
 - m. "NDIR" means nondispersive infrared.
 - n. "NO_x" means the sum of nitrogen oxide and nitrogen dioxide.
 - o. "%" means percent.
 - p. "OEM" means original equipment manufacturer.
 - q. "OBD" means On-Board Diagnostics.
 - r. "PCV" means positive crankcase ventilation.
 - s. "PPM" means parts per million by volume.
 - t. "RPM" means revolutions per minute.
 - u. "VIN" means vehicle identification number.
2. "Annual test" means any vehicle emissions test that is not a biennial test.
3. "Apportioned vehicle" means a vehicle that is subject to the proportional registration provisions of A.R.S. § 28-2233.
4. "Area A" has the meaning in A.R.S. § 49-541.
5. "Area A vehicle" means a motor vehicle subject to emissions inspection and that is:
 - a. Registered or to be registered within area A;
 - b. Owned by or leased to a person having a valid fleet permit and customarily kept in area A;
 - c. A government vehicle customarily kept in area A;
 - d. Used to commute to the driver's principal place of employment located in area A; or
 - e. Parked, will be parked, or is the subject of a parking permit application at an institution located in area A and subject to the requirements of A.R.S. §§ 15-1444(C) or 15-1627(G).
6. "Area B" has the meaning in A.R.S. § 49-541.
7. "Area B vehicle" means a motor vehicle subject to emissions inspection and that is:
 - a. Registered or to be registered within area B;
 - b. Owned by or leased to a person having a valid fleet permit and customarily kept in area B;
 - c. A government vehicle customarily kept in area B;
 - d. Used to commute to the driver's principal place of employment located in area B; or
 - e. Parked, will be parked, or is the subject of a parking permit application at an institution located in area B and subject to the requirements of A.R.S. §§ 15-1444(C) or 15-1627(G).
8. "Biennial test" means the transient loaded emissions test and evaporative system tests required under R18-2-1006(E)(2), or the OBD test for area A vehicles under R18-1006(E)(3).
9. "Calibration gas" means a gas with assigned concentrations of CO, hexane, or CO₂ that is used by a state inspector to check the accuracy of emissions analyzers.
10. "Certificate of compliance" means a serially numbered document issued by a state station at the time of a vehicle inspection indicating that the vehicle has met the emissions standards.
11. "Certificate of exemption" means a serially numbered document issued by the Director exempting a vehicle from inspection that is not available within the state for an inspection during the 90 days before the emissions compliance expiration date.
12. "Certificate of inspection" means a serially numbered document issued by the Director indicating that a vehicle has been inspected under A.R.S. § 49-546 and has passed inspection.
13. "Certificate of waiver" means a serially numbered document issued by the Department or a fleet inspector other than an auto dealer licensed to sell used motor vehicles under A.R.S. Title 28, indicating that the requirement of passing reinspection has been waived for a vehicle under A.R.S. § 49-542.
14. "Conditioning mode" means either a fast idle condition or a loaded condition as defined in this Section.
15. "Constant 4-wheel drive vehicle" means any 4-wheel drive vehicle that cannot be converted to 2-wheel drive except by disconnecting one of the vehicle's drive shafts.
16. "Constant volume sampler" means a system that dilutes engine exhaust to be sampled with ambient air so that the total combined flow rate of exhaust and dilution air mix is nearly constant for all engine operating conditions.
17. "Contractor" means a person, business, firm, partnership, or corporation with whom the Director has a contract that provides for the operation of one or more official emissions inspection stations.
18. "Curb idle test" means an exhaust emissions test conducted with the engine of the vehicle running at the manufacturer's idle speed ± 100 RPM but without pressure exerted on the accelerator.
19. "Curb weight" means a vehicle's unloaded weight without fuel and oil plus 300 pounds.
20. "Dealer" means a person or organization licensed by the Arizona Department of Transportation as a new motor vehicle dealer, used motor vehicle dealer, or motorcycle dealer.
21. "Department" means the Department of Environmental Quality.
22. "Director" means the Director of the Department of Environmental Quality.
23. "Director's certificate" means a serially numbered document issued by the Director in certain circumstances for the vehicle to show evidence of meeting the minimum standards for registration or reregistration under R18-2-1019 or R18-2-1022.
24. "Electrically-powered vehicle" means a vehicle that uses electricity as the means of propulsion and does not require the combustion of fossil fuel within the confines of the vehicle to generate electricity.
25. "Emissions compliance expiration date" means:
 - a. Each registration expiration date for a vehicle subject to an annual test; and
 - b. The registration expiration date in the second year after the initial biennial test required under this Article or R18-2-1005(B) for a vehicle subject to a biennial test.

26. "Emissions inspection station permit" means a certificate issued by the Director authorizing the holder to perform vehicle emissions inspections under this Article.
27. "Exhaust emissions" means products of combustion emitted into the atmosphere from any opening in the exhaust system downstream of the exhaust ports of a motor vehicle engine.
28. "Exhaust pipe" means the pipe that attaches to the muffler and exits the vehicle.
29. "Fast idle condition" means to operate a vehicle by running the engine at 2,500 RPM, \pm 300 RPM, for up to 30 seconds, with the transmission in neutral, to prepare the vehicle for a subsequent curb idle test.
30. "Fast pass or fast fail algorithm" means a procedure in a vehicle emissions testing system that logically determines whether a vehicle will pass or fail the transient loaded emissions test under R18-2-1006(E)(2) before the test is over.
31. "Fleet emissions inspection station" or "fleet station" means any vehicle emissions inspection facility operated under a permit issued under A.R.S. § 49-546.
32. "Fuel" means any material that is burned within the confines of a vehicle to propel the vehicle.
33. "Four-stroke vehicle" means a vehicle equipped with an engine that requires two revolutions of the crankshaft for each piston power stroke.
34. "Golf cart" means a motor vehicle that has not less than three wheels in contact with the ground, has an unladen weight less than 1,300 pounds, is designed to be and is operated at not more than 15 MPH, and is designed to carry golf equipment and persons.
35. "Government vehicle" means a registered motor vehicle exempt from the payment of a registration fee, or a federally owned or leased vehicle.
36. "Gross vehicle weight rating" (GVWR) means the maximum vehicle weight that a vehicle is designed for as established by the manufacturer.
37. "Inspection" means the mandatory vehicle emissions inspection including the tampering inspection.
38. "Inspection sticker" means a self-adhesive, serially numbered rectangular sticker indicating a government vehicle has met Arizona emissions inspection requirements.
39. "Loaded condition" means to condition a vehicle by running the vehicle on a chassis dynamometer at a specified speed and load for no more than 30 seconds to prepare the vehicle for a subsequent curb idle test.
40. "Loaded cruise test" means an exhaust emissions test conducted on a chassis dynamometer under R18-2-1006(E)(1)(a) and (F)(2)(a).
41. "Mass emissions measurement" means measurement of a vehicle's exhaust in mass units such as grams.
42. "Model year" means the date of manufacture of the original vehicle within the annual production period of the vehicle as designated by the manufacturer or, if a reconstructed vehicle, the first year of titling.
43. "MOL percent" means the percent, by volume, that a particular gas occupies in a mixture of gases at a uniform temperature.
44. "Motorcycle" means a motor vehicle, other than a tractor, having a seat or saddle for use of the rider and designed to travel on not more than three wheels in contact with the ground.
45. "Motorhome" means a vehicle built on a truck or bus chassis and equipped as a self-contained traveling home.
46. "New aftermarket catalytic converter" or "new aftermarket converter" means a catalytic converter, except for an OEM, that meets the standards under 40 CFR 86.
47. "Official emissions inspection station" means an inspection facility, other than a fleet emissions inspection station, whether placed in a permanent structure or in a mobile unit for conveyance to various locations within the state, for the purpose of conducting inspections under A.R.S. § 49-542.
48. "On-board diagnostics test" means a method of emissions testing using the on-board computer systems of a 1996 or newer vehicle, to diagnose and report on the status of the engine's emissions systems by connecting a scan tool to the vehicle's data link connector.
49. "Opacity" means the degree of absorption of transmitted light.
50. "Operational air pump" means an air injection system to supply additional air into the exhaust system to promote further oxidation of HC and CO gases and to assist in catalytic reaction.
51. "Person" means the federal government, state, or any federal or state agency or institution, any municipality, political subdivision, public or private corporation, individual, partnership, association, or other entity, and includes any officer or governing or managing body of any municipality, political subdivision, or public or private corporation.
52. "Reconditioned OEM catalytic converter" or "reconditioned OEM converter" means a used OEM reconditioned equivalent or an OEM converter that has had the pellets replaced with new or used OEM equivalent pellets and that also meets the standards under 40 CFR 86.
53. "Recognized repair facility" means a business with an Arizona transaction privilege tax license whose primary purpose is vehicle repair, and who has at least one employee with a nationally recognized certification for emissions-related diagnosis and repair.
54. "Reconstructed vehicle" means:
 - a. A reconstructed special as identified by the code letters "SP" on the section of the vehicle's Arizona registration card or Arizona certificate of title reserved for identification of the vehicle's style; or
 - b. A vehicle in which the vehicle style is not shown on the Arizona registration card or certificate of title, and the original manufacturer of the complete vehicle cannot be identified from the body.
55. "Standard gases" means gases maintained as a primary standard for determining the composition of working gases, calibration gases, or the accuracy of an emissions analyzer.
56. "State inspector" means an employee of the Department designated to perform quality assurance or waiver functions under this Article.
57. "State station" means an official emissions inspection station operated by a contractor.
58. "Tampering" means removing, defeating, or altering an emissions control device that was installed on a vehicle at the time the vehicle was manufactured. For the purposes of this Article, defeating includes failure to repair any malfunctioning emission control system or device.
59. "Two-stroke vehicle" means a vehicle equipped with an engine that requires one revolution of the crankshaft for each power stroke.
60. "Unloaded fast idle test" means an exhaust emissions test conducted with the engine of the vehicle running at 2,500 RPM.

61. "Vehicle" means any automobile, truck, truck tractor, motor bus, or self-propelled or motor-driven vehicle registered or to be registered in this state and used upon the public highways of this state for the purpose of transporting persons or property, except implements of husbandry, roadrollers, or road machinery temporarily operated upon the highway.
62. "Vehicle emissions inspector" means an individual who is licensed by the Director to perform vehicle emissions inspections under this Article.
63. "Working gases" means gases maintained to perform periodic calibration of an emissions analyzer.

Historical Note

Former Section R9-3-1001 repealed, new Section R9-3-1001 adopted effective January 13, 1976 (Supp. 76-1). Former Section R9-3-1001 repealed, former Section R9-3-1002 renumbered and amended as Section R9-3-1001 effective January 1, 1986 (Supp. 85-6). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1001 renumbered as Section R18-2-1001 and amended effective August 1, 1988 (Supp. 88-3). Amended effective September 19, 1990 (Supp. 90-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4).

R18-2-1002. Reserved

R18-2-1003. Vehicles to be Inspected by the Mandatory Vehicle Emissions Inspection Program

- A. The following vehicles shall be inspected according to this Article at a state station or a fleet station unless exempted by subsection (B):
 1. A vehicle to be registered or reregistered within area A or area B for highway use. For the purposes of this Article, registration or reregistration within area A or area B shall be determined by the vehicle owner's permanent and actual residence. The permanent address in the MVD database shall be presumed to be the owner's permanent and actual residence. A post office box address listed on a title or registration document under A.R.S. § 28-2051(C) is not evidence of the owner's permanent and actual residence;
 2. Each vehicle delivered to a retail purchaser by a dealer licensed to sell used motor vehicles for highway use under A.R.S. Title 28 and whose place of business is located in area A or area B;
 3. Each vehicle registered outside area A and area B but used to commute to the driver's principal place of employment located within area A or area B;
 4. Each vehicle owned by a person who is subject to A.R.S. §§ 15-1444(C) or 15-1627(G); and
 5. An area A or area B vehicle located out-of-state for more than 90 days before vehicle registration expiration shall be emissions tested at an official emissions inspection testing center in the area where it is located. If no official emissions testing program is available in the area for that vehicle, the vehicle shall meet the testing requirements under this Article within 15 calendar days of returning to Arizona.
- B. The following vehicles are exempt from the inspection requirements of this Article:
 1. A vehicle manufactured in or before the 1966 model year;
 2. A vehicle leased to a person residing outside area A and area B by a leasing company whose place of business is

in area A or area B, except as provided in subsection (A)(3);

3. A vehicle sold between motor vehicle dealers;
4. An electrically-powered vehicle;
5. An apportioned vehicle;
6. A golf cart;
7. A vehicle with an engine displacement of less than 90 cubic centimeters;
8. A vehicle registered at the time of change of name of ownership except when:
 - a. The change in registration is accompanied by the required fee for the year following expiration of the prior registration, or
 - b. The change results from the sale by a dealership whose place of business is located in area A or area B;
9. A vehicle for which a current certificate of exemption or Director's certificate is issued;
10. A vehicle of a model year the same as, or newer than, the current calendar year and a vehicle of the prior four model years, except:
 - a. A reconstructed vehicle;
 - b. An alternative fuel vehicle, as defined in A.R.S. § 43-1086, and
 - c. A vehicle failing an emissions inspection the owner chooses to have under A.R.S. § 49-543.
11. A vehicle designed to operate exclusively on hydrogen, as defined in A.R.S. § 1-215.

- C. Government vehicles operated in area A or area B and not exempted by this Article shall be emissions inspected according to R18-2-1017.

Historical Note

Former Section R9-3-1003 repealed, new Section R9-3-1003 adopted effective January 13, 1976 (Supp. 76-1). Amended effective January 3, 1977 (Supp. 77-1). Amended effective January 3, 1979 (Supp. 79-1). Amended as an emergency effective January 2, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1003 as amended effective January 3, 1979 and amended as an emergency effective January 2, 1981 now amended effective April 15, 1981 (Supp. 81-2). Amended effective January 1, 1986 (Supp. 85-6). Amended subsection (A) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1003 renumbered as Section R18-2-1003 and amended effective August 1, 1988 (Supp. 88-3). Amended effective September 19, 1990 (Supp. 90-3). Amended effective November 14, 1994 (Supp. 94-4). Amended effective October 15, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 2722, effective June 28, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4).

R18-2-1004. Repealed

Historical Note

Former Section R9-3-1004 repealed, new Section R9-3-1004 adopted effective January 13, 1976 (Supp. 76-1). Amended effective January 3, 1977 (Supp. 77-1). Former Section R9-3-1004 renumbered as Section R18-2-1004 and amended effective August 1, 1988 (Supp. 88-3). Section repealed by final rulemaking at 6 A.A.R. 382, effective January 1, 2002 (Supp. 01-4).

tive December 20, 1999 (Supp. 99-4).

R18-2-1005. Time of Inspection

- A.** Area A vehicles subject to an annual test, all area B vehicles, and vehicles sold or offered for sale by dealers required to be inspected under R18-2-1003, shall be inspected at the following times:
1. For a vehicle not covered by a fleet station permit, within 90 days before each registration expiration date;
 2. For a vehicle sold by a dealer licensed to sell used motor vehicles under A.R.S. Title 28, whose place of business is located in area A or area B, before delivery of the vehicle to the retail purchaser;
 3. For a consignment vehicle offered for sale by a dealer licensed to sell used motor vehicles under A.R.S. Title 28 whose place of business is located in area A or area B, before delivery of the vehicle to the retail purchaser. The consignment vehicle shall be inspected at a state station according to R18-2-1006;
 4. For government vehicles:
 - a. For a vehicle not exempt under R18-2-1003(B)(10), within 12 months after acquisition by the operating entity and then annually on or before the anniversary date of the previous inspection;
 - b. For a vehicle exempt under R18-2-1003(B)(10), within 90 days after the vehicle becomes subject to testing, and then annually on or before the anniversary date of the previous inspection and;
 - c. A vehicle is subject to testing on the anniversary of its date of acquisition;
 5. For a vehicle owned by or leased to a person having a valid fleet station permit, at least once within each 12-month period following any original registration or reregistration;
 6. For a vehicle to be registered in area A or area B under conditions not specified in subsection (1) through (5), within 90 days before registration;
 7. For a vehicle registered outside area A and area B and used to commute to the driver's principal place of work located in area A or area B, upon vehicle registration or reregistration;
 8. For a vehicle owned by a person subject to A.R.S. §§ 15-1444(C) or 15-1627(G), within 30 calendar days following the date of initial registration at the institution located in area A or area B and annually thereafter; and
 9. For a vehicle issued a certificate of exemption under R18-2-1023, within 15 calendar days after returning to Arizona, unless an official emissions inspection document from the out-of-state emissions inspection station is submitted with the request for exemption.
- B.** An area A vehicle subject to a biennial test shall be inspected at the following times:
1. For a vehicle not covered by a fleet station permit, within 90 days before the vehicle's emissions compliance expiration date.
 2. For a government vehicle;
 - a. For a vehicle not exempt under R18-2-1003(B)(10), within 12 months after acquisition by the operating entity, and biennially thereafter, on or before the anniversary date of the previous inspection;
 - b. For a vehicle exempt under R18-2-1003(B)(10), within 90 days after the vehicle becomes subject to testing, and biennially thereafter, on or before the anniversary date of the previous inspection; and
 - c. The vehicle becomes subject to testing on the anniversary of its date of acquisition;
 3. For a vehicle owned by or leased to a person having a valid fleet station permit, at least once within each successive 24-month period following original registration;
 4. For a vehicle registered outside area A but used to commute to the driver's principal place of work located in area A, upon vehicle registration and biennially thereafter;
 5. For a vehicle owned by a person subject to A.R.S. §§ 15-1444(C) or 15-1627(G), within 30 days following the date of initial registration at the institution located in area A and biennially thereafter;
 6. For a vehicle to be registered as area A vehicles under conditions not specified in subsections (1) through (5), upon initial registration and within 90 days before the vehicle's emissions compliance expiration date thereafter and;
 7. For a vehicle issued a certificate of exemption under R18-2-1023, within 15 calendar days after returning to Arizona, unless an official emissions inspection document indicating compliance with the emissions requirements from the out-of-state emissions inspection station is submitted with the request for exemption.
- C.** A used vehicle not registered as an area A or area B vehicle shall be inspected according to this Article before registration as an area A or area B vehicle unless exempted by R18-2-1003(B).
- D.** An area B vehicle being registered in area A is subject to the appropriate annual or biennial test from area A before registration even if the emissions compliance period for area B has not yet expired.
- E.** A new vehicle that is exempt from emissions testing under R18-2-1003(B)(10), and subject to either an annual or biennial test, shall be tested before registration in the calendar year that exceeds the vehicle's model year by five years.
- F.** Nothing in this Section shall be construed to waive a late registration fee because of failure to meet inspection requirements by the registration deadline, except that a motor vehicle that fails the initial or subsequent test shall not be subject to a penalty fee for late registration renewal if:
1. The initial test is accomplished before the emissions compliance expiration date, and
 2. The registration renewal is received by MVD within 30 days of the initial test.
- G.** An owner of a vehicle subject to subsection (A)(1), (A)(6), (B)(1), or (B)(6) may submit the vehicle for emissions inspection more than 90 days before the emissions compliance expiration date but the inspection does not satisfy the registration or reregistration testing requirement under R18-2-1003.

Historical Note

Former Section R9-3-1005 repealed, new Section R9-3-1005 adopted effective January 31, 1976 (Supp. 76-1). Amended effective January 3, 1977 (Supp. 77-1). Amended effective March 2, 1978 (Supp. 78-2). Amended effective January 3, 1979 (Supp. 79-1). Amended effective February 20, 1980 (Supp. 80-1). Amended as an emergency effective January 2, 1981 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-2). Former Section R9-3-1005 as amended effective February 20, 1980 and amended as an emergency effective January 2, 1981, now amended effective April 15, 1981 (Supp. 81-2). Amended effective January 1, 1986 (Supp. 85-6). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1005 renumbered as Section R18-2-1005 and subsections (A) and (C) amended effective August 1, 1988 (Supp. 88-3). Amended effective September 19, 1990 (Supp. 90-3).

Amended effective November 14, 1994 (Supp. 94-4).
Amended by final rulemaking at 6 A.A.R. 382, effective
December 20, 1999 (Supp. 99-4). Amended by final
rulemaking at 8 A.A.R. 90, effective January 1, 2002
(Supp. 01-4).

R18-2-1006. Emissions Test Procedures

- A.** Each vehicle inspected at a state station shall be visually inspected before the emissions test for the following unsafe or untestable conditions:
 1. A fuel leak that causes wetness or pooling of fuel;
 2. A continuous engine or transmission oil leak onto the floor;
 3. A continuous engine coolant leak onto the floor such that the engine is overheating or may overheat within a short time;
 4. A vehicle with a tire on a driving wheel with less than 2/32-inch tread, with metal protruberances, unmatched tire size, with obviously low tire pressure as determined by visual inspection, or any other condition that precludes a loaded test for reasons of personnel, equipment, or vehicle safety;
 5. An exhaust pipe that does not exit the rear or side of the vehicle to allow for safe exhaust probe insertion;
 6. An exhaust pipe on a diesel-powered vehicle that does not allow for safe exhaust probe insertion and attachment of opacity meter sensor units;
 7. Improperly operating brakes;
 8. Any vehicle modification or mechanical condition that prevents dynamometer operation; and
 9. Any other condition deemed unsafe or untestable by the inspector, including loud internal engine noise or an obvious exhaust leak.
- B.** A vehicle emissions inspection shall not be performed by an official emissions inspection station on any vehicle towing a heavily loaded trailer, carrying a heavy load, loaded with explosives, or loaded with any hazardous material not used as fuel for the vehicle.
- C.** Any vehicle unsafe or otherwise untestable as determined by the visual inspection shall be rejected without an emissions test. The inspector shall notify the vehicle owner or operator of all unsafe conditions found on rejected vehicles. The state station shall not charge a fee if the vehicle is rejected. The contractor shall not conduct an emissions test on a vehicle rejected for a safety reason or any other untestable condition until the cause for rejection is repaired.
- D.** When conducting the emissions test required by this Section, the vehicle emissions inspector shall meet all of the following requirements:
 1. The vehicle shall be tested in the condition presented, unless rejected under subsection (A), (B), or (C). The vehicle's engine shall be operating at normal temperature and not be overheating as indicated by a gauge, warning light, or boiling radiator. All of the vehicle's accessories shall be turned off during testing.
 2. A vehicle designed to operate with more than one fuel shall be tested on the fuel in use when the vehicle is presented for inspection, except alternative fuel vehicles, as defined in A.R.S. § 43-1086. The inspector shall test the alternative fuel vehicle on each fuel for which it is intended to operate, using the appropriate emissions test procedure and standards for that vehicle. The alternative fuel vehicle shall:
 - a. Be operated a minimum of 30 seconds before testing, after switching fuels;
 - b. Be rejected if it is not able to operate on both fuels; and
 - c. Be rejected if the vehicle operator cannot switch fuels.
 3. A vehicle operated exclusively on propane or natural gas, as defined in A.R.S. § 1-215, shall be exempt from the gas cap and evaporative pressure testing described in subsection (E)(6)(b)(ii), (E)(7)(a), and (F)(7)(a).
- E.** In area A, the inspection test procedures for a vehicle other than a diesel-powered vehicle or a vehicle held for resale by a fleet-licensed motor vehicle dealer shall consist of the following:
 1. A vehicle manufactured with a model year of 1967 through 1980, a nonexempt vehicle with a GVWR greater than 8,500 pounds, and a reconstructed vehicle, except a motorcycle and a constant 4-wheel drive vehicle, is required to annually take and pass a loaded cruise test and a curb idle test, as follows:
 - a. Loaded cruise test. The vehicle's drive wheels shall be placed on a dynamometer and the vehicle shall be operated according to Table 1 of this Article, in drive for automatic transmission or second or higher gear for manual transmission. Overdrive shall not be used for testing. All vehicles shall be driven by the inspector during testing. HC and CO exhaust emissions concentrations shall be recorded after readings have stabilized, or at the end of 90 seconds, whichever occurs first. After exhaust emissions are recorded, engine speed shall be returned to idle for a curb idle test.
 - b. Curb idle test. The test shall be performed with the vehicle in neutral for 1981 and newer vehicles. For 1980 and older vehicles, the test shall be performed in neutral, except that if the vehicle has an automatic transmission, drive shall be used. Engine RPM shall be within ± 100 RPM of the manufacturer's specified idle RPM. HC and CO exhaust emissions concentrations shall be recorded after readings have stabilized, or at the end of 90 seconds, whichever occurs first. A CO₂ plus CO reading of 6% or greater shall be registered to establish test validity. A CO₂ plus CO reading of less than 6% shall be proof of exhaust sample dilution and the vehicle shall be rejected from further emissions inspection until repaired, except when tested at a fleet emissions inspection station.
 - c. Exhaust sampling for a vehicle required to take an annual emissions test under subsection (E)(1) shall comply with subsection (F)(8).
 2. A vehicle with a 1981 or newer model year and a GVWR of 8,500 pounds or less, except a motorcycle, a reconstructed vehicle, a 1996 or newer OBD-equipped vehicle or a constant 4-wheel drive vehicle, is required to biennially take and pass a transient loaded emissions test and an evaporative system pressure test as follows:
 - a. The transient loaded emissions test shall consist of 147 seconds of mass emissions measurement using a constant volume sampler while the vehicle is driven by an inspector through a computer-monitored driving cycle on a dynamometer with inertial weight settings appropriate for the weight of the vehicle. The driving cycle shall include the acceleration, deceleration, and idle operating modes described in Table 4. The 147 second sequence may be ended earlier using a fast pass or fast fail algorithm. A retest algorithm shall be used to determine if a test failure is due to insufficient vehicle preconditioning. As determined by the retest algorithm, up to two additional

- tests may be performed on a failing vehicle. Drive shall be used for automatic transmissions and first gear shall be used to begin for manual transmissions. Exhaust emissions concentrations in grams per mile for HC, CO, NO_x and CO₂ shall be recorded continuously beginning with the first second. The inspector shall reject a vehicle with an audible or visible exhaust leak from emissions testing.
- b. The evaporative system pressure test shall consist of the following steps in sequence:
 - i. Connect the test equipment to either the fuel tank vent hose at the canister or the fuel tank filler neck. The gas cap shall be checked to determine that cap leakage does not exceed 60 cubic centimeters of air per minute at a pressure of 30 inches of water gauge;
 - ii. Pressurize the system to 14 ± 0.5 inches of water without exceeding 26 inches of water system pressure;
 - iii. Close off the pressure source, seal the evaporative system, and monitor pressure decay for no more than two minutes.
 - c. For a vehicle requiring a transient loaded emissions test under subsection (E)(2)(a), all testing and test equipment shall conform to "IM240 & Evap Technical Guidance," EPA420-R-98-010, EPA, August 1998, incorporated by reference, and no future editions or amendments, except that the transient driving cycle in Table 4 of this Article shall be used. A copy of the incorporated material is on file with the Department and the Secretary of State, and may be obtained at EPA's National Vehicle and Fuel Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, MI 48105-2498.
3. A vehicle with a 1996 or newer model year and a GVWR of 8500 pounds or less, except a motorcycle or a reconstructed vehicle, is required to biennially take and pass an OBD test and a functional gas cap test as follows:
 - a. The OBD test shall consist of:
 - i. A visual inspection of the MIL function; and
 - ii. An electronic examination of the OBD computer by connecting a scan tool to the data link connector and interrogating the OBD system to determine vehicle readiness status, MIL status, and presence of diagnostic trouble codes.
 - b. The OBD test and test equipment shall conform to "Performing Onboard Diagnostic System Checks as Part of a Vehicle Inspection and Maintenance Program," EPA420-R-01-015, EPA, June 2001, incorporated by reference, and no future editions or amendments. A copy of this incorporated material is on file with the Department and the Secretary of State, and may be obtained at the EPA's National Vehicle and Fuel Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, MI, 48105-2498; and
 - c. The functional gas cap test shall comply with subsection (E)(7)(a).
 4. A motorcycle, or a constant 4-wheel drive vehicle except one requiring an OBD emissions test under subsection (E)(3), shall take and pass only a curb idle test according to subsection (F)(1). An all-terrain vehicle (ATV), as defined in A.R.S. § 28-101, shall be tested as a motorcycle.
 5. A vehicle with a 1975 or newer model year is required to take and pass a liquid fuel leak inspection annually or biennially according to subsections (E)(1) or (2) as follows:
 - a. For purposes of this subsection, "liquid fuel leak" means any fuel emanating from a vehicle's fuel delivery, metering or evaporation systems in liquid form that has created a visible drop or more of fuel on, around, or under a component of a vehicle's fuel delivery, metering, or evaporation system.
 - b. With the engine running, the vehicle emissions inspector shall visually inspect the following components of the vehicle, if they are exposed and visually accessible, for liquid fuel leaks:
 - i. Gasoline fuel tanks;
 - ii. Gasoline fill pipes, associated hoses and fuel tank connections;
 - iii. Gas caps;
 - iv. External fuel pumps;
 - v. Fuel delivery and return lines and hoses;
 - vi. Fuel filters;
 - vii. Carburetors;
 - viii. Fuel injectors;
 - ix. Fuel pressure regulators;
 - x. Charcoal canisters; and
 - xi. Fuel vapor hoses.
 - xii. Any valves connected to any other fuel evaporative component.
 - c. The liquid fuel leak inspection required by this subsection is a visual inspection only. The vehicle emissions inspector is not required to perform any disassembly of the vehicle to inspect for liquid fuel leaks. No special tools or equipment, other than a flashlight and mirror, are required and no raising, hoisting, or lifting of the vehicle is required.
 - d. The vehicle emissions inspector shall indicate on the vehicle inspection report the location of any liquid fuel leak.
 - e. Nothing in this subsection shall prohibit a vehicle emissions inspector from refusing to inspect a vehicle under subsections (A), (B), or (C) or from terminating an inspection if a liquid fuel leak presents a safety hazard.
 - f. A vehicle operated exclusively by compressed natural gas (CNG), liquid natural gas (LNG), or liquid petroleum gas (LPG) shall be exempt from the liquid fuel leak inspection.
 6. The emissions pass-fail determination for a vehicle tested under subsection (E) shall be made as follows:
 - a. A vehicle tested under subsection (E)(1), that does not exceed the loaded cruise mode or curb idle mode HC and CO emissions standards listed in Table 2 for the vehicle, complies with the emissions standards in Table 2. The loaded cruise test standards in Table 2 apply to a fleet vehicle tested with the 2,500 RPM unloaded fast idle test under R18-2-1019(E).
 - b. A vehicle tested under subsection (E)(2) shall meet the standards in Table 3 and pass the evaporative system pressure test as follows:
 - i. Table 3 Standards. A vehicle shall meet either the composite standard for the whole test or the phase 2 standard for seconds 65 to 146. The Department may implement a testing algorithm for fast pass, fast fail, or both, provided that the algorithm is reliable in accurately predicting the final outcome of the entire cycle. A vehicle not meeting either the composite or phase 2 standard shall fail the emissions test.

- ii. Evaporative System Pressure Test. A vehicle fails the emissions test if the evaporative system cannot maintain a system pressure above eight inches of water for at least two minutes after being pressurized to 14 ± 0.5 inches of water. Additionally, a vehicle fails the evaporative test if the canister is missing or damaged, if a hose or electrical connection is missing, routed incorrectly, or disconnected, according to the vehicle emissions control information label, or if the gas cap is missing.
- c. A vehicle that operates on natural gas complies with HC emissions standards if the HC emissions value does not exceed the applicable standard in subsection (E)(6)(a) or (b), if:
 - i. Multiplied by 0.19, when using an analyzer with a flame ionization detector, or
 - ii. Multiplied by 0.61, when using an NDIR analyzer.
- d. A motorcycle or a constant 4-wheel drive vehicle, except one requiring an OBD emissions test under subsection (E)(3), that does not exceed the curb idle mode HC and CO emissions standards listed in Table 2 on either the first curb idle test or the second curb idle test passes the emissions test.
- e. A vehicle tested under subsection (E)(3) shall:
 - i. Fail if the data link connector is missing, tampered, or otherwise inoperable during any OBD test;
 - ii. Fail if the MIL does not illuminate at all when the ignition key is turned to the key on, engine off position, or does not illuminate briefly during engine start during any OBD test;
 - iii. Fail if the MIL illuminates continuously or flashes after the engine has been started during any OBD test;
 - iv. Fail if a diagnostic trouble code is present and the MIL status, as indicated by the scan tool, is commanded on during any OBD test.
 - v. Be rejected from an initial OBD test and required to take and pass a transient loaded test under subsection (E)(2) if the number of unset readiness indicators, excluding continuous indicators, is three or more for a model year 1996-2000 vehicle, or two or more for a model year 2001 and newer vehicle.
 - vi. Be rejected from an OBD retest if the number of unset readiness indicators, excluding continuous indicators, exceeds the number allowed in subsection (v).
 - vii. Fail the functional gas cap test if the gas cap does not comply with subsection (E)(7)(a).
- f. A vehicle tested under subsection (E)(5) shall fail the inspection if a vehicle emissions inspector detects a liquid fuel leak.
- g. A vehicle that exceeds the applicable emissions standards for the tests described in subsections (E)(1) and (E)(2)(a), or fails the OBD test described in subsection (E)(3), fails the emissions test and shall not be reinspected until a low-emissions tune-up is performed as described in R18-2-1010. A vehicle that fails the evaporative system pressure test described in subsection (E)(2)(b) shall not be reinspected until repaired as required in R18-2-1010(D)(1) and (2). A vehicle that fails the functional gas cap test described in subsection (E)(7)(a) shall not be reinspected until repaired as required in R18-2-1009(B). A vehicle that fails the liquid fuel leak test described in subsection (E)(5) shall not be reinspected until repaired as required in R18-2-1010(E).
- 7. A vehicle required to take an annual emissions test in area A shall, at the time of the test, undergo a tampering inspection based on the original configuration of the vehicle as manufactured. The applicable emissions system requirements shall be verified by the "VEHICLE EMISSION CONTROL INFORMATION" label. A vehicle that fails any portion of the tampering inspection shall be repaired according to R18-2-1009 before reinspection unless the owner provides the written statement required in R18-2-1008(B). "Original configuration" for a foreign-manufactured vehicle means the design and construction of a vehicle produced by the manufacturer for original entry and sale in the United States. The tampering inspection shall consist of the following:
 - a. Any vehicle emissions tested, except one with a vented fuel system, shall have a functional test of the gas cap to determine that cap leakage does not exceed 60 cubic centimeters of air per minute at a pressure of 30 inches of water gauge. A vehicle with a vented fuel system shall be checked for the presence of a properly fitting fuel cap.
 - b. For a 1975 and newer model year vehicle:
 - i. A visual inspection to determine the presence and proper installation of each required catalytic converter, if applicable;
 - ii. An examination to determine the presence of an operational air pump, if applicable; and
 - iii. A visual inspection to determine the presence of an operational positive crankcase ventilation system and evaporative control system, if applicable.
- F. In area B, the inspection test procedures for a vehicle other than a diesel-powered vehicle shall consist of the following:
 - 1. An area B vehicle with a model year of 1967 through 1980 shall take and pass only a curb idle test. The curb idle test shall be performed with the vehicle in drive for automatic transmissions or in neutral for manual transmissions. Engine RPM shall be within ± 100 RPM of the manufacturer's specified idle RPM. HC and CO exhaust emissions concentrations shall be recorded after readings have stabilized, or at the end of 30 seconds, whichever occurs first. A CO₂ plus CO reading of 6% or greater shall be registered to establish test validity. A CO₂ plus CO reading less than 6% shall be proof of exhaust sample dilution and the vehicle shall be rejected from further emissions inspection until repaired, except when tested at a fleet emissions inspection station. If the vehicle fails the curb idle test, and if permitted by the vehicle operator, the vehicle shall be conditioned according to one of the following conditioning procedures:
 - a. Fast-idle conditioning procedure. The vehicle shall be conditioned by increasing engine speed to 2,500, ± 300 RPM, for up to 30 seconds with the transmission in neutral. HC and CO exhaust emissions concentrations shall be recorded after readings have stabilized, or at the end of 30 seconds, whichever occurs first. The conditioning procedure standards in Table 2 are for diagnostic and advisory information only. After exhaust emissions are recorded, the engine speed shall be returned to curb idle for a second idle test. The fast-idle conditioning procedure

- may be used on a vehicle at a state station instead of the loaded conditioning procedure if any of the following occurs:
- i. The vehicle has a tire on a driving wheel with less than 2/32-inch tread, with metal protruberances, with visibly low tire pressure as determined by visual inspection, or any other condition that precludes loaded conditioning for reasons of personnel, equipment, or vehicle safety;
 - ii. The vehicle is driven by a person who, because of physical incapacity, is unable to yield the driver's seat to the vehicle emissions inspector;
 - iii. The driver refuses to yield the driver's seat to the vehicle emissions inspector; or
 - iv. The vehicle cannot be tested according to Table 1 because of the vehicle's inability to attain the speeds specified.
- b. Loaded conditioning procedure. For a vehicle other than a motorcycle or a constant 4-wheel drive vehicle, the vehicle's drive wheels shall be placed on a dynamometer and the vehicle shall be operated according to Table 1, in drive for automatic transmission, or second or higher gear for manual transmission. All front wheel drive vehicles shall be driven by the inspector. HC and CO exhaust emissions concentrations shall be recorded after readings have stabilized, or at the end of 30 seconds, whichever occurs first. The conditioning procedure standards in Table 2 are for diagnostic and advisory information only. After exhaust emissions are recorded, engine speed shall be returned to curb idle for a second idle test.
 - c. Following one of the conditioning procedures in subsection (F)(1)(a) or (b), the vehicle shall be retested according to the curb idle test procedure in subsection (F)(1).
2. An area B vehicle with a 1981 or newer model year, except a motorcycle, a constant 4-wheel drive vehicle, or a 1996 and newer vehicle equipped with OBD, shall take and pass a loaded cruise test and curb idle test, as follows:
 - a. Loaded Cruise Test. The vehicle's drive wheels shall be placed on a dynamometer and the vehicle shall be operated according to Table 1, in drive for automatic transmission or second or higher gear for manual transmission. Overdrive shall not be used. All front wheel drive vehicles shall be driven by the inspector. HC and CO exhaust emissions concentrations shall be recorded after readings have stabilized, or at the end of 90 seconds, whichever occurs first. After exhaust emissions are recorded, engine speed shall be returned to idle for a curb idle test.
 - b. Curb Idle Test. The test shall be performed with the vehicle in neutral. Engine RPM shall be within ± 100 RPM of the manufacturer's specified idle RPM. HC and CO exhaust emissions concentrations shall be recorded after readings have stabilized, or at the end of 90 seconds, whichever occurs first. A CO₂ plus CO reading of 6% or greater shall be registered to establish test validity, except when tested at a fleet inspection station. A CO₂ plus CO reading less than 6% shall be proof of exhaust sample dilution and the vehicle shall be rejected from further emissions inspection until repaired.
 3. A vehicle with a model year of 1996 or newer and a GVWR of 8500 pounds or less, except a motorcycle or a reconstructed vehicle, is required to annually take and pass an OBD test and a functional gas cap test as follows:
 - a. The OBD test shall consist of:
 - i. A visual inspection of the MIL function; and
 - ii. An electronic examination of the OBD computer by connecting a scan tool to the data link connector and interrogating the OBD system to determine vehicle readiness status, MIL status, and presence of diagnostic trouble codes;
 - b. The OBD test and test equipment shall conform to "Performing Onboard Diagnostic System Checks as Part of a Vehicle Inspection and Maintenance Program," EPA420-R-01-015, EPA, June 2001, incorporated by reference, and no future editions or amendments. A copy of this incorporated material is on file with the Department and the Secretary of State and may be obtained at the EPA's National Vehicle and Fuel Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, MI, 48105-2498; and
 - c. The functional gas cap test shall comply with subsection (F)(7)(a).
 4. A motorcycle or a constant 4-wheel drive vehicle, except one requiring an OBD emissions test under subsection (F)(3), shall take and pass only a curb idle test according to subsection (F)(1). An all-terrain vehicle (ATV), as defined in A.R.S. § 28-101, shall be tested as a motorcycle. If the vehicle fails the curb idle test, and if permitted by the vehicle operator, the vehicle shall be conditioned according to the fast idle conditioning procedure required in subsection (F)(1)(a). Following conditioning, the vehicle shall be retested according to the curb idle test procedure in subsection (F)(1).
 5. A vehicle with a 1975 or newer model year and annually tested under subsections (F)(1) or (2) is required to take and pass a liquid fuel leak inspection according to subsections (E)(5)(a) through (f).
 6. The emissions pass-fail determination shall be made as follows:
 - a. A vehicle with a model year of 1967 through 1980, except a motorcycle or a constant 4-wheel drive vehicle, that does not exceed the curb idle mode HC and CO emissions standards in Table 2 on either the first or second curb idle test, complies with the minimum emissions standards contained in Table 2.
 - b. A vehicle with a 1981 or newer model year, except a motorcycle or a constant 4-wheel drive vehicle, that does not exceed the loaded cruise mode or curb idle mode HC and CO emissions standards listed in Table 2, complies with the minimum emissions standards in Table 2. The loaded cruise test standards specified in Table 2 shall apply to fleet vehicles tested with the 2,500 RPM unloaded fast idle test.
 - c. A vehicle that operates on natural gas complies with HC emissions standards if the HC emissions value, as determined by an NDIR analyzer, multiplied by 0.61 does not exceed the applicable standard in subsection (F)(6)(a) or (b).
 - d. A motorcycle or a constant 4-wheel drive vehicle, except one requiring an OBD emissions test under subsection (F)(3), that does not exceed the curb idle mode HC and CO emissions standards in Table 2 on either the first or second curb idle test complies with the minimum emissions standards in Table 2.
 - e. A vehicle that exceeds the applicable emissions standards, or fails the OBD test described in subsection (F)(3), fails the emissions test and shall have a

- low emissions tune-up as described in R18-2-1010 before reinspection. A vehicle that fails the functional gas cap test described in subsection (F)(3)(c) shall not be reinspected until repaired as required in R18-2-1009(B).
- f. A vehicle tested under subsection (F)(3) shall:
 - i. Fail if the data link connector is missing, tampered, or otherwise inoperable during any OBD test;
 - ii. Fail if the MIL does not illuminate at all when the ignition key is turned to the key on, engine off position, or does not illuminate briefly during engine start during any OBD test;
 - iii. Fail if the MIL illuminates continuously or flashes after the engine has been started during any OBD test;
 - iv. Fail if a diagnostic trouble code is present and the MIL status, as indicated by the scan tool, is commanded on during any OBD test;
 - v. Be rejected from an initial OBD test and required to take and pass a loaded cruise test and curb idle test under subsection (F)(2) if the number of unset readiness indicators, excluding continuous indicators, is three or more for a model year 1996-2000 vehicle, or two or more for a model year 2001 and newer vehicle;
 - vi. Be rejected from an OBD retest if the number of unset readiness indicators, excluding continuous indicators, exceeds the number allowed in subsection (v); and
 - vii. Fail the functional gas cap test if the gas cap does not comply with subsection (F)(7)(a).
 - g. A vehicle tested under subsection (F)(5) shall fail the inspection if a vehicle emissions inspector detects a liquid fuel leak. A vehicle that fails the liquid fuel leak test shall not be reinspected until repaired as required in R18-2-1010(E).
7. A vehicle required to take an emissions test in area B, except a vehicle required to take an OBD test as described in subsection (F)(3), shall at the time of the test, undergo a tampering inspection based on the original configuration of the vehicle as manufactured. The applicable emissions system requirements shall be verified by the "VEHICLE EMISSION CONTROL INFORMATION" label. A vehicle that fails any portion of the tampering inspection shall be repaired according to R18-2-1009 before reinspection unless the owner provides the written statement required in R18-2-1008(B). "Original configuration" for a foreign manufactured vehicle means the design and construction of a vehicle produced by the manufacturer for original entry and sale in the United States. The tampering inspection shall consist of the following:
 - a. Any vehicle emissions tested, except one with a vented fuel system, shall have a functional test of the gas cap to determine that cap leakage does not exceed 60 cubic centimeters of air per minute at a pressure of 30 inches of water gauge. A vehicle with a non-sealing gas cap shall be checked for the presence of a properly fitting gas cap.
 - b. For a 1975 or newer model year vehicle:
 - i. A visual inspection to determine the presence and proper installation of each required catalytic converter, if applicable; and
 - ii. An examination to determine the presence of an operational air pump, if applicable.
 8. Exhaust sampling in area B shall comply with the following:
 - a. All CO and HC emissions analyzers shall have water traps incorporated in the sampling lines. Sampling probes shall be capable of taking undiluted exhaust samples from a vehicle exhaust system.
 - b. A vehicle, other than a diesel-powered vehicle, shall be inspected with a NDIR analyzer capable of determining concentrations of CO and HC within the ranges and tolerances specified in Table 5.
 - c. A vehicle with multiple exhaust pipes shall be inspected by collecting and averaging samples by one of the following methods:
 - i. Collect separate samples from each exhaust pipe and use the average concentration to determine the test result;
 - ii. Use manifold exhaust probes to simultaneously sample approximately equal volumes from each pipe; or
 - iii. Use manifold exhaust pipe adapters to collect approximately equal volume samples from each pipe.
- G. The following apply to all testing under subsection (E) or (F):
 1. A rotary piston engine shall be inspected as a 4-stroke engine with four cylinders or less;
 2. A turbine engine shall be inspected as a 4-stroke engine with more than four cylinders; and
 3. A vehicle in which a diesel engine has been replaced with a gas engine shall be inspected as a gas-powered vehicle of the same vehicle model year. The vehicle shall not pass the inspection unless each catalytic converter, air pump, gas cap, and other emissions control device applicable to the vehicle model year and the same or more recent year engine configuration is properly installed and in operating condition.
 - H. In area A, the inspection test procedure for a diesel-powered vehicle is as follows:
 1. A diesel-powered vehicle with a GVWR greater than 8,500 pounds shall be tested with a procedure that conforms to Society of Automotive Engineers standard J1667, February 1996, incorporated by reference and on file with the Department and the Secretary of State. This incorporation by reference contains no future editions or amendments. A copy of this referenced material may be obtained at Society of Automotive Engineers, 400 Commonwealth Dr., Warrendale, PA 15096-0001. The procedure shall utilize the corrections for ambient test conditions in Appendix B of J1667 for all tests. The test results shall be reported as the percentage of smoke opacity. Emissions pass-fail determinations are as follows:
 - a. A vehicle powered by a 1991 or later model year diesel engine fails if the J1667 final test result is greater than 40%, unless the engine family is exempted from the 40% standard under subsection (H)(1)(e);
 - b. A vehicle powered by a pre-1991 model year diesel engine fails if the J1667 final test result is greater than 55%, unless the engine family is exempted from the 55% standard under subsection (H)(1)(e);
 - c. The engine model year is determined by the emission control label. If the emission control label is missing, illegible, or incorrect, the test standard shall be 40%, unless a correct, legible, emission control label replacement is attached to the vehicle within 30 days of the inspection;

- d. A vehicle that exceeds the opacity standard in subsection (H)(1)(a) or (b) fails the emissions test. Before reinspection, the vehicle shall have a low emissions tune-up as described in R18-2-1010(H);
 - e. The Director shall exempt any engine family from the standards in subsections (H)(1)(a) or (b) if the engine manufacturer demonstrates either of the following:
 - i. The engine family exhibits smoke opacity greater than the standard when in good operating condition and adjusted to the manufacturer's specifications. The Director shall identify a technologically appropriate less stringent standard based on a review of data obtained from engines in good operating condition and adjusted to manufacturer's specifications; or
 - ii. The engine family is exempted from an equivalent standard based on J1667 by the executive officer of the California Air Resources Board (CARB). The Director shall allow the engine family to comply with any technologically appropriate less stringent standard identified by the executive officer of CARB; and
 - f. A demonstration under subsection (H)(1)(e)(i) shall be based on data from at least three vehicles. Data from official inspections under subsection (H)(1) showing that vehicles in the engine family meet the standard may be used to rebut the demonstration. The Director shall implement any new standard resulting from each exemption as soon as practicable for all subsequent tests and provide notice at all affected test stations and fleets.
2. A diesel-powered vehicle with a GVWR greater than 4,000 pounds and less than or equal to 8,500 pounds shall be tested by a loaded dynamometer test by applying a single load of 30 HP, \pm 2 HP, while operated at 50 MPH. A diesel-powered vehicle with a GVWR of 4,000 pounds or less shall be tested by a loaded dynamometer test by applying a single load of between 6.4 - 8.4 HP while operated at 30 MPH. For all diesel-powered vehicles with a GVWR less than or equal to 8,500 pounds:
 - a. The emissions pass-fail determination shall be made as follows:
 - i. The opacity reading for a period of 10 consecutive seconds with the engine under applicable loading shall be compared to the opacity standard in R18-2-1030(B). A vehicle that does not exceed the applicable opacity standard in R18-2-1030(B) complies with the minimum emissions standards.
 - ii. A vehicle that exceeds the applicable opacity standard fails the emissions test. Before reinspection, the vehicle shall have a low emissions tune-up as described in R18-2-1010.
 - b. Exhaust sampling shall comply with the following:
 - i. For a diesel-powered vehicle equipped with multiple pipes, separate measurements shall be made on each exhaust pipe. The reading taken from the exhaust pipe that has the highest opacity reading shall be used for comparison with the applicable emissions standard.
 - ii. A vehicle shall be inspected with either a full-flow or sampling-type opacity meter. The opacity meter shall be a direct reading, continuous reading light extinction-type using a collimated light source and photo-electric cell, accurate to a value within \pm 5% of filter value.
- I. In area B, the inspection test procedure for a diesel-powered vehicle is as follows:
 1. A diesel-powered vehicle with a GVWR greater than 26,000 pounds or having tandem axles shall be tested according to one of the following methods:
 - a. The vehicle shall be tested on a chassis dynamometer beginning with no power absorption by selecting a gear ratio that produces a maximum vehicle speed of 30-35 MPH at governed or maximum rated RPM. If the vehicle has a manual transmission or an automatic transmission with individual gear selection, the engine shall be operated at governed or maximum rated engine RPM, at normal operating temperature under a power absorption load applied to the dynamometer until the loading reduces the engine RPM to 80% of the governed speed at wide-open throttle position. If the vehicle has an automatic transmission and automatic gear kickdown, the engine shall be loaded to a speed just above the kickdown speed or 80% of the governed speed, whichever is greater. If the chassis dynamometer does not have enough horsepower absorption capability to lug the engine down to these speeds, the vehicle's brakes may be used to assist the dynamometer.
 - b. If a chassis dynamometer is not available, the vehicle shall be tested by being lugged by its own brakes by selecting a gear ratio that produces a maximum speed of 10-15 MPH at governed engine RPM or maximum rated RPM and then loading the engine by applying the brakes until the engine RPM is lugged down to 80% of the governed or maximum rated RPM at wide-open throttle position. If the vehicle does not have a tachometer, the vehicle may be loaded to 80% of governed or maximum rated speed.
 2. A diesel-powered vehicle without tandem axles and having a GVWR greater than 10,500 pounds and less than or equal to 26,000 pounds shall be tested according to one of the following methods:
 - a. The vehicle shall be tested on a chassis dynamometer beginning with no power absorption by selecting a gear ratio that produces a maximum vehicle speed of 30-35 MPH at governed or maximum rated RPM. If the vehicle has a manual transmission or an automatic transmission with individual gear selection, the engine shall be operated at governed or maximum rated engine RPM, at normal operating temperature under a power absorption load applied to the dynamometer until such loading reduces the engine RPM to 80% of the governed speed at wide-open throttle position. If the vehicle has an automatic transmission and automatic gear kickdown, the engine shall be loaded to a speed just above the kickdown speed or 80% of governed speed, whichever is greater. If the chassis dynamometer does not have enough horsepower absorption capability to lug the engine down to these speeds, the vehicle's brakes may be used to assist the dynamometer;
 - b. The vehicle shall be tested by applying a single load of 30 HP, \pm 2 HP, while operated at 50 MPH; or
 - c. The vehicle shall be tested by being lugged by its own brakes by selecting a gear ratio that produces a maximum speed of 10-15 MPH at governed engine

RPM or maximum rated RPM and then loading the engine by applying the brakes until the engine RPM is lugged down to 80% of the governed or maximum rated RPM at wide-open throttle position. If the vehicle does not have a tachometer, the vehicle may be loaded to 80% of governed or maximum rated speed.

3. A diesel-powered vehicle with a GVWR of greater than 4,000 pounds and less than or equal to 10,500 pounds shall be tested by a loaded dynamometer test by applying a single load of 30 HP, \pm 2 HP, while operated at 50 MPH.
4. A diesel-powered vehicle with a GVWR of 4,000 pounds or less shall be tested by a loaded dynamometer test by applying a single load of between 6.4 - 8.4 HP while operated at 30 MPH.
5. The emissions pass-fail determination shall be performed:
 - a. The opacity reading during a period of 10 consecutive seconds with the engine under applicable loading specified in subsections (I)(1) through (4) shall be compared to the opacity standard specified in R18-2-1030(B). A vehicle that does not exceed the opacity standard in R18-2-1030(B) complies with the minimum emissions standards.
 - b. A vehicle that exceeds the standard in R18-2-1030(B) fails the emissions test. Before reinspection, the vehicle shall have a low emissions tune-up as described in R18-2-1010.
6. Exhaust sampling shall comply with the following:
 - a. For a diesel-powered vehicle equipped with multiple exhaust pipes, separate measurements shall be made on each exhaust pipe. The reading taken from the exhaust pipe that has the highest opacity reading shall be used for comparison with the standard in R18-2-1030(B).
 - b. A vehicle shall be inspected with either a full-flow or sampling-type opacity meter. The opacity meter shall be a direct reading, continuous reading light extinction-type using a collimated light source and photo-electric cell, accurate to a value within \pm 5% of filter value.
- J. All diesel-powered vehicles shall undergo a tampering inspection under subsection (E)(7).

Historical Note

Former Section R9-3-1006 repealed, new Section R9-3-1006 adopted effective January 13, 1976 (Supp. 76-1). Amended effective November 1, 1976 (Supp. 76-5). Amended effective March 2, 1978 (Supp. 78-2). Amended effective January 3, 1979 (Supp. 79-1). Amended effective February 20, 1980 (Supp. 80-1). Former Section R9-3-1006 repealed, new Section R9-3-1006 adopted as an emergency effective January 2, 1981 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1006 as amended effective February 20, 1980 repealed and a new Section R9-3-1006 adopted as an emergency effective January 2, 1981 now adopted and amended effective April 15, 1981 (Supp. 81-2). Amended effective January 1, 1986 (Supp. 85-6). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1006 renumbered as Section R18-2-1006 and subsections (A), (C) and (D) amended effective August 1, 1988 (Supp. 88-3). Amended effective September 19, 1990 (Supp. 90-3). Amended effective November 14, 1994 (Supp. 94-4). Amended effective October 15, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 382, effective

December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 2722, effective June 28, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 14 A.A.R. 2834, effective July 1, 2008 (Supp. 08-3).

R18-2-1007. Evidence of Meeting State Inspection Requirements

- A. Vehicles required to be inspected under this Article shall pass inspection before registration by meeting the requirements of R18-2-1006, unless waived under R18-2-1008.
- B. The MVD or its agent may use the MVD motor vehicles emissions database, if available, as evidence that a vehicle complies with the requirements of this Article.
- C. If the MVD motor vehicles emissions database is not available, the MVD or its agent shall accept any of the following documents, when complete, unaltered, and dated no more than 90 days before registration expiration date, as evidence that a vehicle complies with the requirements of this Article unless the MVD or its agent has reason to believe it is false. Documents accompanying a late registration may be dated subsequent to the registration expiration date:
 1. Certificate of compliance,
 2. Certificate of waiver (except from auto dealers licensed to sell used motor vehicles under Title 28),
 3. Certificate of exemption, or
 4. Director's certificate,
 5. The upper section of the vehicle inspection report with "PASS" in the final results block.
- D. A complete certificate of inspection dated within 12 months of registration for an annually tested vehicle and 24 months for a biennially tested vehicle shall be accepted by the MVD or its agent as evidence that a vehicle is in compliance with the requirements of this Article unless the MVD or its agent has reason to believe it is false. A certificate corrected according to R18-2-1019(F)(1)(a) shall be accepted by the MVD or its agent.
- E. Documents listed in subsection (C) and originating in area B are not acceptable for meeting the inspection requirements in area A.
- F. Government vehicles for which only weight fees are paid shall be registered without evidence of inspection.

Historical Note

Former Section R9-3-1007 repealed, new Section R9-3-1007 adopted effective January 13, 1976 (Supp. 76-1). Former Section R9-3-1007 repealed, new Section R9-3-1007 adopted effective January 3, 1977 (Supp. 77-1). Amended effective February 20, 1980 (Supp. 80-1). Amended effective January 1, 1986 (Supp. 85-6). Former Section R9-3-1007 renumbered without change as Section R18-2-1007 (Supp. 88-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4).

R18-2-1008. Procedure for Issuing Certificates of Waiver

- A. Unless prohibited under subsection (C), (D), or (E), a certificate of waiver shall be issued subsequent to reinspection by a state inspector at a state or Department station to a vehicle that failed the emissions inspection or the emissions and tampering inspections when it is determined by repair receipts, emissions test results, evidence of repairs performed, underhood verification, or similar evidence that the requirements of R18-2-1009 and R18-2-1010 have been met, or for emissions failures only, any further repairs within the repair cost limit would be inef-

fective. A waiver may be denied if a waiver request is based upon repair estimates and the state inspector demonstrates that a recognized repair facility can repair or improve the vehicle's test readings within the repair cost limit.

- B. A certificate of waiver may be issued to a vehicle failing the tampering inspection if the vehicle owner provides to the Director a written statement from an automobile parts or repair business that an emission control device necessary to repair the tampering is not available and cannot be obtained from any usual source of supply, and if all requirements of R18-2-1008(A) have been met. All written statements are subject to verification for authenticity and accuracy by the Department. The Department may deny a certificate of waiver if the state inspector has any reason to believe the written statement is false or a usual source of supply exists and the device necessary to repair the tampering is available. Certificates of waiver for tampered vehicles may be issued conditionally for a specified period, not to exceed 90 days, that allows sufficient time for the procurement and installation of a proper emissions control device. A receipt or bill from a vehicle repair facility or automobile parts store shall be an acceptable proof of purchase. Before the end of the specified time period, the vehicle owner shall present to the Director proof of purchase and installation of the device. The Department shall track all issued conditional certificates of waiver and if no proof of purchase and installation is received before the end of the specified time period, the Director shall forward to the Department of Motor Vehicles an order to cancel the vehicle's registration.
- C. The Director shall not issue a waiver to a vehicle that has failed the emissions test due to the catalytic converter system. A vehicle shall have failed the emissions test due to the catalytic converter system if:
 1. The converter's oxidation efficiency, as measured by the Catalyst Efficiency Test Procedure in R18-2-1031(A), is less than 75%; and
 2. No engine or fuel system malfunctions exist that would prevent the proper operation of a catalytic converter.
- D. The Director shall not issue a waiver to a vehicle failing the emission test with an HC, CO, NO_x, or opacity emission level greater than two times the pass-fail standard in R18-2-1006, unless the vehicle is repaired so that each emission level is less than two times the pass-fail standard.
- E. After January 1, 1997, the Director shall not issue a certificate of waiver to the same vehicle more than once.
- F. The fee for a certificate of waiver under this Section shall be fixed by the Director according to A.R.S. § 49-543, and shall be based upon the Director's estimated costs to the state for administering and enforcing the provisions of this Article for issuance of certificates of waiver under this Section. The fee shall be payable directly to the Department of Environmental Quality at the time the certificate of waiver is issued.

Historical Note

Former Section R9-3-1008 repealed, new Section R9-3-1008 adopted effective January 13, 1976 (Supp. 76-1).

Former R9-3-1008 repealed, new Section R9-3-1008 adopted effective January 3, 1977 (Supp. 77-1). Amended effective March 2, 1978 (Supp. 78-2). Amended effective January 3, 1979 (Supp. 79-1). Amended as an emergency effective January 2, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1008 as amended effective January 3, 1979, and amended as an emergency effective January 2, 1981, now amended effective April 15, 1981 (Supp. 81-2). Amended effective January 1, 1986 (Supp. 85-6). Amended subsection (A) and added subsection (D) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Sec-

tion R9-3-1008 renumbered as Section R18-2-1008 and amended effective August 1, 1988 (Supp. 88-3).

Amended effective November 14, 1994 (Supp. 94-4).

Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4).

R18-2-1009. Tampering Repair Requirements

- A. If a vehicle fails the visual inspection for properly installed catalytic converters, the converters shall be replaced with new or reconditioned OEM converters or equivalent new aftermarket converters. The Department shall provide names of acceptable aftermarket converters at the time of inspection on the repair requirement list.
- B. If a vehicle fails the functional gas cap pressure test described in R18-2-1006(E)(7)(a) or (F)(7)(a), the gas cap shall be replaced with one that meets those specifications. If a vehicle designed with a vented system fails a visual inspection for the presence of a gas cap, a properly fitting gas cap shall be installed on the vehicle.
- C. If a vehicle fails the visual inspection for the presence of an operational air pump, a new, used, or reconditioned, operational air pump shall be properly installed on the vehicle.
- D. If a vehicle fails the visual inspection for the presence or malfunction of the positive crankcase ventilation system, the system shall be repaired or replaced with OEM or equivalent aftermarket parts.
- E. If a vehicle fails the visual inspection for the presence or malfunction of the evaporative control system, the system shall be repaired or replaced with OEM or equivalent aftermarket parts.

Historical Note

Adopted effective January 13, 1976 (Supp. 76-1).

Repealed effective January 3, 1977 (Supp. 77-1). New Section R9-3-1009 adopted effective January 1, 1986 (Supp. 85-6). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1009 renumbered without change as Section R18-2-1009 (Supp. 88-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4).

Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 14 A.A.R. 2834, effective July 1, 2008 (Supp. 08-3).

R18-2-1010. Low Emissions Tune-up, Emissions and Evaporative System Repair

- A. A low emissions tune-up on a nondiesel-powered vehicle consists of the following procedures:
 1. Emissions Failure Diagnosis. For a computer-controlled vehicle, the on-board-diagnostics shall be accessed and any stored trouble codes recorded. For a model year 1996 or newer vehicle equipped with an OBD system, a compatible scan tool shall be used to access and record diagnostic trouble codes. The following instruments or equipment are required to complete a low emissions tune-up:
 - a. Tachometer;
 - b. Timing light;
 - c. Engine analyzer or oscilloscope, and
 - d. A HC/CO NDIR analyzer to make final A/F adjustments, if specified by the manufacturer.
 2. Adjustment. All adjustments shall be made according to the manufacturer's specifications and procedures. Final adjustment shall be made on the vehicle engine only after the engine is at normal operating temperature.

3. Inspection of Air Cleaner, Choke, and Air Intake System. A dirty or plugged air cleaner, stuck choke, or restricted air intake system shall be replaced or repaired as required.
 4. Dwell and Basic Timing Check. Dwell and basic engine timing shall be checked and adjusted, if necessary, according to manufacturer's specifications.
 5. Inspection of PCV Valve. The PCV valve shall be checked to ensure that it is the type recommended by the manufacturer and is correctly operating. Free flow through the PCV system passages and hoses shall be verified. Repair or replace as required.
 6. Inspection of Vacuum Hoses. The vacuum hoses shall be inspected for leaks, obstruction, and proper routing and connection. Repair or replace as required.
 7. Perform a visual inspection for leaking fuel lines or system components. Repair or replace as required.
 8. Idle Speed and A/F Mixture Check. The idle speed and A/F mixture shall be checked and adjusted according to manufacturer's specifications and procedures. If the vehicle is equipped with a fuel injection system or an alternate fuel (LPG or LNG), the manufacturer's recommended adjustment procedure shall be followed.
- B.** A vehicle that fails reinspection does not qualify for a waiver unless a low emissions tune-up and diagnosis is performed on the vehicle.
- C.** If the maximum required repair cost in subsection (F) or (G) is not exceeded after a low emissions tune-up described in subsection (A), then the following procedures apply:
1. CO failure.
 - a. If a vehicle fails CO only, the vehicle shall be checked for:
 - i. Proper canister purge system operation,
 - ii. High float setting,
 - iii. Leaky power valve, and
 - iv. Faulty or worn needles, seats, jets or improper jet size.
 - b. If applicable, the following shall also be checked:
 - i. Computer,
 - ii. Engine and computer sensors,
 - iii. Engine solenoids,
 - iv. Engine thermostats,
 - v. Engine switches,
 - vi. Coolant switches,
 - vii. Throttle body or port fuel injection system,
 - viii. Fuel injectors,
 - ix. Fuel line routing and integrity,
 - x. Air in fuel system including line and pump,
 - xi. Fuel return system,
 - xii. Injection pump,
 - xiii. Fuel injection timing,
 - xiv. Routing of vacuum hoses, and
 - xv. Electrical connections.
 - c. The items in subsections (C)(1)(a) and (b) shall be repaired or replaced as required.
 2. HC, or HC and CO failure.
 - a. If a vehicle fails HC, or HC and CO, the vehicle shall be checked for:
 - i. Faulty spark plugs and faulty, open, crossed, or disconnected plug wires;
 - ii. Distributor module;
 - iii. Vacuum hose routing and electrical connections;
 - iv. Distributor component malfunctions including vacuum advance;
 - v. Faulty points or condenser;
 - vi. Distributor cap crossfire;
 - vii. Catalytic converter efficiency air supply;
 - viii. Vacuum leaks at intake manifold, carburetor base gasket, EGR, and vacuum-operated components.
 - b. The items in subsection (C)(2)(a) shall be repaired or replaced as required.
 3. NO_x failure.
 - a. If a vehicle fails NO_x, the vehicle shall be checked for:
 - i. Removed, plugged, or malfunctioning EGR valve, exhaust gas ports, lines, and passages;
 - ii. EGR valve electrical and vacuum control circuitry, components, and computer control, as applicable;
 - iii. Above normal engine operating temperature;
 - iv. Proper air management;
 - v. Lean A/F mixture;
 - vi. Catalytic converter efficiency; and
 - vii. Over-advanced off-idle timing.
 - b. The items in subsection (C)(3)(a) shall be repaired or replaced as required.
 4. OBD failure. If the vehicle fails the OBD test, the vehicle shall be repaired for the items indicated on the Vehicle Emissions Report as causing the failure. If the failure results from Diagnostic Trouble Codes (DTCs) that caused the Malfunction Indicator Lamp (MIL) to be illuminated, the components or systems causing the DTCs shall be repaired or replaced. After repair of a DTC failure, and before reinspection, the vehicle shall be operated under conditions recommended by the vehicle manufacturer for the OBD computer to evaluate the repaired system.
- D.** For Evaporative System Failures, the following procedures apply:
1. If a vehicle fails the evaporative system pressure test, the vehicle shall be checked for leaking or disconnected vapor hoses, line, gas cap, and fuel tank.
 2. If a vehicle fails a visual inspection of the evaporative system, the vehicle shall be checked for a missing or damaged canister, canister electrical and vacuum control circuits and components, disconnected, damaged, mis-routed or plugged hoses, and damaged or missing purge valves. Repair or replace as necessary.
- E.** If a vehicle fails the liquid fuel leak inspection, the vehicle shall be checked for leaking or disconnected fuel delivery, metering, or evaporation system components including those listed in R18-2-1006(E)(5)(b). Repair or replace as necessary.
- F.** The maximum required repair cost for a vehicle in area A, not including cost to repair the vehicle for failing an evaporative system pressure test due to tampering, or other tampering repair cost, is:
1. For a diesel-powered vehicle with a GVWR greater than 26,000 pounds or a diesel-powered vehicle with tandem axles: \$500; and
 2. For a vehicle that is not a diesel-powered vehicle with a GVWR greater than 26,000 pounds and is not a diesel-powered vehicle with tandem axles:
 - a. Manufactured in or before the 1974 model year: \$200;
 - b. Manufactured in the 1975 through 1979 model years: \$300; and
 - c. Manufactured in or after the 1980 model year: \$450.
 3. Subsection (F) does not prevent a vehicle owner from authorizing or performing more than the required repairs. A vehicle operator who has a vehicle reinspected shall

have the repair receipts available when requesting a certificate of waiver.

- G.** The maximum required repair cost for vehicles in area B, not including tampering repair cost, is:
1. For a diesel-powered vehicle with a GVWR greater than 26,000 pounds or a diesel-powered vehicle with tandem axles: \$300; and
 2. For a vehicle that is not a diesel-powered vehicle with a GVWR greater than 26,000 pounds and is not a diesel-powered vehicle with tandem axles:
 - a. Manufactured in or before the 1974 model year: \$50;
 - b. Manufactured in the 1975 through 1979 model years: \$200; and
 - c. Manufactured in or after the 1980 model year: \$300.
 3. Subsection (G) does not prevent a vehicle owner from authorizing or performing more than the required repairs. A vehicle operator who has a vehicle reinspected shall have the repair receipts available when requesting a certificate of waiver.
- H.** A low emissions tune-up on a diesel-powered vehicle consists of the following procedures:
1. Inspect for dirty or plugged air cleaner, or restricted air intake system. Repair or replace as required.
 2. Check fuel injection system timing according to manufacturer's specifications. Adjust as required.
 3. Check for fuel injector fouling, leaking, or mismatch. Repair or replace as required.
 4. Check fuel pump and A/F ratio control according to manufacturer's specifications. Adjust as required.
 5. If the vehicle fails the J1667 procedure, check smoke-limiting devices, if any, including the aneroid valve and puff limiter. Repair or replace as required.
- I.** Any available warranty coverage for a vehicle shall be used to obtain needed repairs before an expenditure can be counted toward the cost limits in subsection (F) and (G). If the operator of a vehicle within the age and mileage coverage of section 207(b) of the Clean Air Act presents a written denial of warranty coverage from the manufacturer or authorized dealer, warranty coverage is not considered available under this subsection.

Historical Note

Adopted effective January 13, 1976 (Supp. 76-1). Former Section R9-3-1010 repealed, new Section R9-3-1010 adopted effective January 3, 1977 (Supp. 77-1). Amended effective March 2, 1978 (Supp. 78-2). Amended effective January 3, 1979 (Supp. 79-1). Amended effective February 20, 1980 (Supp. 80-1). Amended as an emergency effective January 2, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1010 as amended effective February 20, 1980, and amended as an emergency effective January 2, 1981, now amended effective April 15, 1981 (Supp. 81-2). Amended effective January 1, 1986 (Supp. 85-6). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1010 renumbered as Section R18-2-1010 and subsection (D) amended effective August 1, 1988 (Supp. 88-3). Amended effective November 14, 1994 (Supp. 94-4). Amended effective October 15, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 14 A.A.R. 2834, effective July 1, 2008

(Supp. 08-3).

R18-2-1011. Vehicle Inspection Report

- A.** A vehicle inspected at a state station shall be provided a uniquely numbered vehicle inspection report of a design approved by the Director that contains, at a minimum, the following information:
1. License plate number;
 2. Vehicle identification number;
 3. Model year of vehicle;
 4. Make of vehicle;
 5. Style of vehicle;
 6. Type of fuel;
 7. Odometer reading to the nearest 1000 miles, truncated;
 8. Emissions standards for idle and loaded cruise modes, if applicable;
 9. Emissions measurements during idle and loaded cruise modes, if applicable;
 10. Opacity measurements and standards, if applicable;
 11. Emissions standards and measurements for the transient loaded test, and the evaporative system pressure test, if applicable;
 12. Results of OBD test including all diagnostic trouble codes that commanded the illumination of the malfunction indicator lamp;
 13. Tampering inspection results;
 14. Liquid fuel leak inspection results;
 15. Repair requirements;
 16. Final test results;
 17. Repairs performed;
 18. Cost of emissions-related repairs;
 19. Cost of tampering-related repairs;
 20. Name, address, and telephone number of the business or person making repairs;
 21. Signature and certification number of person certifying repairs;
 22. Date of inspection;
 23. Test results of the previous inspection if the inspection is a reinspection;
 24. Inspection station, lane locators; and
 25. Test number and time of test.
- B.** A vehicle failing the initial inspection shall receive an inspection report supplement approved by the Department containing, at a minimum, the following:
1. Diagnostic and tampering information including acceptable replacement units, and
 2. Applicable maximum repair costs.
- C.** The inspection report shall provide a 3-inch by 5-inch tear-out section that may be used as a certificate of compliance for vehicles passing the inspection or as a certificate of waiver, if applicable.
1. The tear-out section shall be a certificate of compliance when the word "compliance" appears in the appropriate location on the printout.
 2. The tear-out section shall be a certificate of waiver when the word "waiver" appears in the appropriate location on the printout.
 3. The tear-out section shall contain all of the following information:
 - a. License plate number,
 - b. Vehicle identification number,
 - c. Final results,
 - d. Serial number of the inspection report,
 - e. Date of inspection,
 - f. Model year,
 - g. Make,
 - h. Date of initial inspection, and

i. Inspection fee.

- D. At the time of registration or reregistration, the certificate of compliance or certificate of waiver may be submitted to the Arizona Department of Transportation Motor Vehicle Division as evidence of meeting the requirements of this Article.

Historical Note

Adopted effective January 13, 1976 (Supp. 76-1). Former Section R9-3-1011 repealed, new Section R9-3-1011 adopted effective January 3, 1977 (Supp. 77-1). Amended effective January 3, 1979 (Supp. 79-1). Amended as an emergency effective January 2, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1011 as amended effective January 3, 1979, and as amended as an emergency effective January 2, 1981 now amended effective April 15, 1981 (Supp. 81-2).

Amended effective January 1, 1986 (Supp. 85-6).

Amended subsections (A) and (B) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1011 renumbered as Section R18-2-1011 and amended by removing subsection (E) effective August 1, 1988 (Supp. 88-3). Amended effective September 19, 1990 (Supp. 90-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 14 A.A.R. 2834, effective July 1, 2008 (Supp. 08-3).

R18-2-1012. Inspection Procedures and Fee

- A. A vehicle that is inspected by a state station must be accompanied by a document such as a registration renewal notice, registration, certificate of title, or bill of sale that identifies the vehicle by make, model year, identification number, and license plate if applicable.
- B. If the vehicle inspection report from the previous test is used, it shall be retained by the test lane inspector.
- C. The fees for emissions inspections at a state station shall be specified in the contract between the contractor and the state of Arizona according to A.R.S. § 49-543, and shall include the full cost of the vehicle emissions inspection program including administration, implementation, and enforcement. Each fee is payable directly to the contractor at the time and place of inspection in cash or by check approved by the contractor. The amount collected by the contractor to defray the cost of the inspection shall be retained by the contractor. The amount collected to defray the cost of the administration, implementation, and enforcement of the vehicle emissions inspection program shall be remitted to the Department. Amounts collected shall be recorded and reported to the Department monthly. The contractor shall submit to the state of Arizona on a monthly basis, by the 10th day of each month, a report showing the number of inspections performed and the amount of fees collected.
- D. Each subsequent inspection, if needed, shall be treated by the state and the contractor in the same manner as an initial inspection and reinspection, providing for a free reinspection according to R18-2-1013, if needed, following a paid inspection. The fee for each paid inspection shall be the full fee as provided for in the contract with the contractor.
- E. A state station emissions inspector shall not recommend repairs or repair facilities.

Historical Note

Adopted effective January 13, 1976 (Supp. 76-1). Former Section R9-3-1012 repealed, new Section R9-3-1012 adopted effective January 3, 1977 (Supp. 77-1). Amended effective January 3, 1979 (Supp. 79-1). Amended as an

emergency effective January 2, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1012 as amended effective January 3, 1979, and amended as an emergency effective January 2, 1981, now amended effective April 15, 1981 (Supp. 81-2). Amended subsections (A) and (D) effective November 9, 1982 (Supp. 82-6). Amended effective January 1, 1986 (Supp. 85-6). Former Section R9-3-1012 renumbered as Section R18-2-1012 and amended effective August 1, 1988 (Supp. 88-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4).

R18-2-1013. Reinspections

- A. A vehicle failing the initial inspection or any subsequent paid inspection is entitled to one reinspection at no additional charge under the following conditions:
1. The vehicle is presented for inspection within 60 calendar days of the initial or any subsequent paid inspection, if the vehicle operator presents the vehicle inspection report from the previous inspection, indicating the itemization of the repairs performed.
 2. Emissions-related repairs or adjustments and any tampering repairs have been made.
 3. The vehicle is accompanied by the entire vehicle inspection report from the initial or subsequent inspection with the following information filled in on the reverse side:
 - a. Emissions-related and tampering-related repairs made;
 - b. Cost of emissions related and tampering related repairs as reflected by receipts or bills;
 - c. Name, address, telephone number, and type of facility making repairs;
 - d. Signature of person certifying the repairs;
 - e. Date of repairs; and
 - f. The state certification number of the technician making repairs, if applicable.
- B. A vehicle shall be retested after repair for any portion of the inspection the vehicle failed on the previous test to determine if the repairs are effective. To the extent that repair to correct a previous failure could cause failure of another portion of the test, that portion shall also be retested. Evaporative system repairs shall trigger an exhaust emissions retest.
- C. A vehicle failing the reinspection shall be provided a vehicle inspection report and a vehicle inspection report supplement.

Historical Note

Adopted effective January 13, 1976 (Supp. 76-1). Former Section R9-3-1013 repealed, new Section R9-3-1013 adopted effective January 3, 1977 (Supp. 77-1). Amended as an emergency effective January 2, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1013 adopted effective January 3, 1977, and amended as an emergency effective January 2, 1981, now amended effective April 15, 1981 (Supp. 81-2). Amended effective January 1, 1986 (Supp. 85-6). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1013 renumbered as Section R18-2-1013 and amended effective August 1, 1988 (Supp. 88-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4).

R18-2-1014. Repealed

Historical Note

Adopted effective November 14, 1994 (Supp. 94-4).
Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Section repealed by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4).

R18-2-1015. Repealed**Historical Note**

Adopted effective November 14, 1994 (Supp. 94-4).
Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Section repealed by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4).

R18-2-1016. Licensing of Inspectors

- A.** The Department shall license a person as a vehicle emissions inspector if the applicant passes a practical and a written examination with a score equal to or greater than 80% in the following areas:
1. For nondiesel-powered fleet vehicle emissions inspectors:
 - a. Equipment used in the inspection and the control of emissions;
 - b. Types of emission inspection failures;
 - c. Corrective procedures for excessive HC emissions;
 - d. Corrective procedures for excessive CO emissions;
 - e. Corrective procedures for excessive NO_x emissions, for inspectors in area A;
 - f. Proper fuel system adjustment procedures;
 - g. Computerized engine control systems; and
 - h. Regulations governing fleet stations;
 2. For diesel-powered fleet vehicle emissions inspectors:
 - a. Equipment used in the inspection and the control of opacity and emissions;
 - b. Corrective procedures for excessive opacity;
 - c. Proper fuel injection system adjustment procedures;
 - d. Proper use of tools required by the vehicle manufacturer for field setting of fuel injectors, inlet and exhaust valve clearance, governors, and throttle controls;
 - e. Computerized engine control systems; and
 - f. Regulations governing fleet stations;
 3. For state station vehicle emission inspectors:
 - a. Air pollution causes and effects;
 - b. Purpose, function, and goals of the inspection program;
 - c. State inspection regulations;
 - d. Test procedures and rationale for their design;
 - e. Emission control devices, configuration, and inspection;
 - f. Test equipment operation, calibration, and maintenance;
 - g. Proficiency in driving the transient test cycle in Table 4;
 - h. Quality control procedures;
 - i. Public relations; and
 - j. Safety and health issues related to the inspection process.
 4. For the practical portion of the examination an applicant shall demonstrate the ability to conduct a proper emissions inspection, including proper use of equipment and procedures, to pass. If an inspector fails to demonstrate such ability in an audit, either covert or overt, the inspector's license shall be suspended. The suspended licensee shall demonstrate to the Department the skills required by this subsection within 30 days of suspension or such license shall be revoked.

- B.** If an applicant for a nondiesel-powered vehicle emissions inspector license fails the written examination, the applicant shall successfully complete the vehicle emissions inspector state training program before reexamination for licensure.
- C.** Applications may be obtained from the Department. The application shall contain the following:
 1. The type of license requested;
 2. The applicant's name;
 3. The applicant's home address;
 4. The applicant's phone number;
 5. The name of the applicant's employer;
 6. The phone number of the applicant's employer;
 7. The applicant's signature; and
 8. The date of the license request.
- D.** All completed applications shall be returned to the Department.
- E.** Licenses issued to vehicle emissions inspectors shall be renewed annually on or before the expiration date. An inspector whose license has expired may not inspect vehicles.
- F.** Applications for renewal of vehicle emissions fleet inspector's licenses shall be submitted within 30 days before the current license expiration date.
- G.** The Department may suspend, revoke, or refuse to renew a license if the licensee has violated any provision of A.R.S. Title 49, Chapter 3, Article 5 or any provision of this Article or fails to continue to demonstrate proficiency to the Department as required in subsection (A).
- H.** A vehicle emissions inspector shall notify the Department of any change in employment status, due to retirement, resignation or termination, within seven days of the change. The notification shall include the name and license number of the emissions inspector, a statement declaring the employment change, and the effective date of the employment change.
- I.** The Department shall assign a single, unique, nontransferable inspector's number to each vehicle emissions inspector.

Historical Note

Adopted effective January 13, 1976 (Supp. 76-1).
Amended effective January 3, 1977 (Supp. 77-1).
Amended effective March 2, 1978 (Supp. 78-2).
Amended as an emergency effective January 2, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1016 as amended effective March 2, 1978, and amended as an emergency effective January 2, 1981, now amended effective April 15, 1981 (Supp. 81-2). Amended effective January 1, 1986 (Supp. 85-6). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1016 renumbered as Section R18-2-1016 and subsection (G) amended effective August 1, 1988 (Supp. 88-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 562, effective January 14, 2000 (Supp. 00-1). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4).

R18-2-1017. Inspection of Government Vehicles

- A.** Inspection of government vehicles operated in areas A and B shall be conducted as follows:
1. At a licensed fleet station operated by the government entity;
 2. At a state station upon payment of the fee;
 3. At a state station upon payment of the contracted fee, either singly or in combination with other government fleet operators.
- B.** A government vehicle except a federally owned vehicle that is excluded from the definition of motor vehicle under 40 CFR

85.1703, shall be inspected according to this Article and shall have a Government Vehicle Certificate of Inspection affixed to the vehicle if in compliance with state inspection requirements.

1. The vehicle emissions inspector performing the inspection shall punch out the appropriate year and month on the Government Vehicle Certificate of Inspection to designate date of the vehicle's next annual or biennial inspection. The vehicle emissions inspector, at the time of inspection, shall record the serial number of the Government Vehicle Certificate of Inspection on the vehicle inspection report. If the vehicle emissions inspection is performed at a fleet station, the emissions inspector, at the time of inspection, shall record the serial number in the block labeled "Certificate of Inspection No." on the "Fleet Vehicle Inspection Report/Monthly Summary." Each Government Vehicle Certificate of Inspection shall be used in serial number order. Presence of a current Government Vehicle Certificate of Inspection indicates a government vehicle has met the state of Arizona emissions inspection requirements.
 2. A government vehicle, with the exception of a motorcycle or an undercover law enforcement vehicle, shall have the Government Vehicle Certificate of Inspection affixed to the lower left side of the rear window as determined from a position facing the window, from outside the vehicle. If a vehicle does not have a rear window, the Government Vehicle Certificate of Inspection shall be affixed to the lower left corner of the windshield as determined from the driver's position.
 3. A government motorcycle shall have the Government Vehicle Certificate of Inspection affixed to the lower left-hand corner of the windscreen as determined from the driver's position. If the Government Vehicle Certificate of Inspection cannot be affixed to the lower left-hand corner of the windscreen, the Government Vehicle Certificate of Inspection may be affixed to a visible position on the front or left side of the left front fork of the motorcycle. The fork shall be determined from the driver's position.
- C. The Government Vehicle Certificate of Inspection shall be purchased from the Department in lots of 25.
1. The fee for a certificate of inspection shall be fixed by the Director according to A.R.S. § 49-543, and shall be based upon the Director's estimated costs to the state of administering and enforcing the provisions of this Article as they apply to issuance of certificates of inspections. Payment for certificates shall be included with an application for certificates. Checks shall be made payable to the Department of Environmental Quality.
 2. Only the Department may sell or otherwise transfer certificates of inspection.
- D. All Government Vehicle Certificates of Inspection shall be designed, issued, and administered to ensure compliance with this Article. The Department shall be the only source of supply for Government Vehicle Certificates of Inspection.
- E. Government entity fleet stations shall inspect the fleet vehicles according to R18-2-1019 except that a government vehicle certificate of inspection shall only be used for government vehicles.
- F. A government entity fleet station shall send a quarterly statement identifying vehicles and test results to the Department within 10 business days following the end of the quarter.

Historical Note

Adopted effective January 13, 1976 (Supp. 76-1).

Amended effective January 3, 1977 (Supp. 77-1).

Amended effective January 3, 1979 (Supp. 79-1).

Amended effective January 1, 1986 (Supp. 85-6). Former Section R9-3-1017 renumbered as Section R18-2-1017 and subsection (E) amended effective August 1, 1988 (Supp. 88-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 562, effective January 14, 2000 (Supp. 00-1). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4).

R18-2-1018. Certificate of Inspection

- A. A fleet station other than a government entity fleet station shall use completed certificates of inspection as evidence that its vehicles meet the requirements of this Article unless inspection data is electronically transmitted to MVD under A.R.S. § 49-542(Q). If a fleet vehicle is inspected at a state station, the vehicle inspection report provided under R18-2-1011 shall be used.
- B. A certificate of inspection shall contain the following information:
1. VIN,
 2. Model year,
 3. License number,
 4. If applicable, a statement that the inspection meets area A requirements,
 5. Owner of vehicle,
 6. Date of expiration, according to R18-2-1019(F)(1)(b),
 7. Fleet station permit number, and
 8. Inspector's signature and license number.
- C. A certificate of inspection issued to a fleet vehicle is transferable to an auctioneer licensed as a used motor vehicle dealer to sell the vehicle. The certificate of inspection is valid for a period not to exceed 180 days after the transfer unless the vehicle is reregistered with a new owner, in which case the vehicle shall be inspected according to this Article before the reregistration.
- D. A certificate of inspection, complete or incomplete, is not transferable except as provided in subsection (C) or except when submitted to MVD for the purpose of vehicle registration.
- E. Only a person who meets the requirements of R18-2-1019(D)(4) is authorized to purchase certificates of inspection, certificates of waiver, or Government Vehicle Certificates of Inspection.

Historical Note

Adopted effective January 13, 1976 (Supp. 76-1).

Amended effective January 3, 1977 (Supp. 77-1).

Amended effective March 2, 1978 (Supp. 78-2).

Amended subsection (A) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1018 renumbered as Section R18-2-1018 and amended effective August 1, 1988 (Supp. 88-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 562, effective January 14, 2000 (Supp. 00-1). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4).

R18-2-1019. Fleet Station Procedures and Permits

- A. The following requirements apply to issuance of fleet station permits:
1. An owner or lessee of a fleet of 25 or more nonexempt vehicles whose place of business is located in area A or B may apply to the Director for a permit to establish a fleet station. A dealer's business inventory of vehicles held for resale, counted cumulatively over the previous 12 months at the time of application review by the Department shall be used to determine compliance with this subsection. A

- newly established dealer shall certify that it will comply with the 25 nonexempt vehicles requirement.
2. An application form for a fleet station permit shall be obtained from the Department. All completed applications shall be submitted to the Department. An application shall be considered administratively complete when:
 - a. The Department receives a completed application form and fleet agent designation form;
 - b. The applicant or designated employee successfully completes the fleet agent examination; and
 - c. The Department conducts a site inspection.
 3. Before an application for a fleet station permit may be approved, a state inspector shall inspect the premises to determine compliance with subsections (B) and (C).
 4. A fleet station permit shall not expire.
 5. A fleet station permit shall only be applicable to the fleet's inspection facility located at the address shown on the fleet station permit. If a fleet owner or lessee requests a permit for inspection facilities at more than one address, the fleet owner or lessee shall apply for a permit for each facility.
 6. A fleet station permit issued by the Director is non-transferable.
 7. If the name or address of the permitted fleet facility changes and the name or address change does not involve a change of ownership, the permit shall be returned to the Department for cancellation and a new permit application shall be submitted. The Director shall cancel the returned permit and issue a new permit.
 8. In the event of loss, destruction, or mutilation of the permit, the person to whom it was issued may obtain a duplicate upon furnishing satisfactory proof of loss, destruction, or mutilation. If a fleet owner or lessee obtains a duplicate permit and then finds the original, the fleet owner or lessee shall immediately surrender the original permit to the Department.
- B.** A fleet station permit applicant or fleet station permit holder, or its employees, shall own or lease the following equipment for testing and repair of a fleet vehicle, and maintain the equipment in good working condition:
1. If the permit is for the inspection of a vehicle required to take an idle only, or an idle plus 2500 RPM unloaded test:
 - a. An NDIR CO and HC emissions analyzer that complies with the requirements of R18-2-1006(F)(8) to conduct the emissions inspection;
 - b. Pressure test equipment for the functional gas cap test that complies with the requirements of R18-2-1006(E)(7)(a); and
 - c. An ignition-operated tachometer.
 2. If the permit is for the inspection of a vehicle required to take a steady-state loaded test:
 - a. An NDIR CO and HC emissions analyzer that complies with the requirements of R18-2-1006(F)(8) to conduct the emissions inspection;
 - b. Pressure test equipment for the functional gas cap test that complies with the requirements of R18-2-1006(E)(7)(a);
 - c. A dynamometer to operate the vehicle under load; and
 - d. An ignition-operated tachometer.
 3. If the permit is for the inspection of a vehicle required to take a transient loaded test:
 - a. Equipment to perform a transient loaded emissions test as required in R18-2-1006(E)(2);
 - b. Equipment to perform the evaporative system pressure test as required in R18-2-1006(E)(2)(b);
 - c. Equipment to perform the maintenance and quality control requirements of R18-2-1006(E)(2) and "IM240 and Evap Technical Guidance;" and
 - d. Pressure test equipment for the functional gas cap test that complies with the requirements of R18-2-1006(E)(7)(a).
 4. If the permit is for the inspection of a vehicle required to take an OBD test:
 - a. A scan tool used to perform the OBD test that complies with the Society of Automotive Engineers Recommended Practice J1979, September 1997, incorporated by reference and no future editions or amendments. A copy of this referenced material is on file with the Department and the Secretary of State and may be obtained at Society of Automotive Engineers, 400 Commonwealth Dr., Warrendale, PA 15096-0001; and
 - b. Pressure test equipment for the functional gas cap test that complies with the requirements of R18-2-1006(E)(7)(a).
 5. If the permit is for the inspection of a vehicle required to take a diesel test:
 - a. Opacity meter: A meter used in area A shall comply with the requirements of R18-2-1006(H) for the applicable test procedure. A meter used in area B shall comply with the requirements of R18-2-1006(I)(6)(b); and
 - b. A dynamometer for testing any light-duty diesel vehicle in area A or for testing any diesel vehicle in area B.
- C.** A fleet's inspection facility shall comply with the following requirements:
1. The facility shall include space devoted principally to maintaining or repairing the fleet's motor vehicles. The space shall be large enough to conduct maintenance or repair of at least one fleet motor vehicle.
 2. The facility shall be exclusively rented, leased, or owned by the permit applicant or permit holder.
- D.** A fleet owner or lessee shall employ the following personnel:
1. If the facility is for the repair of nondiesel-powered vehicles, at least one person to perform tune-ups of engines and replacement or repair of fuel system and ignition components.
 2. If the facility is for the repair of diesel-powered vehicles, at least one person to perform tune-ups and replacement or repair of diesel fuel systems in the vehicle fleet.
 3. A licensed vehicle emissions inspector who will perform the necessary inspections. This inspector may be the same person required by subsection (D)(1) or (2).
 4. A fleet agent, who shall be in charge of the day-to-day operation of the fleet and who demonstrates proficiency by passing a Department-administered examination annually, with a score equal to or greater than 80%, on the statutes and rules governing the operation and administration of a fleet emissions inspection station. The fleet owner or lessee shall designate the fleet agent on a form obtained from the Department.
- E.** Unless inspected at a state station, a vehicle owned by or leased to a holder of a fleet emissions inspection station permit shall be inspected according to R18-2-1006(D) through (J), except as follows:
1. A dealer fleet vehicle in area A held for resale and an area B fleet vehicle, with a model year of 1981 or newer, and other than diesel-powered, shall be required to take and pass both the curb idle test specified in R18-2-

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1006(F)(2)(b) and a 2,500 RPM unloaded fast idle test as follows:

- a. The vehicle's engine shall be operated at 2,500, \pm 300 RPM, for no more than 30 seconds with the transmission in neutral.
 - b. HC and CO exhaust emissions concentrations shall be recorded after readings have stabilized or at the end of 30 seconds, whichever occurs first, and compared to the loaded cruise standards in Table 2. The curb idle test standards in Table 2 shall apply for the idle test.
2. A dealer fleet vehicle in area A held for resale, and an area B vehicle, with a model year of 1980 or older and other than diesel-powered, shall be required to take and pass a curb idle test as specified in R18-2-1006(F)(1). The curb idle test standards in Table 2 shall apply.
 3. A dealer fleet vehicle in area A held for resale with a model year of 1975 or newer and other than diesel-powered, shall be required to take and pass a tampering inspection as specified in R18-2-1006(E)(7).
 4. A dealer fleet vehicle in area B held for resale with a model year of 1975 or newer and other than diesel-powered, shall be required to take and pass a tampering inspection as specified in R18-2-1006(F)(7).
 5. A consignment vehicle shall be tested at a state inspection station according to R18-2-1005(A)(3).
- F. The vehicle emissions inspector shall complete and process the forms for vehicle inspection as follows, except a government entity fleet shall issue and process each government vehicle certificate of inspection under R18-2-1017:
1. A certificate of inspection shall be processed as follows:
 - a. A certificate of inspection shall be completed and signed by the vehicle emissions inspector performing the inspection at the time the vehicle passes inspection. The vehicle emissions inspector who performed the inspection may correct a certificate by drawing a single line through the mistake, writing the correct information directly above the mistake, and initialing and dating the correction. Each certificate shall be issued in numerical order;
 - b. For an inspection that does not include a biennial test, the expiration date shall be one year from the date the vehicle passes the mandatory vehicle emissions inspection. For a vehicle required to pass a biennial test, the expiration date shall be two years after the pass date;
 - c. All copies of a certificate of inspection shall be legible;
 - d. Unless inspection data is electronically transmitted under A.R.S. § 49-542(Q), the original completed certificate shall be presented to MVD for processing the vehicle's application for title and registration or the Arizona registration card. MVD may accept a signed certificate of inspection as evidence that the vehicle is a fleet-inspected vehicle and meets the inspection requirements of this Article;
 - e. The vehicle emissions inspector shall forward the second copy of each completed certificate of inspection, along with the second copy of the "Fleet Vehicle Inspection Report/Monthly Summary," to the Department monthly, not later than two weeks after the last day of the month in which the inspection is conducted;
 - f. The third copy of each completed certificate of inspection, along with the original "Fleet Vehicle Inspection Report/Monthly Summary," shall be retained for two years from the date of inspection;
 - g. Vehicle emissions certificates shall be purchased from the Department in lots of 25. Excess certificates may be returned to the Department for refund or may be used in subsequent years;
 - h. The fee for a certificate of inspection shall be fixed by the Director according to A.R.S. § 49-543, and shall be based upon the Director's estimated costs to the state of administering and enforcing the provisions of this Article as they apply to issuance of a certificate of inspection. Payment for certificates shall be included with an application for certificates. Checks shall be made payable to the Department of Environmental Quality.
 - i. Only the Department shall sell or otherwise transfer a certificate of inspection. This subsection does not apply to the submission of a certificate of inspection to MVD for the purpose of vehicle registration;
 - j. The fleet station owner shall be responsible for the security and accountability of the fleet's certificates and fleet vehicle emissions inspection records. Certificates and fleet vehicle emissions inspection records shall be maintained at the fleet station and shall be made available for review by a state inspector during normal business hours of the fleet station;
 - k. If any certificate is discovered lost or stolen, the fleet station owner shall notify the Department in writing within 24 hours, indicating the number of certificates lost or stolen and each serial number. The Department may revoke a fleet station permit for refusal or failure to report a lost or stolen certificate within 24 hours;
 - l. In the event of loss, destruction, or mutilation of an original completed certificate of inspection, a Director's certificate may be obtained from the Department by hand-delivery of the following:
 - i. The second or third copy of the lost, destroyed, or mutilated certificate of inspection;
 - ii. The original of the "Fleet Vehicle Inspection Report/Monthly Summary;"
 - iii. A cover letter from the fleet agent explaining the situation that caused the loss, destruction, or mutilation of the original certificate of inspection; and
 - iv. Payment of a fee to cover the cost of issuance of the Director's certificate. The fee for a Director's certificate shall be fixed by the Director according to A.R.S. § 49-543, and shall be based upon the Director's estimated cost to the state of administering and enforcing the provisions of this Article as they apply to issuance of a Director's certificate. Checks shall be made payable to the Department of Environmental Quality; and
 - m. If an original certificate of inspection is voided by a fleet station, the original of the voided certificate shall be matched to the corresponding third copy of the certificate and retained at the fleet station for two years from the date of inspection.
2. The fleet agent or vehicle emissions inspector shall obtain the "Fleet Vehicle Inspection Report/Monthly Summary" form from the Department. The vehicle emissions inspector performing the inspection shall record the following information on the form at the time of inspection:
 - a. The VIN of the vehicle passing inspection;

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- b. The vehicle's license number, if applicable;
 - c. The HC content of the undiluted exhaust recorded at idle, if applicable;
 - d. The CO content of the undiluted exhaust recorded at idle, if applicable;
 - e. The HC content of the undiluted exhaust recorded at 2,500 rpm, if applicable;
 - f. The CO content of the undiluted exhaust recorded at 2,500 rpm, if applicable;
 - g. Results of a tampering check, if applicable;
 - h. Liquid fuel leak inspection results;
 - i. The vehicle model year;
 - j. The vehicle make;
 - k. The GVWR for a vehicle certified under federal truck standards;
 - l. The date of inspection;
 - m. The license number of the vehicle emissions inspector conducting the inspection;
 - n. The signature of the inspector making the entry;
 - o. The serial number of the certificate of inspection, recorded in numerical order;
 - p. For a vehicle required to take the transient loaded emissions test, the inspector shall record the total HC, CO, CO₂ and NO_x measured in grams/mile, and the evaporative system pressure test result, if applicable;
 - q. The registration number of the registered analyzer or opacity meter used to perform the inspection;
 - r. For a light-duty diesel vehicle, the inspector shall record opacity rather than undiluted HC and CO;
 - s. For a heavy-duty diesel vehicle, instead of undiluted HC and CO:
 - i. The time of the inspection;
 - ii. The ambient temperature;
 - iii. The corrected barometric pressure;
 - iv. The relative humidity at the time of inspection;
 - v. The engine year and cubic inch or liter displacement;
 - vi. The GVWR;
 - vii. The diameter of the exhaust stack; and
 - viii. The corrected opacity reading.
 - t. For a vehicle required to take an OBD test, the inspector shall record the OBD results rather than HC, CO, and NO_x.
3. A certificate of waiver may be issued by a fleet vehicle emissions inspector unless the fleet owner or lessee is an auto dealer licensed to sell used motor vehicles under A.R.S. Title 28. The certificate of waiver may be issued according to the following procedure if the requirements of R18-2-1008(A), R18-2-1009, and R18-2-1010 are met:
- a. A certificate of waiver shall be completed and signed by the vehicle emissions inspector performing the inspection after completion of a fleet inspection waiver report. The report shall be forwarded to the Department within three business days from the date of issuance of the certificate of waiver. A fleet inspection waiver report shall be provided by the Department with the purchase of each certificate of waiver. The report shall contain a description of the vehicle, test results, and repairs performed.
 - b. The expiration date of the certificate of waiver shall be two years from the date that the waiver is issued for a vehicle required to take the transient loaded emissions test, and one year for all other vehicles.
 - c. All information required on the certificate of waiver shall be legible.
 - d. The vehicle emissions inspector issuing the certificate of waiver shall initial all corrections.
 - e. Only the vehicle emissions inspector performing the inspection may sign or initial a certificate of waiver.
 - f. Unless inspection data is electronically transmitted under A.R.S. § 49-542(Q), the original completed certificate shall be presented to MVD for processing of either the vehicle's application for title and registration or the Arizona registration card. MVD may accept the signed certificate of waiver as evidence that the vehicle is a fleet inspected vehicle and meets the inspection requirements of this Article if the certificate is complete and the expiration date has not passed.
 - g. The second copy of each completed certificate of waiver shall accompany the completed fleet inspection waiver report.
 - h. The third copy of each completed certificate of waiver, along with a copy of the fleet inspection waiver report, shall be retained by the fleet station owner for two years from the date of inspection.
 - i. The fee for a certificate of waiver shall be fixed by the Director according to A.R.S. § 49-543, and shall be based upon the Director's estimated cost to the state of administering and enforcing the provisions of this Article as they apply to issuance of a certificate of waiver. Payment for certificates shall be included with an application for certificates. Checks shall be made payable to the Department of Environmental Quality.
 - j. Only the Department shall sell or otherwise transfer a certificate of waiver. This subsection does not apply to the submission of a certificate of waiver to MVD for the purpose of vehicle registration.
 - k. The fleet station owner shall be responsible for the security and accountability of the fleet's certificates.
 - l. If a certificate is discovered lost or stolen, the fleet station owner shall notify the Department in writing within 24 hours and indicate the number of certificates lost or stolen and each serial number. The Department may revoke a fleet station permit for refusal or failure to report a lost or stolen certificate within 24 hours of discovery.
 - m. In the event of loss, destruction, or mutilation of an original completed certificate of waiver, a Director's certificate may be obtained from the Department by hand delivery of the following:
 - i. The second or third copy of the lost, destroyed, or mutilated certificate of waiver;
 - ii. The original of the "Fleet Vehicle Inspection Report/Monthly Summary;"
 - iii. A cover letter from the fleet agent explaining the situation that caused the loss, destruction, or mutilation of the original certificate of waiver; and
 - iv. Payment of a fee to cover the cost of issuance of the Director's certificate. The fee for a Director's certificate shall be fixed by the Director according to A.R.S. § 49-543, and shall be based upon the Director's estimated cost to the state of administering and enforcing the provisions of this Article as they apply to issuance of a Director's certificate. Checks shall be made payable to the Department of Environmental Quality.

- n. In the event an original certificate of waiver is voided by a fleet station, the original of the voided certificate shall be matched to the corresponding third copy of the certificate and retained by the fleet for two years from the date of inspection.
4. Upon request, a state inspector shall be allowed access to and shall be permitted to photocopy, on or off the premises, any original "Fleet Vehicle Inspection Report/Monthly Summary," the second copy of a certificate of inspection, and any other related documents.
- G.** The fleet shall comply with the following general operating requirements:
1. The fleet station permit and the licenses of all inspectors employed at the station shall be prominently displayed at the fleet's inspection facility.
 2. A fleet station shall only certify a vehicle owned by or leased to the holder of the fleet station permit.
 3. The inspection equipment shall be operated, calibrated, and maintained as follows:
 - a. All test equipment and instrumentation shall be maintained in accurate working condition as required by the manufacturer. An instrument requiring periodic calibration shall be calibrated according to instructions and recommendations of the instrument or equipment manufacturer. An NDIR emissions analyzer shall be registered and calibrated according to R18-2-1027. Calibration records for each instrument, except an NDIR emissions analyzer, shall be maintained by the fleet station. The calibration records shall be signed and dated by the technician performing each calibration.
 - b. The instrument calibration records shall be available for review by the Department.
 - c. Working gases used by the fleet station shall be subject to analysis and comparison to the Department's standard gases at any time.
 - d. Fleet station equipment shall be subject to both scheduled and unscheduled checks for accuracy and condition by the Department.
 4. A fleet emissions inspection station that is unable to test at least 25 vehicles according to R18-2-1006 and subsection (A) shall surrender its permit.
 5. A motor vehicle dealer with a fleet station permit shall comply with A.R.S. § 49-542.03.
 6. If a fleet station fails to meet any requirement of subsection (B), (C), or (D), it shall immediately cease operating as a fleet station until the requirement is met. If the fleet is cited for failure to have the necessary equipment under subsection (B), it shall not resume operation as a fleet emissions inspection station until compliance is verified by the Department.
 7. A fleet station shall notify the Department in writing within seven days of the end or start of employment of any vehicle emissions inspector. The written notification shall include the name and license number of the vehicle emissions inspector, a statement declaring the employment change, and the effective date of the employment change. A fleet station that does not employ a vehicle emissions inspector shall immediately cease operating as a fleet station and notify the Department immediately by telephone and within seven days in writing. All unused vehicle certificates of inspection shall be returned to the Department for a refund within seven days after operations cease.
 8. A fleet station that does not employ a fleet agent, as described in subsection (D)(4), shall immediately cease operating as a fleet station and shall notify the Department immediately by telephone and within seven days in writing. The written notification shall include the name and license number of the fleet agent, a statement declaring the employment change, and the effective date of the employment change. The fleet station may resume fleet station operation after the permit applicant or other designated employee takes and passes the examination required in subsection (D)(4), if the responsibility of the day-to-day operation of the fleet station and a fleet agent designation form has been filed with the Department.
- H.** A fleet's activities shall be governed by the following compliance and enforcement rules:
1. Subsections (B) through (G) apply at all times after the issuance of a fleet station permit. In addition, subsections (B), (C), and (D) apply before a permit can be issued or removed from suspension.
 2. The Director may suspend or revoke a fleet station permit according to A.R.S. § 49-546(F) and A.R.S. Title 41, Chapter 6, if the permittee, or any person employed by the permittee:
 - a. Violates any provision of A.R.S. Title 49, Chapter 3, Article 5 or any provision of this Article;
 - b. Misrepresents a material fact in obtaining a permit;
 - c. Fails to make, keep, and submit to the Department records for a vehicle tested as a permittee; or
 - d. Does not provide a state inspector access to the information required by this Article.
 3. If a fleet station permit is surrendered, suspended or revoked, all unused vehicle certificates of inspection shall be returned to the Department for a refund.
 4. A fleet vehicle is subject to inspection by a state inspector.
 5. Surrender of a permit under subsection (A)(8) or (G)(4) shall not prevent the Department from carrying out an investigative or disciplinary proceeding against the permit holder for a violation before surrender.

Historical Note

Adopted effective January 13, 1976 (Supp. 76-1).
 Amended effective January 3, 1977 (Supp. 77-1).
 Amended effective March 2, 1978 (Supp. 78-2).
 Amended effective January 3, 1979 (Supp. 79-1).
 Amended effective February 20, 1980 (Supp. 80-1).
 Amended as an emergency effective January 2, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1019 as amended effective February 20, 1980, and amended as an emergency effective January 2, 1981, now amended effective April 15, 1981 (Supp. 81-2). Amended effective January 1, 1986 (Supp. 85-6). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1019 renumbered as Section R18-2-1019 and amended effective August 1, 1988 (Supp. 88-3).
 Amended effective September 19, 1990 (Supp. 90-3).
 Amended effective February 4, 1993 (Supp. 93-1).
 Amended effective November 14, 1994 (Supp. 94-4).
 Amended effective October 15, 1998 (Supp. 98-4).
 Amended by final rulemaking at 6 A.A.R. 562, effective January 14, 2000 (Supp. 00-1). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 14 A.A.R. 2834, effective July 1, 2008 (Supp. 08-3).

R18-2-1020. Licensing of Third Party Agents; Issuing Alternative Fuel Certificates

- A.** Licensing of Third Party Agents. The Department shall accept an application for a third party agent license to issue Alternative Fuel Certificates from any person who demonstrates all of the following:
1. The applicant has knowledge of all laws and rules governing the inspection of alternative fuel vehicles;
 2. The applicant has training or experience in inspecting alternative fuel vehicles; and
 3. The applicant agrees to conduct inspections in accordance with the laws and rules for the inspection of alternative fuel vehicles.
- B.** A third party agent license is valid for a period of five years.
- C.** Issuing Alternative Fuel Certificates. The Department or its agent shall issue an Alternative Fuel Certificate according to A.R.S. § 28-2416 if the vehicle is currently powered by an alternative fuel as defined in A.R.S. § 1-215(4).

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 562, effective January 14, 2000 (Supp. 00-1). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4).

R18-2-1021. Reserved**R18-2-1022. Procedure for Waiving Inspections Due to Technical Difficulties**

A vehicle emissions station manager employed by an official emissions inspection station may issue a Director's certificate for a vehicle that cannot be inspected as required by this Article because of technical difficulties inherent in the manufacturer's design or construction of the vehicle.

Historical Note

Adopted effective January 13, 1976 (Supp. 76-1).
 Amended effective January 3, 1977 (Supp. 77-1).
 Amended effective March 2, 1978 (Supp. 78-2).
 Amended effective January 3, 1979 (Supp. 79-1).
 Amended effective January 1, 1986 (Supp. 85-6).
 Former Section R9-3-1022 renumbered without change as Section R18-2-1022 (Supp. 88-3). Amended by final rulemaking at 6 A.A.R. 562, effective January 14, 2000 (Supp. 00-1).

R18-2-1023. Certificate of Exemption for Out-of-State Vehicles

- A.** If a vehicle being registered or reregistered in area A or area B requires an emission test and will not be available for inspection within the state during the 90-day period before the emissions compliance expiration date, and an emissions inspection is not available for that class of vehicle at an official inspection station in the area where the vehicle is located, the owner or owner's agent may apply in writing to the Department for a certificate of exemption.
- B.** The owner or owner's agent shall complete the owner portion of the certificate of exemption form, and a law enforcement official shall complete the vehicle verification portion. The owner or owner's agent shall submit the completed form to the Department.
- C.** The Department shall issue a certificate of exemption:
1. For a vehicle that meets the requirements of subsection (A) as indicated by the form completed under subsection (B).
 2. For a vehicle that has passed an official emissions inspection in another state during the 90 days before emissions compliance expiration upon submission of the inspection compliance document issued by the government entity conducting the inspection program.

- D.** The fee for a certificate of exemption shall be fixed by the Director according to A.R.S. § 49-543 and shall be based upon the Director's estimated costs to the state of administering and enforcing the provisions of this Article as they apply to issuance of certificates of exemption. The payment for the certificates shall be included with the application for certificates. Checks shall be made payable to the Department of Environmental Quality.

Historical Note

Adopted effective January 13, 1976 (Supp. 76-1).
 Amended effective January 3, 1977 (Supp. 77-1).
 Amended effective January 3, 1979 (Supp. 79-1).
 Amended as an emergency effective January 2, 1981 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1023 as amended effective January 3, 1979 and amended as an emergency effective January 2, 1981 now amended effective April 15, 1981 (Supp. 81-2). Amended effective January 1, 1986 (Supp. 85-6). Former Section R9-3-1023 renumbered without change as Section R18-2-1023 (Supp. 88-3). Amended effective February 4, 1993 (Supp. 93-1). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 562, effective January 14, 2000 (Supp. 00-1).

R18-2-1024. Expired**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 84, effective December 14, 2001 (Supp. 01-4). Section expired under A.R.S. § 41-1056(E) at 15 A.A.R. 1128, effective April 30, 2008 (Supp. 09-2).

R18-2-1025. Inspection of Contractor's Equipment and Personnel

- A.** State stations shall be inspected by state inspectors as follows:
1. In Area A:
 - a. Automated emission analyzers, calibrated and maintained according to "IM240 and Evap Technical Guidance," shall be inspected using state station field calibration gases at least once every other month.
 - b. Opacity meters shall be inspected for accuracy using a neutral density filter at least once each month.
 - c. During audits, a check shall be made for equipment tampering, worn instrumentation, blocked filters, and other conditions that would impair accurate sampling.
 2. In Area B:
 - a. Automated emission analyzers shall be inspected using state station field calibration gases at least two times each month.
 - b. Opacity meters shall be inspected for accuracy using a neutral density filter at least two times each month.
 - c. During audits, a check shall be made for tampering, worn instrumentation, blocked filters, and other conditions that would impair accurate sampling.
 - d. Functional checks of dynamometer accuracy including roll speed and power absorption shall be performed at least quarterly.
- B.** Equipment used to perform a transient loaded emissions test, shall be audited at least twice a year for all of the following:
1. Constant volume sampler critical flow and calibration;
 2. Optimization of the flame ionization detector fuel to air ratio using methane;
 3. Proper dynamometer coast down, roll distance, and inertia weight;

4. Ability to detect background pollutant concentrations;
 5. Evaporative pressure test system for accuracy, response time, and other criteria consistent with “IM240 and Evap Technical Guidance;” and
 6. Functional gas cap analysis equipment.
- C. If an equipment audit of an inspection lane in either area A or area B indicates that a state station analyzer is not operating within contractually specified tolerance, the state inspector shall immediately re-audit the failing equipment. If the equipment fails the second audit, the inspector shall immediately notify the station manager. The station manager shall either replace or repair the failing equipment or close the affected lane until the equipment is repaired and its accuracy verified. The state inspector shall provide a copy of the analyzer’s failing results to the station manager.
- D. A state station analyzer removed by the contractor may be returned to service upon its repair and written verification of a passing calibration audit. The contractor shall immediately notify the Department in writing of the analyzer’s return to service. The contractor’s calibration audit of the analyzer shall be provided to the Department within seven calendar days after the analyzer’s return to service.
- E. State inspectors shall conduct performance audits to determine whether vehicle emissions inspectors are correctly performing all inspections and functions related to inspections as follows:
1. Overt audits at least two times each year for each inspection lane:
 - a. Check for proper document security;
 - b. Check for required recordkeeping including vehicle emissions inspector licenses; and
 - c. Observation and written evaluation of each vehicle emissions inspector’s ability to perform an inspection.
 2. State station and vehicle emissions inspector records shall be reviewed at least monthly to assess station performance and identify any problems, potential fraud, or incompetence.
 3. If a vehicle emissions inspector fails an audit under subsection (E)(1) or (E)(2), the vehicle emissions inspector’s license may be suspended or revoked according to R18-2-1016(A)(4).
- F. On-road emissions analyzers shall be inspected by a state inspector at least monthly using dry-gas analysis equipment.
- G. If an equipment audit indicates that an on-road emissions analyzer is not operating within contractually specified tolerance, the state inspector shall immediately re-audit the failing equipment. If the equipment fails the second audit, the inspector shall immediately notify the contractor and the contractor shall repair or replace the equipment according to subsections (C) and (D).

Historical Note

Adopted effective January 3, 1977 (Supp. 77-1).
 Amended effective March 2, 1978 (Supp. 78-2).
 Amended as an emergency effective January 2, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1025 as amended effective March 2, 1978, and amended as an emergency effective January 2, 1981, now amended effective April 15, 1981 (Supp. 81-2). Amended effective January 1, 1986 (Supp. 85-6). Amended subsection (A) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1025 renumbered as Section R18-2-1025 and subsection (C) amended effective August 1, 1988 (Supp. 88-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 562, effective January 14, 2000 (Supp. 00-1).

Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4).

R18-2-1026. Inspection of Fleet Stations

- A. Equipment used by fleet stations shall be inspected by state inspectors for accuracy as follows:
1. Emission analyzers shall be inspected using field calibration gases at least quarterly.
 2. Opacity meters shall be inspected using a neutral density filter at least quarterly.
 3. Equipment for transient loaded emissions tests shall be inspected according to R18-2-1025(A) and (B).
- B. A fleet station’s emissions analyzer shall not be used for an official emissions inspection if:
1. The state’s field calibration gases are not read within the tolerances prescribed by subsection (J);
 2. There is a leak in the sampling systems or the calibration port; or
 3. The sample handling system is restricted.
- C. The fleet station is responsible for calibration of the fleet station emission analyzer.
- D. A state inspector may, at the inspector’s discretion, allow a fleet station employee, or someone authorized by the fleet station, to calibrate the analyzer utilizing the state’s field calibration gases.
- E. The Department shall assign HC and CO concentrations to a calibration gas submitted by a fleet station emission analyzer technician and purchased from a private source.
- F. A state inspector shall tag a fleet station emission analyzer if the analyzer does not meet the requirements of this Section. The fleet vehicle emissions inspector shall not use the analyzer for inspection until the tag is removed by a state inspector or an analyzer repair person certified under R18-2-1028. The tag shall be in the form of a U.S. postcard and contain the information listed in R18-2-1027(E).
- G. An analyzer tagged under subsection (F) shall not be returned to service until its accuracy is verified by a state inspector or an emissions analyzer repair person certified under R18-2-1028.
- H. A fleet station is responsible for periodic maintenance and calibrations of its emissions analyzers. Repair and maintenance requirements are prescribed in R18-2-1019.
- I. If a state inspector has approved its use, a fleet station may lease or borrow an emission analyzer for official inspections for up to six months while the station’s approved analyzer is being repaired.
- J. Fleet station analyzers used for transient loaded tests shall comply with and be quality control checked according to “IM240 and Evap Technical Guidance.” All other fleet station emission analyzers used for emissions inspections are required to read the calibration gases within the following tolerances:
1. Within plus 0.50% CO to minus 0.25% CO in the range from 0 to 2% CO;
 2. Within plus 1.00% CO to minus 0.50% CO in the range from 2% to 10% CO;
 3. Within plus 60 PPM HC to minus 30 PPM HC in the range from 0 to 500 PPM HC when read as N-HEXANE; and
 4. Within plus 200 PPM HC to minus 100 PPM HC in the range from 500 to 2,000 PPM HC when read as N-HEXANE.
- K. A fleet station opacity meter used for emission inspections is required to read the equivalent opacity value of neutral density filter within $\pm 5\%$ opacity at any point in the range of the meter.
- L. A state inspector shall conduct performance audits to determine whether a vehicle emissions inspector is correctly per-

forming inspections and functions related to inspections as follows:

1. Overt audits at least two times each year for each facility:
 - a. Check for proper document security;
 - b. Check for required recordkeeping including vehicle emissions inspector licenses; and
 - c. Observe and make a written evaluation of each vehicle emissions inspector's ability to perform an inspection.
2. Fleet station and vehicle emissions inspector records shall be reviewed at least monthly to assess fleet performance and identify any problems, potential fraud, or incompetence.

Historical Note

Adopted effective January 3, 1977 (Supp. 77-1).
 Amended effective January 1, 1986 (Supp. 85-6).
 Amended subsections (A) and (J) and added subsection (K) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1026 renumbered as Section R18-2-1026 and subsections (B), (F), (G) and (H) amended effective August 1, 1988 (Supp. 88-3).
 Amended effective November 14, 1994 (Supp. 94-4).
 Amended by final rulemaking at 6 A.A.R. 562, effective January 14, 2000 (Supp. 00-1).

R18-2-1027. Registration and Inspection of Emissions Analyzers and Opacity Meters

- A. An automotive repair facility may apply to the Department at no charge for registration of NDIR HC and CO analyzers, and opacity meters. NDIR emission analyzers and opacity meters used by fleet inspection stations shall be registered for the fleet station permit approval. Application forms for analyzer or opacity meter registration are available from the Department. Completed application forms shall be submitted to the Department. For purposes of 18 A.A.C. 1, the application components for registration of an analyzer or opacity meter are:
 1. The Department receives a completed application form;
 2. The applicant or employee successfully completes the "Certified Technician" examination described in R18-2-1028(A)(2); and
 3. The Department inspects the analyzer.
- B. A registered analyzer shall be calibrated at least monthly, by a certified technician, with calibration gases approved by the Department. A registered opacity meter shall be calibrated according to manufacturer's specifications before performing the first vehicle emissions inspection in any month.
- C. A registered analyzer shall meet the requirements of R18-2-1006(F)(8)(a). Calibration shall be verified by a state inspector before the analyzer is registered. The analyzer shall read the value of the calibration gases within the following tolerances:
 1. Plus 0.50% CO to minus 0.25% CO in the range from 0 to 2% CO;
 2. Plus 1.00% CO to minus 0.50% CO in the range from 2% to 10% CO;
 3. Plus 60 PPM HC to minus 30 PPM HC in the range from 0 to 500 PPM HC when read as N-HEXANE; and
 4. Plus 200 PPM HC to minus 100 PPM HC in the range from 500 to 2,000 PPM HC when read as N-HEXANE.
- D. Each registered opacity meter and analyzer shall have a unique registration number assigned by the Department. The technician shall maintain a repair and calibration log for each registered opacity meter and analyzer on a form provided by the Department. The log shall be made available to a state inspector on request.
- E. A state inspector shall tag a registered opacity meter or analyzer if the opacity meter or analyzer does not meet the

requirements of this Section. A tagged opacity meter or analyzer shall not be used for the purposes of R18-2-1010 or R18-2-1019 until the tag is removed by a state inspector or an emission analyzer repair person certified under R18-2-1028 after accuracy is verified.

1. The tag shall be in the form of a U.S. postcard and contain the following information:
 - a. Analyzer registration number or opacity meter registration number,
 - b. Brief statement that the analyzer does not meet state operating requirements for registered analyzers,
 - c. Reason for tagging,
 - d. Date the analyzer was tagged and the signature of state inspector issuing the tag,
 - e. Details of repairs performed to correct the failure,
 - f. CO and HC concentrations of calibration gases used to verify analyzer accuracy,
 - g. Analyzer readings when gases were introduced into the analyzer sampling probe, and
 - h. Repair person's certificate number and signature or signature of state inspector removing the tag and date accuracy is verified.
 2. The tag shall be returned to the Department within two business days after accuracy is verified.
- F. An owner of a registered emission analyzer or opacity meter shall notify the Department within seven business days of the retirement, resignation, or termination of any licensed vehicle emissions inspector or certified technician. The Department shall revoke the registration of an emission analyzer or opacity meter if the owner of the analyzer or meter does not employ an inspector licensed under R18-2-1019 or a technician certified under R18-2-1028.

Historical Note

Adopted effective January 3, 1977 (Supp. 77-1).
 Amended effective March 2, 1978 (Supp. 78-2).
 Amended effective January 3, 1979 (Supp. 79-1).
 Amended as an emergency effective January 2, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1027 as amended effective January 3, 1979, and amended as an emergency effective January 2, 1981, now amended effective April 15, 1981 (Supp. 81-2). Amended effective January 1, 1986 (Supp. 85-6). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1027 renumbered as Section R18-2-1027 and subsections (B), (D), (F) and (G) amended effective August 1, 1988 (Supp. 88-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 562, effective January 14, 2000 (Supp. 00-1). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 14 A.A.R. 2834, effective July 1, 2008 (Supp. 08-3).

R18-2-1028. Certification of Users of Registered Analyzers and Analyzer Repair Persons

- A. A person may be certified to use a registered analyzer and opacity meter if:
 1. The person completes the application form and submits it to the Department; and
 2. The person demonstrates proficiency by scoring 80% or higher on a Department-administered examination in the following areas:
 - a. Equipment used in the inspection and control of emissions;
 - b. Types of emissions inspection failures;

- c. Correction procedures for excessive HC emissions;
 - d. Correction procedures for excessive CO emissions;
 - e. Proper carburetor adjustment procedures; and
 - f. Diesel fuel injection systems.
- B. Certification under subsection (A) shall be valid for one year from date of issue and may be renewed, under the conditions of subsection (A), by submitting a renewal application to the Department 30 days before the current certification expiration date.
- C. A person certified under subsection (A) shall notify the Department within seven business days of the person's retirement, resignation, or termination from employment.
- D. A person may be certified to repair and remove tags from an emission analyzer under R18-2-1027 if:
 - 1. Application is made to the Department;
 - 2. The person demonstrates proficiency by scoring 80% or higher on a Department-administered examination in the following areas:
 - a. State and federal regulations governing emissions analyzers,
 - b. Fundamentals of emission analyzer operation, repair and preventive maintenance,
 - c. Theory of operation of vehicle emissions control devices.
- E. Certification under subsection (D) shall be valid for one year from date of issue and may be renewed, under the conditions of subsection (D), by submitting a renewal application to the Department 30 days before the current certification expiration date.
- F. Each person certified under this Section shall receive a unique nontransferable certification number.
- G. The Department may suspend, revoke or refuse to renew the certification issued under subsection (A) if:
 - 1. The person's actions demonstrate a lack of proficiency in the areas listed under subsection (A)(2); or
 - 2. The person has willfully violated any provision of this Article.
- H. The Department may suspend, revoke, or refuse to renew the certification issued under subsection (D) if:
 - 1. The person's actions demonstrate a lack of proficiency in the areas listed under subsection (D)(2); or
 - 2. The person has willfully violated any provision of this Article.

Historical Note

Adopted effective January 1, 1986 (Supp. 85-6).
 Amended subsections (A) and (F) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1028 renumbered as Section R18-2-1028 and subsection (D) amended effective August 1, 1988 (Supp. 88-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 562, effective January 14, 2000 (Supp. 00-1).

R18-2-1029. Vehicle Emission Control Devices

For the purposes of A.R.S. §§ 28-955 and 49-447, a registered motor vehicle shall have in operating condition all emission control devices installed by the vehicle manufacturer to comply with federal requirements for motor vehicle emissions or equivalent after-market replacement parts or devices.

Historical Note

Adopted effective January 3, 1977 (Supp. 77-1). Former Section R9-3-1029 renumbered as Section R18-2-1029 and amended effective August 1, 1988 (Supp. 88-3). Amended by final rulemaking at 6 A.A.R. 562, effective

January 14, 2000 (Supp. 00-1).

R18-2-1030. Visible Emissions; Mobile Sources

- A. A vehicle other than a diesel-powered vehicle or 2-stroke vehicle that emits any visible emissions for 10 consecutive seconds or more is "excessive" for the purposes of A.R.S. § 28-955(C).
- B. A diesel-powered vehicle shall not emit any visible emissions in excess of:
 - 1. Twenty percent visual opacity for 10 consecutive seconds or more at or below 2,000 feet elevation;
 - 2. Thirty percent visual opacity for 10 consecutive seconds or more above 2,000 feet and at or below 4,000 feet elevation; and
 - 3. Forty percent visual opacity for 10 consecutive seconds above 4,000 feet elevation.
- C. A vehicle that exceeds the standards in subsection (B) fails the inspection under R18-2-1006 and is considered to have "excessive" emissions under A.R.S. § 28-955(C).

Historical Note

Adopted effective January 3, 1977 (Supp. 77-1).
 Amended as an emergency effective January 2, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1030 as adopted effective January 3, 1977, and amended as an emergency effective January 2, 1981, now amended effective April 15, 1981 (Supp. 81-2). Amended effective January 1, 1986 (Supp. 85-6). Amended subsection (C) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1030 renumbered as Section R18-2-1030 and subsection (C) amended effective August 1, 1988 (Supp. 88-3). Amended effective September 19, 1990 (Supp. 90-3). Amended by final rulemaking at 6 A.A.R. 562, effective January 14, 2000 (Supp. 00-1).

R18-2-1031. Standards for Evaluating the Oxidation Efficiency of a Catalytic Converter

- A. Except for a vehicle requiring an Idle-Only Inspection, a gasoline-powered vehicle requiring a catalytic converter test under R18-2-1008(C) shall be tested using the following Catalyst Efficiency Test Procedure:
 - 1. Immediately after a vehicle completes an Inspection and Maintenance (I/M) test in the waiver lane, the exhaust sampling cone shall be removed from the tailpipe. The vehicle shall remain on the dynamometer with the engine idling and the transmission in neutral. The vehicle engine must be at normal operating temperature.
 - 2. For the catalyst test, the dynamometer and the constant volume sampler shall remain at the settings used for the vehicle's I/M test.
 - 3. The inspector shall insert the sampling tube for the A/F analyzer into the tailpipe of the vehicle.
 - 4. The inspector shall accelerate the vehicle to 40 ± 2.5 MPH and maintain a steady-state operating mode for the duration of the test. Once the vehicle obtains the test speed, the test shall begin.
 - 5. Once the test begins, a two-minute stabilization period shall take place, during which the inspector shall monitor the A/F analyzer to ensure that the A/F is 14.0 or greater. If the mean A/F is less than 14.0, the inspector shall abort the test.
 - 6. If the A/F is 14.0 or greater, the exhaust sampling cone shall be repositioned for exhaust sampling.
 - 7. After the stabilization period ends, the total hydrocarbon and methane concentrations and the A/F ratio shall be continuously recorded for two minutes.
 - 8. At the end of the two-minute sampling period, the inspector shall stop the vehicle, remove the exhaust sampling

- cone and the A/F analyzer sampling probe from the tailpipe, and remove the vehicle from the dynamometer.
9. The mean total hydrocarbon concentration shall be divided by the mean methane concentration for the recorded values of the test, to produce a ratio (R) of total hydrocarbon to methane. The ratio, R, shall be applied to the formula: Catalyst Efficiency (%) = -3 (R) +100.
 10. A vehicle passes the test if the Catalyst Efficiency (%) is 75% or greater.
 11. The test result for a non-passing vehicle with a mean A/F equal to, or less than, 14.3 shall be inconclusive.
 12. A vehicle fails the Catalyst Efficiency Test Procedure if the A/F is greater than 14.3 and the Catalyst Efficiency (%) is less than 75%. The failing vehicle cannot be granted a waiver according to R18-2-1008(C)(1).
- B.** Analytical equipment required to perform the Catalyst Efficiency Test Procedure shall meet the following requirements:
1. Analyzer Specifications:
 - a. An analyzer shall meet performance specifications of 40 CFR 86 subparts B, D, and N with respect to accuracy, precision, drift, interference, and noise. 40 CFR, subparts B, D, and N, adopted as of July 1, 1998, are incorporated by reference and on file with the Department and the Secretary of State. This incorporation contains no future editions or amendments. A copy of this referenced material may be obtained from the U.S. Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington D.C. 20402-9328.
 - b. Total hydrocarbon analysis shall be determined by a flame ionization detector. The analyzer shall be single range with a calibration curve covering at least 0 to 300 ppm carbon.
 - c. Methane analysis shall be determined by a flame ionization detector equipped with a non-methane cutter capable of oxidizing 98% of the hydrocarbons (except methane) while more than 90% of the methane remains unchanged. The analyzer shall be single range with a calibration curve covering at least 0 to 30 ppm.
 2. Analyzer Performance Verification and Calibration:
 - a. The operator of an analyzer under this Section shall verify analyzer performance according to manufacturer recommendations.
 - b. Upon initial installation, and monthly thereafter, the operator of an analyzer under this Section shall generate a 10-point calibration curve for each total hydrocarbon and methane analyzer. A gas divider employing equally spaced points may be used to generate the calibration curve.
 - i. Each calibration curve generated shall fit the data within $\pm 2.0\%$ at each calibration point.
 - ii. Each calibration curve shall be verified for each analyzer with a confirming calibration standard between 15-80% of full scale that is not used for curve generation. Each confirming standard shall be measured by the curve within $\pm 2.5\%$.
 - d. Engine A/F mixture analysis shall be determined by a Universal Exhaust Gas Oxygen Sensor. The range shall be 8.0 to 25.5 A/F for gasoline with an accuracy of $\pm 2\%$ of point and a response time of less than 150 milliseconds.

Historical Note

Adopted effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1031 renumbered as Section R18-2-1031 and amended effective August 1, 1988 (Supp. 88-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4).

Table 1. Dynamometer Loading Table - Annual Tests

Gross Vehicle Weight			
Rating (Pounds)	Engine Size	Speed (MPH)	Load (HP)
8500 or less	4 cyl. or less	22-25	2.8-4.1
8500 or less	5 or 6 cyl.	29-32	6.4-8.4
8500 or less	8 cyl. or more	32-35	8.4-10.8
8501 or more	All	37-40	12.7-15.8

Historical Note

Adopted effective November 14, 1994 (Supp. 94-4).

Table 2. Emissions Standards - Annual Tests

MAXIMUM ALLOWABLE

Motorcycles

Vehicle Engine Type	Vehicle Model Year	Number of Cylinders	Conditioning Mode		Curb Idle Mode Test		Loaded Cruise Mode Test	
			HC PPM	CO %	HC PPM	CO %	HC PPM	CO %
2-Stroke	All	All	18,000	5.00	18,000	5.00	N/A	N/A
4-Stroke	All	All	500	5.00	1,800	5.50	N/A	N/A

Reconstructed Vehicles

Vehicle Engine Type	Vehicle Model Year	Number of Cylinders	Conditioning Mode		Curb Idle Mode Test		Loaded Cruise Mode Test	
			HC PPM	CO %	HC PPM	CO %	HC PPM	CO %
4-Stroke	1967-1980	All	700	5.25	1,200	7.50	1,200	5.60
4-Stroke	1980 & Newer	All	700	5.25	1,200	7.50	700	5.25

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Light-Duty Vehicles

Vehicle Engine Type	Vehicle Model Year	Number of Cylinders	Conditioning Mode		Curb Idle Mode Test		Loaded Cruise Mode Test	
			HC PPM	CO %	HC PPM	CO %	HC PPM	CO %
2-Stroke	All	All	18,000	5.00	18,000	5.00	18,000	5.00
4-Stroke	1967-1971	4 or less	450	3.75	500	5.50	500	4.20
4-Stroke	1967-1971	more than 4	380	3.00	450	5.00	450	3.75
4-Stroke	1972-1974	4 or less	380	3.50	400	5.50	400	4.20
4-Stroke	1972-1974	more than 4	300	3.00	400	5.00	400	3.75
4-Stroke	1975-1978	4 or less	120	1.00	250	2.20	250	1.65
4-Stroke	1975-1978	more than 4	120	1.00	250	2.00	250	1.50
4-Stroke	1979	4 or less	120	1.00	220	2.20	220	1.65
4-Stroke	1979	more than 4	120	1.00	220	2.00	220	1.50
4-Stroke	1980 & newer	All	100	0.50	220	1.20	220	1.20

Light-Duty Truck 1 (0-6000 lbs GVWR)

Vehicle Engine Type	Vehicle Model Year	Number of Cylinders	Conditioning Mode		Curb Idle Mode Test		Loaded Cruise Mode Test	
			HC PPM	CO %	HC PPM	CO %	HC PPM	CO %
2-Stroke	All	All	18,000	5.00	18,000	5.00	18,000	5.00
4-Stroke	1967-1971	4 or less	450	3.75	500	5.50	500	4.20
4-Stroke	1967-1971	more than 4	380	3.00	450	5.00	450	3.75
4-Stroke	1972-1974	4 or less	380	3.50	400	5.50	400	4.20
4-Stroke	1972-1974	more than 4	300	3.00	400	5.00	400	3.75
4-Stroke	1975-1978	4 or less	120	1.00	250	2.20	250	1.65
4-Stroke	1975-1978	more than 4	120	1.00	250	2.00	250	1.50
4-Stroke	1979	4 or less	120	1.00	220	2.20	220	1.65
4-Stroke	1979	more than 4	120	1.00	220	2.00	220	1.50
4-Stroke	1980 & newer	All	100	0.50	220	1.20	220	1.20

Light-Duty Truck 2 (6001 - 8500 lbs GVWR)

Vehicle Engine Type	Vehicle Model Year	Number of Cylinders	Conditioning Mode		Curb Idle Mode Test		Loaded Cruise Mode Test	
			HC PPM	CO %	HC PPM	CO %	HC PPM	CO %
2-Stroke	All	All	18,000	5.00	18,000	5.00	18,000	5.00
4-Stroke	1967-1971	4 or less	450	3.75	500	5.50	500	4.20
4-Stroke	1967-1971	more than 4	380	3.00	450	5.00	450	3.75
4-Stroke	1972-1974	4 or less	380	3.50	400	5.50	400	4.20
4-Stroke	1972-1974	more than 4	300	3.00	400	5.00	400	3.75
4-Stroke	1975-1978	All	300	3.00	350	4.00	350	3.00
4-Stroke	1979	4 or less	120	1.00	220	2.20	220	1.65
4-Stroke	1979	more than 4	120	1.00	220	2.00	220	1.50
4-Stroke	1980 & newer	All	100	0.50	220	1.20	220	1.20

Heavy-Duty Truck (8501 lbs or greater GVWR)

Vehicle Engine Type	Vehicle Model Year	Number of Cylinders	Conditioning Mode		Curb Idle Mode Test		Loaded Cruise Mode Test	
			HC PPM	CO %	HC PPM	CO %	HC PPM	CO %
2-Stroke	All	All	18,000	5.00	18,000	5.00	18,000	5.00
4-Stroke	1967-1971	4 or less	450	3.75	500	5.50	500	4.20
4-Stroke	1967-1971	more than 4	380	3.00	450	5.00	450	3.75
4-Stroke	1972-1974	4 or less	380	3.50	400	5.50	400	4.20
4-Stroke	1972-1974	more than 4	300	3.00	400	5.00	400	3.75
4-Stroke	1975-1978	All	300	3.00	350	4.00	350	3.00
4-Stroke	1979 & newer	All	300	3.00	300	4.00	300	3.00

Historical Note

Renumbered from R18-2-1006 and amended effective November 14, 1994 (Supp. 94-4). See emergency amendment below (Supp. 94-4). Emergency amendment adopted effective December 23, 1994, pursuant to A.R.S. § 41-1026, valid for 180 days (Supp. 95-2). Emergency amendment expired, previous text placed back into effect effective June 21, 1995 (Supp. 95-3).
Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4).

Table 3. Emissions Standards - Transient Loaded Emissions Tests
FINAL STANDARDS (Standards are in grams per mile)

(i) Light Duty Vehicles

Model Years	Hydrocarbons		Carbon Monoxide		Oxides of Nitrogen	
	Composite	Phase 2	Composite	Phase 2	Composite	Phase 2
1981-1982	3.0	2.5	25.0	21.8	3.5	3.4
1983-1985	2.4	2.0	20.0	17.3	3.5	3.4
1986-1989	1.6	1.4	15.0	12.8	2.5	2.4
1990-1993	1.0	0.8	12.0	10.1	2.5	2.4
1994+	0.8	0.7	12.0	10.1	2.0	1.9

(ii) Light Duty Trucks 1 (less than 6000 pounds GVWR)

Model Years	Hydrocarbons		Carbon Monoxide		Oxides of Nitrogen	
	Composite	Phase 2	Composite	Phase 2	Composite	Phase 2
1981-1985	4.0	3.4	40.0	35.3	5.5	5.4
1986-1989	3.0	2.5	25.0	21.8	4.5	4.4
1990-1993	2.0	1.7	20.0	17.3	4.0	3.9
1994+	1.6	1.4	20.0	17.3	3.0	2.9

(iii) Light Duty Trucks 2 (greater than 6000 pounds GVWR)

Model Years	Hydrocarbons		Carbon Monoxide		Oxides of Nitrogen	
	Composite	Phase 2	Composite	Phase 2	Composite	Phase 2
1981-1985	4.4	3.7	48.0	42.5	7.0	6.9
1986-1987	4.0	3.4	40.0	35.3	5.5	5.4
1988-1989	3.0	2.5	25.0	21.8	5.5	5.4
1990-1993	3.0	2.5	25.0	21.8	5.0	4.9
1994+	2.4	2.0	25.0	21.8	4.0	3.9

Historical Note

Adopted effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Table heading amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4).

Table 4. Transient Driving Cycle

Time second	Speed mph	Time second	Speed mph	Time second	Speed mph	Time second	Speed mph	Time second	Speed mph
0	0	30	20.7	60	26	90	51.5	120	54.9
1	0	31	21.7	61	26	91	52.2	121	55.4
2	0	32	22.4	62	25.7	92	53.2	122	55.6
3	0	33	22.5	63	26.1	93	54.1	123	56
4	0	34	22.1	64	26.5	94	54.6	124	56
5	3.3	35	21.5	65	27.3	95	54.9	125	55.8
6	6.6	36	20.9	66	30.5	96	55	126	55.2
7	9.9	37	20.4	67	33.5	97	54.9	127	54.5
8	13.2	38	19.8	68	36.2	98	54.6	128	53.6
9	16.5	39	17	69	37.3	99	54.6	129	52.5
10	19.8	40	17.1	70	39.3	100	54.8	130	51.5
11	22.2	41	15.8	71	40.5	101	55.1	131	50.8
12	24.3	42	15.8	72	42.1	102	55.5	132	48
13	25.8	43	17.7	73	43.5	103	55.7	133	44.5
14	26.4	44	19.8	74	45.1	104	56.1	134	41
15	25.7	45	21.6	75	46	105	56.3	135	37.5
16	25.1	46	22.2	76	46.8	106	56.6	136	34
17	24.7	47	24.5	77	47.5	107	56.7	137	30.5
18	25.2	48	24.7	78	47.5	108	56.7	138	27
19	25.4	49	24.8	79	47.3	109	56.3	139	23.5
20	27.2	50	24.7	80	47.2	110	56	140	20
21	26.5	51	24.6	81	47.2	111	55	141	16.5

Time second	Speed mph	Time second	Speed mph	Time second	Speed mph	Time second	Speed mph	Time second	Speed mph
22	24	52	24.6	82	47.4	112	53.4	142	13
23	22.7	53	25.1	83	47.9	113	51.6	143	9.5
24	19.4	54	25.6	84	48.5	114	51.8	144	6
25	17.7	55	25.7	85	49.1	115	52.1	145	2.5
26	17.2	56	25.4	86	49.5	116	52.5	146	0
27	18.1	57	24.9	87	50	117	53		
28	18.6	58	25	88	50.6	118	53.5		
29	20	59	25.4	89	51	119	54		

Historical Note

Adopted effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4).

Table 5. Tolerances

	Range	State Station	Fleet Station

4 & 2 stroke vehicles:			
CO in MOL percent	0 to 2.0%	±0.1%	±0.25%
	2 to 10.0%	±0.25%	±0.5%
4-stroke vehicles:			
HC as N-hexane in PPM	0 to 500 PPM	±15 PPM	±30 PPM
	500 to 2000 PPM	±50 PPM	±100 PPM
2-stroke vehicles:			
HC as propane in PPM	0 to 25,000 PPM	±1250 PPM	±1250 PPM

Historical Note

Adopted effective November 14, 1994 (Supp. 94-4).

Table 6. Repealed**Historical Note**

Adopted effective November 14, 1994 (Supp. 94-4). See emergency amendment below (Supp. 94-4). Emergency amendment adopted effective December 23, 1994, pursuant to A.R.S. § 41-1026, valid for 180 days (Supp. 95-2). Emergency amendment expired, previous text placed back into effect effective June 21, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Table 6 repealed by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4).

ARTICLE 11. FEDERAL HAZARDOUS AIR POLLUTANTS**R18-2-1101. National Emission Standards for Hazardous Air Pollutants (NESHAPs)**

- A. Except as provided in R18-2-1102, the following subparts of 40 CFR 61, National Emission Standards for Hazardous Air Pollutants (NESHAPs), and all accompanying appendices, adopted as of June 28, 2013, and no future editions or amendments, are incorporated by reference as applicable requirements. These standards are on file with the Department and shall be applied by the Department. These standards can be obtained from the U.S. Government Printing Office, Superintendent of Documents, bookstore.gpo.gov, Mail Stop: SSOP IDCC-SSOM, Washington, D.C. 20402-9328.
1. Subpart A - General Provisions.
 2. Subpart B - Radon Emissions from Underground Uranium Mines.
 3. Subpart C - Beryllium.
 4. Subpart D - Beryllium Rocket Motor Firing.
 5. Subpart E - Mercury.
 6. Subpart F - Vinyl Chloride.

7. Subpart H - Radionuclides Other Than Radon from Department of Energy Facilities.
8. Subpart I - Radionuclide Emissions from Federal Other Than Nuclear Regulatory Commission Licensees and Not Covered by Subpart H.
9. Subpart J - Equipment Leaks (Fugitive Emission Sources) of Benzene.
10. Subpart K - Radionuclide Emissions From Elemental Phosphorus Plants.
11. Subpart L - Benzene Emissions from Coke By-Product Recovery Plants.
12. Subpart M - Asbestos.
13. Subpart N - Inorganic Arsenic Emissions from Glass Manufacturing Plants.
14. Subpart O - Inorganic Arsenic Emissions from Primary Copper Smelters.
15. Subpart P - Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production.
16. Subpart Q - Radon Emissions from Department of Energy Facilities.
17. Subpart R - Radon Emissions from Phosphogypsum Stacks.
18. Subpart T - Radon Emissions from the Disposal of Uranium Mill Tailings.
19. Subpart V - Equipment Leaks (Fugitive Emission Sources).
20. Subpart W - Radon Emissions from Operating Mill Tailings.
21. Subpart Y - Benzene Emissions From Benzene Storage Vessels.
22. Subpart BB - Benzene Emissions from Benzene Transfer Operations.
23. Subpart FF - Benzene Waste Operations.

- B. Except as provided in R18-2-1102, the following subparts of 40 CFR 63, NESHAPs for Source Categories, and all accompanying appendices, adopted as of June 28, 2013, and no future editions or amendments, are incorporated by reference as applicable requirements. These standards are on file with the Department and shall be applied by the Department. These standards can be obtained from the U.S. Government Printing Office, Superintendent of Documents, bookstore.gpo.gov, Mail Stop: SSOP IDCC-SSOM, Washington, D.C. 20402-9328.
1. Subpart A - General Provisions.
 2. Subpart F - National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry.
 3. Subpart G - National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.
 4. Subpart H - National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks.
 5. Subpart I - National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.
 6. Subpart J - National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production.
 7. Subpart L - National Emission Standards for Coke Oven Batteries.
 8. Subpart M - National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.
 9. Subpart N - National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.
 10. Subpart O - Ethylene Oxide Emissions Standards for Sterilization Facilities.
 11. Subpart Q - National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers.
 12. Subpart R - National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations).
 13. Subpart S - National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry.
 14. Subpart T - National Emission Standards for Halogenated Solvent Cleaning.
 15. Subpart U - National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins.
 16. Subpart W - National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production.
 17. Subpart Y - National Emission Standards for Marine Tank Vessel Loading Operations.
 18. Subpart AA - National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants.
 19. Subpart BB - National Emission Standards for Hazardous Air Pollutants From Phosphate Fertilizers Production Plants.
 20. Subpart CC - National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries.
 21. Subpart DD - National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations.
 22. Subpart EE - National Emission Standards for Magnetic Tape Manufacturing Operations.
 23. Subpart GG - National Emission Standards for Aerospace Manufacturing and Rework Facilities.
 24. Subpart HH - National Emission Standards for Hazardous Air Pollutants From Oil and Natural Gas Production Facilities.
 25. Subpart JJ - National Emission Standards for Wood Furniture Manufacturing Operations.
 26. Subpart KK - National Emission Standards for the Printing and Publishing Industry.
 27. Subpart LL - National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants.
 28. Subpart MM - National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semi-chemical Pulp Mills.
 29. Subpart OO - National Emission Standards for Tanks - Level 1.
 30. Subpart PP - National Emission Standards for Containers.
 31. Subpart QQ - National Emission Standards for Surface Impoundments.
 32. Subpart RR - National Emission Standards for Individual Drain Systems.
 33. Subpart SS - National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process.
 34. Subpart TT - National Emission Standards for Equipment Leaks - Control Level 1.
 35. Subpart UU - National Emission Standards for Equipment Leaks - Control Level 2 Standards.
 36. Subpart VV - National Emission Standards for Oil-Water Separators and Organic-Water Separators.
 37. Subpart WW - National Emission Standards for Storage Vessels (Tanks) - Control Level 2.
 38. Subpart XX - National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations.
 39. Subpart YY - National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards.
 40. Subpart CCC - National Emission Standards for Hazardous Air Pollutants for Steel Pickling - HCl Process Facilities and Hydrochloric Acid Regeneration Plants.
 41. Subpart DDD - National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production.
 42. Subpart EEE - National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors.
 43. Subpart GGG - National Emission Standards for Pharmaceuticals Production.
 44. Subpart HHH - National Emission Standards for Hazardous Air Pollutants From Natural Gas Transmission and Storage Facilities.
 45. Subpart III - National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production.
 46. Subpart JJJ - National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins.
 47. Subpart LLL - National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry.
 48. Subpart MMM - National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production.
 49. Subpart NNN - National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing.
 50. Subpart OOO - National Emission Standards for Hazardous Air Pollutant Emissions: Manufacture of Amino/Phenolic Resins.

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51. Subpart PPP - National Emission Standards for Hazardous Air Pollutant Emissions for Polyether Polyols Production.
52. Subpart QQQ - National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting.
53. Subpart RRR - National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production.
54. Subpart TTT - National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting.
55. Subpart UUU - National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units.
56. Subpart VVV - National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works.
57. Subpart XXX - National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese.
58. Subpart AAAA - National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills.
59. Subpart CCCC - National Emission Standards for Hazardous Air Pollutants: Manufacture of Nutritional Yeast.
60. Subpart DDDD - National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products.
61. Subpart EEEE - National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline).
62. Subpart FFFF - National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing.
63. Subpart GGGG - National Emission Standards for Hazardous Air Pollutants: Solvent Extraction for Vegetable Oil Production.
64. Subpart HHHH - National Emissions Standards for Hazardous Air Pollutants for Wet-Formed Fiberglass Mat Production.
65. Subpart IIII - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks.
66. Subpart JJJJ - National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating.
67. Subpart KKKK - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans.
68. Subpart MMMM - National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products.
69. Subpart NNNN - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances.
70. Subpart OOOO - National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles.
71. Subpart PPPP - National Emission Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products.
72. Subpart QQQQ - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products.
73. Subpart RRRR - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture.
74. Subpart SSSS - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Coil.
75. Subpart TTTT - National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations.
76. Subpart UUUU - National Emission Standards for Hazardous Air Pollutants for Cellulose Products Manufacturing.
77. Subpart VVVV - National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing.
78. Subpart WWWW - National Emissions Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production.
79. Subpart XXXX - National Emission Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing.
80. Subpart YYYY - National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines.
81. Subpart ZZZZ - National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines.
82. Subpart AAAAA - National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants.
83. Subpart BBBBB - National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing.
84. Subpart CCCCC - National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks.
85. Subpart DDDDD - National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters.
86. Subpart EEEEE - National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries.
87. Subpart FFFFF - National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing.
88. Subpart GGGGG - National Emission Standards for Hazardous Air Pollutants: Site Remediation.
89. Subpart HHHHH - National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing.
90. Subpart IIIII - National Emission Standards for Hazardous Air Pollutants: Mercury Emissions From Mercury Cell Chlor-Alkali Plants.
91. Subpart JJJJJ - National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing.
92. Subpart KKKKK - National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing.
93. Subpart LLLLL - National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing.
94. Subpart MMMMM - National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations.
95. Subpart NNNNN - National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production.
96. Subpart PPPPP - National Emission Standards for Hazardous Air Pollutants: Engine Test Cells/Standards.
97. Subpart QQQQQ - National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities.
98. Subpart RRRRR - National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing.
99. Subpart SSSSS - National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing.
100. Subpart TTTTT - National Emissions Standards for Hazardous Air Pollutants for Primary Magnesium Refining.
101. Subpart WWWW - National Emission Standards for Hospital Ethylene Oxide Sterilizers.

102. Subpart YYYYYY - National Emission Standards for Hazardous Air Pollutants for Area Sources: Electric Arc Furnace Steelmaking Facilities.
103. Subpart ZZZZZZ - National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources.
104. Subpart BBBBBB - National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities.
105. Subpart CCCCCC - National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities.
106. Subpart DDDDDD - National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production Area Sources.
107. Subpart EEEEEEE - National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting Area Sources.
108. Subpart FFFFFFF - National Emission Standards for Hazardous Air Pollutants for Secondary Copper Smelting Area Sources.
109. Subpart GGGGGG - National Emission Standards for Hazardous Air Pollutants for Primary Nonferrous Metals Area Sources-Zinc, Cadmium, and Beryllium.
110. Subpart HHHHHH - National Emission Standards for Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources.
111. Subpart JJJJJJ - National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers Area Sources.
112. Subpart LLLLLL - National Emission Standards for Hazardous Air Pollutants for Acrylic and Modacrylic Fibers Production Area Sources.
113. Subpart MMMMMM - National Emission Standards for Hazardous Air Pollutants for Carbon Black Production Area Sources.
114. Subpart NNNNNN - National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources: Chromium Compounds.
115. Subpart OOOOOO - National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production and Fabrication Area Sources.
116. Subpart PPPPPP - National Emission Standards for Hazardous Air Pollutants for Lead Acid Battery Manufacturing Area Sources.
117. Subpart QQQQQQ - National Emission Standards for Hazardous Air Pollutants for Wood Preserving Area Sources.
118. Subpart RRRRRR - National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing Area Sources.
119. Subpart SSSSSS - National Emission Standards for Hazardous Air Pollutants for Glass Manufacturing Area Sources.
120. Subpart TTTTTT - National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources.
121. Subpart VVVVVV - National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources.
122. Subpart WWWWWW - National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations.
123. Subpart XXXXXX - National Emission Standards for Hazardous Air Pollutants Area Source Standards for Nine Metal Fabrication and Finishing Source Categories.
124. Subpart YYYYYY - National Emission Standards for Hazardous Air Pollutants for Area Sources: Ferroalloys Production Facilities.
125. Subpart ZZZZZZ - National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Aluminum, Copper, and other Nonferrous Foundries.
126. Subpart AAAAAA - National Emission Standards for Hazardous Air Pollutants for Area Sources: Asphalt Processing and Asphalt Roofing Manufacturing.
127. Subpart BBBBBB - National Emission Standards for Hazardous Air Pollutants for Area Sources: Chemical Preparations Industry.
128. Subpart CCCCCC - National Emission Standards for Hazardous Air Pollutants for Area Sources: Paints and Allied Products Manufacturing.
129. Subpart DDDDDDD - National Emission Standards for Hazardous Air Pollutants for Area Sources: Prepared Feeds Manufacturing.
130. Subpart EEEEEEE - National Emission Standards for Hazardous Air Pollutants: Gold Mine Ore Processing and Production Area Source Category.
131. Subpart HHHHHHH - National Emission Standards for Hazardous Air Pollutant Emissions for Polyvinyl Chloride and Copolymers Production.

Historical Note

Former Section R18-2-1101 repealed effective September 26, 1990 (Supp. 90-3). New Section R18-2-1101 renumbered from R18-2-901 and amended effective November 15, 1993 (Supp. 93-4). Amended effective June 10, 1994 (Supp. 94-2). Amended effective February 17, 1995 (Supp. 95-1). Amended effective December 7, 1995 (Supp. 95-4). Amended effective May 9, 1996 (Supp. 96-2). Amended effective April 4, 1997; filed with the Office of the Secretary of State March 14, 1997 (Supp. 97-1). Amended effective December 4, 1997 (Supp. 97-4). Amended by final rulemaking at 5 A.A.R. 3221, effective August 12, 1999 (Supp. 99-3). Amended by final rulemaking at 6 A.A.R. 4170, effective October 11, 2000 (Supp. 00-4). Amended by final rulemaking at 8 A.A.R. 2543, effective May 24, 2002 (Supp. 02-2). Amended by final rulemaking at 10 A.A.R. 3281, effective September 27, 2004 (Supp. 04-3). Amended by final rulemaking at 11 A.A.R. 5504, effective February 4, 2006 (Supp. 05-4). Amended by final rulemaking at 13 A.A.R. 4199, effective January 5, 2008 (Supp. 07-4). Amended by final expediated rulemaking at 21 A.A.R. 2747, effective December 13, 2015 (Supp. 15-4).

R18-2-1102. General Provisions

- A. When used in 40 CFR 61 or 63, “Administrator” means the Director of the Arizona Department of Environmental Quality except that the Director shall not be authorized to approve alternate or equivalent test methods or alternate standards or work practices, except as specifically provided in Part 63, Subpart B.
- B. From the general standards identified in R18-2-1101(A), delete 40 CFR 61.04. All requests, reports, applications, submittals, and other communications to the Director pursuant to this Article shall be submitted to the Arizona Department of Environmental Quality, Air Quality Division, 1110 West Washington Street, Phoenix, Arizona 85007.

- C. The Director shall not be delegated authority to deal with equivalency determinations that are nontransferable through Section 112(h)(3) of the Act.

Historical Note

Former Section R18-2-1102 repealed effective September 26, 1990 (Supp. 90-3). New Section R18-2-1102 renumbered from R18-2-902 and amended effective November 15, 1993 (Supp. 93-4). Amended effective June 10, 1994 (Supp. 94-2). Amended effective February 17, 1995 (Supp. 95-1). Amended by final rulemaking at 13 A.A.R. 4199, effective January 5, 2008 (Supp. 07-4).

ARTICLE 12. EMISSIONS BANK

R18-2-1201. Definitions

In addition to the definitions contained in Article 1 of this Chapter, and A.R.S. § 49-401.01, the following definitions apply to this Article:

1. "Certified credit" means an emission reduction credit that meets the criteria under R18-2-1205.
2. "Conditional credit" means an emission reduction credit that is in the review process before qualifying for certification under R18-2-1205.
3. "Credit generation" means the process by which a source obtains emission reduction credits for eventual listing in the registry.
4. "Credit retirement" means a person's purchase of a banked emission reduction credit for the purpose of permanent removal from the emissions bank.
5. "Credit utilization" means the use of a certified emission reduction credit.
6. "Credit withdrawal" means the removal of an emission reduction credit from the bank by the source originally depositing the emission reduction credit.
7. "Emission reduction credit" or "credit" means a certified unit that may be banked, sold, transferred, withdrawn, or retired.
8. "Permitting authority" means the state or county that has jurisdiction over a source under A.R.S. § 49-402 and may review, issue, revise, administer, and enforce a permit; and certify a credit under this Article.
9. "Registry" means the location where emission reduction credits are posted for the purpose of public notice, allowing a person to determine the availability of credits for related market transactions.
10. "Surplus" means the amount of a permitted source's emission reduction that is not required by federal, state, or local law.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 1815, effective March 18, 2002 (Supp. 02-1).

R18-2-1202. Applicability

The provisions of this Article apply to permitted sources emitting particulate matter, sulfur dioxide, carbon monoxide, nitrogen oxides, or volatile organic compounds. The provisions of this Article shall not apply to sources granted authority to operate under 18 A.A.C. 2, Article 5.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 1815, effective March 18, 2002 (Supp. 02-1).

R18-2-1203. Emissions Bank Administration

- A. The Director shall place an emission reduction credit in the emissions bank credit registry upon conditional certification, certification, pending use, and final disposition. For each credit, the Director shall place in the registry:

1. Source's contact name and information;
2. Source name and information;
3. Amount and type of pollutant;
4. Date of emission reduction and credit status.

- B. The Director shall issue a certificate of deposit to the reducing source for each certified credit deposited in the bank, and issue a certificate of retirement to a person for each certified credit permanently retired.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 1815, effective March 18, 2002 (Supp. 02-1).

R18-2-1204. Credit Generation

- A. A source wanting to generate an emission reduction for deposit into the bank shall submit a Credit Generation Application (CGA) to the Director on a form prescribed by the Director. The CGA shall contain:

1. The company name;
 2. The company mailing address;
 3. The owner, co-owner, or partner;
 4. The contact person name, title, and telephone number;
 5. The permitted source name, location, permit number, and industry code;
 6. The pollutant;
 7. The attainment status of the area where the source is located;
 8. The amount of actual emissions reduced;
 9. The date of emission reduction to be credited;
 10. The description of emission reduction credit generation activity;
 11. The signature of and verification of truthfulness and accuracy by a responsible official as defined in R18-2-301(17);
 12. The name, title, and telephone number of the responsible official.
- The source shall submit a copy of the CGA to the permitting authority with an application to revise the permit or request to terminate the permit.

- B. Upon receipt by the Director of the CGA with a check for the administrative fee specified in R18-2-1208(A), the Director shall list each conditional credit in the registry.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 1815, effective March 18, 2002 (Supp. 02-1).

R18-2-1205. Credit Certification

- A. A permitting authority may certify an emission credit if the permitting authority verifies the credit is based on:
1. A reduction in actual emissions that occurred after August 17, 1999;
 2. A quantifiable reduction in actual emissions;
 3. A permanent reduction in actual emissions;
 4. An enforceable reduction in actual emissions; and
 5. A surplus reduction in actual emissions occurring in addition to any other required emission reduction.

- B. The source must notify the permitting authority when the reduction occurs.

- C. In order for an emission reduction to be quantifiable under this Section:

1. The emission reduction must be quantifiable under R18-2-301(17); and
2. The reducing source shall submit documentation of any testing or monitoring that demonstrates an emission reduction.

- D. The permitting authority shall certify one emission reduction credit for each ton per year of particulate matter, sulfur diox-

ide, carbon monoxide, nitrogen dioxide, or volatile organic compound actually reduced.

- E. A banked credit does not expire.
- F. The permitting authority shall notify the source and the Director that a credit is certified. Upon receipt of the notice, the Director shall issue a certificate for each certified credit to the applicant identified in R18-2-1204, and list the certified credit in the registry.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 1815, effective March 18, 2002 (Supp. 02-1). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-1206. Credit Utilization

- A. A source may use a certified emission reduction credit in the same nonattainment area, maintenance area, or modeling domain in which the emission reduction occurred by submitting a Credit Utilization Application (CUA) to the Director on a form prescribed by the Director. The CUA shall contain:
 1. The name and mailing address of the source that generated the credit;
 2. The owner, co-owner, or partner of the source that generated the credit;
 3. The contact person name, title, telephone number of the source that generated the credit;
 4. The name and mailing address of the source utilizing the credit;
 5. The owner, co-owner, or partner of the source utilizing the credit;
 6. The contact person name, title, telephone number of the source utilizing the credit;
 7. The purpose of the utilization;
 8. The pollutant;
 9. The amount of emission reduction credit to be utilized;
 10. Each emission reduction credit certificate number;
 11. The signature of and verification of truthfulness and accuracy by a responsible official as defined in R18-2-301(17); and
 12. The name, title, and telephone number of the responsible official.

The source shall submit a copy of the CUA to the permitting authority at the time the source submits an application for a permit or permit revision.
- B. Upon receipt by the Director of the CUA with a check for the administrative fee specified in R18-2-1208(B), the Director shall list the pending sale in the registry.
- C. The Director shall not list the final sale in the registry until:
 1. The permitting authority evaluates and verifies the authenticity of the credit with the emissions bank;
 2. The permitting authority determines that there will be no adverse impact on air quality; and
 3. The permitting authority completes the permitting action and submits the credit certificate to the Director.
- D. After the permitting authority notifies the Director that the requirements of this Section have been met, the Director shall delist the credits in the registry.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 1815, effective March 18, 2002 (Supp. 02-1).

R18-2-1207. Credit Withdrawal

Any party purchasing certified credits listed in the emissions bank for the purpose of credit retirement, or any source withdrawing its own credits from the emissions bank, shall submit a CUA specified in R18-2-1204(A) with the surrendered certificates to the Director.

Upon receipt of the CUA and surrendered certificates, the Director shall delist the credits in the registry.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 1815, effective March 18, 2002 (Supp. 02-1).

R18-2-1208. Fees

- A. A source generating a credit shall pay a non-refundable administrative fee of \$200.00 to the Director when submitting the CGA. This fee is in addition to the fees specified in R18-2-326.
- B. A source utilizing a credit shall pay a non-refundable administrative fee of \$200.00 to the Director when submitting the CUA. This fee is in addition to the fees specified in R18-2-326.
- C. The Director shall not assess an administrative fee to a person:
 1. Purchasing a credit for retirement;
 2. Amending ownership information contained in the registry; or
 3. Withdrawing a credit from the bank.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 1815, effective March 18, 2002 (Supp. 02-1).

ARTICLE 13. STATE IMPLEMENTATION PLAN RULES FOR SPECIFIC LOCATIONS

R18-2-1301. Expired

Historical Note

New Section made by final rulemaking at 9 A.A.R. 1295, effective April 2, 2003 (Supp. 03-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 2856, effective April 30, 2013 (Supp. 13-3).

R18-2-1302. Expired

Historical Note

New Section made by final rulemaking at 9 A.A.R. 1295, effective April 2, 2003 (Supp. 03-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 2856, effective April 30, 2013 (Supp. 13-3).

R18-2-1303. Expired

Historical Note

New Section made by final rulemaking at 9 A.A.R. 1295, effective April 2, 2003 (Supp. 03-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 2856, effective April 30, 2013 (Supp. 13-3).

R18-2-1304. Expired

Historical Note

New Section made by final rulemaking at 9 A.A.R. 1295, effective April 2, 2003 (Supp. 03-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 2856, effective April 30, 2013 (Supp. 13-3).

R18-2-1305. Expired

Historical Note

New Section made by final rulemaking at 9 A.A.R. 1295, effective April 2, 2003 (Supp. 03-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 2856, effective April 30, 2013 (Supp. 13-3).

R18-2-1306. Expired

Historical Note

New Section made by final rulemaking at 9 A.A.R. 1295, effective April 2, 2003 (Supp. 03-2). Section expired

under A.R.S. § 41-1056(J) at 19 A.A.R. 2856, effective April 30, 2013 (Supp. 13-3).

R18-2-1307. Expired

Historical Note

New Section made by final rulemaking at 9 A.A.R. 1295, effective April 2, 2003 (Supp. 03-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 2856, effective April 30, 2013 (Supp. 13-3).

PART A. RESERVED

PART B. HAYDEN, ARIZONA, PLANNING AREA

R18-2-B1301. Limits on Lead Emissions from the Hayden Smelter

A. Applicability.

1. This Section applies to the owner or operator of the Hayden Smelter.
2. Effective date. Except as otherwise provided, the requirements of this Section shall become applicable on the earlier of July 1, 2018 or 180 days after completion of all project improvements authorized by Significant Permit Revision No. 60647.

B. Definitions. In addition to general definitions contained in R18-2-101, the following definitions apply to this Section:

1. "ACFM" means actual cubic feet per minute.
2. "Anode furnace baghouse stack" means the dedicated stack that vents controlled off-gases from the anode furnaces to the Main Stack.
3. "Blowing" shall mean the introduction of air or oxygen-enriched air into the converter furnace molten bath through tuyeres that are submerged below the level of the molten bath. The flow of air through the tuyeres above the level of the molten bath or into an empty converter shall not constitute blowing.
4. "Capture system" means the collection of components used to capture gases and fumes released from one or more emission units, and to convey the captured gases and fumes to one or more control devices or a stack. A capture system may include, but is not limited to, the following components as applicable to a given capture system design: duct intake devices, hoods, enclosures, ductwork, dampers, manifolds, plenums, and fans.
5. "Control device" means a piece of equipment used to clean and remove pollutants from gases and fumes released from one or more emission units that would otherwise be released to the atmosphere. Control devices may include, but are not limited to, baghouses, Electrostatic Precipitators (ESPs), and sulfuric acid plants.
6. "Hayden Smelter" means the primary copper smelter located in Hayden, Gila County, Arizona at latitude 33°0'15"N and longitude 110°46'31"W.
7. "Main Stack" means the center and annular portions of the 1,000-foot stack, which vents controlled off-gases from the INCO flash furnace, the converters, and anode furnaces and also vents exhaust from the tertiary hoods.
8. "SCFM" means standard cubic feet per minute.
9. "SLAMS monitor" means an ambient air monitor part of the State and Local Air Monitoring Stations network operated by State or local agencies for the purpose of demonstrating compliance with the National Ambient Air Quality Standards.
10. "Smelting process-related fugitive lead emissions" means uncaptured and/or uncontrolled lead emissions that are released into the atmosphere from smelting copper in the INCO flash furnace, converters, and anode furnaces.

C. Emission limit. Main Stack lead emissions shall not exceed 0.683 pound of lead per hour.

D. Operational Standards.

1. Process equipment and control device operations. At all times, including periods of startup, shutdown, and malfunction, the owner or operator shall, to the extent practicable, maintain and operate smelter processes and associated emission capture and/or control equipment in a manner consistent with good air pollution control practices for minimizing lead emissions to the level required by subsection (C). Determination of whether acceptable operating and maintenance procedures are being used shall be based on all information available to the Department and EPA Region IX, which may include, but is not limited to, monitoring results, review of operating and maintenance procedures and records, and inspection of the relevant equipment.
2. Capture system and control device operations and maintenance plan. The owner or operator shall develop and implement an operations and maintenance plan for each capture system and/or control device used to ventilate or control process gas or emissions from the flash furnace, including matte tapping, slag skimming and slag return operations; converter primary hoods, converter secondary hoods, tertiary ventilation system; and anode refining operations. The operations and maintenance plan must address the following requirements as applicable to each capture system and/or control device.
 - a. Monitoring devices. The plan shall provide for installation, operation, calibration, and maintenance of appropriate monitoring devices to measure and record operating limit values or settings at all times the required capture and control system is operating, except during periods of monitor calibration, repair, and malfunction. The initial plan shall provide for volumetric flow monitoring on the vent gas baghouse (inlet or outlet), each converter primary hood, each converter secondary hood, the tertiary ventilation system, and the anode furnace baghouse (inlet or outlet). All monitoring devices shall be accurate within +/- 10 percent and calibrated according to manufacturer's instructions. If direct measurement of the exhaust flow is infeasible due to physical limitations or exhaust characteristics, the owner or operator may propose a reliable equivalent method for approval. Initial monitoring may be adjusted as provided in subsection (D)(2)(e). Dampers that are manually set and remain in the same position while the capture system is operating are exempt from these monitoring requirements. Capture system damper position setting(s) shall be specified in the plan.
 - b. Operational limits. The owner or operator shall establish operating limits in the operations and maintenance plan for the capture systems and/or control devices that are representative and reliable indicators of the performance of the capture system and control device operations. Initial operating limits may be adjusted as provided in subsection (D)(2)(e). Initial operating limits shall include the following:
 - i. A minimum air flow for the furnace ventilation system and associated damper positions for each matte tapping hood or slag skimming hood when operating to ensure that the opera-

- tion(s) are within the confines or influence of the capture system.
 - ii. A minimum air flow for the secondary hood baghouse and associated damper positions for each slag return hood to ensure that the operation is within the confines or influence of the capture system's ventilation draft during times when the associated process is operating.
 - iii. A minimum air infiltration ratio for the converter primary hoods of 1:1 averaged over 24 converter Blowing hours, rolled hourly measured as volumetric flow in primary hood less the volumetric flow of tuyere Blowing compared to the volumetric flow of tuyere Blowing.
 - iv. A minimum secondary hood exhaust rate of 35,000 SCFM during converter Blowing, averaged over 24 converter Blowing hours, rolled hourly.
 - v. A minimum secondary hood exhaust rate of 133,000 SCFM during all non-Blowing operating hours, averaged over 24 non-Blowing hours, rolled hourly.
 - vi. A minimum negative pressure drop across the secondary hood when the doors are closed equivalent to 0.007 inches of water.
 - vii. A minimum exhaust rate on the tertiary hooding of 400,000 ACFM during all times material is processed in the converter aisle, averaged over 24 hours and rolled hourly.
 - viii. Fan amperes or minimum air flow for the anode furnace baghouse and associated damper positions for each anode furnace hood to ensure that the anode furnace off-gas port is within the confines or influence of the capture system's ventilation draft during times when the associated furnace is operating.
 - ix. The anode furnace charge mouth shall be kept covered when the tuyeres are submerged in the metal bath except when copper is being charged to or transferred from the furnace.
 - c. Preventative maintenance. The owner or operator shall perform preventative maintenance on each capture system and control device according to written procedures specified in the operations and maintenance plan. The procedures must include a preventative maintenance schedule that is consistent with the manufacturer's or engineer's instructions, or operator's experience working with the equipment, and frequency for routine and long-term maintenance. This provision does not prohibit additional maintenance beyond that required by the plan.
 - d. Inspections. The owner or operator shall perform inspections in accordance with written procedures in the operations and maintenance plan for each capture system and control device that are consistent with the manufacturer's, engineer's, or operator's instructions for each system and device.
 - e. Plan development and revisions.
 - i. The owner or operator shall develop and keep current the plan required by this Section. Any plan or plan revision shall be consistent with this Section, shall be designed to ensure that the capture and control system performance conforms to the attainment demonstration in the Hayden 2008 Lead National Ambient Air Quality Standards Nonattainment Area State Implementation Plan (SIP), and shall be submitted to the Department for review. Any plan or plan revision submitted shall include the associated manufacturer's, engineer's or operator's recommendations and/or instructions used for capture system and control device operations and maintenance.
 - ii. The owner or operator shall submit the initial plan to the Department no later than May 1, 2018 and shall include the initial volumetric flow monitoring provisions in subsection (D)(2)(a), the initial operational limits in subsection (D)(2)(b), the preventative maintenance procedures in subsection (D)(2)(c), and the inspection procedures in subsection (D)(2)(d).
 - iii. The owner or operator shall submit to the Department for approval a plan revision with changes, if any, to the initial volumetric flow monitoring provisions in subsection (D)(2)(a) and initial operational limits in subsection (D)(2)(b) not later than six months after completing a fugitive emissions study conducted in accordance with Appendix 14. The Department shall submit the approved changes to the volumetric flow monitoring provisions and operational limits pursuant to this subsection to EPA Region IX as a SIP revision not later than 12 months after completion of a fugitive emissions study.
 - iv. Other plan revisions may be submitted at any time when necessary. All plans and plan revisions shall be designed to achieve operation of the capture system and/or control device consistent with the attainment demonstration in the Hayden 2008 Lead National Ambient Air Quality Standards Nonattainment Area SIP. Except for changes to the volumetric flow monitoring provisions in subsection (D)(2)(a) and operational limits in subsection (D)(2)(b), which shall require prior approval, plans and plan revisions may be implemented upon submittal and shall remain in effect until superseded or until disapproved by the Department. Disapprovals are appealable Department actions.
3. Emissions from the anode furnace baghouse stack shall be routed to the Main Stack.
- E. Performance Test Requirements.**
1. Main stack performance tests. No later than 180 calendar days after completion of all Converter Retrofit Project improvements authorized by Significant Permit Revision No. 60647, the owner or operator shall conduct initial performance tests on the following:
 - a. the gas stream exiting the anode furnaces baghouse prior to mixing with other gas streams routed to the Main Stack.
 - b. the gas stream exiting the acid plant at a location prior to mixing with other gas streams routed to the Main Stack.
 - c. the gas stream exiting the secondary baghouse at a location prior to mixing with other gas streams routed to the Main Stack.
 - d. the gas stream collected by the tertiary hooding at a location prior to mixing with other gas streams routed to the Main Stack.

- e. the gas stream exiting the vent gas baghouse at a location prior to mixing with other gas streams routed to the Main Stack.
 2. Subsequent performance tests on the gas streams specified in subsection (E)(1) shall be conducted at least annually.
 3. Performance tests shall be conducted under such conditions as the Department specifies to the owner or operator based on representative performance of the affected sources and in accordance with 40 CFR 60, Appendix A, Reference Method 29.
 4. At least 30 calendar days prior to conducting a performance test pursuant to subsection (E)(1), the owner or operator shall submit a test plan, in accordance with R18-2-312(B) and the Arizona Testing Manual, to the Department for approval. The test plan must include the following:
 - a. Test duration;
 - b. Test location(s);
 - c. Test method(s), including those for test method performance audits conducted in accordance with subsection (E)(6); and
 - d. Source operation and other parameters that may affect the test result.
 5. The owner or operator may use alternative or equivalent performance test methods as defined in 40 CFR § 60.2 when approved by the Department and EPA Region IX, as applicable, prior to the test.
 6. The owner or operator shall include a test method performance audit during every performance test in accordance with 40 CFR § 60.8(g).
- F. Compliance Demonstration Requirements.**
1. For purposes of determining compliance with the Main Stack emission limit in subsection (C), the owner or operator shall calculate the combined lead emissions in pounds per hour from the gas streams identified in subsection (E)(1) based on the most recent performance tests conducted in accordance with subsection (E).
 2. The owner or operator shall determine compliance with the requirements in subsection (D)(2) as follows:
 - a. Maintaining and operating the emissions capture and control equipment in accordance with the capture system and control device operations and maintenance plan required in subsection (D)(2) and recording operating parameters for capture and control equipment as required in subsection (D)(2)(b); and
 - b. Conducting a fugitive emissions study in accordance with Appendix 14 starting not later than 6 months after completion of the Converter Retrofit Project authorized by Significant Permit Revision No. 60647. The fugitive emissions study shall demonstrate, as set forth in Appendix 14, that fugitive emissions from the smelter are consistent with estimates used in the attainment demonstration in the Hayden 2008 Lead National Ambient Air Quality Standards Nonattainment Area SIP.
 3. The owner or operator shall include periods of startup, shutdown, malfunction, or other upset conditions when determining compliance with the emission limit in subsection (C).
- G. Recordkeeping.** The owner or operator shall maintain the following records for at least five years and keep on-site for at least two years:
1. All records as specified in the operations and maintenance plan required under subsection (D)(2).
 2. All records of major maintenance activities and inspections conducted on emission units, capture systems, monitoring devices, and air pollution control equipment, including those set forth in the operations and maintenance plan required by subsection (D)(2).
 3. All records of performance tests, test plans, and audits required by subsection (E).
 4. All records of compliance calculations required by subsection (F).
 5. All records of fugitive emission studies and study protocols conducted in accordance with Appendix 14.
 6. All records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of concentrate drying, smelting, converting, anode refining, and casting emission units; and any malfunction of the associated air pollution control equipment that is inoperative or not operating correctly.
 7. All records of reports and notifications required by subsection (H).
- H. Reporting.** The owner or operator shall provide the following to the Department:
1. Notification of commencement of construction of any equipment necessary to comply with the operational or emission limits.
 2. Semiannual progress reports on construction of any such equipment postmarked by July 30 for the preceding January-June period and January 30 for the preceding July-December period.
 3. Notification of initial startup of any such equipment within 15 business days of such startup.
 4. Whenever the owner or operator becomes aware of any exceedance of the emission limit set forth in subsection (C), the owner or operator shall notify the Department orally or by electronic or facsimile transmission as soon as practicable, but no later than two business days after the owner or operator first knew of the exceedance.
 5. Within 30 days after the end of each calendar-year quarter, the owner or operator shall submit a quarterly report to the Department for the preceding quarter that shall include dates, times, and descriptions of deviations when the owner or operator operated smelting processes and related control equipment in a manner inconsistent with the operations and maintenance plan required by subsection (D)(2).
 6. Reports from performance testing conducted pursuant to subsection (E) shall be submitted to the Department within 60 calendar days of completion of the performance test. The reports shall be submitted in accordance with the Arizona Testing Manual and A.A.C. R18-2-312(A).

Historical Note

New Section R18-2-B1301 made by final rulemaking at 23 A.A.R. 767, effective on the earlier of July 1, 2018, or 180 calendar days after completion of all Converter Retrofit Project improvements authorized by Significant Permit Revision No. 60647 (Supp. 17-1).

R18-2-B1301.01. Limits on Lead-Bearing Fugitive Dust from the Hayden Smelter

A. Applicability.

1. This Section applies to the owner or operator of the Hayden Smelter.
2. Effective Date. Except as otherwise provided, the requirements of this Section shall become applicable on December 1, 2018.

B. Definitions. In addition to definitions contained in R18-2-101 and R18-2-B1301, the following definitions apply to this Section:

1. "Acid plant scrubber blowdown drying system" means the process in which Venturi scrubber blowdown solids are dried and packaged via a thickener, filter press, electric dryer, and supersack filling stations.
2. "Control measure" means a piece of equipment used, or actions taken, to minimize lead-bearing fugitive dust emissions that would otherwise be released to the atmosphere. Control equipment may include, but are not limited to, wind fences, chemical dust suppressants, and water sprayers. Actions may include, but are not limited to, relocating sources, curtailing operations, or ceasing operations.
3. "Hayden Lead Nonattainment Area" means the townships in Gila and Pinal Counties, as identified and codified in 40 CFR § 81.303, that are designated nonattainment for the 2008 Lead National Ambient Air Quality Standards.
4. "High wind event" means any period of time beginning when the average wind speed, as measured at a meteorological station maintained by the owner or operator that is approved by the Department, is greater than or equal to 15 miles per hour over a 15 minute period, and ending when the average wind speed, as measured at the approved meteorological station maintained by the owner or operator, falls below 15 miles per hour over a 15 minute period.
5. "Lead-bearing fugitive dust" means uncaptured and/or uncontrolled particulate matter containing lead that is entrained in the ambient air and is caused by activities, including, but not limited to, the movement of soil, vehicles, equipment, and wind.
6. "Material pile" means material, including concentrate, uncrushed reverts, crushed reverts, and bedding material, that is stored in a pile outside a building or warehouse and is capable of producing lead-bearing fugitive dust.
7. "Non-smelting process sources" means sources of lead-bearing fugitive dust that are not part of the hot metal process, which includes smelting in the INCO flash furnace, converting, and anode refining and casting. Non-smelting process sources include storage, handling, and unloading of concentrate, uncrushed reverts, crushed reverts, and bedding material; acid plant scrubber blowdown solids; and paved and unpaved roads.
8. "Ongoing visible emissions" means observed emissions to the outside air that are not brief in duration.
9. "Road" means any surface on which vehicles pass for the purpose of carrying people or materials from one place to another in the normal course of business at the Hayden Smelter.
10. "Slag" means the inorganic molten material that is formed during the smelting process and has a lower specific gravity than copper-bearing matte.
11. "Slag hauler" means any vehicle used to transport molten slag.
12. "Storage and handling" means all activities associated with the handling and storage of materials that take place at the Hayden Smelter, including, but not limited to, stockpiling, transport on conveyor belts, transport or storage in rail cars, crushing and milling, arrival and handling of offsite concentrate, bedding, and handling of reverts.
13. "Trackout/carry-out" means any materials that adhere to and agglomerate on the surfaces of motor vehicles, haul

trucks, and/or equipment (including tires) and that may then fall onto the road.

C. Operational Standards.

1. Equipment operations. At all times, the owner or operator shall operate and maintain all non-smelting process sources, including all associated air pollution control equipment, control measures, and monitoring equipment, in a manner consistent with good air pollution control practices for minimizing lead-bearing fugitive dust, and in accordance with the fugitive dust plan required by subsection (C)(2) and performance and housekeeping requirements in subsection (D). A determination of whether acceptable operating and maintenance procedures are being used shall be based on all available information to the Department and EPA Region IX, which may include, but is not limited to, monitoring results, review of operating and maintenance procedures and records, review of fugitive dust plans, and inspection of the relevant equipment.
2. Fugitive dust plan. The owner or operator shall develop, implement, and follow a fugitive dust plan that is designed to minimize lead-bearing fugitive dust from non-smelting process sources. At minimum, the fugitive dust plan shall contain the following:
 - a. Performance and housekeeping requirements in subsection (D).
 - b. Design plans and specifications for each wind fence to be installed to control lead-bearing fugitive dust from non-smelting process sources identified in subsections (D)(11) through (D)(14). The dust plan shall contain height limits for the materials being stored in each wind fence, consistent with the design plans and specifications for that particular wind fence. Wind fence design and specifications shall:
 - i. Require full encircling of the source to be controlled, with reasonable and sufficient openings for ingress and egress;
 - ii. Consider the orientation of the wind fence to the prevailing winds;
 - iii. Consider the strength of the winds in the area where the fence will be located;
 - iv. Consider the porosity of the material to be used, which shall not exceed 50 percent; and
 - v. Consider the height of the fence relative to the height of the material being stored. At minimum, wind fence height shall be greater than or equal to the material pile height.
 - c. Design plans and specifications for each new or modified water sprayer system used to control lead-bearing fugitive dust from non-smelting process sources specified in subsections (D)(11) through (D)(14). The number, type, location, watering intensity, flow rates, and other operational parameters of the water sprayers must meet moisture content objectives for sources specified in subsections (D)(11) through (D)(14). The owner or operator may include in the dust plan an exemption to the water requirements at times when the materials are sufficiently moist or it is raining and thus there is no need for additional wetting until the next scheduled watering to meet moisture content objectives. The dust plan shall include the following for each water sprayer:
 - i. Watering schedule;
 - ii. Watering intensity;
 - iii. Minimum flow rate or pressure drop;

- iv. Appropriate and/or continuous monitoring;
 - v. Schedule for calibration based on the manufacturer's recommended calibration schedule;
 - vi. Preventative maintenance schedule; and
 - vii. Other applicable operational parameters.
 - d. Necessary improvements and/or modifications to material conveyor systems, along with a schedule for implementing improvements or modifications, targeted to minimize lead-bearing fugitive dust from non-smelting process sources specified in subsections (D)(11) through (D)(14), as applicable, to the greatest extent practicable. The improvements or modifications may include, but is not limited to, hooding of transfer points, utilizing water sprayers, and employing scrapers, brushes, or cleaning systems at all points where belts loop around themselves to catch and contain material before it falls to the ground.
 - e. Design plans for the concrete pads for the non-smelting process sources specified in subsections (D)(11) and (D)(13). The concrete pads shall be designed to capture, store, and control stormwater or sprayed water to minimize emissions to the greatest extent practicable, including curbing around the outer edges of the concrete pad where feasible.
 - f. Additional controls and measures for sources specified in subsections (D)(11) through (D)(14) to be implemented during high wind events. These additional controls or measures, which must include curtailment or other alteration of activity when appropriate, must be implemented at these sources during all periods of high wind.
 - g. Sample inspection sheets, checklists, or logsheets for each of the inspections identified in subsection (D)(6), and in accordance with the following:
 - i. The inspection sheets or checklists shall include:
 - (1) Specific descriptions of the equipment being inspected and the specific functions being evaluated;
 - (2) The findings of the inspection;
 - (3) The date, time, and location of inspections; and
 - (4) An identification of who performed the inspection or logged the results.
 - ii. The logsheets for high wind events shall include:
 - (1) High wind event start time;
 - (2) High wind event end time;
 - (3) Description of area or activity inspected; and
 - (4) Description of corrective action taken if necessary.
 - h. Design plans of the new acid plant scrubber blow-down drying system specified in subsection (D)(15).
 - i. The name and location of the meteorological station, which must be approved by the Department, that is to be used by the owner or operator for determining high wind events pursuant to subsection (B)(4) and for implementing control requirements pursuant to subsection (D)(5).
3. Plan development and revisions. The owner or operator shall develop and keep current the fugitive dust plan required by subsection (C)(2). Any plan or plan revision shall be consistent with this Section and shall be submitted to the Department for review. The initial plan shall be submitted to the Department for review no later than May 1, 2017. Plans and plan revisions shall be consistent with good air pollution control practice for fugitive dust. Except for the meteorological station to be used for high wind events pursuant to subsection (D)(5), which shall require prior approval, plans and plan revisions may be implemented upon submittal and shall remain in effect until superseded or until disapproved by the Department. Disapprovals are appealable Department actions.
- D. Performance and Housekeeping Requirements.** The owner or operator shall comply with these requirements at all times regardless of a fugitive dust plan.
1. Water sprayers. The owner or operator shall implement a recordkeeping system to capture sprayer operations, including identification of the particular operation, lead-bearing fugitive dust source, timing and intensity of watering, and data regarding the quantity of water used at each water sprayer.
 2. Wind fences. The owner or operator shall ensure that wind fences used to control lead-bearing fugitive dust from the non-smelting process sources specified in subsections (D)(11) through (D)(14) meet the following requirements:
 - a. Wind fence height shall be greater than or equal to the material pile height. The allowed material pile height shall be posted in a readily visible location at each wind fence.
 - b. Wind fence porosity shall not exceed 50 percent.
 3. Material conveyor systems. For sources specified in subsections (D)(11) through (D)(14), as applicable, the owner or operator shall:
 - a. Minimize conveyor drop heights to the greatest extent practicable.
 - b. Clean any spills from conveyors within 30 minutes of discovery. The material collected must be handled in such a way so as to minimize lead-bearing fugitive dust to the maximum extent practicable.
 4. Vehicle transport of materials. The owner or operator shall maintain vehicle cargo compartments used to transport materials capable of producing lead-bearing fugitive dust so that the cargo compartment is free of holes or other openings and is covered by a tarp.
 5. High wind event requirements.
 - a. During high wind events, the owner or operator shall evaluate the non-smelting process sources specified in subsections (D)(11) through (D)(14) for ongoing visible emissions using the appropriate logsheet for each source.
 - b. If ongoing visible emissions are observed, the owner or operator shall promptly wet the source of emissions with the objective of mitigating further emissions.
 - c. If wetting does not appear to mitigate the ongoing visible emissions to 20 percent opacity or less, the owner or operator shall postpone associated handling of the source until the high wind event has ceased.
 6. Physical inspections. The owner or operator shall conduct physical inspections as follows:
 - a. Daily inspections of all water sprayers to make sure they are functioning and are in accordance with the dust plan;
 - b. Daily visual inspections of all material piles to make sure they are maintained within areas protected by a wind fence, that they are not higher than allowed for

- the wind fence, and to verify that moisture content requirements are met;
- c. Daily inspections of all material handling areas to identify and clean up track out or spills of materials;
 - d. Daily inspections of conveyor systems to identify and clean up material spills;
 - e. Daily inspections of rumble grates sump levels;
 - f. Daily spot inspections of vehicles carrying lead-bearing fugitive dust-producing materials when vehicles are in use to ensure that material is not overloaded, is properly covered, and cargo compartments are intact;
 - g. Weekly inspections of wind fences for material integrity and structural stability;
 - h. Daily inspections of all paved roads to identify and clean up track out or spills of materials;
 - i. Daily inspections of unpaved roads in subsection (D)(10)(a) to identify areas where chemical dust suppressant coverage has broken down; and
 - j. Bi-weekly inspections of the acid plant scrubber blowdown drying system enclosure.
7. Opacity limit and Method 9 readings.
 - a. Opacity from lead-bearing fugitive dust emissions shall not exceed 20 percent from any part of the facility at any time. Opacity shall be determined by using 40 CFR 60, Appendix A, Reference Method 9, except for unpaved roads, in which opacity shall be determined pursuant to subsection (D)(10)(c).
 - b. In the event that an employee observes ongoing visible emissions at a non-smelting process source covered by this Section, that employee shall promptly contact a Reference Method 9-certified observer, who shall promptly evaluate the emissions and conduct a Reference Method 9 reading, if possible.
 - c. A Reference Method 9-certified observer shall conduct a weekly visible emissions survey of all non-smelting process sources covered by this Section and perform a Reference Method 9 reading for any plumes that on an instantaneous basis appear to exceed 15 percent opacity.
 8. Corrective actions.
 - a. At any time that visible emissions from the non-smelting process sources covered by this Section appear to exceed 15 percent opacity, the owner or operator shall take prompt corrective action to identify the source of the emissions and abate such emissions, with the corrective action starting within 30 minutes after discovery. For any non-smelting process source that produces visible emissions that appear to exceed 15 percent opacity, the owner or operator shall perform an analysis of the root cause, and implement a strategy designed to prevent, to the extent feasible, the ongoing recurrence of the source of visible emissions. Within 14 days of completion of its analysis, if appropriate, the owner or operator shall modify the fugitive dust plan in subsection (C)(2) for any changes identified from the analysis differing from the current provisions of the fugitive dust plan.
 - b. At any time that the owner or operator becomes aware that provisions of the fugitive dust plan and/or performance and housekeeping provisions required by this Section are not being met, the owner or operator shall take prompt action to return to compliance, which may include modifications to monitoring, recordkeeping, and reporting requirements in the fugitive dust plan. This includes, but is not limited to, the following actions:
 - i. Return water sprayers to full operational status;
 - ii. Repair damaged conveyor hoodings or other enclosures;
 - iii. Apply additional water to ensure that sources are meeting moisture content requirements;
 - iv. Clean any trackout or spillage of dust-producing material, including dropoff of dust producing material from conveyors, using a street sweeper, vacuum, or wet broom with sufficient water and at the speed recommended by the manufacturer;
 - v. Reapplication of chemical dust suppressants in areas where the coating has broken down on unpaved roads; and
 - vi. Revisions to the fugitive dust plan to undertake improved monitoring, recordkeeping, and reporting requirements necessary to ensure that the controls contained in the fugitive dust plan are being implemented as contemplated by the fugitive dust plan.
 9. Paved Roads. These requirements apply to all roads at the facility currently paved and roads to be paved in the future. The owner or operator shall:
 - a. Clean roads at least once daily with a sweeper, vacuum, or wet broom in accordance with applicable manufacturer recommendations.
 - b. Maintain the integrity of the road surface.
 - c. Clean up trackout and carry-out of material on the following schedule:
 - i. As expeditiously as practicable, when trackout and carry-out extends a cumulative distance of 50 linear feet or more; and
 - ii. At the end of the workday, for all other trackout and carry-out.
 - d. Comply with a speed limit not to exceed 15 miles per hour for all vehicular traffic. At minimum, speed limit signs shall be posted at all entrances and truck loading and unloading areas and/or at conspicuous areas along the roadway.
 10. Unpaved Roads. These requirements apply to the unpaved roads identified in subsections (D)(10)(a)(i) through (D)(10)(a)(iii) below, including any access points where the unpaved roads adjoin paved roads and any areas of vehicular handling of material. The owner or operator shall:
 - a. Implement a chemical dust suppressant application intensity and schedule, which at minimum shall be:
 - i. For the slag hauler road and all other unpaved roads used or to be used by the slag hauler, chemical dust suppressant shall be applied at least once per week during the summer, and once per every two weeks during the winter.
 - ii. For the main road to the secondary crusher, chemical dust suppressant shall be applied at least once every six weeks, year-round.
 - iii. For unpaved roads near reverts and silica flux crushing operations, chemical dust suppressant shall be applied at least once per two weeks during the summer, and once per month in the winter.
 - b. Increase the frequency of chemical dust suppressant application if necessary to reduce fugitive dust emissions from unpaved roads.

- c. Not allow visible emissions to exceed 20 percent opacity and shall not allow silt loading equal to or greater than 0.33 oz/ft². However, if silt loading is equal to or greater than 0.33 oz/ft², then the owner or operator shall not allow the average percent silt content to exceed 6 percent. Compliance with these requirements shall be determined by the test methods described in Appendix 15.
 - d. Maintain sufficient watering trucks and personnel to operate such trucks to be employed as an interim measure whenever visible emissions or a breakdown in dust suppressant covering are observed at any point along the treated unpaved road system.
 - e. Immediately, but no later than 30 minutes after initial observation of any visible emissions, apply water or chemical dust suppressant to the portion of the unpaved road where the visible emissions were observed.
 - f. Reapply chemical dust suppressant within 24 hours of discovery of any area where the surface chemical dust suppressant coverage has broken down.
 - g. Collect and prevent from becoming airborne any runoff or material from rinsing or sweeping as soon as practicable.
 - h. Comply with a speed limit not to exceed 15 miles per hour for all vehicular traffic. At minimum, speed limit signs shall be posted at all entrances and truck loading and unloading areas and/or at conspicuous areas along the roadway.
11. Concentrate Storage, Handling, and Unloading. The owner or operator shall:
- a. Consolidate and manage all concentrate storage piles in one or more concrete storage pads.
 - b. Store concentrate in an area with a wind fence in accordance with requirements set forth in the fugitive dust plan and pursuant to subsection (D)(2).
 - c. Maintain water sprayers in accordance with requirements set forth in the fugitive dust plan and to ensure the surfaces of concentrate piles are wetted to maintain a nominal 10 percent surface moisture content as determined from representative samples using ASTM Method D2216-10 or other equivalent methods approved by the Department and EPA Region IX.
 - d. Minimize the footprint of the concentrate storage piles by pushing into the stockpile with a front end loader and sweeping open areas of the pads with a self-powered vacuum sweeper at least daily during use.
12. Uncrushed Reverts Handling and Storage. The owner or operator shall:
- a. Manage uncrushed revert material only in areas protected by a wind fence in accordance with requirements set forth in the fugitive dust plan and pursuant to subsection (D)(2).
 - b. Maintain water sprayers in accordance with requirements set forth in the fugitive dust plan and to ensure the surface of uncrushed revert material is wetted with the objective to minimize lead-bearing fugitive dust emissions to the greatest extent practicable.
13. Reverts Crushing Operations and Crushed Reverts Storage. The owner or operator shall:
- a. Crush revert and store crushed revert only on one or more concrete pads.
 - b. Crush revert and store crushed revert only within an area protected by a wind fence in accordance with requirements set forth in the fugitive dust plan and pursuant to subsection (D)(2).
14. Bedding Operations, Including Handling, Storage, and Unloading. The owner or operator shall:
- a. Perform all bedding activities, including loading and unloading of materials to be blended, only within an area protected by a wind fence in accordance with requirements set forth in the fugitive dust plan and pursuant to subsection (D)(2). These activities include the storage and handling areas for potentially lead-bearing fugitive dust-producing material within the bedding plant area.
 - b. Maintain water sprayers in accordance with requirements set forth in the fugitive dust plan and to ensure the surfaces of material in the bedding area is wetted to maintain a nominal 10 percent surface moisture content as determined from representative samples using ASTM Method D2216-10 or other equivalent methods approved by the Department and EPA Region IX.
 - c. Maintain rumble grates at all of the bedding plant's entrances and exits to shake off material on the loader tires as they enter and exit the area. Material that is tracked out of the bedding area must be cleaned up at the end of the workday.
 - d. Operate its bedding activities in a manner designed to avoid any trackout outside an area protected by a wind fence. Areas of material spillage or trackout, whether inside or outside of an area protected by a wind fence, shall be rinsed or cleaned daily.
15. Acid Plant Scrubber Blowdown Drying System.
- a. The owner or operator shall dry acid plant scrubber blowdown solids only in an enclosed system that uses a venturi scrubber, thickener, filter press, and electric dryer that is maintained under negative pressure at all times that materials are being dried.
 - b. The owner or operator shall maintain the negative pressure of the electric dryer using a 2,500 ACFM dryer ventilation fan that must run at all times the electric dryer is operational. Monitoring of the negative pressure shall be demonstrated through the run and stop states of the ventilation fan and electric dryer.
 - c. The acid plant scrubber blowdown drying system shall include the following elements:
 - i. Venturi scrubber slurry that reports to a new thickener.
 - ii. Underflow from the thickener that goes to a filter press for further liquid removal, with the resulting filter cake sent to two electric dryers operating in parallel to provide final drying of the dust cake.
 - iii. Exhaust from the dryers sent to the packed gas cooling tower inlet duct.

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- iv. Dried cake discharged directly into bags.
- d. The owner or operator shall clean all areas previously used for scrubber blowdown drying and no longer use previous areas for scrubber blowdown drying.

E. Contingency Requirements.

1. If the owner or operator does not meet the compliance schedule below in subsection (E)(3), or if the Hayden Lead Nonattainment Area does not attain the 2008 Lead National Ambient Air Quality Standards by the attainment date established in the Act, whichever occurs first, then the owner or operator shall increase the paved road cleaning frequency specified in subsection (D)(9) to twice per day.
2. The owner or operator shall implement the contingency measure in subsection (E)(1) within 60 days of notification by EPA Region IX of either a failure to meet the compliance schedule in subsection (E)(3) or a failure to attain by the attainment date established in the Act, whichever occurs first.

3. The compliance schedule is as follows. The Fugitive Dust Plan referred to in the compliance schedule shall mean the Fugitive Dust Plan submitted to the Administrator by the owner or operator to comply with requirements set forth in Consent Decree No. CV-15-02206-PHX-DLR, which became effective on December 30, 2015 in the United States District Court for the District of Arizona, as that plan may be later revised pursuant to subsection (C)(3):

Control Measure	Date of Implementation
Implementation of chemical dust suppression for unpaved roads.	Within 30 days of Administrator approval of application intensity and schedules in Fugitive Dust Plan.
Implementation of wind fences for materials piles (uncrushed reverts, reverts crushing and crushed reverts, bedding materials, and concentrate).	Within 120 days of Administrator approval of the Fugitive Dust Plan or the date of completion in the approved Fugitive Dust Plan, whichever is later.
Implementation of water sprays for materials piles (uncrushed reverts, reverts crushing and crushed reverts, bedding materials, and concentrate).	Within 120 days of Administrator approval of the Fugitive Dust Plan or the date of completion in the approved Fugitive Dust Plan, whichever is later.
Implementation of new acid plant scrubber blowdown drying system.	November 30, 2016
Implementation of new primary, secondary, and tertiary hooding systems for converter aisle for purposes of complying with requirements in R18-2-B1301.	July 1, 2018
Implementation of new ventilation system for matte tapping and slag skimming for flash furnace for purposes of complying with requirements in R18-2-B1301.	July 1, 2018

F. Ambient Air and Meteorological Monitoring Requirements.

1. The owner or operator shall conduct ambient air monitoring and sampling for lead as follows:
 - a. At minimum, the owner or operator shall continue to maintain and operate the ambient lead monitors located at ST-14 (the smelter parking lot), ST-23 (Hillcrest area), ST-26 (post office), and ST-18 (next to the concentrate handling area).
 - b. Samples must be collected continuously at all monitor sites specified in subsection (F)(1)(a). For the purposes of this requirement, “continuously” means that 24-hour filters are placed and collected at minimum, every six calendar days at all sites consistent with 40 CFR § 58.12.
 - c. The owner or operator shall follow the Hayden Smelter’s Quality Assurance Project Plan (QAPP) applicable to these monitors.
 - d. The monitors must be operated and maintained in accordance with 40 CFR 58, Appendix A.
 - e. The owner or operator shall submit each filter removed from each monitor to a certified laboratory for analysis no later than 18 calendar days after the filter’s removal. The owner or operator shall ensure

that the laboratory performs its analysis and submits the results to the owner or operator no later than 21 calendar days from the lab’s receipt of the filter.

- f. The owner or operator shall calculate, update, and maintain as a record the following data within 14 calendar days of receipt of any results pertaining to the monitor filters received from a certified lab:
 - i. The total pollutants on the filters collected and analyzed; and
 - ii. Calculations of 30-day rolling average ambient air levels of lead for the ST-23, ST-26, and ST-18 monitors, and 60-day rolling average ambient air levels of lead for the ST-14 monitor, expressed as $\mu\text{g}/\text{m}^3$.
- g. The owner or operator shall retain lead samples collected pursuant to this Section for at least three years. The samples shall be stored in individually sealed containers and labeled with the applicable monitor and date. Upon request, the samples shall be provided to the Department within five business days.
2. The owner or operator shall conduct meteorological monitoring as follows:

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- a. Continuously monitor and record wind speed and direction data using equipment and a meteorological station approved by the Department.
 - b. The owner or operator shall calculate and record average wind speed in miles per hour over 15 minutes, rolled each minute.
 - c. Conduct wind speed and direction measurements using methods in accordance with EPA's Quality Assurance Handbook for Air Pollution Measurement Systems, Volume IV, Meteorological Measurements, Version 2.0.
3. The ambient air and meteorological monitoring stations required by this Section may be discontinued at the end of three full calendar years after the Hayden Lead Nonattainment Area is redesignated attainment for the 2008 Lead National Ambient Air Quality Standards.
- G. Compliance Demonstration Requirements.** The owner or operator shall demonstrate compliance with this Section by complying with all requirements in the fugitive dust plan pursuant to subsection (C)(2) and implementing all housekeeping and performance requirements pursuant to subsection (D).
- H. Recordkeeping.**
1. The owner or operator shall maintain the following records for at least five years and keep on-site for at least two years:
 - a. Current and past fugitive dust plans required by subsection (C)(2).
 - b. Physical inspection sheets, checklists, and logsheets for inspections conducted in accordance with subsection (D)(6).
 - c. All records of opacity and stabilization tests, if any, conducted in accordance with subsection (D)(10)(c).
 - d. All records of surface moisture content tests, if any, conducted in accordance with subsection (D)(11), subsection (D)(13), and subsection (D)(14).
 - e. All records of major maintenance activities and inspections conducted on monitors required by subsection (F).
 - f. All records of quality assurance and quality control activities for the monitors required by subsection (F).
 - g. All air quality monitoring samples, rolling averages of ambient lead concentrations and necessary calculations, and data required by subsection (F).
 - h. All records of wind data from the meteorological station required by subsection (F).
 - i. All records of any periods during which a monitoring device required by subsection (F) is inoperative or not operating correctly.
 - j. All records of reports and notifications required by subsection (I).
 2. All of the following records maintained for the purposes of the fugitive dust plan required by subsection (C)(2) must be maintained in a recordkeeping log or recordkeeping system. As part of the records, the owner or operator shall include the dates and times for each of the following observations or activities, the name of the employee documenting each activity or observation, and the nature and location of each observation activity:
 - a. Each instance of observed visible emissions of 15 percent opacity or greater, along with a description of any corrective action undertaken and its success.
 - b. Water sprayer operations, including timing and intensity of watering to be captured in the water sprayer recordkeeping system.
 - c. Timing, location, type, and amount of chemical suppressant and water applied to unpaved roads, and a description of the nature and timing of any additional corrective action taken, as necessary, to minimize emissions to the greatest extent practicable.
 - d. Timing and location of all sweeping and cleaning of trackout or spillage material.
 - e. Timing and location of all washdown of concrete areas.
 - f. Timing and location of sump cleanouts.
 - g. Results of all visible emissions surveys and Reference Method 9 readings.
 - h. Appropriate records for operating conditions, including electric dryer ventilation fan start and stop times for the newly designed acid plant scrubber blowdown drying system.
 - i. Calibration records for all measurement devices, including maintenance of manufacturer's manuals or other documentation for suggested calibration schedules and accuracy levels for each measurement device.
 - j. Dates, times, and descriptions of deviations when the owner or operator's operations was carried out in a manner inconsistent with the fugitive dust plan required by subsection (C)(2).
- I. Reporting.** Within 30 days after the end of each calendar-year quarter, the owner or operator shall submit a report to the Department covering the prior quarter that includes the following:
1. All instances where observed fugitive emissions coming from sources covered in this Section were 15 percent or greater.
 2. The date of all high wind events, with an identification of the location of the reading, wind speed, and duration of the event, and a description of actions taken as a result of the event on a source-by-source basis.
 3. All instances where corrective action was required with identification of the emission source involved, what triggered the corrective action, what action the owner or operator undertook to abate or mitigate the problem, and whether the corrective action achieved the intended results.
 4. A summary of all times when the electronic recordkeeping system was not recording data, and a summary and indication of the period when recorded data was outside of established operating parameters.
 5. A summary of progress of all new construction, installation, upgrades, or modifications to equipment or structures at the facility required by the fugitive dust plan and subsection (D), including dates of commencement and completion of construction, dates of operations of new or modified equipment or structures, and dates old or outdated equipment or structures were permanently retired.
 6. Raw monitoring data and calculated ambient lead concentrations from the ambient air monitoring stations required by subsection (F).

Historical Note

New Section R18-2-B1301.01 made by final rulemaking at 23 A.A.R. 767, effective December 1, 2018 (Supp. 17-1).

R18-2-B1302. Limits on SO₂ Emissions from the Hayden Smelter**A. Applicability.**

1. This Section applies to the owner or operator of the Hayden Smelter. It establishes limits on sulfur dioxide

emissions from the Hayden Smelter and monitoring, recordkeeping and reporting requirements for those limits.

2. Effective date. Except as otherwise provided, the requirements of this Section shall become applicable on the earlier of July 1, 2018 or 180 days after completion of all project improvements authorized by Significant Permit Revision No. 60647.

B. Definitions. In addition to definitions contained in R18-2-101 and R18-2-B1301, the following definitions apply to this rule.

1. "Continuous emissions monitoring system" or "CEMS" means the total equipment, required under the emission monitoring provisions in this Chapter, used to sample, condition (if applicable), analyze, and to provide, on a continuous basis, a permanent record of emissions.
2. "Operating day" means any calendar day in which any of the following occurs:
 - a. Concentrate is smelted in the smelting furnace;
 - b. Copper or sulfur bearing materials are processed in the converters;
 - c. Blister or scrap copper is processed in the anode furnaces;
 - d. Molten metal, including slag, matte or blister copper, is transferred between vessels; or
 - e. Molten metal is cast into anodes or other intermediate or final products.
3. "Out of control period" means the time that begins with the completion of the fifth, consecutive, daily calibration drift check with a calibration drift in excess of two times the allowable limit, or the time corresponding to the completion of the daily calibration drift check preceding the daily calibration drift check that results in a calibration drift in excess of four times the allowable limit, and the time that ends with the completion of the calibration check following corrective action that results in the calibration drifts at both the zero (or low-level) and high-level measurement points being within the corresponding allowable calibration drift limit.

C. Sulfur Dioxide Emissions Limitations.

1. Emissions from the Main Stack shall not exceed 1069.1 pounds per hour on a 14-operating day average unless 1,518 pounds or less is emitted during each hour of the 14-operating day period.
2. The owner and operator shall not cause to be discharged into the atmosphere from any affected unit subject to 40 CFR 60 subpart P any gases which contain sulfur dioxide in excess of the limit set forth in 40 CFR § 60.163(a) (as in effect on July 1, 2016 and no later editions).

D. Operational Standards.

1. Process equipment and control device operations. At all times, including periods of startup, shutdown, and malfunction, the owner or operator shall, to the extent practicable, maintain and operate smelter processes and associated emission control and/or control equipment in a manner consistent with good air pollution control practices for minimizing SO₂ emissions to the levels required by subsection (C). Determination of whether acceptable operating and maintenance procedures are being used will be based on all information available to the Director and EPA Region IX, which may include, but is not limited to, monitoring results, review of operating and maintenance procedures and records, and inspection of the relevant equipment.
2. Capture system and control device operations and maintenance plan. The owner or operator shall develop and implement an operations and maintenance plan for each

capture system and/or control device used to ventilate or control process gas or emissions from the flash furnace including matte tapping, slag skimming, and slag return operations; converter primary hoods, converter secondary hoods, tertiary ventilation system, and anode refining operations. The operations and maintenance plan must address the following requirements as applicable to each capture system and/or control device.

- a. Monitoring devices. The plan shall provide for installation, operation, calibration, and maintenance of appropriate monitoring devices to measure and record operating limit values or settings at all times the required capture and control system is operating, except during periods of monitor calibration, repair and malfunction. The initial plan shall provide for volumetric flow monitoring on the vent gas baghouse (inlet or outlet), each converter primary hood, each converter secondary hood, the tertiary ventilation system and the anode furnace baghouse (inlet or outlet). All monitoring devices shall be accurate within +/-10 percent and calibrated according to manufacturer's instructions. If direct measurement of the exhaust flow is infeasible due to physical limitations or exhaust characteristics, the owner or operator may propose a reliable equivalent method for approval. Initial monitoring may be adjusted as provided in subsection (D)(2)(e). Dampers that are manually set and remain in the same position while the capture system is operating are exempt from these monitoring requirements. Capture system damper position setting(s) shall be specified in the plan.
- b. Operational limits. The owner or operator shall establish operating limits in the operations and maintenance plan for the capture systems and/or control devices that are representative and reliable indicators of the performance of the capture system and control device operations. The initial operating limits may be adjusted as provided in subsection (D)(2)(e). Initial operating limits shall include the following:
 - i. Identification of those modes of operation when the double dampers between the flash furnace vessel and the vent gas system will be closed and the interstitial space evacuated to the acid plant.
 - ii. A minimum air flow for the furnace ventilation system and associated damper positions for each matte tapping hood or slag skimming hood when operating to ensure that the operation(s) are within the confines or influence of the capture system.
 - iii. A minimum air flow for the secondary hood baghouse and associated damper positions for each slag return hood to ensure that the operation is within the confines or influence of the capture system's ventilation draft during times when the associated process is operating.
 - iv. A minimum air infiltration ratio for the converter primary hoods of 1:1 averaged over 24 converter Blowing hours, rolled hourly measured as volumetric flow in primary hood less the volumetric flow of tuyere Blowing compared to the volumetric flow of tuyere Blowing.
 - v. A minimum secondary hood exhaust rate of 35,000 SCFM during converter Blowing, aver-

- aged over 24 converter Blowing hours, rolled hourly.
- vi. A minimum secondary hood exhaust rate of 133,000 SCFM during all non-Blowing operating hours, averaged over 24 non-Blowing hours, rolled hourly.
- vii. A minimum negative pressure drop across the secondary hood when the doors are closed equivalent to 0.007 inches of water.
- viii. A minimum exhaust rate on the tertiary hooding of 400,000 ACFM during all times material is processed in the converter aisle, averaged over 24 hours and rolled hourly.
- ix. Fan amperes or minimum air flow for the anode furnace baghouse and associated damper positions for each anode furnace hood to ensure that the anode furnace off-gas port is within the confines or influence of the capture system's ventilation draft during times when the associated furnace is operating.
- x. The anode furnace charge mouth shall be kept covered when the tuyeres are submerged in the metal bath except when copper is being charged to or transferred from the furnace.
- xi. The temperatures of the acid plant catalyst bed, which shall at minimum, meet the manufacturer's recommendations.
- xii. The acid plant catalyst replenishment criteria, which shall at minimum, meet the manufacturer's recommendations.
- c. Preventative maintenance. The owner or operator must perform preventative maintenance on each capture system and control device according to written procedures specified in the operation and maintenance plan. The procedures must include a preventative maintenance schedule that is consistent with the manufacturer's or engineer's instructions, or operator's experience working with equipment, and frequency for routine and long-term maintenance. This provision does not prohibit additional maintenance beyond that required by the plan.
- d. Inspections. The owner or operator must perform inspections in accordance with written procedures in the operations and maintenance plan for each capture system and control device that are consistent with the manufacturer's, engineer's or operator's instructions for each system and device.
- e. Plan development and revisions.
 - i. The owner or operator shall develop and keep current the plan required by this Section. Any plan or plan revision shall be consistent with this Section, shall be designed to ensure that the capture and control system performance conforms to the attainment demonstration in the Hayden 2010 Sulfur Dioxide National Ambient Air Quality Standards Nonattainment Area State Implementation Plan (SIP), and shall be submitted to the Department for review. Any plan or plan revision submitted shall include the associated manufacturer's recommendations and/or instructions used for capture system and control device operations and maintenance.
 - ii. The owner or operator shall submit the initial plan to the Department no later than May 1, 2018 and shall include the initial volumetric flow monitoring provisions in subsection (D)(2)(a), the initial operational limits in subsection (D)(2)(b), the preventative maintenance procedures in subsection (D)(2)(c), and the inspection procedures in subsection (D)(2)(d).
- iii. The owner or operator shall submit to the Department for approval a plan revision with changes, if any, to the initial volumetric flow monitoring provisions in subsection (D)(2)(a) and initial operational limits in subsection (D)(2)(b) not later than six months after completing a fugitive emissions study conducted in accordance with Appendix 14. The Department shall submit the approved changes to the volumetric flow monitoring provisions and operational limits pursuant to this subsection to EPA Region IX as a SIP revision not later than 12 months after completion of a fugitive emissions study.
- iv. Other plan revisions may be submitted at any time when necessary. All plans and plan revisions shall be designed to achieve operation of the capture system and/or control device consistent with the attainment demonstration in the Hayden 2010 Sulfur Dioxide National Ambient Air Quality Standards Nonattainment Area SIP. Except for changes to the volumetric flow monitoring provisions in subsection (D)(2)(a) and operational limits in subsection (D)(2)(b), which shall require prior approval, plans and plan revisions may be implemented upon submittal and shall remain in effect until superseded or until disapproved by the Department. Disapprovals are appealable Department actions.
- 3. Emissions from the anode furnace baghouse stack shall be routed to the Main Stack.
- E. Monitoring.
 - 1. To determine compliance with subsection (C)(1) the owner or operator of the Hayden Smelter shall install, calibrate, maintain, and operate a CEMS for continuously monitoring and recording SO₂ concentrations and stack gas volumetric flow rates at the following locations.
 - a. The exit of the acid plant;
 - b. The exit of the secondary hood particulate control device after the High Surface Area (HSA) lime injection system;
 - c. The exit of the flash furnace particulate control device after the HSA lime injection system;
 - d. The tertiary ventilation system prior to mixing with any other exhaust streams; and
 - e. The anode furnace baghouse stack prior to mixing with any other exhaust streams.
 - 2. Except during periods of systems breakdown, repairs, maintenance, out-of-control periods, calibration checks, and zero and span adjustments, the owner or operator shall continuously monitor SO₂ concentrations and stack gas volumetric flow rates at each location in subsection (E)(1).
 - 3. For purposes of this section, continuous monitoring means the taking and recording of at least one measurement of SO₂ concentration and stack gas flow rate reading from the effluent of each affected stack, outlet, or other approved measurement location in each 15-minute period when the associated process units are operating. Fifteen-minute periods start at the beginning of each

clock hour, and run consecutively. All CEMS required by subsection (E)(1) shall complete at least one cycle of operation (sampling, analyzing, and data recording) for each successive 15-minute period.

4. If the owner or operator can demonstrate to the Director that measurement of stack gas volumetric flow rate in the outlet of any particular piece of SO₂ control equipment would yield inaccurate results or would be technologically infeasible, then the Director may allow measurement of the flow rate at an alternative sampling point.
5. The owner or operator shall demonstrate that the CEMS required by subsection (E)(1) meet all of the following requirements:
 - a. The SO₂ CEMS installed and operated under this Section meets the requirements of 40 CFR 60, Appendix B, Performance Specification 2 and Performance Specification 6. The CEMS on the anode furnace baghouse stack and tertiary ventilation system shall complete an initial Relative Accuracy Test Audit (RATA) in accordance with Performance Specification 2. The RATA runs shall be tied to when the anode furnace is in use and, for the tertiary system, when the converters are in operation and/or material is being transferred in the converter aisle. Asarco may petition the Department and EPA Region IX on the criteria for subsequent RATAs for the anode furnace baghouse stack or tertiary ventilation system CEMS. The petition shall include submittal of CEMS data during the year.
 - b. The SO₂ CEMS installed and operated under this Section meets the quality assurance requirements of 40 CFR 60, Appendix F.
 - c. The owner or operator shall notify the Director in writing at least 30 days in advance of the start of the relative accuracy test audit (RATA) performed on the CEMS.
 - d. The Director shall approve the location of all sampling points for monitoring SO₂ concentration and stack gas volumetric flow rates and the appropriate span values for the monitoring systems. This approval shall be in writing before installation and operation of the measurement instruments.
 - e. The measurement system installed and used under this subsection is subject to the manufacturer's recommended zero adjustment and calibration procedures at least once per operating day unless the manufacturer specifies or recommends calibration at shorter intervals, in which case the owner or operator shall follow those specifications or recommendations. The owner or operator shall make available a record of these procedures that clearly shows instrument readings before and after zero adjustment and calibration.
 - f. The owner or operator shall maintain on hand and ready for immediate installation sufficient spare parts or duplicate systems for the CEMS required by this Section to allow for the replacement within six hours of any monitoring equipment part that fails or malfunctions during operation.
6. The owner or operator of the Hayden Smelter may petition the Department to substitute annual stack testing for the tertiary ventilation or the anode furnace baghouse stack CEMS if the owner or operator demonstrates, for a period of two years, that either CEMS contribute(s) less than five percent individually of the total sulfur dioxide emissions. The Department must determine the demon-

stration adequate to approve the petition. Annual stack testing shall use EPA Methods 1, 4, and 6C in 40 CFR 60 Appendix A or an alternate method approved by the Department and EPA Region IX. Annual stack testing shall commence no later than the one year after the date the continuous emission monitoring system was removed. The owner or operator shall submit a test protocol to the Department at least 30 days in advance of testing. The protocol shall provide for three or more 24-hour runs unless the owner or operator justifies a different period and the Department approves such different period. Reports of testing shall be submitted to the Department no later than 60 days after testing or 30 days after receipt, whichever is later. The report shall provide an emissions rate, in the form of a pound per hour or pound per unit of production factor, that shall be used in the compliance demonstration in subsection (F)(1). Except as provided herein, the owner or operator shall otherwise comply with section R18-2-312 in conducting such testing.

F. Compliance Demonstration Requirements.

1. For purposes of determining compliance with the emission limit in subsection (C)(1) the owner or operator shall calculate emissions for each operating day as follows:
 - a. Sum the hourly pounds of SO₂ vented to each uncontrolled shutdown ventilation flue and through each monitoring point listed in subsection (E)(1) for the current operating day and the preceding 13-operating days to calculate the total pounds of SO₂ emissions over the 14-operating day averaging period, as applicable.
 - b. Divide the total amount of SO₂ emissions calculated from subsection (F)(1)(a) by 336 to calculate the 14-operating day average SO₂ emissions.
 - c. If the calculation in subsection (F)(1)(b) exceeds 1069.1 pounds per hour, then the owner or operator shall sum the hourly pounds of SO₂ vented to each uncontrolled shutdown ventilation flue and through each monitoring point listed in subsection (E)(1) for each hour of the current operating day and each hour of the preceding 13-operating days to ascertain if any hour exceeded 1,518 pounds per hour.
2. When no valid hour or hours of data have been recorded by a continuous monitoring system required by subsections (E)(1) and (E)(2) and the associated process unit is operating, the owner or operator shall calculate substitute data for each such period according to the following procedures:
 - a. For a missing data period less than or equal to 24 hours, substitute the average of the hourly SO₂ concentrations recorded by the system for the hour before and the hour after the missing data period.
 - b. For a missing data period greater than 24 hours, substitute the greater of:
 - i. The 90th percentile hourly SO₂ concentrations recorded by the system during the previous 720 quality-assured monitor operating hours.
 - ii. The average of the hourly SO₂ concentrations recorded by the system for the hour before and the four hours after the missing data period.
 - c. Notwithstanding subsections (F)(3)(a) and (F)(3)(b), the owner or operator may present any credible evidence as to the quantity or concentration of emissions during any period of missing data.
3. The owner or operator shall determine compliance with the requirements in subsection (D)(2) as follows:

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- a. Maintaining and operating the emissions capture and control equipment in accordance with the capture system and control device operations and maintenance plan required in subsection (D)(2) and recording operating parameters for capture and control equipment as required in subsection (D)(2)(b); and
 - b. Conducting a fugitive study in accordance with Appendix 14 starting not later than 6 months after completion of the Converter Retrofit Project authorized by Significant Permit Revision No. 60647. The fugitive study shall demonstrate, as set forth in Appendix 14, that fugitive emissions from the smelter are consistent with estimates used in the attainment demonstration in the Hayden 2010 Sulfur Dioxide National Ambient Air Quality Standards Nonattainment Area SIP.
 - 4. The owner or operator shall include periods of startup, shutdown, malfunction, or other upset conditions when determining compliance with the emission limits in subsection (C).
 - 5. The owner and operator shall demonstrate compliance with the limit in subsection (C)(2) in accordance with 40 CFR §§ 60.165 and 60.166 (as in effect on July 1, 2016 and not later editions).
- G. Recordkeeping.**
- 1. The owner or operator shall maintain a record of each operation and maintenance plan required under subsection (D)(2).
 - 2. The owner or operator shall maintain the following records for at least five years:
 - a. All measurements from the continuous monitoring system required by subsection (E)(1), including the date, place, and time of sampling or measurement; parameters sampled or measured; and results. All measurements will be calculated daily.
 - b. All records of quality assurance and quality control activities for emissions measuring systems required by subsection (E)(1).
 - c. All records of calibration checks, adjustments, maintenance, and repairs conducted on the continuous monitoring systems required by subsection (E); including records of all compliance calculations required by subsection (F).
 - d. All records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of concentrate drying, smelting, converting, anode refining and casting emission units; any malfunction of the associated air pollution control equipment; or any periods during which a continuous monitoring system or monitoring device required by subsection (E)(1) is inoperative or not operating correctly.
 - e. All records of planned and unplanned shutdown ventilation flue utilization events and calculations used to determine emissions from shutdown ventilation flue utilization events if the owner or operator chooses to use the alternative compliance determination method.
 - f. All records of major maintenance activities and inspections conducted on emission units, capture system, air pollution control equipment, and CEMS, including those set forth in the operations and maintenance plan required by subsection (D)(2).
 - g. All records of operating days and production records required for calculations in subsection (F).
 - h. All records of fugitive emissions studies and study protocols conducted in accordance with Appendix 14.
 - i. All records of reports and notifications required by subsection (H).
- H. Reporting.**
- 1. The owner or operator shall notify the Director in writing at least 30 days in advance of the start of relative accuracy test audit (RATA) procedures performed on the continuous monitoring systems required by subsection (E)(1).
 - 2. Within 30 days after the end of each calendar quarter, the owner or operator shall submit a data assessment report to the Director in accordance with 40 CFR Part 60, Appendix F for the continuous monitoring systems required by subsection (E).
 - 3. The owner or operator shall submit an excess emissions and monitoring systems performance report or summary report form in accordance with 40 CFR § 60.7(c) to the Director quarterly for the continuous monitoring systems required by subsection (E)(1). Excess emissions means any 14-operating day average as calculated in subsection (F) in excess of the emission limit in subsection (C)(1), any period in which the capture and control system was operating outside of its parameters specified in the capture system and control device operation and maintenance plan in subsection (D)(2). For any 14-operating day period exceeding 1069.1 pounds per hour that the owner or operator claims does not exceed the limit in subsection (C)(1) because all hours in the operating period are below 1,518 pounds per hour, the owner or operator shall submit the CEMS data for each hour during that period. All reports shall be postmarked by the 30th day following the end of each calendar quarter time period.
 - 4. The owner or operator shall provide the following to the Director:
 - a. The owner or operator shall notify the Director of commencement of construction of any equipment necessary to comply with the operational or emission limits.
 - b. The owner or operator shall submit semiannual progress reports on construction of any such equipment postmarked by July 30 for the preceding January-June period and January 30 for the preceding July-December period.
 - c. The owner or operator shall submit notification of initial startup of any such equipment within 15 business days of such startup.
- I. Preconstruction review.** This Section is determined to be Reasonably Available Control Technology (RACT) for SO₂ emissions from the operations subject to subsection (C) for purposes of minor source NSR requirement addressed in R18-2-334.

Historical Note

New Section R18-2-B1302 made by final rulemaking at 23 A.A.R. 767, effective on the earlier of July 1, 2018, or 180 calendar days after completion of all Converter Retrofit Project improvements authorized by Significant Permit Revision No. 60647 (Supp. 17-1).

PART C. MIAMI, ARIZONA, PLANNING AREA**R18-2-C1301. Reserved****Historical Note**

New Section R18-2-C1301 reserved at 23 A.A.R. 767

(Supp. 17-1).

R18-2-C1302. Limits on SO₂ Emissions from the Miami Smelter**A. Applicability.**

1. This Section applies to the owner or operator of the Miami Smelter. It establishes limits on SO₂ emissions from the Miami Smelter and monitoring, recordkeeping and reporting requirements for those limits.
2. Effective date. Except as otherwise provided, the provisions of this Section shall take effect on the later of the effective date of the Administrator's action approving it as part of the state implementation plan or January 1, 2018.

B. Definitions. In addition to general definitions contained in R18-2-101, the following definitions apply to this rule.

1. "Capture system" means the collection of components used to capture gases and fumes released from one or more emission points, and to convey the captured gases and fumes to one or more control devices. A capture system may include, but is not limited to, the following components as applicable to a given capture system design: duct intake devices, hoods, enclosures, ductwork, dampers, manifolds, plenums, and fans.
2. "Electric furnace" means a furnace in which copper matte and slag are heated by electrical resistance without the mechanical introduction of air or oxygen.
3. "IsaSmelt[®] furnace" means a furnace in which air, oxygen, and fuel are injected through a top-submerged lance into a molten slag bath to produce slag and copper matte.
4. "Miami Smelter" means the primary copper smelter located near Miami, Gila County, Arizona at latitude 33°24'50"N and longitude 110°51'25"W.
5. "Out of control period" means the time that begins with the completion of the fifth, consecutive, daily calibration drift check with a calibration drift in excess of two times the allowable limit, or the time corresponding to the completion of the daily calibration drift check preceding the daily calibration drift check that results in a calibration drift in excess of four times the allowable limit, and the time that ends with the completion of the calibration check following corrective action that results in the calibration drifts at both the zero (or low-level) and high-level measurement points being within the corresponding allowable calibration drift limit.
6. "Operating day" means any calendar day in which any of the following occurs:
 - a. Concentrate is smelted in the Electric furnace or IsaSmelt[®] furnace;
 - b. Copper or sulfur bearing materials are processed in the converters;
 - c. Blister or scrap copper is processed in the anode furnaces or mold vessel;
 - d. Molten metal, including slag, matte or blister copper, is transferred between vessels;
 - e. Molten metal is cast into molds, anodes, or other intermediate or final products;
 - f. Power is provided to the electric furnace to make or maintain a molten bath; or
 - g. The anode furnace is heated to make or maintain a molten bath.

C. Sulfur Dioxide Emission Limitations. Combined SO₂ emissions from the tail gas stack, vent fume stack, aisle scrubber stack, bypass stack, and smelter roofline fugitives shall not exceed 142.45 pounds per hour on a 30-day rolling average basis.**D. Operational Standards.**

1. Process Equipment and control device operations. At all times, including periods of startup, shutdown, and malfunction, the owner or operator shall, to the extent practicable, maintain and operate smelter processes and associated emission control devices in a manner consistent with good air pollution control practices for minimizing SO₂ emissions from the process gases associated with the IsaSmelt[®] furnace, electric furnace, and converters at least to the levels required by subsection (C). Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Director and EPA Region IX, which may include, but is not limited to, monitoring results, review of operating and maintenance procedures and records, and inspection of the relevant equipment.
2. Capture system and control device operations and maintenance plan. The owner or operator shall develop and implement an operations and maintenance plan for each capture system and control device used to ventilate or control process gas or emissions associated with the IsaSmelt[®] furnace, electric furnace, and converters. The owner or operator shall submit the initial plan to the Department and EPA Region IX for review and approval by July 1, 2017.
 - a. The operations and maintenance plan must address the following requirements as applicable to each capture system and control device:
 - i. Monitoring devices. The plan shall provide for installation, operation, calibration, and maintenance of appropriate monitoring devices to measure and record operating limit or range values at all times the required system is operating. Dampers that are manually set and remain in the same position while the capture system is operating are exempt from these monitoring requirements.
 - ii. Operational limits and ranges. The owner or operator shall establish operating limits and ranges in the plan for each capture system and control device that are representative and reliable indicators of capture system performance and control device operation. If selected as an operational limit or range, capture system damper position settings shall be specified in the plan.
 - iii. Preventative maintenance. The owner or operator must perform preventative maintenance for each capture system and control device according to written procedures in the plan. The procedures must include a preventative maintenance schedule that is consistent with the manufacturer's or engineer's instructions and specified frequency for routine and long-term maintenance.
 - iv. Inspections. The owner or operator must perform inspections in accordance with written procedures in the plan for each capture system and control device, including position verification of any manual damper settings specified in the plan, that are consistent with the manufacturer's or engineer's instructions for each system and device.
 - b. The owner or operator shall operate and maintain each capture system and each control device in accordance with the plan required by subsection

(D)(2) and as approved by the Department and EPA Region IX, except as provided herein. Until receiving initial approval of the plan, the owner or operator shall operate and maintain each capture system and each control device in accordance with the plan as initially submitted pursuant to subsection (D)(2). The owner or operator shall submit plan revisions for review by the Department and EPA Region IX. At any time, the Department and/or EPA Region IX may require the owner or operator to revise the plan if determined to be inconsistent with subsection (D)(2)(a). Within 60 days of receiving written notification from the Department or EPA Region IX specifying such inconsistency, the owner or operator shall submit a proposal to the Department and EPA Region IX that addresses the inconsistency. The owner or operator shall maintain a current copy of the plan onsite and available for review and inspection upon request.

E. Monitoring.

1. To determine compliance with subsection (C), the owner or operator shall install, calibrate, maintain, and operate continuous monitoring systems to monitor and record SO₂ concentrations and stack gas volumetric flow rates at the following locations.
 - a. The acid plant tail gas stack;
 - b. The vent fume stack;
 - c. The aisle scrubber stack; and
 - d. The bypass stack.
2. To determine compliance with the emission limit in subsection (C), the owner or operator shall install, calibrate, maintain, and operate a continuous monitoring system to monitor and record fugitive SO₂ concentrations at the Miami Smelter roofline.
3. Except during periods of continuous monitoring system breakdown, repairs, maintenance, out-of-control periods, calibration checks, and zero and span adjustments, the owner or operator shall continuously monitor SO₂ concentrations and stack gas volumetric flow rates at each location specified in subsection (E)(1) and use the monitored concentrations and volumetric flow rates when demonstrating compliance with the SO₂ emission limit in subsection (C) in accordance with subsection (F).
4. Except during periods of continuous monitoring system breakdown, repairs, maintenance, out-of-control periods, calibration checks and zero and span adjustments, the owner or operator shall continuously monitor fugitive SO₂ emissions at the Miami Smelter roofline and use the monitored concentrations and volumetric flow rates when demonstrating compliance with the SO₂ emission limit in subsection (C) in accordance with subsection (F).
5. For purposes of subsections (E)(3) and (E)(4), continuous monitoring means the taking and recording of at least one measurement of SO₂ concentration and stack gas flow rate reading from the effluent of each affected stack, outlet, or other approved measurement location in each 15-minute period when the associated process units are operating. Fifteen-minute periods start at the beginning of each clock hour, and run consecutively. All continuous monitoring systems required by subsection (E)(1) shall complete at least one cycle of operation (sampling, analyzing, and data recording) for each successive 15-minute period.
6. If the owner or operator can demonstrate to the Director and EPA Region IX that measurement of stack gas volumetric flow rate in the outlet of any particular piece of SO₂ control equipment would yield inaccurate results or would be technologically infeasible, then the Director and EPA Region IX may allow measurement of the flow rate at an alternative sampling point.
7. The owner or operator shall demonstrate that the continuous monitoring systems required by subsection (E)(1) meet all of the following requirements:
 - a. Each SO₂ continuous monitoring system shall meet the specifications under 40 CFR 60, Appendix B, Performance Specification 6.
 - b. Each SO₂ continuous monitoring system installed and operated under this Section shall also meet the quality assurance requirements of 40 CFR 60, Appendix F, Procedure 1.
 - c. The owner or operator shall notify the Director in writing at least 30 days in advance of the start of the relative accuracy test audit (RATA) procedures performed on each continuous monitoring system.
 - d. The Director shall approve the location of all sampling points for monitoring SO₂ concentrations and stack gas volumetric flow rates in writing before installation and operation of measurement instruments.
 - e. The span of each continuous monitoring system for the acid plant tail stack, vent fume stack, and aisle scrubber stack shall be set at a SO₂ concentration of zero to 0.20 percent by volume.
 - f. The span of the continuous monitoring system for the bypass stack shall be set at a SO₂ concentration of zero to 20 percent by volume.
 - g. The zero (or low-level value between 0 and 20 percent of the span value) and span (50 to 100 percent of span value) calibration drifts shall be checked at least once each operating day in accordance with a written procedure. The zero and span must, at a minimum, be adjusted whenever either the 24-hour zero drift or the 24-hour span drift exceeds two times the limit in 40 CFR Part 60, Appendix B, Performance Specification 2. The system must allow the amount of the excess zero and span drift to be recorded and quantified.
 - h. The owner or operator shall maintain on hand and ready for immediate installation sufficient spare parts or duplicate systems for the continuous monitoring system equipment required by this Section to allow for the replacement within six hours of any monitoring system equipment part that fails or malfunctions during operation.
8. The owner or operator shall develop and implement a roofline fugitive emissions monitoring plan for the continuous monitoring system required by subsection (E)(2). The owner or operator shall submit the initial plan to the Department and EPA Region IX for review and approval by July 1, 2017.
 - a. The roofline fugitive emissions monitoring plan must address the following requirements:
 - i. The continuous monitoring system required by subsection (E)(2) must include measurement of fugitive emissions from, at a minimum, the Converter, Electric Furnace, Anode Furnace, and IsaSmelt[®] systems that is representative of total fugitive emissions.
 - ii. Each measurement system shall include at least one SO₂ analyzer and sufficient sampling locations that ensure collection of a representative sample along the roof monitor for each monitor

- system. The number of sample probes and their locations for each monitoring system shall account for the physical configuration of the vent, the locations of emitting activities relative to the vent, and heat generated by the equipment served by the vent.
- iii. Each measurement system shall include validation of adequate velocity for flow measurements and sufficient flow and temperature sensors to ensure calculation of representative exhaust flows through each vent. The number of such sensors and their locations for each monitoring system shall account for the physical configuration of the vent, the locations of emitting activities relative to the vent, and heat generated by the equipment served by the vent.
 - iv. Each measurement system shall include an on-site data collection system that continuously logs and stores the measured SO₂ concentration, the measured flow velocity, and the measured temperature.
 - v. An appropriate range for zero-span drift shall be established for all SO₂ analyzers to ensure proper calibration and operation. Unless otherwise provided in the roofline fugitive emissions monitoring plan required by subsection (E)(8), the zero (or low-level) value determination shall be made using a gas containing between zero to 20 percent of the span value for SO₂ and the span (or high-level) value determination shall be made using a certified gas with a value between 50 and 100 percent of the span value for SO₂. For each SO₂ analyzer, a daily zero-span check shall be performed by introducing zero gas and a known concentration of span gas to the analyzer. If the zero or span drift for an analyzer is greater than five percent of the span gas concentration for five consecutive days or greater than 10 percent of the span gas concentration for one day, the analyzer shall be found to be operating improperly and appropriate measures shall be taken to return the analyzer to proper operation. The zero-span check shall be repeated after any such corrective action is taken.
 - vi. All SO₂ analyzers shall be inspected quarterly by the owner or operator and inspected annually by an independent auditor. The inspections shall be conducted in accordance with the data accuracy assessment requirements of 40 CFR 60, Appendix F, Procedure 1, Section 5 or as otherwise provided in the roofline fugitive emissions monitoring plan required by subsection (E)(8). The quarterly inspections consist of two certified concentrations of SO₂ to each sample probe system and comparing the known concentrations to the concentrations logged by the corresponding on-site data collection system to generate a relative error for each system.
 - vii. The flow and temperature data shall be checked daily for proper operation of flow and temperature sensors in accordance with the roofline fugitive emissions monitoring plan required by subsection (E)(8). If a flow or temperature sensor is found to be operating improperly, appropriate measures shall be taken to return the sensor to proper operation.
 - viii. All temperature sensors shall be inspected annually. The inspection shall be conducted according to the manufacturer's specification. A temperature sensor tolerance range representative of proper sensor operation shall be established in the roofline fugitive emissions monitoring plan required by subsection (E)(8). If a temperature sensor is found to measure outside of an established tolerance range, the sensor shall be found to be operating improperly and appropriate measures shall be taken to return the sensor to proper operation.
 - ix. All flow sensors shall be calibrated semi-annually with calibration tools according to the manufacturer's specifications. A calibration tool range representative of proper sensor operation shall be established in the roofline fugitive emissions monitoring plan required by subsection (E)(8). If a flow sensor is found to measure outside of an established range, the sensor shall be found to be operating improperly and appropriate measures shall be taken to return the sensor to proper operation.
 - b. The owner or operator shall operate and maintain the continuous monitoring system required by subsection (E)(2) in accordance with the roofline fugitive emissions monitoring plan required by subsection (E)(2) and as approved by the Department and EPA Region IX, except as provided herein. Until receiving initial approval of the plan, the owner or operator shall operate and maintain the continuous monitoring system required by subsection (E)(2) in accordance with the plan as initially submitted pursuant to subsection (E)(2). The owner or operator shall keep the plan current and consistent with subsection (E)(8)(a). The owner or operator shall maintain a current copy of the plan onsite and available for review and inspection upon request. The Department and/or EPA Region IX may require the owner or operator to revise the plan if determined to be inconsistent with subsection (E)(8)(a). Within 60 days of receiving written notification from the Department or EPA Region IX specifying such inconsistency, the owner or operator shall submit a proposal to the Department and EPA Region IX that addresses the inconsistency.
- F. Compliance Demonstration Requirements.
1. Within 180 days of the effective date set forth in subsection (A)(2), the owner or operator shall demonstrate compliance with the emission limit in subsection (C) by calculating SO₂ emissions for each operating day as follows:
 - a. Sum the hourly pounds of SO₂ measured by the continuous monitoring systems required by subsection (E)(1) and (E)(2) for the current operating day and the preceding 29 operating days to calculate the total pounds of SO₂ emissions over the 30-operating day averaging period.
 - b. Multiply the operating days occurring during a 30-day averaging period by 24 to calculate the total operating hours over the most recent 30-operating day period.
 - c. Divide the total amount of SO₂ emissions calculated from subsection (F)(1)(a) by the total operating

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- hours calculated from subsection (F)(1)(b) to calculate the 30-day rolling hourly average SO₂ emissions.
2. For the continuous monitoring systems required by subsections (E)(1) and (E)(2), hourly emissions shall be computed as follows:
 - a. Except as provided under subsection (F)(2)(c), for a full operating hour (any clock hour with 60 minutes of unit operation), at least four valid data points are required to calculate the hourly average, i.e., one data point in each of the 15-minute quadrants of the hour.
 - b. Except as provided under subsection (F)(2)(c), for a partial operating hour (any clock hour with less than 60 minutes of unit operation), at least one valid data point in each 15-minute quadrant of the hour in which the unit operates is required to calculate the hourly average.
 - c. For any operating hour in which required maintenance or quality-assurance activities are performed:
 - i. If the unit operates in two or more quadrants of the hour, a minimum of two valid data points, separated by at least 15 minutes, is required to calculate the hourly average; or
 - ii. If the unit operates in only one quadrant of the hour, at least one valid data point is required to calculate the hourly average.
 - d. If a daily calibration error check is failed during any operating hour, all data for that hour shall be invalidated, unless a subsequent calibration error test is passed in the same hour and the requirements of subsection (F)(2)(c) are met, based solely on valid data recorded after the successful calibration.
 - e. For each full or partial operating hour, all valid data points shall be used to calculate the hourly average.
 - f. Data recorded during periods of continuous monitoring system breakdown, repair, maintenance, out of control periods, calibration checks, and zero and span adjustments shall not be included in the data averages computed under subsection (F)(3).
 - g. Either arithmetic or integrated averaging of all data may be used to calculate the hourly average. The data may be recorded in reduced or non-reduced form.
 3. When no valid hour or hours of data have been recorded by a continuous monitoring system required by subsections (E)(1) and (E)(2) and the associated process unit is operating, the owner or operator shall calculate substitute data for each such period according to the following procedures:
 - a. For a missing data period less than or equal to 24 hours, substitute the average of the hourly SO₂ concentrations recorded by the system for the hour before and the hour after the missing data period.
 - b. For a missing data period greater than 24 hours, substitute the greater of:
 - i. The 90th percentile hourly SO₂ concentrations recorded by the system during the previous 720 quality-assured monitor operating hours; or
 - ii. The average of the hourly SO₂ concentrations recorded by the system for the hour before and the hour after the missing data period.
 4. The owner or operator shall include periods of startup, shutdown, malfunction, or other upset conditions when determining compliance with the emission limit in subsection (C).
- G. Recordkeeping.**
1. The owner or operator shall maintain records as specified in the capture system and control device operations and maintenance plan required under subsection (D)(2) and the roofline fugitive emissions monitoring plan required under subsection (E)(8).
 2. The owner or operator shall maintain the following records for at least five years:
 - a. All measurements from the continuous monitoring systems required by subsection (E)(1) and (E)(2); including the date, place, and time of sampling or measurement, parameters sampled or measured, and results.
 - b. All records of all compliance calculations required by subsection (F).
 - c. All records of quality assurance and quality control activities conducted on the continuous monitoring systems required by subsection (E)(1) and (E)(2).
 - d. All records of continuous monitoring system breakdowns, repairs, maintenance, out of control periods, calibration checks, and zero and span adjustments for the continuous monitoring systems required by subsection (E)(1) and (E)(2).
 - e. All records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of Smelter processes; any malfunction of the associated air pollution control equipment; or any periods during which a continuous monitoring system or monitoring device required by subsection (E)(1) and (E)(2) is inoperative.
 - f. All records of all major maintenance activities conducted on emission units, capture system, air pollution control equipment, and continuous monitoring systems; including those set forth in the operations and maintenance plan required by subsection (D)(2).
 - g. All records of reports and notifications required by subsection (H).
- H. Reporting**
1. Within 30 days after the end of each calendar quarter, the owner or operator shall submit a data assessment report to the Director in accordance with 40 CFR Part 60, Appendix F, Procedure 1 for the continuous monitoring systems required by subsection (E).
 2. The owner or operator shall submit an excess emissions and monitoring systems performance report and/or summary report form in accordance with 40 CFR § 60.7(c) to the Director semiannually for the continuous monitoring systems required by subsection (E)(1) and (E)(2). All reports shall be postmarked by the 30th day following the end of each six-month period.
 3. The owner or operator shall provide the following to the Director:
 - a. Notification of commencement of construction of the project improvements and equipment authorized by Significant Permit Revision No. 53592 to comply with the operational or emission limits in this Section no later than 30 days after such date.
 - b. Semiannual progress reports on construction of any such improvements and equipment on January 1 and July 1 of each calendar year until construction is complete.
 - c. Notification of initial startup of any such improvements and equipment within 15 days after such date.
- I. Preconstruction review.** This Section is determined to be Reasonably Available Control Technology (RACT) for SO₂ emissions from the operations subject to subsection (C) for

purposes of minor source NSR requirements addressed in R18-2-334.

Historical Note

New Section R18-2-C1302 made by final rulemaking at 23 A.A.R. 767, on the later of the effective date of the Administrator's action approving it as part of the state implementation plan or January 1, 2018.

ARTICLE 14. CONFORMITY DETERMINATIONS

R18-2-1401. Definitions

Terms used in this Article but not defined in this Article, Article 1 of this Chapter, or A.R.S. § 49-401.01 shall have the meaning given them by the CAA, Titles 23 and 40 U.S.C., other EPA regulations, or other USDOT regulations, in that order of priority. The following definitions and the definitions contained in Article 1 of this Chapter and in A.R.S. § 49-401.01 shall apply to this Article:

1. "ADEQ" means the Arizona Department of Environmental Quality.
2. "ADOT" means the Arizona Department of Transportation.
3. "Applicable implementation plan" is defined in § 302(q) of the CAA and means the portion (or portions) of the implementation plan, or most recent revision thereof, which has been approved under § 110, or promulgated under § 110(c), or promulgated or approved pursuant to regulations promulgated under § 301(d) and which implements the relevant requirements of the CAA.
4. "CAA" means the Clean Air Act, as amended.
5. "Cause or contribute to a new violation" for a project means either of the following:
 - a. To cause or contribute to a new violation of a standard in the area substantially affected by the project or over a region which would otherwise not be in violation of the standard during the future period in question, if the project were not implemented.
 - b. To contribute to a new violation in a manner that would increase the frequency or severity of a new violation of a standard in such area.
6. "Consultation" means that one party confers with another identified party, provides access to all appropriate information to that party needed for meaningful input, and, prior to taking any action, considers the views of that party and responds in accordance with the procedures established in R18-2-1405.
7. "Control strategy implementation plan revision" is the applicable implementation plan which contains specific strategies for controlling the emissions of and reducing ambient levels of pollutants in order to satisfy CAA requirements for demonstrations of reasonable further progress and attainment (CAA §§ 182(b)(1), 182(c)(2)(A), 182(c)(2)(B), 187(a)(7), 189(a)(1)(B), and 189(b)(1)(A); and §§ 192(a) and 192(b), for nitrogen dioxide).
8. "Control strategy period" with respect to particulate matter less than 10 microns in diameter (PM₁₀), carbon monoxide (CO), nitrogen dioxide (NO₂), or ozone precursors (volatile organic compounds (VOC) and oxides of nitrogen (NO_x)), means that period of time after EPA approves control strategy implementation plan revisions containing strategies for controlling PM₁₀, NO₂, CO, or ozone, as appropriate. This period ends when the state submits and EPA approves a request under § 107(d) of the CAA for redesignation to an attainment area.
9. "Design concept" means the type of facility identified by the project, e.g., freeway, expressway, arterial highway, grade-separated highway, reserved right-of-way rail transit, mixed traffic rail transit, exclusive busway, etc.
10. "Design scope" means the design aspects of a facility which will affect the proposed facility's impact on regional emissions, usually as they relate to vehicle or person carrying capacity and control, e.g., number of lanes or tracks to be constructed or added, length of project, signalization, access control including approximate number and location of interchanges, preferential treatment for high-occupancy vehicles, etc.
11. "EPA" means the United States Environmental Protection Agency.
12. "FHWA" means the Federal Highway Administration of USDOT.
13. "FHWA or FTA project" means any highway or transit project which is proposed to receive funding assistance and approval through the Federal-Aid Highway program or the federal mass transit program, or requires Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) approval for some aspect of the project, such as connection to an interstate highway or deviation from applicable design standards on the interstate system.
14. "FTA" means the Federal Transit Administration of USDOT.
15. "Forecast period" with respect to a transportation plan means the period covered by the transportation plan pursuant to 23 CFR 450.
16. "Highway project" means an undertaking to implement or modify a highway facility or highway-related program. Such an undertaking consists of all required phases necessary for implementation. For analytical purposes, it shall be defined sufficiently to:
 - a. Connect logical termini and be of sufficient length to address environmental matters on a broad scope.
 - b. Have independent utility or significance, i.e., be usable and be a reasonable expenditure even if no additional transportation improvements in the area are made.
 - c. Not restrict consideration of alternatives for other reasonably foreseeable transportation improvements.
17. "Horizon year" means a year for which the transportation plan describes the envisioned transportation system in accordance with R18-2-1406.
18. "Hot-spot analysis" means an estimation of likely future localized CO and PM₁₀ pollutant concentrations and a comparison of those concentrations to the national ambient air quality standards. Pollutant concentrations to be estimated should be based on the total emissions burden which may result from the implementation of a single, specific project, summed together with future background concentrations (which can be estimated using the ratio of future to current traffic multiplied by the ratio of future to current emission factors) expected in the area. The total concentration shall be estimated and analyzed at appropriate receptor locations in the area substantially affected by the project. Hot-spot analysis assesses impacts on a scale smaller than the entire nonattainment or maintenance area, including, for example, congested roadway intersections and highways or transit terminals, and uses an air quality dispersion model to determine the effects of emissions on air quality.
19. "Incomplete data area" means any ozone nonattainment area which EPA has classified, in 40 CFR 81, as an incomplete data area.

20. "Increase the frequency or severity of a violation" means to cause a location or region to exceed a standard more often or to cause a violation at a greater concentration than previously existed or would otherwise exist during the future period in question, if the project were not implemented.
21. "ISTEA" means the Intermodal Surface Transportation Efficiency Act of 1991.
22. "Local transportation agency" means a city, town, or county.
23. "Maintenance area" means any geographic region of the United States previously designated nonattainment pursuant to the CAA Amendments of 1990 and subsequently redesignated to attainment subject to the requirement to develop a maintenance plan under § 175A of the CAA.
24. "Maintenance period" with respect to a pollutant or pollutant precursor means that period of time beginning when a state submits and EPA approves a request under § 107(d) of the CAA for redesignation to an attainment area, and lasting for 20 years, unless the applicable implementation plan specifies that the maintenance period shall last for more than 20 years.
25. "Metropolitan planning organization (MPO)" means the organization designated as being responsible, together with the state, for conducting the continuing, cooperative, and comprehensive planning process under 23 U.S.C. 134 and 49 U.S.C. 1607.
26. "Milestone" means an emissions level and the date on which it is required to be achieved as described in § 182(g)(1) and § 189(c) of the CAA.
27. "Motor vehicle emissions budget" means that portion of the total allowable emissions defined in a revision to the applicable implementation plan (or in an implementation plan revision which was endorsed by the Governor or Director of ADEQ, subject to a public hearing, and submitted to EPA, but not yet approved by EPA) for a certain date for the purpose of meeting reasonable further progress milestones or attainment or maintenance demonstrations, for any criteria pollutant or its precursors, allocated by the applicable implementation plan to highway and transit vehicles. The applicable implementation plan for an ozone nonattainment area may also designate a motor vehicle emissions budget for oxides of nitrogen (NO_x) for a reasonable further progress milestone year if the applicable implementation plan demonstrates that this NO_x budget will be achieved with measures in the implementation plan (as an implementation plan must do for VOC milestone requirements). The applicable implementation plan for an ozone nonattainment area includes a NO_x budget if NO_x reductions are being substituted for reductions in volatile organic compounds in milestone years required for reasonable further progress.
28. "National ambient air quality standards (NAAQS)" means those standards established pursuant to § 109 of the CAA.
29. "NEPA" means the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.).
30. "NEPA process completion" with respect to FHWA or FTA, means the point at which there is a specific action to do any of the following:
 - a. Make a formal final determination that a project is categorically excluded.
 - b. Make a Finding of No Significant Impact.
 - c. Issue a record of decision on a Final Environmental Impact Statement under NEPA.
31. "Nonattainment area" means any geographic region of the United States which has been designated as nonattainment under § 107 of the CAA for any pollutant for which a national ambient air quality standard exists.
32. "Not classified area" means any carbon monoxide nonattainment area which EPA has not classified as either moderate or serious.
33. "Phase II of the interim period" with respect to a pollutant or pollutant precursor means that period of time after December 27, 1993, lasting until the earlier of the following:
 1. Submission to EPA of the relevant control strategy implementation plan revisions which have been endorsed by the Governor or the Director of ADEQ and have been subject to a public hearing.
 2. The date that the CAA requires relevant control strategy implementation plans to be submitted to EPA, provided EPA has made a finding of the state's failure to submit any such plans and the state, MPO, and USDOT have received notice of such finding of the state's failure to submit any such plans.
34. "Project" means a highway project or transit project.
35. "Recipient of funds designated under 23 U.S.C. or the Federal Transit Act" means any agency at any level of state, county, or city government, including any political subdivision or MPO, that routinely receives 23 U.S.C. or Federal Transit Act funds to construct FHWA or FTA projects, operate FHWA or FTA projects or equipment, purchase equipment, or undertake other services or operations via contracts or agreements. This definition does not include private landowners or developers, or contractors or entities that are only paid for services or products created by their own employees.
36. "Regional transportation agency" means a regional transit authority established pursuant to A.R.S. Title 28, Chapter 20 or Chapter 24, or a formal association of political subdivisions involved in regional transportation issues.
37. "Regionally significant transportation project" means a transportation project (other than an exempt project) that is on a facility which serves regional transportation needs (such as access to and from the area outside of the region, major activity centers in the region, major planned developments such as new retail malls, sports complexes, etc., or transportation terminals, as well as most terminals themselves) and would normally be included in the modeling of a metropolitan area's transportation network, including at a minimum all principal arterial highways and all fixed guideway transit facilities that offer an alternative to regional highway travel.
38. "Rural transport ozone nonattainment area" means an ozone nonattainment area that does not include, and is not adjacent to, any part of a Metropolitan Statistical Area or, where one exists, a Consolidated Metropolitan Statistical Area (as defined by the United States Bureau of the Census) and is classified under CAA § 182(h) as a rural transport area.
39. "Standard" means a national ambient air quality standard.
40. "Statewide transportation improvement program (STIP)" means a staged, multi-year, intermodal program of transportation projects covering the state, which is consistent with the statewide transportation plan and metropolitan transportation plans, and developed pursuant to 23 CFR 450.
41. "Statewide transportation plan" means the official intermodal statewide transportation plan that is developed

through the statewide planning process for the state, developed pursuant to 23 CFR 450.

42. “Submarginal area” means any ozone nonattainment area which EPA has classified as submarginal in 40 CFR 81.
43. “Transit” is mass transportation by bus, rail, or other conveyance which provides general or special service to the public on a regular and continuing basis. It does not include school buses or charter or sightseeing services.
44. “Transit project” means an undertaking to implement or modify a transit facility or transit-related program, purchase transit vehicles or equipment, or provide financial assistance for transit operations. It does not include actions that are solely within the jurisdiction of local transit agencies, such as changes in routes, schedules, or fares. It may consist of several phases. For analytical purposes, it shall be defined inclusively enough to:
 - a. Connect logical termini and be of sufficient length to address environmental matters on a broad scope.
 - b. Have independent utility or independent significance, i.e., be a reasonable expenditure even if no additional transportation improvements in the area are made.
 - c. Not restrict consideration of alternatives for other reasonably foreseeable transportation improvements.
45. “Transitional area” means any ozone nonattainment area which EPA has classified as transitional in 40 CFR 81.
46. “Transitional period” with respect to a pollutant or pollutant precursor means that period of time which begins after submission to EPA of the relevant control strategy implementation plan which has been endorsed by the Governor or Director of ADEQ and has been subject to a public hearing. The transitional period lasts until EPA takes final approval or disapproval action on the control strategy implementation plan submission or finds it to be incomplete. The precise beginning and end of the transitional period is defined in R18-2-1428.
47. “Transportation control measure (TCM)” means any measure that is specifically identified and committed to in the applicable implementation plan that is either one of the types listed in § 108 of the CAA, or any other measure for the purpose of reducing emissions or concentrations of air pollutants from transportation sources by reducing vehicle use or changing traffic flow or congestion conditions. Notwithstanding the above, vehicle technology-based, fuel-based, and maintenance-based measures which control the emissions from vehicles under fixed traffic conditions are not TCMs for the purposes of this rule.
48. “Transportation improvement program (TIP)” means a staged, multi-year, intermodal program of transportation projects covering a metropolitan planning area which is consistent with the metropolitan transportation plan and developed pursuant to 23 CFR 450.
49. “Transportation plan” means the official intermodal metropolitan transportation plan that is developed through the metropolitan planning process for the metropolitan planning area, developed pursuant to 23 CFR 450.
50. “Transportation project” means a highway project or a transit project.
51. “USDOT” means the United States Department of Transportation.
52. “VMT” means the number of vehicle miles traveled.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1402. Applicability

- A. Except as provided for in subsection (F) or R18-2-1434, conformity determinations are required for all of the following:
 1. The adoption, acceptance, approval, or support of transportation plans developed pursuant to 23 CFR 450 or 49 CFR 613 by an MPO or USDOT.
 2. The adoption, acceptance, approval, or support of TIPs developed pursuant to 23 CFR 450 or 49 CFR 613 by an MPO or USDOT.
 3. The approval, funding, or implementation of FHWA or FTA projects.
- B. Conformity determinations are not required under this Article for individual projects which are not FHWA or FTA projects. However, R18-2-1429 applies to such projects if they are regionally significant.
- C. The provisions of this Article shall apply in all nonattainment and maintenance areas for transportation-related criteria pollutants for which the area is designated nonattainment or has a maintenance plan.
- D. The provisions of this Article apply with respect to emissions of the following criteria pollutants: ozone, carbon monoxide, nitrogen dioxide, and particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM₁₀).
- E. The provisions of this Article apply with respect to emissions of the following precursor pollutants:
 1. Volatile organic compounds and nitrogen oxides in ozone areas (unless the Administrator determines under § 182(f) of the CAA that additional reductions of NO_x would not contribute to attainment).
 2. Nitrogen oxides in nitrogen dioxide areas.
 3. Volatile organic compounds, nitrogen oxides, and PM₁₀ in PM₁₀ areas if either of the following apply:
 - a. During the interim period, the EPA Regional Administrator or the Director of ADEQ has made a finding (including a finding in an applicable implementation plan or a submitted implementation plan revision) that transportation-related precursor emissions within the nonattainment area are a significant contributor to the PM₁₀ nonattainment problem and has so notified ADOT or the MPO where one exists and USDOT.
 - b. During the transitional, control strategy, and maintenance periods, the applicable implementation plan or implementation plan submission establishes a budget for such emissions as part of the reasonable further progress, attainment, or maintenance strategy.
- F. Projects subject to this Article for which the NEPA process and a conformity determination have been completed by FHWA or FTA may proceed toward implementation without further conformity determinations if one of the following major steps has occurred within the most recent three-year period: NEPA process completion; formal start of final design; acquisition of a significant portion of the right-of-way; or approval of the plans, specifications, and estimates. All phases of such projects which were considered in the conformity determination are also included, if those phases were for the purpose of funding, final design, right-of-way acquisition, construction, or any combination of these phases.
- G. A new conformity determination for the project will be required if there is a significant change in project design concept and scope, if a supplemental environmental document for air quality purposes is initiated, or if no major steps to advance

the project have occurred within the most recent three-year period.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1403. Priority

When assisting or approving any action with air quality-related consequences, FHWA and FTA shall give priority to the implementation of those transportation portions of an applicable implementation plan prepared to attain and maintain the NAAQS. This priority shall be consistent with statutory requirements for allocation of funds among states or other jurisdictions.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1404. Frequency of Conformity Determinations

- A. Conformity determinations and conformity redeterminations for transportation plans, TIPs, and FHWA or FTA projects shall be made according to the requirements of this Section and the applicable implementation plan.
- B. Each new transportation plan shall be found to conform before the transportation plan is approved by the MPO or accepted by USDOT.
- C. All transportation plan revisions shall be found to conform before the transportation plan revisions are approved by the MPO or accepted by USDOT, unless the revision merely adds or deletes exempt projects listed in R18-2-1434 and has been made in accordance with the notification provisions contained in R18-2-1405. The conformity determination shall be based on the transportation plan and the revision taken as a whole.
- D. An existing conformity determination shall lapse unless conformity of existing transportation plans is redetermined:
 1. By May 25, 1995, unless previously redetermined consistent with 40 CFR 51, subpart T.
 2. Within 18 months after EPA approval of an implementation plan revision which either:
 - a. Establishes or revises a transportation-related emissions budget (as required by CAA §§ 175A(a), 182(b)(1), 182(c)(2)(A), 182(c)(2)(B), 187(a)(7), 189(a)(1)(B), and 189(b)(1)(A); and §§ 192(a) and 192(b), for nitrogen dioxide); or
 - b. Adds, deletes, or changes TCMs.
 3. Within 18 months after EPA promulgation of an implementation plan which establishes or revises a transportation-related emissions budget or adds, deletes, or changes TCMs.
- E. In any case, conformity determinations shall be made no less frequently than every three years, or the existing conformity determination will lapse.
- F. A new TIP shall be found to conform before the TIP is approved by the MPO or accepted by USDOT.
- G. A TIP amendment requires a new conformity determination for the entire TIP before the amendment is approved by the MPO or accepted by USDOT, unless the amendment merely adds or deletes exempt projects listed in R18-2-1434 and has been made in accordance with the notification procedures under R18-2-1405.
- H. After an MPO adopts a new or revised transportation plan, TIP conformity shall be redetermined by the MPO and USDOT within six months from the date of adoption of the plan, unless the new or revised plan merely adds or deletes exempt projects listed in R18-2-1434. Otherwise, the existing conformity determination for the TIP shall lapse.
- I. In any case, TIP conformity determinations shall be made no less frequently than every three years or the existing TIP conformity determination shall lapse.

- J. FHWA or FTA projects shall be found to conform before they are adopted, accepted, approved, or funded. Conformity shall be redetermined for any FHWA or FTA project if none of the following major steps has occurred within the most recent three-year period:
 1. NEPA process completion,
 2. Start of final design,
 3. Acquisition of a significant portion of the right-of-way,
 4. Approval of the plans, specifications, and estimates.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1405. Consultation

- A. Consultation procedures as described in this Section shall be undertaken by all of the following entities and shall include the public and affected local and regional transportation agencies in preparing for and making conformity determinations and in developing applicable implementation plans:
 1. An MPO where one exists.
 2. The Arizona Department of Transportation (ADOT).
 3. The United States Department of Transportation (USDOT).
 4. The Arizona Department of Environmental Quality (ADEQ).
 5. The county air pollution control agency established pursuant to A.R.S. Title 49 where one exists.
 6. The United States Environmental Protection Agency (EPA).
- B. The following elements shall be used to implement the consultation processes under subsection (M), with the exception of subsection (M)(8), and under subsection (N), with the exception of subsections (N)(2) and (N)(3), and shall include all affected agencies and interested members of the public, and may be conducted at separate times or in combination:
 1. Providing to the affected agencies and interested members of the public information describing the upcoming decision process,
 2. Distributing or providing access to draft documents,
 3. Providing an opportunity for informal question and answer on the draft document or proposed decision,
 4. Providing an opportunity for formal written comment,
 5. Writing and distributing both a response to comments and the final document or decision.
- C. An MPO where one exists, ADEQ, a county air pollution control agency where one exists, ADOT, a transit authority where one exists, and any local transportation agency shall undertake a consultation process in accordance with this Section with each other, with the local or regional offices of EPA, FHWA and FTA, with affected regional transportation agencies, and with the public on the development of the following as described in subsections (D) through (G):
 1. The implementation plan, including the emission budget and list of TCMs in the applicable implementation plan;
 2. The unified planning work program under 23 CFR § 450.314;
 3. The transportation plan and TIP;
 4. The statewide transportation plan and STIP;
 5. Any revisions to the preceding documents;
 6. All transportation conformity determinations.
- D. ADEQ, or the MPO in a county having a population greater than 250,000 persons, shall be the lead agency responsible for preparing an implementation plan, the associated emission budgets, and the list of TCMs in the plan. The lead agency shall also be responsible for assuring the adequacy of the consultation process. The concurrence of ADEQ on each implementation plan is required before ADEQ adopts the plan and

transmits it to EPA for inclusion in the state implementation plan pursuant to A.R.S. § 49-406.

- E. ADOT, or the MPO where one exists, shall be the lead agency responsible for preparing the final document or decision and for assuring the adequacy of the consultation process with respect to the development of the transportation plan and the TIP. The MPO shall be the lead agency responsible for preparing the final document or decision and for assuring the adequacy of the consultation process with respect to the development of the unified planning work program under 23 CFR 450.314.
- F. ADOT shall be the lead agency responsible for preparing the final document or decision and for assuring the adequacy of the consultation process with respect to the development of the statewide transportation plan and the STIP.
- G. ADOT, or the MPO where one exists, shall be the lead agency responsible for preparing the final document or decision and for assuring the adequacy of the consultation process with respect to determinations of transportation conformity, except that the entity authorized to adopt or approve a project shall be the lead agency responsible for project-level conformity determinations for projects outside of the transportation plan or TIP and shall assure the adequacy of the consultation process.
- H. Each lead agency described in subsections (D) through (G) shall:
 1. Confer with all other agencies having an interest in the document or decision to be developed;
 2. Provide access to all information needed for meaningful input;
 3. Solicit early and continuing input from those agencies;
 4. Conduct the public consultation process described in subsection (P);
 5. Assure policy-level contact with agencies;
 6. With the exception of notifications pursuant to subsection (M)(8), prior to taking any action required pursuant to subsections (D) through (G), consider the views of each agency and the public and respond to significant comments in a timely, substantive written manner prior to taking any final action and assure that such views and written response are made part of the record of any action.
- I. FHWA and FTA shall be responsible for assuring timely action on final findings of conformity for transportation plans, TIPs, and federally funded projects, including the basis for those findings, after consulting with other agencies as provided in this Section. FHWA and FTA shall also be responsible for providing guidance on conformity and the transportation planning process to agencies in consultation. FHWA and FTA may rely on the consultation process initiated by ADOT or the MPO where one exists and shall not be required to duplicate that process.
- J. EPA shall be responsible for reviewing and approving updated motor vehicle emissions factors and providing guidance on conformity criteria and procedures to agencies in consultation.
- K. Each lead agency subject to a consultation process under this Section, including any federal agency, shall provide or notice the availability of each final document that is the product of the consultation process, together with all supporting information, to each other agency and members of the public that have participated in the consultation process within 15 days of adopting or approving the document or making the determination. An agency may supply a checklist of available supporting information, which other participating agencies or the public may use to request all or part of the supporting information, in lieu of generally distributing all supporting information.
- L. A meeting that is scheduled or required for another purpose may be used for the purposes of consultation if the conformity consultation purpose is identified in the public notice for the meeting.
- M. A consultation process involving an MPO where one exists, ADEQ, a county air pollution control agency where one exists, ADOT, a transit authority where one exists, local and regional transportation agencies, EPA, USDOT, and the public shall be undertaken for the following:
 1. Evaluating and choosing each model and associated methods and assumptions to be used in hot-spot analyses and regional emissions analyses including vehicle miles traveled (VMT) forecasting. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists.
 2. Determining whether the responsible agency identified in R18-2-1433 has demonstrated that the requirements of R18-2-1416, R18-2-1418 and R18-2-1419 are satisfied without a particular mitigation or control measure. The consultation process pursuant to this subsection shall be initiated by the responsible agency.
 3. Making a determination, as required by R18-2-1429(C)(2), whether the project is included in the regional emissions analysis supporting the currently conforming TIP's conformity determination, even if the project is not included in the TIP for the purposes of MPO project selection or endorsement, and whether the project's design concept and scope have changed significantly from those which were included in the regional emissions analysis, or in a manner which would significantly impact use of the facility. The consultation process pursuant to this subsection shall be initiated by the MPO. In nonattainment areas where no MPO exists, ADOT shall initiate the consultation process for making a determination, as required by R18-2-1429(C)(2), whether a project that is outside of a TIP is included in the regional emissions analysis, and whether the project's design concept and scope have changed significantly from those which were included in the regional emissions analysis, or in a manner which would significantly impact use of the facility.
 4. Determining pursuant to subsection (R) which minor arterials and other transportation projects should be considered "regionally significant" for the purposes of regional emissions analysis and which projects should be considered to have a significant change in design concept and scope from the transportation plan or TIP. The consultation process pursuant to this subsection shall be initiated by the MPO. In nonattainment areas where no MPO exists, ADOT shall initiate the consultation process for determining pursuant to subsection (R) which minor arterials and other transportation projects should be considered "regionally significant" for the purposes of regional emissions analysis.
 5. Evaluating whether exempt projects as described in R18-2-1434 and R18-2-1435 should be treated as non-exempt in cases where potential adverse emissions impacts may exist for any reason. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists.
 6. Making a determination, as required by R18-2-1413, whether past obstacles to implementation of TCMs which are behind the schedule established in the applicable implementation plan have been identified and are being overcome, and whether state and local agencies with influence over approvals or funding for TCMs are giving

maximum priority to approval or funding for TCMs. This consultation process shall also consider whether delays in TCM implementation necessitate revisions to the applicable implementation plan to remove TCMs or to substitute TCMs or other emission reduction measures. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists.

7. Identifying, as required by R18-2-1431, projects located at sites in PM₁₀ nonattainment areas which have vehicle and roadway emission and dispersion characteristics which are essentially identical to those at sites which have violations verified by monitoring, and therefore require quantitative PM₁₀ hot-spot analysis. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists.
 8. Notification of transportation plan or TIP revisions or amendments which merely add or delete exempt projects listed in R18-2-1434. Notice shall be provided by the MPO and need not be provided prior to final action. Notice shall be provided by ADOT for revisions and amendments affecting the state transportation plan and the state TIP. The public involvement process described in subsection (P) is not required for the purposes of this subsection.
 9. Project-level conformity determinations pursuant to R18-2-1416. The consultation process pursuant to this subsection shall be initiated by the recipient of the funds designated under 23 U.S.C. or the Federal Transit Act.
- N. A consultation process involving the MPO, ADEQ, a county air pollution control agency where one exists, ADOT, appropriate political subdivisions, regional transportation agencies, if any, and the public shall be undertaken for the following:
1. Evaluating events which will trigger new conformity determinations in addition to those triggering events established in R18-2-1404 and including any changes in planning assumptions that may trigger a new conformity determination. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists.
 2. Consulting on emissions analysis for transportation activities which cross the borders of MPOs or nonattainment areas or air basins. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists. The public involvement process described in subsection (P) is not required for the purposes of this subsection.
 3. Where the metropolitan planning area does not include the entire nonattainment or maintenance area, a consultation process involving the MPO and ADOT for cooperative planning and analysis for purposes of determining conformity of all projects outside the metropolitan area and within the nonattainment or maintenance area. The consultation process pursuant to this subsection shall be initiated by ADOT. The public involvement process described in subsection (P) is not required for the purposes of this subsection.
 4. The design, schedule, and funding of research and data collection efforts and regional transportation model development. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists.
 5. Determining that a conforming project approved with mitigation no longer requires mitigation. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists.
- O. The following consultation processes involve recipients of funds designated under 23 U.S.C. or the Federal Transit Act:
1. A consultation process involving the MPO, ADEQ, a county air pollution control agency where one exists, ADOT, recipients of funds designated under 23 U.S.C. or the Federal Transit Act and any agency created under state law that sponsors or approves transportation projects shall be undertaken to assure that plans for construction of regionally significant projects which are not FHWA or FTA projects, including projects for which alternative locations, design concept or scope, or the no-build option are still being considered, are disclosed as soon as practicable to ADOT or the MPO where one exists, so as to assure that any significant changes to the design concept or scope of those plans are disclosed as soon as practicable. The political subdivision having authority to adopt or approve a regionally significant transportation project, and any agency that becomes aware of any such project through applications for approval, permitting, funding, or otherwise shall disclose such project to ADOT or the MPO if one exists as soon as practicable. To help assure timely disclosure, the political subdivision having authority to adopt or approve any potential regionally significant transportation project shall disclose to ADOT or the MPO on a schedule prescribed by ADOT or the MPO, whichever is appropriate, each project for which alternatives have been identified through the NEPA process and, in particular, any preferred alternative that may be a regionally significant project. The consultation process shall include assuming the location, design concept, and scope of the project, where the sponsor has not yet decided these features, in sufficient detail to allow ADOT or the MPO to perform a regional emissions analysis. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists.
 2. A consultation process involving the MPO, ADEQ, a county air pollution control agency where one exists, ADOT, recipients of funds designated under 23 U.S.C. or the Federal Transit Act, any agency created under state law that sponsors or approves transportation projects, and the public shall be undertaken for the development of procedures as described in R18-2-1429. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists.
- P. Public involvement processes shall be conducted according to the requirements of this subsection.
1. ADOT or the MPO, where one exists, when making conformity determinations on transportation plans, programs, and projects shall establish and continuously implement a proactive public involvement process which provides opportunity for public review and comment prior to taking formal action on a conformity determination for all transportation plans and TIPs, that meets the following minimum requirements:
 - a. Includes a process that provides complete information, timely public notice, full public access to key decisions and supports early and continuing involvement of the public in developing plans and TIPs.
 - b. Requires a minimum public comment period of 45 days before the public involvement process is initially adopted or revised.
 - c. Provides timely information about transportation issues and processes to citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, other interested parties and segments of the community

- affected by transportation plans, programs, and projects, including but not limited to central city and other local jurisdiction concerns.
- d. Provides reasonable public access to technical and policy information used in the development of plans and TIPs and open public meetings where matters related to the federal-aid highway and transit programs are being considered.
 - e. Requires adequate public notice of public involvement activities and time for public review and comment at key decision points, including, but not limited to, approval of plans and TIPs and approval of changes in plans and TIPs. In nonattainment areas classified as serious and above, the comment period shall be at least 30 days for the plan, TIP, and major amendments. Public notice shall include mailing of notice to a list of all persons who have requested notice of actions covered by this Article.
 - f. Demonstrates explicit consideration and response to public input received during the planning and program development processes.
 - g. Seeks out and considers the needs of those traditionally underserved by existing transportation systems, including but not limited to low-income and minority households.
 - h. When significant written and oral comments are received on a draft transportation plan or TIP, including the financial plan, as a result of the public involvement process or the consultation process required by this Section, a summary, analysis, and report on the disposition of comments shall be made part of the final plan and TIP.
 - i. If the final transportation plan or TIP differs significantly from the one which was made available for public comment by the MPO and it raises new material issues which interested parties could not reasonably have foreseen from the public involvement efforts, an additional opportunity for public comment on the revised plan or TIP shall be made available.
 - j. ADOT or the MPO where one exists shall specifically address in writing all public comments that known plans for a regionally significant transportation project which is not receiving FHWA or FTA funding or approval have not been properly reflected in the emissions analysis supporting a proposed conformity finding for a transportation plan or TIP.
 - k. Public involvement processes shall be periodically reviewed by ADOT or the MPO in terms of their effectiveness in assuring that the process provides full and open access to all.
 - l. These procedures will be reviewed by the FHWA and the FTA during certification reviews for TMAs, and as otherwise necessary for all MPOs, to assure that full and open access is provided to MPO decisionmaking processes.
 - m. Metropolitan public involvement processes shall be coordinated with statewide public involvement processes wherever possible to enhance public consideration of the issues, plans, and programs and to reduce redundancies and costs.
2. Local and regional transportation agencies when making conformity determinations on regionally significant transportation projects shall establish and implement a public involvement process which meets, at a minimum, the following requirements:
 - a. Provides to the affected agencies and interested members of the public information describing the upcoming decision process.
 - b. Distributes or provides access to draft documents and all information needed for meaningful input.
 - c. Solicits early and continuing input from interested agencies and the public.
 - d. Provides an opportunity for informal question and answer on the draft document or proposed decision.
 - e. Provides an opportunity for formal written comment.
 - f. Provides for writing and distributing both a response to comments and the final document or decision. The response to comments shall consider the views of each agency and the public. The response to comments shall be made in a timely, substantive written manner prior to taking any final action and shall be made part of the record of any action.
 - Q. Any conflict among state agencies or between state agencies and an MPO shall be escalated to the Governor if the conflict cannot be resolved by the directors of the involved agencies. In the first instance, such entities shall make every effort to resolve any differences, including personal meetings between the directors of such entities or their policy-level representatives, to the extent possible. Within 14 calendar days after ADOT or the MPO has notified ADEQ of its decision, ADEQ may appeal a proposed determination of conformity, or other policy decision under this Article, to the Governor. ADEQ must provide notice of any appeal under this subsection to ADOT or the MPO. If ADEQ does not appeal to the Governor within 14 days, ADOT or the MPO may proceed with the final determination or decision. If ADEQ appeals to the Governor, the final conformity determination or policy decision shall have the concurrence of the Governor. The Governor may delegate to another official or agency within the state the role of hearing any appeal under this subsection and of deciding whether to concur in the determination or decision but may not delegate these functions to the director or staff of ADEQ, to any local air quality agency, to ADOT, to any state transportation commission or board, to an MPO, or to any agency that has responsibility for any of these functions.
 - R. The following procedures shall govern the consultation process regarding regionally significant transportation projects as defined in R18-2-1401(37):
 1. By September 1, 1995, ADOT or the MPO where one exists shall develop and make available, for each nonattainment or maintenance area, consistent with A.R.S. § 49-408(A), the following:
 - a. A map of the highway or transit facilities in the nonattainment or maintenance area that serve regional transportation needs.
 - b. Guidance on which undertakings to implement or modify a highway facility are not transportation projects as defined in this Article, because they are not of sufficient length to address environmental matters on a broad scope.
 - c. Guidance on which types of transportation projects are normally included in the regional transportation model.
 2. The map and guidance described in subsection (R)(1) shall be produced only after consultation with ADEQ, a county air pollution control agency where one exists, ADOT, a transit authority where one exists, local and regional transportation agencies, and the public. The map developed pursuant to subsection (R)(1) shall be updated prior to the commencement of the next TIP or STIP

development cycle, unless no changes have occurred. The guidance developed pursuant to subsection (R)(3) shall be revised as necessary to reflect changes in the regional transportation model.

3. ADOT or the MPO where one exists shall develop and initiate the consultation process described in subsection (H) for a proposed list of transportation projects to be considered regionally significant. The consultation process shall include the MPO where one exists, ADEQ, a county air pollution control agency where one exists, ADOT, a transit authority where one exists, local and regional transportation agencies, EPA, USDOT, and the public. The list shall include information supporting the proposed classification.
 4. In determining whether a facility serves regional transportation needs, ADOT or the MPO where one exists shall consider at a minimum whether the facility:
 - a. Would be classified as a principal arterial based on average daily traffic or other factors, if not for limitations that the USDOT places on the percentage of streets that can be so classified.
 - b. For all other roadways, whether the facility:
 - i. Serves regional mobility needs, as opposed to local access.
 - ii. Carries regional traffic from one principal arterial to another.
 - iii. Is a modification that expands a facility such that it would serve regional transportation needs.
 5. For the purposes of this Article, a street with a lower classification than a collector street, as specified in the most recent federal classification map for the region, does not serve regional transportation needs.
 6. None of the following attributes, by itself, shall require a transportation project to be included in the modeling of a metropolitan area's transportation network:
 - a. The connection of a facility that does not serve regional transportation needs to a facility that does serve regional transportation needs.
 - b. The addition or modification of a lane other than a through lane.
- S.** An agency having a role or responsibility under this Section may delegate that role or responsibility to another entity pursuant to the applicable state law but shall notify all other parties to the consultation process of this fact when the delegation occurs and shall also provide to the other parties the name, address, and telephone number of one or more contact persons representing the entity that is accepting the delegated role or responsibility.
- T.** The provisions of this Section apply only to TIP and STIP planning cycles beginning with the cycles next following the effective date of this Section. The provisions of 40 CFR 51, Subpart T, continue to apply to all TIP and STIP planning cycles in progress at the time of the effective date of this Section. The provisions of this Section apply to consultation on projects and TIP amendments as of the effective date of this Section.
1. The transportation plan shall specifically describe the transportation system envisioned for certain future years which shall be called horizon years.
 2. The agency or organization developing the transportation plan, after consultation pursuant to R18-2-1405, may choose any years to be horizon years, subject to the following restrictions:
 - a. Horizon years may be no more than 10 years apart.
 - b. The first horizon year may be no more than 10 years from the base year used to validate the transportation demand planning model.
 - c. If the attainment year is in the time span of the transportation plan, the attainment year shall be a horizon year.
 - d. The last horizon year shall be the last year of the transportation plan's forecast period.
 3. For these horizon years all of the following apply:
 - a. The transportation plan shall quantify and document the demographic and employment factors influencing expected transportation demand, including land-use forecasts, in accordance with implementation plan provisions and R18-2-1405.
 - b. The highway and transit system shall be described in terms of the regionally significant additions or modifications to the existing transportation network which the transportation plan envisions to be operational in the horizon years. Additions and modifications to the highway network shall be sufficiently identified to indicate intersections with existing regionally significant facilities and to determine their effect on route options between transportation analysis zones. Each added or modified highway segment shall also be sufficiently identified in terms of its design concept and design scope to allow modeling of travel times under various traffic volumes, consistent with the modeling methods for area-wide transportation analysis in use by the MPO. Transit facilities, equipment, and services envisioned for the future shall be identified in terms of design concept, design scope, and operating policies sufficiently to allow modeling of their transit ridership. The description of additions and modifications to the transportation network shall also be sufficiently specific to show that there is a reasonable relationship between expected land use and the envisioned transportation system.
 - c. Other future transportation policies, requirements, services, and activities, including intermodal activities, shall be described.
- B.** Ozone or CO nonattainment areas which are reclassified from moderate to serious shall meet the requirements of subsection (A) within two years from the date of reclassification.
- C.** Transportation plans for other areas shall meet the requirements of subsection (A) at least to the extent it has been the previous practice of the MPO to prepare plans which meet those requirements. Otherwise, transportation plans shall describe the transportation system envisioned for the future specifically enough to allow determination of conformity according to the criteria and procedures of R18-2-1409 through R18-2-1427.
- D.** The requirements of this Section supplement other requirements of applicable law or regulation governing the format or content of transportation plans.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1406. Content of Transportation Plans

- A.** For transportation plans adopted after January 1, 1995, in serious, severe, or extreme ozone nonattainment areas and in serious carbon monoxide nonattainment areas, the following shall apply:

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1407. Relationship of Transportation Plan and TIP Conformity with the NEPA Process

The degree of specificity required in the transportation plan and the specific travel network assumed for air quality modeling do not preclude the consideration of alternatives in the NEPA process or other project development studies. Should the NEPA process result in a project with design concept and scope significantly different from that in the transportation plan or TIP, the project shall meet the criteria in R18-2-1409 through R18-2-1427 for projects not from a TIP before NEPA process completion.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1408. Fiscal Constraints for Transportation Plans and TIPs

Transportation plans and TIPs shall demonstrate that they are fiscally constrained consistent with USDOT's metropolitan planning regulations at 23 CFR 450 in order to be found in conformity.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1409. Criteria and Procedures for Determining Conformity of Transportation Plans, Programs, and Projects: General

- A. In order to be found to conform, each transportation plan, program, and FHWA or FTA project shall satisfy the applicable criteria and procedures in R18-2-1410 through R18-2-1427 as listed in Table 1 of this Section and shall comply with all applicable conformity requirements of implementation plans and of court orders for the area which pertain specifically to conformity determination requirements. The criteria for making conformity determinations differ based on the action under review (transportation plans, TIPs, and FHWA or FTA projects), the time period in which the conformity determination is made, and the relevant pollutant.
- B. The following table indicates the criteria and procedures in R18-2-1410 through R18-2-1427 which apply for each action in each time period:

Table 1. Conformity Criteria

DURING ALL PERIODS	
Action	Criteria
Transportation Plan	R18-2-1410, R18-2-1411, R18-2-1412, R18-2-1413(B)
TIP	R18-2-1410, R18-2-1411, R18-2-1412, R18-2-1413(C)
Project (from a conforming plan and TIP)	R18-2-1410, R18-2-1411, R18-2-1412, R18-2-1414, R18-2-1415, R18-2-1416, R18-2-1417
Project (not from a conforming plan and TIP)	R18-2-1410, R18-2-1411, R18-2-1412, R18-2-1413(D), R18-2-1414, R18-2-1416, R18-2-1417

PHASE II OF THE INTERIM PERIOD

Action	Criteria
Transportation Plan	R18-2-1422, R18-2-1425
TIP	R18-2-1423, R18-2-1426
Project (from a conforming plan and TIP)	R18-2-1421

Project (not from a conforming plan and TIP)	R18-2-1421, R18-2-1424, R18-2-1427
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TRANSITIONAL PERIOD

Action	Criteria
Transportation Plan	R18-2-1418, R18-2-1422, R18-2-1425
TIP	R18-2-1419, R18-2-1423, R18-2-1426
Project (from a conforming plan and TIP)	R18-2-1421
Project (not from a conforming plan and TIP)	R18-2-1420, R18-2-1421, R18-2-1424, R18-2-1427

CONTROL STRATEGY AND MAINTENANCE PERIODS

Action	Criteria
Transportation Plan	R18-2-1418
TIP	R18-2-1419
Project (from a conforming plan and TIP)	No additional criteria
Project (not from a conforming plan and TIP)	R18-2-1420

- R18-2-1410. The conformity determination must be based on the latest planning assumptions.
- R18-2-1411. The conformity determination must be based on the latest emission estimation model available.
- R18-2-1412. The MPO must make the conformity determination according to the consultation procedures of this rule and the implementation plan revision required by 40 CFR 51.396.
- R18-2-1413. The transportation plan, TIP, or FHWA or FTA project which is not from a conforming plan and TIP must provide for the timely implementation of TCMs from the applicable implementation plan.
- R18-2-1414. There must be a currently conforming transportation plan and currently conforming TIP at the time of project approval.
- R18-2-1415. The project must come from a conforming transportation plan and program.
- R18-2-1416. The FHWA or FTA project must not cause or contribute to any new localized CO or PM₁₀ violations or increase the frequency or severity of any existing CO or PM₁₀ violations in CO and PM₁₀ nonattainment and maintenance areas.
- R18-2-1417. The FHWA or FTA project must comply with PM₁₀ control measures in the applicable implementation plan.
- R18-2-1418. The transportation plan must be consistent with the motor vehicle emissions budget(s) in the applicable implementation plan or implementation plan submission.
- R18-2-1419. The TIP must be consistent with the motor vehicle emissions budget(s) in the applicable implementation plan or implementation plan submission.
- R18-2-1420. The project which is not from a conforming transportation plan and conforming TIP must be consistent with the motor vehicle emissions budget(s) in the applicable implementation plan or implementation plan submission.
- R18-2-1421. The FHWA or FTA project must eliminate or reduce the severity and number of localized CO violations in the area substantially affected by the project (in CO nonattainment areas).
- R18-2-1422. The transportation plan must contribute to emissions reductions in ozone and CO nonattainment areas.

- R18-2-1423. The TIP must contribute to emissions reductions in ozone and CO nonattainment areas.
- R18-2-1424. The project which is not from a conforming transportation plan and TIP must contribute to emissions reductions in ozone and CO nonattainment areas.
- R18-2-1425. The transportation plan must contribute to emission reductions or must not increase emissions in PM₁₀ and NO₂ nonattainment areas.
- R18-2-1426. The TIP must contribute to emission reductions or must not increase emissions in PM₁₀ and NO₂ nonattainment areas.
- R18-2-1427. The project which is not from a conforming transportation plan and TIP must contribute to emission reductions or must not increase emissions in PM₁₀ and NO₂ nonattainment areas.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1410. Criteria and Procedures: Latest Planning Assumptions

- A. During all periods the conformity determination, with respect to all other applicable criteria in R18-2-1411 through R18-2-1427, shall be based upon the most recent complete planning assumptions in force at the time of the conformity determination. The conformity determination shall satisfy the requirements of subsections (B) through (F).
- B. Assumptions, including vehicle miles traveled per capita or per household, trip generation per household, vehicle occupancy, household size, vehicle fleet mix, vehicle ownership, and the geographic distribution of population growth shall be derived from the estimates of current and future population, employment, travel, and congestion most recently used by ADOT or the MPO where one exists. Population estimates shall be consistent with the estimates developed by the Arizona Department of Economic Security pursuant to A.R.S. § 41-1954(A). The conformity determination shall also be based on the latest assumptions about current and future background concentrations.
- C. The conformity determination for each transportation plan and TIP shall discuss how transit operating policies (including fares and service levels) and assumed transit ridership have changed since the previous conformity determination.
- D. The conformity determination shall include reasonable assumptions about transit service and increases in transit fares and road and bridge tolls over time.
- E. The conformity determination shall use the latest existing information regarding the effectiveness of the TCMs which have already been implemented.
- F. Key assumptions shall be specified and included in the draft documents and supporting materials used for the interagency and public consultation required by R18-2-1405.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1411. Criteria and Procedures: Latest Emissions Model

- A. During all periods the conformity determination shall be based on the latest emission estimation model available. This criterion is satisfied if the most current version of the motor vehicle emissions model specified by EPA for use in the preparation or revision of implementation plans in that state or area is used for the conformity analysis. Where EMFAC is the motor vehicle emissions model used in preparing or revising the applicable implementation plan, new versions shall be approved by EPA before they are used in the conformity analysis.
- B. Conformity analyses for which the emissions analysis was begun during the grace period or before the Federal Register

notice of availability of the latest emission model, or during any grace period announced in such notice, may continue to use the previous version of the model for transportation plans and TIPs. The previous model may also be used for projects if the analysis was begun during the grace period or before the Federal Register notice of availability, provided no more than three years have passed since the draft environmental document was issued.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1412. Criteria and Procedures: Consultation

All conformity determinations shall be made according to the consultation procedures in R18-2-1405. This criterion applies during all periods. Until the implementation plan revision required by 40 CFR 51.396 is approved by EPA, the conformity determination shall be made according to the procedures in R18-2-1405. Once the implementation plan revision has been approved by EPA, this criterion is satisfied if the conformity determination is made consistent with the implementation plan's consultation requirements.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1413. Criteria and Procedures: Timely Implementation of TCMs

- A. During all periods the transportation plan, TIP, or FHWA, or FTA project which is not from a conforming plan and TIP shall provide for the timely implementation of TCMs from the applicable implementation plan.
- B. For transportation plans, this criterion is satisfied if the following two conditions are met:
 1. The transportation plan, in describing the envisioned future transportation system, provides for the timely completion or implementation of all TCMs in the applicable implementation plan which are eligible for funding under 23 U.S.C. or the Federal Transit Act, consistent with schedules included in the applicable implementation plan.
 2. Nothing in the transportation plan interferes with the implementation of any TCM in the applicable implementation plan.
- C. For TIPs, this criterion is satisfied if all of the following conditions are met:
 1. An examination of the specific steps and funding source needed to fully implement each TCM indicates that TCMs which are eligible for funding under 23 U.S.C. or the Federal Transit Act are on or ahead of the schedule established in the applicable implementation plan, or, if such TCMs are behind the schedule established in the applicable implementation plan, the MPO and USDOT have determined that past obstacles to implementation of the TCMs have been identified and have been or are being overcome, and that all state and local agencies with influence over approvals or funding for TCMs are giving maximum priority to approval or funding of TCMs over other projects within their control, including projects in locations outside the nonattainment or maintenance area. Maximum priority to approval or funding of TCMs includes demonstrations with respect to funding acceleration, commitment of staff or other agency resources, diligent efforts to seek approvals, and similar actions.
 2. If federal funding intended for TCMs in the applicable implementation plan has previously been programmed but is reallocated to projects in the TIP other than TCMs, (or if there are no other TCMs in the TIP, to projects in the TIP other than projects which are eligible for federal

funding under ISTEA's Congestion Mitigation and Air Quality Improvement Program), and the TCMs are behind the schedule in the implementation plan, the TIP cannot be found to conform.

3. Nothing in the TIP may interfere with the implementation of any TCM in the applicable implementation plan.
- D. For FHWA or FTA projects which are not from a conforming transportation plan and TIP, this criterion is satisfied if the project does not interfere with the implementation of any TCM in the applicable implementation plan.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1414. Criteria and Procedures: Currently Conforming Transportation Plan and TIP

During all periods there shall be a currently conforming transportation plan and currently conforming TIP at the time of project approval. This criterion is satisfied if the current transportation plan and TIP have been found to conform to the applicable implementation plan by the MPO and USDOT according to the procedures of this subpart. Only one conforming transportation plan or TIP may exist in an area at any time; conformity determinations of a previous transportation plan or TIP expire once the current plan or TIP is found to conform by USDOT. The conformity determination on a transportation plan or TIP will also lapse if conformity is not determined according to the frequency requirements of R18-2-1404.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1415. Criteria and Procedures: Projects from a Plan and TIP

- A. During all periods the project shall come from a conforming transportation plan and program. Otherwise, the project shall satisfy all criteria in Table 1 of R18-2-1409 for a project not from a conforming transportation plan and TIP. A project is considered to be from a conforming transportation plan if it meets the requirements of subsection (B) and from a conforming program if it meets the requirements of subsection (C).
- B. A project is considered to be from a conforming transportation plan if one of the following conditions applies:
 1. For projects which are required to be identified in the transportation plan in order to satisfy R18-2-1406, the project is specifically included in the conforming transportation plan and the project's design concept and scope have not changed significantly from those which were described in the transportation plan, or in a manner which would significantly impact use of the facility.
 2. For projects which are not required to be specifically identified in the transportation plan, the project is identified in the conforming transportation plan, or is consistent with the policies and purpose of the transportation plan and will not interfere with other projects specifically included in the transportation plan.
- C. A project is considered to be from a conforming program if all of the following conditions are met:
 1. The project is included in the conforming TIP and the design concept and scope of the project were adequate at the time of the TIP conformity determination to determine its contribution to the TIP's regional emissions and have not changed significantly from those which were described in the TIP, or in a manner which would significantly impact use of the facility.
 2. If the TIP describes a project design concept and scope which includes project-level emissions mitigation or control measures, enforceable written commitments to implement such measures shall be obtained from the project sponsor or operator as required by R18-2-1433 in order for the project to be considered from a conforming program. Any change in these mitigation or control measures that would significantly reduce their effectiveness constitutes a change in the design concept and scope of the project.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1416. Criteria and Procedures: Localized CO and PM₁₀ Violations (Hot Spots)

- A. During all periods any FHWA or FTA project shall not cause or contribute to any new localized CO or PM₁₀ violations or increase the frequency or severity of any existing CO or PM₁₀ violations in CO and PM₁₀ nonattainment and maintenance areas. This criterion is satisfied if it is demonstrated that no new local violations will be created and the severity or number of existing violations will not be increased as a result of the project.
- B. The demonstration shall be performed according to the requirements of R18-2-1405 and R18-2-1431.
- C. For projects which are not of the type identified by R18-2-1431(A) or R18-2-1431(D), this criterion may be satisfied if consideration of local factors clearly demonstrates that no local violations presently exist and no new local violations will be created as a result of the project. Otherwise, in CO nonattainment and maintenance areas, a quantitative demonstration shall be performed according to the requirements of R18-2-1431(B).

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1417. Criteria and Procedures: Compliance with PM₁₀ Control Measures

During all periods any FHWA or FTA project shall comply with PM₁₀ control measures in the applicable implementation plan. This condition is satisfied if control measures (for the purpose of limiting PM₁₀ emissions from the construction activities or normal use and operation associated with the project) contained in the applicable implementation plan are included in the final plans, specifications, and estimates for the project.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1418. Criteria and Procedures: Motor Vehicle Emissions Budget (Transportation Plan)

- A. The transportation plan shall be consistent with the motor vehicle emissions budget in the applicable implementation plan or implementation plan submission. This criterion applies during the transitional period and the control strategy and maintenance periods, except as provided in R18-2-1436. This criterion may be satisfied if the requirements in subsections (B) and (C) are met:
- B. A regional emissions analysis shall be performed as follows:
 1. The regional analysis shall estimate emissions of any of the following pollutants and pollutant precursors for which the area is in nonattainment or maintenance and for which the applicable implementation plan or implementation plan submission establishes an emissions budget:
 - a. VOC as an ozone precursor.
 - b. NO_x as an ozone precursor, unless the Administrator determines that additional reductions of NO_x would not contribute to attainment.
 - c. CO.
 - d. PM₁₀ (and its precursors VOC or NO_x if the applicable implementation plan or implementation plan

- submission identifies transportation-related precursor emissions within the nonattainment area as a significant contributor to the PM₁₀ nonattainment problem or establishes a budget for such emissions).
- e. NO_x (in NO₂ nonattainment or maintenance areas).
 2. The regional emissions analysis shall estimate emissions from the entire transportation system, including all regionally significant transportation projects contained in the transportation plan and all other regionally significant highway and transit projects expected in the nonattainment or maintenance area in the time-frame of the transportation plan.
 3. The emissions analysis methodology shall meet the requirements of R18-2-1430.
 4. For areas with a transportation plan that meets the content requirements of R18-2-1406(A), the emissions analysis shall be performed for each horizon year. Emissions in milestone years which are between the horizon years may be determined by interpolation.
 5. For areas with a transportation plan that does not meet the content requirements of R18-2-1406(A), the emissions analysis shall be performed for all of the following:
 - a. The last year of the plan's forecast period.
 - b. The attainment year, if the attainment year is in the time span of the transportation plan.
 - c. Any other years in the time span of the transportation plan such that there is not a gap of more than 10 years between analysis years. Emissions in milestone years which are between these analysis years may be determined by interpolation.
 - C. The regional emissions analysis shall demonstrate that for each of the applicable pollutants or pollutant precursors in subsection (B)(1) the emissions are less than or equal to the motor vehicle emissions budget as established in the applicable implementation plan or implementation plan submission as follows:
 1. If the applicable implementation plan or implementation plan submission establishes emissions budgets for milestone years, emissions in each milestone year are less than or equal to the motor vehicle emissions budget established for that year.
 2. For nonattainment areas, emissions in the attainment year are less than or equal to the motor vehicle emissions budget established in the applicable implementation plan or implementation plan submission for that year.
 3. For nonattainment areas, emissions in each analysis or horizon year after the attainment year are less than or equal to the motor vehicle emissions budget established by the applicable implementation plan or implementation plan submission for the attainment year. If emissions budgets are established for years after the attainment year, emissions in each analysis year or horizon year shall be less than or equal to the motor vehicle emissions budget for that year, if any, or the motor vehicle emissions budget for the most recent budget year prior to the analysis year or horizon year.
 4. For maintenance areas, emissions in each analysis or horizon year are less than or equal to the motor vehicle emissions budget established by the maintenance plan for that year, if any, or the emissions budget for the most recent budget year prior to the analysis or horizon year.
 - A. The TIP shall be consistent with the motor vehicle emissions budgets in the applicable implementation plan or implementation plan submission. This criterion applies during the transitional period and the control strategy and maintenance periods, except as provided in R18-2-1436. This criterion may be satisfied if the requirements in subsections (B) and (C) are met.
 - B. For areas with a conforming transportation plan that fully meets the content requirements of R18-2-1406(A), this criterion may be satisfied without additional regional emissions analysis if:
 1. Each program year of the TIP is consistent with the federal funding which may be reasonably expected for that year, and required state or local matching funds and funds for state or local funding-only projects are consistent with the revenue sources expected over the same period; and
 2. The TIP is consistent with the conforming transportation plan such that the regional emissions analysis already performed for the plan applies to the TIP also. This requires a demonstration that:
 - a. The TIP contains all projects which shall be started in the TIP's time-frame in order to achieve the highway and transit system envisioned by the transportation plan in each of its horizon years;
 - b. All TIP projects which are regionally significant are part of the specific highway or transit system envisioned in the transportation plan's horizon years; and
 - c. The design concept and scope of each regionally significant transportation project in the TIP is not significantly different from that described in the transportation plan.
 3. If the requirements in subsections (B)(1) and (B)(2) are not met, then either:
 - a. The TIP may be modified to meet those requirements; or
 - b. The transportation plan shall be revised so that the requirements in subsections (B)(1) and (B)(2) are met. Once the revised plan has been found to conform, this criterion is met for the TIP with no additional analysis except a demonstration that the TIP meets the requirements of subsections (B)(1) and (B)(2).
 - C. For areas with a transportation plan that does not meet the content requirements of R18-2-1406(A), a regional emissions analysis shall meet all of the following requirements:
 1. The regional emissions analysis shall estimate emissions from the entire transportation system, including all projects contained in the proposed TIP, the transportation plan, and all other regionally significant highway and transit projects expected in the nonattainment or maintenance area in the time-frame of the transportation plan.
 2. The analysis methodology shall meet the requirements of R18-2-1430(C).
 3. The regional emissions analysis shall satisfy the requirements of R18-2-1418(B)(1), R18-2-1418(B)(5), and R18-2-1418(C).

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1420. Criteria and Procedures: Motor Vehicle Emissions Budget (Project Not from a Plan and TIP)

- A. The project which is not from a conforming transportation plan and a conforming TIP shall be consistent with the motor vehicle emissions budget in the applicable implementation plan or implementation plan submission. This criterion applies during the transitional period and the control strategy and maintenance periods, except as provided in R18-2-1436. It is

R18-2-1419. Criteria and Procedures: Motor Vehicle Emissions Budget (TIP)

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

satisfied if emissions from the implementation of the project, when considered with the emissions from the projects in the conforming transportation plan and TIP and all other regionally significant transportation projects expected in the area, do not exceed the motor vehicle emissions budget in the applicable implementation plan or implementation plan submission.

- B.** For areas with a conforming transportation plan that meets the content requirements of R18-2-1406(A):
1. This criterion may be satisfied without additional regional analysis if the project is included in the conforming transportation plan, even if it is not specifically included in the latest conforming TIP. This requires a demonstration that all of the following apply:
 - a. Allocating funds to the project will not delay the implementation of projects in the transportation plan or TIP which are necessary to achieve the highway and transit system envisioned by the transportation plan in each of its horizon years.
 - b. The project is not regionally significant or is part of the specific highway or transit system envisioned in the transportation plan's horizon years.
 - c. The design concept and scope of the project is not significantly different from that described in the transportation plan.
 2. If the requirements in subsection (B)(1) are not met, a regional emissions analysis shall be performed as follows:
 - a. The analysis methodology shall meet the requirements of R18-2-1430.
 - b. The analysis shall estimate emissions from the transportation system, including the proposed project and all other regionally significant transportation projects expected in the nonattainment or maintenance area in the time-frame of the transportation plan. The analysis shall include emissions from all previously approved projects which were not from a transportation plan and TIP.
 - c. The regional emissions analysis shall meet the requirements of R18-2-1418(B)(1), R18-2-1418(B)(4) and R18-2-1418(C).
- C.** For areas with a transportation plan that does not meet the content requirements of R18-2-1406(A), a regional emissions analysis shall be performed for the project together with the conforming TIP and all other regionally significant transportation projects expected in the nonattainment or maintenance area. This criterion may be satisfied if all of the following apply:
1. The analysis methodology meets the requirements of R18-2-1430(C).
 2. The analysis estimates emissions from the transportation system, including the proposed project, and all other regionally significant transportation projects expected in the nonattainment or maintenance area in the time-frame of the transportation plan.
 3. The regional emissions analysis satisfies the requirements of R18-2-1418(B)(1), R18-2-1418(B)(5), and R18-2-1418(C).

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1421. Criteria and Procedures: Localized CO Violations (Hot Spots) in the Interim and Transitional Periods

- A.** Each FHWA or FTA project shall eliminate or reduce the severity and number of localized CO violations in the area substantially affected by the project (in CO nonattainment areas). This criterion applies during the interim and transi-

tional periods only. This criterion is satisfied with respect to existing localized CO violations if it is demonstrated that existing localized CO violations will be eliminated or reduced in severity and number as a result of the project.

- B.** The demonstration shall be performed according to the requirements of R18-2-1405 and R18-2-1431.
- C.** For projects which are not of the type identified by R18-2-1431(A), this criterion may be satisfied if consideration of local factors clearly demonstrates that existing CO violations will be eliminated or reduced in severity and number. Otherwise, a quantitative demonstration shall be performed according to the requirements of R18-2-1431(B).

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1422. Criteria and Procedures: Interim and Transitional Period Reductions in Ozone and CO Areas (Transportation Plan)

- A.** A transportation plan shall contribute to emissions reductions in ozone and CO nonattainment areas. This criterion applies during the interim and transitional periods only, except as otherwise provided in R18-2-1436. It applies to the net effect on emissions of all projects contained in a new or revised transportation plan. This criterion may be satisfied if a regional emissions analysis is performed as described in subsections (B) through (F).
- B.** Determine the analysis years for which emissions are to be estimated. Analysis years shall be no more than 10 years apart. The first analysis year shall be no later than the first milestone year (1995 in CO nonattainment areas and 1996 in ozone nonattainment areas). The second analysis year shall be either the attainment year for the area or, if the attainment year is the same as the first analysis year or earlier, the second analysis year shall be at least five years beyond the first analysis year. The last year of the transportation plan's forecast period shall also be an analysis year.
- C.** Define the Baseline scenario for each of the analysis years to be the future transportation system that would result from current programs, composed of all of the following, except that projects listed in R18-2-1434 and R18-2-1435 need not be explicitly considered:
1. All in-place regionally significant highway and transit facilities, services and activities.
 2. All ongoing travel demand management or transportation system management activities.
 3. Completion of all regionally significant transportation projects, regardless of funding source, which are currently under construction or are undergoing right-of-way acquisition (except for hardship acquisition and protective buying); come from the first three years of the previously conforming transportation plan or TIP; or have completed the NEPA process. For the first conformity determination on the transportation plan after November 24, 1993, a project may not be included in the Baseline scenario and shall be included in the Action scenario as described in subsection (D), if one of the following major steps has not occurred within the most recent three-year period:
 - a. NEPA process completion;
 - b. Start of final design;
 - c. Acquisition of a significant portion of the right-of-way;
 - d. Approval of the plans, specifications and estimates.
- D.** Define the Action scenario for each of the analysis years as the transportation system that will result in that year from the implementation of the proposed transportation plan, TIPs

adopted under it, and other expected regionally significant transportation projects in the nonattainment area. The Action scenario will include all of the following except that projects listed in R18-2-1434 and R18-2-1435 need not be explicitly considered:

1. All facilities, services, and activities in the Baseline scenario;
 2. Completion of all TCMs and regionally significant transportation projects, including facilities, services, and activities, specifically identified in the proposed transportation plan which will be operational or in effect in the analysis year, except that regulatory TCMs may not be assumed to begin at a future time unless the regulation is already adopted by the enforcing jurisdiction or the TCM is identified in the applicable implementation plan;
 3. All travel demand management programs and transportation system management activities known to the MPO, but not included in the applicable implementation plan or utilizing any federal funding or approval, which have been fully adopted or funded by the enforcing jurisdiction or sponsoring agency since the last conformity determination on the transportation plan;
 4. The incremental effects of any travel demand management programs and transportation system management activities known to the MPO, but not included in the applicable implementation plan or utilizing any federal funding or approval, which were adopted or funded prior to the date of the last conformity determination on the transportation plan, but which have been modified since then to be more stringent or effective;
 5. Completion of all expected regionally significant highway and transit projects which are not from a conforming transportation plan and TIP;
 6. Completion of all expected regionally significant non-FHWA/FTA highway and transit projects that have clear funding sources and commitments leading toward their implementation and completion by the analysis year.
- E.** Estimate the emissions predicted to result in each analysis year from travel on the transportation systems defined by the Baseline and Action scenarios and determine the difference in regional VOC and NO_x emissions (unless the Administrator determines that additional reductions of NO_x would not contribute to attainment) between the two scenarios for ozone nonattainment areas and the difference in CO emissions between the two scenarios for CO nonattainment areas. The analysis shall be performed for each of the analysis years according to the requirements of R18-2-1430. Emissions in milestone years which are between the analysis years may be determined by interpolation.
- F.** This criterion is met if the regional VOC and NO_x emissions (for ozone nonattainment areas) and CO emissions (for CO nonattainment areas) predicted in the Action scenario are less than the emissions predicted from the Baseline scenario in each analysis year, and if this can reasonably be expected to be true in the periods between the first milestone year and the analysis years. The regional analysis shall show that the Action scenario contributes to a reduction in emissions from the 1990 emissions by any nonzero amount.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1423. Criteria and Procedures: Interim Period Reductions in Ozone and CO Areas (TIP)

- A.** A TIP shall contribute to emissions reductions in ozone and CO nonattainment areas. This criterion applies during the interim and transitional periods only, except as otherwise pro-

vided in R18-2-1436. It applies to the net effect on emissions of all projects contained in a new or revised TIP. This criterion may be satisfied if a regional emissions analysis is performed as described in subsections (B) through (F).

- B.** Determine the analysis years for which emissions are to be estimated. The first analysis year shall be no later than the first milestone year (1995 in CO nonattainment areas and 1996 in ozone nonattainment areas). The analysis years shall be no more than 10 years apart. The second analysis year shall be either the attainment year for the area or, if the attainment year is the same as the first analysis year or earlier, the second analysis year shall be at least five years beyond the first analysis year. The last year of the transportation plan's forecast period shall also be an analysis year.
- C.** Define the Baseline scenario as the future transportation system that would result from current programs, composed of all of the following, except that projects listed in R18-2-1434 and R18-2-1435 need not be explicitly considered:
1. All in-place regionally significant highway and transit facilities, services, and activities.
 2. All ongoing travel demand management or transportation system management activities.
 3. Completion of all regionally significant transportation projects, regardless of funding source, which are currently under construction or are undergoing right-of-way acquisition, except for hardship acquisition and protective buying; come from the first three years of the previously conforming TIP; or have completed the NEPA process. For the first conformity determination on the TIP after November 24, 1993, a project may not be included in the Baseline scenario if one of the following major steps has not occurred within the most recent three-year period:
 - a. NEPA process completion.
 - b. Start of final design.
 - c. Acquisition of a significant portion of the right-of-way.
 - d. Approval of the plans, specifications, and estimates. Such a project shall be included in the Action scenario, as described in subsection (D).
- D.** Define the Action scenario as the future transportation system that will result from the implementation of the proposed TIP and other expected regionally significant transportation projects in the nonattainment area in the time-frame of the transportation plan. It will include all of the following, except that projects listed in R18-2-1434 and R18-2-1435 need not be explicitly considered:
1. All facilities, services, and activities in the Baseline scenario;
 2. Completion of all TCMs and regionally significant transportation projects, including facilities, services, and activities, included in the proposed TIP, except that regulatory TCMs may not be assumed to begin at a future time unless the regulation is already adopted by the enforcing jurisdiction or the TCM is contained in the applicable implementation plan;
 3. All travel demand management programs and transportation system management activities known to the MPO, but not included in the applicable implementation plan or utilizing any federal funding or approval, which have been fully adopted or funded by the enforcing jurisdiction or sponsoring agency since the last conformity determination on the TIP;
 4. The incremental effects of any travel demand management programs and transportation system management activities known to the MPO, but not included in the

applicable implementation plan or utilizing any federal funding or approval, which were adopted or funded prior to the date of the last conformity determination on the TIP, but which have been modified since then to be more stringent or effective;

5. Completion of all expected regionally significant highway and transit projects which are not from a conforming transportation plan and TIP;
 6. Completion of all expected regionally significant non-FHWA/FTA highway and transit projects that have clear funding sources and commitments leading toward their implementation and completion by the analysis year.
- E. Estimate the emissions predicted to result in each analysis year from travel on the transportation systems defined by the Baseline and Action scenarios, and determine the difference in regional VOC and NO_x emissions (unless the Administrator determines that additional reductions of NO_x would not contribute to attainment) between the two scenarios for ozone nonattainment areas and the difference in CO emissions between the two scenarios for CO nonattainment areas. The analysis shall be performed for each of the analysis years according to the requirements of R18-2-1430. Emissions in milestone years which are between analysis years may be determined by interpolation.
- F. This criterion is met if the regional VOC and NO_x emissions in ozone nonattainment areas and CO emissions in CO nonattainment areas predicted in the Action scenario are less than the emissions predicted from the Baseline scenario in each analysis year, and if this can reasonably be expected to be true in the period between the analysis years. The regional analysis shall show that the Action scenario contributes to a reduction in emissions from the 1990 emissions by any nonzero amount.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1424. Criteria and Procedures: Interim Period Reductions for Ozone and CO Areas (Project Not from a Plan and TIP)

A transportation project shall contribute to emissions reductions in ozone and CO nonattainment areas. This criterion applies during the interim and transitional periods only, except as otherwise provided in R18-2-1436. This criterion is satisfied if a regional emissions analysis is performed which meets the requirements of R18-2-1422 and which includes the transportation plan and project in the Action scenario. If the project which is not from a conforming transportation plan and TIP is a modification of a project currently in the plan or TIP, the Baseline scenario shall include the project with its original design concept and scope, and the Action scenario shall include the project with its new design concept and scope.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1425. Criteria and Procedures: Interim Period Reductions for PM₁₀ and NO₂ Areas (Transportation Plan)

- A. A transportation plan shall contribute to emission reductions or shall not increase emissions in PM₁₀ and NO₂ nonattainment areas. This criterion applies only during the interim and transitional periods. It applies to the net effect on emissions of all projects contained in a new or revised transportation plan. This criterion may be satisfied if the requirements of either subsections (B) or (C) are met.
- B. Demonstrate that implementation of the plan and all other regionally significant transportation projects expected in the nonattainment area will contribute to reductions in emissions of PM₁₀ in a PM₁₀ nonattainment area, and of each transportation-related precursor of PM₁₀ in PM₁₀ nonattainment areas if

the EPA Regional Administrator or the Director of ADEQ has made a finding that such precursor emissions from within the nonattainment area are a significant contributor to the PM₁₀ nonattainment problem and has so notified the MPO and USDOT, and of NO_x in an NO₂ nonattainment area, by performing a regional emissions analysis as follows:

1. Determine the analysis years for which emissions are to be estimated. Analysis years shall be no more than 10 years apart. The first analysis year shall be no later than 1996 (for NO₂ areas) or four years and six months following the date of designation (for PM₁₀ areas). The second analysis year shall be either the attainment year for the area or, if the attainment year is the same as the first analysis year or earlier, the second analysis year shall be at least five years beyond the first analysis year. The last year of the transportation plan's forecast period shall also be an analysis year.
 2. Define for each of the analysis years the Baseline scenario, as defined in R18-2-1422(C), and the Action scenario, as defined in R18-2-1422(D).
 3. Estimate the emissions predicted to result in each analysis year from travel on the transportation systems defined by the Baseline and Action scenarios and determine the difference between the two scenarios in regional PM₁₀ emissions in a PM₁₀ nonattainment area (and transportation-related precursors of PM₁₀ in PM₁₀ nonattainment areas if the EPA Regional Administrator or the Director of ADEQ has made a finding that such precursor emissions from within the nonattainment area are a significant contributor to the PM₁₀ nonattainment problem and has so notified ADOT, the MPO where one exists and USDOT) and in NO_x emissions in an NO₂ nonattainment area. The analysis shall be performed for each of the analysis years according to the requirements of R18-2-1430. The analysis shall address the periods between the analysis years and the periods between 1990, the first milestone year if any, and the first of the analysis years. Emissions in milestone years which are between the analysis years may be determined by interpolation.
 4. Demonstrate that the regional PM₁₀ emissions and PM₁₀ precursor emissions, where applicable, (for PM₁₀ nonattainment areas) and NO_x emissions (for NO₂ nonattainment areas) predicted in the Action scenario are less than the emissions predicted from the Baseline scenario in each analysis year, and that this can reasonably be expected to be true in the periods between the first milestone year (if any) and the analysis years.
- C. Demonstrate that when the projects in the transportation plan and all other regionally significant transportation projects expected in the nonattainment area are implemented, the transportation system's total highway and transit emissions of PM₁₀ in a PM₁₀ nonattainment area (and transportation-related precursors of PM₁₀ in PM₁₀ nonattainment areas if the EPA Regional Administrator or the Director of ADEQ has made a finding that such precursor emissions from within the nonattainment area are a significant contributor to the PM₁₀ nonattainment problem and has so notified the MPO and USDOT) and of NO_x in an NO₂ nonattainment area will not be greater than baseline levels, by performing a regional emissions analysis as follows:
1. Determine the baseline regional emissions of PM₁₀ and PM₁₀ precursors, where applicable (for PM₁₀ nonattainment areas) and NO_x (for NO₂ nonattainment areas) from highway and transit sources. Baseline emissions are those estimated to have occurred during calendar year 1990, unless the control strategy implementation plan for that

area includes a baseline emissions inventory for a different year.

2. Estimate the emissions of the applicable pollutant or pollutants from the entire transportation system, including projects in the transportation plan and TIP and all other regionally significant transportation projects in the nonattainment area, according to the requirements of R18-2-1430. Emissions shall be estimated for analysis years which are no more than 10 years apart. The first analysis year shall be no later than 1996 (for NO₂ areas) or four years and six months following the date of designation (for PM₁₀ areas). The second analysis year shall be either the attainment year for the area or, if the attainment year is the same as the first analysis year or earlier, the second analysis year shall be at least five years beyond the first analysis year. The last year of the transportation plan's forecast period shall also be an analysis year.
3. Demonstrate that for each analysis year the emissions estimated in subsection (C)(2) are no greater than baseline emissions of PM₁₀ and PM₁₀ precursors, where applicable (for PM₁₀ nonattainment areas) or NO_x (for NO₂ nonattainment areas) from highway and transit sources.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1426. Criteria and Procedures: Interim Period Reductions for PM₁₀ and NO₂ Areas (TIP)

- A. A TIP shall contribute to emission reductions or shall not increase emissions in PM₁₀ and NO₂ nonattainment areas. This criterion applies only during the interim and transitional periods. It applies to the net effect on emissions of all projects contained in a new or revised TIP. This criterion may be satisfied if the requirements of either subsection (B) or subsection (C) are met.
- B. Demonstrate that implementation of the plan and TIP and all other regionally significant transportation projects expected in the nonattainment area will contribute to reductions in emissions of PM₁₀ in a PM₁₀ nonattainment area (and transportation-related precursors of PM₁₀ in PM₁₀ nonattainment areas if the EPA Regional Administrator or the Director of ADEQ has made a finding that such precursor emissions from within the nonattainment area are a significant contributor to the PM₁₀ nonattainment problem and has so notified the MPO and USDOT) and of NO_x in an NO₂ nonattainment area, by performing a regional emissions analysis as follows:
 1. Determine the analysis years for which emissions are to be estimated, according to the requirements of R18-2-1425(B)(1).
 2. Define for each of the analysis years the Baseline scenario, as defined in R18-2-1423(C), and the Action scenario, as defined in R18-2-1423(D).
 3. Estimate the emissions predicted to result in each analysis year from travel on the transportation systems defined by the Baseline and Action scenarios as required by R18-2-1425(B)(3), and make the demonstration required by R18-2-1425(B)(4).
- C. Demonstrate that when the projects in the transportation plan and TIP and all other regionally significant transportation projects expected in the area are implemented, the transportation system's total highway and transit emissions of PM₁₀ in a PM₁₀ nonattainment area (and transportation-related precursors of PM₁₀ in PM₁₀ nonattainment areas if the EPA Regional Administrator or the Director of ADEQ has made a finding that such precursor emissions from within the nonattainment area are a significant contributor to the PM₁₀ nonattainment

problem and has so notified the MPO and USDOT) and of NO_x in an NO₂ nonattainment area will not be greater than baseline levels, by performing a regional emissions analysis as required by R18-2-1425(C).

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1427. Criteria and Procedures: Interim Period Reductions for PM₁₀ and NO₂ Areas (Project Not from a Plan and TIP)

A transportation project which is not from a conforming transportation plan and TIP shall contribute to emission reductions or shall not increase emissions in PM₁₀ and NO₂ nonattainment areas. This criterion applies during the interim and transitional periods only. This criterion is met if a regional emissions analysis is performed which meets the requirements of R18-2-1425 and which includes the transportation plan and project in the Action scenario. If the project which is not from a conforming transportation plan and TIP is a modification of a project currently in the transportation plan or TIP, and R18-2-1425(B) is used to demonstrate satisfaction of this criterion, the Baseline scenario shall include the project with its original design concept and scope, and the Action scenario shall include the project with its new design concept and scope.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1428. Transition from the Interim Period to the Control Strategy Period

- A. For areas which submit a control strategy implementation plan revision after November 24, 1993:
 1. The transportation plan and TIP shall be demonstrated to conform according to transitional period criteria and procedures by one year from the date the CAA requires submission of such control strategy implementation plan revision. Otherwise, the conformity status of the transportation plan and TIP will lapse, and no new project-level conformity determinations may be made.
 - a. The conformity of new transportation plans and TIPs may be demonstrated according to Phase II interim period criteria and procedures for 90 days following submission of the control strategy implementation plan revision, provided the conformity of such transportation plans and TIPs is redetermined according to transitional period criteria and procedures as required in subsection (A)(1) and such transportation plans and TIPs are consistent with the motor vehicle emissions budget in the applicable implementation plan or any previously submitted control strategy implementation plan revision.
 - b. Beginning 90 days after submission of the control strategy implementation plan revision, new transportation plans and TIPs shall demonstrate conformity according to transitional period criteria and procedures.
 2. If EPA disapproves the submitted control strategy implementation plan revision and so notifies the state, the MPO where one exists, and USDOT, which initiates the sanction process under CAA §§ 179 or 110(m), the conformity status of the transportation plan and TIP shall lapse 120 days after EPA's disapproval, and no new project-level conformity determinations may be made. No new transportation plan, TIP, or project may be found to conform until another control strategy implementation plan revision is submitted and conformity is demonstrated according to transitional period criteria and procedures.

3. Notwithstanding subsection (A)(2), if EPA disapproves the submitted control strategy implementation plan revision but determines that the control strategy contained in the revision would have been considered approvable with respect to requirements for emission reductions if all committed measures had been submitted in enforceable form as required by CAA § 110(a)(2)(A), the provisions of subsection (A)(1) shall apply for 12 months following the date of disapproval. The conformity status of the transportation plan and TIP shall lapse 12 months following the date of disapproval unless another control strategy implementation plan revision is submitted to EPA and found to be complete.
- B.** For areas which have not submitted a control strategy implementation plan revision:
1. For areas whose CAA deadline for submission of the control strategy implementation plan revision is after November 24, 1993, and EPA has notified the state, the MPO where one exists, and USDOT of the state's failure to submit a control strategy implementation plan revision, which initiates the sanction process under CAA §§ 179 or 110(m) all of the following shall apply:
 - a. No new transportation plans or TIPs may be found to conform beginning 120 days after the CAA deadline.
 - b. The conformity status of the transportation plan and TIP shall lapse one year after the CAA deadline, and no new project-level conformity determinations may be made.
 2. For areas whose CAA deadline for submission of the control strategy implementation plan was before November 24, 1993, and EPA has made a finding of failure to submit a control strategy implementation plan revision, which initiates the sanction process under CAA §§ 179 or 110(m), all of the following apply unless the failure has been remedied and acknowledged by a letter from the EPA Regional Administrator:
 - a. No new transportation plans or TIPs may be found to conform beginning March 24, 1994.
 - b. The conformity status of the transportation plan and TIP shall lapse November 25, 1994, and no new project-level conformity determinations may be made.
- C.** For areas which have not submitted a complete control strategy implementation plan revision:
1. For areas where EPA notifies the state, the MPO where one exists, and USDOT after November 24, 1993, that the control strategy implementation plan revision submitted by the state is incomplete, which initiates the sanction process under CAA §§ 179 or 110(m), all of the following apply unless the failure has been remedied and acknowledged by a letter from the EPA Regional Administrator:
 - a. No new transportation plans or TIPs may be found to conform beginning 120 days after EPA's incompleteness finding.
 - b. The conformity status of the transportation plan and TIP shall lapse one year after the CAA deadline, and no new project-level conformity determinations may be made.
 - c. Notwithstanding subsections (C)(1)(a) and (b), if EPA notes in its incompleteness finding that the submittal would have been considered complete with respect to requirements for emission reductions if all committed measures had been submitted in enforceable form as required by CAA § 110(a)(2)(A), the provisions of subsection (A)(1) shall apply for a period of 12 months following the date of the incompleteness determination. The conformity status of the transportation plan and TIP shall lapse 12 months following the date of the incompleteness determination unless another control strategy implementation plan revision is submitted to EPA and found to be complete.
 2. For areas where EPA has determined before November 24, 1993, that the control strategy implementation plan revision is incomplete, which initiates the sanction process under CAA §§ 179 or 110(m), all of the following apply unless the failure has been remedied and acknowledged by a letter from the EPA Regional Administrator:
 - a. No new transportation plans or TIPs may be found to conform beginning March 24, 1994.
 - b. The conformity status of the transportation plan and TIP shall lapse November 25, 1994, and no new project-level conformity determinations may be made.
 - c. Notwithstanding subsections (C)(2)(a) and (b), if EPA notes in its incompleteness finding that the submittal would have been considered complete with respect to requirements for emission reductions if all committed measures had been submitted in enforceable form as required by CAA § 110(a)(2)(A), the provisions of subsection (D)(1) shall apply for a period of 12 months following the date of the incompleteness determination. The conformity status of the transportation plan and TIP shall lapse 12 months following the date of the incompleteness determination unless another control strategy implementation plan revision is submitted to EPA and found to be complete.
- D.** For areas which submitted a control strategy implementation plan before November 24, 1993:
1. The transportation plan and TIP shall have been demonstrated to conform according to transitional period criteria and procedures by November 25, 1994. Otherwise, their conformity status will lapse, and no new project-level conformity determinations may be made. From and after February 22, 1994, new transportation plans and TIPs shall demonstrate conformity according to transitional period criteria and procedures.
 2. If EPA has disapproved the most recent control strategy implementation plan submission, the conformity status of the transportation plan and TIP shall lapse March 24, 1994, and no new project-level conformity determinations may be made. No new transportation plans, TIPs, or projects may be found to conform until another control strategy implementation plan revision is submitted and conformity is demonstrated according to transitional period criteria and procedures.
 3. Notwithstanding subsection (D)(2), if EPA has disapproved the submitted control strategy implementation plan revision but determines that the control strategy contained in the revision would have been considered approvable with respect to requirements for emission reductions if all committed measures had been submitted in enforceable form as required by CAA § 110(a)(2)(A), the provisions of subsection (D)(1) shall apply until November 25, 1994. The conformity status of the transportation plan and TIP shall lapse November 25, 1994, unless another control strategy implementation plan revision is submitted to EPA and found to be complete.

- E. If the currently conforming transportation plan and TIP have not been demonstrated to conform according to transitional period criteria and procedures, the requirements of subsections (E)(1) and (2) shall be met.
- Before a FHWA or FTA project which is regionally significant and increases single-occupant vehicle capacity (a new general purpose highway on a new location or adding general purpose lanes) may be found to conform, ADEQ shall be consulted on how the emissions which the existing transportation plan and TIP's conformity determination estimates for the Action scenario, as required by R18-2-1422 through R18-2-1427, compare to the motor vehicle emissions budget in the implementation plan submission or the projected motor vehicle emissions budget in the implementation plan under development.
 - In the event of unresolved disputes on such project-level conformity determinations, ADEQ may escalate the issue to the governor consistent with the procedure in R18-2-1405, which applies for ADEQ comments on a conformity determination.
- F. Redetermination of conformity of the existing transportation plan and TIP according to the transitional period criteria and procedures:
- The redetermination of the conformity of the existing transportation plan and TIP according to transitional period criteria and procedures (as required by subsections (A)(1) and (D)(1)) does not require new emissions analysis and does not have to satisfy the requirements of R18-2-1410 and R18-2-1411 if all of the following are met:
 - The control strategy implementation plan revision submitted to EPA uses the MPO's modeling of the existing transportation plan and TIP for its projections of motor vehicle emissions.
 - The control strategy implementation plan does not include any transportation projects which are not included in the transportation plan and TIP.
 - A redetermination of conformity as described in subsection (F)(1) is not considered a conformity determination for the purposes of R18-2-1404(E) or R18-2-1404(I) regarding the maximum intervals between conformity determinations. Conformity shall be determined according to all the applicable criteria and procedures of R18-2-1409 within three years of the last determination which did not rely on subsection (F)(1).
- G. Ozone nonattainment areas:
- The requirements of subsection (B)(1) apply if a serious or above ozone nonattainment area has not submitted the implementation plan revisions which CAA §§ 182(c)(2)(A) and 182(c)(2)(B) require to be submitted to EPA November 15, 1994, even if the area has submitted the implementation plan revision which CAA § 182(b)(1) requires to be submitted to EPA November 15, 1993.
 - The requirements of subsection (B)(1) apply if a moderate ozone nonattainment area which is using photochemical dispersion modeling to demonstrate the "specific annual reductions as necessary to attain" required by CAA § 182(b)(1), and which has permission from EPA to delay submission of such demonstration until November 15, 1994, does not submit such demonstration by that date. The requirements of subsection (B)(1) apply in this case even if the area has submitted the 15% emission reduction demonstration required by CAA § 182(b)(1).
 - The requirements of subsection (A) apply when the implementation plan revisions required by CAA §§ 182(c)(2)(A) and 182(c)(2)(B) are submitted.
- H. Nonattainment areas which are not required to demonstrate reasonable further progress and attainment. If an area listed in R18-2-1436 submits a control strategy implementation plan revision, the requirements of subsections (A) and (E) apply. Because the areas listed in R18-2-1436 are not required to demonstrate reasonable further progress and attainment and therefore have no CAA deadline, the provisions of subsection (B) do not apply to these areas at any time.
- I. If a control strategy implementation plan revision is not submitted to EPA but a maintenance plan required by CAA § 175A is submitted to EPA, the requirements of subsection (A) or (D) apply, with the maintenance plan submission treated as a "control strategy implementation plan revision" for the purposes of those requirements.
- J. This Section does not become effective until June 1, 1996.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1429. Requirements for Adoption or Approval of Projects by Recipients of Funds Designated under 23 U.S.C. or the Federal Transit Act

- A. This Section shall not apply to any of the following:
- A transportation project that is a street with a lower classification than a collector street, as specified in the most recent federal classification map for the region.
 - An exempt project listed in R18-2-1434.
- B. No recipient of federal funds designated under 23 U.S.C. or the Federal Transit Act shall adopt or approve a transportation project, regardless of funding source, without first determining whether the transportation project is regionally significant. In making this determination, the recipient shall not take any action that is inconsistent with the procedures developed by ADOT or the MPO pursuant to R18-2-1405(R).
- C. No recipient of federal funds designated under 23 U.S.C. or the Federal Transit Act shall adopt or approve a regionally significant highway or transit project, regardless of funding source, unless both of the following apply:
- There is a currently conforming transportation plan and TIP consistent with the requirements of R18-2-1414.
 - The requirements of one of the following are met:
 - The project comes from a conforming plan and program consistent with the requirements of R18-2-1415.
 - The project is included in the regional emissions analysis supporting the currently conforming TIP's conformity determination, even if the project is not strictly "included" in the TIP for the purposes of MPO project selection or endorsement, and the project's design concept and scope have not changed significantly from those which were included in the regional emissions analysis, or in a manner which would significantly impact use of the facility.
 - During the control strategy or maintenance period, the project is consistent with the motor vehicle emissions budget in the applicable implementation plan consistent with the requirements of R18-2-1420.
 - During Phase II of the interim period, the project contributes to emissions reductions or does not increase emissions consistent with the requirements of R18-2-1424 (in ozone and CO nonattainment areas) or R18-2-1427 (in PM₁₀ and NO₂ nonattainment areas).
 - During the transitional period, the project satisfies the requirements of both subsections (1)(2)(c) and (d).

- D. Pursuant to the consultation process established in R18-2-1405(O), ADOT or the MPO where one exists shall, not later than September 1, 1995, develop and make available the procedures to be used by any recipient of federal funds designated under 23 U.S.C. or the Federal Transit Act to comply with subsections (B) and (C). These procedures may be revised periodically, as needed, using the same consultation process. At a minimum, such procedures shall provide for the following:
1. The minimum information required by the recipient to make determinations in compliance with subsections (B) and (C);
 2. The time-frames for action to be taken by the recipient;
 3. For transportation projects determined to be regionally significant, the documentation necessary to demonstrate that the requirements of 23 CFR 450.324(e), (g), and (h) have been met.
- E. After a transportation project is adopted or approved, no subsequent act defined as adoption or approval under this Section or under procedures developed to implement this Section shall be subject to subsection (B) or (C), unless project's design concept or scope have changed significantly since the project was first adopted or approved.
- F. A regionally significant transportation project found to be in conformity, either as a result of a TIP or a separate project analysis, shall retain such conformity finding, irrespective of subsequent analysis, unless the project fails to meet the conditions of its approval or undergoes a significant change in scope. In any event, a conformity determination shall lapse after three years in the absence of a redetermination; except that a project undergoing NEPA approval shall retain its conformity determination, unless none of the following major steps has occurred within the most recent three-year period:
1. NEPA process completion;
 2. Start of final design;
 3. Acquisition of a significant portion of the right-of-way;
 4. Approval of the plans, specifications, and estimates.
- Historical Note**
Adopted effective June 15, 1995 (Supp. 95-2).
- R18-2-1430. Procedures for Determining Regional Transportation-related Emissions**
- A. The following are general requirements for determining regional transportation-related emissions:
1. The regional emissions analysis for the transportation plan, TIP, or project not from a conforming plan and TIP shall include all regionally significant transportation projects expected in the nonattainment or maintenance area, including FHWA or FTA projects proposed in the transportation plan and TIP and all other regionally significant transportation projects which are disclosed to ADOT or the MPO as required by R18-2-1405. Projects which are not regionally significant are not required to be explicitly modeled, but VMT from such projects shall be estimated in accordance with reasonable professional practice. The effects of TCMs and similar projects that are not regionally significant may also be estimated in accordance with reasonable professional practice.
 2. The emissions analysis may not include for emissions reduction credit any TCMs which have been delayed beyond the scheduled date until such time as implementation has been assured. If the TCM has been partially implemented and it can be demonstrated that it is providing quantifiable emission reduction benefits, the emissions analysis may include that emissions reduction credit.
3. Emissions reduction credit from projects, programs, or activities which require a regulation in order to be implemented may not be included in the emissions analysis unless the regulation is already adopted by the enforcing jurisdiction. Adopted regulations are required for demand management strategies for reducing emissions which are not specifically identified in the applicable implementation plan, and for control programs which are external to the transportation system itself, such as tailpipe or evaporative emission standards, limits on gasoline volatility, inspection and maintenance programs, and oxygenated or reformulated gasoline or diesel fuel. A regulatory program may also be considered to be adopted if an opt-in to a federally enforced program has been approved by EPA, if EPA has promulgated the program (if the control program is a federal responsibility, such as tailpipe standards), or if the CAA requires the program without need for individual state action and without any discretionary authority for EPA to set its stringency, delay its effective date, or not implement the program.
 4. Notwithstanding subsection (A)(3), during the transitional period, control measures or programs which are committed to in an implementation plan submission as described in R18-2-1418 through R18-2-1420, but which has not received final EPA action in the form of a finding of incompleteness, approval, or disapproval, may be assumed for emission reduction credit for the purpose of demonstrating that the requirements of R18-2-1418 through R18-2-1420 are satisfied.
 5. A regional emissions analysis for the purpose of satisfying the requirements of R18-2-1422 through R18-2-1424 may account for the programs in subsection (A)(4), but the same assumptions about these programs shall be used for both the Baseline and Action scenarios.
 6. Ambient temperatures shall be consistent with those used to establish the emissions budget in the applicable implementation plan. Factors other than temperatures, for example the fraction of travel in a hot stabilized engine mode, may be modified after interagency consultation according to R18-2-1405 if the newer estimates incorporate additional or more geographically specific information or represent a logically estimated trend in such factors beyond the period considered in the applicable implementation plan.
- B. For serious, severe, and extreme ozone nonattainment areas and serious carbon monoxide areas after January 1, 1995, estimates of regional transportation-related emissions used to support conformity determinations shall be made according to procedures which meet the requirements in subsections (B)(1) through (5).
1. A network-based transportation demand model or models relating travel demand and transportation system performance to land-use patterns, population demographics, employment, transportation infrastructure, and transportation policies shall be used to estimate travel within the metropolitan planning area of the nonattainment area. Such a model shall possess all of the following attributes:
 - a. The modeling methods and the functional relationships used in the model shall in all respects be in accordance with acceptable professional practice and reasonable for purposes of emission estimation.
 - b. The network-based model shall be validated against ground counts for a base year that is not more than 10 years prior to the date of the conformity determination. Land use, population, and other inputs shall

- be based on the best available information and appropriate to the validation base year.
- c. For peak-hour or peak-period traffic assignments, a capacity sensitive assignment methodology shall be used.
 - d. Zone-to-zone travel times used to distribute trips between origin and destination pairs shall be in reasonable agreement with the travel times which result from the process of assignment of trips to network links. Where use of transit currently is anticipated to be a significant factor in satisfying transportation demand, these times should also be used for modeling mode splits.
 - e. Free-flow speeds on network links shall be based on empirical observations.
 - f. Peak and off-peak travel demand and travel times shall be provided.
 - g. Trip distribution and mode choice shall be sensitive to pricing, where pricing is a significant factor, if the network model is capable of such determinations and the necessary information is available.
 - h. The model shall utilize and document a logical correspondence between the assumed scenario of land development and use and the future transportation system for which emissions are being estimated. Reliance on a formal land-use model is not specifically required but is encouraged.
 - i. A dependence of trip generation on the accessibility of destinations via the transportation system, including pricing, is strongly encouraged but not specifically required, unless the network model is capable of such determinations and the necessary information is available.
 - j. A dependence of regional economic and population growth on the accessibility of destinations via the transportation system is strongly encouraged but not specifically required, unless the network model is capable of such determinations and the necessary information is available.
 - k. Consideration of emissions increases from construction-related congestion is not specifically required.
2. Highway Performance Monitoring System (HPMS) estimates of vehicle miles traveled shall be considered the primary measure of vehicle miles traveled within the portion of the nonattainment or maintenance area and for the functional classes of roadways included in HPMS, for urban areas which are sampled on a separate urban area basis. A factor or factors shall be developed to reconcile and calibrate the network-based model estimates of vehicle miles traveled in the base year of its validation to the HPMS estimates for the same period, and these factors shall be applied to model estimates of future vehicle miles traveled. In this factoring process, consideration will be given to differences in the facility coverage of the HPMS and the modeled network description. Departure from these procedures is permitted with the concurrence of USDOT and EPA.
 3. Reasonable methods shall be used to estimate nonattainment area vehicle travel on off-network roadways within the urban transportation planning area and on roadways outside the urban transportation planning area.
 4. Reasonable methods in accordance with good practice shall be used to estimate traffic speeds and delays in a manner that is sensitive to the estimated volume of travel on each roadway segment represented in the network model.
- C. For areas which are not serious, severe, or extreme ozone non-attainment areas or serious carbon monoxide areas, or before January 1, 1995:
 1. Procedures which satisfy some or all of the requirements of subsection (A) shall be used in all areas not subject to subsection (A) in which those procedures have been the previous practice of the MPO.
 2. Regional emissions may be estimated by methods which do not explicitly or comprehensively account for the influence of land use and transportation infrastructure on vehicle miles traveled and traffic speeds and congestion. Such methods shall account for VMT growth by extrapolating historical VMT or projecting future VMT by considering growth in population and historical growth trends for vehicle miles travelled per person. These methods shall also consider future economic activity, transit alternatives, and transportation system policies.
 - D. This subsection applies to any nonattainment or maintenance area or any portion thereof which does not have a metropolitan transportation plan or TIP and whose projects are not part of the emissions analysis of any MPO's metropolitan transportation plan or TIP (because the nonattainment or maintenance area or portion thereof does not contain a metropolitan planning area or portion of a metropolitan planning area and is not part of a Metropolitan Statistical Area or Consolidated Metropolitan Statistical Area which is or contains a nonattainment or maintenance area).
 1. Conformity demonstrations for projects in these areas may satisfy the requirements of R18-2-1420, R18-2-1424, and R18-2-1427 with one regional emissions analysis which includes all the regionally significant transportation projects in the nonattainment or maintenance area or portion thereof.
 2. The requirements of R18-2-1420 shall be satisfied according to the procedures in R18-2-1420(C), with references to the "transportation plan" taken to mean the statewide transportation plan.
 3. The requirements of R18-2-1424 and R18-2-1427 which reference "transportation plan" or "TIP" shall be taken to mean those projects in the statewide transportation plan or statewide TIP which are in the nonattainment or maintenance area or portion thereof.
 4. The requirement of R18-2-1429(A)(2) shall be satisfied if all of the following are met:
 - a. The project is included in the regional emissions analysis which includes all regionally significant highway and transportation projects in the nonattainment or maintenance area or portion thereof and supports the most recent conformity determination made according to the requirements of R18-2-1420, R18-2-1424 or R18-2-1427 (as modified by subsections (D)(2) and (D)(3)), as appropriate for the time period and pollutant.
 - b. The project's design concept and scope have not changed significantly from those which were included in the regional emissions analysis or in a manner which would significantly impact use of the facility.
 - E. For areas in which the implementation plan does not identify construction-related fugitive PM₁₀ as a contributor to the non-attainment problem, the fugitive PM₁₀ emissions associated with highway and transit project construction are not required to be considered in the regional emissions analysis.
 - F. In PM₁₀ nonattainment and maintenance areas with implementation plans which identify construction-related fugitive PM₁₀ as a contributor to the nonattainment problem, the

regional PM₁₀ emissions analysis shall consider construction-related fugitive PM₁₀ and shall account for the level of construction activity, the fugitive PM₁₀ control measures in the applicable implementation plan, and the dust-producing capacity of the proposed activities.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1431. Procedures for Determining Localized CO and PM₁₀ Concentrations (Hot-spot Analysis)

- A. In the following cases, CO hot-spot analyses shall be based on the applicable air quality models, data bases, and other requirements specified in 40 CFR 51 Appendix W (“Guideline on Air Quality Models (Revised)” (1988), supplement (A) (1987) and supplement (B) (1993), EPA publication no. 450/2-78-027R, incorporated by reference and on file with the Department and with the Secretary of State), unless, after the interagency consultation process described in R18-2-1405 and with the approval of the EPA Regional Administrator, these models, data bases, and other requirements are determined to be inappropriate:
 1. For projects in or affecting locations, areas, or categories of sites which are identified in the applicable implementation plan as sites of current violation or possible current violation;
 2. For those intersections at Level-of-Service D, E, or F, or those that will change to Level-of-Service D, E, or F because of increased traffic volumes related to a new project in the vicinity;
 3. For any project involving or affecting any of the intersections which the applicable implementation plan identifies as the top three intersections in the nonattainment or maintenance area based on the highest traffic volumes;
 4. For any project involving or affecting any of the intersections which the applicable implementation plan identifies as the top three intersections in the nonattainment or maintenance area based on the worst Level-of-Service;
 5. Where use of the “Guideline” models is practicable and reasonable given the potential for violations.
- B. In cases other than those described in subsection (A), other quantitative methods may be used if they represent reasonable and common professional practice.
- C. CO hot-spot analyses shall include the entire project and may be performed only after the major design features which will significantly impact CO concentrations have been identified. The background concentration may be estimated using the ratio of future to current traffic multiplied by the ratio of future to current emission factors.
- D. PM₁₀ hot-spot analysis shall be performed for projects which are located at sites at which violations have been verified by monitoring, and at sites which have essentially identical vehicle and roadway emission and dispersion characteristics (including sites near one at which a violation has been monitored). The projects which require PM₁₀ hot-spot analysis shall be determined through the interagency consultation process required in R18-2-1405. In PM₁₀ nonattainment and maintenance areas, new or expanded bus and rail terminals and transfer points which increase the number of diesel vehicles congregating at a single location require hot-spot analysis. USDOT may choose to make a categorical conformity determination on bus and rail terminals or transfer points based on appropriate modeling of various terminal sizes, configurations, and activity levels. The requirements of this subsection for quantitative hot-spot analysis will not take effect until EPA releases modeling guidance on this subject and announces in the Federal Register that these requirements are in effect.

- E. Hot-spot analysis assumptions shall be consistent with those in the regional emissions analysis for those inputs which are required for both analyses.
- F. PM₁₀ or CO mitigation or control measures shall be assumed in the hot-spot analysis only where there are enforceable written commitments from the project sponsor or operator to the implementation of such measures, as required by R18-2-1433(A).
- G. CO and PM₁₀ hot-spot analyses are not required to consider construction-related activities which cause temporary increases in emissions. Each site which is affected by construction-related activities shall be considered separately, using established “Guideline” methods. Temporary increases are defined as those which occur only during the construction phase and last five years or less at any individual site.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1432. Using the Motor Vehicle Emissions Budget in the Applicable Implementation Plan or Implementation Plan Submission

- A. In interpreting an applicable implementation plan or implementation plan submission with respect to its motor vehicle emissions budget, ADOT or the MPO where one exists and USDOT may not infer additions to the budget that are not explicitly intended by the implementation plan or submission. Unless the implementation plan explicitly quantifies the amount by which motor vehicle emissions could be higher while still allowing a demonstration of compliance with the milestone, attainment, or maintenance requirement and explicitly states an intent that some or all of this additional amount should be available to ADOT or the MPO and USDOT in the emission budget for conformity purposes, ADOT or the MPO may not interpret the budget to be higher than the implementation plan’s estimate of future emissions. This applies in particular to applicable implementation plans or submissions which demonstrate that after implementation of control measures in the implementation plan any of the following apply:
 1. Emissions from all sources will be less than the total emissions that would be consistent with a required demonstration of an emissions reduction milestone.
 2. Emissions from all sources will result in achieving attainment prior to the attainment deadline or ambient concentrations in the attainment deadline year will be lower than needed to demonstrate attainment.
 3. Emissions will be lower than needed to provide for continued maintenance.
- B. If an applicable implementation plan submitted before November 24, 1993, demonstrates that emissions from all sources will be less than the total emissions that would be consistent with attainment and quantifies that “safety margin,” the state may submit a SIP revision which assigns some or all of this safety margin to highway and transit mobile sources for the purposes of conformity. Such a SIP revision, once it is endorsed by the governor and has been subject to a public hearing, may be used for the purposes of transportation conformity before it is approved by EPA.
- C. A conformity demonstration shall not trade emissions among budgets which the applicable implementation plan or implementation plan submission allocates for different pollutants or precursors, or among budgets allocated to motor vehicles and other sources, without a SIP revision or a SIP which establishes mechanisms for such trades.
- D. If the applicable implementation plan or implementation plan submission estimates future emissions by geographic subarea of the nonattainment area, ADOT or the MPO where one

exists and USDOT are not required to consider this to establish subarea budgets, unless the applicable implementation plan or implementation plan submission explicitly indicates an intent to create such subarea budgets for the purposes of conformity.

- E. If a nonattainment area includes more than one MPO, the SIP may establish motor vehicle emissions budgets for each MPO. Otherwise, the MPOs shall collectively make a conformity determination for the entire nonattainment area.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1433. Enforceability of Design Concept and Scope and Project-level Mitigation and Control Measures

- A. Prior to determining that a transportation project is in conformity, ADOT, the MPO where one exists, other recipient of funds designated under 23 U.S.C. or the Federal Transit Act, FHWA, or FTA shall obtain from the project sponsor or operator enforceable written commitments to implement in the construction of the project and operation of the resulting facility or service any project-level mitigation or control measures which are identified as conditions for NEPA process completion with respect to local PM₁₀ or CO impacts. Before making conformity determinations enforceable written commitments shall also be obtained for project-level mitigation or control measures which are conditions for making conformity determinations for a transportation plan or TIP and included in the project design concept and scope which is used in the regional emissions analysis required by R18-2-1418 through R18-2-1420 and R18-2-1422 through R18-2-1424 or used in the project-level hot-spot analysis required by R18-2-1416 and R18-2-1421.
- B. Project sponsors voluntarily committing to mitigation measures to facilitate positive conformity determinations shall provide enforceable written commitments and comply with the obligations of such commitments.
- C. Enforceable written commitments to mitigation or control measures shall be obtained prior to a positive conformity determination, and that project sponsors shall comply with such commitments.
- D. During the control strategy and maintenance periods, if ADOT, the MPO, or project sponsor believes the mitigation or control measure is no longer necessary for conformity, the project sponsor or operator may be relieved of its obligation to implement the mitigation or control measure if it can demonstrate that the requirements of R18-2-1416, R18-2-1418, and R18-2-1419 are satisfied without the mitigation or control measure and so notifies the agencies involved in the inter-agency consultation process required under R18-2-1405. ADOT or the MPO where one exists and USDOT shall confirm that the transportation plan and TIP still satisfy the requirements of R18-2-1418 and R18-2-1419 and that the project still satisfies the requirements of R18-2-1416, and therefore that the conformity determinations for the transportation plan, TIP, and project are still valid.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1434. Exempt Projects

Notwithstanding the other requirements of this subpart, highway and transit projects of the types listed in Table 2 are exempt from the requirement that a conformity determination be made. Such projects may proceed toward implementation even in the absence of a conforming transportation plan and TIP. A particular action of the type listed in Table 2 is not exempt if ADOT or the MPO where one exists in consultation with other agencies pursuant to R18-2-1405, the EPA, and the FHWA (in the case of a highway project) or the

FTA (in the case of a transit project) concur that it has potentially adverse emissions impacts for any reason. States and MPOs shall ensure that exempt projects do not interfere with TCM implementation.

Table 2. Exempt Projects
Exempt Projects
SAFETY

1. Railroad or highway crossing.
2. Hazard elimination program.
3. Safer non-federal-aid system roads.
4. Shoulder improvements.
5. Increasing sight distance.
6. Safety improvement program.
7. Traffic control devices and operating assistance other than signalization projects.
8. Railroad or highway crossing warning devices.
9. Guardrails, median barriers, crash cushions.
10. Pavement resurfacing or rehabilitation.
11. Pavement marking demonstration.
12. Emergency relief (23 U.S.C. 125).
13. Fencing.
14. Skid treatments.
15. Safety roadside rest areas.
16. Adding medians.
17. Truck climbing lanes outside the urbanized area.
18. Lighting improvements.
19. Widening narrow pavements or reconstructing bridges (no additional travel lanes).
20. Emergency truck pullovers.

MASS TRANSIT

1. Operating assistance to transit agencies.
2. Purchase of support vehicles.
3. Rehabilitation of transit vehicles. (In PM₁₀ nonattainment or maintenance areas, such projects are exempt only if they are in compliance with control measures in the applicable implementation plan.)
4. Purchase of office, shop, and operating equipment for existing facilities.
5. Purchase of operating equipment for vehicles (e.g., radios, fareboxes, lifts, etc.).
6. Construction or renovation of power, signal, and communications systems.
7. Construction of small passenger shelters and information kiosks.
8. Reconstruction or renovation of transit buildings and structures (e.g., rail or bus buildings, storage and maintenance facilities, stations, terminals, and ancillary structures).
9. Rehabilitation or reconstruction of track structures, track, and trackbed in existing rights-of-way.
10. Purchase of new buses and rail cars to replace existing vehicles or for minor expansions of the fleet. (In PM₁₀ nonattainment or maintenance areas, such projects are exempt only if they are in compliance with control measures in the applicable implementation plan.)
11. Construction of new bus or rail storage or maintenance facilities categorically excluded in 23 CFR 771.

AIR QUALITY

1. Continuation of ride-sharing and van-pooling promotion activities at current levels.
2. Bicycle and pedestrian facilities.

OTHER

1. Specific activities which do not involve or lead directly to construction, such as:
 - a. Planning and technical studies.
 - b. Grants for training and research programs.

- c. Planning activities conducted pursuant to Titles 23 and 49 U.S.C.
- d. Federal-aid systems revisions.
- 2. Engineering to assess social, economic and environmental effects of the proposed action or alternatives to that action.
- 3. Noise attenuation.
- 4. Advance land acquisitions (23 CFR 712 or 23 CFR 771).
- 5. Acquisition of scenic easements.
- 6. Plantings, landscaping, etc.
- 7. Sign removal.
- 8. Directional and informational signs.
- 9. Transportation enhancement activities (except rehabilitation and operation of historic transportation buildings, structures, or facilities).
- 10. Repair of damage caused by natural disasters, civil unrest, or terrorist acts, except projects involving substantial functional, locational or capacity changes.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1435. Projects Exempt from Regional Emissions Analyses

Notwithstanding the other requirements of this subpart, highway and transit projects of the types listed in Table 3 are exempt from regional emissions analysis requirements. The local effects of these projects with respect to CO or PM₁₀ concentrations shall be considered to determine if a hot-spot analysis is required prior to making a project-level conformity determination. These projects may then proceed to the project development process even in the absence of a conforming transportation plan and TIP. A particular action of the type listed in Table 3 is not exempt from regional emissions analysis if the MPO in consultation with other agencies pursuant to R18-2-1405, the EPA, and the FHWA (in the case of a highway project) or the FTA (in the case of a transit project) concur that it has potential regional impacts for any reason.

Table 3. Projects Exempt From Regional Emissions Analyses

Projects Exempt From Regional Emissions Analyses

- 1. Intersection channelization projects.
- 2. Intersection signalization projects at individual intersections.
- 3. Interchange reconfiguration projects.
- 4. Changes in vertical and horizontal alignment.
- 5. Truck size and weight inspection stations.
- 6. Bus terminals and transfer points.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1436. Special Provisions for Nonattainment Areas Which are Not Required to Demonstrate Reasonable Further Progress and Attainment

- A. This Section applies in the following areas:
 - 1. Rural transport ozone nonattainment areas,
 - 2. Marginal ozone areas,
 - 3. Submarginal ozone areas,
 - 4. Transitional ozone areas,
 - 5. Incomplete data ozone areas,
 - 6. Moderate CO areas with a design value of 12.7 ppm or less,
 - 7. Not classified CO areas.
- B. The criteria and procedures in R18-2-1422 through R18-2-1424 will remain in effect throughout the control strategy period for transportation plans, TIPs, and projects (not from a conforming plan and TIP) in lieu of the procedures in R18-2-1418 through R18-2-1420, except as otherwise provided in subsection (C).

- C. The state or MPO may voluntarily develop an attainment demonstration and corresponding motor vehicle emissions budget like those required in areas with higher nonattainment classifications. In this case, the state shall submit an implementation plan revision which contains that budget and attainment demonstration. Once EPA has approved this implementation plan revision, the procedures in R18-2-1418 through R18-2-1420 apply in lieu of the procedures in R18-2-1422 through R18-2-1424.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1437. Reserved**R18-2-1438. General Conformity for Federal Actions**

The following subparts of 40 CFR 93, Determining Conformity of Federal Actions to State or Federal Implementation Plans, and all accompanying appendices, adopted as of July 1, 1994, and no future editions, are incorporated by reference. These standards are on file with the Office of the Secretary of State and with the Department and shall be applied by the Department.

Subpart B - Determining Conformity of General Federal Actions to State or Federal Implementation Plans (58 FR 63253, November 30, 1993).

Historical Note

Adopted effective January 31, 1995 (Supp. 95-1).

ARTICLE 15. FOREST AND RANGE MANAGEMENT BURNS**R18-2-1501. Definitions**

In addition to the definitions contained in A.R.S. § 49-501 and R18-2-101, in this Article:

- 1. "Activity fuels" means those fuels created by human activities such as thinning or logging.
- 2. "ADEQ" means the Department of Environmental Quality.
- 3. "Annual emissions goal" means the annual establishment in cooperation with the F/SLMs, under R18-2-1503(G), of a planned quantifiable value of emissions reduction from prescribed fires and fuels management activities.
- 4. "Burn plan" means the ADEQ form that includes information on the conditions under which a burn will occur with details of the burn and smoke management prescriptions.
- 5. "Burn prescription" means, with regard to a burn project, the pre-determined area, fuel, and weather conditions required to attain planned resource management objectives.
- 6. "Burn project" means an active or planned prescribed burn, including a wildland fire use incident.
- 7. "Duff" means forest floor material consisting of decomposing needles and other natural materials.
- 8. "Emission reduction techniques (ERT)" means methods for controlling emissions from prescribed fires to minimize the amount of emission output per unit of area burned.
- 9. "Federal land manager (FLM)" means any department, agency, or agent of the federal government, including the following:
 - a. United States Forest Service,
 - b. United States Fish and Wildlife Service,
 - c. National Park Service,
 - d. Bureau of Land Management,
 - e. Bureau of Reclamation,
 - f. Department of Defense,
 - g. Bureau of Indian Affairs, and

- h. Natural Resources Conservation Service.
- 10. “F/SLM” means a federal land manager or a state land manager.
- 11. “Local fire management officer” means a person designated by a F/SLM as responsible for fire management in a local district or area.
- 12. “Mop-up” means the act of extinguishing or removing burning material from a prescribed fire to reduce smoke impacts.
- 13. “National Wildfire Coordinating Group” means the national inter-agency group of federal and state land managers that shares similar wildfire suppression programs and has established standardized inter-agency training courses and qualifications for fire management positions.
- 14. “Non-burning alternatives to fire” means techniques that replace fire for at least five years as a means to treat activity fuels created to achieve a particular land management objective (e.g., reduction of fuel-loading, manipulation of fuels, enhancement of wildlife habitat, and ecosystem restoration). These alternatives are not used in conjunction with fire. Techniques used in conjunction with fire are referred to as emission reduction techniques (ERTs).
- 15. “Planned resource management objectives” means public interest goals in support of land management agency objectives including silviculture, wildlife habitat management, grazing enhancement, fire hazard reduction, wilderness management, cultural scene maintenance, weed abatement, watershed rehabilitation, vegetative manipulation, and disease and pest prevention.
- 16. “Prescribed burning” means the controlled application of fire to wildland fuels that are in either a natural or modified state, under certain burn and smoke management prescription conditions that have been specified by the land manager in charge of or assisting the burn, to attain planned resource management objectives. Prescribed burning does not include a fire set or permitted by a public officer to provide instruction in fire fighting methods, or construction or residential burning under R18-2-602.
- 17. “Prescribed fire manager” means a person designated by a F/SLM as responsible for prescribed burning for that land manager.
- 18. “Smoke management prescription” means the predetermined meteorological conditions that affect smoke transport and dispersion under which a burn could occur without adversely affecting public health and welfare.
- 19. “Smoke management techniques (SMT)” means management and dispersion practices used during a prescribed burn or wildland fire use incident which affect the direction, duration, height, or density of smoke.
- 20. “Smoke management unit” means any of the geographic areas defined by ADEQ whose area is based on primary watershed boundaries and whose outline is determined by diurnal windflow patterns that allow smoke to follow predictable drainage patterns. A map of the state divided into the smoke management units is on file with ADEQ.
- 21. “State land manager (SLM)” means any department, agency, or political subdivision of the state government including the following:
 - a. State Land Department,
 - b. Department of Transportation,
 - c. Department of Game and Fish, and
 - d. Parks Department.
- 22. “Wildfire” means an unplanned wildland fire subject to appropriate control measures. Wildfires include those incidents where suppression may be limited for safety, economic, or resource concerns.

- 23. “Wildland fire use” means a wildland fire that is ignited by natural causes, such as lightning, and is managed using the same controls and for the same planned resource management objectives as prescribed burning.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4).
Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1).

R18-2-1502. Applicability

- A. A F/SLM that is conducting or assisting a prescribed burn shall follow the requirements of this Article.
- B. A private or municipal burner with whom ADEQ has entered into a memorandum of agreement shall follow the requirements of this Article.
- C. The provisions of this Article apply to all areas of the state except Indian Trust lands. All federally managed lands and all state lands, parks, and forests are under the jurisdiction of ADEQ in matters relating to air pollution from prescribed burning.
- D. Notwithstanding subsection (C), ADEQ and any Indian tribe may enter into a memorandum of agreement to implement this Article.
- E. ADEQ and any private or municipal prescribed burner may enter into a memorandum of agreement to implement this Article.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4).
Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1).

R18-2-1503. Annual Registration, Program Evaluation and Planning

- A. Each F/SLM shall register annually with ADEQ on a form prescribed by ADEQ, all planned burn projects, including areas planned for wildland fire use.
- B. Each planned year extends from January 1 of the registration year to December 31 of the same year. Each F/SLM shall use best efforts to register before December 31 and no later than January 31 of each year.
- C. A F/SLM shall include the following information on the registration form:
 - 1. The F/SLM’s name, address, and business telephone number;
 - 2. The name, address, and business telephone number of an air quality representative who will provide technical support to ADEQ for decisions regarding prescribed burning. The same air quality representative may be selected by more than one F/SLM;
 - 3. All prescribed burn projects and potential wildland fire use areas planned for the next year;
 - 4. Maximum project and annual acres to be burned, maximum daily acres to be burned, fuel types within project area, and planned use of emission reduction techniques to support the annual emissions goal for each prescribed burn project;
 - 5. Planned use of any smoke management techniques for each prescribed burn project;
 - 6. Maximum project and annual acres projected to be burned, maximum daily acres projected to be burned, and a map of the anticipated project area, fuel types and loading within the planned area for an area the F/SLM anticipates for wildland fire use;
 - 7. A list of all burn projects that were completed during the previous year;

8. Project area for treatment, treatment type, fuel types to be treated, and activity fuel loading to support the annual emissions goal for areas to be treated using non-burning alternatives to fire; and
 9. The area treated using non-burning alternatives to fire during the previous year including the number of acres, the specific types of alternatives utilized, and the location of these areas.
- D.** After consultation with the F/SLM, ADEQ may request additional information for registration of prescribed burns and wildland fire use to support regional coordination of smoke management, annual emission goal setting using ERTs, and non-burning alternatives to fire.
- E.** A F/SLM may amend a registration at any time with a written submission to ADEQ.
- F.** ADEQ accepts a facsimile or other electronic method as a means of complying with the deadline for registration. If an electronic means is used, the F/SLM shall deliver the original paper registration form to ADEQ for its records. ADEQ shall acknowledge in writing the receipt of each registration.
- G.** ADEQ shall hold a meeting after January 31 and before April 1 of each year between ADEQ and F/SLMs to evaluate the program and cooperatively establish the annual emission goal. The annual emission goal shall be developed to minimize prescribed fire emissions to the maximum extent feasible using emission reduction techniques and alternatives to burning subject to economic, technical, and safety feasibility criteria, and consistent with land management objectives.
- H.** At least once every five years, ADEQ shall request long-term projections of future prescribed fire and wildland fire use activity from the F/SLMs to support planning for visibility impairment and assessment of other air quality concerns by ADEQ.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4).
Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1).

R18-2-1504. Prescribed Burn Plan

Each F/SLM planning a prescribed burn shall complete and submit to ADEQ the "Burn Plan" form supplied by ADEQ no later than 14 days before the date on which the F/SLM requests permission to burn. ADEQ shall consider the information supplied on the Burn Plan Form as binding conditions under which the burn shall be conducted. A Burn Plan shall be maintained by ADEQ until notification from the F/SLM of the completion of the burn project. Revisions to the Burn Plan for a burn project shall be submitted in writing no later than 14 days before the date on which the F/SLM requests permission to burn. To facilitate the Daily Burn authorization process under R18-2-1505, the F/SLM shall include on the Burn Plan form:

1. An emergency telephone number that is answered 24 hours a day, seven days a week;
2. Burn prescription;
3. Smoke management prescription;
4. The number of acres to be burned, the quantity and type of fuel, type of burn, and the ignition technique to be used;
5. The land management objective or purpose for the burn such as restoration or maintenance of ecological function and indicators of fire resiliency;
6. A map depicting the potential impact of the smoke unless waived either orally or in writing by ADEQ. The potential impact shall be determined by mapping both the daytime and nighttime smoke path and down-drainage flow for 15 miles from the burn site, with smoke-sensitive

areas delineated. The map shall use the appropriate scale to show the impacts of the smoke adequately;

7. Modeling of smoke impacts unless waived either orally or in writing by ADEQ, for burns greater than 250 acres per day, or greater than 50 acres per day if the burn is within 15 miles of a Class I Area, an area that is non-attainment for particulates, a carbon monoxide non-attainment area, or other smoke-sensitive area. In consultation with the F/SLM, ADEQ shall provide guidelines on modeling;
8. The name of the official submitting the Burn Plan on behalf of the F/SLM; and
9. After consultation with the F/SLM, any other information to support the Burn Plan needed by ADEQ to assist in the Daily Burn authorization process for smoke management purposes or assessment of contribution to visibility impairment of Class I areas.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4).
Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1).

R18-2-1505. Prescribed Burn Requests and Authorization

- A.** Each F/SLM planning a prescribed burn, shall complete and submit to ADEQ the "Daily Burn Request" form supplied by ADEQ. The Daily Burn Request form shall include:
1. The contact information of the F/SLM conducting the burn;
 2. Each day of the burn;
 3. The area to be burned on the day for which the Burn Request is submitted, with reference to the Burn Plan, including size, legal location to the section, and latitude and longitude to the minute;
 4. Projected smoke impacts; and
 5. Any local conditions or circumstances known to the F/SLM that, if conveyed to ADEQ, could impact the Daily Burn authorization process.
- B.** After consultation with the F/SLM, ADEQ may request additional information related to the burn, meteorological, smoke dispersion, or air quality conditions to supplement the Daily Burn Request form and to aid in the Daily Burn authorization process.
- C.** The F/SLM shall submit the Daily Burn Request form to ADEQ as expeditiously as practicable, but no later than 2:00 p.m. of the business day preceding the burn. An original form, a facsimile, or an electronic information transfer are acceptable submittals.
- D.** An F/SLM shall not ignite a prescribed burn without receiving the approval of ADEQ, as follows:
1. ADEQ shall approve, approve with conditions, or disapprove a burn on the same business day as the Burn Request submittal.
 2. If ADEQ fails to address a Burn Request by 10:00 p.m. of the business day on which the request is submitted, the Burn Request is approved by default after the burner makes a good faith effort to contact ADEQ to confirm that the Burn Request was received.
 3. ADEQ may communicate its decision by verbal, written, or electronic means. ADEQ shall provide a written or electronic reply if requested by the F/SLM.
- E.** If weather conditions cease to conform to those in the smoke management prescription of either the Burn Plan or an Approval with Conditions, the F/SLM shall take appropriate action to reduce further smoke impacts, ensure safe and appropriate fire control, and notify the public when necessary. After

consultation with ADEQ, the smoke management prescription or burn plan may be modified.

- F. The F/SLM shall ensure that there is appropriate signage and notification to protect public safety on transportation corridors including roadways and airports during a prescribed fire.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4).
Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1).

R18-2-1506. Smoke Dispersion Evaluation

ADEQ shall approve, approve with conditions, or disapprove a Daily Burn Request submitted under R18-2-1505, by using the following factors for each smoke management unit:

1. Analysis of the emissions from burns in progress and residual emissions from previous burns on a day-to-day basis;
2. Analysis of emissions from active wildland fire use incidents, and active multiple-day burns, and consideration of potential long-term emissions estimates;
3. Analysis of the emissions from wildfires greater than 100 acres and consideration of their potential long-term growth;
4. Local burn conditions;
5. Burn prescription and smoke management prescription from the applicable Burn Plan;
6. Existing and predicted local air quality;
7. Local and synoptic meteorological conditions;
8. Type and location of areas to be burned;
9. Protection of the national visibility goal for Class I Areas under § 169A(a)(1) of the Act and 40 CFR 51.309;
10. Assessment of duration and intensity of smoke emissions to minimize cumulative impacts;
11. Minimization of smoke impacts in Class I Areas, areas that are non-attainment for particulate matter, carbon monoxide non-attainment areas, or other smoke-sensitive areas; and
12. Protection of the National Ambient Air Quality Standards.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4).
Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1).

R18-2-1507. Prescribed Burn Accomplishment; Wildfire Reporting

- A. Each F/SLM conducting a prescribed burn shall complete and submit to ADEQ the "Burn Accomplishment" form supplied by ADEQ. For each burn approval, the F/SLM shall submit a Burn Accomplishment form to ADEQ by 2:00 p.m. of the business day following the approved burn. The F/SLM shall include the following information on the Burn Accomplishment form:
1. Any known conditions or circumstances that could impact the Daily Burn decision process;
 2. The date, location, fuel type, fuel loading, and acreage accomplishments;
 3. The ERTs and SMTs described in R18-2-1509 and R18-2-1510, respectively, and may include any further ERTs and SMTs that become available, that the F/SLM used to reduce emissions or manage the smoke from the burn.
- B. The F/SLM shall submit the Burn Accomplishment form as an original form, a facsimile, or an electronic information transfer.

- C. ADEQ shall maintain a record of Burn Requests, Burn Approvals/Conditional Approvals/Denials and Burn Accomplishments for five years.

- D. The F/SLM in whose jurisdiction a wildfire occurs shall make available to ADEQ no later than the day after the activity all required information for wildfire incidents that burned more than 100 acres per day in timber or slash fuels or 300 acres per day in brush or grass fuels. For each day of a wildfire incident that exceeds the daily activity threshold, the F/SLM shall provide the location, an estimate of predominant fuel type and quantity consumed, and an estimate of the area blackened that day.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4).
Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1).

R18-2-1508. Wildland Fire Use: Plan, Authorization, Monitoring; Inter-agency Consultation; Status Reporting

- A. In order for ADEQ to participate in the wildland fire use decision-making process, the F/SLM shall notify ADEQ as soon as practicable of any wildland fire use incident projected to attain or attaining a size of 50 acres of timber fuel or 250 acres of brush or grass fuel.
- B. For each wildland fire use incident that has been declared as such by the F/SLM, the F/SLM shall complete and submit to ADEQ a Wildland Fire Use Burn Plan in a format approved by ADEQ in cooperation with the F/SLM. The F/SLM shall submit the Wildland Fire Use Burn Plan to ADEQ as soon as practicable but no later than 72 hours after the wildland fire use incident is declared or under consideration for such designation. The F/SLM shall include the following information in the Wildland Fire Use Burn Plan:
1. An emergency telephone number that is answered 24 hours a day, seven days a week;
 2. Anticipated burn prescription;
 3. Anticipated smoke management prescription;
 4. The estimated daily number of acres, quantity, and type of fuel to be burned;
 5. The anticipated maximum allowable perimeter or size with map;
 6. Information on the condition of the area to be burned, such as whether it is in maintenance or restoration, its ecological function, and other indicators of fire resiliency;
 7. The anticipated duration of the wildland fire use incident;
 8. The anticipated long-range weather trends for the site;
 9. A map depicting the potential impact of the smoke. The potential impact shall be determined by mapping both the daytime and nighttime smoke path and down-drainage flow for 15 miles from the wildland fire use incident, with smoke-sensitive areas delineated. Mapping is mandatory unless waived either orally or in writing by ADEQ. The map shall use the appropriate scale to show the impacts of the smoke adequately; and
 10. Modeling or monitoring of smoke impacts, if requested by ADEQ after consultation with the F/SLM.
- C. ADEQ shall approve or disapprove a Wildland Fire Use Burn Plan within three hours of receipt. ADEQ shall consult directly with the requesting F/SLM before disapproving a Wildland Fire Use Burn Plan. If ADEQ fails to address the Wildland Fire Use Burn Plan within the time allotted, the Plan is approved by default under the condition that the F/SLM makes a good faith effort to contact ADEQ to confirm that the Plan was received. Approval by ADEQ of a Wildland Fire Use Burn Plan is binding upon ADEQ for the duration of the wild-

land fire use incident, unless smoke from the incident creates a threat to public health or welfare. If a threat to public health or welfare is created, ADEQ shall consult with the F/SLM regarding the situation and develop a joint action plan for reducing further smoke impacts.

- D. The F/SLM shall submit a Daily Status Report for each wildland fire use incident to ADEQ for each day of the burn that the fire burns more than 100 acres in timber or slash fuels or 300 acres in brush or grass fuels. The F/SLM shall include a synopsis of smoke behavior, future daily anticipated growth, and location of the activity of the wildland fire use incident in the Daily Status Report.
- E. The F/SLM shall consult with ADEQ prior to initiating human-made ignition on the wildland fire use incident when greater than 250 acres is anticipated to be burned by the ignition. Emergency human-made ignition on the incident for protection of public or fire-fighter safety does not require consultation with ADEQ regardless of the size of the area to be burned.
- F. The F/SLM shall ensure that there is appropriate signage and notification to protect public safety on transportation corridors including roadways and airports during a wildland fire use incident.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4).
Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1).

R18-2-1509. Emission Reduction Techniques

- A. Each F/SLM conducting a prescribed burn shall implement as many Emission Reduction Techniques as are feasible subject to economic, technical, and safety feasibility criteria, and land management objectives.
- B. Emission Reduction Techniques include:
 - 1. Reducing biomass to be burned by use of techniques such as yarding or consolidation of unmerchandisable material, multi-product timber sales, or public firewood access, when economically feasible;
 - 2. Reducing biomass to be burned by fuel exclusion practices such as preventing the fire from consuming dead snags or dead and downed woody material through lining, application of fire-retardant foam, or water;
 - 3. Using mass ignition techniques such as aerial ignition by helicopter to produce high intensity fires of high fuel density areas such as logging slash decks;
 - 4. Burning only fuels essential to meet resource management objectives;
 - 5. Minimizing consumption and smoldering by burning under conditions of high fuel moisture of duff and litter;
 - 6. Minimizing fuel consumption and smoldering by burning under conditions of high fuel moisture of large woody fuels;
 - 7. Minimizing soil content when slash piles are constructed by using brush blades on material-moving equipment and by constructing piles under dry soil conditions or by using hand piling methods;
 - 8. Burning fuels in piles;
 - 9. Using a backing fire in grass fuels;
 - 10. Burning fuels with an air curtain destructor, as defined in R18-2-101, operated according to manufacturer specifications and meeting applicable state or local opacity requirements;
 - 11. Extinguishing or mopping-up of smoldering fuels;
 - 12. Chunking of piles and other consolidations of burning material to enhance flaming and fuel consumption, and to minimize smoke production;

- 13. Burning before litter fall;
- 14. Burning before green-up of fuels;
- 15. Burning before recently cut large fuels cure in areas with activity; and
- 16. Burning just before precipitation to reduce fuel smoldering and consumption.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4).
Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1).

R18-2-1510. Smoke Management Techniques

- A. Each F/SLM conducting a prescribed burn shall implement as many Smoke Management Techniques as are feasible subject to economic, technical, and safety feasibility criteria, and land management objectives.
- B. Smoke management techniques include:
 - 1. Burning from March 15 through September 15, when meteorological conditions allow for good smoke dispersion;
 - 2. Igniting burns under good-to-excellent ventilation conditions;
 - 3. Suspending operations under poor smoke dispersion conditions;
 - 4. Considering smoke impacts on local community activities and land users;
 - 5. Burning piles when other burns are not feasible, such as when snow or rain is present;
 - 6. Using mass ignition techniques such as aerial ignition by helicopter to produce high intensity fires with short duration impacts;
 - 7. Using all opportunities that meet the burn prescription and all burn locations to spread smoke impacts over a broader time period and geographic area;
 - 8. Burning during optimum mid-day dispersion hours, with all ignitions in a burn unit completed by 3:00 p.m. to prevent trapping smoke in inversions or diurnal windflow patterns;
 - 9. Providing information on the adverse impacts of using green or wet wood as fuel when public firewood access is allowed;
 - 10. Implementing maintenance burning in a periodic rotation to shorten prescribed fire duration and to reduce excessive fuel accumulations that could result in excessive smoke production in a wildfire; and
 - 11. Using wildland fire-use strategies to shift smoke into more favorable smoke dispersion seasons.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4). Former Section R18-2-1510 renumbered to R18-2-1511; new R18-2-1510 made by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1).

R18-2-1511. Monitoring

- A. ADEQ may require a F/SLM to monitor air quality before or during a prescribed burn or a wildland fire use incident if necessary to assess smoke impacts. Air quality monitoring may be conducted using both federal and non-federal reference method as well as other techniques.
- B. ADEQ may require a F/SLM to monitor weather before or during a prescribed burn or a wildland fire use incident, if necessary to predict or assess smoke impacts. After consultation with the F/SLM, ADEQ may also require the F/SLM to establish burn site or area-representative remote automated weather stations or their equivalent, having telemetry that allows retrieval on a real-time basis by ADEQ. An F/SLM shall give

ADEQ notice and an opportunity to comment before making any change to a long-term established remote automated weather station.

- C. A F/SLM shall employ the following types of monitoring, unless waived by ADEQ, for burns greater than 250 acres per day, or greater than 50 acres per day if the burn is within 15 miles of a Class I Area, an area that is non-attainment for particulate matter, carbon monoxide, or ozone, or other smoke-sensitive area:
 - 1. Smoke plume measurements, using a format supplied by ADEQ; and
 - 2. The release of pilot balloons (PIBALs) at the burn site to verify needed wind speed, direction, and stability. Instead of pilot balloons, a test burn at the burn site may be used for specific prescribed burns on a case-by-case basis as approved by ADEQ, to verify needed wind speed, direction, and stability.
- D. An F/SLM shall make monitoring information required under subsection (C) available to ADEQ on the business day following the burn ignition.
- E. The F/SLM shall keep on file for one year following the burn date any monitoring information required under this Section.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4). Former Section R18-2-1511 renumbered to R18-2-1512; new R18-2-1511 renumbered from R18-2-1510 and amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1).

R18-2-1512. Burner Qualifications

- A. All burn projects shall be conducted by personnel trained in prescribed fire and smoke management techniques as required by the F/SLM in charge of the burn and established by National Wildfire Coordinating Group training qualifications.
- B. A Prescribed Fire Boss or other local Fire Management Officer of the F/SLM having jurisdiction over prescribed burns shall have smoke management training obtained through one of the following:
 - 1. Successful completion of a National Wildfire Coordinating Group or F/SLM-equivalent course addressing smoke management; or
 - 2. Attendance at an ADEQ-approved smoke management workshop.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4). Former Section R18-2-1512 renumbered to R18-2-1513; new R18-2-1512 renumbered from R18-2-1511 and amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1).

R18-2-1513. Public Notification and Awareness Program; Regional Coordination

- A. The Director shall conduct a public education and awareness program in cooperation with F/SLMs and other interested parties to inform the general public of the smoke management program described by this Article. The program shall include smoke impacts from prescribed fires and the role of prescribed fire in natural ecosystems.
- B. ADEQ shall make annual registration, prescribed burn approval, and wildfire and wildland fire use activity information readily available to the public and to facilitate regional coordination efforts and public notification.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4). Former Section R18-2-1513 renumbered to R18-2-1514; new R18-2-1513 renumbered from R18-2-1512 and amended

by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1).

R18-2-1514. Surveillance and Enforcement

- A. An F/SLM conducting a prescribed burn shall permit ADEQ to enter and inspect burn sites unannounced to verify the accuracy of the Daily Burn Request, Burn Plan, or Accomplishment data as well as matching burn approval with actual conditions, smoke dispersion, and air quality impacts. On-ground site inspection procedures and aerial surveillance shall be coordinated by ADEQ and the F/SLM for safety purposes.
- B. ADEQ may use remote automated weather station data if necessary to verify current and previous meteorological conditions at or near the burn site.
- C. ADEQ may audit burn accomplishment data, smoke dispersion measurements, or weather measurements from previously conducted burns, if necessary to verify conformity with, or deviation from, procedures and authorizations approved by ADEQ.
- D. Deviation from procedures and authorizations approved by ADEQ constitute a violation of this Article. Violations may require containment or mop-up of any active burns and may also require, in the Director's discretion, a five-day moratorium on ignitions by the responsible F/SLM. Violations of this Article are also subject to a civil penalty of not more than \$10,000 per day per violation under A.R.S. § 49-463.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4). Former Section R18-2-1514 repealed; new R18-2-1514 renumbered from R18-2-1513 and amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1).

R18-2-1515. Forms; Electronic Copies; Information Transfers

- A. ADEQ shall make available on paper and in electronically readable format any form required to be developed by ADEQ and completed by a F/SLM.
- B. After consultation with an F/SLM, ADEQ may require the F/SLM to provide data in a manner that facilitates electronic transfers of information.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4). Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1).

ARTICLE 16. VISIBILITY; REGIONAL HAZE

Article 16, consisting of Sections R18-2-1601 through R18-2-1606, made by final rulemaking at 9 A.A.R. 4541, effective December 2, 2003 (Supp. 03-4).

R18-2-1601. Definitions

In addition to the definitions contained in Articles 1 and 4 of this Chapter and A.R.S. § 49-401.01, the following definitions apply to this Article:

- 1. "Best available retrofit technology (BART)" means an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant emitted by an existing stationary facility. The emission limitation is established on a case-by-case basis under R18-2-1605.
- 2. "Existing stationary facility" means any of the following stationary sources of air pollutants, including any reconstructed source, which was not in operation before August 7, 1962, and was in existence on August 7, 1977, and has the potential to emit 250 tons per year or more of any air pollutant. A person who determines potential to emit shall count fugitive emissions to the extent quantifiable.

- a. Fossil-fuel fired steam electric plants of more than 250 million British thermal units per hour heat input;
 - b. Coal cleaning plants (thermal dryers);
 - c. Kraft pulp mills;
 - d. Portland cement plants;
 - e. Primary zinc smelters;
 - f. Iron and steel mill plants;
 - g. Primary aluminum ore reduction plants;
 - h. Primary copper smelters;
 - i. Municipal incinerators capable of charging more than 250 tons of refuse per day;
 - j. Hydrofluoric, sulfuric, and nitric acid plants;
 - k. Petroleum refineries;
 - l. Lime plants;
 - m. Phosphate rock processing plants;
 - n. Coke oven batteries;
 - o. Sulfur recovery plants;
 - p. Carbon black plants (furnace process);
 - q. Primary lead smelters;
 - r. Fuel conversion plants;
 - s. Sintering plants;
 - t. Secondary metal production facilities;
 - u. Chemical process plants;
 - v. Fossil-fuel boilers of more than 250 million British thermal units per hour heat input;
 - w. Petroleum storage and transfer facilities with a capacity exceeding 300,000 barrels;
 - x. Taconite ore processing facilities;
 - y. Glass fiber processing plants; and
 - z. Charcoal production facilities.
3. "Federal Land Manager" means the secretary of the department, or the secretary's designee, with authority over the Federal Class I area.
 4. "Mandatory Federal Class I Area" means any area identified in 40 CFR 81.400 through 81.436.
 5. "Reasonably attributable" means ascribable by visual observation or other techniques described in R18-2-1604.
 6. "Reasonably attributable visibility impairment" means visibility impairment that is caused by the emission of air pollutants from one source, or a small group of sources.

Historical Note

New Section made by final rulemaking at 9 A.A.R. 4541, effective December 2, 2003 (Supp. 03-4).

R18-2-1602. Applicability

This Article applies to any existing stationary source located in the state that may reasonably be anticipated to cause or contribute to visibility impairment in any mandatory Federal Class I area identified in 40 CFR 81.401 through 81.436. Mandatory Federal Class I areas within Arizona are: Chiricahua National Monument Wilderness, Chiricahua Wilderness, Galiuro Wilderness, Grand Canyon National Park, Mazatzal Wilderness, Mount Baldy Wilderness, Petrified Forest National Park, Pine Mountain Wilderness, Saguaro Wilderness, Sierra Ancha Wilderness, Superstition Wilderness, and Sycamore Canyon Wilderness.

Historical Note

New Section made by final rulemaking at 9 A.A.R. 4541, effective December 2, 2003 (Supp. 03-4).

R18-2-1603. Certification of Impairment

- A. A Federal Land Manager with authority over a mandatory Federal Class I area may certify to the Director, at any time, that a reasonably attributable visibility impairment exists in a mandatory Federal Class I area. The Director may also certify that reasonably attributable visibility impairment exists in any

mandatory Federal Class I area to assure reasonable progress under section 169A(b)(2) of the Clean Air Act.

- B. Documentation that supports the Federal Land Manager or Director's certification shall include:
 1. The mandatory Federal Class I area for which visibility impairment is being certified,
 2. Any information documenting the basis for the certification of impairment.

Historical Note

New Section made by final rulemaking at 9 A.A.R. 4541, effective December 2, 2003 (Supp. 03-4).

R18-2-1604. Attribution Analysis; Finding

- A. If a mandatory Federal Class I area is certified as having reasonably attributable visibility impairment, the Director shall conduct an attribution analysis to identify each existing stationary source that may be reasonably anticipated to cause or contribute to visibility impairment. The Director shall notify the Federal Land Manager, affected source or small group of sources, and local air pollution control officer of the intent to conduct an attribution analysis. The attribution analysis shall be based on the following:
 1. Monitoring information obtained through the Arizona Class I Visibility Monitoring Network or special studies approved by ADEQ to ascertain:
 - a. The times visibility impairment occurred, and
 - b. The pollutants contributing to the visibility impairment;
 2. Transport analysis or air quality modeling based upon meteorological records to ascertain whether the pollutants were transported to the mandatory Federal Class I area;
 3. Other available studies, modeling analyses, and emissions inventories of point, area, and mobile source emissions to ascertain:
 - a. The pollutant causing the impairment, and
 - b. The source, or a small group of sources, emitting the pollutant;
 4. Other relevant supporting documentation provided by the Federal Land Manager or Director used to make the draft attribution analysis finding; and
 5. Consideration of any documentation provided by the source, a small group of sources, or other interested parties.
- B. In conducting the attribution analysis, the Director shall use monitoring information, meteorological records, and emissions inventories that represent times and locations reasonably concurrent with the visibility impairment.
- C. The Director shall issue a draft attribution finding that impairment has or has not occurred, and provide public notice of the draft attribution finding. The Director shall publish notice of the draft attribution finding in a newspaper of general circulation in each county containing the mandatory Federal Class I area and the affected source. The Director shall provide at least 30 days from the date of the notice for public comment. Written comments to the Director shall include the name of the person and the person's agent or attorney, if any, and shall clearly set forth reasons why the Director should review the draft attribution finding. The Director shall issue a final attribution finding after the public comment period. If the Director finds existing stationary sources cause or contribute to visibility impairment in a mandatory Federal Class I area, the source shall be subject to a BART Control Analysis under R18-2-1605.

Historical Note

New Section made by final rulemaking at 9 A.A.R. 4541,

effective December 2, 2003 (Supp. 03-4).

R18-2-1605. BART Control Analysis; Finding

- A. The Director shall analyze for BART controls each existing stationary source for which a final attribution finding is made under R18-2-1604(C). The Director shall consider the following factors:
1. Available control technology;
 2. New source performance standards (NSPS) in Article 9;
 3. Alternative control systems if retrofitting to comply with applicable NSPS standards in Article 9 is infeasible;
 4. Cost of compliance;
 5. Energy and non-air quality environmental impacts of compliance;
 6. Existing pollution control technology in use at the source or small group of sources;
 7. Remaining useful life of the source or small group of sources;
 8. Net environmental impact associated with the proposed emission control system;
 9. Economic impacts associated with installing and operating the proposed emission control system; and
 10. Degree of improvement in visibility anticipated to result from application of the proposed emission control system.
- B. The Director shall issue a draft BART finding, and provide public notice of the draft BART finding. The Director shall publish notice of the draft BART finding in a newspaper of general circulation in each county containing the mandatory Federal Class I area and the affected source. The Director shall provide at least 30 days from the date of the notice for public comment. Written comments to the Director shall include the name of the person and the person's agent or attorney, and shall clearly set forth reasons why the Director should review the draft BART finding. The Director shall issue a final BART finding after the public comment period.
1. The Director shall submit each final BART finding to the Administrator as a revision to the SIP.
 2. The Director shall require that each existing stationary source meet BART as expeditiously as practicable but in no case later than five years after EPA approval of the SIP revision.
- C. If the Director determines that technological or economic limitations on the applicability of measurement methodology to a particular existing stationary source would make the imposition of an emission standard infeasible, the Director may, as part of the finding under subsection (B), prescribe a design, equipment, work practice, operational standard, or combination of design, equipment, work practice, or operational standard. The standard, to the degree possible, shall set forth the emission reduction to be achieved by implementation of the design, equipment, work practice, or operation, and shall provide for compliance by means that achieve equivalent results.
- D. The Director shall make a finding that the attributable source satisfies the BART requirement if the attributable source:
1. Voluntarily applies best available retrofit technology;
 2. Previously applied emission control standards equivalent to BART; or
 3. Agrees to shutdown or curtail operations at the attributable source within five years of the finding. An attributable source that does not shutdown or curtail operations shall meet BART as expeditiously as practicable, but in no case later than five years after EPA's approval of the revision to the SIP.
- E. If the Director determines that the imposition of BART or a standard under subsection (C) is infeasible at the time of the finding, the Director shall require the attributable source to

install and operate BART at a later date when the Director determines that BART or equivalent controls are feasible.

- F. The Director shall provide for a BART control analysis of any existing stationary source that might cause or contribute to impairment of visibility in any mandatory Federal Class I area identified under this Article at such time as the Administrator determines new control technology for the pollutant becomes reasonably available:
1. The pollutant is emitted by that existing stationary source,
 2. Controls representing BART for the pollutant have not previously been required under this Article, and
 3. The impairment of visibility in any mandatory Federal Class I area is reasonably attributable to the emissions of that pollutant.

Historical Note

New Section made by final rulemaking at 9 A.A.R. 4541, effective December 2, 2003 (Supp. 03-4).

R18-2-1606. Exemption from BART

Any existing stationary source required to install, operate, and maintain BART under this Article, may apply to the Administrator for an exemption from that requirement according to 40 CFR 51.303. The existing stationary source shall obtain the Director's written concurrence before sending the application for exemption to the Administrator.

Historical Note

New Section made by final rulemaking at 9 A.A.R. 4541, effective December 2, 2003 (Supp. 03-4).

R18-2-1607. Reserved**R18-2-1608. Reserved****R18-2-1609. Reserved****R18-2-1610. Expired****Historical Note**

New Section made by final rulemaking at 11 A.A.R. 386, effective December 20, 2004 (Supp. 04-4). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 2856, effective April 30, 2013 (Supp. 13-3).

R18-2-1611. Expired**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 386, effective December 20, 2004 (Supp. 04-4). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 2856, effective April 30, 2013 (Supp. 13-3).

R18-2-1612. Expired**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 386, effective December 20, 2004 (Supp. 04-4). Section heading corrected at request of the Department, Office File No. M12-134, filed April 5, 2012 (Supp. 11-4). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 2856, effective April 30, 2013 (Supp. 13-3).

R18-2-1613. Expired**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 386,

effective December 20, 2004 (Supp. 04-4). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 2856, effective April 30, 2013 (Supp. 13-3).

ARTICLE 17. EXPIRED

R18-2-1701. Expired

Historical Note

New Section made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

Table 1. Expired

Historical Note

Table 1 made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Table 1 expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

R18-2-1702. Expired

Historical Note

New Section made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

Table 2. Expired

Historical Note

Table 2 made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Table 2 expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

R18-2-1703. Expired

Historical Note

New Section made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

R18-2-1704. Expired

Historical Note

New Section made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

R18-2-1705. Expired

Historical Note

New Section made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

R18-2-1706. Expired

Historical Note

New Section made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

R18-2-1707. Expired

Historical Note

New Section made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

R18-2-1708. Expired

Historical Note

New Section made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

Table 3. Expired

Historical Note

Table 3 made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Table 3 expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

R18-2-1709. Expired

Historical Note

New Section made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

ARTICLE 18. REPEALED

R18-2-1801. Repealed

Historical Note

New Section made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Section repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

R18-2-1802. Repealed

Historical Note

New Section made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Section repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

R18-2-1803. Repealed

Historical Note

New Section made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Section repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

R18-2-1804. Repealed

Historical Note

New Section made by final rulemaking at 14 A.A.R.

2404, effective July 8, 2008 (Supp. 08-2). Section repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

R18-2-1805. Repealed

Historical Note

New Section made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Section repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

R18-2-1806. Repealed

Historical Note

New Section made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Section repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

R18-2-1807. Repealed

Historical Note

New Section made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Section repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

R18-2-1808. Repealed

Historical Note

New Section made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Section repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

R18-2-1809. Repealed

Historical Note

New Section made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Section repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

R18-2-1810. Repealed

Historical Note

New Section made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Section repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

R18-2-1811. Repealed

Historical Note

New Section made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Section repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

R18-2-1812. Repealed

Historical Note

New Section made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Section repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

CHAPTER APPENDICES

Appendix 1. Repealed

Historical Note

Former Appendix 1 repealed, new Appendix 1 adopted effective October 2, 1979 (Supp. 79-5). Amended effective

May 28, 1982 (Supp. 82-3). Amended effective September 22, 1983 (Supp. 83-5). Amended effective December 1, 1988 (Supp. 88-4). Appendix 1 repealed, new Appendix 1 adopted effective November 15, 1993 (Supp. 93-4). Amended effective October 7, 1994 (Supp. 94-4). Amended effective August 1, 1995 (Supp. 95-3). The reference to R18-2-101(80) amended to reference R18-2-101(84) (Supp. 99-3). Amended by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Repealed by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

Appendix 2. Test Methods and Protocols

The following test methods and protocols are approved for use as directed by the Department under this Chapter. These standards are incorporated by reference as applicable requirements revised as of June 28, 2013, and no future editions or amendments. These standards are on file with the Department, and are also available from the U.S. Government Printing Office, Superintendent of Documents, bookstore.gpo.gov, Mail Stop: SSOP IDCC-SSOM, Washington, D.C. 20402-9328.

- A. 40 CFR 50;
- B. 40 CFR 50, all appendices;
- C. 40 CFR 51, Appendix M, Section IV of Appendix S, and Appendix W;
- D. 40 CFR 52, Appendices D and E;
- E. 40 CFR 53;
- F. 40 CFR 58;
- G. 40 CFR 58, all appendices;
- H. 40 CFR 60, all appendices;
- I. 40 CFR 61, all appendices;
- J. 40 CFR 63, all appendices;
- K. 40 CFR 75, all appendices.
- L. 40 CFR 51.128, Appendix A(1)(B).
- M. Silt Content Test Method. The purpose of this test method is to estimate the silt content of the trafficked parts of commercial farm roads, as defined in R18-2-610. The higher the silt content, the more fine dust particles that are released when cars and trucks drive on commercial farm roads.
 1. Equipment:
 - a. A set of sieves with the following openings: 4 millimeters (mm), 2mm, 1 mm, 0.5 mm and 0.25 mm and a lid and collector pan
 - b. A small whisk broom or paintbrush with stiff bristles and dustpan 1 ft. in width. (The broom/brush should preferably have one, thin row of bristles no longer than 1.5 inches in length.)
 - c. A spatula without holes A small scale with half ounce increments (e.g. postal/package scale)
 - d. A shallow, lightweight container (e.g. plastic storage container)
 - e. A sturdy cardboard box or other rigid object with a level surface
 - f. Basic calculator
 - g. Cloth gloves (optional for handling metal sieves on hot, sunny days)
 - h. Sealable plastic bags (if sending samples to a laboratory)
 - i. Pencil/pen and paper
 2. Step 1: Look for a routinely-traveled surface, as evidenced by tire tracks. [Only collect samples from surfaces that are not wet or damp due to precipitation, dew or watering.] Use caution when taking samples to ensure personal safety with respect to passing vehicles. Gently press the edge of a dustpan (1 foot in width) into the surface four times to mark an area that is 1 square foot. Col-

lect a sample of loose surface material using a whisk broom or brush and slowly sweep the material into the dustpan, minimizing escape of dust particles. Use a spatula to lift heavier elements such as gravel. Only collect dirt/gravel to an approximate depth of 3/8 inch or 1 cm in the 1 square foot area. If you reach a hard, underlying subsurface that is < 3/8 inch in depth, do not continue collecting the sample by digging into the hard surface. In other words, you are only collecting a surface sample of loose material down to 1 cm. In order to confirm that samples are collected to 1 cm. in depth, a wooden dowel or other similar narrow object at least one foot in length can be laid horizontally across the survey area while a metric ruler is held perpendicular to the dowel. At this point, you can choose to place the sample collected into a plastic bag or container and take it to an independent laboratory for silt content analysis. A reference to the procedure the laboratory is required to follow is in subsection (10) below.

3. Step 2: Place a scale on a level surface. Place a light-weight container on the scale. Zero the scale with the weight of the empty container on it. Transfer the entire sample collected in the dustpan to the container, minimizing escape of dust particles. Weigh the sample and record its weight.
4. Step 3: Stack a set of sieves in order according to the size openings specified above, beginning with the largest size opening (4 mm) at the top. Place a collector pan underneath the bottom (0.25 mm) sieve.
Step 4: Carefully pour the sample into the sieve stack, minimizing escape of dust particles by slowly brushing material into the stack with a whisk broom or brush. (On windy days, use the trunk or door of a car as a wind barricade.) Cover the stack with a lid. Lift up the sieve stack and shake it vigorously up, down and sideways for at least 1 minute.
5. Step 5: Remove the lid from the stack and disassemble each sieve separately, beginning with the top sieve. As you remove each sieve, examine it to make sure that all of the material has been sifted to the finest sieve through which it can pass; e.g. material in each sieve (besides the top sieve that captures a range of larger elements) should look the same size. If this is not the case, re-stack the sieves and collector pan, cover the stack with the lid, and shake it again for at least 1 minute. (You only need to reassemble the sieve(s) that contain material which requires further sifting.)
6. Step 6: After disassembling the sieves and collector pan, slowly sweep the material from the collector pan into the empty container originally used to collect and weigh the entire sample. Take care to minimize escape of dust particles. You do not need to do anything with material captured in the sieves -- only the collector pan. Weigh the container with the material from the collector pan and record its weight.
7. Step 7: If the source is an unpaved road, multiply the resulting weight by 0.38. If the source is an unpaved parking lot, multiply the resulting weight by 0.55. The resulting number is the estimated silt loading. Then, divide by the total weight of the sample you recorded earlier in Step 2 and multiply by 100 to estimate the percent silt content.
8. Step 8: Select another two routinely-traveled portions of the unpaved road or unpaved parking lot and repeat this test method. Once you have calculated the silt loading

and percent silt content of the 3 samples collected, average your results together.

9. Step 9: Examine Results. If the average silt loading is less than 0.33 oz/ft², the surface is STABLE. If the average silt loading is greater than or equal to 0.33 oz/ft², then proceed to examine the average percent silt content. If the source is an unpaved road and the average percent silt content is 6% or less, the surface is STABLE. If the source is an unpaved parking lot and the average percent silt content is 8% or less, the surface is STABLE. If your field test results are within 2% of the standard (for example, 4%-8% silt content on an unpaved road), it is recommended that you collect 3 additional samples from the source according to Step 1 and take them to an independent laboratory for silt content analysis.
10. Independent Laboratory Analysis: You may choose to collect 3 samples from the source, according to Step 1, and send them to an independent laboratory for silt content analysis rather than conduct the sieve field procedure. If so, the test method the laboratory is required to use comes from the following text: *Procedures For Laboratory Analysis Of Surface/Bulk Dust Loading Samples*, (Fifth Edition, Volume I, Appendix C.2.3 "Silt Analysis", 1995), AP-42, Office of air Quality Planning & Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina.

Historical Note

Former Appendix 2 repealed, new Appendix 2 adopted effective October 2, 1979 (Supp. 79-5). Amended effective May 28, 1982 (Supp. 82-3). Amended effective December 1, 1988 (Supp. 88-4). Repealed effective November 15, 1993 (Supp. 93-4). New Appendix 2 adopted effective December 7, 1995 (Supp. 95-4). Amended effective May 9, 1996 (Supp. 96-2). Amended effective April 4, 1997; filed with the Office of the Secretary of State March 14, 1997 (Supp. 97-1). Amended effective December 4, 1997 (Supp. 97-4). Amended by final rulemaking at 5 A.A.R. 3221, effective August 12, 1999 (Supp. 99-3). Amended by final rulemaking at 6 A.A.R. 4170, effective October 11, 2000 (Supp. 00-4). Amended by final rulemaking at 8 A.A.R. 2543, effective May 24, 2002 (Supp. 02-2). Amended by final rulemaking at 10 A.A.R. 3281, effective September 27, 2004 (Supp. 04-3). Amended by final rulemaking at 11 A.A.R. 3305, effective October 3, 2005 (Supp. 05-3). Amended by final rulemaking at 13 A.A.R. 4199, effective January 5, 2008 (Supp. 07-4). Amended by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3). Amended by final expedited rulemaking at 21 A.A.R. 2747, effective December 13, 2015 (Supp. 15-4).

Appendix 3. Logging

1. Each log entry required by a change under R18-2-317.02(B) shall include at least the following information:
 - a. A description of the change, including:
 - i. A description of any process change.
 - ii. A description of any equipment change, including both old and new equipment descriptions, model numbers and serial numbers, or any other unique equipment number.
 - iii. A description of any process material change.
 - b. The date and time that the change occurred.
 - c. The provision of R18-2-317.02(B) that authorizes the change to be made with logging.

- d. The date the entry was made and the first and last name of the person making the entry.
- 2. Logs shall be kept for five years from the date created. Logging shall be performed in indelible ink in a bound log book with sequentially numbered pages, or in any other form, including electronic format, approved by the Director.

Historical Note

Appendix 3 adopted by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3).

Appendix 4. Reserved**Appendix 5. Repealed****Historical Note**

Appendix 5 repealed effective November 15, 1993 (Supp. 93-4).

Appendix 6. Repealed**Historical Note**

Adopted effective August 7, 1975 (Supp. 75-1). Former Appendix 6 repealed, new Appendix 6 adopted effective July 7, 1978 (Supp. 78-4). Former Appendix 6 repealed effective May 14, 1979 (Supp. 79-1).

Appendix 7. Repealed**Historical Note**

Adopted effective December 22, 1976 (Supp. 76-5). Former Appendix 7 repealed, new Appendix 7 adopted effective January 8, 1980 (Supp. 80-1). Editorial correction, Instructions for Schedule 2, paragraph (15) (Supp. 80-2). Repealed effective September 26, 1990 (Supp. 90-3).

A8. Appendix 8. Procedures for Utilizing the Sulfur Balance Method for Determining Sulfur Emissions**PROCEDURES FOR UTILIZING THE SULFUR BALANCE METHOD FOR DETERMINING SULFUR EMISSIONS****A8.1. Calculating Input Sulfur**

Total sulfur input is the sum of the product of the weight of each sulfur bearing material introduced into the smelting process as calculated in A8.1.1. multiplied by the fraction of sulfur contained in that material as calculated in A8.1.2. plus the amount of sulfur contained in fuel utilized in the smelting process as calculated in A8.1.3.

A8.1.1. Material Weight

The owner or operator of a copper smelter shall weigh all sulfur-bearing materials, other than fuels, introduced into the smelting process. The weighing shall be subject to the following conditions:

- A8.1.1.1. Weight shall be determined on a belt scale, rail or truck scales, or other weighing device.
- A8.1.1.2. Weight shall be determined within an accuracy of $\pm 5\%$.
- A8.1.1.3. All devices or scales used for weighing shall be calibrated to manufacturer's specifications at least once a month.
- A8.1.1.4. Sulfur-bearing materials subject to being weighed include concentrate, cement copper, reverbs that are discarded and not part of the internal circulating load and precipitates. Materials such as limestone and silica flux that are mixed with a charge of sulfur bearing materials shall be weighed and reported by the owner or operator.
- A8.1.2. Sulfur Content

The owner or operator shall calculate the sulfur content of all sulfur-bearing materials introduced into the smelting process

using the following steps or an alternative method approved according to A8.4.1.

A8.1.2.1. Sampling

The procedures followed by the owner or operator in sampling are dependent upon the input vehicles for the sulfur-bearing material.

A8.1.2.1.1. Beltfeed

The smelter owner or operator shall collect a five-pound sample each hour. The owner or operator shall combine hourly samples for a total daily sample.

A8.1.2.1.2. Railcar

The smelter owner or operator shall collect a 24-pound sample from each car by the auger method at a minimum of four locations. The owner or operator shall combine each car sample with all other car samples for a total lot sample.

A8.1.2.1.3. Truck

The owner or operator shall collect a 12-pound sample from each truck load. The owner or operator shall take samples at two locations during unloading. If more than one truck delivers a single lot, the samples from each truck shall be combined for a total lot sample.

A8.1.2.2. Sample Preparation

The owner or operator shall prepare each total sample for analysis in the following manner:

- A8.1.2.2.1. The sample shall be crushed to minus $\frac{1}{4}$ inch particles.
- A8.1.2.2.2. 2000 gm of the sample shall be split out using a Jones Riffle Splitter or similar device.
- A8.1.2.2.3. The 2000 gm sample shall be pulverized to minus 150 mesh.
- A8.1.2.2.4. The pulverized mass shall be mixed using a rolling cloth.
- A8.1.2.2.5. 500 gm shall be split out for sample analysis.
- A8.1.2.3. Sample Analysis
 - A8.1.2.3.1. The owner or operator shall analyze the sample to determine sulfur content using the Barium Sulfate (BaSO_4) Gravimetric Method according to A8.4.3. The analysis shall be accurate to within $\pm 1\%$.
 - A8.1.2.3.2. For purposes of comparison, the owner or operator shall analyze the sample for copper content using the Potassium Iodide (KI) Titration Method according to A8.4.3. The analysis shall be accurate to within $\pm 1\%$.
- A8.1.3. Fuel Sulfur Content

The owner or operator shall calculate sulfur in fuels by multiplying the amount of fuel that enters the process by the fraction of sulfur in the fuel, as reported to the smelter operator by the fuel's supplier. The sulfur content determination shall be accurate to within $\pm 5\%$.
- A8.2. Calculating Removed Sulfur

Total removed sulfur is the sum of the removed sulfur in each of the following products as determined by each process set forth below, or by other processes approved according to A8.4.1.

 - A8.2.1. Furnace and Converter Slags
 - A8.2.1.1. The owner or operator shall determine the weight of each slag using a scale with an accuracy within $\pm 5\%$.
 - A8.2.1.2. The owner or operator shall collect a five-pound sample from each slag pot during tapping operations.
 - A8.2.1.3. The owner or operator shall prepare the sample and determine the amount of sulfur and copper using the procedures specified in A8.1.2.2. and A8.1.2.3.
 - A8.2.2. Dust Collection Equipment Dusts
 - A8.2.2.1. After the owner or operator collects the dust and places it in a rail car or truck they shall weigh it using a scale with an accuracy within $\pm 5\%$.

A8.2.2.2. The owner or operator shall sample the dust and prepare and analyze a sample for sulfur and copper using the procedures specified in A8.1.2.1., A8.1.2.2., and A8.1.2.3.

A8.2.3. Strong Acids

A8.2.3.1. The owner or operator shall take an inventory of strong acids daily by means of a manometer or sight glass, and increase the inventory by the amounts of acid shipped or otherwise transferred during that day.

A8.2.3.2. The owner or operator shall ensure the daily inventory will be accurate to within $\pm 5\%$.

A8.2.3.3. The owner or operator shall take a sample of each batch of the inventoried acid and analyze the sample for sulfur, according to the procedures in A8.1.2.3.

A8.2.4. Weak Acids

A8.2.4.1. The owner or operator shall determine the amount of weak acid discharged from an acid plant and scrubber systems by a time volumetric method of measurement in gallons per minute and to an accuracy of within $\pm 20\%$.

A8.2.4.2. The owner or operator shall analyze a 500 ml sample of the weak acid daily for sulfur content according to the procedures in A8.1.2.3.

A8.2.5. Sulfur in Copper Production

A8.2.5.1. The owner or operator shall determine the weight of copper produced by weight of copper cast to an accuracy of within $\pm 5\%$.

A8.2.5.2. The owner or operator shall record the weight and number of castings.

A8.2.5.3. The owner or operator shall obtain a sample of the copper, either by the grab sample method while casting, or by the use of at least three drill holes on a representative casting from each charge.

A8.2.5.4. The owner or operator shall obtain at least one sample from each charge.

A8.2.5.5. The owner or operator shall analyze each sample for sulfur content using the Barium Sulfate (BaSO_4) Gravimetric Method according to A8.4.3. The analysis shall be accurate to within $\pm 50\%$.

A8.2.6. Materials in Process

A8.2.6.1. The owner or operator shall determine the total tonnage of materials in process by physical inventory on the first or last day of each month.

A8.2.6.2. The owner or operator shall calculate a monthly change in in-process inventory for each material in process by taking the difference between the inventory from each material in process on the first or last day of the preceding month and multiplying that difference by the monthly composite sulfur assay for that material.

A8.2.6.3. The change in monthly in-process inventory shall be accurate to within $\pm 50\%$.

A8.3. Sulfur Dioxide Emissions Monitoring

A8.3.1. The sulfur dioxide emissions monitoring and recording system required under R18-2-715.01(K) through R18-2-715.01(N) shall meet the following specifications:

A8.3.1.1. The monitoring system shall be capable of continuously monitoring sulfur dioxide emissions with an accuracy of within $\pm 20\%$ and a confidence level of 95%.

A8.3.1.2. The owner or operator shall operate and calibrate the sulfur dioxide emission monitoring and recording equipment according to manufacturer's specifications for the equipment except that calibration shall be done at least once every 24 hours.

A8.3.2. The sulfur removal equipment bypass monitoring required under R18-2-715.01(Q) shall consist of a detector and recorder system capable of producing a permanent record of all periods that the bypass is in operation.

A8.4. General Provisions

A8.4.1. For purposes of this Appendix, an approved alternative method, process, or procedure, must be approved in writing by the Director and the U.S. Environmental Protection Agency.

A8.4.2. The processes and procedures specified in this Appendix shall be available for inspection, review and verification by the Department at all reasonable times.

A8.4.3. The barium sulfate gravimetric test method and potassium iodide titration test method provided in *Standard Methods of Chemical Analysis*, Volume One, *The Elements*, Sixth Edition, N. Howell Furman (ed.), D. Van Nostrand Company, Inc., Princeton, New Jersey, 1962, pages 410-411, 1006-1011, and 1342-1343 (and no future editions or amendments) is incorporated by reference and available at the Department.

Historical Note

Adopted effective December 22, 1976 (Supp. 76-5). Correction, Appendix 8, A8-2-1.1 (Supp. 77-2). Amended effective May 28, 1982 (Supp. 82-3). Amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 11 A.A.R. 2216, effective July 18, 2005 (Supp. 05-2).

A9. Appendix 9. Monitoring Requirements

MONITORING REQUIREMENTS

A9.1. Unless otherwise approved by the Director or specified in applicable Sections, the requirements of this Appendix shall apply to all continuous monitoring systems required under applicable Sections.

A9.2. All continuous monitoring systems and monitoring devices shall be installed and operational prior to conducting performance tests under rule R18-2-312. Verification of operational status shall, as a minimum, consist of the following:

A9.2.1. For continuous monitoring systems referenced in A9.3.1. below, completion of the conditioning period specified by applicable requirements in the Arizona Testing Manual and 40 CFR 60.

A9.2.2. For continuous monitoring systems referenced in A9.3.2. below, completion of seven days of operation.

A9.2.3. For monitoring devices referenced in other applicable Sections, completions of the manufacturer's written requirements or recommendations for checking the operation or calibration of the device.

A9.3. During any performance tests required under rule R18-2-312 or within 30 days thereafter and at such other times as may be required by the Director, the owner or operator of any affected facility shall conduct continuous monitoring system performance evaluations and furnish the Director within 60 days thereof, 2, or upon request, more copies of a written report of the results of such tests. The continuous monitoring system performance evaluations shall be conducted in accordance with the following specifications and procedures:

A9.3.1. Continuous monitoring systems listed within this subsection, except as provided in A9.3.2. below shall be evaluated in accordance with the requirements and procedures contained in the applicable performance specification of the Arizona Testing Manual and 40 CFR 60.

A9.3.1.1. Continuous monitoring systems for measuring opacity of emissions shall comply with Performance Specification 1.

A9.3.1.2. Continuous monitoring systems for measuring nitrogen oxides emissions shall comply with Performance Specification 2.

A9.3.1.3. Continuous monitoring systems for measuring sulfur dioxide emissions shall comply with Performance Specification 2.

- A9.3.1.4. Continuous monitoring systems for measuring the oxygen content or carbon dioxide content of effluent gases shall comply with Performance Specification 3.
- A9.3.2. An owner or operator who, prior to September 11, 1974, entered into a binding contractual obligation to purchase specific continuous monitoring system components except as referenced by A9.3.2.3. below shall comply with the following requirements:
- A9.3.2.1. Continuous monitoring systems for measuring opacity of emissions shall be capable of measuring emission levels within $\pm 20\%$. The Calibration Error Test and associated calculation procedures set forth in Performance Specification 1 of 40 CFR 60, Appendix B shall be used for demonstrating compliance with this specification.
- A9.3.2.2. Continuous monitoring systems for measurement of nitrogen oxides or sulfur dioxide shall be capable of measuring emission levels within $\pm 20\%$ with a confidence level of 95%. The Calibration Error Test, the Field Test for Accuracy (Relative), and associated operating and calculation procedures set forth in Performance Specification 2 of 40 CFR 60, Appendix B shall be used for demonstrating compliance with this specification.
- A9.3.2.3. Owners or operators of all continuous monitoring systems installed on an affected facility prior to October 6, 1975, are not required to conduct tests under A9.3.2.1. and/or A9.3.2.2. above unless requested by the Director.
- A9.3.3. All continuous monitoring systems referenced by A9.3.2. above shall be upgraded or replaced (if necessary) with new continuous monitoring systems, and such improved systems shall be demonstrated to comply with applicable performance specifications under A9.3.1. above by September 11, 1979.
- A9.4. Owners or operators of all continuous monitoring systems installed in accordance with the provisions of these rules shall check the zero and span drift at least once daily in accordance with the method prescribed by the manufacturer of such systems unless the manufacturer recommends adjustments at shorter intervals, in which case such recommendations shall be followed. The zero and span shall, as a minimum, be adjusted whenever the 24-hour zero drift or 24-hour calibration drift limits of the applicable performance specifications in 40 CFR 60, Appendix B are exceeded. For continuous monitoring systems measuring opacity of emissions, the optical surfaces exposed to the effluent gases shall be cleaned prior to performing the zero or span drift adjustments except that for systems using automatic zero adjustments, the optical surfaces shall be cleaned when the cumulative automatic zero compensation exceeds 4% opacity. Unless otherwise approved by the Director, the following procedures, as applicable, shall be followed:
- A9.4.1. For extractive continuous monitoring systems measuring gases, minimum procedures shall include introducing applicable zero and span gas mixtures into the measurement system as near the probe as practical. Span and zero gases certified by their manufacturer to be traceable to the National Bureau of Standards reference gases will be used whenever these reference gases are available. The span and zero gas mixtures shall be the same composition as specified in the 40 CFR 60, Appendix B. Every six months from date of manufacture, span and zero gases shall be re-analyzed by conducting triplicate analyses with Reference Methods 6 for SO₂, 7 for NO_x and 3 for O₂ and CO₂, respectively. The gases may be analyzed at less frequent intervals if longer shelf lives are guaranteed by the manufacturer.
- A9.4.2. For nonextractive continuous monitoring systems measuring gases, minimum procedures shall include upscale check(s) using a certified calibration gas cell or test cell which is functionally equivalent to a known gas concentration. The zero check may be performed by computing the zero value from upscale measurements or by mechanically producing a zero condition.
- A9.4.3. For continuous monitoring systems measuring opacity of emissions, minimum procedures shall include a method for producing a simulated zero opacity condition and an upscale (span) opacity condition using a certified neutral density filter or other related technique to produce a known obscuration of the light beam. Such procedures shall provide a system check of the analyzer internal optical surfaces and all electronic circuitry including the lamp and photodetector assembly.
- A9.5. Except for system breakdowns, repairs, calibration checks, and zero and span adjustments required under A9.4. above, all continuous monitoring systems shall be in continuous operation and shall meet minimum frequency of operation requirements as follows:
- A9.5.1. All continuous monitoring systems referenced by A9.3.1. and A9.3.2. above for measuring opacity of emissions shall complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 10-second period.
- A9.5.2. All continuous monitoring systems referenced by A9.3.1. above for measuring oxides of nitrogen, sulfur dioxide, carbon dioxide, or oxygen shall complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 15-minute period.
- A9.5.3. All continuous monitoring systems referenced by A9.3.2. above, except opacity, shall complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive one-hour period.
- A9.6. All continuous monitoring systems for monitoring devices shall be installed such that representative measurements of emissions or process parameters from the affected facility are obtained. Additional procedures for location of continuous monitoring systems contained in the applicable Performance Specifications of 40 CFR 60, Appendix B shall be used.
- A9.7. When the effluents from a single affected facility or two or more affected facilities subject to the same emission standards are combined before being released to the atmosphere, the owner or operator may install applicable continuous monitoring systems on each effluent or on the combined effluent. When the affected facilities are not subject to the same emission standards, separate continuous monitoring systems shall be installed on each effluent. When the effluent from one affected facility is released to the atmosphere through more than one point, the owner or operator shall install applicable continuous monitoring systems on each separate effluent unless the installation of fewer systems is approved by the Director.
- A9.8. Owners or operators of all continuous monitoring systems for measurement of opacity shall reduce all data to six-minute averages and for systems other than opacity to one-hour averages, respectively. Six minute opacity averages shall be calculated from 24 or more data points equally spaced over each six-minute period. For systems other than opacity, one-hour averages shall be computed from four or more data points equally spaced over each one-hour period. Data recorded during periods of system breakdowns, repairs, calibration checks, and zero and span adjustments shall not be included in the data averages computed under this subsection. An arithmetic or integrated average of all data may be used. The data output of all continuous monitoring systems may be recorded in reduced or nonreduced form (e.g. ppm pollutant and percent O₂ or lb/million Btu of pollutant). All excess emissions shall be converted into units of the standard using the applicable

conversion procedures specified in subparts. After conversion into units of the standard, the data may be rounded to the same number of significant digits used in these rules to specify the applicable standard (e.g., rounded to the nearest 1% opacity).

A9.9. Upon written application by an owner or operator, the Director may approve alternatives to any monitoring procedures or requirements of these rules including, but not limited to the following:

A9.9.1. Alternative monitoring requirements when installation of a continuous monitoring system or monitoring device specified by these rules would not provide accurate measurements due to liquid water or other interferences caused by substances with the effluent gases.

A9.9.2. Alternative monitoring requirements when the affected facility is infrequently operated.

A9.9.3. Alternative monitoring requirements to accommodate continuous monitoring systems that require additional measurements to correct for stack moisture conditions.

A9.9.4. Alternative locations for installing continuous monitoring systems or monitoring devices when the owner or operator can demonstrate that installation at alternate locations will enable accurate and representative measurements.

A9.9.5. Alternative methods of converting pollutant concentration measurements to units of the standards.

A9.9.6. Alternative procedures for performing daily checks of zero and span drift that do not involve use of span gases or test cells.

A9.9.7. Alternatives to the ASTM test methods or sampling procedures specified by any subpart.

A9.9.8. Alternative continuous monitoring systems that do not meet the design or performance requirements in Performance Specification 1 in 40 CFR 60, Appendix B but adequately demonstrate a definite and consistent relationship between its measurements and the measurements of opacity by a system complying with the requirements in Performance Specification 1. The Director may require that such demonstration be performed for each affected facility.

A9.9.9. Alternative monitoring requirements when the effluent from a single affected facility or the combined effluent from two or more affected facilities are released to the atmosphere through more than one point.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective September 26, 1990 (Supp. 90-3). Amended effective June 15, 1995 (Supp. 95-2).

Appendix 10. Repealed

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective July 9, 1980 (Supp. 80-4). Amended effective June 19, 1981 (Supp. 81-3). Repealed by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1).

Appendix 11. Repealed

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective September 11, 1983 (Supp. 83-5). Repealed by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1).

A12. Appendix 12. Procedures for Determining Ambient Air Concentrations for Hazardous Air Pollutants

PROCEDURES FOR DETERMINING AMBIENT AIR CONCENTRATIONS FOR HAZARDOUS AIR POLLUTANTS

A12.1 The procedure described in this appendix shall be used to develop chronic ambient air concentrations (CAACs) and acute ambient air concentrations (AAACs) for hazardous air pollutants (HAPs) for the following:

A12.1.1 Any HAP not included in Article 17, Table 3; and

A12.1.2 Any compound included in a group of HAPs listed in Article 17, Table 3, other than those identified in the group listing as the “selected” compound.

A12.2 Chronic Ambient Air Concentrations

A12.2.1 The applicant shall review the following data sources and, except as otherwise provided, shall give them the priority indicated in the development of CAACs:

A12.2.1.1 Tier 1 Data Sources: Reference Concentrations (RfCs) and air Unit Risk Factors (URFs) as presented in the Integrated Risk Information System (IRIS) of the United States Environmental Protection Agency (EPA).

A12.2.1.2. Tier 2 Data Sources:

A12.2.1.2.1. Preliminary Remediation Goals (PRGs) developed by Region 9 of EPA.

A12.2.1.2.2. Risk-Based Concentrations (RBCs) developed by Region 3 of EPA.

A12.2.1.3. Tier 3 Data Sources:

A12.2.1.3.1 Minimal Risk Levels (MRLs) developed by the Agency for Toxic Substances and Disease Registry (ATSDR).

A12.2.1.3.2 Reference Exposure Levels (RELs) and Unit Risk Factors (CalURFs) developed by the California Environmental Protection Agency.

A12.2.2 Evaluation of Tier 1 Values

A12.2.2.1 Calculation of Concentrations

A12.2.2.1.1 RfCs shall be multiplied by 1.04 to reflect an assumed exposure of 350, rather than 365 days per year.

A12.2.2.1.2 URFs shall be transformed into concentrations in milligrams per cubic meter (mg/m³) by applying the following equation:

$$TR \times ATc / (EF \times IFA \text{ adj} \times [URF \times BW / IR])$$

where: TR = 1E-06, ATc = 25,550 days, EF = 350 days/year, IFA adj = 11 m³-year/kg-day, BW = 70 kg, IR = 20 m³/day

A12.2.2.2 Comparison to Tier 2 and Tier 3 Concentrations

The concentration developed in accordance with section A12.2.2.1 shall be compared to the Tier 2 and Tier 3 concentrations for the compound, if any. URF-based concentrations shall be compared only to concentrations based on CalURFs. RfC-based concentrations shall be compared to concentrations based on PRGs, RBCs, MRLs and RELs.

A12.2.2.2.1 If there is reasonable agreement between the Tier 1 concentration and the other concentrations for the compound, the Tier 1 concentration shall be selected as the CAAC.

A12.2.2.2.2 If the Tier 1 concentration is not in reasonable agreement with the other concentrations, and one of the other concentrations is based on more recent or relevant studies, that concentration shall be selected as the CAAC. Otherwise the Tier 1 concentration shall be selected.

A12.2.2.3 If both an RfC-based and URF-based Tier 1 concentration is selected under section A12.2.2.2, the more stringent of the two shall be used as the CAAC.

A12.2.2.4 If a Tier 1 value is selected in accordance with this section, no further evaluation of Tier 2 or Tier 3 concentrations is required.

A12.2.3 Evaluation of Tier 2 Concentrations

A12.2.3.1 Selection of Tier 2 Values for Further Evaluation

A12.2.3.1.1 If there is only a PRG or RBC for the compound, it shall be selected for further evaluation in accordance with section A12.2.3.2.

A12.2.3.1.2 If there is both a PRG and an RBC for the compound, the concentrations shall be compared. If the concentrations are similar, the PRG shall be selected for further evaluation. If the concentrations are not similar, and the RBC is based on more relevant or more recent studies, it shall be selected for further evaluation. Otherwise the PRG shall be selected.

A12.2.3.2 Comparison to Tier 3 Concentrations
The concentration developed in accordance with section A12.2.3.1 shall be compared to the Tier 3 concentrations for the compound, if any. For purposes of this comparison, only MRL- or REL-based concentrations shall be considered.

A12.2.3.2.1 If there is reasonable agreement between the Tier 2 concentration and the Tier 3 concentrations for the compound, the Tier 2 concentration shall be selected as the CAAC.

A12.2.3.2.2 If the Tier 2 concentration is not in reasonable agreement with the Tier 3 concentrations, and one of the Tier 3 concentrations is based on more recent or relevant studies, that concentration shall be selected as the CAAC. Otherwise the Tier 2 concentration shall be selected.

A12.2.3.3 If a Tier 2 concentration is selected in accordance with section A12.2.3, no further evaluation of Tier 3 concentrations is required.

A12.2.4 Evaluation of Tier 3 Values

A12.2.4.1 Calculation of Concentrations

A12.2.4.1.1 MRLs and RELs shall be multiplied by 1.04 to reflect an assumed exposure of 350, rather than 365, days per year.

A12.2.4.1.2 CalURFs shall be transformed into concentrations in milligrams per cubic meter (mg/m³) by applying the following equation:

$TR \times ATc / (EF \times IFA \text{ adj} \times [CalURF \times BW / IR])$
where: TR = 1E-06, ATc = 25,550 days, EF = 350 days/year, IFA adj = 11 m³-year/kg-day, BW = 70 kg, IR = 20 m³/day

A12.2.4.2 Selection of Concentration

A12.2.4.2.1 If both an MRL and an REL exist for the compound, the most appropriate shall be selected after considering the relevance and timing of the studies on which the levels are based.

A12.2.4.2.2 If there is both a CalURF-based concentration and a concentration based on an MRL or REL for the compound, the more stringent of the two shall be selected.

A12.2.5 No Available Data

If there is no data available in any of the sources identified in section A12.2.1 for the compound, the applicant must perform a Tier 4 Risk Management Analysis under R18-2-1708 or forego the Risk Management Analysis option.

A12.3 Acute Ambient Air Concentrations

A12.3.1 Selection of Concentration

The first concentration identified by evaluating the following data sources in the order listed shall be adjusted, where required, and used as the AAAC for the compound:

A12.3.1.1 The level 2, four-hour average Acute Exposure Guideline Level developed by the EPA Office of Prevention, Pesticides and Toxic Substances.

A12.3.1.2 The level 2 Emergency Response Planning Guideline (ERPG) developed by the American Industrial Hygiene Association. The AAAC shall be the ERPG divided by 2.

A12.3.1.3 The level 2 Temporary Emergency Exposure Limit (TEEL) developed by the United States Department of Energy's Emergency Management Advisory Committee's Subcommittee on Consequence Assessment and Protective Action. The AAAC shall be the TEEL divided by 2.

A12.3.2 No Available Data

If there is no data available in any of the sources identified in section A12.3.1, the applicant must perform a Tier 4 Risk

Management Analysis under R18-2-1708 or forego the Risk Management Analysis option.

Historical Note

New Appendix 12 made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2).

Appendix 13. Repealed

Historical Note

New Appendix 13 made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Appendix repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

A14. Appendix 14. Procedures for Sulfur Dioxide and Lead Fugitive Emissions Studies for the Hayden Smelter

A14.1. Applicability

This appendix applies to the owner or operator of the primary copper smelter located in Hayden, Arizona at latitude 33°0'15"N and longitude 110°46'31"W.

A14.2. Study Objectives

The owner or operator shall conduct fugitive emissions studies to derive a measurement or accurate estimate of total fugitive sulfur dioxide and lead emissions from the Hayden smelter during operations, including planned and unplanned start-up and shutdown periods and malfunctions, for the processes identified in A14.3 below. The studies shall include uncaptured fugitive sulfur dioxide emissions from the smelter processing units, but not emissions due solely to the use of fuel for space heating or steam generation, burners at anode casting, or slag pouring at the slag dump. The studies shall evaluate the extent to which correlations may exist between fugitive sulfur dioxide, lead, and particulate matter (PM/PM10/PM2.5) emissions, and shall develop such correlations as feasible.

The studies shall also be used to help validate that the operating conditions or ranges specified in the capture and control device maintenance and operations plans required in R18-2-B1301(D)(2) and R18-2-B1302(D)(2) are consistent with operating conditions demonstrating attainment of the 2008 Lead National Ambient Air Quality Standards (NAAQS) in the Hayden 2008 Lead NAAQS Nonattainment Area State Implementation Plan (SIP) and the 2010 Sulfur Dioxide NAAQS in the Hayden 2010 Sulfur Dioxide NAAQS Nonattainment Area SIP.

A14.3. Processes Evaluated

From the fugitive emissions studies, the owner or operator shall develop an emission factor or accurate estimate of fugitive emissions for sulfur dioxide and lead during operations, including planned and unplanned start-up and shutdown periods and malfunctions, produced by each of the following smelting processes:

- i. Flash furnace building, including flash furnace and dryer operations
- ii. Converter aisle, including converter and related operations
- iii. Anode furnace aisle, including oxidizing, poling and related operations

A14.4. Averaging Periods

The emission estimate shall include the average pounds per hour emission factor for the fugitive lead and sulfur dioxide emissions from each step in the smelting process identified in A14.3. The estimate shall include all time periods, including planned and unplanned start-up and shutdown periods and malfunctions.

A14.5. Methods and Study Protocols

The owner or operator shall submit to the Department and EPA Region IX for review and approval study protocols at least six months prior to conducting fugitive emission studies. Study protocols must be approved by the Department and EPA Region IX prior to commencement of fugitive emissions studies. Study protocols shall specify the method(s) used to meet the study objectives as described in A14.2, including during all recurring operating scenarios from all processes identified in A14.3.

Each fugitive emissions measurement system shall include validation of adequate velocity for flow measurements (i.e., the expected exhaust velocity is within the measurement range of the instrument), and have a sufficient number of flow and temperature sensors to ensure calculation of representative exhaust flows through each roof monitor vent. The number of such sensors and their locations for each monitoring system shall account for the physical configuration of the roof monitor vent, the locations of emitting activities relative to the roof monitor vent, and heat generated by the equipment served by the roof monitor vent.

The fugitive emissions studies shall include operation and process information to help understand the emission impacts of startup, shutdown, malfunctions, and significant changes in process operations. This shall include, for example, dates, times and duration of these events, cause of malfunctions, and descriptions of process changes.

After the completion of each fugitive emissions study, the owner or operator shall modify study methods based on data and lessons learned from previous studies, and submit such modified methods in the proceeding study protocols prior to conducting future emissions studies.

A14.6. Study Duration, Frequency, and Submission Schedule

The first fugitive emissions study must commence not later than six months after the completion of the Converter Retrofit Project authorized by Significant Permit Revision No. 60647. The second study commencement date shall occur within the same calendar quarter, but five years later from the date of commencement of the first study. The owner or operator shall submit the results of each fugitive emissions study in a report to the Department and EPA Region IX for review and approval not later than six months after completing a study. The data collection portion of the first and second fugitive emissions studies shall be conducted for a period of 12 months to assess the content and quantity of fugitive sulfur dioxide and lead emissions.

A14.7. Study Reports and Subsequent Studies

At minimum, fugitive emission study reports submitted pursuant to A14.6 must include:

- i. Resultant emission factors used to determine fugitive emissions of sulfur dioxide and lead.
- ii. Resultant average fugitive lead emissions for each process identified in A14.3.
- iii. Resultant peak one-hour fugitive sulfur dioxide emissions for each process identified in A14.3.
- iv. Seasonal differences, if any.
- v. Comparisons of results from past studies, if any.
- vi. Descriptions and identification of volumetric flow monitoring provisions in R18-2-B1301(D)(2)(a) and R18-2-B1302(D)(2)(a) and operational limits R18-2-B1301(D)(2)(b) and R18-2-B1302(D)(2)(b) that are associated with fugitive emissions.
- vii. An analysis of whether the results from a study demonstrate that the volumetric flow monitoring provisions in R18-2-B1301(D)(2)(a) and R18-2-B1302(D)(2)(a) and

the operational limits in R18-2-B1301(D)(2)(b) and R18-2-B1302(D)(2)(b) continuously ensure that actual fugitive sulfur dioxide and lead emissions are consistent with the modeled emission rates used in the attainment demonstrations in the Hayden 2008 Lead NAAQS Nonattainment Area SIP and the Hayden 2010 Sulfur Dioxide NAAQS Nonattainment Area SIP. The analysis must also identify subsequent fugitive emissions studies, if any, needed to remedy inaccurate operational limits and volumetric flow monitoring provisions and to ensure attainment of the 2008 Lead NAAQS and 2010 Sulfur Dioxide NAAQS. The scope, duration, and frequency of any subsequent fugitive emissions studies must also be identified. This provision and the report's conclusion neither require nor prohibit future fugitive emission studies.

- viii. An analysis of whether supplemental modeling is needed to demonstrate that resultant fugitive emissions from a study provide attainment of the 2008 Lead NAAQS and 2010 Sulfur Dioxide NAAQS.
- ix. A summary of methods as followed per approved study protocols.

A14.8. Revisions to Operations and Maintenance Plan

If an analysis conducted in accordance with A14.7(vi) demonstrates that fugitive emissions associated with volumetric flow monitoring provisions in R18-2-B1301(D)(2)(a) and R18-2-B1302(D)(2)(a) and operational limits in R18-2-B1301(D)(2)(b) and R18-2-B1302(D)(2)(b) may exceed the modeled emission rates used in the Hayden 2008 Lead NAAQS Nonattainment Area SIP attainment demonstration and/or the Hayden 2010 Sulfur Dioxide NAAQS Nonattainment Area SIP attainment demonstration, and result in an increased likelihood of a NAAQS exceedance based on modeling required under A14.9, then the owner or operator shall submit to the Department for approval, not later than six months after completing a study, recommended changes to operational limits and volumetric flow monitoring provisions as an operations and maintenance plan revision pursuant to R18-2-B1301(D)(2)(e) and R18-2-B1302(D)(2)(e) that would achieve necessary fugitive emissions levels to demonstrate attainment of the NAAQS at the same level of assurance as in the attainment demonstrations. Until receiving approval of the plan revision, the owner or operator shall operate and maintain the volumetric flow monitoring provisions and the operational limits in accordance with the plan as initially submitted pursuant to R18-2-B1301(D)(2)(e) and R18-2-B1302(D)(2)(e). Additionally, the owner and operator shall submit new attainment demonstrations pursuant to A14.9, making appropriate demonstrations of attainment at adjusted fugitive emissions levels.

Similarly, if an analysis conducted in accordance with A14.7(vi) demonstrates that fugitive emissions associated with the volumetric flow monitoring provisions in R18-2-B1301(D)(2)(a) and R18-2-B1302(D)(2)(a) and operational limits in R18-2-B1301(D)(2)(b) and R18-2-B1302(D)(2)(b) may exceed the modeled emission rates used in the Hayden 2008 Lead NAAQS Nonattainment Area SIP attainment demonstration and/or the Hayden 2010 Sulfur Dioxide NAAQS Nonattainment Area SIP attainment demonstration, and result in an increased likelihood of a NAAQS exceedance based on modeling required under A14.9, then the Department shall submit appropriate changes to the operational limits and volumetric flow monitoring provisions, and any revised attainment demonstration pursuant to A14.9, if applicable, to EPA Region IX as a SIP revision not later than 12 months after completion of a fugitive emissions study.

A14.9. Supplemental Modeling

If an analysis conducted in accordance with A14.7(vii) demonstrates that fugitive emissions associated with volumetric flow monitoring provisions in R18-2-B1301(D)(2)(a) and R18-2-B1302(D)(2)(a) and operational limits in R18-2-B1301(D)(2)(b) and R18-2-B1302(D)(2)(b) are greater than the modeled emission rates used in the Hayden 2008 Lead NAAQS Nonattainment Area SIP attainment demonstration and/or the Hayden 2010 Sulfur Dioxide NAAQS Nonattainment Area SIP attainment demonstration, the owner or operator shall remodel to demonstrate whether the 2010 Sulfur Dioxide NAAQS and/or 2008 Lead NAAQS will be attained as such higher rates. The owner or operator shall submit such modeling to the Department and EPA Region IX for review and approval not later than six months after completing a fugitive emissions study.

If the revised modeling demonstrates that the 2010 Sulfur Dioxide NAAQS and/or 2008 Lead NAAQS will be attained, the Department shall submit such modeling demonstration and revised fugitive emissions assumptions as a SIP revision to EPA Region IX not later than 12 months after completion of a fugitive emissions study. Alternatively, the owner or operator shall propose additional emission control requirements to revise the SIP, or any combination of revised control measures and modeled attainment, to demonstrate attainment of the 2010 Sulfur Dioxide NAAQS and/or 2008 Lead NAAQS.

Historical Note

A14, Appendix 14 made by final rulemaking at 23 A.A.R. 722, effective May 7, 2017 (Supp. 17-1). Because of a clerical error in Supp. 17-1, A14, Appendix 14 was inadvertently published at the end of Article 13. At the request of the Department it has been moved to the end of this Chapter (Supp. 17-3).

A15. Appendix 15. Test Methods for Determining Opacity and Stabilization of Unpaved Roads

A15.1. Applicability

This appendix applies to unpaved roads at the primary copper smelter located in Hayden, Arizona at latitude 33°0'15"N and longitude 110°46'31"W.

A15.2. Opacity Test Method

The purpose of this test method is to estimate the percent opacity of fugitive dust plumes caused by vehicle movement on unpaved roads. This method can only be conducted by an individual who has received certification as a qualified observer. Qualification and testing requirements can be found in Section A15.4 of this appendix.

A15.2.1. Step 1

Stand at least 16.5 feet from the fugitive dust source in order to provide a clear view of the emissions with the sun oriented in the 140° sector to the back. Following the above requirements, make opacity observations so that the line of vision is approximately perpendicular to the dust plume and wind direction. If multiple plumes are involved, do not include more than one plume in the line of sight at one time.

A15.2.2. Step 2

Record the fugitive dust source location, source type, method of control used, if any, observer's name, certification data and affiliation, and a sketch of the observer's position relative to the fugitive dust source. Also record the time, estimated distance to the fugitive dust source location, approximate wind direction, estimated wind speed, description of the sky condition (presence and color of clouds), observer's position to the fugitive dust source, and color of

the plume and type of background on the visible emission observation from both when opacity readings are initiated and completed.

A15.2.3. Step 3

Make opacity observations, to the extent possible, using a contrasting background that is perpendicular to the line of vision. Make opacity observations approximately 1 meter above the surface from which the plume is generated. Note that the observation is to be made at only one visual point upon generation of a plume, as opposed to visually tracking the entire length of a dust plume as it is created along a surface. Make two observations per vehicle, beginning with the first reading at zero seconds and the second reading at five seconds. The zero-second observation should begin immediately after a plume has been created above the surface involved. Do not look continuously at the plume but, instead, observe the plume briefly at zero seconds and then again at five seconds.

A15.2.4. Step 4

Record the opacity observations to the nearest 5 percent on an observational record sheet. Each momentary observation recorded represents the average opacity of emissions for a 5-second period. While it is not required by the test method, EPA recommends that the observer estimate the size of vehicles which generate dust plumes for which readings are taken (e.g. midsize passenger car or heavy-duty truck) and the approximate speeds the vehicles are traveling when readings are taken.

A15.2.5. Step 5

Repeat Step 3 (Section A15.2.3 of this appendix) and Step 4 (Section A15.2.4 of this appendix) until you have recorded a total of 12 consecutive opacity readings. This will occur once six vehicles have driven on the source in your line of observation for which you are able to take proper readings. The 12 consecutive readings must be taken within the same period of observation but must not exceed 1 hour. Observations immediately preceding and following interrupted observations can be considered consecutive.

A15.2.6. Step 6

Average the 12 opacity readings together. If the average opacity reading equals 20 percent or lower, the source is in compliance.

A15.3. Silt Content Test Method

The purpose of this test method is to estimate the silt content of the trafficked parts of unpaved roads. The higher the silt content, the more fine dust particles that are released when cars and trucks drive on unpaved roads.

A15.3.1. Equipment

A15.3.1.1. A set of sieves with the following openings: 4 millimeters (mm), 2 mm, 1 mm, 0.5 mm and 0.25 mm (or a set of standard/commonly available sieves), a lid, and collector pan.

A15.3.1.2. A small whisk broom or paintbrush with stiff bristles and dustpan 1 ft. in width. (The broom/brush should preferably have one, thin row of bristles no longer than 1.5 inches in length).

A15.3.1.3. A spatula without holes.

A15.3.1.4. A small scale with half-ounce increments (e.g., postal/package scale).

A15.3.1.5. A shallow, lightweight container (e.g., plastic storage container).

A15.3.1.6. A sturdy cardboard box or other rigid object with a level surface.

A15.3.1.7. A basic calculator.

A15.3.1.8. Cloth gloves (optional for handling metal sieves on hot, sunny days).

A15.3.1.9. Sealable plastic bags (if sending samples to a laboratory).

A15.3.1.10. A pencil/pen and paper.

A15.3.2. Step 1

Look for a routinely traveled surface, as evidenced by tire tracks. (Only collect samples from surfaces that are not damp due to precipitation or dew. This statement is not meant to be a standard in itself for dampness where watering is being used as a control measure. It is only intended to ensure that surface testing is done in a representative manner.) Use caution when taking samples to ensure personal safety with respect to passing vehicles. Gently press the edge of a dustpan (1 foot in width) into the surface four times to mark an area that is 1 square foot. Collect a sample of loose surface material using a whiskbroom or brush and slowly sweep the material into the dustpan, minimizing escape of dust particles. Use a spatula to lift heavier elements such as gravel. Only collect dirt/gravel to an approximate depth of 3/8 inch or 1 cm in the 1 square foot area. If you reach a hard, underlying subsurface that is < 3/8 inch in depth, do not continue collecting the sample by digging into the hard surface. In other words, you are only collecting a surface sample of loose material down to 1 cm. In order to confirm that samples are collected to 1 cm in depth, a wooden dowel or other similar narrow object at least one foot in length can be laid horizontally across the survey area while a metric ruler is held perpendicular to the dowel.

At this point, you can choose to place the sample collected into a plastic bag or container and take it to an independent laboratory for silt content analysis. A reference to the procedure the laboratory is required to follow is at the end of this section.

A15.3.3. Step 2

Place a scale on a level surface. Place a lightweight container on the scale. Zero the scale with the weight of the empty container on it. Transfer the entire sample collected in the dustpan to the container, minimizing escape of dust particles. Weigh the sample and record its weight.

A15.3.4. Step 3

Stack a set of sieves in order according to the size openings specified above, beginning with the largest size opening (4 mm) at the top. Place a collector pan underneath the bottom (0.25 mm) sieve.

A15.3.5. Step 4

Carefully pour the sample into the sieve stack, minimizing escape of dust particles by slowly brushing material into the stack with a whiskbroom or brush. (On windy days, use the trunk or door of a car as a wind barricade.) Cover the stack with a lid. Lift up the sieve stack and shake it vigorously up, down and sideways for at least 1 minute.

A15.3.6. Step 5

Remove the lid from the stack and disassemble each sieve separately, beginning with the top sieve. As you remove each sieve, examine it to make sure that all of the material has been sifted to the finest sieve through which it can pass (e.g., material in each sieve [besides the top sieve that captures a range of larger elements] should look the same size). If this is not the case, re-stack the sieves

and collector pan, cover the stack with the lid, and shake it again for at least 1 minute. (You only need to reassemble the sieve(s) that contain material, which requires further sifting.)

A15.3.7. Step 6

After disassembling the sieves and collector pan, slowly sweep the material from the collector pan into the empty container originally used to collect and weigh the entire sample. Take care to minimize escape of dust particles. You do not need to do anything with material captured in the sieves; only the collector pan. Weigh the container with the material from the collector pan and record its weight.

A15.3.8. Step 7

If the source is an unpaved road, multiply the resulting weight by 0.38. The resulting number is the estimated silt loading. Then, divide by the total weight of the sample you recorded earlier in Step 2 (Section A15.3.3 of this appendix) and multiply by 100 to estimate the percent silt content.

A15.3.9. Step 8

Select another two routinely traveled portions of the unpaved road and repeat this test method. Once you have calculated the silt loading and percent silt content of the 3 samples collected, average your results together.

A15.3.10. Step 9

Examine results. If the average silt loading is less than 0.33 oz/ft², the surface is STABLE. If the average silt loading is greater than or equal to 0.33 oz/ft², then proceed to examine the average percent silt content. If the source is an unpaved road and the average percent silt content is 6 percent or less, the surface is STABLE. If your field test results are within 2 percent of the standard (for example, 4–8 percent silt content on an unpaved road), it is recommended that you collect 3 additional samples from the source according to Step 1 (Section A15.3.2 of this appendix) and take them to an independent laboratory for silt content analysis.

A15.3.11. Independent Laboratory Analysis

You may choose to collect 3 samples from the source, according to Step 1 (Section A15.3.2 of this appendix), and send them to an independent laboratory for silt content analysis rather than conduct the sieve field procedure. If so, the test method the laboratory is required to use is: U.S. Environmental Protection Agency (1995), “Procedures for Laboratory Analysis of Surface/Bulk Dust Loading Samples”, (AP-42 Fifth Edition, Volume I, Appendix C.2.3 “Silt Analysis”), Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina.

A15.4. Qualification and Testing

A15.4.1. Certification Requirements

To receive certification as a qualified observer, a candidate must be tested and demonstrate the ability to assign opacity readings in 5 percent increments to 25 different black plumes and 25 different white plumes, with an error not to exceed 15 percent opacity on any one reading and an average error not to exceed 7.5 percent opacity in each category. Candidates shall be tested according to the procedures described in Section A15.4.2 of this appendix. Any smoke generator used pursuant to Section A15.4.2 of this appendix shall be equipped with a smoke meter which meets the requirements of Section A15.4.3 of this appendix. Certification tests that do not meet the requirements of Sections A15.4.2 and A15.4.3 of this appendix are not valid. The certification shall be valid for a period of 6 months, and after each 6-month period the qualification procedures must be repeated by an observer in order to retain certification.

A15.4.2. Certification Procedure

The certification test consists of showing the candidate a complete run of 50 plumes, 25 black plumes and 25 white plumes, generated by a smoke generator. Plumes shall be presented in random order within each set of 25 black and 25 white plumes. The candidate assigns an opacity value to each plume and records the observation on a suitable form. At the completion of each run of 50 readings, the score of the candidate is determined. If a candidate fails to qualify, the complete run of 50 readings must be repeated in any retest. The smoke test may be administered as part of a smoke school or training program, and may be preceded by training or familiarization runs of the smoke generator, during which candidates are shown black and white plumes of known opacity.

A15.4.3. Smoke Generator Specifications

Any smoke generator used for the purpose of Section A15.4.2 of this appendix shall be equipped with a smoke meter installed to measure opacity across the diameter of the smoke generator stack. The smoke meter output shall display in-stack opacity, based upon a path length equal to the stack exit diameter on a full 0 percent to 100 percent chart recorder scale. The smoke meter optical design and performance shall meet the specifications shown in Table 1 of this appendix. The smoke meter shall be calibrated as prescribed in Section A15.4.3.1 of this appendix prior to conducting each smoke reading test. At the completion of each test, the zero and span drift shall be checked, and if the drift exceeds plus or minus 1 percent opacity, the condition shall be corrected prior to conducting any subsequent test runs. The smoke meter shall be demonstrated, at the time of installation, to meet the specifications listed in Table 1 of this appendix. This demonstration shall be repeated following any subsequent repair or replacement of the photocell or associated electronic circuitry, including the chart recorder or output meter, or every 6 months, whichever occurs first.

A15.4.3.1. Calibration

The smoke meter is calibrated after allowing a minimum of 30 minutes warm-up by alternately producing simulated opacity of 0 percent and 100 percent. When stable response at 0 percent or 100 percent is noted, the smoke meter is adjusted to produce an output of 0 percent or 100 percent, as appropriate. This calibration shall be repeated until stable 0 percent and 100 percent readings are produced without adjustment. Simulated 0 percent and 100 percent opacity values may be produced by alternately switching the power to the light source on and off while the smoke generator is not producing smoke.

A15.4.3.2. Smoke Meter Evaluation

The smoke meter design and performance are to be evaluated as follows:

A15.4.3.2.1. Light Source

Verify, from manufacturer's data and from voltage measurements made at the lamp, as installed, that the lamp is operated within plus or minus 5 percent of the nominal rated voltage.

A15.4.3.2.2. Spectral Response of Photocell

Verify from manufacturer's data that the photocell has a photopic response (i.e., the spectral sensitivity of the cell shall closely approximate the standard spectral-luminosity curve for photopic vision which is referenced in (b) of Table 1 of this appendix).

A15.4.3.2.3. Angle of View

Check construction geometry to ensure that the total angle of view of the smoke plume, as seen by the photocell, does not exceed 15°. Calculate the total angle of view (ϕ_v) as follows:

$$\text{Total Angle of View} = 2 \tan^{-1} (d/2L)$$

where:

d = The photocell diameter + the diameter of the limiting aperture; and

L = The distance from the photocell to the limiting aperture. The limiting aperture is the point in the path between the photocell and the smoke plume where the angle of view is most restricted. In smoke generator smoke meters, this is normally an orifice plate.

A15.4.3.2.4. Angle of Projection

Check construction geometry to ensure that the total angle of projection of the lamp on the smoke plume does not exceed 15°. Calculate the total angle of projection (ϕ_p) as follows:

$$\text{Total Angle of Projection} = 2 \tan^{-1} (d/2L)$$

where:

d = The sum of the length of the lamp filament + the diameter of the limiting aperture; and

L = The distance from the lamp to the limiting aperture.

A15.4.3.2.5. Calibration Error

Using neutral-density filters of known opacity, check the error between the actual response and the theoretical linear response of the smoke meter. This check is accomplished by first calibrating the smoke meter, according to Section A15.4.3.1 of this appendix, and then inserting a series of three neutral-density filters of nominal opacity of 20 percent, 50 percent, and 75 percent in the smoke meter path length. Use filters calibrated within plus or minus 2 percent. Care should be taken when inserting the filters to prevent stray light from affecting the meter. Make a total of five nonconsecutive readings for each filter. The maximum opacity error on any one reading shall be plus or minus 3 percent.

A15.4.3.2.6. Zero and Span Drift

Determine the zero and span drift by calibrating and operating the smoke generator in a normal manner over a 1-hour period. The drift is measured by checking the zero and span at the end of this period.

A15.4.3.2.7. Response Time

Determine the response time by producing the series of five simulated 0 percent and 100 percent opacity values and observing the time required to reach stable response. Opacity values of 0 percent and 100 percent may be simulated by alternately switching the power to the light source off and on while the smoke generator is not operating.

Table 1: Smoke Meter Design and Performance Specifications

Parameter	Specification
a. Light source	Incandescent lamp operated at nominal rated voltage
b. Spectral response of photocell	Photopic (daylight spectral response of the human eye)
c. Angle of view	15° maximum total angle
d. Angle of projection	15° maximum total angle
e. Calibration error	Plus or minus 3 percent opacity; maximum
f. Zero and span drift	Plus or minus 1 percent opacity, 30 minutes
g. Response time	Less than or equal to 5 seconds

Historical Note

A15, Appendix 15, to include Table 1, made by final rulemaking at 23 A.A.R. 767, effective May 7, 2017 (Supp. 17-1). Because of a clerical error in Supp. 17-1,

A15. Appendix 15 was inadvertently published at the end of Article 13. At the request of the Department it has been moved to the end of this Chapter (Supp. 17-3).

Supplement Separator Page